

MAINE STATE LEGISLATURE

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FINAL REPORT OF THE
COMMITTEE ON VETERANS AND RETIREMENT
ON ITS STUDY OF THE
MAINE STATE RETIREMENT SYSTEM

Senate

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House

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R. Donald Twitchell

January 1975

REPORT OF THE COMMITTEE ON VETERANS AND
RETIREMENT ON ITS STUDY OF THE
STATE RETIREMENT SYSTEM

Introduction

The 106th Legislature's Joint Standing Committee on Veterans and Retirement undertook a comprehensive study of the Maine State Retirement System, which provides retirement coverage for state employees and for the employees of many of the state's local governments and other agencies and groups. The study was assigned to the committee by the Legislative Council, pursuant to study order H.P. 1387, a copy of which is attached to this report as Appendix A. The study had, however, been initiated by the committee itself because of its concern over a number of problems which had become evident through the various bills relating to the system which had been presented during the regular session of the Legislature. The committee's concerns included the funding practices of the system and the demands on its reserves, the inconsistencies in the accident and death benefit provisions, the means of determination of membership in the system for units of persons other than state government employees, the purchase of retirement credit for military service, out-of-state service and other specified types of previous employment, the granting of special benefits to certain classes of state employees, the granting of special claims by the Legislature, the question of

tying the retirement system to the social security system, and the structure of the board of trustees and the administration of the system.

Study Procedure of the Committee

The Legislative Council, on August 15, 1973, granted the committee the authority and the funds to retain expert assistance for the study. Mr. Robert J. Towne of Towne and Associates, Yarmouth, Maine, a Fellow of the Society of Actuaries who had served as actuary for the state retirement system, was chosen by the committee to prepare the study. Mr. Towne outlined procedures for the study that included meeting with employee organizations, state department heads and the administration of the retirement system to secure information and suggestions for change, procurement of information on other systems, submission of interim reports and a final report, and meetings with the committee to discuss the reports.

Three interim reports were submitted on October 3, October 30 and December 18, 1973. The final report on January 9, 1974 summarized the results of the three earlier reports and listed the items of possible revision, and recommendations on these items. At the committee's request, Mr. Towne, on February 12, 1974, submitted a supplementary report containing suggested language for the proposed changes in the system.

The report was not completed until the middle of the special session of the 106th Legislature, and there was not sufficient time to put the proposals in proper form for consideration by the special session. After the session, two legislative assistants were assigned to the committee to do the necessary drafting work.

The committee held three meetings to review the drafting, to inform the board of trustees and interested employee groups and to reach a final decision on the proposals. At the final meeting, on December 11, the committee voted to support the proposals, with some changes noted later in this report. The committee also agreed that the proposals should be submitted to the 107th Legislature in one bill. A copy of the bill is attached to this report as an appendix, along with a memorandum detailing the changes that the bill would make to the present statutes.

Recommendations for Reform

The changes proposed by the committee as the result of its study of the retirement system constitute a major reform and revision of the retirement laws. The details of the recommendations are spelled out in the appendices to this report, in the report of Towne and Associates, in the list of changes in

the statutes, and in the statement of fact to the proposed bill. The purpose of this report is to summarize the major proposals and the intentions of the committee.

The committee's concern throughout the study has been to protect the present rights and benefits of members of the system. Amendments that remove or modify benefits have been limited in retroactivity in order to insure the continuation of presently vested rights.

The committee recommends correcting several abuses, such as the frequent inclusion of accumulated sick leave payments in determining final compensation.

Uniform disability benefits are recommended, to remove the distinction between ordinary and occupational disability. The death benefits system should be revised and the occupational death benefits provision broadened to apply to all members.

"Average final compensation", the base benefits for most members, should be applied to all.

The special provision that allows teachers to complete the school year and retire after a cost-of-living increase in benefits and still receive that increase should be broadened and applied to all members, in order to prevent wholesale retirements just before a cost-of-living increase takes effect. The original recommendation to the committee had been to do the reverse by eliminating the special provision for teachers. The committee

felt that such wholesale retirements were detrimental to efficient government and to the dignity of employees, and therefore recommends a system similar to the federal government's.

There should be a general definition of participating local districts in the statute, so that the Legislature will not have to pass a new amendment for every type of group or agency that it feels should be in the system.

The provisions that allow certain members and certain groups of members to purchase additional credits should be replaced with a uniform provision allowing all members the right to make additional contributions to increase their retirement allowances.

A major change should be made in the composition of the board of trustees. The membership of the board should be increased from seven to eight to provide for equal representation of employees and the public. At present, only three members of the board are public representatives, appointed by the Governor with the advice and consent of the Executive Council. The other four are representatives of employee groups. The committee felt that, because the state contributes half of the cost of the retirement system, the public should be entitled to representation in the decision making process equal to that of the members who pay in the other part of the cost.

Further changes should be made in the administration of

the system by clearly placing administrative responsibility for the regular operation of the system in the hands of the executive director rather than leaving it partially with the board. Qualified personnel to administer disability benefits should be provided. The reporting system should be improved. The board should report to the Legislature on the effect of all proposed amendments to the retirement law. It should be required that special resolves to provide additional or special benefits be thoroughly reviewed and, if adopted, fully funded. This has been an area of repeated abuse by the legislature.

Mention should be made of one problem area covered by the Towne study, but not included in the recommendations for legislation. This is the question of the equity of permitting employees in special classifications, such as state police, wardens, prison guards and some participating district employees, to retire normally with full or greater retirement benefits at significantly earlier dates than for most regular members of the system. The justification has been that their work is especially difficult or hazardous, but not all members of such groups perform similar work. Such provisions have been initiated at different times for different groups, without uniformity in the system. The study recommended that early retirement for such positions be based solely on the requirements of the particular position and of the actual work done. The committee recommends further detailed study and evaluation in this area.

H.P. 1387

STATE OF MAINE
HOUSE OF REPRESENTATIVES
106TH LEGISLATURE

JOINT ORDER

WHEREAS, participation in the Maine State Retirement System in recent years has been extended to several additional categories of employees of political subdivisions and other agencies; and

WHEREAS, there has also been a proliferation of amendments to the Maine State Retirement System law providing particular variations relating to membership and benefit formulae for particular classes of employees; and

WHEREAS, these additions and variations have given rise to complexities, inequities, inefficiencies and confusion; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the Maine State Retirement System Law as provided in the Revised Statutes, Title 5, chapter 101 and all Acts amendatory thereto to determine all possible and practical improvements in the law which can provide greater uniformity and equity under the system. Such study shall include but not be limited to determining the feasibility and desirability of developing guidelines concerning participation in the system; and be it further

ORDERED, that the officers and staff of the Maine State Retirement System be authorized and respectfully requested to provide such information, technical advice and such other needed assistance as the Committee deems necessary to carry out the purposes of this Order; and be it further

ORDERED, that the Committee shall make a written report of its findings and recommendations, together with all necessary legislation and at its discretion submit the same to either the next special or regular session of the Legislature; and be it further

ORDERED, upon passage in concurrence, that a copy of this Joint Order be transmitted forthwith to said office of the Maine State Retirement System as notice of this directive.

NAME: Larry Simpson

TOWN: Standish

Reproduced and distributed under the direction of the Clerk of the House.

S.
O.E.R.

STATE OF MAINE
SENATE
106TH LEGISLATURE

SENATE AMENDMENT "A" to House Paper 1387, ORDER, relating to study of Maine State Retirement System laws.

Amend said Order by striking out the first 2 lines of the 4th paragraph and inserting in place thereof the following:

'ORDERED, the Senate concurring, that the Joint Standing Committee on Veterans and Retirement is directed to study the Maine State Retirement System Law as'

Further amend said Order by striking out the period at the end and inserting in place thereof the following:

'; and be it further

ORDERED, that there is allocated from the Legislative Account to the committee the sum of \$20,000 to be used by the committee to employ professional and clerical assistants to carry out the purposes of this Order. Such appropriation shall not lapse but shall remain a continuing carrying account until the purposes of this Order have been accomplished.'

(Richardson)
NAME:



COUNTY: Cumberland

AN ACT to Amend the State Retirement System

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

Sec. 1. 5 MRSA §1001, sub-§9, first sentence, as last amended by PL 1965, c. 186, §1, is further amended to read:

9. Earnable compensation. "Earnable compensation" shall mean actual compensation during the period of employment used in determining average final compensation, including maintenance if any, but shall not include payment for unused sick leave, unused accumulated leave or vacation, or any other payment which is not compensation for actual services

Sec. 2. 5 MRSA §1001, sub-§9, as last amended by PL 1965, c. 186, §1, is further amended by adding a new paragraph at the end to read:

The earnable compensation of a member retired with a disability retirement allowance under section 1122 shall be assumed, for the purposes of determining benefits under this chapter, to be continued after his date of termination of service at the same rate as received immediately prior thereto, subject to the same adjustments, if any, that may apply to the amount of retirement allowance of the beneficiary under the provisions of section 1128.

Sec. 3. 5 MRSA §1001, sub-§10-A, as enacted by PL 1971, c. 17, §1, is repealed.

Sec. 4. 5 MRSA §1001, sub-§10-A and sub-§10-B, are enacted

to read:

10-A. Executive Body. "Executive body" shall mean the official or body of officials who, in their official capacity, have the general powers and duties of administering, supervising and managing the affairs of an organization or governmental unit.

10-B. Fiduciary. "Fiduciary" shall mean either a bank or professional investment management.

Sec. 5. 5 MRSA §1001, sub-§11-A, is enacted to read:

11-A. Local District. "Local District" shall mean any county, municipality, quasi-municipal corporation, quasi-independent state agency, instrumentality of the State or of one or more of its political subdivisions, or any association of employees of the State or such local districts, or association of such local districts, or any entity eligible to become a participating local district under this section as in effect immediately prior to the effective date of this Act

Sec. 6. 5 MRSA §1005, is repealed and the following enacted in place thereof:

§1005. Proposed Amendments.

1. Review of Statutory Amendments. All amendments to this chapter that are proposed to be enacted by the Legislature shall be reviewed by the board of trustees, which shall report to the proper legislative committee or authority on the impact of each such amendment on the retirement system. Such report shall state the impact on all aspects of the system, including the amendment's purposes, the resulting equitable or inequitable treatment of members, the funding of the costs of benefits, its consistency with other provisions of this chapter, and the value of such amendments to the system. Such report shall also include a separate evaluation of each amendment by the actuary and by the Director of Personnel, which shall be requested by the board of trustees and included with their report.

2. Review of Special Resolves. All special resolves which propose to grant benefits to be paid to any person by the retirement system and to which the person would not be entitled under the provisions of this chapter but for the enactment of such law, shall be reviewed by the board of trustees in the manner provided under subsection 1.

3. Effect on Accrued Benefits. No amendment to this chapter shall cause any reduction in the amount of benefits which would be due to the member based on creditable service, compensation, employee contributions, and the provisions of this chapter on the date immediately preceding the effective date of such amendment.

