

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)



# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

---

Legislative Document

No. 1659

---

S.P. 536

In Senate, April 30, 2019

**An Act To Include Additional Corrections Officers and Mental Health Workers under the 1998 Special Plan for Retirement and To Amend the Laws Governing Retirement Benefits for Capitol Police Officers**

---

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by President JACKSON of Aroostook.

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

2 **Sec. 1. 5 MRSA §17712**, as amended by PL 2007, c. 491, §129, is further  
3 amended to read:

4 **§17712. Maine State Prison, Maine Correctional Center, Long Creek Youth**  
5 **Development Center, Downeast Correctional Facility, former Mountain**  
6 **View Youth Development Center, former Charleston Correctional Facility**  
7 **and Mountain View Correctional Facility employees**

8 **1. Before September 1, 1984.** An employee of the Maine State Prison, Maine  
9 Correctional Center, Long Creek Youth Development Center, Downeast Correctional  
10 Facility, former Mountain View Youth Development Center or former Charleston  
11 Correctional Facility who holds a position described in section 17851, subsection 11, and  
12 who was first employed in one of those capacities before September 1, 1984, shall  
13 contribute to the State Employee and Teacher Retirement Program or have pick-up  
14 contributions made by the employer as follows:

15 A. At a rate of 7.5% of earnable compensation until the employee has met the  
16 eligibility requirements for retirement under section 17851, subsection 11, paragraph  
17 A; and

18 B. After meeting the eligibility requirements for retirement, at a rate of 6.5% of  
19 earnable compensation for the remainder of employment in one or more of those  
20 capacities.

21 **2. After August 31, 1984.** An employee of the Maine State Prison, Maine  
22 Correctional Center, Long Creek Youth Development Center, Downeast Correctional  
23 Facility, former Mountain View Youth Development Center, former Charleston  
24 Correctional Facility or Mountain View Correctional Facility who was first employed  
25 after August 31, 1984, in a position described in section 17851, subsection 11, shall  
26 contribute to the State Employee and Teacher Retirement Program or have pick-up  
27 contributions made by the employer as follows:

28 A. At a rate of 7.5% of earnable compensation until the employee has completed 25  
29 years of creditable service in one or more of those capacities; and

30 B. After completing the service described in paragraph A, at a rate of 6.5% of  
31 earnable compensation for the remainder of employment in one or more of those  
32 capacities.

33 **Sec. 2. 5 MRSA §17712-A**, as amended by PL 2007, c. 491, §130, is further  
34 amended to read:

1       **§17712-A. Maine State Prison, Maine Correctional Center, Long Creek Youth**  
2               **Development Center, Downeast Correctional Facility, former Mountain**  
3               **View Youth Development Center, former Charleston Correctional Facility**  
4               **and Mountain View Correctional Facility employees; members hired after**  
5               **July 1, 1992**

6               Notwithstanding section 17712, an employee of the Maine State Prison, Maine  
7               Correctional Center, Long Creek Youth Development Center, Downeast Correctional  
8               Facility, former Mountain View Youth Development Center, former Charleston  
9               Correctional Facility or Mountain View Correctional Facility who holds a position  
10              described in section 17851, subsection 11 and who is hired after July 1, 1992 shall  
11              contribute to the State Employee and Teacher Retirement Program at a rate of 1% of  
12              earnable compensation in addition to the contribution required under section 17712.

13              **Sec. 3. 5 MRSA §17712-B**, as amended by PL 2007, c. 491, §131, is further  
14              amended to read:

15       **§17712-B. Maine State Prison, Maine Correctional Center, Long Creek Youth**  
16               **Development Center, Downeast Correctional Facility, former Mountain**  
17               **View Youth Development Center, former Charleston Correctional Facility**  
18               **and Mountain View Correctional Facility employees; contributions on and**  
19               **after July 1, 1993**

20              Notwithstanding sections 17712 and 17712-A, on and after July 1, 1993 an employee  
21              of the Maine State Prison, Maine Correctional Center, Long Creek Youth Development  
22              Center, Downeast Correctional Facility, former Mountain View Youth Development  
23              Center, former Charleston Correctional Facility or Mountain View Correctional Facility  
24              who holds a position described in section 17851, subsection 11 shall contribute to the  
25              State Employee and Teacher Retirement Program or have pick-up contributions made at a  
26              rate of 1.15% of earnable compensation in addition to the contributions required under  
27              section 17712.

