



JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF LABOR  
54 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0054

LAURA A. FORTMAN  
COMMISSIONER

**Testimony of  
Laura Fortman, Commissioner  
Maine Department of Labor**

**Regarding L.D. 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 "**

**March 4, 2024**

---

Good morning, Senator Rotundo, Senator Tipping, Representative Sachs, Representative Roeder, and members of the Joint Standing Committees on Appropriations and Financial Affairs and Labor and Housing. I am Laura Fortman, the Commissioner of the Maine Department of Labor.

The supplemental budget is a balanced, prudent, and responsible proposal that advances the Governor's long-held belief that we must continue to invest in the people of Maine, our greatest asset. That is why the Governor's proposal strikes the balance between making timely investments to address urgent needs – like public safety, mental health, housing, education, and health care – and saving money to ensure that our state continues to stand on strong fiscal footing in the future. We look forward to working with the Legislature in the coming weeks to arrive at a budget that protects our fiscal health and that makes prudent and timely investments to support the health, safety, and welfare of Maine people.

In addition, there are certain initiatives you have undoubtedly heard repeated by the various agencies as they deliver their testimony. Specifically, the supplemental includes several reclasses, deappropriations, and allocation changes.

Civil Service Rules require the Director of the Bureau of Human Resources to maintain the classification plan and establish the processes and procedures with which to do so. There is a long-standing process for evaluating proper classification of positions and determining whether a position meets the requirements for reclassification, including any pay adjustment. The State's collective bargaining unit agreements include negotiated language related to this process. Reclasses may be either employee or management initiated. Approved employee-initiated actions include a retroactive pay component back to the date the request was signed. Only approved actions are included in the supplemental budget as the final component of the process is securing the funding.

The Department's initiatives can be broken down into three categories. Position changes, such as those I just described, other initiatives to reflect proper accounting of our expenditures, and four initiatives to strengthen workplace safety and labor law protections. I've included a summary of these initiatives at the end of my testimony.

The first initiative is a combination of reflecting proper accounting and facilitating labor law protections. It can be found at the top of page A-99 of the budget document. This initiative establishes an Other Special Revenue allocation of \$200,000 in an account for the Maine Wage Recovery Fund. There is related language in Part ZZ of the budget document. The Wage Recovery Fund will be used to account for back wages owed, damages, or other payments collected by the Department's Wage and Hour Division on behalf of affected workers. The language in Part ZZ authorizes the account and provides that the state is not liable for payment of wages or damages until funds are received from the employer. The language also authorizes the Department to use penalty funds for education and public messaging regarding Maine labor

laws. We believe that awareness of and compliance with labor laws are in the best interest of both employers and workers.

The Department does already have the authority to collect these wages, however the normal process is for the employer to directly make the payments to the affected workers. In Fiscal Year 2023, the Department had a unique case in which we acted as the fiduciary and collected just under \$108,000 in back wages and liquidated damages owed.

The initiative is included because the Department does not have a standing account that can be used as the pass-thru for the receipt of funds from employers in order to pay the amounts owed to the affected workers. The account that housed these transactions in FY2023 was established by financial order. Statutorily, financial orders of this type require a 30-day wait, which would delay the process. Going forward, the account for these transactions should be transparent and part of the state's regular budget process.

The next initiative is in the Administration – Labor Program. This initiative provides the final step in the reclassification of a Secretary Associate Supervisor position to an Office Specialist I Supervisor position. This reclassification was approved by the Bureau of Human Resources using the process I described at the top of my testimony. The cost in FY2025 is \$123 to the General Fund and \$1,530 in the Other Special Revenue Fund. FY2024 amounts are slightly higher as they include retroactive pay back to January 2023.

Moving to page A-100, there are two initiatives for the Employment Security Services Program, otherwise known as the Unemployment program. Unemployment benefits have provided much needed stability during economic downturns, from minor fluctuations in the economy to pandemic-level crunches. Prior to the COVID-19 pandemic, I came before you with a budget request to help ensure that the unemployment program had sufficient funding to operate effectively. The additional funds that now come into the Employment Security Other Special Revenue Fund have been instrumental in doing just that.