Sec. 7. 5 MRSA §1031, sub-§ 1, as last amended by PL 1973, c. 122

§ 1, is repealed and replaced to read:

1. Board of Trustees. The responsibilities for the proper operation of the retirement system and for making this chapter effective are vested in a board of 8 trustees. The board shall formulate policies and exercise general supervision under this chapter. Administrative responsibility, including approval of the payment of all benefits provided under this chapter, shall be vested in the executive director appointed under subsection 7. The board, as heretofore established, shall consist of the following persons who must be citizens of the State of Maine:

- (1) 4 persons selected as employee representatives, one of whom elected by the Maine Teachers' Association, one of whom elected by the Maine State Employees' Association, one of whom appointed by the governing body of the Maine Municipal Association and who is a member of the Retirement System through a participating local district, and one of whom is a beneficiary receiving a retirement allowance under the Retirement System and is selected by majority vote of the other employee representatives from a list or lists of nominees submitted by retired state employees, retired teachers or retired participating local district employees or submitted by a committee comprised of representatives of said groups and
- (2) 4 persons appointed as public representatives by the Governor with the advice and consent of the Council, none of whom shall be either a beneficiary or potential beneficiary under the retirement system and 2 of whom shall be designated as qualified through training and experience in the field of investments.

Each member of the board of trustees shall serve for a term of three years, provided that, of those members whose terms commence at the effective date of this Act, the term of the Maine Teachers' Association representative, the Maine State Employee's

representative, and two public representatives, as designated by the Governor on appointment, shall be for three years, the term of the Maine Municipal Association representative and one public representative, as designated by the Governor on appointment, shall be for two years, and the term of the retirement beneficiary representative and one public representative, as designated by the Governor on appointment, shall be for one year. The term of all appointments to membership where a term of membership has expired shall commence with such date of expiration regardless of the effective date of such new appointments. Appointments to any vacancy caused by any reason shall be for the unexpired portion of the term.

The board of trustees shall meet at least once in each month for the transaction of such business as may properly come before it.

Sec. 8. 5 MRSA § 1031, sub-§ 2, as last amended by PL 1971, c. 17,

§3, is further amended to read:

2. Expenses. The trustees shall be reimbursed from the funds of the retirement system for all necessary expenses that they may incur through service on the board of trustees and shall be entitled to a payment of ~~§5~~ \$50 per diem in addition to expenses when engaged in the performance of authorized retirement system duties.

Sec. 9. 5 MRSA §1031, sub-§4, is amended to read:

4. Quorum: Each trustee shall be entitled to one vote in the board of trustees. ~~Four~~ Five trustees shall constitute a quorum for the transaction of any business. ~~Four~~ Five votes shall be necessary for any resolution or action by the board of trustees at any meeting of the board.

Sec. 10. 5 MRSA §1031, sub-§6, as last amended by PL 1971, §3, is

further amended by adding a new sentence after the first sentence, to read:

The personnel staff of the executive director shall include employees qualified to administer the payment of disability benefits under the retirement system or the board of trustees shall authorize the employment of professional services for such administration.

Sec. 11. 5 MRSA §1031, sub-§8, as last amended by PL 1971, c. 17,

§ 5, is further amended to read:

8. Meetings; Record errors. ~~The board of trustees shall meet at least once in each month for the transaction of such business as may properly come before it.~~ The head of any department upon request from the ~~board of trustees~~ executive director shall promptly furnish ~~it~~ him with such information as shall be required to effectuate this chapter. Whenever the ~~board of trustees~~ executive director shall find it impossible or impracticable to consult an original record to determine the date of birth, length of service, amount of regular compensation or other pertinent fact with regard to any member, ~~it~~ he may, subject to the approval of the ~~executive director~~ and-actuary, use estimates thereof on any basis which in ~~its~~ his judgment is fair and just. The ~~board of trustees~~ executive director, upon discovery of any error in any record of the system, shall, as far as practicable, correct such record. If any such error results in the receipt from such system by any member or beneficiary of more or less than he would have been entitled to receive had the records been correct, payments shall, as far as practicable, be adjusted in such manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

Sec. 12. 5 MRSA §1031, sub-§10, is amended to read:

9. Record; report. The board of trustees shall keep a record of all its proceedings, which shall be open to public inspection. It shall publish ~~biennially~~ annually, for each fiscal year, a report showing the fiscal transactions of the retirement system for the ~~preceding~~ preceding fiscal years, ~~the amount of accumulated cash and securities of the system and the last balance sheet showing the~~

~~financial condition of the retirement system by means of an actuarial valuation of the assets and liabilities of the system; and the assets and liabilities of the retirement system at the end of the fiscal year. It shall also publish the actuary's report on the actuarial valuation of the financial condition of the system for the fiscal year.~~

Sec. 13. 5 MRSA §1031, sub-§11, is amended to read:

11. Medical Board. The board of trustees shall designate a medical board to be composed of 3 physicians not eligible to participate in the retirement system. If required, other physicians may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under this chapter; ~~shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement~~ with respect to disability retirements and shall report in writing to the board of trustees executive director its conclusions and recommendations upon all matters referred to it.

Sec. 14. 5 MRSA §1031, sub-§ 12, is repealed and the following enacted in place thereof:

12. Actuary; duties; annual valuation of funds; experience investigations; compensation values.

A. The board of trustees shall designate an actuary who, if an individual, shall be a Fellow of the Society of Actuaries. If the actuary is a firm of actuaries it shall designate one of its members to perform the functions required of the actuary under this chapter who shall be a Fellow of the Society of Actuaries. The actuary shall be the technical advisor to the board of trustees on matters regarding the operation of the funds created by this chapter and shall perform such other duties as are required in connection therewith. He shall certify the amounts of the benefits payable under this chapter except for benefits payable under subchapter VI.

B. The actuary shall make annual valuations of the assets and liabilities of the retirement system on the basis of such actuarial assumptions as the board of trustees shall adopt and shall furnish a written

report to the board of trustees with respect to each such valuation. Each such report shall also include an analysis of the year's operations and all results shall be separated between those applicable to benefits payable by employer contributions and employee contributions, where properly determinable.

C. The actuary shall make such investigations as he deems necessary of the experience of the system as to the factors which affect the cost of the benefits provided by the retirement system, for the purpose of determining the actuarial assumptions to be recommended to the board of trustees for adoption in connection with actuarial determinations required under this chapter. Such investigations shall be made as frequently as the actuary deems expedient but at least once in each 3 year period following the effective date of this Act.

D. The actuary shall determine the equivalent cash compensation value to the members of the system of the benefits provided for them by the retirement system and shall furnish such information to the director of the department of personnel.

Sec. 15. 5 MRS.A §1031, sub-§§13 and 14, are repealed.

Sec. 16. 5 MRS.A §1032, 2nd ¶, is amended to read:

If and when any special resolve is enacted by the Legislature granting credits toward retirement not provided for under this chapter which grants benefits which are to be paid to any person by the retirement system and to which the person would not be entitled under the provisions of this chapter but for the enactment of such law, the entire actuarial costs of such special resolve benefits shall be fully funded by act of the same Legislature which enacts any such special resolve.

Sec. 17. 5 MRSA §1033, sub-§3, 1st sentence, as last amended by PL 1969, c. 415, §2, is further amended to read:

3. Local district to certify. Any participating local district which is included under the retirement system shall be entitled to accept any or all of the provisions of this chapter by filing with the board of trustees a duly certified copy of the vote of the ~~county-commissioners-or-of-the-city-council-or-such~~ corresponding executive body or a record of the vote of the town voters certified by the clerk of the town meeting, setting forth in such action those provisions of this chapter which are to be accepted by the district in question, except any local participating district may elect to retain any or all of those provisions of the retirement law said district accepted at the time of the original agreement and including any changes subsequently accepted or selected by the district.

Sec. 18. 5 MRSA §1062, sub-§2, ¶C, as last amended by PL 1971, c. 17, §11, is repealed and the following enacted in place thereof:

C. Any member in service may make contributions on his own account to the Members' Contribution Fund, which are additional to the employee contributions required under this chapter, at a rate not in excess of 10% of earnable compensation for the purpose of increasing the amount of payment of his retirement allowance under any service retirement provision of this chapter. The rules and regulations governing this right granted to members to make additional contributions shall be determined by the board of trustees. Provided, however, any member in service on the date of this Act may make such additional contributions at a rate in excess of 10% of earnable compensation if such higher rate is necessary in order to provide any benefits to

which the member would have been entitled under subsections 12B or 14 of section 1094 as in effect immediately prior to the effective date of this Act.

Sec. 19. 5 MRSA §1062, sub-§6, ¶B, as last amended by PL 1967, c. 59, §8, is repealed.

Sec. 20. 5 MRSA §1062, sub-§7, ¶B, as last amended by PL 1965, c. 337, §2, is repealed.

Sec. 21. 5 MRSA §1062, sub-§7, ¶C, last two sentences, as enacted by PL 1965, c. 337, §2, are repealed.

Sec. 22. 5 MRSA §1092, sub-§1, as last amended by PL 1973, c. 115, is further amended to read:

1. Participating local districts. The employees of any county, ~~city, town, water district, public library corporation or any other quasi-municipal corporation of the State, a regional planning commission as provided in Title 30, a public housing authority as provided in Title 30, a council of governments provided in Title 30, the civilian employees of the Maine National Guard, employees of the Maine State Employees Association, Maine State Employees Credit Union, the State Principals Association, or of the Maine Municipal Association,~~ local district, except enlisted personnel and officers of the Maine National Guard, may participate in the retirement system, to the full extent of any and all benefits provided

for in this chapter provided the ~~county-commissioners-or-the~~
~~city-council-or-corresponding-body-of-a-city,~~ executive body,
or for a town, or the voters of a town at a duly constituted
town meeting, ~~or-the-trustees-of-a-water-district,~~ ~~public~~
~~library-corporation-or-other-quasi-municipal-corporation,~~
~~the-representatives-of-a-regional-planning-commission,~~ ~~the~~
~~commissioners-of-a-public-housing-authority,~~ ~~the-representatives~~
~~of-a-council-of-governments,~~ ~~the-Adjutant-General,~~ ~~or-Maine~~
~~State-Employees-Association-through-its-board-of-directors,~~
~~or-Maine-State-Employees-Credit-Union-through-its-board-of~~
~~directors,~~ ~~or-the-State-Principals-Association-through-its~~
~~executive-committee,~~ ~~or-the-active-member-municipalities-of~~
~~Maine-Municipal-Association-through-its-executive-committee,~~
approve such participation and file with the board of trustees
a duly certified copy of the resolution of the ~~county-commissioners~~
~~or-of-the-city-council-or-such-corresponding-body~~ executive body
approving such participation and the extent of the benefits
which shall apply, or a record of the vote of the town voters
certified by the clerk of the town meeting. Such ~~county,~~ ~~city,~~
~~town,~~ ~~water-district,~~ ~~public-library-corporation-or-other~~
~~quasi-municipal-corporation,~~ ~~regional-planning-commission,~~
~~public-housing-authority,~~ ~~council-of-governments,~~ ~~Maine-State~~
~~Employees-Association,~~ ~~Maine-State-Employees-Credit-Union,~~ ~~State~~
~~Principals-Association,~~ ~~Maine-National-Guard-or-Maine-Municipal~~
~~Association,~~ local district approving the participation of its
employees in the retirement system shall thereafter be known
for the purposes of this chapter as "a participating local

district". Such county, city, town, water district, public library corporation or other quasi-municipal corporation, regional planning commission, public housing authority, council of governments, Maine National Guard, Maine State Employees Association, or Maine State Employees Credit Union, or State Principals Association, or Maine Municipal Association, local district shall designate in their approval any class of employees, otherwise provided for by local pension provisions, who may be exempted from this chapter. The date when the participation of the employees of a participating local district may begin shall be set by the board of trustees not more than 6 months following the date the local district approved the participation of its employees. This date shall be considered as the date of establishment for participating local districts as defined in section 1002.

