Testimony of Mark Brunton
Maine Service Employees Association, SEIU Local 1989

In OPPOSITION to Part G of LD 2214, An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2024 and June 30, 2025" (Emergency) (Governor's Bill) Sponsored by Representative Melanie Sachs

Before the Joint Standing Committee on Appropriations and Financial Affairs,
2pm Tuesday, February 20, 2024, State House Room 228 and Electronically

Senator Rotundo, Representative Sachs and members of the Committee on Appropriations and Financial Affairs, I'm Mark Brunton, president of the Maine Service Employees Association, Local 1989 of the Service Employees International Union. We are a labor union representing over 13,000 Maine workers, including workers in all three branches of Maine State Government.

We are here today in opposition to Part G of LD 2214 – the proposal to squirrel away $107 million of unappropriated surplus in the General Fund for future needs. Part G is disappointing given that Maine's rainy-day fund is already maxed out at nearly $1 billion. Part G seems like nothing more than an end-run around the statutory cap on the rainy-day fund.

Part G is especially disappointing given the administration's repeated failure to adequately staff services that Maine people are counting on. Understaffing is rampant throughout all departments of Maine State Government. With nearly one is six positions vacant – that's over 2,100 vacant jobs – the State is struggling to hire frontline workers. This is due in large part to the state employee pay gap. The state-commissioned compensation and classification study conducted in 2020 but still not yet acted upon by the administration, despite its statutory and contractual obligations, shows that state workers have been underpaid by 15%, on average, compared to their public and private sector counterparts throughout Maine and New England. In fact, the pay gap is even worse for many state classifications such as civil engineers, accountants, mechanics and correctional workers.

The impacts of understaffing state services are everywhere. Just last week, the Maine Department of Corrections cited the inability to recruit and retain staff in its closure of two small-scale youth facilities that were meant to serve as alternatives to the Long Creek Youth Development Center. Similarly, the Maine Department of Transportation is now hiring private consultants at $85 an hour or more because it cannot hire enough state engineers at the state's low rate of pay. Maine's child-protective services remain seriously understaffed and 550 Maine children are waitlisted for special education services they have a right to under Maine law. The State also is struggling to staff 911 dispatch centers, the Maine State Ferry Service and even our beloved Maine state parks. All of these and other public services, along with the workers who provide them, ought to be prioritized over squirreling away $107 million for what the administration calls "future funding needs."

You should know that in 2023, I urged passage of LD 1854, An Act to Complete and Implement the Comprehensive Review of the Classification and Compensation System for Executive Branch Employees. The bill went under the hammer and was included in the budget legislation passed last July. The enacted budget required the Mills administration to complete the comprehensive review by January 31, 2024, and begin negotiations with workers on the implementation of the recommended changes to the state classification and compensation system.

The current classification and compensation system for state employees was put in place in the late 1970's. When the system was created, the Legislature also included in state law a requirement for the Bureau of Human Resources to provide active reviews, management and oversight of the entire compensation and classification system every 10 years. Each subsequent administration has failed to do this basic maintenance, and both state workers and Mainers who count on state services are paying the price for their intransigence.

The efforts of MSEA members and workers to correct the Bureau of Human Resources' dereliction of duty began in 2019. In our negotiations with Governor Mills' administration, MSEA and Executive Branch workers agreed then to a Memorandum of Understanding to complete a compensation and classification study to support a discussion, grounded in empirical evidence, to determine whether the pay gap still existed, to measure the extent of the gap and to outline the deficiencies in the classifications across all departments. The State contracted with Segal Consulting to conduct the study. The compensation study was designed by a joint labor-management committee and utilized a sampling of "benchmark" positions to determine the average compensation of state government positions.

The compensation portion of the study was completed in 2020. It showed state workers were underpaid 15% on average compared to their public and private sector counterparts throughout Maine and New England. At the time, the administration attempted to block MSEA from releasing the results of the compensation study to our members.

In contract negotiations in 2021, MSEA demanded immediate action to end the pay gap. The administration and DAFS insisted they needed more time to finish the classification portion of the study. MSEA agreed to extend the MOU and assumed there would be good faith to complete the study, then negotiate its implementation.

