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AMS

L.D. 267

DATE: 5-20-99

(Filing No. H-652)

LABOR

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STATE OF MAINE HOUSE OF REPRESENTATIVES 119TH LEGISLATURE FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 267, Bill, "An Act to Amend the Laws Relative to Vesting in the Maine State Retirement System"

Amend the bill by striking out the title and substituting the following:

'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'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

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;

COMMITTEE AMENDMENT

R & S

- 2 (2) For any member who is not covered by subparagraph
4 (1), payment for any unused accumulated or accrued sick
6 leave or payment for any unused vacation leave;
8 (3) Any other payment that is not compensation for
10 actual services rendered or that is not paid at the
12 time the actual services are rendered; or
14 (4) Teacher recognition grants paid pursuant to Title
16 20-A, section 13503-A.

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

26 **Sec. 2. 5 MRSA §17001, sub-§13, ¶C**, as repealed and replaced
28 by PL 1995, c. 274, §1, is repealed and the following enacted in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

32 C. The following provisions govern limitations on earnable
34 compensation.

36 (1) Notwithstanding the other provisions of this
38 subsection, for the purposes of determining average
40 final compensation, "earnable compensation" does not
42 include any increase that exceeds the prior year's
44 earnable compensation by more than 5% or that results
46 in a total increase of more than 10% during the 3-year
48 period used in the calculation of average final
50 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

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COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 267

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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;

R.S.

COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 267

- 2 (c) The subsection of section 17851, that is
applicable to each member;
- 4 (d) The paragraph of subsection 2 of section
17851-A, that is applicable to each member;
- 6 (e) The paragraph of subsection 4 of section
17851-A, that is applicable to each member; and
- 8 (f) The subsection of section 17852, that is
applicable to each member.

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

20 2. Provisions not covered by subsection 1. Subsection 1
22 does not apply to any provision of this Part not specifically
24 identified in subsection 1. Any provision not specifically
26 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.

28 3. Employee contribution rate. Effective October 1, 1999,
30 for members who, on October 1, 1999 or thereafter, meet the
32 creditable service requirement for eligibility to receive a
34 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:

38 A. Pay the cost, in whole or in part, of an improvement to
40 a benefit that exists at the time the increase becomes
42 effective and that is then or may in the future be
44 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
48 or new benefit; or

COMMITTEE AMENDMENT

R 4 S.

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

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

10
11 4. Limitations on subsections 1 and 3. Subsections 1 and 3
12 do not apply to any member until the member has met the
13 creditable service requirement for eligibility to receive a
14 service retirement benefit under section 17851 or 17851-A,
15 subsection 2. For members to whom subsections 1 and 3 do not
16 apply as provided in this subsection, the Legislature may
17 increase, decrease, otherwise change or eliminate any provisions
18 of this Part.

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

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21 4. Limitation on changes in eligibility. Effective October
22 1, 1999:

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

32
33 B. The time requirement that a member who had fewer than 10
34 years of creditable service on July 1, 1993 may not receive
35 a cost-of-living adjustment until at least 12 months after
36 reaching normal retirement age may not be increased for a
37 member who, on October 1, 1999 or thereafter, meets the
38 creditable service requirement for eligibility to receive a
39 service retirement benefit, at the applicable age if so
40 required, under section 17851, subsection 1-C, paragraph A;
41 section 17851, subsection 1-C, paragraph B; section 17851,
42 subsection 2-C, paragraph A; section 17851, subsection 2-C,
43 paragraph B; or section 17851-A, subsection 2, paragraph A;
44 and

45
46 C. The time requirement that a member who had fewer than 10
47 years of creditable service on July 1, 1993 may not receive
48 a cost-of-living adjustment until at least 12 months after
49 reaching normal retirement age may not be made applicable to

RWS

2 a member who had at least 10 years of creditable service on
3 July 1, 1993.

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

6 **Sec. 6. 5 MRSA §17851, sub-§1-A**, as amended by PL 1993, c.
7 410, Pt. L, §33, is repealed.

