

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
OCTOBER 9, 1991

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1991

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

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

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**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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**3. Rebuttable presumption.** When an employee leasing company leases employees to only one client company and its affiliates, there is a rebuttable presumption that the client company entered into an employee leasing arrangement to avoid the calculation of the proper contribution rate for payment of unemployment contributions.

**4. Costs.** Any costs incurred by the superintendent in investigating violations of or enforcing this chapter must be paid by the person or entity found to have violated this chapter.

**Sec. 5. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1991-92	1992-93
<b>PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF</b>		
<b>Bureau of Insurance</b>		
All Other	\$10,000	\$10,000
Provides funds to cover the costs associated with rulemaking, forms development and printing and postage.		

**Sec. 6. Retroactivity.** Those parts of section 3 of this Act that enact the Maine Revised Statutes, Title 26, section 1221-A, subsections 1 to 3 and that part of section 4 of this Act that enacts Title 32, section 14055, subsection 3 apply retroactively to January 1, 1990.

See title page for effective date.

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## CHAPTER 469

### H.P. 859 - L.D. 1225

#### An Act Relating to Ordinary Death Benefits under the Maine State Retirement System

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

**Sec. 1. 5 MRSA §17951, sub-§2,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

**2. Qualifying member.** "Qualifying member" means a member in service or a former member who is receiving a disability retirement benefit. Beginning July 1, 1993, for purposes of section 17953, subsection 1, "qualifying member" also means a member not in service. For purposes of section 17953, subsection 5-B, "qualifying member" also means a member not in service who has qualified for a service retirement benefit.

**Sec. 2. 5 MRSA §17953,** as amended by PL 1989, c. 658, §§2 to 4, is further amended to read:

**§17953. Death before service retirement**

~~If~~ Before July 1, 1993, if a qualifying member dies at any time before completing the age and service requirements for service retirement, the payment of ordinary death benefits is governed as follows. Beginning July 1, 1993, if a qualifying member dies before the member's service retirement benefit becomes effective, the payment of ordinary death benefits is governed as follows. In either case, the member's beneficiary may select only one of the death benefits.

**1. Refund of contributions.** The amount of the qualifying member's accumulated contributions ~~shall be~~ is paid:

- A. ~~To his~~ the qualifying member's designated beneficiary, if any;
- B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives alive at the qualifying member's death:
  - (1) Surviving spouse;
  - (2) Child or children, regardless of age, sharing equally among themselves; or
  - (3) The older parent; or
- C. ~~To his~~ the qualifying member's estate.

**2. Survivor benefits.** Survivor benefits are governed as follows.

- A. Instead of accepting the payment provided in subsection 1, the first listed of the following who are living at the death of the qualifying member may elect the benefits described in subsections 3 to ~~5-A~~ 5-B:
  - (1) The designated beneficiary, if any; or
  - (2) If no beneficiary is designated, the surviving spouse, the dependent child or dependent children, or the parent or parents.
- B. If the surviving spouse elects a benefit under this ~~paragraph~~ subsection, the dependent child or dependent children are entitled to receive the benefit under subsection 4; ~~or,~~
- C. A person entitled to receive benefits under this section may, before the beginning of benefit payments, elect to receive benefits under section 17852, subsection 4, paragraph A; under section 17852, sub-

section 5, paragraph A; under section 17852, subsection 6, paragraph A; or under article 5 instead of benefits under this section.

(1) In order to elect these survivor benefits, both the qualifying member and the beneficiary must comply with each requirement of those provisions.

(2) If no election is made under this paragraph, benefits payable under this section ~~shall be~~ are in lieu of any benefits payable under section 17852, subsection 4, paragraph A; under section 17852, subsection 5; under section 17852, subsection 6; or under article 5.

**3. Amount of survivor benefit payment to surviving spouse.** If the surviving spouse of the qualifying member elects a benefit under subsection 2, paragraph A, only one of the following options may be paid at one time.

A. A surviving spouse of the qualifying member ~~shall be~~ is paid a \$150 benefit each month beginning the first month after the death occurs and continuing during the surviving spouse's lifetime, if:

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

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

A full month's benefit ~~shall be~~ is paid to the estate of the surviving spouse for the month in which the surviving spouse dies.

