

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2010

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Legislative Document

No. 1582

H.P. 1120

House of Representatives, December 22, 2009

**An Act To Bring the Laws of the Maine Public Employees  
Retirement System into Compliance with the Federal Internal  
Revenue Code**

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Submitted by the Maine Public Employees Retirement System pursuant to Joint Rule 204.  
Received by the Clerk of the House on December 18, 2009. Referred to the Committee on  
Labor pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative TUTTLE of Sanford.  
Cosponsored by Senator JACKSON of Aroostook and  
Representative: Speaker PINGREE of North Haven, Senator: President MITCHELL of  
Kennebec.

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

2           **Sec. 1. 3 MRSA §701, sub-§10-A** is enacted to read:

3           **10-A. Internal Revenue Code.** "Internal Revenue Code" or "Code" means the  
4           United States Internal Revenue Code of 1986, as amended.

5           **Sec. 2. 3 MRSA §702, first ¶,** as amended by PL 2007, c. 491, §5, is further  
6           amended to read:

7           There is established the Legislative Retirement Program as a governmental qualified  
8           defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code  
9           and such other provisions of the Internal Revenue Code and United States Treasury  
10          regulations and other guidance as are applicable, which has the powers and privileges of a  
11          corporation.

12          **Sec. 3. 3 MRSA §705** is enacted to read:

13          **§705. Internal Revenue Code compliance**

14          The Legislative Retirement Program established in this chapter is subject to the  
15          following requirements.

16          **1. Vesting.** In compliance with the Code, Section 401(a)(7), a member is 100%  
17          vested in the member's contribution account at all times.

18          **2. Use of forfeitures of benefits.** In compliance with the Code, Section 401(a)(8),  
19          any forfeitures of benefits by members or former members may not be used to pay benefit  
20          increases, but must be used to reduce unfunded liabilities.

21          **3. Benefits.** In compliance with the Code, Section 401(a)(9), benefits must be paid  
22          in accordance with a good faith interpretation of the requirements of the Code, Section  
23          401(a)(9) and the regulations in effect under that section as applicable to a governmental  
24          plan within the meaning of the Code, Section 414(d).

25          **4. Application of annual compensation limits.** In compliance with the Code,  
26          Section 401(a)(17), applicable annual compensation limits must be applied for purposes  
27          of determining benefits or contributions due to the Maine Public Employees Retirement  
28          System.

29          **5. Rollovers.** In compliance with the Code, Section 401(a)(31), a member may  
30          elect, at the time and in the manner prescribed by the board of trustees, to have any  
31          portion of an eligible rollover distribution paid directly to an eligible retirement plan  
32          specified by the member in a direct rollover.

33          **6. Qualified military service.** Effective December 12, 1994, contributions, benefits  
34          and service credit with respect to qualified military service are governed by the Code,  
35          Section 414(u) and the federal Uniformed Services Employment and Reemployment  
36          Rights Act of 1994 and, effective January 1, 2007, the Code, Section 401(a)(37).

1           **7. Additional requirements.** In compliance with the Code, Section 415, the  
2 member contributions paid to and retirement benefits paid from the Legislative  
3 Retirement Program must be limited to the extent necessary to conform to the  
4 requirements of the Code, Section 415 for a qualified pension plan.

5           **8. Compliance with Section 503(b).** Effective July 1, 1989, the board of trustees  
6 may not engage in a transaction prohibited by the Code, Section 503(b).

7           **9. Rules.** The board of trustees shall adopt rules necessary to maintain the qualified  
8 pension plan tax status of the Legislative Retirement Program under the Internal Revenue  
9 Code as required for governmental defined benefit plans defined in the Code, Section  
10 414(d). Rules adopted under this subsection are routine technical rules as defined in Title  
11 5, chapter 375, subchapter 2-A.

12           **Sec. 4. 3 MRSA §801, sub-§1-A,** as amended by PL 2007, c. 491, §18, is further  
13 amended to read:

14           **1-A. Waiver provision.** Any Legislator may petition the presiding officer for a  
15 waiver from the membership provisions of subsection 1 if it can be demonstrated that  
16 membership in the Legislative Retirement Program will create or exacerbate a  
17 Legislator's federal income tax liability due to the ownership of another retirement plan.  
18 The Office of the Executive Director of the Legislative Council shall provide assistance  
19 as requested by the Legislator or presiding officer. The presiding officer shall respond to  
20 the Legislator's petition within 30 days and shall provide copies of the decision to the  
21 Executive Director of the Legislative Council and the Executive Director of the Maine  
22 Public Employees Retirement System. A granted waiver of membership constitutes a  
23 one-time irrevocable election with respect to all subsequent employment with the same  
24 employer when membership in the Legislative Retirement Program is not mandatory.

25           **Sec. 5. 3 MRSA §805-B, sub-§1,** as enacted by PL 2007, c. 137, §4, is amended  
26 to read:

27           **1. Conditions for refund.** The retirement system may make an automatic refund of  
28 contributions to a member who has not properly applied for a refund as provided in  
29 section 805-A and who has terminated service, except by death or by retirement under  
30 this chapter, and who has not met the minimum creditable service requirement for  
31 eligibility to receive a service retirement benefit at the applicable age under the following  
32 conditions:

33           A. The member account in the retirement system has been inactive for 3 or more  
34 years;

35           B. Only accumulated contributions made by the member or picked up by the  
36 employer may be refunded to that member under this subsection; and

37           C. A member who receives an automatic refund under this subsection may, within 30  
38 days of the issuance of the refund, return the full refunded amount to the retirement  
39 system. Upon receipt, the retirement system shall restore the accumulated  
40 contributions to the member's credit.

1 Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under  
2 this section may not exceed \$1,000.

3 **Sec. 6. 4 MRSA §1201, sub-§11-A** is enacted to read:

4 **11-A. Internal Revenue Code.** "Internal Revenue Code" or "Code" means the  
5 United States Internal Revenue Code of 1986, as amended.

6 **Sec. 7. 4 MRSA §1202, first ¶,** as amended by PL 2007, c. 491, §34, is further  
7 amended to read:

8 There is established the Judicial Retirement Program as a governmental qualified  
9 defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code  
10 and such other provisions of the Internal Revenue Code and United States Treasury  
11 regulations and other guidance as are applicable, which has the powers and privileges of a  
12 corporation.

13 **Sec. 8. 4 MRSA §1205** is enacted to read:

14 **§1205. Internal Revenue Code compliance**

15 The Judicial Retirement Program established in this chapter is subject to the  
16 following requirements.

17 **1. Vesting.** In compliance with the Code, Section 401(a)(7), a member is 100%  
18 vested in the member's contribution account at all times.

19 **2. Use of forfeitures of benefits.** In compliance with the Code, Section 401(a)(8),  
20 any forfeitures of benefits by members or former members may not be used to pay benefit  
21 increases, but must be used to reduce unfunded liabilities.