After a six-month delay in the start of contract negotiations in 2023, we discovered that little progress was made on the classification portion of the study. Then on November 16, 2023, The Legislative Council voted to allow LD 2121, An Act to Address Chronic Understaffing in Maine State Government, sponsored by Representative Drew Gattine, to proceed as emergency legislation. LD 2121, which we support, would:

- Provide $165 million in funding for a new compensation and classification system that closes the state employee pay gap for Executive Branch workers;

- Require the administration to report annually to the Maine Legislature on all Executive Branch job vacancies, so that the Legislature can adequately assess the ongoing staffing crisis;

- Improve laws relating to recruitment and retention adjustments, making it easier to establish recruitment and retention programs targeting agencies experiencing chronic understaffing;

- Require the Maine Department of Administrative and Financial Services and the Bureau of Human Resources to develop a plan to improve the state government hiring process

On February 1, 2024, I received a copy of the Report and Recommendations of the Maine State Government Classification and Compensation Plans Study presented to the Joint Standing Committees on Appropriations and Financial Affairs and State and Local Government on behalf of Department of

Administrative and Financial Services (DAFS) Commissioner Figueroa. To say I was disappointed would be a gross understatement. The report is not only incomplete, it is wholly inadequate in terms of meeting the State's obligations under our negotiated contracts and state law. The report declares "it's time to set aside the phrase 'pay gap'" without providing any evidence of progress in terms of competitiveness of state employment with local governments, the federal government, or the private sector. In fact, according to the DAFS' own data, the report shows that Maine State Government per-job wages grew 19% from 2019 to 2022, whereas the total growth in all sectors in Maine was 23.3%. As such, their data contradicts the report's purported findings. Other publicly available data shows that average wage growth in Maine has been 30% from 2019 through the first quarter of 2023, according to a quarterly census report on wages – meaning that the pay gap continues to grow.

I have recounted the events of the past five years to emphasize each opportunity the Mills administration and DAFS missed to fix the employment system in Maine State Government and avert the current crises in several departments that directly result from severe staffing shortages. MSEA members and staff have worked tirelessly to convince the administration and DAFS to address the pay gap and related staffing shortages. I'm extremely disappointed to say it appears the Mills administration is not interested in addressing critical staffing shortages and raising state employment up to regional and national pay standards. It is also clear that the Legislature must appropriate the funds to close the pay gap and direct the administration to complete their work to fix the compensation and classification system. As such, instead of squirreling away $107 million for undisclosed, please fund, as proposed in LD 2121, a new compensation and classification system for Executive Branch workers. The need to close the pay gap is real and it must be closed now.

Thank you and I would be glad to answer any questions.

Timeline: State Employee Pay Gap

1975: The compensation and classification system for the Executive Branch of Maine State Government arose out of a study conducted by Hay Associates in 1975 and the system was implemented and funded through Legislation shortly thereafter.

- By design, the system requires active management, which included regular updates and reviews. By statute, proper oversight of the classification system "shall provide for periodic updating of job descriptions at least every 5 years to accurately reflect current duties and responsibilities of each job classification." 5 MRSA § 7061(4)(A).
- In addition, the Bureau of Human Resources is required, by statute, to provide annual reports that include data such as turnover rates by job classification, the total number and disposition of reclassification requests, and the number of vacancies and the reason for those vacancies, as well as the length of time required to fill each vacancy. 5 MRSA § 7036 (13).
- Similarly, civil service rules require the Director of Human Resources to "make or cause to be made such comparative studies as deemed appropriate of factors affecting the levels of salaries in the classified service." Chapter 18, Section 389, chapter 5(2)(B).
- However, over the last 40-plus years, the system has not been actively managed. The State's oversight has been haphazard; it has failed to adequately manage the systems in any comprehensive manner since the 1980s. As a result, the overall architecture of the classification system is in shambles, and pay for State workers has lagged far behind those of their peers.

2006: Under the Baldacci administration, MSEA members and management conducted a reclassification and compensation study of positions in the Executive Branch's Administrative Services Bargaining Unit.

- This review resulted in an at-least 5% across-the-board pay raise for all Administrative Services Bargaining Unit positions.
- Similar reclassification and compensation studies in MSEA's three other Executive Branch bargaining units – Operations, Maintenance & Support Services; Professional-Technical Services; and Supervisory Services – also began under the Baldacci administration but none of those three was ever implemented.
- Upon taking office in 2011, Governor LePage ended the reclassification and compensation study process; to this day, no action was ever taken on the three remaining studies that began under the Baldacci administration.

