

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**SECOND SPECIAL SESSION**

November 18, 1983

AND AT THE

**SECOND REGULAR SESSION**

January 4, 1984 to April 25, 1984

AND AT THE

**THIRD SPECIAL SESSION**

September 4, 1984 to September 11, 1984

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH  
IN ACCORDANCE WITH MAINE REVISED STATUTES  
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1986

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**  
AS PASSED AT THE  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND ELEVENTH LEGISLATURE  
JANUARY 4, 1984 TO APRIL 25, 1984

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Sec. 6. Legislative findings. The Legislature finds that the distillation of ethanol in the State for use in motor fuels is in the economic and environmental interest of all of the citizens of the State. The availability of ethanol will reduce the use of lead in gasoline and will, thereby, decrease the lead in the environment. The Legislature also finds that, due to the economic obstacle to market penetration by alternative motor fuels, the distillation of ethanol in Maine is unlikely to occur without the adoption of a gasoline tax exemption for ethanol enhanced gasoline similar to those adopted by 33 other states and the Federal Government. Further, the Legislature finds that an ethanol plant in the State will also produce significant amounts of distillers dry grain for use by farmers, carbon dioxide for use by industry and electricity for use by electric consumers. Finally, the Legislature finds that unit trains, hauling grain to an ethanol facility in the State, will lower grain freight rates for Maine farmers and may permit backhauling of other Maine products to the midwest.

Effective July 25, 1984.

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## CHAPTER 853

H.P. 1858 - L.D. 2459

### AN ACT to Implement Certain Recommendations of the State Compensation Commission.

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

#### PART A

Sec. 1. 2 MRSA §7, sub-§1, as repealed and replaced by PL 1983, c. 477, Pt. E, sub-pt. 2, is repealed.

Sec. 2. 2 MRSA §7, sub-§3, as amended by PL 1979, c. 544, §2, is repealed.

Sec. 3. 3 MRSA §162-A, first ¶, as enacted by PL 1981, c. 702, Pt. X, §11, is amended to read:

Notwithstanding any other provisions of law, the Legislative Council is authorized to adjust the salaries of the following state officials within the sal-

ary ranges indicated in this section. The adjustment may be at the time of appointment of the official and subsequently as provided by law. The salary ranges shall be as provided by law. No other state salary may be paid to these officials. Where salary schedules differ among employee groups or bargaining units, the salary schedule for confidential employees shall be used. The Legislative Council shall adjust the salaries of the Secretary of State, Treasurer of State, State Auditor and Attorney General to the first step of their respective ranges upon their initial appointments to office.

Sec. 4. 3 MRSA §162-A, sub-§§3, 4 and 5 are enacted to read:

3. Range 86. The salaries of the following state officials and employees shall be within salary range 86:

Secretary of State; and

Treasurer of State.

4. Range 88. The salary of the State Auditor shall be within salary range 88.

5. Range 89. The salary of the Attorney General shall be within salary range 89.

Sec. 5. Effective date. The effective date of this Part is December 1, 1984.

## PART B

Sec. 1. 3 MRSA §2, as amended by PL 1981, c. 702, Pt. X, §§1 to 6, is further amended to read:

§2. Salary, expenses and travel of Members of the Legislature and representatives of Indian tribes

Each member of the Senate and House of Representatives, beginning with the first Wednesday of December, ~~1982~~ 1984 and thereafter, shall receive ~~\$6,500~~ \$7,500 in the first year and ~~\$3,500~~ \$4,000 in the 2nd year of each biennium, and shall be paid for travel at each legislative session once each week at the same rate per mile to and from his place of abode as state employees receive, the mileage to be determined by the most reasonable direct route, except that Legislators may be reimbursed for tolls paid for travel on the Maine Turnpike provided they have a receipt for payment of the tolls, such tolls to be reimbursed where Legislators use the Maine Turnpike in traveling

to and from sessions of the Legislature or in performance of duly authorized committee assignments. Each Legislator is entitled to mileage on the first day of the session, and such amounts of his salary and expenses at such times as the Legislature may determine during the session, and the balance at the end thereof.

The first regular session of the Legislature shall adjourn no later than 100 legislative days after its convening and the 2nd regular session of the Legislature shall adjourn no later than 50 legislative days after its convening. The Legislature, in case of emergency, may by a vote of 2/3 of the members of each House present and voting, extend the date for adjournment for the first or 2nd regular session by no more than 5 legislative days, and in case of further emergency, may by a vote of 2/3 of the members of each House present and voting, further extend the date for adjournment by 5 additional legislative days. The times for adjournment for the first and 2nd regular sessions may also be extended for one additional legislative day for the purpose of considering possible objections of the Governor to any bill or resolution presented to him by the Legislature under the Constitution, Article IV, Part Third, Section 2.

Each member of the Senate and House of Representatives shall ~~receive~~ be entitled to a meal allowance in the amount of \$26 and a housing allowance in the amount of ~~\$45~~ \$24 for each day in attendance at sessions of the Legislature and for each day he occupies overnight accommodations away from home either immediately preceding or immediately following attendance at daily sessions of the Legislature. In lieu of the meal and housing allowance, each member shall be entitled to a daily meal allowance in the amount of ~~\$21~~ \$26 and actual daily mileage allowances in an amount up to but not exceeding \$24 per day. Each member shall also receive an annual allowance for constituent services in the amount of ~~\$300~~ \$330.

The President of the Senate and the Speaker of the House of Representatives shall receive an additional 50% above regular compensation, the majority and minority leaders of the Senate and House of Representatives shall receive an additional 25% above regular compensation and the assistant majority and minority leaders of the Senate and House of Representatives shall receive an additional 12 1/2% above regular compensation.

In addition to the salary paid for the first and 2nd regular sessions of the Legislature, when a special session is called, the members of the Senate and House of Representatives shall each be paid \$35 \$50 for every day's attendance, expenses and mileage as aforesaid.

No additional expenses shall be paid to Legislators from the Legislative Account unless authorized by the President of the Senate or Speaker of the House of Representatives during any regular session.

The member of the Penobscot Indian Tribe and the member of the Passamaquoddy Indian Tribe elected to represent his tribe at the Legislature shall receive a compensation of \$35 \$77 for each day's attendance during the first and 2nd regular sessions and allowance for meals, constituent service, housing and travel expenses as any other member of the Senate and House of Representatives for attendance at each legislative session. For the duration of any special session of the Legislature, they shall receive the same allowances, including housing, meal and ~~constituent service allowances~~ travel expenses, as any other member of the Senate and House of Representatives.

The President of the Senate or the Speaker of the House shall, at all times, whether the Legislature be in session or not, have the authority to approve accounts and vouchers for payment.

The President of the Senate, the Speaker of the House of Representatives, the floor leaders and their assistants and members of a committee, with the approval of the President of the Senate or the Speaker of the House as to members of a committee, may also meet on days when the Legislature is not in daily session at any convenient location within the State. Each member of the Senate and House of Representatives shall receive \$35 \$50 for every day's attendance when meetings or daily sessions are held, a meal allowance in the amount of \$26 and a housing allowance in the amount of \$45 \$24 for each day in attendance at such meetings or daily sessions and for each day he occupies overnight accommodations away from home either immediately preceding or immediately following attendance at daily sessions of the Legislature and actual daily mileage allowances which shall be paid at the same rate paid to state employees. In lieu of the meal and housing allowance, each member shall be entitled to a daily meal allowance in the amount of ~~\$21~~ \$26 and actual daily mileage allowances in an amount up to but not exceeding \$24 per day.