22 **3. Benefits.** In compliance with the Code, Section 401(a)(9), benefits must be paid  
23 in accordance with a good faith interpretation of the requirements of the Code, Section  
24 401(a)(9) and the regulations in effect under that section, as applicable to a governmental  
25 plan within the meaning of the Code, Section 414(d).

26 **4. Application of annual compensation limits.** In compliance with the Code,  
27 Section 401(a)(17), applicable annual compensation limits must be applied for purposes  
28 of determining benefits or contributions due to the Maine Public Employees Retirement  
29 System.

30 **5. Rollovers.** In compliance with the Code, Section 401(a)(31), a member may  
31 elect, at the time and in the manner prescribed by the board of trustees, to have any  
32 portion of an eligible rollover distribution paid directly to an eligible retirement plan  
33 specified by the member in a direct rollover.

34 **6. Qualified military service.** Effective December 12, 1994, contributions, benefits  
35 and service credit with respect to qualified military service are governed by the Code,  
36 Section 414(u) and the federal Uniformed Services Employment and Reemployment  
37 Rights Act of 1994 and, effective January 1, 2007, the Code, Section 401(a)(37).

1           **7. Additional requirements.** In compliance with the Code, Section 415, the  
2 member contributions paid to and retirement benefits paid from the Judicial Retirement  
3 Program must be limited to the extent necessary to conform to the requirements of the  
4 Code, Section 415 for a qualified pension plan.

5           **8. Compliance with Section 503(b).** Effective July 1, 1989, the board of trustees  
6 may not engage in a transaction prohibited by the Code, Section 503(b).

7           **9. Rules.** The board of trustees shall adopt rules necessary to maintain the qualified  
8 pension plan tax status of the Judicial Retirement Program under the Internal Revenue  
9 Code as required for governmental defined benefit plans defined in the Code, Section  
10 414(d). Rules adopted under this subsection are routine technical rules as defined in Title  
11 5, chapter 375, subchapter 2-A.

12           **Sec. 9. 4 MRSA §1305-B, sub-§1,** as enacted by PL 2007, c. 137, §8, is amended  
13 to read:

14           **1. Conditions for refund.** The retirement system may make an automatic refund of  
15 contributions to a member who has not properly applied for a refund as provided in  
16 section 1305-A and who has terminated service, except by death or by retirement under  
17 this chapter, and who has not met the minimum creditable service requirement for  
18 eligibility to receive a service retirement benefit at the applicable age under the following  
19 conditions:

20           A. The member account in the retirement system has been inactive for 3 or more  
21 years;

22           B. Only accumulated contributions made by the member or picked up by the  
23 employer may be refunded to that member under this subsection; and

24           C. A member who receives an automatic refund under this subsection may, within 30  
25 days of the issuance of the refund, return the full refunded amount to the retirement  
26 system. Upon receipt, the retirement system shall restore the accumulated  
27 contributions to the member's credit.

28           Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under  
29 this section may not exceed \$1,000.

30           **Sec. 10. 4 MRSA §1306, sub-§2,** as amended by PL 2007, c. 491, §48, is further  
31 amended to read:

32           **2. Payment.** The amount that a member who makes the election permitted in  
33 subsection 1 must pay is the amount equal to the employee contribution that person  
34 would have made on wages that would have been paid to that person on the days off  
35 without pay during the 2002-03 fiscal year as described in section 1201, subsection 3,  
36 plus interest at ~~the same rate as that required for payment of back contributions pursuant~~  
37 ~~to Title 5, section 17704, subsection 3~~ a rate, to be set by the board, not to exceed regular  
38 interest by 5 or more percentage points. Interest must be computed beginning at the end  
39 of the year when those contributions or pick-up contributions would have been made to  
40 the date of payment. If the member elects to make the payment, the Maine Public

1 Employees Retirement System shall withhold the required amount from the member's  
2 first retirement benefit check.

3 **Sec. 11. 5 MRSA §17001, sub-§18-A** is enacted to read:

4 **18-A. Internal Revenue Code.** "Internal Revenue Code" or "Code" means the  
5 United States Internal Revenue Code of 1986, as amended.

6 **Sec. 12. 5 MRSA §17054-A** is enacted to read:

7 **§17054-A. Responsibilities of employers and the retirement system**

8 Employers are responsible for providing procedures by which employees for whom  
9 membership in the retirement system is optional make a membership election, for  
10 maintaining all records relevant to the election process and an individual employee's  
11 election and for informing the retirement system as to employee elections in accordance  
12 with procedures established by the executive director. The retirement system is  
13 responsible to ensure that its records accurately reflect the information provided by the  
14 employer. With respect to matters related to participation and membership in the  
15 retirement system other than those specified in this section, the retirement system and the  
16 board retain responsibility and authority according to applicable retirement system law  
17 and rules as to the employer and the employees to whom this Part applies, including the  
18 authority to make final administrative decisions.

19 **Sec. 13. 5 MRSA §17602, first ¶,** as enacted by PL 2007, c. 491, §93, is  
20 amended to read:

21 There is established the State Employee and Teacher Retirement Program as a  
22 governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the  
23 Internal Revenue Code and such other provisions of the Internal Revenue Code and  
24 United States Treasury regulations and other guidance as are applicable, which has the  
25 powers and privileges of a corporation.

26 **Sec. 14. 5 MRSA §17603** is enacted to read:

27 **§17603. Internal Revenue Code qualified plan compliance**

28 The State Employee and Teacher Retirement Program established in this chapter is  
29 subject to the following requirements.

30 **1. Vesting.** In compliance with the Code, Section 401(a)(7), a member is 100%  
31 vested in the member's contribution account at all times.

32 **2. Use of forfeitures of benefits.** In compliance with the Code, Section 401(a)(8),  
33 any forfeitures of benefits by members or former members may not be used to pay benefit  
34 increases, but must be used to reduce unfunded liabilities.

35 **3. Benefits.** In compliance with the Code, Section 401(a)(9), benefits must be paid  
36 in accordance with a good faith interpretation of the requirements of the Code, Section

1 401(a)(9) and the regulations in effect under that section, as applicable to a governmental  
2 plan within the meaning of the Code, Section 414(d).

3 4. Application of annual compensation limits. In compliance with the Code,  
4 Section 401(a)(17), applicable annual compensation limits must be applied for purposes  
5 of determining benefits or contributions due to the retirement system.

6 5. Rollovers. In compliance with the Code, Section 401(a)(31), a member may  
7 elect, at the time and in the manner prescribed by the board, to have any portion of an  
8 eligible rollover distribution paid directly to an eligible retirement plan specified by the  
9 member in a direct rollover.

