

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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

J.S. McCarthy Company
Augusta, Maine
1999

vices" does not include the lease of telecommunications equipment; or

(6) A prepaid calling arrangement.

Sec. 11. 36 MRSA §1811, 2nd ¶, as amended by PL 1977, c. 198, §6, is further amended to read:

The tax imposed upon the sale and distribution of gas, water or electricity, or ~~telephone or telegraph service~~ telecommunications services, by any public utility, the rates for which sale and distribution are established by the Public Utilities Commission, ~~shall~~ must be added to the rates so established. No tax ~~shall~~ may be imposed upon the sale or use of electrical energy, or water stored for the purpose of generating electricity, when the sale is to or by a wholly owned subsidiary by or to its parent corporation, except for electrical energy or water purchased for resale to or by such wholly owned subsidiary.

See title page for effective date.

CHAPTER 489

H.P. 189 - L.D. 267

An Act to Amend the Laws Relative to Vesting in the Maine State Retirement System and to Protect Retirement Benefits Once the Right to those Benefits has Attached

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

Sec. 1. 5 MRSA §17001, sub-§13, ¶B, as amended by PL 1995, c. 462, Pt. A, §13, is further amended to read:

B. "Earnable compensation" does not include:

(1) For any member who has 10 years of creditable service by July 1, 1993 or who has reached 60 years of age and has been in service for a minimum of one year immediately before that date, payment for more than 30 days of unused accumulated or accrued sick leave, payment for more than 30 days of unused vacation leave or payment for more than 30 days of a combination of both and, effective October 1, 1999, whether or not the member is in service on October 1, 1999, the 30-day limitation may not be decreased and the exclusion set out in subparagraph (2) may not be made applicable to such a member;

(2) For any member who is not covered by subparagraph (1), payment for any unused accumulated or accrued sick leave or payment for any unused vacation leave;

(3) Any other payment that is not compensation for actual services rendered or that is not paid at the time the actual services are rendered; or

(4) Teacher recognition grants paid pursuant to Title 20-A, section 13503-A.

A payment for unused sick leave or unused vacation leave may not be included as part of earnable compensation unless it is paid upon the member's last termination before the member applies for retirement benefits.

Sec. 2. 5 MRSA §17001, sub-§13, ¶C, as repealed and replaced by PL 1995, c. 274, §1, is repealed and the following enacted in its place:

C. The following provisions govern limitations on earnable compensation.

(1) Notwithstanding the other provisions of this subsection, for the purposes of determining average final compensation, "earnable compensation" does not include any increase that exceeds the prior year's earnable compensation by more than 5% or that results in a total increase of more than 10% during the 3-year period used in the calculation of average final compensation, unless the cost of the additional actuarial liability arising from the excess increase is paid by the employer as provided in section 17154. Any payment made under paragraph B, subparagraph (1) must be included in determining the amount of increase in the year in which the payment is made. This subparagraph does not apply to excess increases resulting from compensation paid prior to July 1, 1993, from compensation paid in accordance with an individual employment contract executed prior to July 1, 1993 or a collective bargaining agreement executed or ratified in its final form by final vote of one party to the agreement prior to July 1, 1993 for the initial term of that contract or agreement or from other action by the governing body of a school administrative unit in effect on July 1, 1993. This subparagraph does not apply to increases in compensation of state employees during fiscal year 1993-94 and fiscal year 1994-95. In all circumstances in which this subparagraph does not apply to earnable compensation of state employees and teachers, the provisions of this subparagraph that were in

effect prior to June 30, 1993 apply. This subparagraph does not apply to earnable compensation of employees of participating local districts.

(2) Effective October 1, 1999, the 5% limitation and the 10% limitation on increases in earnable compensation set out in subparagraph (1) may not be changed to a lower percentage for members who, on October 1, 1999 or thereafter, meet the creditable service requirement for eligibility to receive a service retirement benefit, at the applicable age if so required, under section 17851 or section 17851-A, subsection 2.