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

12 **1-B. Member in service at retirement; 10 years of**
13 **creditable service on July 1, 1993.** A member who on July 1,
14 1993, had 10 years of creditable service and who is in service at
15 retirement, or a member who on July 1, 1993 had reached 60 years
16 of age and been in service for a minimum of one year immediately
17 before July 1, 1993 and has been in service for a minimum of one
18 year immediately before retirement, qualifies for a service
19 retirement benefit if the member retires upon or after reaching
20 60 years of age. The 10 years of creditable service may include
21 creditable service as a member of the Maine Legislative
22 Retirement System under Title 3, section 701, subsection 8 before
23 becoming a member of the retirement system.

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

32 B. For the purpose of calculating creditable service under
33 this subsection only, creditable service includes time
34 during which a member participated in the voluntary cost
35 savings plan or the voluntary employee incentive program,
36 authorized by Public Law 1989, chapter 702, Part F, section
37 6 and Public Law 1991, chapter 591, Part BB and chapter 780,
38 Part VV, or 10 years of combined creditable service under
39 this Part and Title 3, chapter 29, or creditable service
40 available to a member that the member was eligible to
41 purchase on June 30, 1993 and that the member does purchase
42 in accordance with rules adopted by the board.

44 **1-C. Member in service at retirement; fewer than 10 years**
45 **creditable service on July 1, 1993.** A member who on July 1,
46 1993, had neither 10 years of creditable service nor had reached
47 60 years of age with one year of creditable service immediately
48 before July 1, 1993 who is in service at retirement, qualifies

RMS

COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 267

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

R. & S.

2 Legislative Retirement System under Title 3, section 701,
subsection 8 before becoming a member of the retirement system.

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

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12 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
14 savings plan or the voluntary employee incentive program,
authorized by Public Law 1989, chapter 702, Part F, section
16 6 and Public Law 1991, chapter 591, Part BB and chapter 780,
Part VV, or 10 years of combined creditable service under
18 this Part and Title 3, chapter 29 or creditable service
available to a member that the member was eligible to
20 purchase on June 30, 1993 and that the member does purchase
in accordance with rules adopted by the board.

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24 2-C. Member not in service at retirement; fewer than 10
years creditable service on July 1, 1993. A member who on July
26 1, 1993, did not have 10 years of creditable service and who is
not in service at retirement qualifies for a service retirement
28 benefit if the member retires upon or after reaching 62 years of
age and:

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

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

- 42 (1) Has reached 62 years of age; and
- 44 (2) Has at least 5 years of creditable service, which
may include creditable service as a member of the Maine
46 Legislative Retirement System under Title 3, section
701, subsection 8, before becoming a member of the
48 retirement system.

COMMITTEE AMENDMENT

RMS

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

8 **Sec. 11. 5 MRSA §17851, sub-§3, as repealed and replaced by PL**
10 **1987, c. 256, §14, is amended to read:**

10 **3. Member with creditable service of 25 years or more**
12 **whether or not in service at retirement.** A member who has
14 completed 25 or more years of creditable service qualifies for a
16 service retirement benefit if he the member retires at any time
18 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.

20 C. Effective October 1, 1999, the number of years required
22 to qualify for a service retirement benefit under this
24 subsection may not be increased for members who on October
26 1, 1999 have met the creditable service requirement for
28 eligibility to receive a service retirement benefit under
30 subsection 1-B; subsection 2-B; subsection 1-C, paragraph A;
32 subsection 1-C, paragraph B; subsection 2-C, paragraph A; or
34 subsection 2-C, paragraph B, or who, after October 1, 1999,
36 meet the creditable service requirement for eligibility to
38 receive a service retirement benefit under subsection 1-C,
40 paragraph B or subsection 2-C, paragraph B.

