

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 975

H.P. 724 House of Representatives, March 26, 1987
Reference to the Committee on Aging, Retirement and
Veterans suggested and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative HICKEY of Augusta.
Cosponsored by Senator CLARK of Cumberland,
Representatives PERRY of Mexico and LACROIX of Oakland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 **AN ACT to Amend the Laws Relating to the**
2 **Maine State Retirement System.**
3

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

6 **Sec. 1. 5 MRSA §17001, sub-§11, as enacted by PL**
7 **1985, c. 801, §§5 and 7, is amended to read:**

8 11. Department. "Department" means any depart-
9 ment, commission, institution or agency of State Gov-
10 ernment including the Maine Vocational-Technical In-
11 stitute System.

12 **Sec. 2. 5 MRSA §17001, sub-§20, as enacted by PL**
13 **1985, c. 801, §§5 and 7, is amended to read:**

1 20. Member. "Member" means any employee person
2 included in the membership of the retirement system,
3 as provided in chapter 423, subchapter II, or chapter
4 425, subchapter II.

5 **Sec. 3.** 5 MRSA §17001, sub-§40, as enacted by PL
6 1985, c. 801, §§5 and 7, is repealed and the follow-
7 ing enacted in its place:

8 40. State employee. "State employee" means any
9 regular classified or unclassified officer or employ-
10 ee in a department and any employee of the Maine Voc-
11 ational-Technical Institute System, but does not in-
12 clude:

13 A. A judge, as defined in Title 4, section 1201
14 or 1301, who is now or later may be entitled to
15 retirement benefits under Title 4, chapter 27 or
16 29;

17 B. A member of the State Police who is now enti-
18 ttled to retirement benefits under Title 25, chap-
19 ter 195; or

20 C. A Legislator who is now or later may be enti-
21 ttled to retirement benefits under Title 3, chap-
22 ter 29.

23 **Sec. 4.** 5 MRSA §17102, sub-§1, ¶¶B and C, as en-
24 acted by PL 1985, c. 801, §§5 and 7, are repealed and
25 the following enacted in their place:

26 B. A person who is a member of the retirement
27 system through employment as a teacher and who is
28 duly elected by the Maine Teachers' Association;

29 C. A person who is a member of the retirement
30 system through employment as a state employee and
31 who is duly elected by the Maine State Employees'
32 Association;

33 **Sec. 5.** 5 MRSA §17154, sub-§8 is enacted to
34 read:

35 8. Transfers among funds. When considered nec-
36 essary by the executive director for the efficient
37 administration of the retirement system, he may make

1 transfers among the various funds of the system in
2 accordance with accepted accounting and actuarial
3 principles.

4 Sec. 5-A. 5 MRSA §17205, as enacted by PL 1985,
5 c. 801, §§5 and 7, is repealed.

6 Sec. 6. 5 MRSA §17705, as enacted by PL 1985, c.
7 801, §§5 and 7, is repealed and the following enacted
8 in its place:

9 §17705. Refund of contributions

10 If the service of any member has terminated, ex-
11 cept by death or by retirement under this Part, the
12 member shall be paid the amount of his accumulated
13 contributions, under the following conditions.

14 1. Ten or more years of service. If the member
15 has 10 or more years of creditable service at the
16 time he terminates service, he shall properly apply
17 for a refund of contributions. Refunds of contribu-
18 tions are governed as follows.

19 A. Payment shall be made after termination of
20 service and not less than 22 days nor more than
21 37 days after receipt of the application and re-
22 ceipt of the last payroll upon which the name of
23 the member appears, whichever occurs later.

24 B. No interest may be added to the member's ac-
25 count for any period beyond the 5th anniversary
26 of the date of the member's termination of ser-
27 vice if the member has less than 10 years of
28 creditable service.

29 C. An application for refund is void if the mem-
30 ber filing the application returns to service as
31 a state employee or teacher before issuance of
32 the payment.

33 D. Only contributions made by a particular mem-
34 ber may be refunded to that member under this
35 section.

36 2. Less than 10 years of service. If the member
37 has less than 10 years of creditable service at the

1 time he terminates service, refund of contributions
2 are governed by rules adopted by the board.

3 **Sec. 7. 5 MRSA §17803, sub-§3, as enacted by PL**
4 **1985, c. 801, §§5 and 7, is amended to read:**

5 **3. Time and manner of election.** A qualifying
6 member must elect a method of payment before the be-
7 ginning of payment of a service retirement benefit.
8 This election must be by written notice to the execu-
9 tive director stating the date on which he desires to
10 retire.

11 **Sec. 8. 5 MRSA §17804, first ¶, as enacted by PL**
12 **1985, c. 801, §§5 and 7, is repealed and the follow-**
13 **ing enacted in its place:**

14 Payment of a service retirement benefit shall be-
15 gin on the first day of the month following the month
16 in which the qualifying member becomes eligible to
17 receive payment of his service retirement benefit un-
18 der section 17851 or 17907. A full month's benefit
19 shall be paid to the beneficiary or estate of the re-
20 ipient for the month in which he dies. A qualifying
21 member may select payment in one of the following
22 methods.

23 **Sec. 9. 5 MRSA §17804, sub-§1, as enacted by PL**
24 **1985, c. 801, §§5 and 7, is amended to read:**

25 **1. Full benefits.** All retirement benefits shall
26 be payable for life in equal monthly installments,
27 ~~including any fraction of a month up to the date of~~
28 ~~death,~~ with no further payment made after the month
29 in which the retiree dies.

30 **Sec. 10. 5 MRSA §17804, sub-§5, as enacted by PL**
31 **1985, c. 801, §§5 and 7, is amended to read:**

32 **5. Option 4.** The qualifying member may elect to
33 have a reduced retirement benefit payable to himself
34 while alive and at the qualifying member's death to
35 have some other benefit payable to the beneficiary he
36 has nominated by written designation duly acknowl-
37 edged and filed with the executive director, if:

1 A. The total value of the benefit during the
2 qualifying member's life plus the benefit after
3 his death is an actuarial equivalent of the bene-
4 fit which the qualifying member would receive
5 without optional modification; and

6 B. The method used to determine the benefit is
7 approved by the board.

8 Sec. 11. 5 MRSA §17812 is enacted to read:

9 §17812. Limitation on benefits

10 Benefits are limited as follows.

11 1. One benefit only. A beneficiary may select
12 only one benefit, regardless of how many benefits he
13 qualifies for.