B. A surviving spouse of the qualifying member who has the care of the dependent child or children of the deceased qualifying member and who is not eligible to receive a benefit under paragraph A ~~shall be~~ is paid a \$150 benefit each month, beginning the first month after the death of the qualifying member and continuing during the surviving spouse's lifetime until the end of the month in which the dependent child or children are no longer in the surviving spouse's care.

C. A surviving spouse of the qualifying member who is not eligible to receive a benefit under paragraph A or B ~~shall be~~ is paid a \$150 benefit each month, beginning the first month after the surviving spouse reaches 60 years of age and continuing during the surviving spouse's lifetime.

A full month's benefit ~~shall be~~ is paid to the estate of the surviving spouse for the month in which the surviving spouse dies.

D. The \$150 benefit specified under paragraphs A, B and C ~~shall be~~ is increased to \$225 on July 1, 1989, and \$300 on July 1, 1990. Starting July 1, 1991, the \$300 benefit ~~shall~~ must be adjusted annually at the same time and by the same percentage as adjustments under section 17806.

E. Only one beneficiary of a qualifying member ~~shall be~~ is entitled to receive the benefit under this subsection.

**4. Amount of survivor benefit to dependent children.** If the dependent child or children or surviving spouse of the deceased qualifying member elects a benefit under subsection 2, paragraph A, the payment of benefits to the dependent child or children ~~shall be~~ is governed as follows.

A. The amount of survivor benefit ~~shall be~~ is determined as follows.

(1) Until January 1, 1989:

(a) One dependent child ~~shall be~~ is paid \$150 each month;

(b) Two dependent children ~~shall be~~ are paid \$225 each month which ~~shall~~ must be divided equally between them; and

(c) Three or more dependent children ~~shall be~~ are paid \$300 each month which ~~shall~~ must be divided equally among them.

(2) Starting January 1, 1989, each dependent child ~~shall receive~~ receives a benefit of \$150 a month.

(3) Starting July 1, 1989, each dependent child ~~shall receive~~ receives a benefit of \$175 a month.

(4) Starting July 1, 1990, each dependent child ~~shall receive~~ receives a benefit of \$200 a month.

(5) Starting July 1, 1991, each dependent child ~~shall receive~~ receives a benefit of \$225 a month.

(6) Starting July 1, 1992, each dependent child ~~shall receive~~ receives a benefit of \$250 a month.

(7) Starting July 1, 1993, the benefit specified under subparagraph (6) ~~shall~~ must be adjusted annually at the same time and by the same percentage as adjustments under section 17806.

B. The benefits ~~shall~~ begin the first month after the death of the qualifying member and ~~shall be~~ are payable to each dependent child, in accordance with Title 18-A, article V, until the end of the month in which ~~he~~ the child no longer meets the definition of "dependent child" in section 17001, subsection 12.

C. When any dependent child becomes ineligible to receive benefits under this subsection, the other dependent children, if any, ~~shall~~ continue to receive benefits in accordance with this subsection.

D. The combined benefits under subsection 3 and this subsection may not exceed 80% of the deceased qualifying member's average final compensation adjusted annually at the same time and at the same percentage as adjustments under subsection 10.

**5. Amount of survivor benefit to parents.** If the parent of the deceased qualifying member elects a benefit under subsection 2, paragraph A, the payment of benefits ~~shall be~~ is governed as follows.

A. The amount of the benefit ~~shall be~~ is determined as follows.

(1) A parent who is alive at the time of the death of the qualifying member ~~shall be~~ is paid \$150 per month if ~~he~~ the parent is at least 60 years of age or, if not, when ~~he~~ the parent reaches that age.

(2) If both parents are eligible for benefits under this article, and the older parent elects benefits under this subsection, the older parent ~~shall be~~ is paid \$150 per month and the younger parent ~~shall be~~ is paid \$105 per month if he is at least upon reaching 60 years of age or, if not, when he reaches that age.

(3) Upon the death of either parent, the surviving parent ~~shall receive~~ receives \$150 per month.