Sec. 3. 5 MRSA §17801, as amended by PL 1987, c. 739, §§25 and 48, is repealed and the following enacted in its place:

§17801. Commitment to members and limitations

1. Commitment as to certain provisions and limitations. The following provisions govern the commitment as to certain provisions and limitations.

A. The commitment set out in paragraph B is effective October 1, 1999, for members who, on October 1, 1999 or thereafter, meet the creditable service requirement for eligibility to receive a service retirement benefit, at the applicable age if so required, under section 17851 or section 17851-A, subsection 2.

B. The protections established under the provisions listed in subparagraph (1) constitute solemn contractual commitments of the State protected under the contract clauses of the Constitution of Maine, Article I, Section 11 and the United States Constitution, Article I, Section 10, under the terms and conditions set out in subparagraph (2).

(1) The commitment provided by this section applies to the protections established under the specific following provisions:

(a) Section 17001, subsection 4; and subsection 13, paragraph B, subparagraph (1) and paragraph C, subparagraph (2);

(b) Section 17806, subsection 4;

(c) The subsection of section 17851, that is applicable to each member;

(d) The paragraph of subsection 2 of section 17851-A, that is applicable to each member;

(e) The paragraph of subsection 4 of section 17851-A, that is applicable to each member; and

(f) The subsection of section 17852, that is applicable to each member.

(2) The commitment established in this paragraph attaches to a given provision of those specified in subparagraph (1) when the member in question has met the creditable service requirement set out in the given provision, on the basis of which the protection established by the provision becomes effective.

2. Provisions not covered by subsection 1.

Subsection 1 does not apply to any provision of this Part not specifically identified in subsection 1. Any provision not specifically identified in subsection 1 may be increased, decreased, otherwise changed or eliminated by the Legislature as to any member regardless of whether the member has or has not met any creditable service requirement for eligibility to receive a service retirement benefit.

3. Employee contribution rate.

Effective October 1, 1999, for members who, on October 1, 1999 or thereafter, meet the creditable service requirement for eligibility to receive a service retirement benefit under section 17851 or section 17851-A, subsection 2, the employee contribution rate required to be paid at the time the service was rendered under the provision of section 17851 or 17851-A that is applicable to each member may be increased for members who have met the requirements only to:

A. Pay the cost, in whole or in part, of an improvement to a benefit that exists at the time the increase becomes effective and that is then or may in the future be applicable to members to whom the increase applies or provide a new benefit that is then or may in the future be applicable to members to whom the increase applies, and only to the extent of the cost of the improved or new benefit, provided that nothing in this paragraph may be construed to require that the employee contribution rate must be increased to pay the cost, in whole or part, of the improved or new benefit; or

B. Maintain actuarial soundness as required by the Constitution of Maine, Article IX, Section 18-A and this Part, as determined to be necessary by the board on recommendation of the system's actuary.

For members to whom section 17851-A applies, the phrase "the employee contribution rate required to be paid" includes contribution rates as made applicable under section 17851-A, subsections 5 and 6.

4. Limitations on subsections 1 and 3. Subsections 1 and 3 do not apply to any member until the member has met the creditable service requirement for eligibility to receive a service retirement benefit under section 17851 or 17851-A, subsection 2. For members to whom subsections 1 and 3 do not apply as provided in this subsection, the Legislature may increase, decrease, otherwise change or eliminate any provisions of this Part.