14 2. Election final. Except as provided in section
15 17803, subsection 4, and section 17957, if a
16 beneficiary elects a benefit after receiving reason-
17 able notification of available options from the re-
18 irement system, his election of benefit is final and
19 may not be changed or revoked at a later date.

20 Sec. 12. 5 MRSA §17851, sub-§1, ¶C, as enacted
21 by PL 1985, c. 801, §§5 and 7, is repealed.

22 Sec. 13. 5 MRSA §17851, sub-§2, ¶C, as enacted
23 by PL 1985, c. 801, §§5 and 7, is repealed.

24 Sec. 14. 5 MRSA §17851, sub-§3, as enacted by PL
25 1985, c. 801, §§5 and 7, is repealed and the follow-
26 ing enacted in its place:

27 3. Member with creditable service of 25 years or
28 more. A member who has completed 25 or more years of
29 creditable service qualifies for a service retirement
30 benefit if he retires at any time after completing 25
31 years of service, which may include, for the purpose
32 of meeting eligibility requirements, creditable ser-
33 vice as a member of the Maine Legislative Retirement
34 System under Title 3, section 701, subsection 8, be-
35 fore becoming a member of the Maine State Retirement
36 System.

1 Sec. 15. 5 MRSA §17906, sub-§1, as enacted by PL
2 1985, c. 801, §§5 and 7, is amended to read:

3 1. Excess compensation. If, in any year, the
4 compensation received from engaging in any gainful
5 occupation by a beneficiary recipient of a disability
6 retirement benefit plus the total of the recipient's
7 disability retirement benefit exceeds \$10,000 his av-
8 erage final compensation, increased or decreased by
9 the same percentage adjustments as have been received
10 under section 17806:

11 A. The excess shall be deducted from the dis-
12 ability or service retirement benefits during the
13 next calendar year, the deductions to be prorated
14 on a monthly basis in an equitable manner pre-
15 scribed by the board over the year or part of the
16 year for which the benefits are received; and

17 B. The beneficiary shall reimburse the retire-
18 ment system for any excess payments not deducted
19 under paragraph A.

20 Sec. 16. 5 MRSA §17907, sub-§1, as enacted by PL
21 1985, c. 801, §§5 and 7, is repealed and the follow-
22 ing enacted in its place:

23 1. Beginning. If the executive director re-
24 ceives the written application for disability retire-
25 ment benefits within 6 months after the date of ter-
26 mination of active service of the member, payment of
27 benefits shall begin on the first day of the month
28 following the date of termination of active service
29 of the member. If the executive director receives
30 the written application for disability retirement
31 benefits more than 6 months after the date of termi-
32 nation of active service of the member, payment of
33 benefits may not begin more than 6 months before the
34 date of receipt by the executive director of the
35 written application, by or on behalf of the member,
36 for disability retirement, unless it is shown that:

37 A. It was not reasonably possible to file the
38 application for disability retirement benefits
39 within the 6-month period; and

40 B. The application was made as soon as reason-
41 ably possible.

1 **Sec. 17. 5 MRSA §17907, sub-§2, ¶A**, as enacted
2 by PL 1985, c. 801, §§5 and 7, is repealed and the
3 following enacted in its place:

4 **A. The disability retirement benefit ceases:**

5 (1) On the last day of the month in which
6 the 10th anniversary of the beneficiary's
7 normal retirement age occurs and a service
8 retirement benefit begins on the first day
9 of the following month; or

10 (2) On the last day of the month in which
11 the service retirement benefit of the bene-
12 ficiary equals or exceeds the amount of his
13 disability retirement benefit, if that oc-
14 currs before the 10th anniversary of the ben-
15 eficiary's normal retirement age and a ser-
16 vice retirement benefit begins on the first
17 day of the following month;

18 **Sec. 18. 5 MRSA §17907, sub-§2, ¶¶B and C**, as
19 enacted by PL 1985, c. 801, §§5 and 7, are amended to
20 read:

21 **B. After the disability has continued for 5**
22 **years, the disability of the beneficiary must**
23 **render him unable to engage in any substantially**
24 **gainful activity for which the beneficiary is**
25 **qualified by training, education or experience.**

26 (1) The executive director may require,
27 once each year, a recipient of a disability
28 retirement benefit to undergo medical exami-
29 nations or tests, conducted in accordance
30 with section 17903, to determine the dis-
31 ability of the beneficiary.

32 (2) If the beneficiary refuses to submit to
33 the examination or tests under subparagraph
34 (1), his disability retirement benefit shall
35 be discontinued until he withdraws the re-
36 fusal.

37 (3) If the beneficiary's refusal under sub-
38 paragraph (2) continues for one year, all
39 his rights to any further benefits under
40 this article shall cease.

1 (4) If it is determined, on the basis of
2 the examination or tests under subparagraph
3 (1), that the disability of a beneficiary no
4 longer exists, the payment of his disability
5 retirement benefit shall cease; and

6 C. The person's average final compensation at
7 retirement shall include the same percentage ad-
8 justments, if any, that would apply to the amount
9 of retirement benefit of the beneficiary under
10 section 17806; and

11 Sec. 19. 5 MRS §17907, sub-§2, ¶D is enacted to
12 read:

13 D. A full month's benefit shall be paid to the
14 beneficiary or estate of the disability retire-
15 ment recipient for the month in which he dies.

16 Sec. 20. 5 MRS §17952-A is enacted to read:

17 §17952-A. Determination of benefits

18 If a qualifying member dies before his service
19 retirement becomes effective, his beneficiary may se-
20 lect only one of the following optional death bene-
21 fits.