2009: A labor-market study by the Crescendo Consulting Group of Portland, Maine, commissioned by the Maine Department of Administrative and Financial Services in 2008, but never acted upon by either the Maine Legislature or the Baldacci administration, shows that wages of state workers were far behind those of their private-sector counterparts doing comparable work. At the time of the report's release, the Baldacci administration tried to keep its findings secret; the report was stamped as confidential and only released to MSEA following a request under Maine's Freedom of Access law. According to the report, State of Maine workers in January 2009 were paid hourly rates less than their private sector counterparts as follows:

- **Administrative services** workers such as secretaries and clerical workers, 7.5% less;
- **Professional-technical services workers** such as engineers, technicians and chemists, 21.7% less;
- **Institutional services workers** such as corrections workers and mental health workers, 11.8% less;
- **Operations and maintenance services workers**, including highway maintenance workers and MaineDOT highway crews, 21.6% less;
- **Supervisory services workers**, 9.6% less.

2011: Governor LePage halted all of the reclassification and compensation study work that had been under way during the Baldacci administration. Even though the reclassification and compensation study for the Operations, Maintenance and Support Services Bargaining Unit was completed and on Governor LePage's desk in early 2011, his administration never acted on it and implementation discussions never happened. The Supervisory Pay Study was about midway through their analysis of the classifications in their unit, and the Professional-Technical Services Bargaining Unit study was nearing the end of its classification chart work.

2011 - 2018: The LePage administration refused to participate in any labor-management work to address the need to bring the State of Maine's Executive Branch compensation and classification system into the 21st century.

March 25, 2019: Maine DAFS Commissioner Kirsten Figueroa testified before the Committee on Labor and Housing in support of LD 1214, a Resolve, To Conduct a Comprehensive Study of the Compensation System for State Employees. MSEA-SEIU Local 1989 also testified in support. LD 1214 died upon the conclusion of the 129th Legislature; MSEA-SEIU Local 1989 and the Mills administration in contract negotiations reached a memorandum of understanding to complete a compensation and classification study relating to the Executive Branch as explained in the July 31, 2019, timeline entry.

- **Excerpt from Commissioner Figueroa's testimony in support of LD 1214**: "The current compensation system is 40 years old and has never been systematically reviewed. During that time, inadequacies and inequities of the current compensation system that loudly demanded our attention in the form of arbitration, legislation, settlements and collective bargaining were addressed through a hodgepodge of reclassifications, range changes, stipends and adjustments. Meanwhile, a host of issues remain unaddressed, some solutions have given unintentional rise to new issues, and the work of state employees has evolved considerably since the current compensation system was first instituted."
- **Excerpt from then-MSEA-SEIU president Ramona Welton's testimony in support of LD 1214**: "After years of neglect, and crisis—induced adjustments, the current system lacks internal cohesion, and fails to stay current with market conditions. We need a neutral third party to lead a data-driven process that can review the entire compensation system, review job classifications, compile alternative models, and provide an analysis of how state employees' pay compares to the employers and industries that the state of Maine is competing with."

July 31, 2019: Following contract negotiations with Governor Mills' administration, MSEA-SEIU members in the Executive Branch ratified new contracts that included a Memorandum of Understanding to complete a compensation and classification study to support a discussion, grounded in empirical evidence, to determine whether the pay gap still existed, to measure the extent of the gap and to outline the deficiencies in the classifications across all departments. The State contracted with Segal Consulting to conduct the study. The compensation study was designed by a joint labor-management committee and utilized a sampling of "benchmark" positions to determine the average compensation of state government positions.

November, 20, 2020: The compensation portion of the compensation and classification study that MSEA and management agreed to was completed. It showed state workers are underpaid 15% on average compared to their public and private sector counterparts throughout Maine and New England, and that it's even worse for classifications such as civil engineers, accountants, chemists, mechanics and correctional workers. At the time, the Mills administration attempted to block MSEA from releasing the results of the compensation study to its members. The report documented that MSEA-SEIU-represented workers within the State of Maine Executive Branch earn less than their counterparts as follows:

- **Administrative Services Bargaining Unit**: State workers earn 18% less;
- **Operations, Maintenance and Support Services Bargaining Unit**: State workers earn 18% less;
- **Professional-Technical Services Bargaining Unit**: State workers earn 14% less;
- **Supervisory Services Bargaining Unit**: State workers earn 16% less.