The initiative before you continues that earlier ask, strengthening our ability to effectively manage the program and to respond to minor fluctuations in the economy. In January 2020, the Unemployment program was operating precariously with just 107 staff out of 162 positions. The additional funding that was approved supports the program operations in what I'll call normal times. For instance, we currently have 147 filled positions and are able to respond to both claims and contributions workloads. Vacancies are largely due to normal turnover. We are experiencing the same issues as other employers in this tight labor market – people have many opportunities for advancement and attrition continues to occur.

Adding the 38 permanent positions will allow the Department to maintain current operations and staff up more easily when changes in the economy drive such a need. These positions would provide for moderate changes – not the substantial changes driven by the pandemic or the Great Recession. During the pandemic, for instance, we added 153 state staff and 100 contracted staff – nearly tripling the size of the program. At the same time, we had to respond to new threats to the integrity of the program. Our fraud unit, for instance, increased from six to thirteen positions.

These 38 positions are currently considered limited-period, with an end date of June 7, 2025. By making the positions permanent, we fund them through the end of the biennium. Since these positions are already funded through June 7, the addition of the extra weeks is what generates the cost of \$159,136.

While June 2025 may seem like a far-off date, to the people in these positions it is unsettling. Twenty-three of our staff are in this situation. While turnover does occur, many would remain with the program if there was more certainty in their position. In some cases, such as with fraud investigators, we do not have the permanent positions titles we would need in order to transfer these staff into permanent positions. We are at risk of losing their expertise because of

the looming end date of their position. We have the funding and the need, and ask you to authorize the headcount.

Continuing to the next initiative on page A-100, the request is to increase the Other Special Revenue Fund allocation by about \$277,000 in each year. This is an adjustment to the All Other line category to match the projected revenues for the account.

The third initiative provides a one-time federal allocation of just over \$939,000 to account for three grants received from the U.S. Department of Labor. These funds come from federal supplemental grant opportunities to improve our processes and systems in response to learnings across the country during the pandemic.

At the top of page A-101 begins the Employment Services Activities Program, which contains a number of the Department's workforce development activities. There are four initiatives in this program. The first reduces the Other Special Revenue allocation by \$1.5 million. This represents the transfer of funds to the Department of Education to support the continuation of the Career Exploration program. The corresponding entry for Education is on page A-43. The \$1.5 million was originally deposited in the Department of Labor account through a larger workforce development package. However, the component for youth career exploration is more appropriately administered through Education because of the work through the schools.

The next initiative establishes two federally funded Labor and Safety Inspector positions. These positions will be added to the Foreign Labor Certification program within the Bureau of Employment Services. The Foreign Labor Certification is a federal program that permits U.S. employers to hire foreign workers on a temporary basis to fill jobs that are essential to the U.S. economy. For Maine, the Department reviews employer requests for foreign workers to first ensure that each employer has appropriately searched for Maine workers. The hiring of foreign workers must not adversely affect the opportunities, wages or working conditions of Maine workers. Once the Department verifies the employer's recruitment, the information is

submitted to the federal government for final determination. Once approved, Maine DOL is responsible for ensuring ongoing compliance. A component of compliance is ensuring that employers who hire H-2A temporary agricultural workers provide housing that meets prescribed standards.

Since 2018, the number of employers hiring H-2A workers has nearly tripled. From 2016-2018, approximately 40 Maine employers hired H-2A workers. That number has steadily increased since then, culminating with 114 employers last year. At this time last year, we'd received applications from 27 employers. So far this year, we've received 46 applications. The number of workers has increased from just over 500 to 1,350 last year. Comparing the same time period last year to this year, the number of workers has increased from 263 to 414. For the housing inspections themselves, 2018 had 33 and last year had 143. The Department can no longer meet the demand for certification reviews and housing inspections with existing staff. The additional two positions will ensure that we can meet the hiring demands of Maine employers. The positions will be funded entirely through the federal grant.