22 1. Refund of contributions. The beneficiary may
23 elect to receive a refund of the qualifying member's
24 accumulated contributions. The accumulated contribu-
25 tions shall be paid:

26 A. To his designated beneficiary, if any;

27 B. To the first listed of the following rela-
28 tives living at the time of the qualifying
29 member's death, if the qualifying member is not
30 survived by a designated beneficiary:

31 (1) Surviving spouse;

32 (2) Child or children, regardless of age,
33 sharing equally among themselves; or

34 (3) The older parent; or

1 C. To his estate, if none of the beneficiaries
2 named in paragraph A or B is living at the time
3 of the qualifying member's death.

4 2. Survivor benefits. Survivor benefits are
5 governed as follows.

6 A. Instead of accepting the payment provided in
7 subsection 1, the first listed of the following
8 relatives of the qualifying member living at the
9 time of death of the qualifying member may elect
10 the benefits described in subsections 3 to 5:

11 (1) The surviving spouse, the dependent
12 child or dependent children, the parent or
13 parents, if any of these are designated ben-
14 eficiaries; or

15 (2) If no beneficiary is designated, the
16 surviving spouse, the dependent child or de-
17 pendent children or the parent or parents.

18 B. If the surviving spouse elects a benefit un-
19 der this subsection, the dependent child or de-
20 pendent children are entitled to receive the ben-
21 efit under subsection 4.

22 3. Amount of survivor benefit payment to surviv-
23 ing spouse. If the surviving spouse of the qualify-
24 ing member elects a benefit under subsection 2, para-
25 graph A, only one of the following options may be
26 paid at one time.

27 A. A surviving spouse of the qualifying member
28 shall be paid \$150 per month beginning the first
29 month after the death occurs and a full month's
30 benefit shall be paid to the estate of the sur-
31 viving spouse for the month in which the surviv-
32 ing spouse dies, if:

33 (1) The deceased qualifying member had 10
34 years of creditable service at the time of
35 his death; or

36 (2) The surviving spouse is certified by
37 the medical board to be permanently mentally
38 incompetent or permanently physically inca-

1 pacitated and is determined by the executive
2 director to be unable to engage in any sub-
3 stantially gainful employment.

4 B. A surviving spouse of the qualifying member
5 who has the care of the dependent child or depen-
6 dent children of the deceased qualifying member
7 and who is not eligible to receive a benefit un-
8 der paragraph A shall be paid \$150 per month, be-
9 ginning the first month after the death of the
10 qualifying member and continuing during the sur-
11 viving spouse's lifetime until the end of the
12 month in which the dependent child or dependent
13 children are no longer in the surviving spouse's
14 care.

15 C. A surviving spouse of the qualifying member
16 who is not eligible to receive a benefit under
17 paragraph A or B shall be paid \$150 per month,
18 beginning the first month after the surviving
19 spouse reaches 60 years of age and a full month's
20 benefit shall be paid to the estate of the sur-
21 viving spouse for the month in which the surviv-
22 ing spouse dies.

23 4. Amount of survivor benefit to dependent chil-
24 dren. If the dependent child or dependent children
25 of the deceased qualifying member elect a benefit un-
26 der subsection 2, paragraph A, the payment of bene-
27 fits shall be governed as follows.

28 A. The amount of the benefit shall be determined
29 as follows.

30 (1) One dependent child shall be paid \$150
31 per month.

32 (2) Two dependent children shall be paid
33 \$225 per month which shall be divided equal-
34 ly between them.

35 (3) Three or more dependent children shall
36 be paid \$300 per month which shall be di-
37 vided equally among them.

38 B. The benefits shall begin the first month af-
39 ter the death of the qualifying member and shall

1 be payable to each dependent child, in accordance
2 with Title 18-A, article V, until the end of the
3 month in which he no longer meets the definition
4 of "dependent child" in section 17001, subsection
5 12.

6 C. When any dependent child becomes ineligible
7 to receive benefits under this subsection, the
8 other dependent children, if any, shall continue
9 to receive benefits in accordance with this sub-
10 section.

11 5. Amount of survivor benefit to parents. If
12 the parent of the deceased qualifying member elects a
13 benefit under subsection 2, paragraph A, the payment
14 of benefits shall be governed as follows.

15 A. The amount of the benefit shall be determined
16 as follows.

17 (1) A parent who is living at the time of
18 the death of the qualifying member shall be
19 paid \$150 per month if he is at least 60
20 years of age or, if not, when he reaches
21 that age.

22 (2) If both parents are eligible for benef-
23 fits under this article and the older parent
24 elects benefits under this subsection, the
25 older parent shall be paid \$150 per month
26 and the younger parent shall be paid \$105
27 per month if he is at least 60 years of age
28 or, if not, when he reaches that age.

29 (3) Upon the death of either parent, the
30 surviving parent shall receive \$150 per
31 month.

32 B. The payment of benefits to any parent shall
33 begin the first month after the death of the
34 qualifying member and a full month's benefit
35 shall be paid to the estate of the parent for the
36 month in which the parent dies.

37 C. Benefits are payable under this subsection
38 only if no other benefits have been paid under
39 subsection 3 or 4.

1 6. Reduced retirement benefits. Instead of ac-
2 cepting the benefits under subsection 1 or 2, the
3 first listed person under paragraph A may, if living
4 at the time of death of the qualifying member, elect
5 the benefits in this subsection.

6 A. The following persons are eligible to make
7 the election under this subsection:

8 (1) Designated beneficiary;

9 (2) Surviving spouse;

10 (3) Dependent child or dependent children;
11 or

12 (4) Parent or parents.

13 B. Benefits under the subsection shall be paid
14 as follows.

15 (1) The benefit shall be computed in ac-
16 cordance with section 17852, subsection 1,
17 and, if applicable, shall be reduced in ac-
18 cordance with section 17852, subsection 3,
19 as if the service retirement of the qualify-
20 ing member had taken place on the date of
21 his death.

22 (2) The beneficiary shall be paid, begin-
23 ning the first month after the death of the
24 qualifying member and continuing until the
25 date of the beneficiary's death.

26 (3) Benefits under the section shall be
27 paid in accordance with section 17804, sub-
28 section 3.