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

34 **3-A. Five-year minimum creditable service requirement for**
36 **eligibility to receive a service retirement benefit at the**
38 **applicable age; applicability.** The minimum requirement of 5
40 years of creditable service for eligibility to receive service
42 retirement benefits under subsection 1-C, paragraph B and
44 subsection 2-C, paragraph B applies only to:

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

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

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

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COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 267

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

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

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

16 **Sec. 14. 5 MRSA §17851-A, sub-§4, ¶¶A to D,** as enacted by PL
17 1997, c. 769, §11, are repealed and the following enacted in
18 their place:

19 **A. If all of the member's creditable service in any one or**
20 **a combination of the capacities specified in subsection 1**
21 **was earned after June 30, 1998, or if service credit was**
22 **purchased by repayment of an earlier refund of accumulated**
23 **contributions for service after June 30, 1998 in any one or**
24 **a combination of the capacities specified in subsection 1,**
25 **or if service credit was purchased by other than the**
26 **repayment of an earlier refund and eligibility to make the**
27 **purchase of the service credit, including but not limited to**
28 **service credit for military service, was achieved after June**
29 **30, 1998, the benefit must be computed as provided in**
30 **section 17852, subsection 1, paragraph A.**

31 **(1) If the member had 10 years of creditable service**
32 **on July 1, 1993, the benefit under subsection 2,**
33 **paragraph B must be reduced as provided in section**
34 **17852, subsection 3, paragraphs A and B; or**

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

40 **B. Except as provided in paragraphs C and D, if some part**
41 **of the member's creditable service in any one or a**
42 **combination of the capacities specified in subsection 1 was**
43 **earned before July 1, 1998 and some part of the member's**
44 **creditable service in any one or a combination of the**
45 **capacities specified in subsection 1 was earned after June**
46 **30, 1998, the benefit must be computed as provided in**
47 **section 17852, subsection 1, paragraph A.**

R. S.

COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 267

2 30, 1998, then the member's service retirement benefit must
3 be computed in segments and the amount of the member's
4 service retirement benefit is the sum of the segments. The
5 segments must be computed as follows:

6 (1) The segment or, if the member served in more than
7 one of the capacities specified in subsection 1 and the
8 benefits related to the capacities are not
9 interchangeable under section 17856, segments that
10 reflect creditable service earned before July 1, 1998,
11 or purchased by repayment of an earlier refund of
12 accumulated contributions for service before July 1,
13 1998 in a capacity or capacities specified in
14 subsection 1 or purchased by other than the repayment
15 of a refund and eligibility to make the purchase of the
16 service credit, including but not limited to service
17 credit for military service, that was achieved before
18 July 1, 1998, must be computed under section 17852,
19 subsection 1, paragraph A. If the member is qualified
20 under subsection 2, paragraph B and:

21 (a) Had 10 years of creditable service on July 1,
22 1993, the amount of the segment or segments must
23 be reduced as provided in section 17852,
24 subsection 3, paragraphs A and B; or

25 (b) Had less than 10 years of creditable service
26 on July 1, 1993, the amount of the segment or
27 segments must be reduced as provided in section
28 17852, subsection 3-A; and

29 (2) The segment that reflects creditable service
30 earned after June 30, 1998, or purchased by repayment
31 of an earlier refund of accumulated contributions for
32 service after June 30, 1998, in any one or a
33 combination of the capacities specified in subsection
34 1, or purchased by other than the repayment of a refund
35 and eligibility to make the purchase of the service
36 credit, including but not limited to service credit for
37 military service that was achieved after June 30, 1998,
38 must be computed under section 17852, subsection 1,
39 paragraph A. If the member is qualified under
40 subsection 2, paragraph B and:

41 (a) Had 10 years of creditable service on July 1,
42 1993, the segment amount must be reduced in the
43 manner provided in section 17852, subsection 3,
44 paragraphs A and B for each year that the member's
45 age precedes 55 years of age; or

RWS

COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 267

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(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

COMMITTEE AMENDMENT

R & S

COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 267

17851, subsection 1,--shall 1-B or 1-C, must be computed as follows:

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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