The third initiative in this program transfers two positions to the Maine Apprenticeship Program. The Maine Apprenticeship Program was separated from the Employment Services Activities Program in the biennial budget, and the associated funds and positions moved to the new accounts. These two positions were inadvertently left out of that initiative. This transfer of a CareerCenter Consultant and Customer Representative Associate II completes the transfer of the program. The CareerCenter Consultant position is transferred out of the Federal Expenditures Fund and the Customer Representative Associate II is transferred out of the Other Special Revenue Fund. Both positions are transferred into the Maine Apprenticeship Program federal fund to more appropriately reflect the work the staff perform.

The final initiative in this program adjusts the funding for a position assigned to processing Worker Opportunity Tax Credits, or WOTC. This program provides federal tax credits to employers that have hired individuals who represent populations that typically have barriers to

employment. The federal funding has historically been insufficient to adequately staff the program, and the employer applications have been backlogged for many years. While this is a federal program, it is Maine employers that are affected by the backlog. By fully funding this Clerk IV position from the General Fund, the department can assign the position full-time to processing the employer applications.

The next program is at the top of page A-102. There is one initiative in the Maine Apprenticeship Program. It is the second half of the transfer I described a moment ago.

The next set of initiatives are within the Paid Family and Medical Leave Program. The net effect of the two initiatives is to reassign the Program from an Other Special Revenue Fund to a stand-alone Paid Family and Medical Leave Insurance Fund beginning with Fiscal Year 2025. The reassignment was identified after a review by the State Controller's Office and the State Budget Office. Following their review, it was determined that Governmental Accounting Standards dictate the accounting change. There is no other change other than to the reassign the Fund. The first initiative moves the positions and Personal Services to the new Fund, and the second moves the All Other to the new Fund.

At the top of page A-103, you'll find the Regulation and Enforcement Program. There are four initiatives in this Program, and each corresponds to an initiative under the Safety Education and Training Fund on page A-105. I will address these two Programs and the initiatives together.

The first initiative transfers one Labor and Safety Inspector position from the Safety Education and Training Fund, or SETF, to the Regulation and Enforcement General Fund account in Fiscal Year 2025. This position is responsible for processing youth work permits. This transfer charges the position to the appropriate funding stream for the work being performed. This transfer will not affect the level of safety education and training conducted. The SETF is reduced by one position and \$99,447. The Regulation and Enforcement General Fund account is increased by

one position and \$97,992. The General Fund is not assessed for state overhead, therefore the amount is less.

The second initiative provides funding for costs of conducting the annual Construction Wage Survey. Recent mandatory changes to the survey have resulted in additional time required for the work, as well as increased data storage costs that can no longer be absorbed. This set of initiatives moves half of the cost of a Statistician II position, equaling \$35,796, from the SETF to the Regulation and Enforcement General Fund account. In addition, \$53,440 is added to the General Fund account to cover the All Other associated with the position and the costs of data storage and processing.

The third initiative provides funding to enhance outreach and education efforts for Maine labor laws. Our goal is always to promote voluntary compliance with labor laws, and conducting outreach and providing educational materials is a key strategy for meeting this goal. We believe that most employers will comply with the law when they are aware of it and understand it.

Therefore, we propose to transfer half of the cost of one Staff Development Coordinator position, equaling \$53,276, from the SETF to the Regulation and Enforcement General Fund account. The outreach and education efforts related to labor laws is not an allowable expense of the SETF, and the existing General Fund allocation is dedicated to enforcement efforts. By funding half of this position from the General Fund, we will be able to work with employers to increase voluntary compliance with Maine labor laws.

The final set of initiatives involves the reorganization of seven Occupational Safety Specialist positions from a pay range 23 to 25. This reorganization was submitted in recognition that the subject areas and testing procedures that the Specialists must work with are increasing and becoming more technical. In order to fund this reorganization, the FY2025 General Fund appropriation is increased by \$5,909, the Federal fund is increased by \$21,559, and the SETF is increased by \$4,464.



The final program on today's agenda is the Rehabilitation Services Program on page A-104. There are three initiatives. The first increases the federal allocation for the cost of the reorganization of one Secretary Associate to the Rehabilitation Counselor I classification. The increase to the federal allocation is \$2,785.

The second request is to continue two limited-period positions to June 2025. The Rehabilitation Services Manager position and the Rehabilitation Counselor I position were established by Financial Order in response to a new federal grant. The Department has received a federal Disability Innovation grant to support youth with disabilities as they prepare for employment and post-secondary education. The grant runs through September 2028. Separate initiatives will be included in the 2026-27 biennial budget to continue the positions after June 2025.