The expenses of members of the Legislature traveling outside the State shall be reimbursed for their actual expenses provided that the expense vouchers are approved by the President of the Senate or the Speaker of the House of Representatives.

If a member of the Legislature dies or otherwise vacates the office, the successor is entitled to a salary from the date of seating, computed as follows: One hundred and ~~thirty~~ fifty dollars per week times the number of weeks remaining in the calendar year if the vacancy occurs in the first year and ~~\$70~~ \$80 per week for the number of weeks remaining in the calendar year if the vacancy occurs in the 2nd year.

Sec. 2. Effective date. The effective date of this Part is December 1, 1984.

#### PART C

Sec. 1. 2 MRSA §6-A, sub-§1, as repealed and replaced by PL 1981, c. 452, §3, is repealed and the following enacted in its place:

1. Chairman. The salary of the chairman of the commission shall be \$45,236.

Sec. 2. 2 MRSA §6-A, sub-§2 is enacted to read:

2. Commission members. The salary of members of the commission shall be \$43,736.

Sec. 3. 2 MRSA §7, sub-§2, as amended by PL 1979, c. 651, §3, is further amended to read:

2. Regulatory boards. Notwithstanding section 6 or any other provision of law, the salaries of the listed chairmen and of members of the following regulatory boards shall be:

Workers' Compensation Commission

Part-time chairman and members

Chairman ..... \$22,995;

Members other than chairman with more than 4  
years'  
experience ..... 21,420;

All other members ..... 18,900;

Full-time members appointed after January 1, 1980



Chairman .... same salary as Chief Judge of  
the District Court ..... \$43,186;

Members other than chairman .... same salary  
as a District Judge ..... 42,086.

Sec. 4. 4 MRSA §4, as amended by PL 1983, c.  
477, Pt. E, sub-Pt. 1, §1, is repealed and the fol-  
lowing enacted in its place:

§4. Salary of justices; expenses

1. Chief justice; salary. The Chief Justice of  
the Supreme Judicial Court shall receive an annual  
salary equal to 105% of the salary of an Associate  
Justice of the Supreme Judicial Court.

2. Associate justice; salary. Each Associate  
Justice of the Supreme Judicial Court shall receive  
an annual salary as follows:

A. For the period from December 1, 1984, to June  
30, 1985, \$29,806;

B. For fiscal year 1986, \$58,760;

C. For fiscal year 1987, \$65,224;

D. For fiscal year 1988, \$71,746; and

E. For fiscal year 1989, and thereafter,  
\$77,300.

3. Expenses. Expenses shall be governed as fol-  
lows.

A. Each justice shall be reimbursed by the  
State, upon presentation to the State Controller  
of a detailed statement, for those expenses actu-  
ally and reasonably incurred in attending meet-  
ings and the sessions of the Law Court. When  
any justice of the court holds nisi prius terms  
of the Superior Court in any town other than the  
town in which he resides, or when hearing of any  
court matter is had before a Justice of the Su-  
preme Judicial Court or the Superior Court other  
than one residing in the town where the hearing  
is had, that justice shall be reimbursed by the  
State, upon presentation to the State Controller  
of a detailed statement, for the expenses actual-  
ly and reasonably incurred in holding the terms  
or in attending the hearing.

B. Each justice of the court shall be reimbursed by the State, upon presentation to the State Controller of a detailed statement, for clerical assistance, postage, stationery, express and telephone tolls and any other reasonably necessary expenses actually and reasonably incurred by him.

C. The Chief Justice of the Supreme Judicial Court or his designee may prescribe regulations for the submission of the required statements through his office, and for the advance approval by him of other reasonably necessary expenses.

4. Exception. The salary provisions of this section shall not apply to justices who have retired prior to December 1, 1984.

Sec. 5. 4 MRSA §5, as amended by PL 1983, c. 167, §1, is repealed.

Sec. 6. 4 MRSA §6, as amended by PL 1975, c. 771, §17, is further amended to read:

6. Active Retired Justices

Any Justice of the Supreme Judicial Court, having terminated his service on said court who has retired from the court under section 5 shall be this chapter in effect prior to December 1, 1984, or any Justice of the Supreme Judicial Court who retires or terminates his service on the court in accordance with chapter 27, except for a disability retirement, is eligible for appointment as an Active Retired Justice of the Supreme Judicial Court as provided. The Governor may upon being notified of the retirement of any such justice under this section appoint, subject to review by the joint standing committee on of the Legislature having jurisdiction over judiciary and to confirmation by the Legislature, such justice to be appoint any eligible justice as an Active Retired Justice of the Supreme Judicial Court for a term of 7 years from such appointment, unless sooner removed, and such that justice may be reappointed for a like term, and such. Any justice so appointed and designated shall thereupon constitute a part of the court from which he has retired and shall have the same jurisdiction and be subject to the same restrictions therein as before retirement, except that he shall act only in such the cases and matters and hold court only at such the terms and times as he may be directed and assigned to by the Chief Justice of the Supreme Judicial Court, and said. The Chief Justice is empowered and authorized to so assign and designate any such Active Retired Justice of the Supreme

Judicial Court as to his services and may direct as to which term of the Law Court he shall attend, and ~~if the Chief Justice so orders, he may order him to~~ hear all matters and issue all orders, notices, decrees and judgments in vacation that any Justice of the Supreme Judicial Court is authorized to hear or issue.

Sec. 7. 4 MRSA §102, as amended by PL 1983, c. 269, §8 and c. 477, Pt. E, sub-Pt. 1, §2, is repealed and the following enacted in its place:

§102. Salary; expenses

1. Chief justice; salary. The Chief Justice of the Superior Court shall receive an annual salary equal to 105% of the salary of an Associate Justice of the Superior Court.

2. Justice; salary. Each Justice of the Superior Court shall receive an annual salary as follows:

A. For the period from December 1, 1984, to June 30, 1985, \$29,339;

B. For fiscal year 1986, \$57,841;

C. For fiscal year 1987, \$63,625;

D. For fiscal year 1988, \$68,715; and

E. For fiscal year 1989 and thereafter, \$73,100;

3. Expenses. Section 4, relating to reimbursement of Justices of the Supreme Judicial Court for expenses incurred by them, including clerical assistance, shall apply to Justices of the Superior Court. The Chief Justice of the Supreme Judicial Court or his designee may specify by order a maximum amount to be expended by any justice for clerical assistance.

4. Exception. The salary provisions of this section shall not apply to justices who have retired prior to December 1, 1984.

Sec. 8. 4 MRSA §103, as amended by PL 1983, c. 167, §2, is repealed.

Sec. 9. 4 MRSA §104, as amended by PL 1975, c. 771, §18, is further amended to read:

§104. Active retired justices

Any Justice of the Superior Court having terminated his service on said court under section 103 shall be who has retired from the court under this chapter in effect prior to December 1, 1984, or any Justice of the Superior Court who retires or terminates his service on the court in accordance with chapter 27, except for a disability retirement, is eligible for appointment as an Active Retired Justice of the Superior Court as provided. The Governor, subject to review, by the joint standing committee on of the Legislature having jurisdiction over judiciary and to confirmation by the Legislature, may, upon being notified of the retirement of any such justice under this section, appoint such justice to be appoint any eligible justice as an Active Retired Justice of the Superior Court for a term of 7 years from such appointment, unless sooner removed, and such. That justice may be reappointed for a like term, and such. Any justice so appointed and designated shall thereupon constitute a part of the court from which he has retired and shall have the same jurisdiction and be subject to the same restrictions therein as before retirement, except that he shall act only in such the cases and matters and hold court only at such the terms and times as he may be directed and assigned to by the Chief Justice of the Supreme Judicial Court. Any Active Retired Justice of the Superior Court may be directed by the Chief Justice to hold any term of the Superior Court in any county and when so directed shall have authority and jurisdiction therein the same as if he were the regular justice of said that court, and whenever. Whenever the Chief Justice of the Supreme Judicial Court so orders, that justice may hear all matters and issue all orders, notices, decrees and judgments in vacation that any Justice of said that Superior Court is authorized to hear and issue.

