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Testimony Against LD 2165 An Act to Change Supervisory Authority over the Capitol Police

Prepared and presented by Kevin Anderson, Executive Director MSLEA

Senator Beebe-Center, Representative Hasenfuss, and distinguished members of the Criminal Justice and Public Safety Committee.

My name is Kevin Anderson, I am here as the Executive Director of the Maine State Law Enforcement Association. In this role I represent over 400 State Law Enforcement Officers to include Game Wardens, Marine Patrol Officers, Forest Rangers and Capitol Police Officers in collective bargaining and labor related matters.

Prior to this I was a Game Warden For 12 ½ years in the Augusta District and a Game Warden Investigator for a little over 13 years. I served as cadre at the 14th and 15th Maine Criminal Justice Academy Basic Law Enforcement Training Program. In those roles, I had the pleasure to work with members of the Maine State Police daily. I say this to make it clear that none of my testimony today is meant to in any way indicate that I believe that Maine State Police Officers do not deserve the compensation and recognition that they receive. They are some of the finest law enforcement officers in this state.

That being said, I am here to testify against LD 2165. The title of this bill is misleading and the changes go far beyond the stated title of the bill.

The Bureau of Capitol Police has been in existence in one form or another since 1968.

Within the past two years, both the Maine State Police and the Capitol Police engaged in the reclassification process with the State. That process is initiated with the submission of a FJA-1, Functional Job Analysis, a document that provides a detailed work description. The reclassification results provide employees in those positions with a pay grade which results in a placement on the State pay scale.

The most recent pay scales indicated that State Police Troopers make between \$12 to \$15 dollars more an hour than Capitol Police Officers in the same place on the step progression.

State Police Detectives make between \$6-7 more dollars and hour than a Capitol Police Detective.

State Police Sergeants make \$7 to 8 more an hour.

State Police Lieutenants make \$10-12 more an hour.

A state Police Lt makes more an hour than the Chief of the Capitol Police.

These numbers do not include standby pay which in some classifications amounts to tens of thousands of dollars a year. A benefit Capitol Police Officers do not receive.

These pay parity gaps may in fact be larger whereas they do not reflect pay increases awarded from recent contract negotiations for State Police Officers.

These numbers do not take into account that fact that Maine State Police Officers all get issued a take home vehicle and most Capitol Police Officers do not. Additionally, State Police Officers are assigned to a more expensive retirement plan than Capitol Police Officers.

Numbers provided by the Commissioner of Public Safety indicate that the replacement of a Capitol Police Officer with a State Police Trooper will cost the taxpayers an additional \$100,000 in pay and benefits per position vs. the cost of a Capitol Police Officer performing the same job.

In a press release issued but the Department of Public Safety it was stated that this change was being made with the future in mind and that "Threats against our legislatures and properties continue to grow." That may be true and the Capitol Police Department has grown in recognition of this trend. The Capitol Police has been provided funding by this legislator to add a Detective position, a bomb dog and handler, and a new secure entry kiosk with screeners and a Capitol Police Officer in the Cross Building next door. The Capitol Police recently sent a newly hired officer through the MCJA Basic Law Enforcement Training Program, also known as the blue pin or full-time law enforcement academy. This is the first time in Capitol Police history that I am aware of for this Bureau that dates back to 1968. The current law does not require it, but the prior Chief recognized the increased demands on the Capitol Police Officers. All Officers hired over the past several years at the Bureau of Capitol Police are experienced full time law enforcement officers who have held previous law enforcement jobs as Police Chiefs, Police Lieutenants, police Detectives and Police Officers. They bring life and law enforcement experience to the Capitol Police.

The role of Capitol Police Officer is probably one the most forward-facing law enforcement positions in the state. Capitol Police staff have daily contact with hundreds of people on a daily basis when legislature is in session and must exercise a high degree of patience and professionalism as they provide safety for the legislature and the thousands of people that visit the capitol on a weekly basis to testify on frequently emotionally charged issues. They have done this exceptionally and there has been no indication that they are not up for this task. There have been no known complaints indicating that they have not been keeping up with the demands.

This bill indicates that the replacement of Capitol Police Officers will "occur through attrition" as is also stated in an email sent by the Commissioner to Capitol Police Staff. If that is true, then this transition could in fact take place over 25 or more years based upon the minimum number of years the newest officer would have to complete to retire at the full retirement benefit.

The statement released by Public Safety indicates that this change "will improve resource allocation, operational efficiency, and crisis response". There is currently no specific issues with any of these. I have asked the Capitol Police Officers that I represent if there has been any issues

in communication, crisis response, or operational efficiency and I wasn't surprised to hear that there was none.