Sec. 4. 5 MRSA §17806, sub-§4 is enacted to read:

4. Limitation on changes in eligibility. Effective October 1, 1999:

A. The time requirement of subsection 3 that a member be retired for at least 12 months before a cost-of-living adjustment becomes payable may not be increased for a member who, on October 1, 1999 or thereafter, meets the creditable service requirement for eligibility to receive a service retirement benefit, at the applicable age if so required, under section 17851 or section 17851-A, subsection 2;

B. The time requirement that a member who had fewer than 10 years of creditable service on July 1, 1993 may not receive a cost-of-living adjustment until at least 12 months after reaching normal retirement age may not be increased for a member who, on October 1, 1999 or thereafter, meets the creditable service requirement for eligibility to receive a service retirement benefit, at the applicable age if so required, under section 17851, subsection 1-C, paragraph A; section 17851, subsection 1-C, paragraph B; section 17851, subsection 2-C, paragraph A; section 17851, subsection 2-C, paragraph B; or section 17851-A, subsection 2, paragraph A; and

C. The time requirement that a member who had fewer than 10 years of creditable service on July 1, 1993 may not receive a cost-of-living adjustment until at least 12 months after reaching normal retirement age may not be made applicable to a member who had at least 10 years of creditable service on July 1, 1993.

Sec. 5. 5 MRSA §17851, sub-§1, as amended by PL 1993, c. 410, Pt. L, §32, is repealed.

Sec. 6. 5 MRSA §17851, sub-§1-A, as amended by PL 1993, c. 410, Pt. L, §33, is repealed.

Sec. 7. 5 MRSA §17851, sub-§§1-B and 1-C are enacted to read:

1-B. Member in service at retirement; 10 years of creditable service on July 1, 1993. A member who on July 1, 1993, had 10 years of

creditable service and who is in service at retirement, or a member who on July 1, 1993 had reached 60 years of age and been in service for a minimum of one year immediately before July 1, 1993 and has been in service for a minimum of one year immediately before retirement, qualifies for a service retirement benefit if the member retires upon or after reaching 60 years of age. The 10 years of creditable service may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8 before becoming a member of the retirement system.

A. Effective October 1, 1999, the creditable service and age requirements of this subsection may not be increased for a member who on or before October 1, 1999 met either of the requirements for eligibility for service retirement benefits under this subsection, whether or not the member is in service on October 1, 1999.

B. For the purpose of calculating creditable service under this subsection only, creditable service includes time during which a member participated in the voluntary cost savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV, or 10 years of combined creditable service under this Part and Title 3, chapter 29, or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

1-C. Member in service at retirement; fewer than 10 years creditable service on July 1, 1993. A member who on July 1, 1993, had neither 10 years of creditable service nor had reached 60 years of age with one year of creditable service immediately before July 1, 1993 who is in service at retirement, qualifies for a service retirement benefit if the member retires upon or after reaching 62 years of age and:

A. Has been in service for a minimum of one year immediately before retirement or has at least 10 years of creditable service, which may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, before becoming a member of the retirement system; or

B. Effective October 1, 1999, is in service on October 1, 1999 and had fewer than 10 years of creditable service on July 1, 1993, including any person who was not in service on July 1, 1993, and:

(1) Is in service upon or after reaching 62 years of age;

(2) Has been in service for a minimum of one year immediately before retirement or has at least 5 years of creditable service, which may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, before becoming a member of the retirement system; and

(3) Meets the applicability requirements of subsection 3-A.

When a member has met either of the creditable service requirements set out in either paragraph A or paragraph B, subparagraph (2) for eligibility to receive a service retirement benefit under this subsection, the creditable service and age requirements of this subsection may not be increased for that member.

Sec. 8. 5 MRSA §17851, sub-§2, as amended by PL 1993, c. 410, Pt. L, §34, is repealed.

Sec. 9. 5 MRSA §17851, sub-§2-A, as amended by PL 1993, c. 410, Pt. L, §35, is repealed.

Sec. 10. 5 MRSA §17851, sub-§§2-B and 2-C are enacted to read:

2-B. Member not in service at retirement; 10 years of creditable service on July 1, 1993. A member who on July 1, 1993 had 10 years of creditable service and who is not in service at retirement qualifies for a service retirement benefit upon or after reaching 60 years of age. The 10 years of creditable service may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8 before becoming a member of the retirement system.

A. Effective October 1, 1999, the creditable service and age requirements of this subsection may not be increased for a member who on or before October 1, 1999 met the creditable service requirements for eligibility for service retirement benefits under this subsection, whether or not the member is in service on October 1, 1999.