Sec. 23. 5 MRSA §1092, sub-§3, first sentence, as last amended by PL 1971, c. 154, § 1, is further amended to read:

3. Retirement benefit for policemen, firemen, local district employees, sheriffs and full-time deputy sheriffs. Any participating local district, by filing with the board of trustees a duly certified copy of its action, may provide a retirement benefit for policemen, firemen, sheriffs and full-time deputy sheriffs or any other participating local district employees, of 1/2 salary average final compensation, after having completed 20 to 25 years of service, ~~which benefit shall be based on the annual rate of salary being paid such individuals at point of retirement or the gross amount earned in the immediately preceding 12 months, whichever is greater.~~

Sec. 24. 5 MRSA §1092, sub-§8, is amended to read:

8. Benefits as if State employees. Employees who become members under this section and on behalf of whom contributions are paid as provided in this section shall be entitled to benefits under the retirement system for which such contributions are made as though they were state employees, and shall also be entitled to any additional benefits elected by the participating local districts.

Sec. 25. 5 MRSA §1092, sub-§11, first ¶, as amended by PL 1973, c. 123, c. 487, is further amended to read:

11. Re-employment with new employer. Any member of the retirement system whose service is terminated as an employee, either as defined in section 1001 or as an employee of a participating local district, shall upon subsequent re-employment as such an employee but with a new employer, provided he shall not have previously withdrawn his accumulated contributions, thereupon have his membership transferred to his account with his new employer, and shall be entitled to all creditable service-resulting-from-his-previous-employment benefits based on creditable service and earnable compensation with the previous employer and the provisions of this chapter in effect with respect to the previous employer at the date of termination of service by the member, which do not require additional contributions by the new employer. The new employer may elect to include the creditable service and earnable compensation with the previous employer with the creditable service

and earnable compensation with the new employer, and shall then
 make such contributions, from time to time, as may be necessary
 to provide the benefits under the retirement system for the
 member as have accrued to him by reason of his previous employ-
 ment and may accrue to him by reason of his new employment.
 All funds in the retirement system contributed by his former
 employer on account of his previous employment shall be
 transferred to the account of the new employer and shall be
 used to liquidate the liability incurred by reason of such
 previous employment.

Sec. 26. 5 MRSA §1092, as last amended by PL 1973, c. 123,
 c. 487, is further amended by adding a new subsection at the
 end to read:

14. Cessation of Inclusion of Participating Local District

A. If, for any reason, any participating local district ceases to be
 an employing unit eligible for inclusion in the retirement system, the
 membership of its employees shall cease except to the extent of any
 benefits that may be provided by the funds that have been established
 under the retirement system for such district.

B. If the membership of the employees of a participating local
 district ceases under the conditions of paragraph A of this subsection
 the funds that have been established under the retirement system for
 such district shall be used to provide benefits for those persons who
 are either members or beneficiaries at the date of such cessation.

C. The amount of the funds that have been established under the retirement system for such district at the date of such cessation shall be allocated by the board of trustees in an equitable manner to provide benefits for the persons stated in paragraph B of this subsection in accordance with the provisions of this chapter in effect at the date of such cessation but based upon years of creditable service, average final compensation and accumulated contributions as of the date of such cessation, in the following order:

- (1) for the benefit of members to the extent of the then value of their accumulated contributions in the Members' Contribution Fund; if any funds remain, then
- (2) for the benefit of beneficiaries then receiving payment of a benefit after cessation of payments to such beneficiaries, in proportion to the then actuarial value of their respective benefits but not to exceed the amount of such values; if any funds remain, then,
- (3) for the benefit of members with at least 10 years of creditable service who are not then receiving benefit payments, to the extent of the actuarial value of their retirement allowances not provided by their accumulated contributions; the allocation of the funds under this subparagraph (3) shall be on the basis of the oldest ages first method; if any funds remain, then
- (4) for the benefit of members in service with the district on the date of such cessation with less than 10 years of creditable service who are not then receiving benefit payments, to the extent of the actuarial value of their retirement allowances not provided by their accumulated contributions; the allocation of the funds under this subparagraph (4) shall be on the basis of the oldest ages first method.

D. The allocation of the funds provided for in paragraph C of this subsection may, as decided by the board of trustees, be carried out through the continuance of the benefit payments or the funds may be distributed in one lump sum to the persons entitled to said benefits determined in accordance with said paragraph C. No member or former member shall lose his right to any benefits under this section solely because he later terminates employment with the participating local district prior to his service retirement date.

Sec. 27. 5 MRSA §1094, sub-§9, last sentence, is amended to read:

Payments made after July 1, 1957 of any such back payments shall include interest at 2% greater than regular interest thereon for the period from July 1, 1957 to the date of payment.

Sec. 28. 5 MRSA §1094, sub-§10, is amended to read:

10. Former members. Any former member who withdrew his contributions after termination of service may, upon later restoration to membership and prior to the date any retirement allowance becomes effective for him, deposit in the Members' Contribution Fund by a single payment or by an increased rate of contributions withdrawn by him together with interest at 2% greater than regular interest thereon from the date of withdrawal to the date the deposit payment or payments are made. Upon completion of such deposit the member shall be entitled to all creditable service that he acquired during his previous membership. In the event any retirement allowance becomes effective before the completion of such deposit, the member shall be entitled to credit for that portion of the total of such previous creditable service which the total amount of deposit payments actually made bears to such single deposit if paid on the date of restoration to membership, in

each instance including interest at 2% greater than regular interest from the date of payment to the date the retirement allowance becomes effective.

Sec. 29. 5 MRSA §1094, sub-§11, is amended to read:

11. Federal employment service. Any employees of the federal employment service who transferred to a state department prior to the time said service was returned to state control shall be allowed prior service credit and membership credit for such time as he was with the said federal employment service provided he makes up such contributions as may be necessary to cover membership credit, which shall include interest at 2% greater than regular interest from January 1, 1976 to the date of payment.

This subsection shall not apply to any member who begins membership on or after the effective date of this Act.

Sec. 30. 5 MRSA §1094, sub-§12, ¶A, as last amended by PL 1966, c. 509, §§1,2,3,4, is further amended to read:

A. Out-of-state service shall be allowed as additional creditable service for any member in the determination of his retirement allowance under any provisions of this chapter provided that the member has creditable service in Maine of at least 20 years in the aggregate, provided the member, prior to the date any retirement allowance becomes effective for him, makes contributions into the Members' Contribution Fund for the years of out-of-state service on the same basis as he would have made had such service been in Maine, including

interest at 2% greater than regular interest from the date of his return to service to the date of payment and subject to the following:

Sec. 31. 5 MRSA §1094, sub-§12, ¶A, sub-¶5, as enacted by PL 1965, c. 314, is amended to read:

(5) An public school teacher who leaves service in Maine to teach children of United States occupational forces, located in any foreign country on a regularly established United States military base, shall be allowed credit for such service, not to exceed 2 years, provided such teacher returned to active teaching service in Maine within one year of the completion of such foreign service, and pays into the Maine State Retirement System contributions as would have been made had the service been rendered in Maine, including interest at 2% greater than regular interest from the date of his return to service to the date of payment.

Sec. 32. 5 MRSA §1094, sub-§12, ¶A, as last amended by PL 1966, c. 509, §§1,2,3,4, is further amended by adding a new sentence at the end to read:

This paragraph shall not apply to any member who begins membership on or after the effective date of this Act.

Sec. 33. 5 MRSA §1094, sub-§12, ¶B, as last amended by PL 1966, c. 509, §§1, 2, 3, 4, is further amended by adding a new paragraph at the end to read:

This paragraph shall not apply to any member who has not elected to make deposits or increased contributions for credit prior to the effective date of this Act.

Sec. 34. 5 MRSA §1094, sub-§13, 3rd sentence, as amended by PL 1969, c. 415, §3, is further amended to read:

The member shall contribute to the retirement system for each year of military service claimed that percentage of contribution required of active members during the period of time covered by said military service applied to the earnable compensation paid such member during the first year of state employment subsequent to service in the Armed Forces, together with interest at 2 % greater than regular interest from the date of payment; however, 5% shall be the minimum rate of contribution.

Sec. 35. 5 MRSA §1094, sub-§13, as last amended by PL 1969, c. 415, §3, and c. 449, is further amended by adding a new sentence at the end to read:

This subsection shall not apply to any member who begins membership on or after the effective date of this Act.

Sec. 36. 5 MRSA §1094, sub-§14, as last amended by PL 1973, c. 105, is further amended by adding a new paragraph at the end to read:

This subsection shall not apply to any member who has not elected to make deposits or increased contributions for credit prior to the effective date of this Act.

Sec. 37. 5 MRSA §1094, as last amended by PL 1973, c. 412, §2; c. 542, §§1 to 3; and c. 625, §§24 and 25, is further amended by adding a new subsection at the end to read:

15. Disability Retirement Credits. The period following his termination of service for which a beneficiary receives disability retirement allowance payments under section 1122 shall be allowed as creditable service for the purposes of determining benefits under this chapter.

Sec. 38. 5 MRSA §1096, is amended to read:

§ 1096. Return of accumulated contributions

If the service of any member has terminated, except by death or by retirement under this chapter, he shall be paid, ~~at any time thereafter upon proper application therefor, the amount of his accumulated contributions together with such interest thereon, not less than 3/4 of accumulated regular interest, as the board of trustees shall allow,~~ provided no interest shall be included for any period beyond the 5th anniversary of the date of such termination of service if the member has less than 10 years of creditable service. Such payment shall not be made earlier than 90 days after the date of termination of service and an application for refund shall be void if a member returns to service within such 90 day period.

Sec. 39. 5 MRSA §1121, sub-§1, ¶B, last two sentences, are repealed and the following enacted in place thereof:

Notwithstanding the foregoing, the service of any member who has attained the age of 70, and who desires to remain in service, may be continued for periods of one year, if approved by the Governor and Council, for state employees, or by the executive body of the participating local district which employs the member, in accordance with the regular employment practices of the local district. Requests for extensions of service for state employees shall be filed with the appointing authority, who shall send it to the Director of Personnel for review and comment, who shall then forward it to the Governor and Council.