COMMITTEE AMENDMENT

RWS

COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 267

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

6 C. Effective October 1, 1999, the reduction to be applied
7 to the service retirement benefit of a member to whom this
8 subsection applies may not be greater than that in effect on
9 October 1, 1999 under paragraphs A and B for a member who,
10 on October 1, 1999 or thereafter, meets the creditable
11 service requirement for eligibility to receive a service
12 retirement benefit under section 17851, subsection 1-B;
13 section 17851, subsection 1-C, paragraph A; section 17851,
14 subsection 1-C, paragraph B; section 17851, subsection 2-A,
15 paragraph A; section 17851, subsection 2-B; section 17851,
16 subsection 2-C, paragraph B; or who after October 1, 1999,
17 meets the creditable service requirement for eligibility to
18 receive a service retirement benefit under section 17851,
19 subsection 1-C, paragraph B or section 17851, subsection
20 2-C, paragraph B. For members to whom section 17851-A
21 applies, this paragraph must be applied in accordance with
22 the requirements of section 17851-A, subsection 4.

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

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

38 **3-A. Member with creditable service of 25 years or more**
39 **whether or not in service at retirement; fewer than 10 years of**
40 **creditable service on July 1, 1993. The amount of the service**
41 **retirement benefit for members qualified under section 17851,**
42 **subsection 3, is computed in accordance with subsection 1, except**
43 **that the benefit is reduced by 6% for each year that the member's**
44 **age precedes age 62. ;**

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

COMMITTEE AMENDMENT

R. & S.

2 D. Effective October 1, 1999, the reduction to be applied
 4 to the service retirement benefit of a member to whom this
 6 subsection applies may not be greater than that in effect on
 8 October 1, 1999 under paragraph C for a member who, on
 10 October 1, 1999 or thereafter, meets the creditable service
 12 requirement for eligibility to receive a service retirement
 14 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.

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

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

20 17. Limitation to changes in computation of service
 22 retirement benefits. Effective October 1, 1999, for a member
 24 who, on October 1, 1999 or thereafter, meets the creditable
 26 service requirement for eligibility for service retirement
 28 benefits under section 17851, subsections 4 to 14; or under
 30 section 17851-A, subsection 2, paragraph A or B, whether or not a
 32 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.

34 **Sec. 19. Applicability.** The applicability of the Maine Revised
 36 Statutes, Title 5, section 17857 to any person does not by itself
 make this Act applicable to that person.

38 **Sec. 20. Expenditures in excess of allocations.** Expenditures of
 40 funds required by this Act other than the General Fund and the
 42 Highway Fund are authorized to exceed legislative allocations
 44 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.

46 **Sec. 21. Adjustment of rates.** After consultation with the
 48 Maine State Retirement System, the State Budget Officer shall
 50 adjust the normal cost component of the employer contribution
 rates on the effective date of this Act to fully fund this Act on
 an actuarially sound basis. In addition, the State Budget
 Officer shall assess the accounts in other funds for their share

R & S.

COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 267

2 of the unfunded liability costs based on total salaries in those
accounts in fiscal year 1999-00 and fiscal year 2000-01,
4 respectively.

6 **Sec. 22. Appropriation.** The following funds are appropriated
from the General Fund to carry out the purposes of this Act.

8 1999-00 2000-01

10 **ADMINISTRATIVE AND FINANCIAL**
12 **SERVICES, DEPARTMENT OF**

14 **Salary Plan**

16 \$77,494 \$102,412
18 **Personal Services**

18 Provides funds to be held in
reserve in the event that
20 costs associated with the
increase in the normal cost
component of the employer
22 contribution rate due to
reduction of the service
24 requirement for benefit
eligibility for state
26 employees for retirement
costs exceed the amounts
28 available for state
departments and agencies.
30 Because the normal cost
component of the employer
32 contribution rate for state
employees is actuarially
34 established based on
projected salaries as a rate
36 that must be applied to
actual salaries, the funds
38 resulting from the
application of the
40 actuarially established rate
constitute appropriated
42 funds. The funds here
specified constitute
44 estimates and not
46 appropriated funds.

