

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 241

H.P. 180

House of Representatives, January 18, 2005

### **An Act To Ensure That the Exemption for Pensions Is Applied Fairly**

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Reference to the Committee on Taxation suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative DAVIS of Falmouth.

Cosponsored by Representatives: EDGECOMB of Caribou, FINCH of Fairfield.

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

Sec. 1. 36 MRSA §5122, sub-§2, ¶M. as amended by PL 2003, c. 391, §5, is further amended to read:

M. For each individual who is a primary recipient of benefits under an employee retirement plan, an amount that is the lesser of:

(1) Six thousand dollars reduced by the total amount of the individual's ~~social--security--benefits--and~~ railroad retirement benefits paid by the United States, but not less than \$0. The reduction does not apply to benefits paid under a military retirement plan; or

(2) The aggregate of benefits under employee retirement plans included in the individual's federal adjusted gross income.

For purposes of this paragraph, the following terms have the following meanings. "Primary recipient" means the individual upon whose earnings the employee retirement plan benefits are based or the surviving spouse of that individual. "Employee retirement plan" means a state, federal or military retirement plan or any other retirement benefit plan established and maintained by an employer for the benefit of its employees under the Code, Section 401(a), Section 403 or Section 457(b), except that distributions made pursuant to a ~~section~~ Section 457(b) plan are not eligible for the deduction provided by this paragraph if they are made prior to age 55 and are not part of a series of substantially equal periodic payments made for the life of the primary recipient or the joint lives of the primary recipient and that recipient's designated beneficiary. "Employee retirement plan" does not include an individual retirement account under Section 408 of the Code, a Roth IRA under Section 408A of the Code, a rollover individual retirement account, a simplified employee pension under Section 408(k) of the Code or an ineligible deferred compensation plan under Section 457(f) of the Code. Benefits under an employee retirement plan do not include distributions that are subject to the tax imposed by the Code, Section 72(t). "Military retirement plan" means benefits received as a result of service in the active or reserve components of the Army, Navy, Air Force, Marines or Coast Guard;

## SUMMARY

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4       Under current law, in calculating a Maine resident's taxable  
income, the federal adjusted gross income of a resident who  
6       receives a pension may be reduced by an amount that equals \$6,000  
reduced by the amount of the resident's social security  
8       benefits. This bill eliminates the reduction for social security  
benefits.