Sec. 40. 5 MRSA §1121, sub-§1, ¶C, last sentence of first sub-¶, as last amended by PL 1973, c. 412, §§3,4 is further amended to read:

The total amount of the service retirement allowance of a member retired in accordance with this paragraph shall be equal to 1/2 of his ~~current-annual-salary~~ average final compensation.

Sec. 41. 5 MRSA §1121, sub-§1, ¶C, 2nd sub-¶, as last amended by PL 1973, c. 606, is further amended to read:

Upon the death of a member of the Maine State Police who is the receiptent of a retirement allowance under this section, without optional

modification, or is retired under ~~either~~ the ordinary-or-occupational disability provisions, ~~his-widew~~ the surviving spouse shall become entitled to a retirement allowance which shall be equal to 1/2 of the amount being paid at the time of his death and which payment shall continue for the remainder of his or her lifetime ~~or-until-she-should~~ ~~remarry~~. Payment of the appropriate monthly amount shall be made to the ~~widew~~ spouse for the account of any deceased member of the State Police who had retired without optional modification under this paragraph as of September 23, 1971 and shall not be retroactive. For purposes of this Title, a member of the State Police shall be deemed to mean any state police officer or any such state ~~police~~ officer who is appointed Chief of the State Police or Commissioner of Public Safety.

Sec. 42. 5 MRSA §1121, sub-§1, ¶C, last sub-¶, as last amended by PL 1973, c. 606, is repealed.

Sec. 43. 5 MRSA §1121, sub-§1, ¶D, last sentence of the first sub-¶, as last amended by PL 1972, c. 622, §12, is further amended to read:

The total amount of the service retirement allowance of a law enforcement officer retired in accordance with this paragraph shall be equal to 1/2 of his ~~current-annual-salary-~~average final compensation.

Sec. 44. 5 MRSA §1121, sub-§1, ¶D, last sub-¶, as last amended by P.L. 1972, c. 622, § 12, is further amended to read:

Upon the death of a law enforcement officer of the Department of Sea and Shore Fisheries or a law enforcement officer of the Department of Inland Fisheries and Game who is the recipient of a retirement allowance under this section, without optional modification, or is retired under ~~either~~ the ~~ordinary or occupational~~ disability provisions, ~~his widow,~~ the surviving spouse, who was his spouse at the time of his retirement, shall become entitled to a retirement allowance which shall be equal to 1/2 of the amount being paid at the time of his death and which payment shall continue for the remainder of her lifetime ~~or-until-she-should-remarry.~~

Sec. 45. 5 MRSA §1121, sub-§ 1, ¶E, last sentence as last amended by PL 1973, c. 191, is further amended to read:

The total amount of the service retirement allowance of a forest ranger in the Forestry Department retired in accordance with this paragraph shall be equal to 1/2 of his ~~current-~~annual-salary average final compensation.

Sec. 46. 5 MRSA §1121, sub-§2, ¶A, sub-¶2, as last amended
by PL 1973, c. 542, §4, is further amended to read:

(2) If he has a prior service certificate in full force and effect, 1/50 of his average final compensation multiplied by the number of years, not to exceed 25, of his prior service, or, if the member was formerly subject to the Revised Statutes of 1944, chapter 37, sections 212 to 241, 1/60 of his average final compensation multiplied by the number of years of his teaching service rendered prior to July 1, 1942. A participating local district may elect to include, as to all employees of the district, prior service in excess of 25 years.

Sec. 47. 5 MRSA §1121, sub-§2, as last amended by PL 1973, c. 542,
§§ 4-7, is further amended by adding a new paragraph at the end to read:

H. The service retirement allowance of a member which becomes payable on or after the effective date of this Act shall be determined:

(1) under the provisions of this chapter in effect on the effective date of this Act, if the member's service termination date is on or before the effective date of this Act; or

(2) under the provisions of this chapter in effect on the member's service termination date, if the member's service termination date is after the effective date of this Act.

Sec. 48. 5 MRSA §1121, sub-§4, ¶B, last sentence, is repealed and the following enacted in place thereof:

Notwithstanding the foregoing, the service of any member who has attained the age of 70, and who desires to remain in service, may be continued for periods of one year, if approved by the Governor and Council, for state employees, or by the executive body of the participating local district which employs the member, in accordance with such employment practices of the local district. Requests for extensions of service for state employees shall be filed with the appointing authority, who shall send it to the Director of Personnel for review and comment, who shall then forward it to the Governor and Council.

Sec. 49. 5 MRSA §1121, sub-§4, ¶D, as last amended by PL 1971, c. 167, §§1,2, is further amended to read:

D. Any member who is a liquor inspector, including the chief inspector, and in any case at least 25 years of creditable service in his respective capacity, may be retired on or after the attainment of age 55 years on a service retirement allowance, but must be retired at the age of 65, which will be equal to 1/2 of his current average final compensation. ~~Notwithstanding the foregoing, the chief inspector on the request of the Governor with the approval of the Council~~

~~the board of trustees may permit the continuance of said chief inspector for periods of one year, as the result of each such request, of the service of the chief inspector who has attained the age of 65 and who desires to remain in service.--In no instance shall the power to extend the service of the chief inspector be extended beyond the attained age of 70. Notwithstanding the foregoing, the service of a chief inspector who has attained the age of 65, and who desires to remain in service, may be continued for periods of one year, but not beyond the attainment of age 70, if approved by the Governor and Council. Requests for extensions of service for state employees shall be filed with the appointing authority, who shall send it to the Director of Personnel for review and comment, who shall then forward it to the Governor and Council. Notwithstanding the provisions of this paragraph, any person employed as a liquor inspector on or before September 3, 1965 who has been employed continuously as such and who will not attain the 25 years of creditable service at age 65, shall be permitted to continue in his employment as a liquor inspector in order to obtain the 25 years of creditable service, at which time such liquor inspector must be retired.~~

Sec. 50. 5 MRSA § 1121, sub-§ 8, 2nd sentence, as last
amended by PL 1971, c. 154, § 2, is further amended to read:

The service retirement allowance shall be equal to $66 \frac{2}{3}\%$ of his current average final compensation or the district may accept a retirement provision whereby any member who is a fire fighter, including the chief of a fire department, who has 20 to 25 years of service as a fire fighter shall be permitted to retire, regardless of age, upon completion of the number of years selected by said district.

Sec. 51. 5 MRSA §1121, sub-§9, 2nd sentence, as last amended
by PL 1971, c. 154, §3, is further amended to read:

The service retirement allowance shall be equal to 66 2/3% of his ~~current~~ average final compensation, or the district may accept a retirement provision whereby any member who is a police officer, including the chief of the police department, who has 20 to 25 years of service as a police officer shall be permitted to retire, regardless of age, upon completion of the number of years selected by said district.

Sec. 52. 5 MRSA §1122, as last amended by PL 1973, c. 788,
§§20,21, is repealed and the following enacted in place thereof:
§1122. Disability Retirement.

1. Occurrence of Disability. Any member who, while in
service and prior to attaining age 60 or reaching mandatory
retirement age, without extensions, if earlier, has become
mentally or physically incapacitated to such an extent that it
is impossible for him to perform the duties of his employment
position, may if such incapacity can be expected to be permanent,
retire on a disability retirement allowance upon written appli-
cation to the executive director and approval of the application
by the executive director. The incapacity of the member must
be such that it shall be revealed by medical examination or
tests conducted by a qualified physician. Any such examination
or tests shall be conducted at the place of residence of the
member or other place mutually agreed upon and the costs there-
fore shall be paid by the retirement system. The effect of
this paragraph shall be retroactive.

2. Retirement Allowance Payments. Upon retirement in accordance with subsection 1 of this section, a member shall receive a retirement allowance equal to 66-2/3% of his average final compensation.

Retirement allowance payments shall commence at the date of termination of active service of the member but not more than six months prior to the date of receipt by the executive director of the written application by or on behalf of the member for disability retirement, unless it shall be shown that it was not reasonably possible to file such application for disability benefits within such six months period and that such application was made as soon as was reasonably possible.

The continuance of payment of a disability retirement allowance shall be subject to the terms of subsections 3 and 4 of this section.

3. Change to Service Retirement.

A. The disability retirement allowance of a beneficiary shall cease upon the attainment of his mandatory retirement age, without extensions, or prior thereto whenever the service retirement allowance of the beneficiary would equal or exceed the amount of his disability retirement allowance.

B. A service retirement allowance shall be paid to the beneficiary commencing at the date of termination of the disability retirement allowance as determined in paragraph A of this subsection.

4. Continuance of Disability Retirement Allowance.

Payment of a disability retirement allowance shall continue, subject to subsection 3, as long as the incapacity of the beneficiary to perform the duties of his employment position continues, except that, after the disability has continued for five years, the incapacity of the beneficiary must also be such that he is unable to engage in any substantially gainful activities for which he is qualified by training, education or experience. The executive director may require, once each year, a beneficiary who is receiving a disability retirement allowance to undergo medical examinations or tests conducted by a qualified physician for the purpose of determining the incapacity of the beneficiary. Any such examination or tests shall be conducted at the place of residence of the beneficiary or other place mutually agreed upon and the costs thereof shall be paid by the retirement system. Should the beneficiary refuse to submit to any such examination or tests, his disability retirement allowance shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights to any further benefits under this section shall cease. If it is determined on the basis of any such examination or tests that the incapacity of a beneficiary has ceased, the payment of his disability retirement allowance shall terminate.

5. Earnings. The executive director shall require each beneficiary who is receiving a disability retirement allowance

to submit, each calendar year, a statement of his compensation received from engaging in any gainful occupation during that year. If, for any such year, the total of such compensation and the disability retirement allowance of the beneficiary is greater than his average final compensation, the excess shall be deducted from the disability or service retirement allowance payments during the next calendar year, such deductions to be pro-rated on a monthly basis in an equitable manner prescribed by the board of trustees over the year or part thereof for which benefits are received. The beneficiary shall be responsible for reimbursing the State Retirement System for any excess payments not so deducted.

Should a beneficiary not submit such a statement within thirty days of receipt of request therefor by the executive director, his disability retirement allowance shall be discontinued until such statement is submitted, and should the statement not be submitted within one year of receipt of such request, all his rights to any further benefits shall cease.

6. Disability Payments under Other Laws. The amount of any disability retirement allowance payable under this section shall be reduced by any amount received by the beneficiary for the same disability under either or both (a) any workmen's compensation or similar law, except for amounts received

under Title 39, section 52; and (b) the Federal Social Security Act, provided his employment for which creditable service with the employer at the date of disability retirement is allowed was covered under such Act at the date of his disability retirement. Lump sum settlements under any such law shall be pro-rated on a monthly basis in an equitable manner prescribed by the board of trustees.