B. The payment of benefits to any parent ~~shall begin~~ begins the first month after the death of the qualifying member and ~~shall continue~~ continues until the death of the parent.

C. Benefits are payable under this subsection only if no other benefits have been paid under subsection 3 or 4.

D. Starting July 1, 1989, the benefits specified under paragraph A ~~shall~~ must be adjusted annually at the same time and at the same percentage as adjustments under subsection 10.

E. No more than 2 beneficiaries of a qualifying member may be entitled to receive the benefit under this subsection.

**5-A. Amount of survivor benefit to designated beneficiary.** If a designated beneficiary, other than the surviving spouse, dependent child, dependent children or the parent or parents of a deceased qualifying member, elects a benefit under subsection 2, paragraph A, the payment of benefits ~~shall be~~ is governed as follows.

A. A designated beneficiary who is alive at the time of the death of the qualifying member ~~shall be~~ is paid \$150 per month beginning the first month after the death occurs and continuing until the date of the designated beneficiary's death, if the designated beneficiary is certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and is determined by the executive director to be unable to engage in any substantially gainful employment.

B. A designated beneficiary who is alive at the time of the death of the qualifying member and is a person under 18 years of age, or under 22 years of age if the person is a full-time student, ~~shall be~~ is paid \$150 per month beginning the first month after the death occurs and continuing until the person no longer meets the age criteria of this paragraph.

C. A designated beneficiary of the qualifying member who has the care of the dependent child or children of the deceased qualifying member, and who is not eligible to receive a benefit under paragraph A, ~~shall have~~ has the option:

(1) To be paid \$150 per month, beginning the first month after the death of the qualifying member and continuing during the designated beneficiary's lifetime for as long as the dependent child or children are in the designated beneficiary's care;

(2) To transfer the right to receive a benefit to the children of the deceased qualifying member under subsection 4; or

(3) To elect a benefit under paragraph D.

D. A designated beneficiary who is not eligible to receive a benefit under paragraph A, B or C ~~shall be~~ is paid \$150 per month, beginning the first month after the designated beneficiary reaches 60 years of age and continuing until the date of death.

E. Only one beneficiary of a qualifying member ~~shall be~~ is entitled to receive the benefit under this subsection.

**5-B. Reduced retirement benefits.** Beginning July 1, 1993, instead of accepting the benefits under subsection 1 or 2, the first listed person under paragraph A living at the time of death of the qualifying member may elect the benefits in this subsection.

A. The persons eligible to make the election under this subsection are the qualifying member's:

- (1) Designated beneficiary;
- (2) Surviving spouse;
- (3) Child or children; or
- (4) Parent or parents.

B. Benefits under this subsection are paid as follows.

(1) The benefit is computed in accordance with section 17852, subsection 3, if applicable, as if the service retirement of the qualifying member had taken place on the date of the member's death.

(2) The beneficiary is paid beginning on the first day of the month after the death of the qualifying member and continuing until the last day of the month in which the beneficiary's death occurs.

(3) Benefits under this subsection are paid in accordance with section 17804, subsection 3.

C. If the monthly benefit payable under this subsection is \$10 or less, in lieu of those payments a lump sum that is the actuarial equivalent of the benefit to which the beneficiary is entitled must be paid on the date the first monthly payment would otherwise be paid. A beneficiary who receives a lump sum payment under this subsection does not forfeit any other benefit to which the member would be entitled if the member were receiving a monthly benefit payment.

**6. Transfer of funds.** If benefits are paid under subsections 3 to ~~5-A~~ 5-B, the amount of the deceased qualifying member's accumulated contributions in the Members' Contribution Fund ~~shall be~~ is transferred to the Survivors' Benefit Fund and the amount of the qualifying member's accumulated contributions in the Retirement Allowance Fund ~~shall be~~ is transferred to the Survivors' Benefit Fund.

**7. Death of beneficiary before payment.** If any person becomes entitled to the payment of benefits under this article and dies before either the refund check or the initial survivor benefit check is endorsed and presented to a holder in due course, the person is considered to have predeceased the qualifying member.

**8. Change of choice of payment option.** Any beneficiary under this article may change ~~his~~ the choice of payment 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.