28              **Sec. 4. 5 MRSA §17851, sub-§11**, as amended by PL 2017, c. 148, §1, is further  
29              amended to read:

30              **11. Maine State Prison, Maine Correctional Center, Long Creek Youth**  
31              **Development Center, Downeast Correctional Facility, former Mountain View Youth**  
32              **Development Center, former Charleston Correctional Facility and Mountain View**  
33              **Correctional Facility employees.** Except as provided in section 17851-A, the warden  
34              or, deputy warden of the Maine State Prison, superintendent, assistant superintendent or  
35              any officer or employee of the Maine State Prison, Maine Correctional Center, Long  
36              Creek Youth Development Center, Downeast Correctional Facility, former Mountain  
37              View Youth Development Center, former Charleston Correctional Facility and Mountain  
38              View Correctional Facility employed as a guard or in the management of prisoners or any  
39              person employed as the supervising officer of those officers or employees or as an  
40              advocate at the Maine State Prison, Maine Correctional Center, Long Creek Youth  
41              Development Center, Downeast Correctional Facility, former Mountain View Youth  
42              Development Center, former Charleston Correctional Facility and Mountain View  
43              Correctional Facility qualifies for a service retirement benefit if that person:

- 1 A. Was employed in one of those capacities before September 1, 1984 and:  
2 (1) Completes 20 years of creditable service in one or more of those capacities;  
3 and  
4 (2) Retires upon or after reaching the age of 50 years; or  
5 B. Was employed in one of those capacities after August 31, 1984 and before  
6 January 1, 2000 and completed 25 years of creditable service in one or more of those  
7 capacities.

8 Notwithstanding any other provision in this section, no person in the employ of the  
9 Bangor Pre-Release Center on August 4, 1988 who would have qualified for a service  
10 retirement benefit if the Bangor Pre-Release Center had remained the administrative  
11 responsibility of the Maine State Prison may be denied such a benefit by virtue of the  
12 transfer of that responsibility to the former Charleston Correctional Facility.

13 A person in the employ of the Bangor Pre-Release Center to whom paragraph A applies  
14 and who is employed at the Bangor Pre-Release Center on June 30, 2000 remains covered  
15 under paragraph A notwithstanding the closing of the Bangor Pre-Release Center if the  
16 person is thereafter and without a break in service employed in a capacity to which this  
17 subsection or section 17851-A, subsection 1, paragraph I applies or if not thereafter  
18 employed in such a capacity but having qualified at the time of the closing of the Bangor  
19 Pre-Release Center for retirement under paragraph A, retires then or at a later time.

20 **Sec. 5. 5 MRSA §17851-A, sub-§1, ¶E**, as amended by PL 1999, c. 493, §4, is  
21 further amended to read:

22 E. Maine State Prison, Maine Correctional Center, Long Creek Youth Development  
23 Center, Downeast Correctional Facility, former Mountain View Youth Development  
24 Center, former Charleston Correctional Facility or Mountain View Correctional  
25 Facility employees to whom section 17851, subsection 11, paragraph B applies and  
26 who were employed after August 31, 1984 and before January 1, 2000;

27 **Sec. 6. 5 MRSA §17851-A, sub-§1, ¶K**, as amended by PL 2001, c. 409, §1, is  
28 further amended to read:

29 K. The State Fire Marshal or a state fire marshal investigator or state fire marshal  
30 inspector in the employment of the Department of Public Safety on January 1, 2000  
31 or hired thereafter; ~~and~~