2021: In contract negotiations, MSEA demanded immediate action to end the pay gap. The administration and DAFS insisted they needed more time to finish the classification portion of the study. MSEA agreed to extend the Memorandum of Understanding and assumed there would be good faith to complete the study, then negotiate its implementation.

May 12, 2023: Scores of state workers testified in support of LD 1854, An Act to Complete and Implement the Comprehensive Review of the Classification and Compensation System for Executive Branch Employees, sponsored by Representative Drew Gattine. During the 2023 legislative session, much of the language of LD 1854 was folded into the State Budget that was enacted into law; as such, LD 1854 died with the conclusion of the legislative session as explained in the July 11, 2023, timeline entry below. LD 1854 would have required the State to:

- Perform a compensation study every two years; conduct a comprehensive classification review every 10 years;
- Complete and implement the results of the current classification and compensation studies by July 1, 2024;
- Establish a State Employee Compensation Stabilization Fund to help fund closing the state employee pay gap.

July 11, 2023: Maine Legislature approves, and Governor Mills on July 11 signs into law, PL2023, Chapter 412, Part UUU (see the Maine Senate's summary on Page 23 of the PDF):

- Section UUU-2 directs the Commissioner to "complete the comprehensive review of the classification and compensation system for employees of the executive branch that was undertaken pursuant to a memorandum of agreement executed MSEA on June 25, 2019."
- Section UUU-3 states that the Commissioner shall submit a report based on the recommendations in the comprehensive review by no later than January 31, 2024.
- Section UUU-5 allocates $1.2 million for completion of the review. This was on top of the initial $1.2 million that the Legislature allocated for the review back in 2019.

- Section UUU-2 included an express legislative mandate that the completed study shall include "a recalculation of the market salary report using current salary data." Because the initial market salary report was completed more than three years ago and utilized data from 2019 and 2020, the Legislature required the Commissioner to re-run the market salary report for inclusion in the completed review.

September 8, 2023: A delegation of MSEA-SEIU members delivered over 400 letters from state workers to Maine DAFS Commissioner Kirsten Figueroa with this message: "Please tell your bargaining team to offer a wage proposal that closes the pay gap and ensures that we have appropriate staffing levels. The time is now to provide us with the respect we have earned."

November 16, 2023: The Legislative Council voted to allow Representative Drew Gattine's bill, An Act to Address Chronic Understaffing in Maine State Government, to proceed as emergency legislation. The legislation, LD 2121 would:

- Provide $165 million in funding for a new compensation and classification system that closes the state employee pay gap for Executive Branch workers;
- Require the administration to report annually to the Maine Legislature on all Executive Branch job vacancies, so that the Legislature can adequately assess the ongoing staffing crisis;
- Improve laws relating to recruitment and retention adjustments, making it easier to establish recruitment and retention programs targeting agencies experiencing chronic understaffing;
- Require the Maine Department of Administrative and Financial Services and the Bureau of Human Resources to develop a plan to improve the state government hiring process.

Dec. 23, 2023: Members of MSEA-SEIU Local 1989 ratified new Executive Branch contracts with the Mills administration. The agreements included a Memorandum of Understanding stating: "The parties agree that the Classification and Compensation study first agreed to on June 25, 2019, and extended on August 17, 2021, will be completed and implemented as required under PL2023, Part UUU."

Jan. 31, 2024: Instead of completing the 2020 classification and review as required by PL2023, Chapter 412, Part UUU, and as required by the ratified collective bargaining agreements, the Mills administration submitted to the State and Local Government Committee a report titled Report and Recommendations of the Maine State Government Classification and Compensation Plans Study, dated Jan. 31, 2024.

- In the submitted report, the administration willfully disregarded this legislative mandate. The commissioner's report made no reference to the obligation to re-run the market salary report at all.
- Rather, the report meekly stated that the 2020 Market Study Report is out of date and then made the data-free assertion that it has successfully closed the pay gap identified by the 2020 Market Study Report.
- Given that the administration ignored the legislative mandate expressly requiring that the completed review include a recalculation of the market salary data, the administration failed to make a good faith effort to complete the review.