29 C. If the monthly benefit under this subsection
30 is less than \$10, a first listed person under
31 paragraph A may, before the beginning of the re-
32 irement benefit payments, elect to receive, in
33 lieu of those payments, a lump sum which is the
34 actuarial equivalent, at the date of death of the
35 qualifying member, of the benefit payable under
36 this subsection.

1 7. Special options. Instead of accepting the
2 payment provided in subsection 1, 2 or 6, a benefi-
3 ciary may elect to receive benefits under section
4 17852, subsection 4, paragraph A; subsection 5; sub-
5 section 6; or under article 5. In order to elect
6 these benefits, both the qualifying member and the
7 beneficiary must comply with each requirement of
8 those provisions.

9 Sec. 21. 5 MRSA §§17953 and 17954, as enacted by
10 PL 1985, c. 801, §§5 and 7, are repealed.

11 Sec. 22. 5 MRSA §17955, as enacted by PL 1985,
12 c. 801, §§5, 7, is repealed.

13 Sec. 23. 5 MRSA §§17956 to 17959 are enacted to
14 read:

15 §17956. Death of beneficiary before payment

16 If any person becomes entitled to the payment of
17 benefits under this article and dies before either
18 the refund check or the initial survivor benefit
19 check is endorsed and presented to a holder in due
20 course, the person is considered to have predeceased
21 the qualifying member.

22 §17957. Change of choice of payment option

23 Any beneficiary under this article may change his
24 choice of payment at any time up to the point of en-
25 endorsement and presentation to a holder in due course
26 of either the refund check or the initial benefit
27 payment.

28 §17958. Defeat of survivor's option

29 A qualifying member may specify that the refund
30 of his accumulated contributions be paid to a desig-
31 nated beneficiary or to the qualifying member's es-
32 tate instead of any payment to survivors under sec-
33 tion 17952-A, subsections 3 to 5, by filing an affi-
34 davit expressing that intent with the executive di-
35 rector.

36 §17959. Cost-of-living adjustment

1 If a retirement benefit adjustment is made for
2 retired state employees and teachers, the same per-
3 centage increase shall be applied to the monthly pay-
4 ments made under this article. The adjustment to
5 payments made under this article shall become effec-
6 tive on the same day as the adjustment for state em-
7 ployees and teachers.

8 Sec. 24. 5 MRSA §18007, as enacted by PL 1985,
9 c. 801, §§5 and 7, is repealed.

10 Sec. 25. 5 MRSA §18203, as enacted by PL 1985,
11 c. 801, §§5 and 7, is amended by adding before sub-
12 section 1 a new paragraph to read:

13 A participating local district may withdraw from
14 further participation in the retirement system under
15 the terms and conditions of this section.

16 Sec. 26. 5 MRSA §18251, sub-§1, as enacted by PL
17 1985, c. 801, §§5 and 7, is repealed and the follow-
18 ing enacted in its place:

19 1. Compulsory membership. Membership is compul-
20 sory for all employees entering the service of a par-
21 ticipating local district after the date of estab-
22 lishment for the participating local district, but
23 not for employees exempted under subsection 2; under
24 section 18201, subsection 3; or under section 18252.

25 A. The following provisions apply to employees
26 of participating local districts hired on or af-
27 ter January 1, 1987.

28 (1) Regardless of employment status, an em-
29 ployee shall be a member of the retirement
30 system from the first day of employment if
31 his job description is one that would re-
32 quire him to work more than 15 hours per
33 week and accumulate at least 720 hours in a
34 period of 12 consecutive months. "First day
35 of employment" means the first day on which
36 the employee reports for work.

37 (2) Regardless of his job description or if
38 no job description exists, any employee who
39 has worked more than 15 hours per week and

1 has accumulated at least 720 hours in a pe-
2 riod of 12 months shall become a member of
3 the retirement system as of the first day of
4 the period following the end of the 12-month
5 period.

6 (3) In the case of employees who share a
7 job which description requires membership,
8 each employee shall be a member of the re-
9 tirement system regardless of the number of
10 hours worked.

11 (4) Any employee who accumulates more than
12 1,170 hours in 18 consecutive months or less
13 shall become a member of the retirement sys-
14 tem as of the first day of the first pay pe-
15 riod following the end of the 18-month peri-
16 od.

17 (5) Any employee who must become a member
18 of the retirement system pursuant to subpar-
19 agraph (2) or (4) shall have the option of
20 purchasing creditable service time back to
21 the beginning of the 12-month period de-
22 scribed in subparagraph (2) or the 18-month
23 period described in subparagraph (4). Pay-
24 ment of back contributions shall begin with
25 the payroll immediately following notice
26 from the retirement system of the amount
27 due. The repayment must be made according
28 to the rules of the retirement system gov-
29 erning repayments.

30 (6) Upon qualifying for membership in the
31 retirement system under this paragraph, an
32 employee shall become and remain a member,
33 regardless of the number of hours worked, as
34 long as that employee works for the same em-
35 ployer. Only an employee who terminates em-
36 ployment, withdraws his accumulated contri-
37 butions and does not return to employment
38 with the same employer within 2 years from
39 the date on which he was last employed must
40 requalify for membership under this para-
41 graph.

42 B. Membership of trustees of a water district is
43 governed by Title 35, section 3223.

1 C. Membership of trustees of a sewer district is
2 governed by Title 38, section 1252.

3 **Sec. 27. 5 MRSA §18306**, as enacted by PL 1985,
4 c. 801, §§5 and 7, is repealed and the following en-
5 acted in its place:

6 §18306. Refund of contributions

7 If the service of any member has terminated, ex-
8 cept by death or retirement under this Part, or if an
9 employee of a district which withdraws from partici-
10 pation under section 18203 wishes to have his contri-
11 butions refunded, the member or employee shall be
12 paid the amount of his accumulated contributions un-
13 der the following conditions.

14 1. Ten or more years of service. If the member
15 has 10 or more years of creditable service at the
16 time he terminates service, he shall properly apply
17 for a refund of contributions. Refunds of contribu-
18 tions are governed as follows.

