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To: Members of the Joint Standing Committee on Labor and Housing

From: Robert P. Nadeau, Esq., Chief Counsel for Labor and Employment

Re: L.D. 555, An Act To Expand the Rights of Public Sector Employees

Please accept this letter on behalf of the Maine Community College System in opposition to L.D. 555. We oppose this legislation for three reasons: 1) the bill may lead to massive disruption in the lives of our community college students, 2) the bill may render MCCS unable to provide timely and essential workforce training, and 3) the bill may lead to a financial crisis in MCCS that may ultimately force the System to suspend operations. Although I appreciate that this bill is intended to benefit workers, the ramifications of this bill could be both disruptive and costly.

In my duties, I am the lead negotiator on all six collective bargaining agreements for the Board of Trustees. Please note that this legislation does not create for the colleges an immediate risk of a strike since our contracts contain language that comports with existing law and prohibits strikes. Since, however, the language in our contracts is subject to binding arbitration, passage of L.D. 555 could mean the very real possibility of a strike perhaps in the near future.

A. A Strike would Disrupt the Lives of Our Students.

We oppose this bill first of all out of concern for our students. A strike or work stoppage would potentially create massive disruption in the lives of our students, leaving them unable to complete their degrees, certification programs or prerequisites. A strike would mean missed classes, and for some students such as in nursing, even a few missed classes would leave the students unable to progress toward their degrees. Students could be forced to look to private, for-profit institutions for the completion of their degrees, delaying their entry into the workforce and increasing student debt.

B. The Financial Impact of a Strike to MCCS could be Catastrophic.

The Maine Community College System also opposes this bill based on the financial impact that a strike or work stoppage would have on the System. If a strike were to last long enough, the

community colleges may be forced to end a semester prematurely and could be forced to return federal financial aid. In such an event, the cost to the MCCS would be conservatively estimated to be in excess of \$40,000,000 for one failed semester. Under these circumstances, the Maine Community College System would be forced to suspend operations.

We arrived at the estimate of the fiscal note for this bill as follows:

Estimated return of Federal Financial Aid if not able to complete semester:	\$19,931,666
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Estimated Institutional Charges to be Returned	
--Tuition and Fees returned	\$15,383,712
-- Room and Board returned	<u>\$5,422,565</u>

Estimated Total Financial Loss for One Semester:	\$40,737,943.
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C. A Strike would Disrupt Vital Training for the Workforce Required by Maine's Employers.

Employers would also face disruption. Employers who look to the Maine Community College System for training of their workforce could find their employees unable to complete necessary training in the timeframe required by the industry. What would it mean to the Maine economy if employers looked to relocate to other states, no longer having confidence that the community colleges could provide reliable and timely training for its workforce?

I note also that LD 555 differs from an earlier version (LD 900) submitted during the 129th Maine Legislature in that this bill prohibits public employers from hiring permanent workers to replace striking workers. This provision will only make it more difficult for MCCS to continue to serve students and maintain operations in the event of a strike.

D. In Upholding the Constitutionality of the Public Sector Bargaining Statute, the Law Court Recognized that the Legislature did not Permit Public Sector Strikes.

The law that would be amended by L.D. 555 was passed by the Legislature in 1969. The Law Court considered the constitutionality of this law in 1973 in a case involving the City of Biddeford. In this decision upholding the law, the Law Court recognized that the Legislature explicitly excluded from the law the right to strike. The Law Court indicated that while the Legislature was willing to authorize public sector collective bargaining, it did so "mindful of the denial to municipal employees of such economic weapons as strikes and work stoppages." City of Biddeford vs.

Biddeford Teachers Association, 304 A.2nd 387, 398 (1973). The court recognized that collective bargaining by public sector employees was a way to work a balance between the rights of workers and the essential and vital services that public sector employees provide to the state. The court also recognized, I think it is safe to assume by its description of a strike as a “weapon”, that public sector work stoppages could be enormously disruptive and expensive.

Given the essential nature of public sector services, including education and workforce training, I respectfully suggest that the best means to address employee concerns including most importantly concerns about salary is not through the disruptions of a strike but through action by the Legislature to increase the appropriation available for public sector salaries and benefits. This would be a measure that the Legislature, public sector employers and unions could work together to achieve, and the Maine Community College System would welcome the opportunity to participate in those discussions.