Testimony of Kirsten LC Figueroa, Commissioner
Department of Administrative and Financial Services

Before the Joint Standing Committee on
Appropriations and Financial Affairs

"An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2023, June 30, 2024 and June 30, 2025"

February 8, 2023

Good morning, Senator Rotundo, Representative Sachs, and members of the Joint Standing Committee on Appropriations and Financial Affairs. I am Kirsten Figueroa, the Commissioner of the Department of Administrative and Financial Services. I am here today to present LD 258, the Governor's proposed fiscal year 2024-2025 biennial budget bill and to testify in support of certain language items.

Introduction

This budget advances the Governor's guiding belief that to build a stronger, more prosperous state where opportunity is available to all, we must invest in the infrastructure that supports our greatest asset: the people of Maine.

That is why this budget proposal aims to strengthen the things that Maine people rely on every day to succeed, like education, housing, health care, child care, and transportation infrastructure.

It maintains and builds on previous accomplishments.

We've achieved 55 percent of the cost of education for the first time in Maine history; fully restored municipal revenue sharing to 5 percent for the first time since 2009; enacted free community college; overhauled our student loan debt relief program; provided significant tax relief; invested more than $700 million in MaineCare and provider rate increases; provided free school meals; delivered the strongest inflation relief measure in the country – and most recently with the comprehensive Winter Energy Relief package – we made incredible bipartisan progress on issues critical to the people of Maine.

All of that work, all of those achievements, and the desire to ensure their continuation – became the foundation for this budget.

This proposal is balanced, it does not raise taxes and it leaves the Rainy Day Fund untouched at a record high of more than $900 million to protect us against the possibility, or as the various economists project, the inevitability, of an economic downturn. And, it fully funds initiatives of the Legislature that are law and that have cost more than expected.

We have governed cautiously and in a fiscally prudent way over the past four years, making sure that – even in the hardest of times during the pandemic – we lived within our means.

This budget proposal continues that practice.

We have maintained positive credit ratings.

We have grown Maine's Rainy Day Fund.

We provide and improve the critical services Maine people and families depend upon.

Progress made. Progress being made. More progress coming.

Governor Mills considers all of these variables – the amazing work of previous budgets, the impact of the Maine Jobs Plan, the partnership with the Legislature, the pandemic recovery funding from our federal partners, the geopolitical landscape, inflation and interest rates, the possibility of a recession, the progress we've made and have promised to continue – in crafting this biennial proposal, putting all the pieces together to chart a course forward. To continue to provide and improve the critical services to Maine people and families. To give people stability and dependability in State government. To have a plan to ensure we continue to do that and continue to fund those things that the Legislature and the Governor have worked together to enact.

We look forward to the ongoing discussion over the next several months as we outline each initiative and impact of the proposed investments, and update on the progress being made throughout the state.

Now to the specific initiatives on the agenda.

Part I

Part I begins on **page 13** of the language document. This Part updates statutes relevant to the General Fund appropriation limit to rebase the limit, simplify, and clarify the calculation. Additionally, updates clarify how transfers to the Budget Stabilization Fund are to be handled when revenues exceed the appropriation limit or when the Budget Stabilization Fund has reached its statutory maximum.

Public Law 2005, chapter 2, "An Act to Increase the State Share of Education Costs, Reduce Property Taxes and Reduce Government Spending at All Levels", was enacted to implement the Maine Municipal Association referendum for state government to pay 55 percent of the total cost of education and to strengthen the State's spending limitation and Budget Stabilization Fund (BSF).

There were three components of the original law:

Spending limits:

- The law limited the growth of the state's General Fund appropriations to rates reflective of Maine's income and population growth (the population growth component has since been removed). Any revenue over the limit is directed to the Budget Stabilization Fund.
- County assessments and municipal assessments were limited by income and property growth factors.
- School spending is tied to the level of student enrollment.
- Governing bodies may surpass the limits, but only through an explicit, public vote.

Targeted tax relief:

- The law sought to target tax relief directly to Maine residents through specific programs. At initial passage, it increased the amount of property tax relief available through the Maine Residents Property Tax and Rent Relief Program (the "Circuit Breaker") and increased the Homestead Exemption. The Circuit Breaker program has since been replaced by a refundable Property Tax Fairness Credit that can be claimed on the Maine Individual Income Tax Form.