**9. Defeat of survivor's option.** A qualifying member may specify that the refund of the member's accumulated contributions be paid to a designated beneficiary or to the qualifying member's estate in lieu of any payment to survivors under subsections 3 to ~~5-A~~ 5-B by filing an affidavit expressing that intent with the executive director.

**10. Cost-of-living adjustment.** If a retirement benefit adjustment is made for retired state employees and teachers, the same percentage increase ~~shall~~ must be applied to the payments made under subsections 3 to ~~5-A~~ 5-B. The adjustment to payments made under subsections 3 to ~~5-A~~ 5-B ~~shall become~~ becomes effective on the same day as the adjustment for state employees and teachers.

**11. Special options.** Instead of accepting the payment provided in subsection 1, 2, ~~5-A~~ or ~~5-B~~, a beneficiary may elect to receive benefits under section 17852, subsection 4, paragraph A; section 17852, subsection 5 or 6; or article 5.

A. To elect these benefits, both the qualifying member and the beneficiary must comply with each requirement of those provisions.

B. If an election is not made under this subsection, benefits payable under this section are in lieu of any benefits payable under section 17852, subsection 4, paragraph A; section 17852, subsection 5 or 6; or article 5.

**Sec. 3. 5 MRSA §17954, sub-§3** is enacted to read:

**3. Repeal.** This section is repealed July 1, 1993.

**Sec. 4. 5 MRSA §18551, sub-§2**, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

**2. Qualifying member.** "Qualifying member" means a member in service or a former member who is receiving a disability retirement benefit. Beginning July 1, 1993, for purposes of section 18553, subsection 1, "qualifying member" also means a member not in service. For purposes of section 18553, subsection 5-B, "qualifying member" also means a member not in service who has qualified for a service retirement benefit.

**Sec. 5. 5 MRSA §18553**, as amended by PL 1989, c. 658, §§6 to 8, is further amended to read:

**§18553. Death before service retirement**

If Before July 1, 1993, if a qualifying member dies at any time before completing the age and service requirements for service retirement, the payment of ordinary death benefits is governed as follows. Beginning July 1, 1993, if a qualifying member dies before the

member's service retirement benefit becomes effective, the payment of ordinary death benefits is governed as follows. In either case, the member's beneficiary may select only one of the death benefits.

**1. Refund of contributions.** The amount of the qualifying member's accumulated contributions ~~shall be~~ is paid:

A. To ~~his~~ the qualifying member's designated beneficiary, if any; ~~or~~

B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives, if any are alive at the qualifying member's death:

- (1) Surviving spouse;
- (2) Child or children, regardless of age, sharing equally among themselves; and
- (3) The older parent; or

C. To ~~his~~ the qualifying member's estate.

**2. Survivor benefits.** Survivor benefits are governed as follows.

A. Instead of accepting the payment provided in subsection 1, the first listed of the following who are living at the death of the qualifying member may elect the benefits described in subsections 3 to ~~5-A~~ 5-B:

- (1) The designated beneficiary, if any; or
- (2) If no beneficiary is designated, the surviving spouse, the dependent child or dependent children, or the parent or parents;

B. If the surviving spouse elects a benefit under this ~~paragraph subsection~~, the dependent child or dependent children are entitled to receive the benefit under subsection 4; ~~or~~.

C. A person entitled to receive benefits under this section may, before the beginning of benefit payments, elect to receive benefits under article 5.

- (1) In order to elect these survivor benefits, both the qualifying member and the beneficiary must comply with each requirement of article 5.
- (2) If no election is made under this paragraph, benefits payable under this section ~~shall be~~ are in lieu of any benefits payable under article 5.

**3. Amount of survivor benefit payment to surviving spouse.** If the surviving spouse of the qualifying member elects a benefit under subsection 2, paragraph A, only one of the following options may be paid at one time.

A. A surviving spouse of the qualifying member ~~shall be~~ is paid a \$150 benefit each month beginning the first month after the death occurs and continuing during the surviving spouse's lifetime, if:

- (1) The deceased qualifying member had 10 years of creditable service at the time of ~~his~~ death; or
- (2) The surviving spouse is certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and is determined by the executive director to be unable to engage in any substantially gainful employment.