10 6. Qualified military service. Effective December 12, 1994, contributions, benefits  
11 and service credit with respect to qualified military service are governed by the Code,  
12 Section 414(u) and the federal Uniformed Services Employment and Reemployment  
13 Rights Act of 1994 and, effective January 1, 2007, the Code, Section 401(a)(37).

14 7. Additional requirements. In compliance with the Code, Section 415, the  
15 member contributions paid to and retirement benefits paid from the State Employee and  
16 Teacher Retirement Program must be limited to the extent necessary to conform to the  
17 requirements of the Code, Section 415 for a qualified pension plan.

18 8. Compliance with Section 503(b). Effective July 1, 1989, the board may not  
19 engage in a transaction prohibited by the Code, Section 503(b).

20 9. Rules. The board shall adopt rules necessary to maintain the qualified pension  
21 plan tax status of the State Employee and Teacher Retirement Program under the Internal  
22 Revenue Code as required for governmental defined benefit plans defined in the Code,  
23 Section 414(d). Rules adopted under this subsection are routine technical rules as defined  
24 in chapter 375, subchapter 2-A.

25 **Sec. 15. 5 MRSA §17652, as amended by PL 2007, c. 491, §95, is further**  
26 **amended to read:**

27 **§17652. Optional membership**

28 **1. Elected and appointed officials.** Membership in the State Employee and Teacher  
29 Retirement Program is optional for elected officials or officials appointed for a fixed  
30 term. A person must make an election at the time of hire whether to be a member of the  
31 program. Once an election is made under this subsection, the election is irrevocable with  
32 respect to all subsequent employment with the same employer when membership in the  
33 program is not mandatory.

34 ~~**2. Delayed election of membership.** A person, including a substitute teacher, who~~  
35 ~~elects not to join the State Employee and Teacher Retirement Program at the beginning of~~  
36 ~~that person's employment may at any time apply for and be admitted to membership.~~

37 ~~A.1. A person who joins the State Employee and Teacher Retirement Program under~~  
38 ~~this subsection may purchase service credit for the period during which the person~~



1 served as an elected official or official appointed for a fixed term or was employed as  
2 a substitute teacher but was not a member of the program.

3 ~~B. Membership service credit for persons joining the State Employee and Teacher  
4 Retirement Program under this subsection begins as of the effective date of first  
5 contributions or pick-up contributions to the program.~~

6 ~~C. This subsection applies to any member who begins membership after December  
7 31, 1985.~~

8 ~~2. A. Reentry. A person whose membership is optional and who becomes a member  
9 after having previously withdrawn from the State Employee and Teacher Retirement  
10 Program may purchase service credit for the time served in eligible service as follows. If  
11 qualified under both paragraphs A and B, the person may purchase time under both  
12 paragraphs.~~

13 ~~A. If the person withdrew accumulated contributions at the time of withdrawal, the  
14 person may repurchase that prior service credit by repaying those contributions  
15 pursuant to section 17703.~~

16 ~~B. For the purchase of time for which the person was not a member, the person must  
17 pay the amount set forth in section 17704 A.~~

18 **3. Certain employees of the Maine Community College System.** Notwithstanding  
19 section 17651, membership in the State Employee and Teacher Retirement Program is  
20 optional for employees of the Maine Community College System who are eligible to  
21 participate in a retirement plan pursuant to Title 20-A, section 12722. A person must  
22 make an election at the time of hire whether to be a member of the program. Once an  
23 election is made under this subsection, the election is irrevocable with respect to all  
24 subsequent employment with the same employer when membership in the program is not  
25 mandatory.

26 **4. Limitation on election to join State Employee and Teacher Retirement**  
27 **Program.** Notwithstanding any other law, confidential employees of the Maine  
28 Community College System who are not represented in a collective bargaining unit may  
29 join ~~or rejoin~~ the State Employee and Teacher Retirement Program under this section  
30 only upon the written authorization of the Board of Trustees of the Maine Community  
31 College System. The board of trustees shall authorize the person to join ~~or rejoin~~  
32 the State Employee and Teacher Retirement Program when the Maine Community College  
33 System Office or other Maine Community College System entity that employs the  
34 individual seeking to join ~~or rejoin~~ has identified and designated the funds necessary to  
35 pay for the cost of that person's joining ~~or rejoining~~ the program. A person must make an  
36 election at the time of hire whether to be a member of the program. Once an election is  
37 made under this subsection, the election is irrevocable with respect to all subsequent  
38 employment with the same employer when membership in the program is not mandatory.

39 **5. Certain members of the Maine National Guard.** A member of the Maine  
40 National Guard who is not governed by section 17651 and who is on active state service  
41 for more than 5 consecutive days pursuant to Title 37-B may elect to be a member of the  
42 State Employee and Teacher Retirement Program. A member of the Maine National  
43 Guard on active state service pursuant to Title 37-B who does not elect to participate in

1 the State Employee and Teacher Retirement Program or is not eligible to participate in  
2 the State Employee and Teacher Retirement Program shall participate in the United States  
3 Social Security System. Once a member of the Maine National Guard makes an election  
4 under this subsection, that election is irrevocable with respect to all subsequent  
5 employment with the same employer when membership in the program is not mandatory.  
6 A member of the Maine National Guard on active state service pursuant to Title 37-B  
7 may participate in the tax-deferred arrangement of chapter 67.

8 **6. Substitute teachers.** Notwithstanding section 17651, membership in the State  
9 Employee and Teacher Retirement Program is optional for substitute teachers. ~~The right~~  
10 ~~of a substitute teacher to rejoin the program is limited to 2 occurrences.~~ A person must  
11 make an election at the time of hire whether to be a member of the program. Once an  
12 election is made under this subsection, the election is irrevocable with respect to all  
13 subsequent employment with the same employer when membership in the program is not  
14 mandatory.

15 **Sec. 16. 5 MRSA §17704**, as amended by PL 2007, c. 491, §109, is repealed.

16 **Sec. 17. 5 MRSA §17704-A**, as amended by PL 2007, c. 491, §§110 and 111, is  
17 repealed.

18 **Sec. 18. 5 MRSA §17704-B, sub-§2**, as amended by PL 2009, c. 213, Pt. SSS,  
19 §2, is further amended to read:

20 **2. Payment.** The amount that a member who makes the election permitted in  
21 subsection 1 must pay is the amount equal to the employee contribution that member  
22 would have made on compensation that would have been paid to that member on the days  
23 off without pay or for days worked for which the level of pay is reduced as the result of  
24 the freezing of merit pay and longevity pay during fiscal year 2002-03, 2009-10 or 2010-  
25 11, or a combination thereof, as provided in section 17001, subsection 4, paragraph A,  
26 plus interest at ~~the same rate as that required for payment of back contributions pursuant~~  
27 ~~to section 17704, subsection 3~~ a rate, to be set by the board, not to exceed regular interest  
28 by 5 or more percentage points. Interest must be computed beginning at the end of the  
29 year when those contributions or pick-up contributions would have been made to the date  
30 of payment. If the member elects to make the payment, the retirement system shall  
31 withhold the required amount from the member's first retirement benefit check.