Sec. 10. 4 MRSA §157, as amended by PL 1983, c. 477, Pt. E, sub-Pt. §1, §3, is repealed and the following enacted in its place:

§157. Judges; appointment; salary; expenses; full-time duties

1. Appointment. District Court Judges shall be appointed as follows.

A. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary and to confirmation by the Legislature, shall appoint to the District Court 6 judges at large and 15 judges. At least one judge shall be appointed in each district who

shall be a resident of the district, except that in District 3 there shall be 2 judges appointed who shall be residents of the district and in District 9 there shall be 2 judges appointed who shall be residents of the district. Each District Court Judge shall have a term of office of 7 years.

To be eligible for appointment as a District Judge, a person shall be a member of the bar of the State. The term "District Judge" shall include the Chief Judge, Deputy Chief Judge, the judges appointed from the districts and the judges at large.

B. The Chief Justice of the Supreme Judicial Court shall designate one of the judges as Chief Judge. The Chief Judge, with the advice and consent of the Chief Justice of the Supreme Judicial Court, shall designate one of the District Court Judges as Deputy Chief Judge.

2. Chief Judge; salary. The Chief Judge of the District Court shall receive an annual salary equal to 105% of the salary of an Associate Judge of the District Court.

3. Deputy Chief Judge; salary. The Deputy Chief Judge of the District Court shall receive an annual salary equal to 102.5% of the salary of an Associate Judge of the District Court.

4. Associate Judge; salary. Each Associate Judge of the District Court shall receive an annual salary as follows:

A. For the period from December 1, 1984, to June 30, 1985, \$28,233;

B. For fiscal year 1986, \$55,659;

C. For fiscal year 1987, \$61,225;

D. For fiscal year 1988, \$66,123; and

E. For fiscal year 1989, and thereafter, \$70,176.

5. Expenses. Each judge shall be reimbursed by the State, upon presentation to the State Controller of a detailed statement, for those expenses approved by the Chief Judge as actually and reasonably incurred in the performance of his duties.

6. Full-time duties. A District Court Judge shall devote full time to his judicial duties. During his term of office, he shall not practice law, nor shall he be the partner or associate of any person in the practice of law.

7. Exception. The salary provisions of this section shall not apply to judges who have retired prior to December 1, 1984.

Sec. 11. 4 MRSA §157-A, as amended by PL 1983, c. 167, §3, is repealed.

Sec. 12. 4 MRSA §157-B, as amended by PL 1983, c. 416, §3, is further amended to read:

§157-B. Active retired judges; appointment

Any Judge of the District Court having terminated his service on said court under section 157-A shall be who has retired from the court under this chapter prior to December 1, 1984, or any Judge of the District Court who retires or terminates his service on the court in accordance with chapter 27, except for a disability retirement, is eligible for appointment as an Active Retired Judge of the District Court as provided. The Governor, subject to review by the joint standing committee on of the Legislature having jurisdiction over judiciary and to confirmation by the Legislature, may, upon being notified of the retirement of any such judge under this section, appoint such any eligible judge to be an Active Retired Judge of the District Court for a term of 7 years from such appointment, unless sooner removed, and such. That judge may be reappointed for a like term, and such. Any judge so appointed and designated shall thereupon constitute a part of the court from which he has retired and shall have the same jurisdiction and be subject to the same restrictions therein as before retirement, except that he shall act only in such those cases and matters and hold court only at such those sessions and times as he may be directed and assigned to by the Chief Judge of the District Court. Any Active Retired Judge of the District Court may be directed by the Chief Judge to hold any session of the District Court in any district and when so directed shall have authority and jurisdiction therein the same as if he were the regular judge of said that court; and whenever the Chief Judge of the District Court so orders, may hear all matters and issue all orders, notices, decrees and judgments that any Judge of said that District Court is authorized to hear and issue. An Active Retired Judge shall receive reim-

bursement for his expenses actually and reasonably incurred in the performance of his duties.

Any Active Retired Judge of the District Court, who performs judicial service at the direction and assignment of the Chief Judge of the District Court, shall be compensated for those services at the rate of \$75 per day or \$45 per 1/2 day, provided that the total per diem compensation and retirement pension received by an Active Retired District Court Judge in any calendar year may not exceed the annual salary of a Judge of the District Court.

Sec. 13. 4 MRSA §157-D is enacted to read:

§157-D. Active retired judges; compensation

Any Active Retired Judge of the District Court, who performs judicial service at the direction and assignment of the Chief Judge of the District Court, shall be compensated for those services at the rate of \$75 per day or \$45 per 1/2 day, provided that the total per diem compensation and retirement pension received by an Active Retired Judge of the District Court in any calendar year may not exceed the annual salary of a Judge of the District Court.

Sec. 14. 4 MRSA §1151, sub-§3, ¶F, as enacted by PL 1977, c. 551, §1, is amended to read:

F. Section 103 Chapters 27 and 29, providing for compensation upon retirement of Justices of the Superior Court and to benefits for their spouses and surviving minor children or other beneficiaries, is made applicable to the Administrative Court Judge and Associate Administrative Court Judges. The years in which the Administrative Court Judge served in the capacity of Administrative Hearing Commissioner during 1963 to 1973 shall be included in computing his retirement compensation and his spouse's and minor children's survivor benefits as creditable service without additional contribution.

Sec. 15. 4 MRSA cc. 27 and 29 are enacted to read:

## CHAPTER 27

### JUDICIAL RETIREMENT ON OR AFTER DECEMBER 1, 1984

#### SUBCHAPTER I

#### GENERAL PROVISIONS

§1201. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Accumulated contributions. "Accumulated contributions" means the sum of all the amounts credited to a member's individual account, together with regular interest thereon.

2. Actuarial equivalent. "Actuarial equivalent" means a benefit which is of equal value when computed at regular interest, based on the mortality and service tables adopted by the board of trustees.

3. Average final compensation. "Average final compensation" means a member's average annual rate of earnable compensation during the 3 years, not necessarily consecutive, of highest compensation for creditable service as a judge or during the entire period of creditable service, if the period is less than 3 years.

4. Beneficiary. "Beneficiary" means any person who receives or is designated to receive a benefit provided by this chapter.

5. Board of trustees. "Board of trustees" means the Board of Trustees of the Maine State Retirement System.

6. Child or children. "Child" or "children" means any unmarried, natural, born or unborn, or legally adopted progeny of the member, under 18 years of age or under 22 years of age and a full-time student; or, regardless of age or marital status, any other progeny certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and determined by the executive director to be unable to engage in any substantially gainful employment.

The Board of Trustees shall adopt such rules as are found necessary for a beneficiary to qualify as a full-time student.

7. Consumer Price Index. "Consumer Price Index" means the Consumer Price Index for Urban Wage Earners and Clerical Workers: United States City Average, All items, 1967=100, as compiled by the United States Department of Labor, Bureau of Labor Statistics; or, if the index is revised or superseded, the Consumer Price Index shall be the index represented by the Bu-



reau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar by consumers.