The Commissioner recognizes the impact of this change in his email to staff where he states, "This is a major change that will impact you in both a personal and professional manner." That is a true fact and an understatement.

This bill will cause chaos, confusion and uncertainty within the Capitol Police. This change will mean that employees within the Capitol Police could potentially be operating under three separate contracts, which means three separate sets of work rules. State Police Troopers, Sergeants, and Detectives are represented by the Maine State Troopers Association, State Police Lts, Capitol Police Lts and Capitol Police Sergeants are represented by the Maine State Law Enforcement Supervisors Association or FOP and the Capitol Police Detectives and Capitol Police Officers are represented by MSLEA.

During impact bargaining held with the Department of Public Safety it was revealed that Troopers assigned to the Capitol Police role will wear the State Trooper uniform and Capitol Police Officers will wear the current uniform.

Currently the Department had not agreed to address the huge pay parity issue this bill will if it is enacted and begins to be implemented.

Capitol Police Officers will lose the opportunity to promote within the Capitol Police unless they want to apply to the Maine State Police, participate in the hiring process to be a Maine State Trooper and then if hired, complete State Police Recruit Training. Then and only then at some point when there is an opening, the Capitol Police may apply for a position with the planned Capitol Police Troop.

In closing, I didn't want to come here and ask that you vote ought not to pass on this bill without offering a solution to this problem.

What I ask this committee to do is change the law to require that all newly hired Capitol Police Officers moving forward, must be certified full time law enforcement officers or upon hire must complete the full-time law enforcement academy at MCJA.

I would ask this committee either keep the State Police Lieutenant as the replacement for the Capitol Police Chief and leave the other positions as they are or task the Commissioner with finding a new Police Chief to lead this Bureau into the future. Many of you on this committee participated in hearings in regards to the Fire Marshals Office two years ago. If I had told you two years ago the Fire Marshals Office was going to be on an upward trajectory under the current leadership of Chief Fire Marshal Sean Esler, you probably wouldn't have believed me, but it's true. Chief Esler has completely changed the path and atmosphere at the Fire Marshals Office. With that being said, I am confident that the Commissioner can find a new Capitol Police Chief who can lead these men and women into the future while addressing all the concerns of the

Commissioner in a more fiscally responsible manner than having the State Police take over the Capitol Police role, while also avoiding the chaos and confusion that will come with this proposed plan.

The price tag associated with this takeover would be enough to double the number of Capitol Police Officers under the current Capitol Police structure.

Thank you for your time and I will be happy to answer any questions you have at this time.

Friendly Amendment

An Act to Change Supervisory Authority over the Capitol Police

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 25 MRSA §1502, as amended by PL 2005, c. 519, Pt. Q, §1, is further amended by enacting at the end a new paragraph to read:

There is established in the Bureau of State Police one permanent State Police Lieutenant position to supervise the Bureau of Capitol Police under the direction of the Chief of the State Police.

Sec. 2. 25 MRSA §2902, sub-§8, as amended by PL 2009, c. 317, Pt. E, §6, is further amended to read:

8. Bureau of Capitol Police. The Bureau of Capitol Police, which is under the direction of the Chief of the ~~Bureau of Capitol~~ State Police. Police officers of this bureau are those appointed by the Commissioner of Public Safety pursuant to section 2908;

Sec. 3. 25 MRSA §2904, as amended by PL 2009, c. 317, Pt. E, §12, is further amended to read:

§2904. Security at capitol area and other state-controlled locations

1. Commissioner of Public Safety or designee. Except as provided in subsection 2, the Commissioner of Public Safety ~~is authorized and empowered to~~ or the commissioner's designee may adopt rules, including a schedule of parking violation fees, subject to the approval of the Governor, governing the security regarding use and occupancy of all parks, grounds, buildings and appurtenances maintained by the State at the capitol area or other state-controlled locations in Augusta. Prior to adoption of new or amended rules, the commissioner shall provide notice of rulemaking to the Legislative Council. Rules adopted pursuant to this subsection are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

2. Officials of governmental units. The officials of the governmental units listed in paragraphs A to E are authorized ~~and empowered~~ to adopt rules governing the access, use and occupancy of buildings or parts of buildings and of other public property that are under their respective supervisions. Rules adopted by the Legislative Council may include provisions governing security at legislative offices. Prior to adopting any such rule, the official shall consult with the Commissioner of Public Safety; ~~the commissioner must be given~~ and shall give the Chief of the State Police an opportunity to review the rule and to comment upon its content and

enforcement. These rules become effective upon deposit of a copy with the Secretary of State, who shall forward a copy attested under the Great Seal of the State to the District Court for Southern Kennebec. These rules are suspended to the extent necessary at any time when the Commissioner of Public Safety or the commissioner's designee determines that an emergency exists within the facilities to which they apply, except that the commissioner or the commissioner's designee may not suspend the rules governing the legislative offices without the consent of the Legislative Council. The Commissioner of Public Safety or the commissioner's designee shall enforce rules adopted pursuant to this subsection, consistent with available resources and funding.