32 **Sec. 19. 5 MRSA §17704-C** is enacted to read:

33 **§17704-C. Continued eligibility to purchase back time**

34 A member whose membership date is prior to August 1, 2010 and who was eligible  
35 to purchase service credit under former section 17704 or 17704-A prior to August 1,  
36 2010, retains eligibility to purchase that service credit under the conditions of those  
37 sections as in effect prior to repeal.

38 **Sec. 20. 5 MRSA §17706-A, sub-§1**, as amended by PL 2007, c. 491, §113, is  
39 further amended to read:

1           **1. Conditions for refund.** The retirement system may make an automatic refund of  
2 contributions to a member who has not properly applied for a refund as provided in  
3 section 17705-A and who has terminated service, except by death or by retirement under  
4 this Part, or who as an optional member has withdrawn from a retirement program of the  
5 Maine Public Employees Retirement System, and who has not met the minimum  
6 creditable service requirement for eligibility to receive a service retirement benefit at the  
7 applicable age under the following conditions:

8           A. The member account has been inactive for 3 or more years;

9           B. Except when inclusion of a portion of employer contributions is required by this  
10 subsection, only accumulated contributions made by the member or picked up by the  
11 employer may be refunded to that member under this subsection;

12           C. The amount of the refund of accumulated contributions related to a member's  
13 compensation for service rendered as a part-time, seasonal or temporary employee  
14 after December 31, 1991 must be at least equal to 7.5% of the member's  
15 compensation for that service plus interest as provided by section 17156; and

16           D. A member who receives an automatic refund under this subsection may, within  
17 30 days of the issuance of the refund, return the full refunded amount to the  
18 retirement system. Upon receipt, the retirement system shall restore the accumulated  
19 contributions to the member's credit.

20           Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under  
21 this section may not exceed \$1,000.

22           **Sec. 21. 5 MRSA §17707, sub-§4, ¶C,** as amended by PL 2007, c. 491, §114, is  
23 further amended to read:

24           C. If an employee who has not contributed during the employee's CETA  
25 employment or who has withdrawn the employee's contributions later elects, under  
26 section 17761, to purchase the employee's CETA time for past creditable service, the  
27 employee shall pay to the applicable retirement program of the Maine Public  
28 Employees Retirement System an amount equal to the employee's contributions, plus  
29 interest, as provided under section 17704 at a rate, to be set by the board, not to  
30 exceed regular interest by 5 or more percentage points. Interest must be computed  
31 beginning at the end of the year when those contributions or pick-up contributions  
32 would have been made to the date of payment.

33           **Sec. 22. 5 MRSA §17753,** as amended by PL 1995, c. 180, §4, is further amended  
34 to read:

35           **§17753. Service credit for back contributions**

36           Upon complete payment of the back contributions under section ~~17704 or 17704-A~~  
37 17704-C, the member must be granted service credit for the period of time for which the  
38 contributions have been made. Upon making partial payment of the back contributions  
39 under section ~~17704 or 17704-A~~ 17704-C, the member must be granted service credit on  
40 a pro rata basis in accordance with rules adopted by the board.

41           **Sec. 23. 5 MRSA §17758,** as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

1           **Sec. 24. 5 MRSA §18058, sub-§1**, as amended by PL 2009, c. 236, §1, is further  
2 amended to read:

3           **1. Employees automatically insured.** ~~Except as provided in Title 20-A, section~~  
4 ~~12722, subsection 8, paragraph D, all~~ All employees eligible for basic insurance under  
5 this subchapter are automatically insured for the amounts of basic coverage applicable  
6 under this subchapter, beginning on the first day of the month following one month of  
7 employment after the employee becomes eligible. Each employee shall complete an  
8 application for insurance coverage within 31 days of becoming eligible.

9           A. The employee shall indicate the types of coverage elected.

10           B. If an application is completed in a timely manner, any coverage in addition to  
11 basic becomes effective on the first day of the month following one month of  
12 employment after the employee becomes eligible.

13           C. If an application is not completed within 31 days of the employee's first becoming  
14 eligible, the employee may subsequently apply for supplemental and dependent  
15 insurance but must produce evidence of insurability at the employee's own expense  
16 and in accordance with the requirements of the insurance underwriter.

17           **Sec. 25. 5 MRSA §18058, sub-§2**, as amended by PL 2009, c. 236, §2, is further  
18 amended to read:

19           **2. Employees not wanting to be insured.** ~~Except as provided in Title 20-A, section~~  
20 ~~12722, subsection 8, paragraph D, any~~ Any employee not wanting to be insured under  
21 this subchapter, at the time the employee first becomes eligible, shall, on the application  
22 form, give written notice to the employee's employing officer and to the retirement  
23 system that the employee does not want to be insured.

24           A. If after being insured, the employee wishes to cancel or reduce coverage, written  
25 notice must be given by the employee to the employee's employing officer and to the  
26 retirement system.

27           B. The employee's insurance coverage must cease or be reduced at the end of the  
28 month in which the notice is received by the employing office.

29           C. Any employee who does not want to be insured or who cancels insurance  
30 coverage may subsequently apply for insurance, but must produce evidence of  
31 insurability at the employee's own expense and in accordance with the requirements  
32 of the insurance underwriter.

33           D. Any employee who, during a period of unpaid military leave of absence, does not  
34 continue coverage while on unpaid military leave must be reinstated to the levels of  
35 coverage in effect immediately prior to the unpaid military leave. A request for  
36 reinstatement by the employee must be made within 31 days of the employee's return  
37 to work following unpaid military leave. An employee who wants to be reinstated  
38 and who does not apply for reinstatement within 31 days of the employee's return to  
39 work from unpaid military leave must produce evidence of insurability at the  
40 employee's own expense and in accordance with the requirements of the insurance  
41 underwriter.

1           **Sec. 26. 5 MRSA §18200, first ¶**, as enacted by PL 2007, c. 491, §181, is  
2 amended to read:

3           There is established the Participating Local District Retirement Program as a  
4 governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the  
5 Internal Revenue Code and such other provisions of the Internal Revenue Code and  
6 United States Treasury regulations and other guidance as are applicable, which has the  
7 powers and privileges of a corporation.

8           **Sec. 27. 5 MRSA §18205** is enacted to read:

9           **§18205. Internal Revenue Code qualified plan compliance**

10           The Participating Local District Retirement Program established in this chapter is  
11 subject to the following requirements.

12           1. Vesting. In compliance with the Code, Section 401(a)(7), a member is 100%  
13 vested in the member's contribution account at all times.