B. For the purpose of calculating creditable service under this subsection only, creditable service includes time during which a member participated in the voluntary cost savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV, or 10 years of combined creditable service under this Part and Title 3, chapter 29 or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

2-C. Member not in service at retirement; fewer than 10 years creditable service on July 1, 1993. A member who on July 1, 1993, did not have 10 years of creditable service and who is not in service at retirement qualifies for a service retirement benefit if the member retires upon or after reaching 62 years of age and:

A. Has at least 10 years of creditable service, which may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, before becoming a member of the retirement system; or

B. Effective October 1, 1999, is in service on October 1, 1999, had left service prior to October 1, 1999 with or without withdrawing that member's contributions and after October 1, 1999 returns to service or is first in service after October 1, 1999 and:

(1) Has reached 62 years of age; and

(2) Has at least 5 years of creditable service, which may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, before becoming a member of the retirement system.

When a member has met the creditable service requirement set out in paragraph A or paragraph B, subparagraph (2) for eligibility to receive a service retirement benefit under this subsection, the creditable service and age requirements of this subsection may not be increased for that member.

Sec. 11. 5 MRSA §17851, sub-§3, as repealed and replaced by PL 1987, c. 256, §14, is amended to read:

3. Member with creditable service of 25 years or more whether or not in service at retirement. A member who has completed 25 or more years of creditable service qualifies for a service retirement benefit if ~~he~~ the member retires at any time after completing 25 years of service, which may include, for the purpose of meeting eligibility requirements, creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, before becoming a member of the ~~Maine State Retirement System~~ retirement system.

C. Effective October 1, 1999, the number of years required to qualify for a service retirement benefit under this subsection may not be increased for members who on October 1, 1999 have met the creditable service requirement for eligibility to receive a service retirement benefit under subsection 1-B; subsection 2-B; subsection 1-C, paragraph A; subsection 1-C, paragraph B;

subsection 2-C, paragraph A; or subsection 2-C, paragraph B, or who, after October 1, 1999, meet the creditable service requirement for eligibility to receive a service retirement benefit under subsection 1-C, paragraph B or subsection 2-C, paragraph B.

Sec. 12. 5 MRSA §17851, sub-§3-A is enacted to read:

3-A. Five-year minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age; applicability. The minimum requirement of 5 years of creditable service for eligibility to receive service retirement benefits under subsection 1-C, paragraph B and subsection 2-C, paragraph B applies only to:

A. A member who is in service on October 1, 1999;

B. Upon return to service, a member who had left service prior to October 1, 1999 with or without withdrawing that member's contributions and after October 1, 1999 returns to service; or

C. A member who is first in service after October 1, 1999.

For other members to whom subsections 1-C and 2-C apply, the 10 years of creditable service requirement for eligibility to receive a service retirement benefit at the applicable age remains in effect on and after October 1, 1999.

Sec. 13. 5 MRSA §17851, sub-§15 is enacted to read:

15. Limitation to increases in creditable service or age requirements. Effective October 1, 1999, whether or not the member is in service on October 1, 1999, the creditable service requirement, or combined age and creditable service requirement, for eligibility to receive a service retirement benefit under subsections 4 to 14 may not be increased for a member who on October 1, 1999 or thereafter meets the creditable service requirements under subsections 4 to 14, respectively.

Sec. 14. 5 MRSA §17851-A, sub-§4, ¶¶A to D, as enacted by PL 1997, c. 769, §11, are repealed and the following enacted in their place:

A. If all of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned after June 30, 1998, or if service credit was purchased by repayment of an earlier refund of accumulated contributions for service after June 30, 1998 in any one or a combination of the capacities specified in subsection 1, or if service credit was

purchased by other than the repayment of an earlier refund and eligibility to make the purchase of the service credit, including but not limited to service credit for military service, was achieved after June 30, 1998, the benefit must be computed as provided in section 17852, subsection 1, paragraph A.