8. Creditable service. "Creditable service" means any period of employment which is credited towards retirement in accordance with subchapter IV.

9. Earnable compensation. "Earnable compensation" means the annual salary of a judge. The earnable compensation of a member retired with a disability retirement allowance under section 1353 shall be assumed, for the purposes of determining benefits under this chapter, to be continued after his date of termination of service at the same rate as received immediately prior thereto, subject to the same percentage adjustments, if any, that may apply to the amount of retirement allowance of the beneficiary under section 1358.

10. Father. "Father" means a natural or adoptive male parent or male stepparent.

11. Fiduciary. "Fiduciary" means a bank or a professional investment manager.

12. Judge. "Judge" means a Justice of the Supreme Judicial Court or the Superior Court, any Judge of the District Court, any Administrative Court Judge or any Associate Administrative Court Judge who is actively serving as of December 1, 1984, or who is appointed subsequent to December 1, 1984, but does not include Active Retired Judges.

13. Member. "Member" means a judge who is included in the membership of the Maine Judicial Retirement System as provided in section 1301.

14. Membership service. "Membership service" means service rendered while a member of the Maine Judicial Retirement System for which credit is allowed under section 1302.

15. Mother. "Mother" means a natural or adoptive female parent or female stepparent.

16. Parent. "Parent" means mother or father.

17. Regular interest. "Regular interest" means interest at the rate which the board of trustees sets from time to time, in accordance with Title 5, section 1061, subsection 2.

18. Retirement. "Retirement" means the termination of membership service with a retirement allowance granted under this chapter.

19. Spouse. "Spouse" means the person the member is married to or, if not married, the person the member has most recently divorced, provided that person has not remarried.

§1202. Name, date of establishment and purpose

There is established on December 1, 1984, the Maine Judicial Retirement System, which shall have the powers and privileges of a corporation.

The purpose of the Maine Judicial Retirement System is to provide retirement allowances and other benefits under this chapter for judges.

§1203. Exemption from taxation and execution

A person's right to a retirement allowance or the return of contributions, the retirement allowance itself, any optional benefit or death benefit or any other right accrued or accruing to any person under this chapter and the moneys in the fund created under this chapter, shall be exempt from any state, county or municipal tax to the same extent that exists in the Maine State Retirement System and shall not be subject to execution, garnishment, attachment or other process. These rights shall be unassignable, except as provided by this chapter.

§1204. Beneficiaries under disability

Any beneficiary who is entitled to make an election of benefits under Subchapter V, but is not lawfully qualified to make that election, shall have that election made in his behalf by the person authorized to do so by Title 18-A, Article V.

SUBCHAPTER II

ADMINISTRATION

§1231. Board of trustees

The Board of Trustees of the Maine Judicial Retirement System is responsible for the proper operation and implementation of the Maine Judicial Retirement System.

1. Duties. The board shall have the same duties with respect to the Maine Judicial Retirement System

as it does with the Maine State Retirement System, including, but not limited to, those powers and duties enumerated in Title 5, chapter 101, subchapters II and III.

2. Administration of Maine Judicial Retirement System. The board of trustees shall administer the Maine Judicial Retirement System and is authorized to promulgate and publish, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, any rules necessary and proper to give effect to the intent, purposes and provisions of this chapter.

#### §1232. Executive director

The Executive Director of the Maine State Retirement System shall be the Executive Director of the Maine Judicial Retirement System. The executive director shall have the same powers and duties with respect to the Maine Judicial Retirement System as he does with the Maine State Retirement System, except as provided in this chapter.

#### §1233. Actuary

The Actuary of the Maine State Retirement System shall be the Actuary of the Maine Judicial Retirement System.

#### §1234. Medical board

The Medical Board of the Maine State Retirement System shall be the Medical Board of the Maine Judicial Retirement System.

#### §1235. Administrative procedures

Appeal from the executive director's decision shall be the same as provided for the Maine State Retirement System in Title 5, section 1181.

### SUBCHAPTER III

#### FINANCING

#### §1251. Control of funds

The board of trustees shall be the trustee of the funds created by this chapter and shall administer those funds in the same manner as is provided for the administration of the Maine State Retirement System funds in accordance with Title 5, chapter 101, sub-

chapter III. The board may establish separate funds or accounts within a fund, as necessary.

§1252. Custodian of funds

Except as otherwise provided, the Treasurer of State is the custodian of the funds of the Maine Judicial Retirement System. Upon receipt of vouchers signed by a person or persons designated by the board, the State Controller shall draw a warrant on the Treasurer of State for the amount so authorized. A duly attested copy of the resolution of the board designating those persons and bearing on its face their specimen signatures shall be filed with the State Controller as his authority for making payments upon the vouchers.

§1253. Expenses

All money to pay the administrative expenses of the Maine Judicial Retirement System shall be paid by the State.

1. Estimate funds biennially. Biennially the board of trustees shall estimate the amount of money which they deem necessary to provide for the expenses of administration and operation of the Maine Judicial Retirement System during the ensuing biennium. The State shall pay that amount, for that purpose, into the fund established for that purpose.

2. Balance. Any unexpended balance does not lapse but constitutes a continuous carrying account.

§1254. Investments

The board of trustees may combine funds from the Maine Judicial Retirement System and the Maine State Retirement System for investment purposes.

§1255. Legislative findings and intent

1. Findings. The Legislature finds that the State owes a great debt to its retired judges for their years of faithful and productive service. Part of that debt is repaid by the benefits provided to judges through the Maine Judicial Retirement System.

2. Intent. It is the intent of the Legislature that there shall be appropriated and transferred annually to the Maine Judicial Retirement System the funds necessary to meet the system's long-term and short-term financial obligations based on the actuarial assumptions established by the board of trustees upon the advice of the actuary. The goal of the actu-

arial assumptions shall be to achieve a fully funded system. The system's unfunded liability for members formerly subject to sections 5, 103 and 157-A, shall be repaid to the system from annual appropriations over the funding period of the system. This section shall not apply to justices and judges who retired prior December 1, 1984.

3. Implementation. It shall be the responsibility of the board of trustees to calculate the funds necessary to maintain the system on an actuarially sound basis, including the unfunded liability arising from payment of benefits for which contributions were not received and to transmit those calculations to the State Budget Officer as required by Title 5, sections 1661 to 1667. It shall be the responsibility of the Legislature to appropriate and transfer those funds annually.

#### SUBCHAPTER IV

#### MEMBERSHIP AND CONTRIBUTION

##### §1301. Membership

Every judge serving on the court on or after December 1, 1984, shall be a member of the Maine Judicial Retirement System as a condition of employment.

A member shall cease to be a member when he withdraws his contributions, becomes a beneficiary as a result of his own retirement or dies.

The State Court Administrator shall submit to the board a statement showing the name, title, compensation, sex, date of birth and length of service of each member and any other information as the board may require.

##### §1302. Creditable service

Creditable service for the purpose of determining benefits under this chapter shall be allowed as follows:

1. Membership service. All service of a member as a judge for which contributions are made shall be allowed as creditable service.

2. Disability retirement. The period following the termination of service for which a beneficiary receives disability retirement allowance payments under section 1353 shall be allowed as creditable service.

3. State service. Creditable service as a member of the Maine State Retirement System shall be allowed as creditable service of the Maine Judicial Retirement System as follows.