48 **DEPARTMENT OF ADMINISTRATIVE AND**
FINANCIAL SERVICES
TOTAL

\$77,494 \$102,412

COMMITTEE AMENDMENT

RWS

2 **EDUCATION, DEPARTMENT OF**

4 **Teacher Retirement**

6 All Other \$1,269,577 \$424,884

8 Provides funds for the
 10 unfunded liability costs,
 \$968,000 in fiscal year
 12 1999-00, and the increase in
 the normal cost component of
 14 the employer contribution
 rate, \$301,577 and \$424,884
 in fiscal years 1999-00 and
 16 2000-01, respectively, that
 result from reducing the
 18 service requirement for
 service retirement benefit
 20 eligibility for certain
 teachers from 10 to 5 years.

22 **DEPARTMENT OF EDUCATION**
 24 **TOTAL**

\$1,269,577 \$424,884

26 **MAINE STATE RETIREMENT SYSTEM**

28 **Retirement Allowance Fund**

30 All Other \$229,605

32 Provides funds for the
 34 unfunded liability costs
 related to reducing the
 36 service requirement for
 service retirement benefit
 38 eligibility for state
 employees from 10 years to 5
 years.

40 **MAINE STATE RETIREMENT SYSTEM**
 42 **TOTAL**

\$229,605

44 **TOTAL APPROPRIATIONS**

\$1,576,676 \$527,296

46 **Sec. 23. Allocation.** The following funds are allocated from
 48 the Highway Fund to carry out the purposes of this Act.

50 **1999-00 2000-01**

R. S.

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ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Salary Plan

Personal Services \$28,446 \$34,317

Provides funds to be held in reserve in the event that costs associated with the increase in the normal cost component of the employer contribution rate due to reduction of the service requirement for benefit eligibility for state employees for retirement costs exceed the amounts available for state departments and agencies. Because the normal cost component of the employer contribution rate for state employees is actuarially established based on projected salaries as a rate that must be applied to actual salaries, the funds resulting from the application of the actuarially established rate constitute appropriated funds. The funds here specified constitute estimates and not appropriated funds.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

TOTAL \$28,446 \$34,317

MAINE STATE RETIREMENT SYSTEM

Retirement Allowance Fund

All Other \$84,860

Provides funds for the

R.S.

COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 267

unfunded liability costs related to reducing the service requirement for service retirement benefit eligibility for state employees from 10 years to 5 years.

8	MAINE STATE RETIREMENT SYSTEM		
10	TOTAL	<u>\$84,860</u>	
12	TOTAL ALLOCATIONS	<u>\$113,306</u>	<u>\$34,317</u>

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

	1999-00	2000-01	
22	APPROPRIATIONS/ALLOCATIONS		
24			
26	General Fund	\$1,576,676	\$527,296
26	Highway Fund	113,306	34,317

This bill lowers from 10 years to 5 years the amount of creditable service needed for state employees and teachers who are in service or become employed on or after October 1, 1999, and in some cases, employees who return to service after October 1, 1999, to be eligible to receive a service retirement benefit at the applicable normal retirement age at which they qualify for benefits. The bill also establishes that certain aspects of the retirement plan become protected once employees have accumulated the required amount of creditable service, which, among other protections, prevents the State from reducing the calculation of the value of accrued retirement benefits. The calculation of the value of the benefits of those members may only be prospectively reduced and specified other changes may also only be made prospectively. The State may reduce the calculation of the value of benefits, whether accrued or yet to be earned, for members who have not met the minimum creditable service requirements for benefits.

The change from 10 to 5 years will increase the unfunded liability of the Maine State Retirement System by \$1,482,000. Since the Constitution of Maine, Article IX, Section 18-A, prohibits the creation of unfunded liabilities except those that result from experience losses, the bill includes a General Fund

COMMITTEE AMENDMENT

R of S

COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 267

2 appropriation and a Highway Fund allocation of \$229,605 and
3 \$84,860, respectively, to the Maine State Retirement System in
4 fiscal year 1999-00 for the portion of the unfunded liability
5 attributable to state employees and a General Fund appropriation
6 of \$968,000 to the Teacher Retirement account in the Department
7 of Education in fiscal year 1999-00 for the portion of the
8 unfunded liability attributable to teachers. The cost to
9 accounts in other funds, estimated to be \$199,535, may require
10 increased allotments to meet these additional personal services
11 expenditures.