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

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

B. Except as provided in paragraphs C and D, if some part of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned before July 1, 1998 and some part of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned after June 30, 1998, then the member's service retirement benefit must be computed in segments and the amount of the member's service retirement benefit is the sum of the segments. The segments must be computed as follows:

(1) The segment or, if the member served in more than one of the capacities specified in subsection 1 and the benefits related to the capacities are not interchangeable under section 17856, segments that reflect creditable service earned before July 1, 1998, or purchased by repayment of an earlier refund of accumulated contributions for service before July 1, 1998 in a capacity or capacities specified in subsection 1 or purchased by other than the repayment of a refund and eligibility to make the purchase of the service credit, including but not limited to service credit for military service, that was achieved before July 1, 1998, must be computed under section 17852, subsection 1, paragraph A. If the member is qualified under subsection 2, paragraph B and:

(a) Had 10 years of creditable service on July 1, 1993, the amount of the segment or segments must be reduced as provided in section 17852, subsection 3, paragraphs A and B; or

(b) Had less than 10 years of creditable service on July 1, 1993, the

amount of the segment or segments must be reduced as provided in section 17852, subsection 3-A; and

(2) The segment that reflects creditable service earned after June 30, 1998, or purchased by repayment of an earlier refund of accumulated contributions for service after June 30, 1998, in any one or a combination of the capacities specified in subsection 1, or purchased by other than the repayment of a refund and eligibility to make the purchase of the service credit, including but not limited to service credit for military service that was achieved after June 30, 1998, must be computed under section 17852, subsection 1, paragraph A. If the member is qualified under subsection 2, paragraph B and:

(a) Had 10 years of creditable service on July 1, 1993, the segment amount must be reduced in the manner provided in section 17852, subsection 3, paragraphs A and B for each year that the member's age precedes 55 years of age; or

(b) Had less than 10 years of creditable service on July 1, 1993, the segment amount must be reduced by 6% for each year that the member's age precedes 55 years of age.

C. The service retirement benefit of a member who is a state police officer to whom subsection 1, paragraph D applies and who qualifies for service retirement benefits under subsection 2, paragraph B must be computed under section 17852, subsection 1, paragraph A on the basis of all of the member's creditable service in the capacity specified in subsection 1, paragraph D regardless of whether the creditable service was earned before, on or after July 1, 1998, except that:

(1) If the member had 10 years of creditable service on July 1, 1993, the benefit must be reduced as provided in section 17852, subsection 4, paragraph C, subparagraphs (1) and (2); or

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

D. The service retirement benefit of a member who is a Maine State Prison employee to whom subsection 1, paragraph E applies, and who qualifies for service retirement benefits under

subsection 2, paragraph B, must be computed under section 17852, subsection 1, paragraph A on the basis of all of the member's creditable service in the capacity specified in subsection 1, paragraph E regardless of whether the creditable service was earned before, on or after July 1, 1998, except that:

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

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

Sec. 15. 5 MRSA §17852, sub-§§1 and 2, as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:

1. Member in service at retirement. The amount of the service retirement benefit for members qualified under section 17851, subsection 1, ~~shall 1-B~~ or 1-C, must be computed as follows:

A. 1/50 of the member's average final compensation multiplied by the number of years of ~~his~~ membership service and up to 25 years of ~~his~~ prior service. Membership service under this paragraph does not include creditable service under the Legislative Retirement System; ~~or~~

B. The total amount of the service retirement benefit of any member qualifying under section 17851, subsection 1, ~~1-B or 1-C~~, who became a member before July 1, 1947, and for whom the date of establishment of the retirement system is July 1, 1942, must be at least equal to 1/2 of ~~his~~ the member's average final compensation, if the member has at least 20 years of total creditable service, including at least 13 years of prior service if ~~he~~ the member retires upon or after reaching age 70; ~~or~~

C. Effective October 1, 1999, for a member who, on October 1, 1999 or thereafter, meets the creditable service requirement for eligibility to receive a service retirement benefit, at the applicable age if so required, under section 17851, subsection 1-B; section 17851, subsection 1-C, paragraph A; section 17851, subsection 1-C, paragraph B; section 17851, subsection 2-B; section 17851, subsection 2-C, paragraph A; or section 17851, subsection 2-C, paragraph B, the factors specified in paragraphs A and B may not be changed, alone or in combination.