A. Any member who has not withdraw his accumulated contributions with the Maine State Retirement System may, upon appointment as a judge, have his Maine State Retirement System contributions and membership service transferred to his account with the Maine Judicial Retirement System and all creditable service resulting from his membership in the Maine State Retirement System shall be creditable service in the Maine Judicial Retirement System.

All funds in the Maine State Retirement System contributed by the State on account of his state employment shall be transferred to his account with the Maine Judicial Retirement System and shall be used to liquidate the liability incurred by reason of his previous employment. The State shall make such contributions, from time to time, as may be necessary to provide the benefits under the Maine Judicial Retirement System for the member as have accrued to him by reason of his previous employment and may accrue to him by reason of his membership in the Maine Judicial Retirement System.

B. Any member who has withdrawn his accumulated contributions from the Maine State Retirement System may, subsequent to appointment as a judge and prior to the date any retirement allowance becomes effective for him, deposit in the fund by a single payment or by an increased rate of contribution an amount equal to the accumulated contributions withdrawn by him together with interest at 2% greater than regular interest from the date of withdrawal to the date of the deposit. The member shall be entitled to all creditable service that he acquired during his previous membership. In the event any retirement allowance becomes effective before the completion of the deposit, the member shall be entitled to credit for that portion of the total of such previous creditable service which the total amount of deposit payments actually made bears to the single deposit, including interest at 2% greater than regular interest from the date of payment to the date the retirement allowance becomes effective, if paid on the date of restoration to membership.

C. Service credited in accordance with this section may not be used to meet the eligibility requirements for retirement in section 1351.

D. No person may receive benefits under both the Maine Judicial Retirement System and the Maine State Retirement System based upon the same period of service.

4. Amount of service per year. The board shall establish by rule the amount of creditable service to be granted for service rendered during a year, subject to the following conditions.

A. No credit may be allowed for a period of absence without pay of more than one month's duration; and

B. No more than one year of service may be credited for all service in one calendar year.

#### §1303. State contribution

1. Payment. For each member, the State shall pay annually into the fund an amount known as the employer contribution.

2. Employer contribution rate. The rate of the employer contribution shall be fixed on the basis of the assets and liabilities of the Maine Judicial Retirement System as shown by actuarial valuation and shall be expressed as a percentage of the annual earnable compensation of each member.

A. The employer contribution rate shall represent the percentage of the members' compensation payable during periods of membership required to provide the difference between the total liabilities for retirement allowances not provided by the members' contributions and the amount of the assets in the fund.

B. The employer contribution rate shall be determined on actuarial bases adopted by the board. The rate shall be determined by the board after each valuation and shall continue in force until a new valuation is made.

3. State contribution procedure. The board of trustees shall submit budget estimates to the State Budget Officer in accordance with Title 5, section 1665. On each payroll for judges from which retirement contributions are deducted, the State Controller shall cause a charge to be made of an amount or

amounts in payment of the state costs of all charges related to the Maine Judicial Retirement System and which shall be credited to the appropriate accounts of the fund. Percentage rates to be predetermined by the actuary and approved by the board of trustees shall be applied to the total gross salaries of members appearing on those payrolls and the resultant charges shall be periodically credited to the retirement fund.

4. Minimum amount of employer contribution. The aggregate payment by the State into the fund shall be at least sufficient to provide the benefits payable out of the fund during the current year.

#### §1304. Employees' contributions

Each member in service shall contribute at a rate of 6.5% of earnable compensation.

#### §1305. Return of accumulated contributions

1. Refund of membership contributions. Following termination of service, except by death or retirement under this chapter, a member, upon application to the Maine Judicial Retirement System, shall be paid the amount of his accumulated contributions to the system.

A. If the member has less than 10 years of creditable service, interest shall not be paid on the accumulated contribution for any period after the 5th anniversary of termination of service.

B. Payment of accumulated contributions shall not be made earlier than 45 days after the date of termination of service.

2. Applicability. This section shall not apply to contributions paid by the State.

### SUBCHAPTER V

#### PAYMENT OF BENEFITS

#### §1351. Eligibility for retirement

Upon written application to the board setting forth the date upon which he chooses to retire, any member with contributions on deposit in the fund may retire upon meeting one of the following:

1. Age 60. Any member may retire on or after his 60th birthday if he has at least 10 years of creditable service;



2. Age 70. Any member in service may retire on or after his 70th birthday, provided that he has been in service for at least one year immediately before retirement; or

3. Early retirement. Any member who has completed at least 25 years of creditable service may retire any time before his 60th birthday. The retirement allowance shall be determined in accordance with section 1352, except that it shall be reduced by multiplying the retirement allowance by a fraction which represents the ratio of the amount of a life annuity due at age 60 to the amount of a life annuity due at the age of retirement. The tables of annuities in effect at the date of retirement shall be used for this purpose.

#### §1352. Retirement benefits

1. Amount. The service retirement allowance of a member shall be determined under this chapter in effect on the member's date of final termination of service. Subject to the maximum benefit provided for in subsection 3 and the minimum benefit provided for in subsection 4, the total amount of the retirement allowance of a member retired in accordance with section 1351 shall be equal to the sum of:

A.  $1/50$  of the member's average final compensation multiplied by the number of years of his creditable service, beginning December 1, 1984; and

B. The earned benefit for service as a judge prior to December 1, 1984, as determined by subsection 2.

2. Benefit for service prior to December 1, 1984. The earned benefit for judicial service prior to December 1, 1984, shall be equal to the years of service prior to December 1, 1984, not to exceed 10 years, divided by 10, multiplied by 75% of the salary as of November 30, 1984, for the position from which the judge retired.

3. Maximum benefit. No judge in service on December 1, 1984, or appointed on or after December 1, 1984, may receive a benefit which exceeds 60% of his average final compensation, not including adjustments under section 1358, except as provided in subsection 4.

4. Minimum benefit. Each judge in service on December 1, 1984, who is 50 years of age or older on

that date shall be entitled to a minimum benefit equal to 75% of the salary as of June 30, 1984, for the position from which the judge retired, increased by 6%, compounded annually, for each year or part of a year served subsequent to June 30, 1984, up to and including June 30, 1989. For each year or part of a year served subsequent to June 30, 1989, that total is increased by an amount equal to the cost-of-living factor granted the previous September, as determined pursuant to section 1358, compounded annually.

§1353. Disability retirement

1. Conditions. Any member while in service may receive a disability retirement allowance upon written application to the executive director and approval of that application by a majority of the Justices of the Supreme Judicial Court the executive director if the following conditions are met:

A. He is less than 70 years old; and

B. He became mentally or physically incapacitated to the extent that it is impossible for him to perform his duties as a judge, and the incapacity is expected to be permanent, as shown by medical examination or tests. The examination or tests shall be conducted by a qualified physician mutually agreed upon by the executive director and member, at an agreed upon place, and the costs shall be paid by the Maine Judicial Retirement System.

2. Amount. The amount of a disability retirement allowance shall be 66 2/3% of the member's average final compensation.

3. Commencement. Disability retirement allowance payments shall commence at the date of termination of active service of the member.

4. Continuance. Payment of a disability retirement allowance shall continue subject to subsection 7 and the following conditions.

A. During the first 5-years, the allowance shall continue as long as the beneficiary cannot perform the duties of a judge.

B. After that period, the allowance shall continue only if the beneficiary is unable to engage in any substantially gainful activities for which he is qualified by training, education or experience.