12 These benefit changes will also increase the normal cost
13 component of the employer contribution rate by an additional
14 0.05% of salaries for state employees and teachers, resulting in
15 increased employer contributions to the Maine State Retirement
16 System of \$473,139 in fiscal year 1999-00 and \$651,139 in fiscal
17 year 2000-01. Additional General Fund appropriations of \$301,577
18 and \$424,884 in fiscal years 1999-00 and 2000-01, respectively,
19 are included to fund the teachers' retirement portion. The
20 estimated employer costs to the General Fund for state employees
21 in fiscal years 1999-00 and 2000-01, respectively, are estimated
22 to be \$77,494 and \$102,412. Estimated employer costs to the
23 Highway Fund for state employees for this same period are \$28,446
24 and \$34,317. General Fund appropriations and Highway Fund
25 allocations in these amounts are included to provide funds in the
26 salary plan reserve accounts in the event that the increase in
27 the employer retirement contribution rates and other personal
28 services expenses exceed the allotments in General Fund and
29 Highway Fund accounts during fiscal years 1999-00 and 2000-01.
30 The cost to accounts in other funds, estimated to be \$65,622 and
31 \$89,526 in fiscal years 1999-00 and 2000-01, may require
32 increased allotments to meet these additional personal services
33 expenditures. Those increases necessary to meet the additional
34 expenditures are to be authorized by financial order.'

36
37
38 **SUMMARY**

39 This amendment replaces the bill and incorporates elements
40 of the bill and Legislative Documents 14 and 566. The provisions
41 of the amendment apply to eligibility for, qualification to
42 receive, calculation of and certain other aspects concerning
43 retirement benefits under the Maine State Retirement System for
44 teachers and state employees, including those participating in
45 special plans.

46 The amendment is intended to specifically supplant the
47 holding of the United States Court of Appeals for the First
48 Circuit in Parker v. Wakelin et al. 123 F.3d1(1997) with respect
49 to retirement benefits listed in the amendment from the time
50

R.S.

COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 267

2 those benefits attach as provided in the amendment. Parker held
 4 that Maine State Retirement law creates no enforceable private
 6 contractual right preventing the modification of members'
 8 retirement benefits until those benefits are actually
 10 receivable. The amendment establishes the listed benefits as
 12 solemn contractual commitments of the State protected under the
 14 contract clauses of the Constitution of Maine and United States
 16 Constitution once the right to those benefits attaches. The
 18 right to benefits attaches when a member has attained the amount
 of service credit for retirement and, where required, has met the
 related age requirements. The minimum amount of service credit
 required is reduced from the current 10 years to 5 years in the
 amendment for employees in service on the effective date, first
 employed after the effective date and, in certain circumstances,
 reemployed after the effective date of this Act. Former
 employees not in service on the effective date who do not later
 become reemployed continue to be subject to the 10-year minimum
 creditable requirement for eligibility and for protection of
 benefits.

20 The following retirement benefits are protected once at
 22 least 5 years of service credit have been accumulated:

- 24 1. The amount of service credit required for eligibility to
 receive a benefit upon qualifying to retire;
- 26 2. The normal retirement age of 60 or 62 years of age or
 28 the age established in a special retirement plan;
- 30 3. The amount of service credit required for eligibility to
 32 retire before normal retirement age and the related reduction in
 benefits;
- 34 4. The method used to calculate the retirement benefit,
 including use of the 3 highest years, the 5% and 10% caps on
 36 increases in earnings in the 3 highest years and the use of sick
 or vacation leave when applicable; and
- 38 5. The post-retirement waiting period for commencement of
 40 cost-of-living adjustments to service retirement benefits.

42 In addition, the employee contribution rate may be increased
 44 only in particular circumstances specified in the amendment for
 members who have achieved protection.

46 Any benefit or related provision not listed in the amendment
 48 can be changed or eliminated by the Legislature and the
 Legislature may change any provision of the retirement law for
 50 employees not having the minimum amount of creditable service for
 eligibility and protection.

COMMITTEE AMENDMENT

RWS

COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 267

2 This amendment also adds a fiscal note to the bill.

COMMITTEE AMENDMENT