



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 276

S.P. 88

In Senate, January 22, 2019

**An Act To Provide Equity in the State Income Tax Deduction for
Maine Public Employees Retirement System Pensions**

Reference to the Committee on Taxation suggested and ordered printed.

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

DAREK M. GRANT
Secretary of the Senate

Presented by Senator MIRAMANT of Knox.
Cosponsored by Representative McCREIGHT of Harpswell and
Senators: DESCHAMBAULT of York, VITELLI of Sagadahoc, Representatives: BERRY of
Bowdoinham, EVANGELOS of Friendship, HUBBELL of Bar Harbor, PLUECKER of
Warren.

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

2 **Sec. 1. 36 MRSA §5122, sub-§2, ¶M-2**, as amended by PL 2017, c. 170, Pt. H,
3 §3, is further amended to read:

4 M-2. For tax years beginning on or after January 1, 2016:

5 (1) For each individual who is a primary recipient of retirement plan benefits, the
6 reduction is the sum of:

7 (a) Excluding military retirement plan benefits and, for tax years beginning
8 on or after January 1, 2019, uncovered civil service retirement plan benefits,
9 an amount that is the lesser of:

10 (i) The aggregate of retirement plan benefits under employee retirement
11 plans or individual retirement accounts included in the individual's
12 federal adjusted gross income; and

13 (ii) The pension deduction amount reduced by the total amount of the
14 individual's social security benefits and railroad retirement benefits paid
15 by the United States, but not less than \$0; and

16 (b) An amount equal to the aggregate of retirement benefits under military
17 retirement plans and, for tax years beginning on or after January 1, 2019,
18 uncovered civil service retirement plans included in the individual's federal
19 adjusted gross income; and

20 (2) For purposes of this paragraph, the following terms have the following
21 meanings.

22 (a) "Employee retirement plan" means a state, federal or military retirement
23 plan or any other retirement benefit plan established and maintained by an
24 employer for the benefit of its employees under the Code, Section 401(a),
25 Section 403 or Section 457(b), except that distributions made pursuant to a
26 Section 457(b) plan are not eligible for the deduction provided by this
27 paragraph if they are made prior to age 55 and are not part of a series of
28 substantially equal periodic payments made for the life of the primary
29 recipient or the joint lives of the primary recipient and that recipient's
30 designated beneficiary.

31 (b) "Individual retirement account" means an individual retirement account
32 under Section 408 of the Code, a Roth IRA under Section 408A of the Code,
33 a simplified employee pension under Section 408(k) of the Code or a simple
34 retirement account for employees under Section 408(p) of the Code.

35 (c) "Military retirement plan" means retirement plan benefits received as a
36 result of service in the active or reserve components of the United States
37 Army, Navy, Air Force, Marines or Coast Guard.

38 (d) "Pension deduction amount" means \$10,000.

1 (e) "Primary recipient" means the individual upon whose earnings or
2 contributions the retirement plan benefits are based or the surviving spouse of
3 that individual.

4 (f) "Retirement plan benefits" means employee retirement plan benefits,
5 except pick-up contributions for which a subtraction is allowed under
6 paragraph E, reported as pension or annuity income for federal income tax
7 purposes and individual retirement account benefits reported as individual
8 retirement account distributions for federal income tax purposes.
9 "Retirement plan benefits" does not include distributions that are subject to
10 the tax imposed by the Code, Section 72(t);.

11 (g) "Uncovered civil service retirement plan" means retirement plan benefits
12 received under Title 5, Part 20, or a similar retirement plan of another state
13 government, a local government or the Federal Government, as a result of
14 service that is considered noncovered service under 42 United States Code,
15 Section 415(a)(7)(A)(ii);

16 **SUMMARY**

17 Retirement benefits under state, local or federal government retirement plans that are
18 based on employment compensation for which contributions are not made to the federal
19 Social Security system result in reductions in the amount of Social Security benefits that a
20 retiree is eligible to receive under the federal Windfall Elimination Provision. This bill
21 provides an income tax exemption for those retirement benefits.