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**Re: LD 1744- An Act to Modify Provisions of the State Civil Service System Governing Employee Recruitment and Retention**

Senator Baldacci, Representative Salisbury, and esteemed members of the Joint Standing Committee on State and Local Government; I am *Anya Trundy*, a Deputy Commissioner of the Department of Administrative and Financial Services (DAFS), and I am testifying today in Opposition to LD 1744, *An Act to Modify Provisions of the State Civil Service System Governing Employee Recruitment and Retention*. Recruitment and retention is a high priority for the Bureau of Human Resources (BHR), and one which has process and resources dedicated to it. This proposed bill adds duplicative costs, procedures, and reduces clarity within the recruitment and retention process.

I would like to begin by again highlighting the continuing Classification and Compensation efforts that have been ongoing throughout the Mills Administration. The fiscal impact of collective bargaining efforts during this Administration, through the proposed 26/27 biennial budget, has been more than \$1.154 billion, all funds. Specifically, the impact of these collective bargaining efforts to the 26/27 General Fund biennial budget is \$216 million.

Governor Mills, with approval of the Legislature, has delivered significant wage increases and other benefits to Maine State Employees. From September 2019 to July 2025, every State government employee will be the beneficiary of at least a 24.1% increase in their pay. For the more than half of State workers who are eligible for the new Step 9 between July 2024 and July 2025, their cumulative pay growth was at least 29%.

By anyone's standard, 29% wage growth in just under five years is significant. This is base salary cost of living adjustments. This comes in addition to other increases, such as longevity pay for employees who have worked longer than five years for the state; a guaranteed promotion pay jump of 7% (an increase from 5%); merit increases; and significant changes in other pay categories such as stipends, shift differentials, and allowances.

Pay growth was just 10.4% cumulatively over Governor LePage's eight years as Governor, and 12.5% over Governor Baldacci's eight years. In the six years since assuming office, Governor Mills, with approval of the Legislature, has provided more salary increases for state employees than were provided during the previous 16 years combined.

In addition to this work, the next step will be a comprehensive review of the State's classification system. DAFS has commissioned an outside entity to conduct this review and to make recommendations. This Administration has committed significant resources towards ensuring the review provides effective guidance for improving the classification system. At its core, the aim of the study is to ensure our classification system is poised to meet the needs and demands of a modern workforce, including attracting and retaining qualified employees, and to ensure that positions performing similar work with similar levels of knowledge, skills, ability and accountability are grouped fairly and consistently. The consultant's comprehensive report is expected by December 31, 2025. The Administration and MSEA will meet to bargain on or around May 1, 2026, and DAFS must submit a report to the Legislature by September 1, 2026, that details the process, the study's findings and recommendations, and the Administration's planned next steps.

LD 1744 proposes to do several things, some of which the Bureau does not object to, indeed because some of the proposed actions originated with us, such as the proposal that BHR create forms to apply for a recruitment and retention stipend. This will allow the agencies asking for these stipends to know what data and actions BHR is looking for to enact any stipend. The proposal to include the language "specific department or across State Government" in 5 M.R.S. § 7065(2-D)(A)(1), is something that aligns with BHR goals to make sure that any department that experiences serious recruitment and retention issues can make use of this process. Moreover, the proposed additions to subsection B, namely "The resulting recruitment and retention stipend applies to employees hired subsequent to the review provided in this paragraph", seems to align well with the Bureau's intentions, but could be clearer if it read "...Each employee hired will receive the recruitment and retention adjustment in place at the time of their hire." This change would ensure that new employees hired after a stipend was put in place would receive the correct amount.

Next, aligning any labor market adjustment with § 7061, to time them every 4 years instead of 2 years does make a lot of administrative sense, and applying these adjustments to all employees in a classification aligns with the current practice of the BHR. Prior Legislatures considered the importance of maintaining compensation plan integrity by requiring in law that payment of a recruitment and retention adjustment only be authorized when justified by four factors: 1) high turnover or long-term vacancies within a classification or job series; 2) there is a clear, geographically definable labor market within which the State must compete; 3) all appropriate recruitment and retention efforts have been attempted and have proven ineffective at current levels of compensation; and 4) documentation demonstrating a labor market disparity exists that represents a long-term, not transitory or seasonal, problem. This is reflected in Title 5 MRSA §7065(2-D), which states that a recruitment and retention stipend can only be applied if those four criteria are met. However, LD 1744 proposes to eliminate the key word only from this section. This is a death by a thousand cuts, removal of the word only causes the rest of the section to lose authority, and more importantly its clarity. Creating unnecessary ambiguity in law does not serve employees seeking these stipends, nor does it help those in the decision-making positions to know the legislative intent.

LD 1744 also proposes to eliminate criterion (2), the clearly definable labor market. This significantly dilutes the conditions for a stipend, which in turn leads directly to wage disparity and

a negative impact of the integrity of the compensation plan. A clearly defined labor market is a key factor in determining whether or not wage disparity exists and to what extent. For example, labor markets are varied across the State, such that an agency may not have recruitment and retention areas in one office but may in another. The Bureau is open to discussion on clarifying language, but we think it is an important criterion to preserve.