32 **Sec. 7. 5 MRSA §17851-A, sub-§1, ¶L**, as amended by PL 2001, c. 646, §1, is  
33 further amended to read:

34 L. Oil and hazardous materials emergency response workers in the employment of  
35 the Department of Environmental Protection, Division of Response Services who  
36 participate in a standby rotation on January 1, 2002 or ~~are~~ hired thereafter; ~~and~~

37 **Sec. 8. 5 MRSA §17851-A, sub-§1, ¶M**, as enacted by PL 2001, c. 646, §2 and  
38 amended by PL 2009, c. 317, Pt. E, §§15 and 16, is further amended to read:

39 M. Capitol Police officers in the employment of the Department of Public Safety,  
40 Bureau of Capitol Police on July 1, 2002 or hired thereafter; ~~and~~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40

**Sec. 9. 5 MRSA §17851-A, sub-§1, ¶N** is enacted to read:

N. Persons in the employment of the Department of Health and Human Services on January 1, 2000 or hired thereafter under the office of aging and disability services or who provide direct care to wards of the State or in mental health institutions to residents or patients of those institutions. For purposes of this paragraph, "direct care" means services or treatment essential to everyday security, health and well-being.

**Sec. 10. 5 MRSA §17851-A, sub-§2,** as amended by PL 2017, c. 439, §1, is further amended to read:

**2. Qualification for benefits.** A member employed in any one or a combination of the capacities specified in subsection 1 after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs ~~I to~~ J and K; any employee identified in subsection 1, paragraph ~~M~~ I; and any employee identified in subsection 1, ~~paragraph~~ paragraphs L, M and N, qualifies for a service retirement benefit if that member either:

A. Is at least 55 years of age and has completed at least 10 years of creditable service under the 1998 Special Plan in any one or a combination of the capacities; or

B. Has completed at least 25 years of creditable service in any one or a combination of the capacities specified in subsection 1, whether or not the creditable service included in determining that the 25-year requirement has been met was earned under the 1998 Special Plan or prior to its establishment.

**Sec. 11. 5 MRSA §17851-A, sub-§3, ¶A,** as amended by PL 2017, c. 439, §2, is further amended to read:

A. For the purpose of meeting the qualification requirement of subsection 2, paragraph A:

(1) Service credit purchased by repayment of an earlier refund of accumulated contributions following termination of service is included only to the extent that time to which the refund relates was served after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; and after December 31, 1999 for employees identified in subsection 1, paragraphs ~~I to~~ J and K in any one or a combination of the capacities specified in subsection 1. Service credit may be purchased for service by an employee identified in subsection 1, paragraphs L, L and, M and N regardless of when performed; and

(2) Service credit purchased other than as provided under subparagraph (1), including but not limited to service credit for military service, is not included.

**Sec. 12. 5 MRSA §17851-A, sub-§4, ¶A,** as repealed and replaced by PL 2003, c. 510, Pt. D, §3 and affected by §§6 and 7, is amended to read:

1 A. If all of the member's creditable service in any one or a combination of the  
2 capacities specified in subsection 1 was earned after June 30, 1998 and before  
3 September 1, 2002 for employees identified in subsection 1, paragraphs A and B;  
4 after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after  
5 December 31, 1999 for employees identified in subsection 1, paragraphs ~~I to~~ J and K;  
6 after December 31, 2001 for employees identified in subsection 1, paragraph L; and  
7 ~~after June 30, 2002 for employees identified in subsection 1, paragraph M regardless~~  
8 ~~of when earned for employees identified in subsection 1, paragraphs I, M and N;~~ if  
9 service credit was purchased by repayment of an earlier refund of accumulated  
10 contributions for service in any one or a combination of the capacities specified in  
11 subsection 1 after June 30, 1998 and before September 1, 2002 for employees  
12 identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees  
13 identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees  
14 identified in subsection 1, paragraphs ~~I to~~ J and K; after December 31, 2001 for  
15 employees identified in subsection 1, paragraph L; and ~~after June 30, 2002 for~~  
16 ~~employees identified in subsection 1, paragraph M regardless of when purchased for~~  
17 ~~employees identified in subsection 1, paragraphs I, M and N;~~ or if service credit was  
18 purchased by other than the repayment of an earlier refund and eligibility to make the  
19 purchase of the service credit, including, but not limited to, service credit for military  
20 service, was achieved after June 30, 1998 and before September 1, 2002 for  
21 employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for  
22 employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for  
23 employees identified in subsection 1, paragraphs ~~I to~~ J and K; after December 31,  
24 2001 for employees identified in subsection 1, paragraph L; and ~~after June 30, 2002~~  
25 ~~for employees identified in subsection 1, paragraph M regardless of when achieved~~  
26 ~~for employees identified in subsection 1, paragraphs I, M and N,~~ the benefit must be  
27 computed as provided in section 17852, subsection 1, paragraph A.