2. Member not in service at retirement. The amount of the service retirement benefit for members qualified under section 17851, subsection ~~2~~, must 2-B or 2-C, must be computed in accordance with subsection 1.

Sec. 16. 5 MRSA §17852, sub-§3, as amended by PL 1993, c. 410, Pt. L, §36, is further amended to read:

3. Member with creditable service of 25 years or more; 10 years of creditable service on July 1, 1993. The amount of the service retirement benefit for members qualified under section 17851, subsection 3, is computed in accordance with subsection 1, except that:

A. The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at age 60 bears to the life annuity due at the age of retirement; ~~and~~

B. For the purpose of making the computation under paragraph A, the board-approved tables of annuities in effect at the date of the member's retirement are used; ~~and~~

C. Effective October 1, 1999, the reduction to be applied to the service retirement benefit of a member to whom this subsection applies may not be greater than that in effect on October 1, 1999 under paragraphs A and B for a member who, on October 1, 1999 or thereafter, meets the creditable service requirement for eligibility to receive a service retirement benefit under section 17851, subsection 1-B; section 17851, subsection 1-C, paragraph A; section 17851, subsection 1-C, paragraph B; section 17851, subsection 2-A, paragraph A; section 17851, subsection 2-B; section 17851, subsection 2-C, paragraph B; or who after October 1, 1999, meets the creditable service requirement for eligibility to receive a service retirement benefit under section 17851, subsection 1-C, paragraph B or section 17851, subsection 2-C, paragraph B. For members to whom section 17851-A applies, this paragraph must be applied in accordance with the requirements of section 17851-A, subsection 4.

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

1993 and that the member does purchase in accordance with rules adopted by the board.

Sec. 17. 5 MRSA §17852, sub-§3-A, as repealed and replaced by PL 1993, c. 410, Pt. L, §37, is amended to read:

3-A. Member with creditable service of 25 years or more whether or not in service at retirement; fewer than 10 years of creditable service on July 1, 1993. The amount of the service retirement benefit for members qualified under section 17851, subsection 3, is computed in accordance with subsection 1, except that ~~the benefit is reduced by 6% for each year that the member's age precedes age 62;~~ :

C. The benefit is reduced by 6% for each year that the member's age precedes 62 years of age; and

D. Effective October 1, 1999, the reduction to be applied to the service retirement benefit of a member to whom this subsection applies may not be greater than that in effect on October 1, 1999 under paragraph C for a member who, on October 1, 1999 or thereafter, meets the creditable service requirement for eligibility to receive a service retirement benefit under section 17851, subsection 1-C, paragraph A; section 17851, subsection 1-C, paragraph B; section 17851, subsection 2-C, paragraph A; section 17851, subsection 2-C, paragraph B; or section 17851-A, subsection 2, paragraph A. For a member to whom section 17851-A applies, this paragraph must be applied in accordance with the requirements of section 17851-A, subsection 4.

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

Sec. 18. 5 MRSA §17852, sub-§17 is enacted to read:

17. Limitation to changes in computation of service retirement benefits. Effective October 1, 1999, for a member who, on October 1, 1999 or thereafter, meets the creditable service requirement for eligibility for service retirement benefits under section 17851, subsections 4 to 14; or under section 17851-A, subsection 2, paragraph A or B, whether or not a member is in service on October 1, 1999, the factors specified for the computation of service retirement benefits under subsections 4 to 16 as in effect on October 1, 1999; or under section 17851-A, subsection 4 as in effect on October 1, 1999, as applicable to each member, may not be changed, alone or in combination under each separate subsection.