C. The Chief Justice of the Supreme Judicial Court may require the beneficiary to undergo annual medical examinations or tests for the purpose of determining whether the beneficiary is incapacitated. These examinations or tests shall be conducted by a qualified physician, mutually agreed upon by the executive director and beneficiary, at a place also mutually agreed upon, and the costs of the examination or tests shall be paid by the Maine Judicial Retirement System. If the beneficiary refuses to submit to an examination or tests, his disability allowance shall cease until he agrees to the examination or tests. If his refusal continues for one year, all rights to any further benefits under this section shall terminate.

D. For purposes of this subsection, the disability beneficiary's average final compensation at retirement shall be used to determine his earning capacity, and shall be adjusted by the same percentage, if any, as applied to the beneficiary's retirement allowance under section 1358.

5. Earnings. The Chief Justice of the Supreme Judicial Court may require each disability beneficiary to submit an annual statement of earnings received from any gainful occupation during that year. For any year during which the total of those earnings and the disability allowance exceeds the current salary of the position which he last held, the excess shall be deducted from any retirement allowance payments made to the beneficiary during the next calendar year. These deductions shall be prorated on a monthly basis, in an equitable manner prescribed by the board, over the year or part of the year for which benefits are received. The beneficiary shall be liable to the Maine Judicial Retirement System for any excess earnings not so deducted.

If a beneficiary does not submit an earnings statement within 30 days of receiving a request from the Chief Justice of the Supreme Judicial Court, his disability retirement allowance shall be discontinued until the statement is submitted. If the statement is not submitted within one year of receiving a request, all his rights to any further benefits shall cease.

6. Reduction. The disability retirement allowance shall be reduced if a disability beneficiary is receiving or has received payments for the same dis-

ability under the workers' compensation law, or similar law, except for amounts which may be paid or payable under Title 39, section 56 or 56-A.

The total of the allowance, not including adjustments under section 1358 and the payment described in the preceding paragraph, shall not exceed 80% of the beneficiary's average final compensation. The disability retirement allowance shall in no event be reduced below the actuarial equivalent of the beneficiary's accumulated contributions at the time of retirement.

If the disability beneficiary has received a lump-sum settlement of workers' compensation benefits, any portion of that settlement not attributable to vocational rehabilitation, attorneys' fees or medical expenses shall reduce the disability retirement allowance in the same manner and amount as monthly workers' compensation benefits. The reduction shall be prorated on a monthly basis in an equitable manner prescribed by the board.

If amounts paid or payable under workers' compensation or the amount of the lump-sum settlement or its attribution are in dispute, those disputes shall be settled by a single member of the Workers' Compensation Commission as provided under Title 39. Determinations of the commissioner may be appealed in the manner provided by Title 39, section 103-B.

7. Change to service retirement.

A. The disability retirement allowance of a beneficiary shall cease at age 70, or prior thereto, whenever the service retirement allowance of the beneficiary would equal or exceed the amount of his disability retirement allowance.

B. A service retirement allowance shall be paid to the beneficiary commencing on the date of termination of the disability retirement allowance as determined in paragraph A.

§1354. Restoration to service

The retirement benefit or disability benefit of a judge shall cease upon his return to service on the court and the judge shall continue to earn credit toward retirement.

§1355. Ordinary death benefits

1. Death before eligibility for service retirement. If a member who is in service or former member

who is a beneficiary receiving a disability retirement allowance dies at any time before completing the age and service conditions for service retirement, one of the following payments shall be made.

A. A lump-sum payment shall be made as follows.

(1) The member's or former member's accumulated contributions shall be paid to the member's or former member's beneficiary, unless the beneficiary, if eligible, selects benefits under paragraphs B and C. The designation of a beneficiary must be filed in writing with the executive director prior to the member's or former member's death. The last designation revokes all previous designations.

(2) If a member or former member is not survived by a designated beneficiary or has not designated a beneficiary, the accumulated contributions shall be paid to the first of the following listed relatives alive at the member's or former member's death, unless that person is eligible for and selects benefits under paragraphs B and C:

(a) The spouse;

(b) The child or children, share and share alike;

(c) The older parent; or

(d) The surviving parent.

(3) If none of the relatives in subparagraph (2) survive the member or former member, the accumulated contributions shall be paid to the member's or former member's estate.

B. In lieu of accepting the payment provided in paragraph A, the first of the following persons, who is designated a beneficiary by the member or former member may elect, if eligible, to receive the benefits described in paragraph C:

(1) The spouse;

(2) The child or children;

(3) The mother or father; or

(4) The mother and father.

If no designation was made, or if the designated beneficiary did not survive the member or former member, the first of the following listed persons, if any, alive at the death of the member or former member, may elect to receive the benefits in paragraph C:

(1) The spouse;

(2) The child or children; or

(3) The parents or parent.

C. The benefits for eligible beneficiaries listed under paragraph B shall be as follows.

(1) The spouse shall receive \$150 a month, beginning the first month after the member or former member's death and continuing until the spouse dies, provided:

(a) The deceased member or former member had 10 years of creditable service at the time of his death;

(b) The surviving spouse is certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and determined by the executive director to be unable to engage in any substantially gainful employment; or

(c) The spouse has attained the age of 60 years.

The spouse may qualify for this benefit in addition to any payments received as provided by subparagraph (2)

(2) A spouse who has the care of the child or children of the deceased member or former member shall be paid \$150 a month, beginning the first month after the death of the member or former member, while the child or children are in his care and so long as at least one child meets the definition of "child" as set forth in section 1201.

(3) The child or children of the deceased member or former member shall receive benefits as follows: One child shall be paid \$150 per month; 2 children shall be paid \$225 per month, which shall be divided equally between them; 3 children or more shall be paid \$300 per month, which shall be divided equally among them. The benefits shall begin the first month after the death of the member or former member and be payable to each child so long as he meets the definition of "child" as set forth in section 1201. When any child becomes ineligible to receive benefits under this subparagraph, the other children, if any, shall continue to receive benefits in accordance with the foregoing schedule.

(4) A surviving parent who is at least 60 years of age or when that age is attained shall be paid \$150 per month. If both parents are eligible for benefits under this section, and elect benefits under this subparagraph, the older parent shall receive \$150 per month and the younger parent shall receive \$105 per month. Upon the death of either parent, the survivor shall receive \$150 per month.

Payments to any eligible parent shall begin the first month after the death of the member or former member occurs and continue until death. Benefits are only payable under this provision in the event no other benefits have been received in accordance with subparagraph (1), (2) or (3).

D. If any person becomes entitled to benefits under this section and dies before either the refund check or the initial survivor benefit check is endorsed and presented to a holder in due course, then it shall be treated as if the person had predeceased the member or former member.

E. Any person electing a benefit under this section may change that election at any time up to the point of endorsement and presentation to a holder in due course of either the refund check or the initial survivor benefit payment.

2. Death after eligibility for retirement.

A. If a member or former member who receives a disability retirement allowance dies after completing the conditions for service retirement under any of the provisions of this chapter, but before a service retirement allowance becomes effective, the first of the following persons: Designated beneficiary; spouse; mother; or father who survives the member or former member may receive a reduced retirement allowance under option 2 of section 1357 as if the deceased had died on the date his retirement allowance became effective.

(1) If this reduced allowance is less than \$10 per month, the beneficiary may elect, before the allowance begins, to receive a lump sum which is the actuarial equivalent at the date of death of the deceased's retirement allowance payments.

(2) If the designated beneficiary is the spouse, child or children, mother or father, he may elect to receive benefits under subsection 1, instead of the option 2 benefit.

(3) The first listed person who is not a designated beneficiary may elect, before the allowance begins, to receive the deceased's accumulated contributions in a lump sum.