Sec. 7. Optional Election. The provisions of this Act may be elected by any beneficiary entitled to a disability retirement allowance under the provisions of section 1122 as in effect immediately prior to the effective date of this Act, in lieu of the provisions applicable to the disability retirement allowance which he is receiving, upon written application to the executive director within six months of the effective date of this Act. If elected, the provisions of this Act shall apply from the date of the beneficiary's original eligibility for disability retirement, but all increases in benefits shall only be granted from the date of election.

Sec. 8. Application. Except as otherwise provided in this section, this section shall apply to all disability retirement allowances for which written application to the executive director is received on or after the effective date of this Act.

Sec. 53. 5 MRSA §1124, as last amended by PL 1973, c. 122, §4, is further amended to read:

§1124. Ordinary Death Benefits

1. Death Before Eligibility for Service Retirement.

Should a member who is in service or former member who is a beneficiary receiving a disability retirement allowance, die at any time before attaining-eligibility completing the age and service conditions for service retirement, one of the following payments shall be made:

A. The amount of his-contribution-to-the-Members'-Contribution-Fund-together-with-not-less-than-3/4-of-the-accumulated regular-interest, as-the-board-of-trustees-shall-allow, the member's or former member's accumulated contributions shall be paid to such person, if any, as he has nominated by written designation duly-witnessed-and filed with the board executive director prior to his-death the death of the member or former member. The last nomination of any beneficiary revokes all previous nominations. If a member or former member dies-before retirement, and is not survived by a designated beneficiary, any payments due shall be made to the first of the following listed persons relatives, if any, alive at the his death: shall-qualify-as-beneficiary-in-the-following-order-of-precedence with-all-attendant-rights-and-privileges: the spouse of-the member; the children of-the-member, share and share alike; and the older parent of-the-member; otherwise, if no such

relative survives the member or former member, to the his estate of-the-member.

B. In lieu of accepting the payment provided in paragraph A, the first of certain designated beneficiaries, if living at the death of the member or former member, may elect to substitute the benefits described below, ~~providing-the-member prior-to-his-death-has-met-certain-conditions-of-eligibility.~~ Such designated beneficiary shall be a spouse, child or children of the member or former member, mother and father, or if no designation was made, the first of the following listed persons, if any, alive at the death of the member or former member, spouse, child or children, mother or father, mother and father of the deceased.

~~{1}--General-eligibility-provision-for-non-service~~

~~connected-death.---The-deceased-member-must-have-had-at~~

~~least-18-months-of-creditable-service-within-the-42~~

~~months-prior-to-date-of-death,-or-be-under-60-years-of~~

~~age-and-receiving-at-the-time-of-death-disability~~

~~allowance-as-provided-in-section-1122-and-any-lump-sum~~

~~due-under-section-1122-shall-be-paid-into-the-Survivors'~~

~~Benefit-Fund;-except-that-any-member-who-has-been-restored~~

~~to-service-after-having-been-a-recipient-of-a-disability~~

~~retirement-allowance-or-a-service-incurred-disability~~

~~retirement-allowance-shall-be-exempted-from-the-requirement~~

~~that-the-member-must-have-had-at-least-18-months-of-creditable~~

~~service-prior-to-date-of-death.~~

(1) ~~(a)~~ A spouse, alive ~~and-not-remarried~~ at the time of the death of the member or former member, shall be paid \$100 a month, commencing the first month after such death occurs, and continuing until the date of his death ~~or remarriage, whichever happens first~~, providing that either the deceased member or former member had 10 years of creditable service at the time of his death or that the surviving spouse is certified by the medical board after medical examination to be mentally or physically incapacitated and that such incapacity is likely to be permanent. Such spouse may qualify for this benefit in addition to any payments received as provided by division ~~(b)~~ (2), but shall not receive this benefit simultaneously with that provided by division ~~(b)~~ (2).

(2) ~~(b)~~ A spouse, alive and not remarried at the time of the death of the member or former member who has the care of unmarried children of the deceased member or former member under 22 years of age and a full-time student or any other progeny of the deceased who is considered to be mentally incompetent under the general statutes pertaining thereto, or who is certified to be mentally incompetent by the Medical Board of the Maine State Retirement System, or who is certified by the Medical Board of Maine State Retirement System to be physically and permanently incapacitated, shall be paid \$100 a month, commencing the first

month after such death occurs and continuing during his lifetime for such time as such children or progeny are in his care ~~and-he-has-not-remarried~~.

(3)(e) The unmarried child or children under 18 years, or unmarried children of the deceased member or former member under 22 years of age and a full-time student, or any other progeny of the deceased who is adjudged mentally incompetent by a probate court in the State of Maine or who is certified by the Medical Board of the Maine State Retirement System to be physically and permanently incapacitated at the time of the death of the member or former member, shall receive benefits as follows:

One child shall be paid \$100 a month.

Two children shall be paid \$150 a month, which shall be divided equally between them.

Three children or more shall be paid \$200 per month, which shall be divided equally among them.

The benefits shall commence the first month after the death of the member or former member and be payable to each child until he reaches his 18th birthday, or until he reaches his 22nd birthday if a full-time student, or prior death, whichever occurs first. In the event of the marriage or death of any such child prior to his 18th birthday, or to his 22nd birthday if a full-time student subsequent benefits to the other children, if any, shall be payable as if he had never lived.

The board of trustees shall adopt such rules as are found necessary for the beneficiary to qualify as a full-time student.

(4) ~~(d)~~ A spouse living at the time of death of the member or former member ~~and-not-remarried-subsequent-to-the-death-of the-member~~ shall be paid \$100 a month, commencing the first month after the attainment of 60 years of age and continuing until the date of his death ~~or-remarriage, whichever happens first~~. Such spouse may qualify for this benefit in addition to any payments received as provided by division ~~(b)~~ (2) but shall not receive this benefit simultaneously with that provided by division ~~(a)~~ (1) or division ~~(b)~~ (2).

(5) ~~(e)~~ A parent, if living at the time of the death of the member or former member, and at least 60 years of age or when that age is attained shall be paid \$100 per month. If both parents are eligible to benefits under this section, and the older parent elects benefits under this subsection, the younger parent shall receive \$75 per month if at least 60 years of age or when that age is attained. Upon the death of either parent, the survivor shall receive \$100 per month.

Such payments to any parent shall commence the first month after the death of the member or former member occurs and continue until death ~~or-remarriage, whichever happens first~~ of the parent. Benefits are only payable under this provision in the event no other benefits have been received in accordance with divisions ~~(a), (b), (c), or (d)~~ (1), (2), (3), or (4).

{f} Any recipient of benefits under this section who has remained unmarried and who does not remarry at attained age 60 or thereafter shall be entitled to continuation of such benefits for the remainder of his or her lifetime.

{2} -- Service-connected death: -- Should a member die as the result of illness or injury received in line of duty while in the service of the State of Maine, irrespective of the number of years of creditable service, paragraph B, subparagraph (1), divisions (a), (b), (c), or (e), shall be payable if applicable. -- If the member died on or after March 1, 1952 as a result of illness or injury received in line of duty while in the service of the State of Maine, paragraph B, subparagraph (1), divisions (a), (b), (c), or (e) shall be payable if applicable, except that the payments shall begin on the first day of the month following September 16, 1961 and shall not be retroactive to the date of death if the death occurred before July 1, 1957.

Notwithstanding anything to the contrary, benefits payable hereunder shall be in lieu of any benefits payable under section 1125, provided that the beneficiary specified in this section may elect to receive the benefits under section 1125 instead of any benefits under this section. The board of trustees shall determine upon receipt of proper proof that the illness or injury received in line of duty occurred while in actual performance of duty at some definite time or place, and was not caused by the willful negligence of the member.

C. ~~(3)~~ Transfer of accumulated contributions. If benefits are paid under paragraph B, ~~subparagraph-(1)~~ the amount of deceased member's or former member's accumulated contributions in the Members' Contribution Fund shall be transferred to the Survivors' Benefits Fund. ~~If-benefits-are-paid-under-paragraph B, subparagraph-(2)-the-amount-of-the-deceased-member's-contributions-in-the-Members'-Contribution-Fund, together-with-such interest-thereon, not-less-than-3/4-of-accumulated-regular interest, as-the-board-of-trustees-shall-allow-shall-also-be paid-to-the-specified-beneficiary.~~

D. ~~(4)~~ Death of beneficiary before payment. In the event that any beneficiary person becomes entitled to the payment of benefits under any-of-the-provisions-of this section and dies before either the refund check or the initial survivor benefit check shall be endorsed and presented to a holder in due course then it shall be considered as if ~~the-beneficiary~~ such person had predeceased the member or former member. Any beneficiary of this section shall have the right to change his choice of payment at any time up to the point of endorsement and presentation to a holder in due course of either the refund check or the initial survivor benefit payment.

~~E.~~ E. Any member may specify the refund of his ~~own-contribution to-the-Members'-Contribution-Funds-plus-allowable-interest~~ accumulated contributions to a designated beneficiary or to his estate in lieu of any payment to survivors as provided in paragraph B by filing an affidavit expressing such intent with the ~~board-of-trustees~~ executive director.

F. Benefits payable under this subsection shall be in lieu of any benefits payable under section 1125 or payable as death benefits under section 1121 (1)(C) or (D), provided that the person specified to receive benefits under this section may instead elect, prior to the commencement of benefit payments, to receive benefits under either section 1125, or death benefits under section 1121 (1)(C) or (D) in place of these benefits.

2. Death after eligibility for retirement. Should a member, or former member who is a beneficiary receiving a disability retirement allowance, die at any time ~~after attaining-eligibility~~ for completing the conditions for service retirement under any of the provisions of this chapter but before any ~~election-in~~ accordance-with-section-1126 service retirement allowance becomes effective, the following benefits shall be payable:

~~A.--Such-amounts-as-may-be-due-under-an-election-of-Option 4-of-section-1126, otherwise~~

B.A. A retirement allowance equal to the reduced retirement allowance determined in accordance with Option 2 of section 1126 on the assumption that service retirement of the member or former member had taken place on the date of his death, which will be continued during the lifetime of the first of the following listed persons, if any, alive at the death of the member or former member; designated beneficiary, wife, husband, mother, father. If the designated beneficiary is a spouse, child or children, mother or father, he may elect to receive the benefits provided under subsection 1 of this section, in lieu of such retirement

allowance payments. If the monthly amount of such retirement allowance is less than \$10 any such first listed person may, prior to the commencement of such retirement allowance payments, elect to receive, in lieu of such payments, a lump sum which is the actuarial equivalent at the date of death of the member or former member of such retirement allowance payments. Any such first listed person, other than a designated beneficiary, may, prior to the commencement of such retirement allowance payments, elect to receive, in lieu of such payments, a lump sum equal to the accumulated contributions of the member or former member; otherwise

E. B. The accumulated contributions of the member or former member which will be paid to the his estate, ~~of the member.~~

~~3.---Election-of-designated-beneficiary.---Should-a-member-die at-any-time-after-attaining-eligibility-for-retirement-under-any of-the-provisions-of-this-chapter,-but-before-any-election-in-ac-- cordance-with-section-1126-becomes-effective,-the-designated- beneficiary-if-a-spouse,-child-or-children,-mother-or-father-may elect-to-receive-either-the-benefits-provided-under-subsection-1-or those-provided-under-subsection-2,-paragraph-A-or-B-but-not-both, provided-that-the-member-and-the-designated-beneficiary-must comply-with-each-condition-set-forth-in-the-subsection-providing-the- benefits-which-are-elected-by-the-designated-beneficiary.~~

~~4~~ 3. General salary adjustments.