Sec. 19. Applicability. The applicability of the Maine Revised Statutes, Title 5, section 17857 to

any person does not by itself make this Act applicable to that person.

Sec. 20. Expenditures in excess of allocations. Expenditures of funds required by this Act other than the General Fund and the Highway Fund are authorized to exceed legislative allocations during the current biennium ending June 30, 2001. Appropriate adjustments to basic work programs facilitating these expenditures in excess of allocations must be recommended by the State Budget Officer and approved by the Governor.

Sec. 21. Transfer to Maine State Retirement System. Notwithstanding the Maine Revised Statutes, Title 5, section 1517, after the State Controller closes the financial accounts of the State for the fiscal year ending June 30, 1999, an amount not to exceed \$2,308,986 must be transferred to the Maine State Retirement System, Retirement Allowance Fund from the funds that would otherwise be payable to the Retirement Allowance Fund pursuant to Title 5, section 1517, to be made available by financial order upon the recommendation of the State Budget Officer and approval of the Governor for the implementation of 5-year vesting for state employees and teachers. The transferred amount represents the actuarial cost plus interest in the amount of \$1,482,000 for state employees and teachers and the increased normal costs in the amounts of \$402,102 in fiscal year 1999-00 and \$424,884 in fiscal year 2000-01 for teachers. Any funds remaining not needed to meet the requirements of this section must be transferred to the Retirement Allowance Fund for the purposes described in Title 5, section 1517.

Sec. 22. Employer retirement rates. The State Budget Officer shall adjust the normal cost component of the employer retirement rates for state employees beginning with the payroll paid closest to but prior to October 1, 1999 based on the actuarial rates provided by the Maine State Retirement System so that the actual employer retirement contribution for the normal cost component in each state department and state agency account affected by this Act meets the actuarially determined normal retirement cost requirement each fiscal year.

See title page for effective date.

CHAPTER 490

H.P. 948 - L.D. 1345

An Act to Allow Student License Holders to Become Eligible for Commercial Lobster and Crab Fishing Licenses

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

Sec. 1. 12 MRSA §6421, sub-§3-A, ¶¶D and E, as amended by PL 1995, c. 568, §1, are further amended to read:

D. An apprentice lobster and crab fishing license authorizes the apprentice so licensed to engage in the licensed activities under subsection 2 on that apprentice's sponsor's vessel when the apprentice's sponsor is on board the vessel. A person who holds an apprentice lobster and crab fishing license may not tend any traps unless the traps are fished by the sponsor of the apprentice so licensed. An applicant for an apprentice lobster and crab fishing license may designate up to 3 sponsors. For the purpose of this paragraph, "apprentice's sponsor" means a person who holds a Class I, Class II or Class III lobster and crab fishing license issued under this section.

E. A student license authorizes the license holder to engage in the licensed activities under subsection 2. A person issued a student license may not submerge at any one time more than 150 lobster traps in the coastal waters of the State. An applicant for a student license shall designate a sponsor. A person issued a student license is enrolled in the apprentice program under section 6422. For the purpose of this paragraph, "sponsor" means a person who holds a Class I, Class II or Class III lobster and crab fishing license issued under this section.

Sec. 2. 12 MRSA §6422, sub-§1, as amended by PL 1995, c. 568, §2, is further amended to read:

1. Program established; experience component. By July 1, 1996, the commissioner shall establish by rule an apprentice program for entry into the lobster fishery. The program must include practical lobster fishing experience. A person must hold an apprentice lobster and crab fishing license or a student lobster and crab fishing license under section 6421 to enter the program.

Sec. 3. 12 MRSA §6422, sub-§4, ¶B, as amended by PL 1997, c. 574, §2, is further amended to read:

B. Documents to the commissioner that the person obtained practical lobster fishing experience as a holder of a student license issued under section 6421. This paragraph is repealed on December 31, 2001; or

Sec. 4. Educational brochure for student license holders. The Department of Marine Resources shall develop an educational brochure for