14           2. Use of forfeitures of benefits. In compliance with the Code, Section 401(a)(8),  
15 any forfeitures of benefits by members or former members may not be used to pay benefit  
16 increases, but must be used to reduce unfunded liabilities.

17           3. Benefits. In compliance with the Code, Section 401(a)(9), benefits must be paid  
18 in accordance with a good faith interpretation of the requirements of the Code, Section  
19 401(a)(9) and the regulations in effect under that section, as applicable to a governmental  
20 plan within the meaning of the Code, Section 414(d).

21           4. Application of annual compensation limits. In compliance with the Code,  
22 Section 401(a)(17), applicable annual compensation limits must be applied for purposes  
23 of determining benefits or contributions due to the retirement system.

24           5. Rollovers. In compliance with the Code, Section 401(a)(31), a member may  
25 elect, at the time and in the manner prescribed by the board, to have any portion of an  
26 eligible rollover distribution paid directly to an eligible retirement plan specified by the  
27 member in a direct rollover.

28           6. Qualified military service. Effective December 12, 1994, contributions, benefits  
29 and service credit with respect to qualified military service are governed by the Code,  
30 Section 414(u) and the federal Uniformed Services Employment and Reemployment  
31 Rights Act of 1994 and, effective January 1, 2007, the Code, Section 401(a)(37).

32           7. Additional requirements. In compliance with the Code, Section 415, the  
33 member contributions paid to and retirement benefits paid from the Participating Local  
34 District Retirement Program must be limited to the extent necessary to conform to the  
35 requirements of the Code, Section 415 for a qualified pension plan.

36           8. Compliance with Section 503(b). Effective July 1, 1989, the board may not  
37 engage in a transaction prohibited by the Code, Section 503(b).

1           **9. Rules.** The board shall adopt rules necessary to maintain the qualified pension  
2 plan tax status of the Participating Local District Retirement Program under the Internal  
3 Revenue Code as required for governmental defined benefit plans defined in the Code,  
4 Section 414(d). Rules adopted under this subsection are routine technical rules as defined  
5 in chapter 375, subchapter 2-A.

6           **Sec. 28. 5 MRSA §18251, sub-§3,** as amended by PL 2007, c. 491, §188, is  
7 further amended to read:

8           **3. Optional membership.** Membership in the Participating Local District  
9 Retirement Program is optional for the following employees of a participating local  
10 district:

11           A. A person in the service of a participating local district on the date of  
12 establishment for that participating local district. Once such a person joins the  
13 Participating Local District Retirement Program, membership ceases to be optional  
14 for that person under this paragraph;

15           B. An elected official or an official appointed for a fixed term. Special provisions  
16 apply to certain officials as follows:

17                   (1) Membership of trustees of a water district is governed by Title 35-A, section  
18 6410, subsection 8;

19                   (2) Membership of trustees of a sanitary district is governed by Title 38, section  
20 1104; and

21                   (3) Membership of trustees of a sewer district is governed by Title 38, section  
22 1252;

23           C. A chief administrative officer of a participating local district, whether appointed  
24 for a fixed term or appointed with tenure; and

25           D. A person whose membership is optional under section 18252, 18252-A or 18801.

26 A person must make an election at the time of hire, or on the date of first eligibility to  
27 participate, whichever occurs earlier, whether to be a member of the program. Once an  
28 election is made under this subsection, the election is irrevocable with respect to all  
29 subsequent employment with the same employer when membership in the program is not  
30 mandatory.

31           **Sec. 29. 5 MRSA §18251, sub-§4,** as amended by PL 2007, c. 491, §189, is  
32 repealed.

33           **Sec. 30. 5 MRSA §18251, sub-§5,** as amended by PL 2007, c. 491, §190, is  
34 repealed.

35           **Sec. 31. 5 MRSA §18252,** as repealed and replaced by PL 2009, c. 415, Pt. A, §5,  
36 is amended to read:

1           **§18252. Membership in districts with Social Security coverage**

2           A person who is or would be covered by the United States Social Security Act as a  
3 result of employment by a participating local district with Social Security coverage may  
4 elect to ~~join, not to join, to cease contributions to or to withdraw from~~ be a member in the  
5 Participating Local District Retirement Program under the following conditions. A  
6 person must make an election at the time of hire or on the date of first eligibility to  
7 participate, whichever occurs earlier, whether to be a member of the program. Once an  
8 election is made under this section, the election is irrevocable with respect to all  
9 subsequent employment with the same employer when membership in the program is not  
10 mandatory.

11           ~~1. Membership. An employee may join the Participating Local District Retirement~~  
12 ~~Program at the beginning of employment or at any time after beginning employment, as~~  
13 ~~long as that person is still an employee of the participating local district and the district~~  
14 ~~continues to be a participating local district.~~

15           ~~A. Purchase of service credit for the period during which the person was not a~~  
16 ~~member of the Participating Local District Retirement Program is governed by~~  
17 ~~section 18305 A.~~

18           ~~2. Employee who is participating member. A person who is a participating~~  
19 ~~member of the Participating Local District Retirement Program may elect to cease~~  
20 ~~contributions to that program and, at that person's discretion, may withdraw accumulated~~  
21 ~~contributions in accordance with section 18306 A.~~

22           ~~3. Person who has previously ceased contributions. A person who has previously~~  
23 ~~elected to cease contributions to the Participating Local District Retirement Program,~~  
24 ~~whether or not accumulated contributions have been withdrawn, may choose to rejoin~~  
25 ~~that program at any time under the following conditions.~~

26           ~~B. The employer must still be a participating local district allowing new membership~~  
27 ~~in the Participating Local District Retirement Program.~~

28           ~~C. Purchase of service credit for the period during which the person was not a~~  
29 ~~member of the Participating Local District Retirement Program is governed by~~  
30 ~~section 18305 A. Repayment of withdrawn accumulated contributions is governed~~  
31 ~~by section 18304.~~

32           ~~5. Limit on right to rejoin. The right of a person to rejoin under subsection 3 is~~  
33 ~~limited to 2 occurrences.~~

34           **6. Restoration to service.** If any person who is the recipient of a service retirement  
35 benefit is covered by the United States Social Security Act upon being restored to service,  
36 continuation of that person's benefit is governed by the following.

37           A. The person may elect to have the service retirement benefit continued during the  
38 period of time the person is restored to service and the person may not accumulate  
39 any additional service credits.

1 B. The person may elect to have the service retirement benefit terminated, again  
2 become a member of the Participating Local District Retirement Program and begin  
3 contributing at the current rate.

4 (1) The person is entitled to accumulate additional service credits during the  
5 period of time the person is restored to service.

6 (2) When the person again retires, the person is entitled to receive benefits  
7 computed on the person's entire creditable service and in accordance with the law  
8 in effect at the time.