A. At any time that a general salary adjustment is made to state salaries, the same percentage increase or decrease shall be applied to the payments made under subsection 1, paragraph B. All adjustments shall become effective on the first day of the month following the effective date of the active state employees' salary adjustments.

B. Participating local districts may provide the adjustments in the survivor benefits provisions of paragraph A of this subsection by application to the board of trustees and shall supply a certified copy of its action with a statement of agreement of payment of the costs.

Sec. 54. 5 MRSA §1125, sub-§1, as last amended by PL 1965, c. 390, §1, is repealed.

Sec. 55. 5 MRSA §1125, sub-§1-A, as last amended by PL 1971, c. 84, is further amended to read:

1-A. ~~State-police,-fish-and-game-wardens and-coastal-wardens-who-are-members~~ Members of the Retirement System. If a member of ~~the retirement system who-is-a-member-of the-State-Police,-a-law-enforcement-officer~~

~~in the Department of Inland Fisheries and Game or a law enforcement officer in the Department of Sea and Shore Fisheries~~ or a former member who is a beneficiary receiving a disability retirement allowance shall die as a result of an injury received in the line of duty his beneficiary, if his widow spouse, and if there is no surviving child or children under age 18, shall receive an annual sum equal to $\frac{2}{3}$ of the ~~current~~ annual salary average final compensation of the member; or his beneficiary, if his widow spouse, if the member is survived by a widow spouse and a child or children under age 18, jointly, shall be entitled to an annual sum equal to the ~~current~~ annual salary average final compensation of the member; or his beneficiary, if his child or children, if the member is survived only by a child or children under age 18, jointly, shall receive an annual sum equal to the ~~current annual salary~~ average final compensation of the member. When the beneficiaries are a widow spouse and child or children under age 18, they shall be paid the annual sum equal to the ~~current~~ annual salary average final compensation only until the youngest surviving child reaches age 18, at which time the annual sum paid shall be reduced to $\frac{2}{3}$ of the ~~annual salary~~ average final compensation of the member. When the beneficiaries are a child or children under age 18, he or they shall be paid the annual sum equal to the ~~current annual salary~~ average final compensation only until the youngest surviving child reaches age 18, at which time all payments shall cease.

Sec. 56. 5 MRSA §1125, sub-§3, is amended to read:

3. Termination of payment. Each annual sum provided for in subsections 1 and 2 shall be paid to the widow spouse until he or she dies ~~or remarries~~ and to a child or children until they die or reach the age of 18 years. If the widow spouse dies ~~without remarrying~~ and leaves a child or children, the payment shall continue until such child or children die or reach the age of 18 years.

Sec. 57. 5 MRSA §1125, sub-§4, as last amended by PL 1965, §390, sub-§§1 to 3, is further amended to read:

The benefits provided under this section shall be in lieu of any benefits otherwise payable under section 1124 or any death benefits otherwise payable under section 1121 (I) (C) or (D).

Sec. 58. 5 MRSA §1126, 1st ¶, as last amended by PL 1961, c. 45, §4, is repealed and the following enacted in place thereof:

1. Normal Method of Payment

All retirement allowances shall be payable for life in equal monthly installments including any fraction of a month up to the date of death, unless an alternative method of payment under one of the options of subsection 2 has been elected.

2. Optional Methods of Payment

A member or a former member who is a beneficiary receiving a disability retirement allowance shall have the right to elect to have his service retirement allowance payable under any one of the options of this subsection in lieu of payment under subsection 1. Any option may be elected at any time prior to the commencement of payment of a service retirement allowance. The member shall make such an election by written request to the executive director and such an election shall be subject to his approval. Such an election may be revoked by the member by written notice to the executive director at any time prior to commencement or payment of the service retirement allowance.

Sec. 59. 5 MRSA §1126, 2nd, 3rd, 4th and 5th ¶'s, as last amended by PL 1961, c. 45, §4, are amended to read:

Option 1. A reduced retirement allowance payable during his life, with the provision that at his death the excess, if any, of his accumulated contributions at the time of his retirement over the portion of the total retirement allowance payments actually made to him during his lifetime, which is the actuarial equivalent of such accumulated contributions,

shall be paid in a lump sum to such person, if any, as he has nominated by written designation duly acknowledged and filed with the ~~board-of-trustees~~ executive director, otherwise to his estate. No contributions deducted from the compensation of a teacher prior to July 1, 1947 or required of a teacher for service credit prior thereto shall be included in such accumulated contributions; or

Option 2. A reduced retirement allowance payable during his life, with the provision that it shall ~~continue~~ be continued in the same amount after his death for the life of the beneficiary nominated by him by written designation duly acknowledged and filed with the ~~board-of-trustees~~ executive director at the time of retirement should such beneficiary survive him; or

Option 3. A reduced retirement allowance payable during his life, with the provision that it shall continue after his death at 1/2 of the ~~rate~~ allowance paid to him and be paid for the life of the beneficiary nominated by him by written designation duly acknowledged and filed with the ~~board-of-trustees~~ executive director at the time of retirement should such beneficiary survive him; or

Option 4. A reduced retirement allowance payable during his life with some other benefit payable after his death, provided the total value of the allowance during his life and of the succeeding benefit shall be computed to be of equivalent actuarial value to the allowance which he would receive without optional modifications, and provided the method used to determine the benefit shall be approved by the board of trustees.

Sec. 60. 5 MRS.A §1128, last ¶, as last amended by PL 1973, c. 625, §26, is repealed and the following enacted in place thereof:

The service retirement allowance of a member who retires, under section 1121, within 12 months of the effective date of a retirement allowance adjustment, shall not be less than the service retirement allowance, including such retirement allowance adjustment, that would have been payable if the member had retired on the day immediately preceeding the date of such adjustment. This provision shall apply only if the member is eligible under section 1121 to retire on the day immediately preceeding the effective date of such retirement adjustment allowance.

Sec. 61. 5 MRSA §1153, as last amended by PL 1967, c. 411, §4, is further amended to read:

§1153. Participating local districts

The employees of any county, city, town, water district, public library corporation or any other quasi-municipal corporation of the State, the civilian employees of the Maine National Guard or of the Maine Municipal Association local district, except enlisted personnel and officers of the Maine National Guard, may participate in this group life insurance program to the full extent of any and all benefits provided for in this chapter, provided the county commissioners, or the city

~~council or corresponding body of a city,~~ executive body or,
~~for a town,~~ the voters of a town at a duly constituted town
meeting, ~~or the trustees of water districts or public li-~~
~~brary corporations or other quasi-municipal corporations,~~
~~the Adjutant-General or the active member municipalities of~~
~~Maine Municipal Association through its executive committee,~~
approve such participation and file with the board of trustees
a duly certified copy of the resolution of the county
~~commissioners or of the city council or such corresponding~~
~~body~~ executive body or a record of the vote of the town
voters certified by the clerk of the town meeting approving
such participation and the extent of the benefits which shall
apply. Such county, ~~city,~~ ~~town,~~ ~~water district,~~ ~~public library~~
~~corporation or other quasi-municipal corporation,~~ ~~Maine National~~
~~Guard or Maine Municipal Association~~ local district approving
the participation of its employees in this group life insurance
program shall thereafter be known for the purposes of this
chapter as a "participating local district". Such county, ~~city,~~
~~town,~~ ~~water districts or public library corporations or other~~
~~quasi-municipal corporations,~~ ~~Maine National Guard or Maine~~
~~Municipal Association~~ local district shall designate in their
approval any class of employee who may be exempted from this
chapter. Seventy-five percent of the eligible employees of
each participating district shall be the minimum number per-
missible as a coverage group. The date when participation of
the employees of a participating local district may begin shall

be set by the board of trustees not more than 6 months following the date the local district approved the participation of its employees.

Employees of a participating local district who are covered under the basic group life insurance plan shall also be eligible for the additional group life insurance and paid-up life insurance coverage as provided for in section 1151 if the local district involved elects to adopt such benefits.

The chief fiscal officer of a participating local district shall submit to the board of trustees such information, and shall cause to be performed such duties, in respect to the employees of such local districts as shall be prescribed by the board of trustees in order to carry out this chapter, and shall pay such pro rata cost of premiums and expenses as may be levied by the board of trustees.

Sec. 62. Application. Section 1 shall apply to all retirement allowances that are first payable on or after the effective date of this Act.

Sections 23, 40, 43, 45, 49, 50 and 51 shall apply to all retirement allowances that are first payable on or after the

effective date of this Act; except that any part of a retirement allowance based on creditable service and compensation paid prior to the effective date that would be higher if determined under the provisions of chapter 101 in effect immediately prior to the effective date shall be so determined.

Section 25 shall apply to all re-employments with a new employer occurring on or after the effective date of this Act.

The changes in interest rates of sections 27, 28, 29, 30, 31 and 34 shall not be applied to any member who has elected to make deposits or increased contributions for credit prior to the effective date of this Act.

Sections 41, 42, 44 and 53 shall apply to all deaths occurring on or after the effective date, except that the benefits under subsection 2 shall be determined according to an election of Option 4 of section 1126 if an election of Option 4 was made prior to the effective date of this Act.

Section 46 shall apply to retirements occurring on or after the effective date of this Act, or prior thereto, as elected by a participating local district.

Sections 54, 55, 56 and 57 shall apply to all deaths occurring on or after the effective date of this Act.

Sec. 63. Appropriation. There is appropriated from the General Fund to the State Retirement System the sum of \$2,411,100 to carry out the purposes of this Act. The breakdown shall be as follows:

STATE RETIREMENT SYSTEM	1975-76	1976-77
Personal Services	\$1,198,500	\$1,212,600

Fiscal Note

The \$2,411,100 will be the increase in state contributions to the retirement system required by certain provisions of this Act. Section 52 of this Act, the amendments to disability retirement benefits, will require an additional state contribution equal to .42% of the payroll of state employees and teachers, or \$1,071,000 for the estimated 1975-76 payroll of \$255,000,000, and \$1,083,600 for the estimated 1976-77 payroll of \$258,000,000. This is \$2,154,600 for the biennium. Section 53 of this Act, the amendments to ordinary death benefits, will require an additional state contribution equal to .01% of the payroll of state employees, or \$25,500 for the estimated 1975-76 payroll of \$255,000,000, and \$25,800 for the 1976-77 estimated payroll of \$258,000,000. This is \$51,300 for the biennium. Sections 54, 55, 56, and 57, the amendments to accidental death benefits, will require an additional state contribution equal to .04% of the payroll of state employees and teachers, or \$102,000 for the estimated 1975-76 payroll of \$255,000,000, and \$103,200 for the estimated 1976-77 payroll of \$258,000,000. This is \$205,200 for the biennium.