19 A. Payment shall be made after termination of
20 service and not less than 22 days nor more than
21 37 days after receipt of the application and of
22 the last payroll upon which the name of the mem-
23 ber appears, whichever occurs later.

24 B. No interest may be added to the member's ac-
25 count for any period beyond the 5th anniversary
26 of the date of the member's termination of ser-
27 vice if the member has less than 10 years of
28 creditable service.

29 C. An application for refund is void if the mem-
30 ber filing the application returns to service as
31 a state employee or teacher before issuance of
32 the payment.

33 D. Only contributions made by a particular mem-
34 ber may be refunded to that member under this
35 section.

36 2. Less than 10 years of service. If the member
37 has less than 10 years of creditable service at the
38 time he terminates service, refund of contributions
39 are governed by rules adopted by the board.

1 **Sec. 28.** 5 MRSAs §18309, sub-§1, as enacted by PL
2 1985, c. 801, §§5 and 7, is amended to read:

3 1. Contribution rate. Except as provided in sub-
4 section 2, each fire fighter, including the chief of
5 a fire department, employed by a participating local
6 district which provides a special retirement benefit
7 under section 18453, subsection 4 or 5, shall con-
8 tribute to the retirement system at a rate of 8% of
9 earnable compensation so long as he is employed as a
10 fire fighter.

11 **Sec. 29.** 5 MRSAs §18310, sub-§1, as enacted by PL
12 1985, c. 801, §§5 and 7, is amended to read:

13 1. Contribution rate. Except as provided in sub-
14 section 2, each police officer, including the chief
15 of a police department, employed by a participating
16 local district which provides a special retirement
17 benefit under section 18453, subsection 7 or 8, shall
18 contribute to the retirement system at a rate of 8%
19 of earnable compensation so long as he is employed as
20 a police officer.

21 **Sec. 30.** 5 MRSAs §18351, sub-§3, as enacted by PL
22 1985, c. 801, §§5 and 7, is amended to read:

23 3. Board determination. The board shall deter-
24 mine by appropriate rules how much service in any
25 year qualifies for one year's service credit. Service
26 rendered for the full normal working time in any year
27 shall be equivalent to one year's service credit.

28 **Sec. 31.** 5 MRSAs §18358, sub-§1, ¶A, as enacted
29 by PL 1985, c. 801, §§5 and 7, is amended to read:

30 A. Service credit for prior service for the pe-
31 riods of previous service certified by the par-
32 ticipating local district as creditable prior
33 service rendered to that district ~~or to the~~
34 State, for which the participating local district
35 makes contributions; and

36 **Sec. 32.** 5 MRSAs §18403, sub-§3, as enacted by PL
37 1985, c. 801, §§5 and 7, is amended to read:

1 3. Time and manner of election. A qualifying
2 member must elect a method of payment before the be-
3 ginning of payment of a service retirement benefit.
4 This election must be by written notice to the execu-
5 tive director stating the date on which he desires to
6 retire.

7 Sec. 33. 5 MRSA §18404, first ¶, as enacted by
8 PL 1985, c. 801, §§5 and 7, is amended to read:

9 Payment of a service retirement benefit shall be-
10 gin on the first day of the month following the month
11 in which the qualifying member becomes eligible to
12 receive payment of his service retirement benefit un-
13 der section 18451 or 18507. A full month's benefit
14 shall be paid to the beneficiary or estate of the re-
15 ipient for the month in which he dies. A qualifying
16 member may select payments in one of the following
17 methods.

18 Sec. 34. 5 MRSA §18404, sub-§1, as enacted by PL
19 1985, c. 801, §§5 and 7, is amended to read:

20 1. Full benefits. All retirement benefits shall
21 be payable for life in equal monthly installments,
22 ~~including any fraction of a month, up to the date of~~
23 ~~death with no further payment made after the month in~~
24 ~~which the retiree dies.~~ If a participating local dis-
25 trict adopts section 18454, the benefits set forth in
26 section 18454 will be considered full benefits for
27 purposes of this section.

28 Sec. 35. 5 MRSA §18404, sub-§5, as enacted by PL
29 1985, c. 801, §§5 and 7, is amended to read:

30 5. Option 4. The qualifying member may elect to
31 have a reduced retirement benefit payable to himself
32 while alive and at the qualifying member's death to
33 have some other benefit payable to the beneficiary he
34 has nominated by written designation duly acknowl-
35 edged and filed with the executive director, if:

36 A. The total value of the benefit during the
37 qualifying member's life plus the benefit after
38 his death is an actuarial equivalent of the bene-
39 fit which the qualifying member would receive
40 without optional modifications; and

1 B. The method used to determine the benefit is
2 approved by the board.

3 Sec. 36. 5 MRSA §18412 is enacted to read:

4 §18412. Limitation on benefits

5 Benefits are limited as follows:

6 1. One benefit only. A beneficiary may select
7 only one benefit, regardless of how many benefits he
8 qualifies for; and

9 2. Election final. Except as provided in sec-
10 tion 18403, subsection 4, and section 18560, if a
11 beneficiary elects a benefit after receiving reason-
12 able notification of available options from the re-
13 irement system, his election of a benefit is final
14 and may not be changed or revoked at a later date.

15 Sec. 37. 5 MRSA §18451, first ¶, as enacted by
16 PL 1985, c. 801, §§5 and 7, is amended to read:

17 A member's qualification for service retirement
18 benefits is governed by subsection 1, 2 or 3, unless
19 the requirements of section ~~18543~~ 18453 are satis-
20 fied, in which case, one or more of the subsections
21 of section 18453 governs.

22 Sec. 38. 5 MRSA §18451, sub-§1, ¶C, as enacted
23 by PL 1985, c. 801, §§5 and 7, is repealed.

24 Sec. 39. 5 MRSA §18451, sub-§2, ¶C, as enacted
25 by PL 1985, c. 801, §§5 and 7, is repealed.

26 Sec. 40. 5 MRSA §18451, sub-§3, as enacted by PL
27 1985, c. 801, §§5 and 7, is repealed and the follow-
28 ing enacted in its place:

29 3. Member with creditable service of 25 years or
30 more. A member who has completed 25 or more years of
31 creditable service qualifies for a service retirement
32 benefit if he retires at any time after completing 25
33 years of service, which may include, for the purpose
34 of meeting eligibility requirements, creditable ser-
35 vice as a member of the Maine Legislative Retirement
36 System under Title 3, section 701, subsection 8, be-

1 fore becoming a member of the Maine State Retirement
2 System.

