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Date: (Filing No. H-)

LABOR AND HOUSING

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 372, L.D. 509, “An Act To Protect Teachers from a Decrease in Retirement Benefits Arising from the COVID-19 Pandemic”

Amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, teachers nearing retirement have experienced a reduction in income from the elimination of an extracurricular or cocurricular position due to circumstances related to the COVID-19 pandemic; and

Whereas, this legislation provides the opportunity for those teachers who are in their last 3 years before retirement to purchase service credit in the state retirement system for the income lost from the extracurricular or cocurricular position from January 1, 2020 to July 1, 2021; and

Whereas, it is important that this legislation take effect as soon as possible so those teachers nearing retirement may complete the purchase of that service credit before their retirement; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 5 MRSA §17001, sub-§4, ¶A, as amended by PL 2015, c. 385, §2, is further amended to read:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as an employee in Maine, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest. However, if a member

COMMITTEE AMENDMENT

1 is subject to a temporary layoff or other time off without pay as a result of a Governor's
 2 Executive Order, time off without pay or loss of pay pursuant to the agreements of
 3 February 15, 1991, October 23, 1991 and June 11, 1993 between the Executive
 4 Department and the American Federation of State, County and Municipal Employees,
 5 Council 93, time off without pay pursuant to the agreement of June 11, 1993 between
 6 the Executive Department and the Maine State Employees Association, days off
 7 without pay as authorized by legislative action or days off without pay resulting from
 8 any executive order declaring or continuing a state of emergency relating to the lack of
 9 an enacted budget document for fiscal years ending June 30, 1992 and June 30, 1993,
 10 or, if a member elects to make the payments as set forth in section 17704-B, as a result
 11 of days off without pay or for days worked for which the level of pay is reduced as the
 12 result of the freezing of merit pay and longevity pay as authorized by legislative action,
 13 by the State Court Administrator or from executive order for the fiscal year beginning
 14 July 1, 2002, July 1, 2009, July 1, 2010, July 1, 2011 or July 1, 2012, or a combination
 15 thereof, or, if a member is subject to days off without pay, not to exceed 10 days in
 16 each fiscal year ending June 30, 1992 and June 30, 1993, as a result of actions taken
 17 by local school administrative units to offset school subsidy reductions, or, if a member
 18 is subject to days off without pay during the fiscal year beginning July 1, 2009 or July
 19 1, 2010, as a result of actions taken by a local school administrative unit and the
 20 member elects to make the payments as set forth in section 17704-B or,
 21 notwithstanding section 18202, as a result of actions of a participating local district to
 22 offset reductions in municipal revenue sharing or a combination thereof, for the fiscal
 23 years ending June 30, 1992 and June 30, 1993, or, if a member of a local school
 24 administrative unit is subject to loss of compensation from employment in an
 25 extracurricular or cocurricular position that was eliminated or otherwise unavailable
 26 during the period from January 1, 2020 to July 1, 2021 due to circumstances related to
 27 the novel coronavirus disease referred to as COVID-19 and the member elects to make
 28 the payments as set forth in section 17704-B, or, if a member is subject to days off
 29 without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of
 30 actions of a participating local district and the member elects to make the payments as
 31 set forth in section 18305-C, the 3-year average final compensation must be determined
 32 as if the member had not been temporarily laid off, reduced in pay or provided days off
 33 without pay; or

34 **Sec. 2. 5 MRSA §17704-B**, as amended by PL 2015, c. 385, §9, is further amended
 35 to read:

36 **§17704-B. Back contributions for certain days off without pay**

37 **1. Election.** If the retirement system determines at the time a member retires that the
 38 member's benefit would be increased as a result of the inclusion of compensation that
 39 would have been paid for days off without pay or for days worked for which the level of
 40 pay is reduced as the result of the freezing of merit pay and longevity pay in fiscal year
 41 2002-03, 2009-10, 2010-11, 2011-12 or 2012-13, or a combination thereof, or the loss of
 42 compensation from employment in an extracurricular or cocurricular position that was
 43 eliminated or otherwise unavailable during the period from January 1, 2020 to July 1, 2021
 44 due to circumstances related to the novel coronavirus disease referred to as COVID-19, as
 45 provided in section 17001, subsection 4, paragraph A, the retirement system shall advise
 46 the member of that result and shall allow the member to elect to have that compensation

1 included in the calculation of the member's benefit and to make payments set forth in
2 subsection 2.

3 **2. Payment.** The amount that a member who makes the election permitted in
4 subsection 1 must pay is the amount equal to the employee contribution that member would
5 have made on compensation that would have been paid to that member on the days off
6 without pay or for days worked for which the level of pay is reduced as the result of the
7 freezing of merit pay and longevity pay during fiscal year 2002-03, 2009-10, 2010-11,
8 2011-12 or 2012-13, or a combination thereof, as provided in section 17001, subsection 4,
9 paragraph A, plus interest at a rate, to be set by the board, not to exceed regular interest by
10 5 or more percentage points. Interest must be computed beginning at the end of the year
11 when those contributions or pick-up contributions would have been made to the date of
12 payment. For the loss of compensation from employment in an extracurricular or
13 cocurricular position that was eliminated or otherwise unavailable during the period from
14 January 1, 2020 to July 1, 2021 due to circumstances related to the novel coronavirus
15 disease referred to as COVID-19, the member must pay an amount equal to the computed
16 actuarial value. If the member elects to make the payment, the retirement system shall
17 withhold the required amount from the member's first retirement benefit check.

18 **3. Benefit calculation.** If the member fails to make the election within 31 days of the
19 notification provided under subsection 1, the retirement system shall calculate the
20 member's retirement benefit without inclusion of the days off without pay and without
21 inclusion of the compensation that otherwise would have been paid if the freezing of merit
22 pay and longevity pay had not occurred during fiscal year 2002-03, 2009-10, 2010-11,
23 2011-12 or 2012-13, or a combination thereof, or the loss of compensation from
24 employment in an extracurricular or cocurricular position that was eliminated or otherwise
25 unavailable during the period from January 1, 2020 to July 1, 2021 due to circumstances
26 related to the novel coronavirus disease referred to as COVID-19, as provided in section
27 17001, subsection 4, paragraph A.

28 **Sec. 3. 5 MRSA §17768** is enacted to read:

29 **§17768. Service credit for teachers**

30 A member who is a teacher and who experiences a reduction in income from an
31 extracurricular or cocurricular position due to circumstances related to coronavirus disease
32 2019, referred to in this section as "COVID-19," may purchase service credit for the period
33 during which the extracurricular or cocurricular position was eliminated or otherwise
34 unavailable under the following conditions.

35 **1. Eligibility requirements.** A teacher may purchase service credit under this section
36 only if:

37 A. During the 12 months preceding the start of the period of the service credit, the
38 teacher received income from employment in an extracurricular or cocurricular
39 position that was eliminated or otherwise unavailable during the period from January
40 1, 2020 to July 1, 2021 due to circumstances related to COVID-19; and

41 B. The teacher is in the final 3 years of service during the period from January 1, 2020
42 to July 1, 2021.

43 **2. Limit on service credit.** The additional service credit under this section may be
44 purchased only for the period from January 1, 2020 to July 1, 2021.