Proceeding further into this proposed bill, there is a suggestion to edit criterion (3), which currently reads; “All appropriate recruitment and retention efforts have been attempted and have proven ineffective at the current levels of compensation.” LD 1744 would eliminate the word all and replace it with “reasonable and”. Ironically, adding the word reasonable to statutory language is rarely as reasonable as it seems. At best this adds confusion, and it almost guarantees future litigation. Currently the Talent Management section of the Bureau has proven processes and dedicated employees to assist in non-stipend recruitment and retention efforts. They are well placed to determine if those efforts have reached a level of ineffectiveness.

LD 1744 goes on to propose an entirely new section, A-1. A-1 suggests that if one job within a certain “job family” or “job series” gets a recruitment and retention stipend, and that stipend causes related jobs salary compression, then all the jobs in the series or family will also get a stipend. In addition to *significantly* adding to any fiscal note<sup>[1]</sup>, this section also seems to eliminate the concept of a recruitment and retention stipend completely. Not only would this new section likely exponentially increase the costs of recruitment and retention stipends, but it also eliminates the underlying reason for them in the first place. It is an end-run around the compensation and classification studies and negotiations while using language that is too ambiguous and will result in significant portions of agencies receiving a stipend that is meant to address concerns with a specific classification.

Firstly, the language “job family” is overly broad and statutorily vague. The Bureau is responsible for maintaining the State’s classification plan. Each position is assigned a job class (e.g. Office Associate I) based on the type of work that is performed by that class. A job series consists of classifications that perform similar work but have different levels of responsibility under the Hay methodology (e.g. Office Associate I and Office Associate II). A job family is the broadest level, including classifications that perform generally the same kind of functions; for example, Office Associate I and II’s would be in the administrative family, as would Office Specialist I, Office Specialist I Manager, Office Specialist IIs, etc. Unlike job series, which is clearly delineated by the Hay methodology, a job family is less clear and more open to interpretation. This creates a loophole in the system and is a blanket wage increase in disguise.

Secondly, the bill does not define salary compression, which can exist at small acceptable levels, but at larger levels as well. For example, take an employee who was working in a Salary Grade 29 at step 9 (highest pay for that class) who then promotes to a supervisor class and would (generally) receive a 7% rounded up pay increase due to that promotion. If, after applying the 7% promotional rule, they would enter step 8 or 9 of the supervisor position, BHR would consider that a high level of compression. BHR is committed to eliminating compression, but has accepted compression rates at or lower than step 4 of the promotional class. This bill does not specify what an acceptable compression rate would be; any new job that starts an employee at a lower step may have some small degree of salary compression.

Finally, the point of having a process like the recruitment and retention stipend is to hire and keep people in certain positions that have been identified as having extra difficulty in hiring and keeping employees. If every classification in the department gets the stipend, how does that help a struggling classification? Recruitment and retention stipends are not in place to solve any potential “pay gap” with the labor market as a whole. They are for positions that are struggling in attracting qualified candidates, retaining them, and for agencies that have already tried all appropriate recruitment and retention efforts for that specific classification. Wages are a collective bargaining effort. We do our best to ensure that wages are a negotiated item to ensure fairness to our 13,000 positions vs. individual adjustments that may further divide parity. Recruitment and retention stipends are not intended for wage parity.

LD 1744 also proposes significant adjustments to the committee that is formed to assist the State Human Resource Officer (SHRO) in the recruitment and retention stipend decision. This proposed section amounts to creating another procedural step, with increased costs, that has no real benefit. Currently, the law directs a committee to be formed to help the SHRO in the stipend decision. This bill directs that if that committee is not unanimous, the case must go to a 3<sup>rd</sup> party neutral; and then further dictates that if the parties disagree on the third party neutral, there are additional steps to appoint this mediator. The SHRO is then directed to “act” on this 3<sup>rd</sup> party neutral’s report. Process is often an important and vital means by which a party can ensure there is a measured and informed decision. However, this proposed process only adds to the time and expense while not affecting any outcomes.

An important thing to note is that the current system is working. Currently the State has recruitment and retention stipends applying to 246 bargaining unit. In FY 2023, the state spent \$19 million on recruitment and retention stipends. Recently, the state reached an agreement with MSEA on PL 2023, c. 412, Part UUU negotiations, which provided additional stipends to 72 classifications, impacting 2,129 positions. This agreement will provide \$14.6 million (all funds) in stipends to employees through the FY2026-2027 biennium budget.

DAFS is the department responsible for both Human Resources and Budget; we have the unenviable duty to hold staffing and compensation in tension with available resources and responsible State fiscal management. As the Governor and Legislature consider each wage increase and benefit increase, there are a number of factors that must be balanced. Impacts to the General Fund, yes. But also, the impact to other funds. The General Fund supports approximately 44% of the total cost of Personal Services. Increased costs put at risk positions funded with stagnant or diminishing funding, through reduced grant funding, unpredictable federal funding, rates that can’t be adjusted, or fees that cannot be increased. It is also about the balance needed to ensure the continued sustainability of these increases to all funding sources. The inability to sustain these increases would likely result in programmatic adjustments, position eliminations and layoffs.

Maine State Government remains committed to being Maine’s Employer of Choice and to ensuring that our employees are appropriately compensated and supported for their meaningful contributions to the State of Maine.

Thank you very much for your time and attention. I am happy to answer any questions.