B. If none of the payments provided for in paragraph A is made, the accumulated contributions of the deceased shall be paid to his estate.

3. Election of benefits. The benefits described in this section shall be in lieu of any benefits payable under section 1356.

Any person entitled to receive benefits under this section may elect, before benefit payments begin, to receive benefits under section 1356 instead of these benefits, if all requirements of that section are complied with.

4. Cost-of-living adjustments. Payments made under subsection 1, paragraphs B and C shall be adjusted pursuant to section 1358 in the same manner as retirement allowances.

§1355-A. Minimum ordinary death benefits

1. Benefit. Notwithstanding the provisions of section 1355, any eligible spouse and child or children of a judge who was in service prior to August 1,



1984, shall, upon the death of that judge, be entitled to a minimum benefit of  $1/2$  the retirement benefit of the judge, determined in accordance with section 1352, on the assumption that retirement of the judge had taken place on the date of his death. If more than one child is eligible for this benefit, it shall be divided equally among them. This benefit shall continue as long as the spouse or child or children remain eligible.

2. Eligibility. Eligibility for the minimum benefit of this section is determined as follows.

A. A surviving spouse is eligible as long as that spouse does not become the dependent of another person.

B. The child or children are eligible if:

(1) They are under 18 years of age. Eligibility ceases upon attainment of age 18; and

(2) There is no surviving spouse, or the surviving spouse becomes the dependent of another person, or if the surviving spouse dies.

#### §1356. Accidental death benefits

1. Benefit. If a member or a former member who is receiving a disability retirement allowance dies as a result of an injury received in the line of duty, benefits are paid as follows.

A. If the deceased is survived by a spouse, and if there is no surviving child, an annual benefit of  $2/3$  of the deceased's average final compensation shall be paid to the spouse, in monthly installments.

B. If the deceased is survived by a spouse and a child or children, an annual benefit of the full amount of the deceased's average final compensation shall be paid to the spouse and the child or children jointly, in monthly installments.

C. If the deceased is survived only by a child or children, an annual benefit of the full amount of the deceased's average final compensation shall be paid annually to the child or children jointly, in monthly installments.

2. Reduction and termination.

A. The benefits provided by subsection 1, paragraph A shall be paid to the spouse until the spouse dies.

B. The benefits provided by subsection 1, paragraph B shall be paid until:

(1) The spouse dies, in which case the payments shall continue to the child or children until they die or until the youngest child no longer meets the definition of "child" in section 1201; or

(2) The child or children die or the youngest child no longer meets the definition of "child" in section 1201, in which case, the payment to the spouse shall be reduced to  $\frac{2}{3}$  of the deceased's average final compensation until the spouse dies.

C. The benefits provided by subsection 1, paragraph C shall be paid to a surviving child or children until the child or children die or until they no longer meet the definition of "child" in section 1201.

3. Benefits in lieu of section 1355. The benefits provided by this section shall be in lieu of any benefits payable under section 1355.

§1357. Payment of regular retirement allowances

1. Normal method of payment. All regular retirement allowances shall be paid for life in equal monthly installments, adjusted in the month which the death occurs to reflect the date of death, unless an alternative method of payment under one of the options of subsection 2 has been elected.

2. Optional methods of payment. In lieu of payment under subsection 1, a member or a former member who is receiving a disability retirement allowance may elect to receive a regular retirement allowance under one of the 4 options set out in paragraphs A to D. The optional allowance shall be a reduced allowance computed actuarially on the basis of the option selected. It shall be payable for life, with benefits payable after the retiree's death to a beneficiary nominated by him in writing, duly acknowledged, and filed with the executive director at the time of retirement.

The retiree may elect one of the options by written request to and approval of the executive director

prior to the commencement of payment of a regular retirement allowance. The election may be revoked by written notice to the executive director at any time before the regular retirement allowance commences.

After the member or former member's death, the beneficiary shall receive:

A. Option 1. The retiree's accumulated contributions at the time of his retirement, reduced by the portion of the total retirement allowance payments actually made to him during his lifetime which is actuarially ascribed to his contributions. If the beneficiary does not survive the retiree, it shall be paid to his estate;

B. Option 2. During his life, a monthly benefit equal to the amount received by the retiree;

C. Option 3. During his life, a monthly benefit equal to 1/2 of the amount received by the retiree; or

D. Option 4. Some other benefit, provided the total value of the retiree's allowance and of the succeeding benefit are of equivalent actuarial value to the allowance the retiree would have received under subsection 1. The method used to determine this benefit shall be approved by the board.

#### §1358. Cost-of-living and other adjustments

1. Cost-of-living adjustments. Retirement allowances under this chapter shall be adjusted as follows.

A. The board shall automatically adjust allowances, beginning in September 1985, and each September thereafter, by any percentage change in the Consumer Price Index from July 1st through June 30th, but only up to a maximum annual adjustment of 4%. The board shall determine the cost of these adjustments and shall include them in their budget requests, if necessary.

B. Whenever the annual percentage change in the Consumer Price Index from July 1st to June 30th exceeds 4%, the board shall adjust allowances as set out in paragraph A and shall report the adjustment and the actual increase or decrease in the Consumer Price Index to the Legislature during February of the following year.

C. Adjustments under this section shall be applied to the allowances of all retirees who have been retired for at least 6 months before the adjustment takes effect. Beneficiaries of deceased retirees shall be eligible for the adjustment provided in this section at the same time the deceased retiree would have been eligible.

D. The amount of a retirement allowance payable under this chapter shall not be less than the retiree received on the effective date of his retirement.

§1359. Termination of retirement benefits for conflict of interest

The right of any judge drawing a retirement benefit to continue to receive it shall cease immediately, if he acts as attorney or counselor in any action or legal proceeding in which the State is an adverse party or has any interest adverse to the person or persons in whose behalf he acts.

CHAPTER 29

JUDICIAL RETIREMENT PRIOR TO DECEMBER 1, 1984

§1401. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Currently effective annual salary. "Currently effective annual salary" means the annual salary on June 30, 1984, of the position from which the judge retired, or if he died in office, the position he held at death, increased on July 1, 1984, and each succeeding July 1st, by 6% of the salary on the immediately preceding June 30th.

2. Judge. "Judge" means any Justice of the Supreme Judicial Court or the Superior Court and any Judge of the District Court who retired prior to December 1, 1984, and includes Active Retired Judges who retired prior to December 1, 1984. "Judge" also includes any Administrative Court Judge or any Associate Administrative Court Judge who retired prior to December 1, 1984.

§1402. General provisions

The retirement benefits of all judges who retired prior to December 1, 1984, shall be governed by this chapter.

§1403. Funding

Benefits provided by this chapter shall be funded solely by the State. No contribution may be required of any judge.

§1404. Regular retirement benefits

Any judge who resigned his office or ceased to serve at the expiration of any term thereof, after attaining the age of 70 years and after having served on the Supreme Judicial Court, the Superior Court, the District Court, or any combination of that service, for at least 7 years, or after attaining the age of 65 years and after having served as a judge on those courts for at least 12 years, or after attaining the age of 60 years and after having served as a judge on those courts for at least 20 years, shall receive annually during the remainder of his life, whether or not he is appointed an Active Retired Justice, a retirement benefit equal to 3/4 of the currently effective annual salary to be paid in the same manner as the salaries of the judges of that court from which he retired were paid prior to December 1, 1984. The right of any judge drawing a retirement benefit to continue to receive it shall cease immediately if he acts as attorney or counsel or in any action or legal proceeding in which the State is an adverse party or has any interest adverse to the person or persons in whose behalf he acts.