The other amendments to the retirement system in this Act do not have any foreseeable impact on state contributions. However, the systems experience in the future could require greater or lesser contributions by the State at some future time.

Statement of Fact

This bill implements the recommendations for reform and improvement of the State Retirement System resulting from a professional study of the system under the supervision of the Committee on Veterans and Retirement of the 106th Legislature. The provisions in this bill are intended to fulfill several purposes: the protection of employees' present rights and benefits, the removal of abuses, the equalization of benefits and eligibility requirements and the removal of unwarranted special provisions, the removal of anachronistic or unused provisions, the increase of participating local districts' flexibility, the clarification of some provisions, and administrative changes to increase the efficiency and accountability of the system.

Present and potential abuses in the law occur in the computation and methods of paying retirement benefits, and in the payment of past membership contributions and withdrawal of accumulated contributions. To correct these abuses "average final compensation" is redefined to eliminate unused leave payments, the election of the "option 4" method of benefits payment is removed in some instances, interest at greater than "regular interest" is required for delayed payment for past membership, a 90 day delay after termination is required before accumulated contributions are refunded, and the amount of benefits are determined at date of termination rather than the

date the benefits became effective.

To insure greater equity in eligibility requirements for different benefits and greater equalization in the amount of benefits, consistent with the purposes and aims of the system, certain special privileges and provisions that benefit limited groups are either removed or expanded to include all those similarly situated. The major change is the integration of disability retirement benefits into the service retirement benefit provisions and death benefit provisions, and the inclusion of all members in the accidental death benefits coverage. The distinction between ordinary and occupational disability is removed and replaced by uniform disability benefits for all causes of disability, equal to the amount presently provided for occupational disability. Disability benefits are only to be continued until the normal service retirement date, at which point service retirement benefits will begin, with the period of disability allowed as creditable service for retirement and compensation based on the salary received before disability benefits were begun. The eligibility for accidental death benefits and ordinary death benefits are expanded: the time-in-service limitations of ordinary death benefits are removed and accidental death benefits for service connected deaths are broadened and unified for all members by expanding application of the special provisions for law enforcement officers to all members. Those receiving disability benefits are also eligible for such death benefits. The inequities of

sexually discriminatory eligibility standards and the re-marriage limitations are also removed from these statutes.

Other provisions are also amended to remove archaic limitations and create an equitable system of benefits. As a base for benefit determination throughout the system, "average final compensation" replaces various other bases that have developed over the years, such as "annual salary" "current final compensation", etc., which create inequitable benefits for certain groups. The provisions that allow members to purchase additional "service credits" for specified types of past employment or military service are also removed, and replaced by a provision allowing all members to make contributions to increase their retirement allowance. The special provision that allows teachers to retire after a cost of living increase in benefits and still receive that increase, a provision based on the teachers' contract year, is also replaced by a provision that effectively applies the same privilege to all members, without the requirement to file a notice of intent. The last substantial change required in the system by this general purpose is the removal of the individual listing of organizations eligible to become participating local districts. Instead of the individual listing, a general definition is used that encompasses all those presently included as well as organizations that are similar or identical in purpose and constituency to those listed.

The removal of anachronistic or currently unused provisions

is the purpose in amending the sections relating to the amount of interest to be included in returned contributions, the continuation in service of a member past the maximum retirement age, and employee contributions to the Retirement Allowance Adjustment Fund and the Survivor's Benefit Fund. The interest paid on employee contributions is the employee's money, and as such, should be entirely returned to the employee. Further the discretionary percentage return of interest gives the board of trustees the power to arbitrarily penalize individual employees, a power that is inconsistent with the principles of the retirement system. Thus, all interest paid on employee contributions is required to be returned to the terminating employee. The power of the board of trustees to authorize the continued employment of an employee beyond the mandatory retirement age is also unnecessary, as such extension represents no detrimental effect on the system that the board must guard against. Thus, such approval by the board is removed, allowing the power to remain solely in the Governor and Council or executive body of the participating local district. The contributions by employees' to the Retirement Allowance Adjustment Fund and the Survivor's Benefit Fund have presently been reduced to zero by the board. The amending of this statute removes the power of the board to change employee contributions to these funds, and places such power solely in the Legislature.

To protect the rights and benefits of employees, these amendments have limited retroactivity where they might reduce

such benefits or remove or modify rights. Where the amendments correct abuses they are fully retroactive, and where they increase or extend benefits, they are usually only prospective. Future amendments all also limited in their possible retroactive effect to insure protection of members' accrued benefits. Protection of rights and benefits is also provided for members of participating local districts by providing priorities and distribution of funds for the funds of a local district that withdraws from the system.

Increasing the flexibility and responsiveness of the participating local districts without adding burdens to the system as a whole is the purpose in amending the provisions relating to transfers of employment and to the benefits that can be elected by participating local districts. An employee who terminates membership with one employer and then becomes re-employed and rejoins, is guaranteed the accrued benefits from his previous employment. But his new employer also has the elective option to include the members prior service in his present service and thus provide higher benefits. This change from mandatory inclusion of prior service to elective inclusion gives greater flexibility to the new employer in hiring former members. To further increase the flexibility of participating local districts, they are given the power to elect to include prior service beyond the 25 year limitation

that applies to the state. All such additional benefits elected by a district are granted to all member-employees of that district.

To increase the efficiency and accountability of the system, the following changes are made in the administration: (1) the membership of the board of trustees is changed from 7 to 8 to provide for equal representation of employees and the public, (2) the terms of office of board members are staggered, (3) administrative responsibility for regular operations is placed clearly in the executive director, (4) the need for qualified personnel to administer disability benefits is recognized and provided for, and (5) the reports of the system are required annually and include the scope of actuarial valuations of the operations of the system. Further, the board of trustees is required to report in detail to the Legislature on any future proposed amendment to the system, with reports also required from the Department of Personnel and the system's actuary. And, to protect the funds of the system, benefits provided by special resolve that are not provided for by regular contribution must have accompanying separate funding.

In addition to these changes in the state retirement system, changes were also made to clarify certain provisions to conform to the changes already noted.

TOWNE REPORT - Proposed Amendments
to the State Retirement System
Changes Made to the Present Statute

This is a list of all changes made in the present retirement statute by the proposed amendments to the retirement system that have been presented to the Committee on Veterans and Retirement. The majority of these changes are suggested by the Towne Report. In addition, in the drafting of the Towne amendments additional changes were occasionally required for legal reasons, for consistency among the amendments, and by direction of the Committee. All these changes are also noted. Additional minor technical changes may still be made to these proposed amendments prior to their inclusion in the final report, but the substance and basic language and intent will not be further altered, unless the Committee so directs.

Changes in Present Statutes

1. Average Final Compensation

This amendment changes the base of benefit computation to average final compensation, and eliminates from that base all amounts that are not actual compensation for services during the three year period.

The retroactivity clause preserves the prior base of computation for "accrued benefits," the benefits based on service and compensation to the day before the effective date, for the changes in base. The removal of abuses is, however, fully retroactive.

There remains one inconsistency, because the base for "member" state police accidental deaths is changed, but the base for "non-member" state police remains at "current annual salary." (viz. §1125 (2))

2-3. Service Credits and Purchase of Retirement Benefits.

This amendment eliminates the limited purchase of retirement credits and replaces it with a provision to allow all employees to make additional contributions to increase their benefits. This draft combines proposed amendments #2 and #3 of the Towne Report. The new provision of §1 is similar to the purchase of a separate annuity by the member, and will not increase the cost of benefits to the system, even with "cost of living increases" in the benefits so provided.

The repeal of the sections on purchasing service credits is selective. Sub-§§ 11, Federal Employment Service, 12 (A), out-of-state service, and 13, Military Service, are repealed as to all new members who join after the effective date. Sub-§§12(B), other out-of-state service, and 14, Private and Parochial School Credit, are repealed as to all members who have not elected to make deposits or increased contributions prior to the effective date. A specific cut-off date can be used in place of the "effective date", or a delay provision can be added. However, the new provision allows contribution above the 10% limit for those who would have been so entitled under sub-§§ 12 (B) and 14.

The Military Leave Credit provisions of §1091 (6) are unaffected by these amendments.

4. Disability Retirement

This amendment removes the distinction between "ordinary" and "occupational" disability benefits, and replaces it with uniform benefits for any disability. In addition, on reaching normal retirement age, those receiving such benefits will shift to retirement benefits.

The following changes are made by this amendment:

- a. The standard of incapacitation is changed from "incapacitated for further performance of duty", to "(incapacitated) to such an extent that it is impossible for him to perform the duties of his employment position." After 5 years of such incapacity must also be such that he is unable to engage in any substantial activities for which he is

qualified by training, education or experience."

- b. The medical examination is changed from a mandatory exam by the medical board to a discretionary exam by a "qualified physician".
- c. The commencement of benefits is changed from beginning on the date of application to beginning on termination of service if application received within 6 months thereafter, with "impossibility" provision.
- d. The eligibility standards under sub-§1 continue to be retroactive in the amended sub-section.
- e. The recomputation clauses for benefits under the prior amendments are not included in these amendments.
- f. The change to service retirement occurs either when retirement age is reached or when the amount of disability benefits equal or exceed the amount of service retirement benefits. No such change is included under the present statute.
- g. The time for medical examinations is changed from once each year for the first five years and once every three years thereafter, to a permissive exam annually.
- h. An express provision is added that cessation of disability requires a cessation of disability benefits.
- i. The results of refusal to be examined are changed from a loss of pension rights to a loss of all benefits under this section.
- j. The costs of examinations are to be paid by the system.
- k. The offset for other income is changed from the medical board's assessment of ability to engage in gainful employment or actual engagement, to actual engagement, to actual compensation received by the beneficiary as stated in a required annual report. Such set-off will be of any amount received that combined with the benefits will exceed the average final compensation. Under the present statute the reduction is such as to maintain yearly the average final compensation. Under the amendment, the reduction is in the subsequent year for excesses over average final compensation in the previous

year. The excess is deducted by distribution over the next year, and applies to both disability or service retirement benefits that will be received. Undeducted excess is a charge against the beneficiary.

- l. Failure to make the annual report forfeits all rights to further benefits.
- m. The set-off of benefits under other laws is expanded to include Social Security disability payments. (Payable to some members of participating local districts.) No set-off will be required of amounts received for medical expenses under Workmen's Compensation Laws. Lump sum payments are to be set-off on a pro-rata basis.
- n. The provisions of this Act may be elected by those currently receiving disability benefits, if elected within 6 months of effect date. This is more than a simple recomputation clause, bringing such beneficiaries entirely under the amendment, rather than just changing amount of benefits.
- o. The new section will apply to all who submit applications on or after the effective date.
- p. §§ 1001 (9) and 1094 are amended to provide for the shift from disability benefits to service retirement benefits, by "continuing" earnable compensation and creditable service during the time of disability.

