

**Testimony of Tom Feeley
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**MSEA's Response to the Report and Recommendations of the Maine State Government
Classification and Compensation Plans Study presented by Commissioner Figueroa**

**Before the Joint Standing Committee on State and Local Government,
1:00pm Thursday, February 8, 2024, Cross Office Building Room 214 and Electronically**

Senator Nangle, Representative Stover and members of the Committee on State and Local Government, I am Tom Feeley, General Counsel for the Maine Service Employees Association, SEIU Local 1989. I am here to address the Report and Recommendations of the Maine State Government Classification and Compensation Plans Study presented by Commissioner Figueroa.

I have been directly involved in the project to review the State's Compensation and System for over five years. I worked with Senate President Jackson on his initial Resolve to Conduct a Comprehensive Review of the Compensation System in the 129th Legislature. Once the Administration indicated its support for the review, I worked closely with MSEA's then-Deputy General Counsel on the Memorandum of Agreement that defined the scope of the project and required the State to commission a consultant to perform the study. I then worked with the State on the RFP process that resulted in the selection of the Segal Group as the contractor charged with conducting this review. Over the past several years, I have testified before this Committee repeatedly and worked directly with various legislators on the various bills and resolves dealing with this issue. And beginning in early 2020, I served on the joint labor-management Steering Committee overseeing this project, until the Bureau of Human Resources unilaterally cancelled all Steering Committee meetings last Spring.

Based on my familiarity with this project, I can say with absolute certainty that the State has not completed the comprehensive review as required by law and by the collective bargaining agreement.

I would direct your attention to PL2023, Chapter 412, Part UUU. For your convenience, I have attached a copy of Section UUU to my written testimony, and I have highlighted the portions that I will be referencing.

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. And Section UUU-5 allocates \$1.2 million for completion of the review. This is on top of the initial \$1.2 million dollars that the legislature allocated for the review back in 2019.

Vitaly, Section UUU-2 includes an express legislative mandate that the completed study shall include “a recalculation of the market salary report using current salary data.” The initial market salary report was completed more than 3 years ago and utilized data from 2019 and 2020. It should go without saying that the labor market has significantly changed over the past several years. The workforce contraction during the pandemic and out-of-control inflation has forced employers to offer higher wages to attract workers. In recognition of this, the Legislature knew that the 2020 market salary report was outdated. Therefore, the Legislature wisely required the Commissioner to re-run the market salary report for inclusion in the completed review.

Shockingly, the Administration willfully disregarded this legislative mandate. The Commissioner’s Report makes no reference to the obligation to re-run the market salary report at all.

Rather, the Report meekly states that the Market Study Report is out of date and then makes 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.

Moreover, regarding the Commissioner’s suggestion that it time to retire the phrase pay gap, the report’s own data directly undermines her argument. I would direct your attention to page 13 of the Report, which details the contractual raises under the Mills Administration. The data shows that between January 2019 and the end of 2022, State employee wages grew by 13%. On page 16, the Report includes a chart showing total wage growth in all New England states between 2019 and 2022. Strikingly, the 13% growth rate of State worker wages lags behind total wage growth in every state in New England. Even more significant, total wage growth across all sectors in Maine grew by more than 23% over that time period—meaning that State worker wages trailed total wage growth in Maine by more than 10%!

Clearly, not only has the State failed to close the pay gap, but it would appear that—according to the State’s own data—the pay gap is in fact getting worse.

As detailed in the Report, over the last five years, State employee wages have increased by approximately 20%. While this is certainly a marked improvement over the wage growth under the prior Administration, it is still clear that the State has only just now, as of January 1 of this year, caught up to where its peer competitors were in 2019 and 2020.

Unfortunately, however, State workers are living in 2024 and paying 2024 prices, and the State is competing for workers in the 2024 job market.

As such, any claim that this Administration has closed the pay gap simply cannot be taken seriously.

Just as importantly, the Commissioner’s Report wholly neglects the classification review as well. The central premise of any classification system is to allow jobs that are substantively very different to be compared to each other and compensated equitably based on objective features of the positions. The classification plan designed and adopted by the Legislature in the late 1970s was intended to have “consistent interpretation and application statewide” and

required active management, which included regular reviews and updates by the Director of Human Resources. For instance, under 5 MRSA § 7061, paragraph 4, subparagraph A, the implementation 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.” In addition, the Director of 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, for the last forty-plus years, the State has failed to manage the classification in any meaningful way, resulting in a system that is broken. I would like to quote from Commissioner Figueroa’s initial testimony back in 2019, when she supported the resolve to conduct the review.

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.

In light of the disfunction detailed by Commissioner Figueroa in her 2019 testimony, the Administration engaged Segal to perform a comprehensive analysis of all positions in State government and to make recommendations for adjusting the relative pay grades of the positions. Segal solicited individual and group questionnaire’s from literally thousands of State workers and from them produced a comprehensive analysis of the State’s classification system.

One aspect of this analysis was the surface level recommendations to combine positions and/or change titles to streamline job series across State government. For much of the last three years, the State has been reviewing the recommended titles, and, according to the Commissioner’s Report, the State has adopted some but not all of these surface-level recommendations.

However, the gravamen of the classification study goes much deeper than simply renaming or combining positions. Specifically, Segal analyzed each position based on a variety of factors, including the required level of education or experience, the degree of management or supervision exercised, the amount of human collaboration engaged in by the position, the relative degree of discretionary authority, knowledge and skills, fiscal responsibility, and working conditions. From this analysis, Segal then proposed new salary grades for each position in State government, thereby creating a unified architecture for the entire classification system. I am including an excerpt from this review so you can see the degree of Segal’s analysis.

Tellingly, the Commissioner’s Report does not grapple with this analysis at all. Rather, the Commissioner wholly punts on this issue, recommending that at some unknown point in the

future the State should “review and make recommendations to address salary schedule inequities.” This is, of course, the exact task that the State endeavored to address five years ago.

I would like to point out that the State of New Hampshire, under Governor Sununu, recently endeavored to undertake a comprehensive review of their compensation and classification systems, and, as of two weeks ago, had reached agreement to make a number of adjustments to the classification system based on their review—coupled with a 12% raise. All told, it took the Sununu Administration less than a year and a half to complete this process, and they hired the Segal Group to do the work. We asked representatives from the New Hampshire State Employees Association about their process and whether they had any specific recommendations for us. They responded that the Sununu Administration, and specifically the state’s Director of Personnel, was serious about addressing the issue because they recognized that the recruitment and retention crisis impacted everyone in the state.

Unfortunately, that has not been our experience with the Mills Administration.

In sum, the State has failed to complete the comprehensive review of the Compensation and Classification System as required both by law and the collective bargaining agreement. Indeed, there is virtually nothing in this report and recommendations that we did not know three, four, or even five years ago.

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.

Thank you, and I will be happy to answer any questions.