28 (1) If the member had 10 years of creditable service on July 1, 1993, the benefit  
29 under subsection 2, paragraph B must be reduced as provided in section 17852,  
30 subsection 3, paragraphs A and B.

31 (2) If the member had fewer than 10 years of creditable service on July 1, 1993,  
32 the benefit under subsection 2, paragraph B must be reduced by 6% for each year  
33 that the member's age precedes 55 years of age.

34 **Sec. 13. 5 MRSA §17851-A, sub-§4, ¶D,** as repealed and replaced by PL 2001,  
35 c. 409, §5, is further amended to read:

36 D. The service retirement benefit of a member who is a Maine State Prison, Maine  
37 Correctional Center, Long Creek Youth Development Center, Downeast Correctional  
38 Facility, former Mountain View Youth Development Center, former Charleston  
39 Correctional Facility or Mountain View Correctional Facility employee to whom  
40 subsection 1, paragraph E applies, and who qualifies for service retirement benefits  
41 under subsection 2, paragraph B, must be computed under section 17852, subsection  
42 1, paragraph A on the basis of all of the member's creditable service in the capacity  
43 specified in subsection 1, paragraph E regardless of whether the creditable service  
44 was earned before, on or after July 1, 1998, except that:

1 (1) If the member had 10 years of service on July 1, 1993, the benefit must be  
2 reduced as provided in section 17852, subsection 10, paragraph C, subparagraphs  
3 (1) and (2); or

4 (2) If the member had fewer than 10 years of creditable service on July 1, 1993,  
5 the benefit must be reduced as provided in section 17852, subsection 10,  
6 paragraph C-1.

7 **Sec. 14. 5 MRSA §17851-A, sub-§4, ¶E**, as enacted by PL 2001, c. 409, §5, is  
8 amended to read:

9 E. The service retirement benefit of a member to whom subsection 1, paragraph I, L,  
10 M or N applies and who qualifies for service retirement benefits under subsection 2  
11 must be computed under section 17852, subsection 1, paragraph A on the basis of all  
12 of the member's creditable service in the capacity specified in subsection 1, paragraph  
13 I, L, M or N, regardless of when that creditable service was earned, except that for a  
14 member qualifying under subsection 2, paragraph B:

15 (1) If the member had 10 years of service on July 1, 1993, the benefit must be  
16 reduced as provided in section 17852, subsection 3, paragraphs A and B for each  
17 year the member's age precedes 55 years of age; or

18 (2) If the member had fewer than 10 years of creditable service on July 1, 1993,  
19 the benefit must be reduced by 6% for each year that the member's age precedes  
20 55 years of age.