A full month's benefit ~~shall be~~ is paid to the estate of the surviving spouse for the month in which the surviving spouse dies.

B. A surviving spouse of the qualifying member who has the care of the dependent child or children of the deceased qualifying member and who is not eligible to receive a benefit under paragraph A ~~shall be~~ is paid a \$150 minimum benefit each month, beginning the first month after the death of the qualifying member and continuing during the surviving spouse's lifetime until the end of the month in which the dependent child or children are no longer in the surviving spouse's care.

C. A surviving spouse of the qualifying member who is not eligible to receive a benefit under paragraph A or B ~~shall be~~ is paid a \$150 minimum benefit each month, beginning the first month after the surviving spouse reaches 60 years of age and continuing during the surviving spouse's lifetime.

A full month's benefit ~~shall be~~ is paid to the estate of the surviving spouse for the month in which the surviving spouse dies.

D. The \$150 benefit specified under paragraphs A, B and C ~~shall be~~ is increased to \$225 on July 1, 1989; and \$300 on July 1, 1990. Starting July 1, 1991, a participating local district may increase the \$300 benefit by the cost of living, in accordance with the provisions of subsection 10.

E. Only one beneficiary of a qualifying member ~~shall be~~ is entitled to receive the benefit under this subsection.



**4. Amount of survivor benefit to dependent children.** If the dependent child or children or surviving spouse of the deceased qualifying member elects a benefit under subsection 2, paragraph A, the payment of benefits to the dependent child or children ~~shall be~~ is governed as follows.

A. The amount of the survivor benefit ~~shall be~~ is determined as follows.

(1) Until January 1, 1989:

(a) One dependent child ~~shall be~~ is paid \$150 each month;

(b) Two dependent children ~~shall be~~ are paid \$225 each month which ~~shall~~ must be divided equally between them; and

(c) Three or more dependent children ~~shall be~~ are paid \$300 each month which ~~shall~~ must be divided equally among them.

(2) Starting January 1, 1989, each dependent child ~~shall receive~~ receives a benefit of \$150 a month.

(3) Starting July 1, 1989, each dependent child ~~shall receive~~ receives a benefit of \$175 a month.

(4) Starting July 1, 1990, each dependent child ~~shall receive~~ receives a benefit of \$200 a month.

(5) Starting July 1, 1991, each dependent child ~~shall receive~~ receives a benefit of \$225 a month.

(6) Starting July 1, 1992, each dependent child ~~shall receive~~ receives a benefit of \$250 a month.

(7) Starting July 1, 1993, a participating local district may increase the \$250 benefit under subparagraph (6) by the cost of living; in accordance with the provisions of subsection 10.

B. The benefits ~~shall~~ begin the first month after the death of the qualifying member and ~~shall be~~ are payable to each dependent child, in accordance with Title 18-A, article V, until the end of the month in which ~~he~~ the child no longer meets the definition of "dependent child" in section 17001, subsection 12.

C. When any dependent child becomes ineligible to receive benefits under this subsection, the other dependent children, if any, ~~shall~~ continue to receive benefits in accordance with this subsection.

D. The combined benefits under subsection 3 and this subsection may not exceed 80% of the deceased qualifying member's average final compensation ad-

justed annually at the same time and at the same percentage as adjustments under subsection 10.

**5. Amount of survivor benefit to parents.** If the parent of the deceased qualifying member elects a benefit under subsection 2, paragraph A, the payment of benefits ~~shall be~~ is governed as follows.

A. The amount of the benefit ~~shall be~~ is determined as follows.

(1) A parent who is alive at the time of the death of the qualifying member ~~shall be~~ is paid \$150 a month if ~~he~~ the parent is at least 60 years of age or, if not, ~~when he reaches~~ upon reaching that age.

(2) If both parents are eligible for benefits under this article and the older parent elects benefits under this subsection, the older parent ~~shall be~~ is paid \$150 a month and the younger parent ~~shall be~~ is paid \$105 a month if ~~he is at least~~ upon reaching 60 years of age or, if not, ~~when he reaches~~ that age.