9 C. Upon being restored to service, the person must elect to have benefits either  
10 continued or terminated. If written notification of the person's election is not  
11 received by the executive director within 60 days of restoration to service, the person  
12 is deemed to have elected the provisions of paragraph A. The election, regardless of  
13 how it is made, is irrevocable during the period of restoration to service.

14 **Sec. 32. 5 MRSA §18252-A, sub-§1, ¶A,** as repealed and replaced by PL 2009,  
15 c. 415, Pt. A, §6, is amended to read:

16 A. A person hired by a participating local district, or rehired following a break in  
17 service, after the date on which the employer provides a plan under section 18252-B  
18 must elect at the time of hiring or rehiring whether to be a member under the  
19 Participating Local District Retirement Program or to be covered under a plan  
20 provided by the employer under section 18252-B. Once an election is made under  
21 this paragraph, the election is irrevocable with respect to all subsequent employment  
22 with the same employer when membership in the program is not mandatory.

23 ~~(1) If the person elects to be a member under the Participating Local District~~  
24 ~~Retirement Program, the election is effective as of the date of hire or rehire.~~

25 ~~(a) A person who elects to be a member of the Participating Local District~~  
26 ~~Retirement Program may later elect to be covered under a plan provided by~~  
27 ~~the employer under section 18252-B. The person who so elects may, at that~~  
28 ~~person's discretion, withdraw accumulated contributions in accordance with~~  
29 ~~section 18306-A.~~

30 ~~(b) A person who elects under division (a) to be covered under a plan~~  
31 ~~provided by the employer under section 18252-B may later elect to again~~  
32 ~~become a member under the Participating Local District Retirement Program,~~  
33 ~~unless to so elect would have the effect of requiring the employer, without~~  
34 ~~the employer's agreement, to make an employer contribution to both that~~  
35 ~~program and the plan provided by the employer under section 18252-B.~~

36 ~~(c) A person who elects under division (b) to again become a member of the~~  
37 ~~Participating Local District Retirement Program may, in accordance with~~  
38 ~~section 18305-A, purchase service credit for the period during which the~~  
39 ~~person elected not to be a member of that program. The person may, in~~  
40 ~~accordance with section 18304, repay contributions withdrawn under division~~  
41 ~~(a) and may, as permitted under other relevant retirement system law, rule~~  
42 ~~and policy, repay other refunded contributions.~~



1 ~~(d) A person who, having elected to again become a member under the~~  
2 ~~Participating Local District Retirement Program under division (c), later~~  
3 ~~elects again not to be a member may not thereafter become a member under~~  
4 ~~that program while employed by the same participating local district.~~

5 ~~(2) A person who elects to be covered under a plan provided by the employer~~  
6 ~~under section 18252-B may later elect to become a member under the~~  
7 ~~Participating Local District Retirement Program.~~

8 ~~(a) Membership service credit for a person joining the Participating Local~~  
9 ~~District Retirement Program under this subparagraph begins as of the~~  
10 ~~effective date of first contributions or pick up contributions to that program~~  
11 ~~following that person's election under this subparagraph.~~

12 ~~(b) A person who joins the Participating Local District Retirement Program~~  
13 ~~under this subparagraph may, in accordance with section 18305-A, purchase~~  
14 ~~service credit for the period during which the person elected not to be a~~  
15 ~~member of that program.~~

16 ~~(c) A person who, having elected to become a member under the~~  
17 ~~Participating Local District Retirement Program under this subparagraph,~~  
18 ~~later elects again not to be a member may, at the employee's discretion,~~  
19 ~~withdraw accumulated contributions in accordance with applicable~~  
20 ~~requirements of law and rule and retirement system procedures and may not~~  
21 ~~thereafter become a member under that program while employed by the same~~  
22 ~~participating local district.~~

23 **Sec. 33. 5 MRSA §18252-A, sub-§1, ¶B,** as repealed and replaced by PL 2009,  
24 c. 415, Pt. A, §6, is amended to read:

25 B. An employee of the participating local district who is a member under the  
26 Participating Local District Retirement Program on the date on which the employer  
27 provides a plan under section 18252-B may elect to remain a member under that  
28 program or to become covered under a plan provided by the employer under section  
29 18252-B. A person must make an election within 90 days of the date on which the  
30 employer provides a plan under section 18252-B. Once an election is made under  
31 this paragraph, the election is irrevocable with respect to all subsequent employment  
32 with the same employer when membership in the program is not mandatory.

33 (1) If that person elects not to remain a member, the election is effective as of the  
34 first day of the month in which no contributions or pick-up contributions are  
35 made to the Participating Local District Retirement Program by that person. A  
36 person who elects not to remain a member may, at that person's discretion,  
37 withdraw accumulated contributions in accordance with section 18306-A.

38 ~~(2) A person who elects not to remain a member under the Participating Local~~  
39 ~~District Retirement Program may later elect to again become a member.~~

40 ~~(a) Membership service credit for a person who elects to again become a~~  
41 ~~member under the Participating Local District Retirement Program under this~~  
42 ~~subparagraph begins as of the effective date of the first contributions or pick-~~

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~~up contributions to that program following that person's election under this subparagraph.~~

~~(b) A person who rejoins the Participating Local District Retirement Program under this subparagraph may, in accordance with section 18305-A, purchase service credit for the period during which that person elected not to be a member of that program. The person may, in accordance with section 18304, repay contributions refunded under subparagraph (1), unless to so elect would have the effect of requiring the employer, without the employer's agreement, to make an employer contribution to both the Participating Local District Retirement Program and the plan provided by the employer under section 18252-B.~~

~~(c) A person who, having elected to again become a member under the Participating Local District Retirement Program under this subparagraph, later elects again not to be a member may, at that person's discretion, withdraw accumulated contributions in accordance with section 18306-A and may not thereafter become a member under that program while employed by the same participating local district.~~

**Sec. 34. 5 MRSA §18252-B, sub-§6, ¶C, as amended by PL 2007, c. 491, §198, is repealed.**

**Sec. 35. 5 MRSA §18254, sub-§1, as amended by PL 2007, c. 491, §204, is further amended to read:**

**1. Employee eligible to withdraw accumulated contributions.** An employee of the district whose membership in the Participating Local District Retirement Program was compulsory under section 18251 must make an election to remain a member under that program or to withdraw accumulated contributions within 90 days of the effective date of the employer withdrawal from the program under section 18203, subsection 2. An employee who withdraws elects to withdraw accumulated contributions under this subsection may not be a member of the Participating Local District Retirement Program program as an employee of that district. Once an election is made under this subsection, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory if the employer later resumes participation in the program pursuant to section 18254-A.