3 **Sec. 41. 5 MRSA §18453, sub-§10, as enacted by**
4 **PL 1985, c. 801, §§5 and 7, is amended to read:**

5 10. Additional Benefits #1. An additional re-
6 irement benefit for all employees qualifying under
7 subsections 1 to 9 of 2% of average final compensa-
8 tion for each year of membership service not included
9 in the qualifying-employment-served-after-completion
10 of-the age and service conditions for retirement un-
11 der those subsections.

12 **Sec. 42. 5 MRSA §18506, sub-§1, as enacted by PL**
13 **1985, c. 801, §§5 and 7, is amended to read:**

14 1. Excess compensation. If, in any year, the
15 compensation received from engaging in any gainful
16 occupation by a beneficiary recipient of a disability
17 retirement benefit plus the total of the recipient's
18 disability retirement benefit exceeds \$10,000 his av-
19 erage final compensation, increased or decreased by
20 the same percentage adjustments as have been received
21 under section 18407:

22 A. The excess shall be deducted from the dis-
23 ability or service retirement benefits during the
24 next calendar year, the deductions to be prorated
25 on a monthly basis in an equitable manner pre-
26 scribed by the board over the year or part of the
27 year for which the benefits are received; and

28 B. The beneficiary shall reimburse the retire-
29 ment system for any excess payments not deducted
30 under paragraph A.

31 **Sec. 43. 5 MRSA §18507, sub-§1, as enacted by PL**
32 **1985, c. 801, §§5 and 7, is repealed and the follow-**
33 **ing enacted in its place:**

34 1. Beginning. If the executive director receives
35 the written application for disability retirement
36 benefits within 6 months after the date of termina-
37 tion of active service of the member, payment of ben-
38 efits shall begin on the first day of the month fol-
39 lowing the date of termination of active service of

1 the member. If the executive director receives the
2 written application for disability retirement bene-
3 fits more than 6 months after the date of termination
4 of active service of the member, payment of benefits
5 may not begin more than 6 months before the date of
6 receipt by the executive director of the written ap-
7 plication, by or on behalf of the member, for dis-
8 ability retirement, unless it is shown that:

9 A. It was not reasonably possible to file the
10 application for disability retirement benefits
11 within the 6-month period; and

12 B. The application was made as soon as was rea-
13 sonably possible.

14 Sec. 44. 5 MRSA §18507, sub-§2, ¶A, as enacted
15 by PL 1985, c. 801, §§5 and 7, is repealed and the
16 following enacted in its place:

17 A. A disability retirement benefit ceases:

18 (1) On the last day of the month in which
19 the 10th anniversary of the beneficiary's
20 normal retirement age occurs, and a service
21 retirement benefit begins on the first day
22 of the following month; or

23 (2) On the last day of the month in which
24 the service retirement benefit of the bene-
25 ficiary would equal or exceed the amount of
26 his disability retirement benefit, if that
27 occurs before the 10th anniversary of the
28 beneficiary's normal retirement age, and a
29 service retirement benefit begins on the
30 first day of the following month;

31 Sec. 45. 5 MRSA §18507, sub-§2, ¶D is enacted to
32 read:

33 D. A full month's benefit shall be paid to the
34 beneficiary or estate of the disability retire-
35 ment recipient for the month in which he dies.

36 Sec. 46. 5 MRSA §18552-A is enacted to read:

37 §18552-A. Determination of benefits

1 If a qualifying member dies before his service
2 retirement becomes effective, his beneficiary may se-
3 lect only one of the following optional death bene-
4 fits.

5 1. Refund of contributions. The beneficiary may
6 elect to receive a refund of the qualifying member's
7 accumulated contributions. The accumulated contribu-
8 tions shall be paid:

9 A. To his designated beneficiary, if any;

10 B. To the first listed of the following rela-
11 tives living at the time of the qualifying
12 member's death, if the qualifying member is not
13 survived by a designated beneficiary:

14 (1) Surviving spouse;

15 (2) Child or children, regardless of age,
16 sharing equally among themselves; or

17 (3) The older parent; or

18 C. To his estate, if none of the beneficiaries
19 named in paragraph A or B is living at the time
20 of the qualifying member's death.

21 2. Survivor benefits. Survivor benefits are
22 governed as follows.

23 A. Instead of accepting the payment provided in
24 subsection 1, the first listed of the following
25 relatives of the qualifying member living at the
26 time of death of the qualifying member may elect
27 the benefits described in subsections 3 to 5:

28 (1) The surviving spouse, the dependent
29 child or dependent children, the parent or
30 parents, if any of these are designated ben-
31 eficiaries; or

32 (2) If no beneficiary is designated, the
33 surviving spouse, the dependent child or de-
34 pendent children, or the parent or parents.

1 B. If the surviving spouse elects a benefit under
2 this subsection, the dependent child or dependent
3 children are entitled to receive the benefit under
4 subsection 4.

5 3. Amount of survivor benefit payment to surviving
6 spouse. If the surviving spouse of the qualifying
7 member elects a benefit under subsection 2, para-
8 graph A, only one of the following options may be
9 paid at one time.

10 A. A surviving spouse of the qualifying member
11 shall be paid \$150 per month beginning the first
12 month after the death occurs and a full month's
13 benefit shall be paid to the estate of the sur-
14 living spouse for the month in which the surviv-
15 ing spouse dies, if:

16 (1) The deceased qualifying member had 10
17 years of creditable service at the time of
18 his death; or

19 (2) The surviving spouse is certified by
20 the medical board to be permanently mentally
21 incompetent or permanently physically inca-
22 pacitated and is determined by the executive
23 director to be unable to engage in any sub-
24 stantially gainful employment.