Increased school funding:

- The law set the course for increasing state spending on K-12 education to an amount that is 55% of the costs covered under Essential Programs and Services (EPS). This goal had never been met until the passage of PL 2019 Ch. 616 (FY20-21 supplemental).

Since its passage, there have been several amendments/refinements to the spending limitation and BSF statutes, but the basic structure remains.

Appropriations growth has historically been below the limit partly because of how the limit was structured. Now that school funding has reached 55%, the limit is meant to be calculated differently, but statute doesn't make clear how to adjust the base for the new calculation. Also, it was unclear in statute what happens when revenues exceed the appropriation limit and when the BSF has reached its statutory maximum of 18%. The BSF is now at 16.6% based on the actual revenue collected for FY22; and, given the current forecast, it is expected to be over the maximum at the end of this fiscal year.

Specifically, the changes proposed in **Part I** do the following:

- Simplifies the definition of Baseline General Fund revenue to mean the recommended General Fund revenue forecast reported by the Revenue Forecasting Committee in its December 1st report of even-numbered years in accordance with Title 5, Chapter 151-B, Section 1710-F, eliminating reference to changes affecting state and local tax burden.
- Rebases the appropriation limit to recognize various achievements, including fully funding at 55 percent the cost of education, Medicaid expansion, Medicaid and provider payment rate reform, and fully funding revenue sharing at 5 percent. For the 2024-2025 biennium, the base for the appropriation limit calculation is reset at 98 percent of the Baseline General Fund revenue for FY24 projected by the Revenue Forecasting Committee as of December 1, 2022. The Growth Factor is then applied to that base to derive the limit for FY25. Please note, in number 4, letter A at the bottom of page 13 it currently reads 99 percent, but it should read 98 percent. We will include this correction in the change package.
- Redirects where monthly interest earnings on BSF are deposited once BSF reaches its statutory maximum of 18% from the Retirement Allowance Fund to the Irrevocable Trust Funds for Other Post-Employment Benefits for the State Employee Plan (OPEB-SEP) established in Title 5 MRSA section 286-B. This change will help make some progress on the OPEB-SEP that currently has unfunded actuarial liability of $746.6 million, and which must be amortized by the year 2037 per that same statute.
- Removes the qualifier of not funding education at 55 percent now that we are funding education at 55 percent.
- Upholds that any Baseline General Fund revenue exceeding the General Fund appropriation limit will be deposited into the Budget Stabilization Fund and clarifies the process and timing for such a deposit.

Adds that if the BSF is at its statutory maximum of 18 percent then these revenues above the limit will be transferred as follows:

- Eighty percent to the Highway and Bridge Capital program, Other Special Revenue Funds account;
- Ten percent to the Maine Municipal Bond Bank, School Revolving Renovation Fund established in the Maine Revised Statutes, Title 30-A, section 6006-F; and,
- Ten percent to the Irrevocable Trust Funds for Other Post-Employment Benefits for the State Employee Plan established in Title 5 MRSA section 286-B.

This situation of forecasted revenues being above the limit has historically not been common. It is only in these past couple years that we have experienced this and we project that we will be back to revenue under the rebased limit by fiscal year 2026.

- Adds to the Final Priority Transfers, otherwise known as the "cascade", the School Revolving Renovation Fund by adjusting the BSF deposit from 80 percent to 70 percent:
  - Seventy percent (this is currently eighty) to the budget stabilization fund;
  - Twenty percent to the Highway and Bridge Capital program, Other Special Revenue Funds account; and
  - Ten percent to the Maine Municipal Bond Bank, School Revolving Renovation Fund established in the Maine Revised Statutes, Title 30-A, section 6006-F.

  As a reminder, the cascade is pertinent to actual General Fund revenues collected (and lapsed balances etc.) that are below the limit but above what was budgeted.

- And, lastly, suspends transfers of revenues above the limit to the BSF for fiscal years 2024 and 2025. Instead, this budget proposes:
  - $200 million of these revenues be transferred to Maine DOT:
    - $130 million to the Highway and Bridge Capital program, Other Special Revenue Funds to support highway and bridge projects;
    - $40,000,000 to the Multimodal Transportation Fund, Other Special Revenue Funds account to support multimodal projects; and
    - $30,000,000 to the Highway Light Capital, Other Special Revenue Funds account for the purpose of supporting light capital paving projects.