**Sec. 36. 5 MRSA §18254, sub-§5, as enacted by PL 2001, c. 181, §10, is amended to read:**

**5. Conditions under which withdrawn participating local district is no longer participating local district.** A participating local district that has no former employees eligible for retirement benefits under subsection 3 and no former employees covered under subsection 4 is no longer a participating local district when:

A. The participating local district's status as a participating local district is based solely on the existence of a former employee or employees who are retirees receiving retirement benefits or on the existence of current or potential beneficiaries of such retirees who are receiving or potentially entitled to receive benefits; and

1 B. The district satisfies fully all liabilities as measured by the retirement system for  
2 those to whom paragraph A applies:

3 (1) In accordance with state and federal law; and

4 (2) According to standards and procedures approved by the board as determined  
5 by the board to protect the interests of current and potential benefit recipients and  
6 any other affected or potentially affected person or entity. Such procedures may  
7 include, but are not limited to, the establishment by purchase or otherwise of an  
8 annuity or annuities as a means of satisfying the district's liabilities.

9 Having satisfied its liabilities in compliance with this subsection, a district is no longer a  
10 participating local district, and once the retirement plan is terminated in accordance with  
11 federal law, the retirement system must return to it any assets in the district's retirement  
12 system account exceeding the amount necessary to comply. Satisfaction of district  
13 liabilities pursuant to this subsection bars any future claim by any person against the  
14 retirement system for liability to or responsibility for any retiree, beneficiary or the  
15 district, and a retiree, beneficiary or the district is not thereafter subject to this Part.

16 **Sec. 37. 5 MRSA §18305**, as amended by PL 2007, c. 491, §§214 and 215, is  
17 repealed.

18 **Sec. 38. 5 MRSA §18305-A**, as amended by PL 2007, c. 491, §§216 and 217, is  
19 repealed.

20 **Sec. 39. 5 MRSA §18305-B** is enacted to read:

21 **§18305-B. Continued eligibility to purchase service credit**

22 A member whose membership date is prior to August 1, 2010, and who was eligible  
23 to purchase service credit under former section 18305 or 18305-A prior to August 1,  
24 2010, retains eligibility to purchase that service credit under the conditions of those  
25 sections as in effect prior to repeal.

26 **Sec. 40. 5 MRSA §18307-A, sub-§1**, as amended by PL 2007, c. 491, §219, is  
27 further amended to read:

28 **1. Conditions for refund.** The retirement system may make an automatic refund of  
29 contributions to a member who has not properly applied for a refund as provided in  
30 section 18306-A and who has terminated service, except by death or by retirement under  
31 this Part, or who as an optional member has withdrawn from a retirement program of the  
32 Maine Public Employees Retirement System, and who has not met the minimum  
33 creditable service requirement for eligibility to receive a service retirement benefit at the  
34 applicable age under the following conditions:

35 A. The member account has been inactive for 3 or more years;

36 B. Except when inclusion of a portion of employer contributions is required by this  
37 subsection, only accumulated contributions made by the member or picked up by the  
38 employer may be refunded to that member under this subsection;

1 C. The amount of the refund of accumulated contributions related to a member's  
2 compensation for service rendered as a part-time, seasonal or temporary employee  
3 after December 31, 1991 must be at least equal to 7.5% of the member's  
4 compensation for that service plus interest as provided by section 17156; and

5 D. A member who receives an automatic refund under this subsection may, within  
6 30 days of the issuance of the refund, return the full refunded amount to the  
7 retirement system. Upon receipt, the retirement system shall restore the accumulated  
8 contributions to the member's credit.

9 Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under  
10 this subsection may not exceed \$1,000.

11 **Sec. 41. 5 MRSA §18308, sub-§4, ¶C,** as amended by PL 2007, c. 491, §220, is  
12 further amended to read:

13 C. If an employee who has not contributed during the employee's CETA  
14 employment or who has withdrawn the employee's contributions later elects, under  
15 section 18361, to purchase the employee's CETA time for past creditable service, the  
16 employee shall pay to the applicable retirement program of the Maine Public  
17 Employees Retirement System an amount equal to the employee's contributions, plus  
18 interest, as provided under section 18305 at a rate, to be set by the board, not to  
19 exceed regular interest by 5 or more percentage points. Interest must be computed  
20 beginning at the end of the year when those contributions or pick-up contributions  
21 would have been made to the date of payment.

22 **Sec. 42. 5 MRSA §18353,** as repealed and replaced by PL 1989, c. 95, §11, is  
23 amended to read:

24 **§18353. Service credit for back contributions**

25 Upon complete payment of the back contributions under section ~~18305~~ 18305-B, the  
26 member shall must be granted service credit for the period of time for which the  
27 contributions have been made. Upon making partial payment of the back contributions  
28 under section ~~18305~~ 18305-B, the member shall must be granted service credit on a pro  
29 rata basis in accordance with rules adopted by the board.

30 **Sec. 43. 5 MRSA §18358, sub-§2,** as amended by PL 2007, c. 491, §229, is  
31 repealed and the following enacted in its place:

32 **2. Optional members joining the Participating Local District Retirement**  
33 **Program.** A person who joins the Participating Local District Retirement Program under  
34 section 18251, 18252 or 18252-A begins to accrue membership service credit on the  
35 effective date of first contributions or pick-up contributions to the program.

36 **Sec. 44. 5 MRSA §18801, first ¶,** as amended by PL 1993, c. 250, §3, is repealed  
37 and the following enacted in its place:

38 There is established the Participating Local District Consolidated Retirement Plan as  
39 a governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of  
40 the Internal Revenue Code and such other provisions of the Internal Revenue Code and

1 United States Treasury regulations and other guidance as are applicable, which has the  
2 powers and privileges of a corporation. The purpose of the Participating Local District  
3 Consolidated Retirement Plan is to provide retirement allowances and other benefits  
4 under this chapter for employees of participating local districts. The board shall establish  
5 by rule the plan provisions of the Participating Local District Consolidated Retirement  
6 Plan in accordance with section 18804.

7 **Sec. 45.** 20-A MRSA §12722, sub-§2, as enacted by PL 1997, c. 763, §4 and  
8 affected by §7 and amended by PL 2007, c. 58, §3, is repealed and the following enacted  
9 in its place:

10 **2. Election periods.** An eligible person is considered to be a participant in the  
11 defined contribution plan offered by the board of trustees unless that person makes a one-  
12 time irrevocable election to participate in the Maine Public Employees Retirement  
13 System. The election must be made in writing no later than 30 days after the date of hire  
14 in an eligible position, and notice of the election must be filed with the administrative  
15 officer of the employing institution. The employing institution shall notify the Maine  
16 Public Employees Retirement System of the election in accordance with procedures  
17 established by the Executive Director of the Maine Public Employees Retirement System.  
18 Participation in the Maine Public Employees Retirement System pursuant to an election  
19 under this subsection is effective as of the date of hire, and the system shall remit all  
20 required contributions to the Maine Public Employees Retirement System retroactively to  
21 the date of hire.

22 **Sec. 46.** 20-A MRSA §12722, sub-§3, as amended by PL 2007, c. 58, §3 and c.  
23 137, §25, is repealed.