(3) Upon the death of either parent, the surviving parent ~~shall receive~~ receives \$150 a month.

B. The payment of benefits to any parent ~~shall begin~~ begins the first month after the death of the qualifying member and ~~shall continue~~ continues until the death of the parent.

C. Benefits are payable under this subsection only if no other benefits have been paid under subsection 3 or 4.

D. Starting July 1, 1991, a participating local district may increase the \$150 benefit under paragraph A by the cost of living; in accordance with the provisions of subsection 10.

E. No more than 2 beneficiaries of a qualifying member may be entitled to receive the benefit under this subsection.

**5-A. Amount of survivor benefit to designated beneficiary.** If a designated beneficiary, other than the surviving spouse, dependent child, dependent children or the parent or parents of a deceased qualifying member, elects a benefit under subsection 2, paragraph A, the payment of benefits ~~shall be~~ is governed as follows.

A. A designated beneficiary who is alive at the time of the death of the qualifying member ~~shall be~~ is paid \$150 per month beginning the first month after the death occurs and continuing until the date of the designated beneficiary's death, if the designated beneficiary is certified by the medical board to be permanently mentally incompetent or permanently physi-

cally incapacitated and is determined by the executive director to be unable to engage in any substantially gainful employment.

B. A designated beneficiary who is alive at the time of the death of the qualifying member and is a person under 18 years of age, or under 22 years of age if the person is a full-time student, ~~shall be~~ is paid \$150 per month beginning the first month after the death occurs and continuing until the person no longer meets the age criteria of this paragraph.

C. A designated beneficiary of the qualifying member who has the care of the dependent child or children of the deceased qualifying member, and who is not eligible to receive a benefit under paragraph A, ~~shall have~~ has the option:

(1) To be paid \$150 per month, beginning the first month after the death of the qualifying member and continuing during the designated beneficiary's lifetime for as long as the dependent child or children are in the designated beneficiary's care;

(2) To transfer the right to receive a benefit to the children of the deceased qualifying member under subsection 4; or

(3) To elect a benefit under paragraph D.

D. A designated beneficiary who is not eligible to receive a benefit under paragraph A, B or C ~~shall be~~ is paid \$150 per month, beginning the first month after the designated beneficiary reaches 60 years of age and continuing until the date of the beneficiary's death.

E. Only one beneficiary of a qualifying member ~~shall be~~ is entitled to receive the benefit under this subsection.

**5-B. Reduced retirement benefits.** Beginning July 1, 1993, instead of accepting the benefits under subsection 1 or 2, the first listed person under paragraph A living at the time of death of the qualifying member may elect the benefits in this subsection.

**A. The persons eligible to make the election under this subsection are the qualifying member's:**

- (1) Designated beneficiary;
- (2) Surviving spouse;
- (3) Child or children; or
- (4) Parent or parents.

**B. Benefits under this subsection are paid as follows.**

(1) The benefit is computed in accordance with section 18452, subsection 3, if applicable, as if the service retirement of the qualifying member had taken place on the date of the member's death.

(2) The beneficiary is paid beginning on the first day of the month after the death of the qualifying member and continuing until the last day of the month in which the beneficiary's death occurs.

(3) Benefits under this subsection are paid in accordance with section 18404, subsection 3.

**C. If the monthly benefit payable under this subsection is \$10 or less, in lieu of those payments a lump sum that is the actuarial equivalent of the benefit to which the beneficiary is entitled must be paid on the date the first monthly payment would otherwise be paid. A beneficiary who receives a lump sum payment under this subsection does not forfeit any other benefit to which the member would be entitled if the member were receiving a monthly benefit payment.**

**6. Transfer of funds.** If benefits are paid under subsections 3 to ~~5-A~~ 5-B, the amount of the deceased qualifying member's accumulated contributions in the Members' Contribution Fund ~~shall be~~ is transferred to the Survivors' Benefit Fund and the amount of the qualifying member's accumulated contributions in the Retirement Allowance Fund ~~shall be~~ is transferred to the Survivors' Benefit Fund.