- $30 million of these revenues be transferred to Maine State Housing Authority, State Housing Authority program, Other Special Revenue Funds account to expand rental housing options that are affordable to workers and their families through equal funding to the Rural Affordable Rental Housing Program and the Low-income Housing Tax credit program; and,
- $7,500,000 of these funds be transferred to the Maine Community College System Free Community College - 2 Enrollment Years program, Other Special Revenue Funds account within the Maine Community College System to provide two years of free community college for all high school graduates from classes of 2024 and 2025 who enroll in a Maine community college full-time.

Part K

Part K begins on **page 18** of the language document.

The projected FY24 and FY25 revenues as projected by the Revenue Forecasting Committee in its December 2022 report for the Highway Fund are insufficient to cover even the baseline expenses let alone new anticipated biennial needs of the Fund. **Part K** redirects profits received from Title 28-A, section 90, the State's spirits operation, to address this imbalance without raising taxes or fees. Since fiscal year 2015, these profits have been sent to the Maine Municipal Bond Bank to be used for payment of the liquor operation revenue bond, which was the mechanism to pay outstanding hospital debt. The State intends to retire the liquor operation revenue bond by June 30, 2023. **Part K** also ensures the continuation of existing state match for certain water programs in the Department of Health and Human Services and the Department of Environmental Protection.

Specifically, the changes proposed in **Part K** do the following:

- Repeals the Healthcare Liability Retirement Fund, which was the Fund established to receive bond proceeds and make payment to hospitals and is no longer needed.
- Ends the requirement that profits received from Title 28-A, section 90, the State's spirits operation, are sent to the Maine Municipal Bond Bank.
- Redirects the profits received from Title 28-A, section 90, the State's spirits operation as follows:
    - The first $7 million be deposited as undedicated revenue in the General Fund, for purposes of continuing to support state match toward certain water programs in the Department of Health and Human Services and the Department of Environmental Protection. The corresponding appropriations to the departments may be found on pages A-331 and A-281.

    - All amounts in excess of $7 million (which are currently estimated at $53 million) be deposited as undedicated revenue in the Highway Fund.
- At the close of fiscal year 2023, transfers any accumulated balance remaining after the retirement of the liquor operation revenue bond:
    - first to the unappropriated surplus of the General Fund; and,
    - then to the TransCap Trust Fund to be used to pay towards the balance of remaining debt service of 2015A and 2021A bonds, which will create capacity for additional funds needed to match historic federal investments in roads, bridges and multimodal infrastructure.

Part S

Part S begins on **page 23** of the language document. This language adjusts the attrition rate for the 2024-2025 biennium from 1.6% to 5% for judicial branch and executive branch departments and agencies.

The appropriation reductions noted for the **Executive Branch Departments and Independent Agencies – Statewide program (0017)** reflect the projected savings from this change. The same proposal has been made in the budget bill for the Highway Fund.

The baseline budgets submitted for each Program include a reduction of 1.6%, the standard rate authorized in law, of salaries for each position. The reductions of $15,838,357 for Executive and $1,737,645 for Judicial in Fiscal Year 2024 and $16,059,526 and $1,772,515 in Fiscal Year 2025 reflect the change from the budgeted 1.6% to the 5.0% that is proposed in Part S. The savings will be distributed to the Executive and Judicial accounts by Financial Order in each fiscal year.

Part VVV

Part VVV, on **page 56** of the language document, clarifies that COVID Disaster Relief Payment checks will be treated as unclaimed property that is not subject to the notice and receipt provisions established in the Maine Revised Statutes, Title 33, section 2101. The volume and timing of returned/uncashed relief checks unduly burdens staff in the Office of the State Treasurer and financial service centers, and delays the State's ability to reissue unclaimed relief payments. Authorizing unclaimed relief payments to escheat immediately allows the state (and the recipient) to leverage the unclaimed property system to reissue unclaimed payments much faster.

The notice and receipt provisions in Title 33 require the Treasurer to compile a list of outstanding checks annually, after which agency personnel must mail due diligence letters to identified recipients – a process which typically takes several months. Once a recipient's current address is identified, the state must follow a process to cancel the original payment and reissue a replacement – a process that requires multiple transactions to complete. Waiving these provisions allows the uncashed checks to be escheated immediately and allows identified recipients to request a replacement directly through the unclaimed property portal in a single transaction.

This concludes my testimony. Thank you. I am happy to answer any questions you may have.