24 **Sec. 47.** 20-A MRSA §12722, sub-§8, as amended by PL 2009, c. 236, §3, is  
25 repealed.

## 26 SUMMARY

27 This bill makes changes to the laws governing the qualified defined benefit  
28 retirement programs administered by the Maine Public Employees Retirement System to  
29 conform them to provisions of the United States Internal Revenue Code. These changes  
30 are necessary to ensure the continued qualified status and favorable tax treatment of the  
31 defined benefit programs under the Internal Revenue Code, Sections 401(a) and 414(d)  
32 and other applicable provisions. The Maine Public Employees Retirement System has  
33 received favorable determination letters from the Internal Revenue Service confirming  
34 the continued qualification of the Legislative Retirement Program, Judicial Retirement  
35 Program, State Employee and Teacher Retirement Program and Participating Local  
36 District Retirement Program, subject in part to the adoption of the changes proposed in  
37 this bill.

38 The bill adds language to clarify that applicable retirement programs are intended to  
39 be governmental qualified defined benefit plans under the Internal Revenue Code.

1           The bill amends the respective retirement program statutes to comply with specific  
2 Internal Revenue Code requirements that govern certain operational procedures currently  
3 in practice but that must be specifically referred to in the written plan document. In  
4 addition, the bill amends the respective retirement programs to comply with the  
5 provisions of the federal Tax Reform Act of 1986, the federal Unemployment  
6 Compensation Amendments of 1992, the federal Omnibus Budget Reconciliation Act of  
7 1993; the federal Uruguay Round Agreements Act, the federal Uniformed Services  
8 Employment and Reemployment Rights Act of 1994, the federal Small Business Job  
9 Protection Act of 1996, the federal Taxpayer Relief Act of 1997, the federal Internal  
10 Revenue Service Restructuring and Reform Act of 1998, the federal Community Renewal  
11 Tax Relief Act of 2000 and the federal Economic Growth and Tax Relief Reconciliation  
12 Act of 2001. More specifically, the bill:

13           1. Confirms that a member is 100% vested in the member's contribution account  
14 pursuant to the Internal Revenue Code, Section 401(a)(7);

15           2. Specifies that a forfeiture of a benefit by a member or former member must be  
16 used to reduce the unfunded liability of the employer pursuant to the Internal Revenue  
17 Code, Section 401(a)(8);

18           3. Provides that distributions to members must commence no later than the April 1st  
19 following the calendar year in which the member attains 70 1/2 years of age pursuant to  
20 the Internal Revenue Code, Section 401(a)(9), known as the "required minimum  
21 distribution," and must be paid in accordance with the Code;

22           4. Provides that annual compensation of an eligible member that exceeds \$245,000,  
23 adjusted yearly for cost-of-living increases, may not be taken into account in determining  
24 benefits or contributions due for any plan year pursuant to the Internal Revenue Code,  
25 Section 401(a)(17);

26           5. Defines what constitutes an eligible retirement plan, an eligible rollover  
27 distribution and a member for favorable tax rollovers pursuant to the Internal Revenue  
28 Code, Section 401(a)(31);

29           6. Specifies how contributions, benefits and service credit with respect to qualified  
30 military service must be provided in accordance with the Internal Revenue Code, Section  
31 414(u) and the federal Uniformed Services Employment and Reemployment Rights Act  
32 of 1994;

33           7. Establishes a ceiling on the amount of annual retirement benefits that may be  
34 provided to a member pursuant to the Internal Revenue Code, Section 415, currently  
35 \$195,000 for a member who has at least 10 years of service and who is at least 62 years  
36 of age; and

37           8. Prohibits the Board of Trustees of the Maine Public Employees Retirement  
38 System from engaging in certain transactions pursuant to the Internal Revenue Code,  
39 Section 503(b).

1 The bill authorizes the Board of Trustees of the Maine Public Employees Retirement  
2 System to adopt rules necessary to maintain the qualified tax status of the governmental  
3 defined benefit retirement plans administered by the Maine Public Employees Retirement  
4 System.

5 The bill amends the waiver provisions of the Legislative Retirement Program to  
6 provide that a Legislator is allowed a one-time irrevocable election of whether to join the  
7 program. This language is added to comport with various provisions of the Internal  
8 Revenue Code, federal treasury regulations and guidance providing that employees in a  
9 defined benefit plan or pick-up plan may not have an election with respect to participation  
10 or the amount of contributions unless that election is a one-time irrevocable election at  
11 the commencement of employment, and that election survives the employee's entire  
12 working life with that employer.

13 The bill provides a maximum automatic refund amount under the existing refund of  
14 inactive account statutes pursuant to Internal Revenue Code, Section 401(a)(31)(B).

15 The bill establishes the employer reporting requirements for employees with optional  
16 membership in the State Employee and Teacher Retirement Program and sets forth the  
17 responsibilities of the employer in the optional membership election process.

18 The bill amends the optional membership statutes in the State Employee and Teacher  
19 Retirement Program to provide for a one-time irrevocable election and removes all  
20 provisions relating to delayed elections and reentry into the plan to comport with federal  
21 law.

22 The bill repeals language related to the purchase of back contributions that is no  
23 longer applicable due to the elimination of certain election options.

24 The bill establishes the conditions under which a person who is a member prior to  
25 August 1, 2010 may purchase service credit.

26 The bill amends the group life insurance program statutes to remove language that is  
27 no longer applicable.

28 The bill amends the optional membership provision in the Participating Local District  
29 Retirement Program to provide for a one-time irrevocable election to participate in the  
30 program.

31 The bill provides for a one-time irrevocable election for persons hired by a  
32 participating local district with Social Security coverage.

33 The bill provides for a one-time irrevocable election for persons hired, or rehired, by  
34 a participating local district that created an alternative retirement plan prior to the person's  
35 hire date. It also provides that an employee of a participating local district that creates an  
36 alternative plan after the person's date of hire can make a one-time irrevocable election  
37 into the alternative plan within 90 days.

38 The bill amends the conditions under which a member may withdraw accumulated  
39 contributions when a participating local district withdraws from the program.

1           The bill amends the conditions under which the retirement system must refund the  
2 assets of a withdrawn participating local district to include that the plan must be  
3 terminated in accordance with federal law.

4           The bill removes language regarding optional members rejoining a program of the  
5 retirement system that is no longer applicable.

6           The bill amends the establishment clause of the Participating Local District  
7 Consolidated Retirement Plan to clarify that the plan is intended to be a governmental  
8 defined benefit plan and to state the purpose of the plan in a manner consistent with the  
9 other Maine Public Employees Retirement System defined benefit retirement programs.

10           The bill amends the Maine Community College System retirement plan statutes to  
11 provide for a one-time irrevocable election into the State Employee and Teacher  
12 Retirement Program.