The final initiative increases the Federal allocation to support the reorganization of the State Accessibility Coordinator position from pay range 24 to 26. The reorganization has been approved by the Bureau of Human Resources through the process I described at the top of my testimony.

This concludes my testimony. I would be happy to address any questions you may have.

MDOL 2024-25 Supplemental Budget Requests - LD 2214

3/4/2024

Page #	Program	Description	2024			2025		
			Position count	General Fund	Other funds	Position count	General Fund	Other funds
<b>Workplace Safety and Labor Law Protections</b>								
A-101	Employment Services Activities	Establishes two Labor & Safety Inspector positions to appropriately perform housing inspections related to agricultural foreign worker program.	-	-	-	2.0	-	195,389
A-99	Administration - Labor Standards	Establishes an account for the deposit of back wages owed and for the payment of those wages to affected workers. (Language also needed)	-	-	-	-	-	200,000
A-103 A-105	Regulation & Enforcement / Safety Education & Training	Reallocates one Labor and Safety Inspector in order to support processing of youth work permits	-	-	-	-	97,992	(99,447)
A-103 A-105	Regulation & Enforcement / Safety Education & Training	Reallocates one Staff Development Coordinator in order to increase education efforts for Maine labor laws.	-	-	-	-	53,276	(54,067)
<b>Position Changes</b>								
A-100	Employment Security (Unemployment)	Makes permanent 38 (of 153) LPP positions in order to appropriately staff minor fluctuations in claims processing	38.0	-	-	38.0	-	159,136
A-101	Employment Services Activities	Reallocates one Clerk IV position in order to improve timeliness of the Worker Opportunity Tax Credit applications.	-	-	-	-	72,026	(74,106)
A-101 A-102	Employment Services Activities / Maine Apprenticeship Program	Transfers two positions between Programs in order to budget accurately in the newly created Maine Apprenticeship account.	-	-	(1)	-	-	-
A-99	Labor Administration	Funds the reclassification of one position to Office Specialist I Supervisor	-	209	2,572	-	123	1,530
A-103 A-105	Regulation & Enforcement / Safety Education & Training	Reallocates one Statistician II position and funds data analysis and storage costs related to the Construction Wage Survey.	-	-	-	-	90,236	(37,342)
A-103 A-105	Regulation & Enforcement / Safety Education & Training	Funds the range change for seven Occupational Safety Specialists	-	-	-	-	5,909	26,023
A-104	Rehabilitation Services	Continues two limited-period positions through June 2025 to enhance transition services for youth with disabilities. Federal funding provided through September 2028.	-	-	-	-	-	196,434

MDOL 2024-25 Supplemental Budget Requests - LD 2214

3/4/2024

Page #	Program	Description	2024			2025		
			Position count	General Fund	Other funds	Position count	General Fund	Other funds
A-104	Rehabilitation Services	Funds the reclassification of one position to a Rehabilitation Counselor I	-	-	-	-	-	2,785
A-104	Rehabilitation Services	Funds the range change for the State Accessibility Coordinator	-	-	4,470	-	-	7,497
<b>Other</b>								
	Employment Security (Unemployment)	Increases federal ARPA allocation for expending grant awards received from the USDOL to enhance program operations.	-	-	-	-	-	939,037
A-100	Employment Security (Unemployment)	Increases Other Special Revenue Fund allocation to match anticipated revenues.	-	-	277,093	-	-	277,093
A-101	Employment Services Activity	Transfers Other Special Revenue funds to DOE for career exploration	-	-	(1,500,000)	-	-	-
A-102	Paid Family & Medical Leave	Reallocates the Personal Services budget from the Other Special Revenue Fund to an Enterprise Fund in accordance with accounting principles.	-	-	-	-	-	-
A-102	Paid Family & Medical Leave	Reallocates the All Other budget from the Other Special Revenue Fund to an Enterprise Fund in accordance with accounting principles.	-	-	-	-	-	-
			38.0	\$209	(\$1,215,866)	40.0	\$319,562	\$1,739,962