February 8, 2024: MSEA-SEIU General Counsel Tom Feeley, in responding to the administration's report dated Jan. 31, 2024, said in his testimony before the State and Local Government Committee, "Respectfully, we ask that the Commissioner be directed to comply with the legislative mandate of

Section UUU and complete the review utilizing a recalculated Market Study Report based on current salary data. I would also suggest that the Committee invite representatives from the Segal Group to attend your work session so they can explain what exactly re-running the Market Study Report would entail. The Legislature has already allocated more than enough money for the State to retain Segal to re-run the Market Study Report."

Also on February 8, 2024: State workers and organizations testified in support of LD 2121, An Act to Address Chronic Understaffing of State Government Positions, Sponsored by Representative Drew Gattine.

Maine state employees still face significant pay gap

By James Myall
Economic Policy Analyst
Maine Center for Economic Policy

February 6, 2024

Last week, the Maine Department of Administrative and Financial Services released a report outlining the progress the administration has made on closing the pay gap between state workers and their peers. In 2020, a market study report found compared to workers in equivalent positions in the private sector and other kinds of public-sector workers, state employees were underpaid by approximately 15 percent, on average. The recently released update from the Administration claims "It is time to set aside the phrase 'pay gap,'" yet data in the report and elsewhere shows such a gap clearly persists, and may even have widened.

The "pay gap" is the difference in wages earned by state employees and the amount they could earn working similar positions in the private sector or elsewhere in other public-sector jobs outside of Maine State Government. A large pay gap makes it harder for the state to hire employees and leads to more people quitting for better pay elsewhere. Empty positions mean more work for the remaining workers and poorer delivery of services Mainers depend on, from child protection to public health nursing and the administration of safety net programs.

These consequences are widely recognized. The administration's report notes the vacancy rate in state government is currently close to 16%, significantly higher than the typical 9-10% rate. In her recent State of the State address, Governor Mills proposed reclassifying child welfare positions, saying "to help fill these new positions, they must pay appropriately.” This statement should apply not only to child welfare positions but across state government.

The Administration argues state employees have received a number of wage and salary increases over the past few years as a result of contract negotiations, which is true. These increases will amount to a 24 percent increase in wages by July 2024 compared to January 2019. However, the key context is private sector wages have increased *even more* than this over the same period.

For example, the average weekly earnings of private sector wage and salary workers in Maine increased by 30 percent between the first quarter of 2019 and the same period in 2023, according to data from the Maine Department of Labor. Based on projections from the Maine Economic Forecasting Commission, that increase will be 35 percent by 2024.

This comparison holds true when examining industries which are roughly equivalent to state government work. As would be expected in the strong labor market we have seen since coming out of the pandemic, employees in the professional and business services sector will see a 41 percent increase by 2024; administrative support employees 47 percent; and health care and social assistance workers 27 percent. Each of these outstrips the 24 percent negotiated increase through 2024 for state workers.

Examining the increases in wages between Maine state employees and other *public sector* workers also does little to suggest a narrowing wage gap. In these cases, it is more difficult to project wages out to 2024, when the latest round of wage increases negotiated by Maine State Employees Association (MSEA) will take effect. For example, as of the first quarter of 2023, wage increases for local government workers in Maine were equivalent to the MSEA increases through July 2024 — but depending on the negotiated increases for those local government workers between 2023 and 2024, their final wage increase for the 2019-2024 period may be higher than state workers. By contrast, federal workers in Maine already saw bigger wage increases than state workers by 2023.

It is likely the wage gap between Maine state employees and their peers has grown since the last market rate study. While MSEA workers have earned significant increases in recent negotiations, these have been outpaced by many other workers, and by private sector equivalent industries in particular. Maine will not be able to deliver the quality services its residents rely on if it can’t close this pay gap and hire and retain a sufficient number of employees.

Thankfully, state lawmakers have the tools to address this issue. The State and Local Government Committee will soon consider LD 2121, “An Act to Address Chronic Understaffing of State Government Positions” from Representative Drew Gattine. Among other provisions, this bill would appropriate $165 million of the state’s current $265 million surplus to boost wages for state employees.

The state has the evidence and the funds needed to address the problem of state worker staffing and close the pay gap. Five years into the Mills Administration, the time is long past to act.