

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 1158

H.P. 801

House of Representatives, March 8, 2005

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**An Act To Allow Disabled Retired State Employees To Be Eligible  
for a Pension Deduction under Maine Income Tax Law**

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Reference to the Committee on Taxation suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative DUDLEY of Portland.  
Cosponsored by Senator STRIMLING of Cumberland and  
Representatives: DAVIS of Falmouth, DUPLESSIE of Westbrook, JACKSON of Fort Kent,  
SMITH of Van Buren, TUTTLE of Sanford, Senators: BARTLETT of Cumberland,  
BRENNAN of Cumberland, MITCHELL of Kennebec.

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

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

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

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

16           (2) The aggregate of benefits received by the primary  
17           recipient as disability income or under employee  
18           retirement plans or disability retirement plans  
19           included in the individual's federal adjusted gross  
20           income.

22       For purposes of this paragraph, the following terms have the  
23       following meanings. "Primary recipient" means the  
24       individual upon whose earnings the employee retirement plan  
25       benefits or disability retirement plan benefits are based or  
26       the surviving spouse of that individual. "Disability  
27       retirement plan" means a plan providing disability benefits  
28       received pursuant to Title 5, chapter 423, subchapter 5,  
29       article 3 or 3-A. "Employee retirement plan" means a state,  
30       federal or military retirement plan or any other retirement  
31       benefit plan established and maintained by an employer for  
32       the benefit of its employees under the Code, Section 401(a),  
33       Section 403 or Section 457(b), except that distributions  
34       made pursuant to a section 457(b) plan are not eligible for  
35       the deduction provided by this paragraph if they are made  
36       prior to age 55 and are not part of a series of  
37       substantially equal periodic payments made for the life of  
38       the primary recipient or the joint lives of the primary  
39       recipient and that recipient's designated beneficiary.  
40       "Employee retirement plan" does not include an individual  
41       retirement account under Section 408 of the Code, a Roth IRA  
42       under Section 408A of the Code, a rollover individual  
43       retirement account, a simplified employee pension under  
44       Section 408(k) of the Code or an ineligible deferred  
45       compensation plan under Section 457(f) of the Code.  
46       Benefits under an employee retirement plan do not include  
47       distributions that are subject to the tax imposed by the  
48       Code, Section 72(t). "Military retirement plan" means  
      benefits received as a result of service in the active or

2 reserve components of the Army, Navy, Air Force, Marines or  
Coast Guard;

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### 6 **SUMMARY**

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8 Current law provides an exemption for the first \$6,000 of  
retirement income received pursuant to a state, federal or  
10 military retirement plan. This bill provides the same exemption  
for the first \$6,000 of income received under a disability  
12 retirement plan policy administered by the State for state  
employees and teachers.