**7. Death of beneficiary before payment.** If any person becomes entitled to the payment of benefits under this article and dies before either the refund check or the initial survivor benefit check is endorsed and presented to a holder in due course, the person ~~shall be~~ is considered to have predeceased the qualifying member.

**8. Change of choice of payment option.** Any beneficiary under this article may change his the choice of payment 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.

**9. Defeat of survivor's option.** A qualifying member may specify that the refund of the member's accumulated contributions be paid to a designated beneficiary or to the qualifying member's estate in lieu of any payment to survivors under subsections 3 to ~~5-A~~ 5-B by filing an affidavit expressing that intent with the executive director.

**10. Cost-of-living adjustment.** A participating local district may provide an adjustment to survivor benefits in accordance with section 18407 by:

A. Applying to the board; and

B. Supplying to the board a certified copy of its action together with a statement of agreement to pay costs of the adjustments.

11. Special options. Instead of accepting the payment provided in subsection 1, 2, 5-A or 5-B, a beneficiary may elect to receive benefits under article 5.

A. To elect these benefits, both the qualifying member and the beneficiary must comply with each requirement of those provisions.

B. If an election is not made under this subsection, benefits payable under this section are in lieu of any benefits payable under article 5.

Sec. 6. 5 MRSA §18554, sub-§3 is enacted to read:

3. Repeal. This section is repealed July 1, 1993.

Sec. 7. 5 MRSA §18556, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

1. **Manner of adoption.** A participating local district may adopt the special survivor benefit option under this section in addition to the benefits provided under ~~sections section 18553 and 18554~~ in the manner set forth in section 18202.

See title page for effective date.

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**CHAPTER 470**

**S.P. 381 - L.D. 1058**

**An Act to Mandate the Use of Seat Belts**

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

**29 MRSA §1368-C**, as amended by PL 1989, c. 350, is further amended to read:

**§1368-C. Use of seat belts; persons at least 4 but under 19 years of age**

1. **Persons at least 4 but under 19 years of age.** When a ~~child~~ person 4 years of age or older, but less than ~~16~~ 19 years of age, is a passenger in a motor vehicle, ~~which that~~ is required by the United States Department of Transportation to be equipped with seat belts, the operator of the motor vehicle shall have the ~~child~~ person properly secured in a seat belt or in a child safety seat that meets the requirements set out in 49 Code of Federal Regulations, Part 571.

2. **Exception.** Subsection 1 does not apply when the number of passengers exceeds the seating capacity of the vehicle.

3. **Warnings.** Any person stopped for a violation of this section; during the initial 6 months after this section takes effect, ~~shall~~ must be issued a warning that a violation of this section has occurred.

4. **Penalty.** Following the initial 6-month warning period, violation of this section is a civil violation for which a forfeiture of \$25 for the first violation and \$50 for each subsequent violation may be adjudged.

5. **Failure to secure passenger; use as evidence.** Failure to secure a ~~child~~; passenger in accordance with this section; may not be considered negligence imputable to the ~~child~~ passenger, nor may that failure be admissible as evidence in any civil or criminal action.

See title page for effective date.

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**CHAPTER 471**

**S.P. 481 - L.D. 1283**

**An Act to Facilitate Review of Applications Submitted to The Department of Environmental Protection**

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

**38 MRSA §344-A** is enacted to read:

**§344-A. Outside review of applications**

The commissioner may enter into agreements with individuals, partnerships, firms and corporations outside the department, referred throughout this section as "outside reviewers," to review applications or portions of applications submitted to the department. The commissioner has sole authority to determine the applications or portions of applications to be reviewed by outside reviewers and to determine which outside reviewer is to perform the review. When selecting an outside reviewer, all other factors being equal, the commissioner shall give preference to an outside reviewer who is a public or quasi-public entity, such as the University of Maine System or the soil and water conservation districts. The commissioner may enter into an agreement with an outside reviewer only with the consent of the applicant and only if the applicant agrees in writing to pay all costs associated with the outside review.

1. **Standards for outside review.** Prior to entering into an agreement with an outside reviewer, the commissioner must determine that:

A. The agreement protects the public interest and the interest of the applicant;

B. The agreement ensures a fair, consistent and adequate review of the application;