§1405. Disability benefits

Any judge who, prior to his retirement age was unable, by reason of failing health, to perform his duties and who was retired by majority of the Justices of the Supreme Judicial Court shall receive annually during the remainder of his life a retirement benefit equal to 3/4 of the currently effective annual salary to be paid in the same manner as the salaries of the judges of that court from which he retired were paid prior to July 1, 1984.

§1406. Survivor benefits

1. Survivors' benefits. Any spouse or any child or children of a judge who died prior to December 1, 1984, shall continue to receive 3/8 of the currently effective annual salary as follows:

A. To the surviving spouse, as long as that spouse is not the dependent of another person; or

B. To the child or children of the deceased judge under 18 years of age if there is no surviving spouse or upon the death of the surviving spouse or if the surviving spouse is or becomes the dependent of another person, payable until the youngest child reaches age 18. If more than one child under 18 years of age is eligible for this benefit, it shall be divided equally among them.

2. Benefit upon death of judge. Upon the death of a judge, 3/8 of the currently effective annual salary shall be paid as follows:

A. To the surviving spouse, as long as that spouse is not the dependent of another person; or

B. To the child or children of the deceased judge under 18 years of age if there is no surviving spouse or upon the death of the surviving spouse or if the surviving spouse is or becomes the dependent of another person, payable until the youngest child reaches age 18. If more than one child under 18 years of age is eligible for this benefit, it shall be divided equally among them.

Sec. 16. 39 MRSA §91, sub-§3, as amended by PL 1983, c. 530, §12, is repealed and the following enacted in its place:

3. Salary; expenses; retirement. Salaries of commissioners are as provided in Title 2, section 7, subsection 2. Members of the commission shall receive their actual, necessary, cash expenses while away from their offices on official business of the commission. Commissioners who elect to join the Maine State Retirement System may receive credit for their creditable service as a member of the Maine State Retirement System prior to July 1, 1983, provided they make a deposit in the Members Contribution Fund as provided in Title 5, section 1094, subsection 10. Service shall be credited in accordance with the provisions of Title 5, section 1094, subsection 10. Any service as a commissioner from July 1, 1983 to November 30, 1984 shall be allowed as creditable service for all purposes in the Maine State Retirement System without further contribution.

Sec. 17. Nonseverability. Notwithstanding the provisions of the Revised Statutes, Title 1, section 71, subsection 8, it is the intent of the Legislature that each section of this Part be deemed to be essen-

tially and inseparably connected with and dependent on every other section of this Part.

Sec. 18. Effective date. The effective date of this Part is December 1, 1984.

#### PART D

Sec. 1. 3 MRSA §2-A, as amended by PL 1983, c. 101, is further amended to read:

##### §2-A. State Compensation Commission

1. State Compensation Commission established. There is established the State Compensation Commission, to consist of 5 members appointed in January of every odd-numbered year as follows: Two members shall be appointed by the President of the Senate; 2 members shall be appointed by the Speaker of the House; and one member shall be appointed by a majority of the preceding 4 commissioners, and shall serve as chairman of the commission. The 5 members shall be residents of the State, appointed from the public. No one may be appointed who is a Legislator at the time of his appointment.

All members shall be appointed for a term to coincide with the legislative biennium. Vacancies shall be filled in the same manner as the original appointments, for the balance of the unexpired term.

The commission may request staff support from the Legislative Council.

The members of the commission shall be paid a per diem, expenses and allowances at the same rate as Legislators.

2. Duties of commission. Not later than May 1st of every odd-numbered year and January 15th of every even-numbered year, the commission shall submit to the Legislature a an interim report of the commission and not later than November 15th of every even-numbered year, a final report of the commission. ~~The report~~ reports shall contain: A description of the commission's activities; the recommendations of the commission; the reasons for its recommendations; drafts of any legislation required to implement its recommendations; and any other material that commission members may wish to submit.

Prior to reporting as required in this subsection, and subsequent to giving public notice, the commission shall hold a public hearing on the report. Sub-

sequent to reporting, the commission shall meet, if requested, with the Governor, the Legislative Council and legislative committees to discuss the report.

The report shall contain recommendations for: All compensation of justices and judges, constitutional officers, Legislators, Clerk of the House of Representatives, Secretary of State and representatives of Indian tribes, including, but not limited to, all payments for salaries, meals, housing, travel, mileage, constituent services and all other expenses and allowances, including additional payments made for additional services by any justice, judge, constitutional officer, President of the Senate, Speaker of the House of Representatives and members of legislative leadership. The report may contain other recommendations.

The report shall contain recommendations for: All compensation of the Governor, justices and judges, constitutional officers, Legislators, Clerk and Assistant Clerk of the House of Representatives, Secretary and Assistant Secretary of the Senate and representatives of Indian tribes, including, but not limited to, all payments for salaries, meals, housing, travel, mileage, constituent services and all other expenses and allowances, including additional payments made for additional services by any justice, judge, constitutional officer, President of the Senate, Speaker of the House of Representatives and members of legislative leadership. The report may contain other recommendations.

Sec. 2. Effective date. The effective date of this Part is December 1, 1984.

#### PART E

Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1984-85

ATTORNEY GENERAL,  
DEPARTMENT OF

Administration -

Attorney General

Personal Services

\$ 1,143

Provides funds to implement  
the purposes of this Act.



DEPARTMENT OF  
ATTORNEY GENERAL  
TOTAL

\$ 1,143

AUDIT, DEPARTMENT OFAdministration - Audit  
Personal Services  
Provides funds to  
implement the purposes  
of this Act.

\$ 2,386

## DEPARTMENT OF AUDIT

TOTAL

\$ 2,386

JUDICIAL DEPARTMENTCourts - Supreme Judicial,  
Superior, District and  
Administrative  
Personal Services  
Provides funds to  
implement the purposes  
of this Act.

\$188,376

## JUDICIAL DEPARTMENT TOTAL

\$188,376

TREASURER OF STATE (OFFICE OF)Administration -  
Treasury  
Personal Services  
Provides funds to  
implement the purposes  
of this Act.

\$ 1,170

## TREASURER OF STATE (OFFICE OF) TOTAL

\$ 1,170

SECRETARY OF STATE (OFFICE OF)Administration -  
Secretary of State  
Personal Services  
Provides funds to  
implement the purposes  
of this Act.

\$ 1,170

## SECRETARY OF STATE TOTAL

\$ 1,170

LEGISLATURELegislature  
Personal Services  
All Other\$208,000  
75,000

Provides funds to  
implement the purposes  
of this Act.

<u>LEGISLATURE TOTAL</u>	\$283,000
<u>TOTAL PART E</u>	\$477,245

Effective July 25, 1984, unless otherwise indicated.

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## CHAPTER 854

H.P. 1869 - L.D. 2471

AN ACT to Equalize Taxation of Aircraft.

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

36 MRSA §1760, sub-§46 is enacted to read:

46. Scheduled airlines. The sale or lease of an aircraft, or replacement or repair parts thereof, used by a scheduled airline, based in this State, and which is regularly used in the performance of service under the Regulations of the Civil Aeronautics Board, Part 298. This subsection is repealed on July 1, 1985.

Effective July 25, 1984.

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## CHAPTER 855

H.P. 1872 - L.D. 2474

AN ACT to Provide for Greater Equity in  
Maine's Tax Structure.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, several studies mandated by the First Regular Session of the 111th Legislature have brought to light several situations in the current Maine tax structure which are causing serious problems for the people and businesses of this State; and