25 B. A surviving spouse of the qualifying member
26 who has the care of the dependent child or depen-
27 dent children of the deceased qualifying member
28 and who is not eligible to receive a benefit un-
29 der paragraph A shall be paid \$150 per month, be-
30 ginning the first month after the death of the
31 qualifying member and continuing during the sur-
32 living spouse's lifetime until the end of the
33 month in which the dependent child or dependent
34 children are no longer in the surviving spouse's
35 care.

36 C. A surviving spouse of the qualifying member
37 who is not eligible to receive a benefit under
38 paragraph A or B shall be paid \$150 per month,
39 beginning the first month after the surviving
40 spouse reaches 60 years of age and a full month's
41 benefit shall be paid to the estate of the sur-

1 living spouse for the month in which the surviv-
2 ing spouse dies.

3 4. Amount of survivor benefit to dependent chil-
4 dren. If the dependent child or dependent children
5 of the deceased qualifying member elect a benefit under
6 subsection 2, paragraph A, the payment of benef-
7 its shall be governed as follows.

8 A. The amount of the benefit shall be determined
9 as follows.

10 (1) One dependent child shall be paid \$150
11 per month.

12 (2) Two dependent children shall be paid
13 \$225 per month which shall be divided equal-
14 ly between them.

15 (3) Three or more dependent children shall
16 be paid \$300 per month which shall be di-
17 vided equally among them.

18 B. The benefits shall begin the first month af-
19 ter the death of the qualifying member and shall
20 be payable to each dependent child, in accordance
21 with Title 18-A, article V, until the end of the
22 month in which he no longer meets the definition
23 of "dependent child" in section 17001, subsection
24 12.

25 C. When any dependent child becomes ineligible
26 to receive benefits under this subsection, the
27 other dependent children, if any, shall continue
28 to receive benefits in accordance with this sub-
29 section.

30 5. Amount of survivor benefit to parents. If
31 the parent of the deceased qualifying member elects a
32 benefit under subsection 2, paragraph A, the payment
33 of benefits shall be governed as follows.

34 A. The amount of the benefit shall be determined
35 as follows.

36 (1) A parent who is living at the time of
37 the death of the qualifying member shall be

1 paid \$150 per month if he is at least 60
2 years of age or, if not, when he reaches
3 that age.

4 (2) If both parents are eligible for bene-
5 fits under this article and the older parent
6 elects benefits under this subsection, the
7 older parent shall be paid \$150 per month
8 and the younger parent shall be paid \$105
9 per month if he is at least 60 years of age
10 or, if not, when he reaches that age.

11 (3) Upon the death of either parent, the
12 surviving parent shall receive \$150 per
13 month.

14 B. The payment of benefits to any parent shall
15 begin the first month after the death of the
16 qualifying member and a full month's benefit
17 shall be paid to the estate of the parent for the
18 month in which the parent dies.

19 C. Benefits are payable under this subsection
20 only if no other benefits have been paid under
21 subsection 3 or 4.

22 6. Reduced retirement benefits. Instead of ac-
23 cepting the benefits under subsection 1 or 2, the
24 first listed person under paragraph A may, if living
25 at the time of death of the qualifying member, elect
26 the benefits in this subsection.

27 A. The following persons are eligible to make
28 the election under this subsection:

29 (1) Designated beneficiary;

30 (2) Surviving spouse;

31 (3) Dependent child or dependent children;
32 or

33 (4) Parent or parents.

34 B. Benefits under this subsection shall be paid
35 as follows.

1 (1) The benefit shall be computed in ac-
2 cordance with section 18452, subsection 1,
3 and, if applicable, shall be reduced in ac-
4 cordance with section 18452, subsection 3,
5 as if the service retirement of the qualify-
6 ing member had taken place on the date of
7 his death.

8 (2) The beneficiary shall be paid, begin-
9 ning the first month after the death of the
10 qualifying member and continuing until the
11 date of the beneficiary's death.

12 (3) Benefits under this section shall be
13 paid in accordance with section 18404, sub-
14 section 3.

15 C. If the monthly benefit under this subsection
16 is less than \$10, a first listed person under
17 paragraph A may, before the beginning of the re-
18 irement benefit payments, elect to receive, in
19 lieu of those payments, a lump sum which is the
20 actuarial equivalent, at the date of death of the
21 qualifying member, of the benefit payable under
22 this subsection.

23 7. Special options. Instead of accepting the
24 payment provided in subsection 1, 2 or 6, a benefi-
25 ciary may elect to receive benefits under article 5.
26 In order to elect these benefits, both the qualifying
27 member and the beneficiary must comply with each re-
28 quirement of article 5.

29 Sec. 47. 5 MRSA §§18553 and 18554, as enacted by
30 PL 1985, c. 801, §§5 and 7, are repealed.

31 Sec. 48. 5 MRSA §18556, as enacted by PL 1985,
32 c. 801, §§5 and 7, is repealed.

33 Sec. 49. 5 MRSA §18557, sub-§1, as enacted by PL
34 1985, c. 801, §§5 and 7, is amended to read:

35 1. Information from fiscal officer. Before a
36 participating local district elects survivor benefits
37 under section ~~18553~~-~~er~~-~~18556~~ 18552-A, the chief fis-
38 cal officer of the participating local district shall
39 submit to the board that information prescribed by

1 the board to assist the board in determining the cost
2 of the initial survivor benefit contribution of the
3 participating local district.

4 A. The determination of the initial survivor
5 benefit contribution shall be made on the actuarial
6 basis adopted by the board.

7 B. The expense of determining the cost of the
8 initial survivor benefit contribution shall be
9 assessed against and paid by the participating
10 local district on whose account it is made.

11 Sec. 50. 5 MRSA §18558, as enacted by PL 1985,
12 c. 801, §§5 and 7, is repealed.

13 Sec. 51. 5 MRSA §18559 is enacted to read:

14 §18559. Death of beneficiary before payment

15 If any person becomes entitled to the payment of
16 benefits under this article and dies before either
17 the refund check or the initial survivor benefit
18 check is endorsed and presented to a holder in due
19 course, the person is considered to have predeceased
20 the qualifying member.