21 **Sec. 15. 5 MRSA §17851-A, sub-§5**, as amended by PL 2007, c. 491, §157, is  
22 further amended to read:

23 **5. Contributions.** Notwithstanding any other provision of subchapter 3, after June  
24 30, 1998 and before September 1, 2002 for employees identified in subsection 1,  
25 paragraphs A and B; after June 30, 1998 for employees identified in subsection 1,  
26 paragraphs C to H; after December 31, 1999 for employees identified in subsection 1,  
27 paragraphs I to K; after December 31, 2001 for employees identified in subsection 1,  
28 paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph  
29 M; and for employees identified in subsection 1, paragraph N, a member in the capacities  
30 specified in subsection 1 must contribute to the State Employee and Teacher Retirement  
31 Program or have pick-up contributions made at the rate of 8.65% of earnable  
32 compensation until the member has completed 25 years of creditable service as provided  
33 in this section and at the rate of 7.65% thereafter.

34 **Sec. 16. 5 MRSA §17852, sub-§10**, as amended by PL 1993, c. 410, Pt. L, §§40  
35 and 41, is further amended to read:

36 **10. Maine State Prison, Maine Correctional Center, Long Creek Youth**  
37 **Development Center, Downeast Correctional Facility, former Mountain View Youth**  
38 **Development Center, former Charleston Correctional Facility and Mountain View**  
39 **Correctional Facility employees.** The amount of the service retirement benefit for  
40 members qualified under section 17851, subsection 11, shall be is computed as follows.



1 A. For members qualifying under section 17851, subsection 11, paragraph A, 1/2 of  
2 ~~his the member's~~ average final compensation and an additional 2% of ~~his the~~  
3 ~~member's~~ average final compensation for each year of membership service not  
4 included in determining qualification under section 17851, subsection 11, paragraph  
5 A.

6 B. For members who qualify under section 17851, subsection 11, paragraph B, and  
7 who retire upon or after reaching the age of 55, the retirement benefit ~~shall be~~ is  
8 computed in accordance with subsection 1.

9 C. For members who qualify under section 17851, subsection 11, paragraph B, and  
10 who retire before reaching the age of 55, the retirement benefit is determined in  
11 accordance with subsection 1, except that:

12 (1) The amount arrived at under subsection 1 is reduced by applying to that  
13 amount the percentage that a life annuity due at age 55 bears to the life annuity  
14 due at the age of retirement; and

15 (2) For the purpose of making the computation under subparagraph (1), the  
16 board-approved tables of annuities in effect at the date of the member's retirement  
17 is used.

18 This paragraph applies to members who, on July 1, 1993, have 10 years of creditable  
19 service. For the purpose of calculating creditable service under this subsection only,  
20 creditable service includes time during which a member participated in the voluntary  
21 cost savings plan or the voluntary employee incentive program, authorized by Public  
22 Law 1989, chapter 702, Part F, section ~~F-6~~ 6 and Public Law 1991, chapter 591, Part  
23 BB and chapter 780, Part VV, or 10 years of combined creditable service under this  
24 Part and Title 3, chapter 29, or creditable service available to a member that the  
25 member was eligible to purchase on June 30, 1993 and that the member does  
26 purchase in accordance with rules adopted by the board.

27 C-1. For persons qualifying under section 17851, subsection 11, paragraph B, and  
28 who retire before reaching the age of 55, the retirement benefit is determined in  
29 accordance with subsection 1, except that the benefit is reduced by 6% for each year  
30 that the member's age precedes age 55.

31 This paragraph applies to members who, on July 1, 1993, do not have 10 years of  
32 creditable service.

33 **SUMMARY**

34 This bill adds employees of the office of aging and disability services and mental  
35 health workers who work with wards of the State or in mental health institutions within  
36 the Department of Health and Human Services and employees of the Maine Correctional  
37 Center, Long Creek Youth Development Center, Downeast Correctional Facility, former  
38 Mountain View Youth Development Center, former Charleston Correctional Facility and  
39 Mountain View Correctional Facility to the 1998 Special Plan for certain Maine Public  
40 Employees Retirement System members and requires that service retirement benefits for  
41 corrections and mental health workers and Capitol Police officers in the employment of  
42 the Department of Public Safety included in the 1998 Special Plan be computed on the

- 1 same basis as benefits for other members under the plan are computed; creditable service
- 2 is included regardless of when that service was earned.