5. Ordinary Death Benefits

This amendment provides for uniform death benefits for all members in service, and extends such benefits to members on disability retirement. The option 4 election by beneficiaries is removed. The sex discrimination and remarriage limitations are also removed, both in §1121, and in the sections relating to State Police and law enforcement officers.

The other following changes are made by this amendment:

- a. The conditions for eligibility for benefits under

the present statute (§1121 (1) (B) (1)) are removed, thus allowing all members that have qualifying beneficiaries, to be eligible regardless of length of service.

- b. Members receiving disability benefits are specifically included in this section.
- c. The option to have contributions refunded is changed to require refunding with all accumulated interest rather than "not less than 3/4 of the accumulated regular interest."
- d. The administrative duties connected with such benefits are shifted from the board of trustees to the executive director.
- e. The "service connected death" sub-section is eliminated, and replaced with another bill that broadens the coverage of §1125.
- f. The removal of the remarriage clauses and sex discrimination clauses is not retroactive.
- g. This section is exclusive, and in lieu of benefits that may be due under either §1125 (expanded in another bill) and §1121 (1) (c) and (d), (that provides benefits that will also be provided by this amendment.)
- h. Beneficiaries receiving benefits under sub-§ 2 (B) are given the option of electing benefits under sub-§1, without the express limitations of the present statute's eligibility conditions.
- l. The provisions relating to death benefits of State Police and law enforcement officers are amended to conform to these changes.
- j. With the exception of an option 4 election, which is grandfathered, this amendment applies to all deaths on or after the effective date.

6. Accidental Death Benefits

This amendment provides for uniform death benefits to all members for death due to occupational injuries. This includes

former members who are receiving disability allowances:

The following other changes are made by this amendment:

- a. The base for benefits is changed to average final compensation throughout this section, instead of current annual salary, etc.
- b. The sex discrimination and remarriage provisions are removed.
- c. This section is in lieu of any benefits under §1121 (1) (c) or (d). (viz bill 4, comment g.)
- d. Sub-§1 of the present statute is repealed as being covered by this amendment.
- e. Unlike the amendment to 1124, (bill 4), this bill does not provide benefits to single members, but only to beneficiaries that are spouse or children of the deceased member. Nonetheless, 1124 will still give benefits to nominee of a single member in the situation where 1125 would give greater benefits if he were married or had children.
- f. §1125 (2) granting benefits to non-member state police is retained unchanged, despite sex discrimination problems. This sub-section is funded from State Police appropriations.
- g. This amendment replaces the repealed 1124 (b) (2).

7. Optional Methods of Payment.

This amendment extends the optional methods of receiving retirement benefits to those on disability, to take effect when they begin to receive service retirement benefits.

Administrative duties are transferred from the board of trustees to the executive director.

The following other changes are made by the amendment:

- a. The section is sub-divided for clarity.
- b. The time for election of an option is expanded, to remove the 30 days from effective date of benefits

limitation, and replace it with election "at any time prior to the commencement of payment."

- c. New language is inserted in Options 2 and 4 for clarification.

8. Effective Date of Teacher's Retirement

This amendment is drafted in alternatives, both designed to remove the inequity of allowing teachers the special right to file a "notice of intention to retire," and thus to receive a "cost of living increase" on retirement benefits prior to actual retirement. One alternative repeals this section entirely, and the other extends this right to all employees without the requirement of filing a notice of intention.

9. Interest on Payment of Past Contributions

This amendment requires interest at greater than regular interest in paying past contributions to prevent loss in interest earnings. Where interest repayment is required under the present statute for purchasing prior service credits, the interest rate will be at 2% greater than regular interest. Some of the subsections amended here are also amended in bill 2, so as to effectively repeal them for future employees. However, because this bill is not retroactive, and bill 2 is also not retroactive, this amendment will affect some present members who have delayed purchasing prior service credits. It will also change interest rates on those sub-sections unchanged by bill 2 (e.g. sub-§10).

10. Payment of Accumulated Contributions

This amendment changes the amount of returned contributions and the method of payment. The contributions returned under the amendment will include all accumulated interest rather than not less than 3/4 of accumulated interest as the board shall allow. There is also a delay in payment of 90 days after termination to avoid current abuses. Certain inconsistencies of the proposed Towne draft are removed.

11. Inclusion as a Participating Local District

This amendment removes the itemized list of entities eligible for inclusion as a participating local district and replaces it with a general definition of eligible local districts, so as to establish a uniform basis for inclusion. To complement this change, the list of approving bodies is also generally defined, except for towns where the approving body is specifically set out to be the voters in town meeting. This section defining "executive body" is duplicated in another bill. A savings clause is included to insure the inclusion of all presently listed groups are eligible. The board of trustees does not have the power to reject such application under this draft. Such authority, if granted might raise a legal problem as to delegated powers, as no standards for acceptance or rejection are stated. The definition of "local district" is very broad and thus grants inclusion rights to

a great range of groups. Some limits should be placed on any discretionary authority of the board to reject members of this class.

12. Transfer of Employment

This amendment changes the mandatory assumption by a new employer of all costs of benefits transferred from previous employment to an optional assumption of the costs of benefits that are greater than benefits accrued with the previous employer. Under this amendment, thus, the new employer may elect to add to the accrued benefits (the benefits based on the service, compensation and statute at the time of termination), any additional benefits that are acquired by including the prior creditable service with the service and compensation with the new employer in calculating benefits. This will allow flexibility in hiring as the extra cost of accepting prior service credits will be optional.

13. Participating Local District Benefits

This amendment allows a participating local district to include more than 25 years of prior service of so elected as to all employees. The local district is thus exempted from the 25 year state maximum. The local district employee's right to supplemental benefits, if any, is also clarified.

14. Administration

This amendment (a) changes the constitution of the board of trustees to provide equal representation for employees and the public, (b) provides for staggered office terms for board members, (c) places the general administrative responsibilities on the executive director and recognizes the need for qualified administration and of disability benefits, and (d) requires identification of the scope of actuarial valuations of the operations of the system. The following other changes are made by the amendment:

- a. The board of trustees membership is expanded from 7 to 8 members, an additional public member being added.
- b. The requirement that trustees be citizens of Maine is added.
- c. The terms of trustees will be staggered, and appointments will expire at the end of the three year period, regardless of the time of the appointment.
- d. The per diem expenses of the trustees is raised from \$35 to \$50.
- e. The quorum requirement is raised to five trustees, and the voting requirements to five votes for any action or resolution. The Towne proposal for quorum and majority requirements of 6 out of the 8 trustees, 3 being employee representatives and 3 public representatives, is also altered by this amendment.
- f. Qualified employees to administer disability benefits are added to the executive director's

staff, or professional services contracts authorized.

- g. The administrative duties of correcting errors or omissions in the records of the system is shifted from the board of trustees to the executive director.
- h. The published report of the board is changed from biennially to annually and the contents changed to include only the assets and liabilities.
- i. The actuary's report on evaluation is required to be published annually.
- j. The investigative function of the medical board in relation to disability retirements is limited to passing on medical examinations, and the report of the investigation is to be sent to the executive director rather than the board of trustees.
- k. The actuary is required to be a Fellow of the Society of Actuaries.
- l. The actuary is required to certify all benefits.
- m. The annual report of the actuary will additionally include an evaluation of the system's operation and a separation of results between employee and employer contributions.
- n. The maximum time between actuarial reevaluations of the system is shortened from 5 to 3 years.
- o. The actuary is required to determine the equivalent cash compensation value of benefits and furnish such information to the department of personnel.
- p. The suggested review board of the Towne proposals is omitted from this section and incorporated in bill 21 as part of the Appeals and Review Board.

15. Funding of Additional Benefits

This amendment clarifies the present statute to insure that all benefits created by special resolve that are not funded by regular contributions are fully funded by the

legislature. This amendment will broaden the scope of the present statute to apply to any benefits that are not provided by the system. The present statute only requires separate funding for the granting of retirement credits not provided by the system. Language is also changed to clarify the intent of this statute, and redundant language of the Towne report removed.

16. Extensions of Service

This amendment removes the required approval of the board of trustees for any extension of service beyond the mandatory retirement age, and leaves the approval requirement solely with the executive body that establishes employment practices. "Executive body" for participating local districts is defined, and duplicates the amendment to the definitions section of bill 11, Inclusion as a Participating Local District. For state employees, the approving body will remain the Governor and Council. Additional minor changes in language are made for clarification.

17. Amendments to the Retirement System

This amendment changes the review procedure for all proposed amendments to the system and adds a subsection to protect the accrued benefits of members from retroactive

reduction. The presently required annual report to the Governor and Legislature on the financial condition and operation of the system with comments and recommendations on inequities is removed from this section. (The annual financial report will be required by the amendments to the administration section of bill 14, but the board's review and proposed recommendations on equities will be removed entirely.) The review by the board of all proposed amendments and special resolves is made more comprehensive, to include its impact on all aspects of the system. A separate report by the system's actuary and by the Department of Personnel is required, rather than merely advisory evaluations to be used by the board in arriving at their conclusions. The executive director's evaluation to the board is no longer expressly required. Minor changes are made for clarification.

18. Employee Contributions

This amendment removes the board of trustees power to change the employee contributions to the Retirement Allowance Adjustment Fund and the Survivors Benefit Fund. No such contributions are presently required, and this amendment will require legislative action to require such employee contributions to these funds in the future.

19. Withdrawal of a Participating Local District

This amendment clearly limits the liability of the system for a participating local district that ceases its participation. Such liability is limited to the amount of funds established for that district. In addition, the priorities and basis for benefits for the members and beneficiaries of such a district are set out in detail.

20. Provisions Applicable to Benefit Determination

This amendment fixes the benefits of a terminated employee who delays retirement at the time of termination rather than the time of retirement. As a vested employee may terminate employment under the system, but not begin retirement benefits for sometime thereafter, there may be a significant change in the statutes in the intervening period. Any such changes would not apply to such a terminated employee under this amendment. Employees who terminated prior to this amendment and did not begin retirement benefits until after it would be "grandfathered" to the extent that they would be governed by the statute at the time of this amendment, rather than the statute at the time of termination. The language of the Towne proposal is changed for clarification.

21. Appeals and Review Board

This amendment is based on Towne Report recommendations that were not drafted in the report. The amendment creates an Appeals and Review Board as an intermediary appeal step between decisions of the board and the court. The Appeals and Review Board also has the responsibility to report to the Legislature on matters that come before it and are subsequently followed by proposed legislation, a function added to those of the board of trustees in Towne proposal 14. This amendment is modeled on the State Employees Appeals Board (5 MRSA §751 et seq.) and the Administrative Code (5 MRSA §2301 et seq.). It replaces the appeal directly to Superior Court.

The draft amendment has not been accepted by the Committee and is only a very rough draft, subject to major future revisions.

Amendments 1-20, excluding 8.A. have been accepted by the Committee for inclusion in the report and recommended for enactment by the legislature, subject to minor technical revisions by the staff.