21 Sec. 52. 5 MRSA §18560 is enacted to read:

22 §18560. Change of choice of payment option

23 Any beneficiary under this article may change his
24 choice of payment at any time up to the point of en-
25 endorsement and presentation to a holder in due course
26 of either the refund check or the initial benefit
27 payment.

28 Sec. 53. 5 MRSA §18561 is enacted to read:

29 §18561. Defeat of survivor's option

30 A qualifying member may specify that the refund
31 of his accumulated contributions be paid to a desig-
32 nated beneficiary or to the qualifying member's es-
33 tate in lieu of any payment to survivors under sec-
34 tion 18552-A, subsections 3 to 5, by filing an affi-
35 davit expressing that intent with the executive di-
36 rector.

1 **Sec. 54. 5 MRSA §18562 is enacted to read:**

2 §18562. Cost-of-living adjustment

3 A participating local district may provide an ad-
4 justment to survivor benefits in accordance with sec-
5 tion 18407 by:

6 1. Application. Applying to the board; and

7 2. Certification. Supplying to the board a cer-
8 tified copy of its action together with a statement
9 of agreement to pay costs of the adjustments.

10 **Sec. 55. 5 MRSA §18607 as enacted by PL 1985, c.**
11 **801, §§5 and 7, is repealed.**

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STATEMENT OF FACT

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Sections 1 and 3 of the bill make the Maine State Retirement System law consistent with the laws relating to the Maine Vocational-Technical Institute System.

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Section 2 clarifies the definition of "member." A person who terminates employment does not cease to be a member until he withdraws his contributions.

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Section 4 provides internal consistency regarding the appointment of board members of the Maine State Retirement System.

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Sections 5, 5-A, 22 and 50 allow the executive director to transfer between various funds. There are several sections in the Maine State Retirement System laws that contain specific directions for transfers when a member retires or dies, those sections would be repealed.

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Section 6 authorizes the Board of Trustees of the Maine State Retirement System to adopt rules that provide for immediate refund of contributions upon termination of a member with a short period of membership in the system.

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Sections 7, 12, 13, 14, 32, 38, 39 and 40 require a qualifying member to state the date upon which he wishes to retire at the same time he elects the method of payment.

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Sections 8, 9, 16, 17, 18, 19, 33, 34, 43, 44 and 45 implement the proposal to provide a full month's benefit when a member retires and when he dies. At present, benefits begin on the day the member becomes eligible and end on the day of death.

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Section 10 makes the language relating to option 4 consistent with the language relating to options 1, 2 and 3.

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Section 11 enacts a new section to clarify that a member or beneficiary of a member who has a choice of more than one benefit or option must make a selection

1 and may not change that selection after receiving the
2 first payment.

3 Section 15 changes the earnings limitation for a
4 person receiving disability retirement, who becomes
5 employed by someone other than his former employer,
6 to be the same as the limit for any retiree, service
7 or disability, who is reemployed by his former em-
8 ployer.

9 Sections 20, 21 and 22 make the so-called "auto-
10 matic option 2" available to beneficiaries of all
11 state employee and teacher, members who die while in
12 service, regardless of the number of years of service
13 or age at the time of the death of the member.

14 Section 23 is part of the rewrite of the Maine
15 Revised Statutes, Title 5, sections 17953 and 17954
16 relating to "automatic option 2."

17 Section 24 repeals the Maine Revised Statutes,
18 Title 5, section 18007, which is no longer needed,
19 since it will be covered by Title 5, section 17812,
20 in section 11 of this bill.

21 Section 25 is to conform this section to accepted
22 legislative drafting practices.

23 Section 26 implements the board's agreement with
24 the Maine Municipal Association to incorporate into
25 the Maine State Retirement System laws the essence of
26 the revised rule relating to membership requirements
27 for employees of participating local districts. Ti-
28 tle 5, section 18251, subsection 1, paragraphs B and
29 C, make the Maine State Retirement System laws con-
30 sistent with the Maine Revised Statutes, Title 35 and
31 38.

32 Section 27 authorizes the Board of Trustees of
33 the Maine State Retirement System to adopt rules that
34 provide for immediate refund of contributions upon
35 termination of a member with a short period of mem-
36 bership in the system.

37 Sections 28 and 29 correct a drafting error in
38 the legislation enacted by the 112th Legislature
39 which recodified the Maine State Retirement System

1 laws.

2 Section 30 clarifies the meaning of the last sen-
3 tence of this subsection.

4 Section 31 removes what appears to be obsolete
5 language. It is very unlikely that any employees of
6 new participating local districts would have had
7 state service before July 1, 1942.

8 Section 35 makes the language relating to option
9 4 consistent with the language relating to options 1,
10 2 and 3.

11 Section 36 makes clear that a member or benefi-
12 ciary of a member who has a choice of more than one
13 benefit or option must make a selection and may not
14 change that selection after receiving the first pay-
15 ment.

16 Section 37 corrects an incorrect reference.

17 Section 41 corrects a drafting error in the leg-
18 islation enacted by the 112th Legislature which
19 recodified the Maine State Retirement System laws.

20 Section 42 changes the earnings limitations for a
21 person receiving disability retirement, who becomes
22 employed by someone other than his former employer,
23 to be the same as the limit for any retiree, service
24 or disability, who is reemployed by his former em-
25 ployer.

26 Sections 46, 47 and 50 make the so-called "auto-
27 matic option 2" available to beneficiaries of all
28 members who die while in service, regardless of the
29 number of years of service or age at the time of
30 death of the member.

31 Section 48 repeals the Maine Revised Statutes,
32 Title 5, section 18557, since enactment of Title 5,
33 section 18552-A, in section 46 of the bill makes this
34 section unnecessary.

35 Sections 52 to 54 are part of the rewrite of Ti-
36 tle 5, sections 18553 and 18554, relating to "auto-
37 matic option 2."

1 Section 55 repeals the Maine Revised Statutes,
2 Title 5, section 18607, which is no longer needed
3 since it is covered by enactment of Title 5, section
4 18412, in section 36 of this bill.

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