The governmental officials authorized ~~and empowered~~ by this subsection are:

- A. The Legislative Council, for all legislative offices, including the Law and Legislative Reference Library, as established by Title 3, section 162;
- C. The State Librarian, for the State Library;
- D. The Director of the State Museum, for the State Museum; and
- E. The State Archivist, for the State Archives.

Sec. 4. 25 MRSA §2908, as repealed and replaced by PL 2009, c. 317, Pt. E, §14, is amended to read:

§2908. Police officers ~~and state police officers~~; powers and duties; cooperation; assignment to Bureau of Capitol Police; ~~absorption of Capitol Police~~

1. Appointment of police officers and state police officers. The ~~Commissioner of Public Safety~~ commissioner may appoint and employ police officers, subject to the Civil Service Law ~~and, for purposes of this section, state police officers assigned pursuant to subsection 3.~~ The specific duties and powers of police officers ~~and state police officers~~ appointed and employed are to patrol the public ways and parking areas, to provide security for all parks, grounds, buildings and appurtenances maintained by the State in the capitol area and other state-controlled locations designated by the commissioner and to enforce any rules adopted pursuant to this chapter. The commissioner may expand the duties and powers of police officers ~~and state police officers~~ in the capitol area, other state-controlled locations and public ways designated by the commissioner beyond the

duties and powers enumerated in this section to investigate, prosecute, serve process on and arrest violators of any law of this State. Police officers ~~and state police officers~~ may issue summons in the course of their duty to enforce this section. The commissioner may grant statewide power of enforcement of any law of this State to police officers ~~and state police officers~~ described in this subsection. That power may be granted only to police officers ~~and state police officers~~ who have completed a basic training course at the Maine Criminal Justice Academy or for whom the basic training course has been waived by the board of trustees of the academy because of equivalent training, as provided in section 2804-C, subsection 1 or 5. The commissioner shall provide forms and standard operating procedures to police officers ~~and state police officers~~ to carry out their functions under this section.

2. Cooperation of other law enforcement agencies. The State Police, sheriffs, deputy sheriffs, constables and municipal police officers shall, as much as possible, cooperate with the police officers appointed and employed ~~and the state police officers assigned~~ under this section in the enforcement of rules adopted pursuant to this chapter and any law of this State.

3. Assignment of state police officers to Bureau of Capitol Police.
The commissioner may assign one or more state police officers to a command position within the Bureau of Capitol Police or any other position within the bureau, as necessary for the operation of the bureau. The Chief of the State Police shall maintain supervision and direction over any state police officer assigned to the bureau pursuant to this subsection.

~~4. Absorption of Capitol Police by attrition. Beginning September 1, 2026, when a Capitol Police officer position is vacated, the Chief of the State Police shall replace that position with a state police officer position, subject to the approval of the Department of Administrative and Financial Services, Bureau of Human Resources and the funding of the reclassification of that position.~~

Sec. 3 5. Reclassification of Chief of Capitol Police position to create State Police Lieutenant position. Pursuant to the Maine Revised Statutes, Title 25, section 1502, as amended by this Act, the Chief of the Bureau of Capitol Police position is reclassified to a State Police Lieutenant position.

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enforcement. These rules become effective upon deposit of a copy with the Secretary of State, who shall forward a copy attested under the Great Seal of the State to the District Court for Southern Kennebec. These rules are suspended to the extent necessary at any time when the Commissioner of Public Safety or the commissioner's designee determines that an emergency exists within the facilities to which they apply, except that the commissioner or the commissioner's designee may not suspend the rules governing the legislative offices without the consent of the Legislative Council. The Commissioner of Public Safety or the commissioner's designee shall enforce rules adopted pursuant to this subsection, consistent with available resources and funding.

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duties and powers enumerated in this section to investigate, prosecute, serve process on and arrest violators of any law of this State. Police officers and state police officers may issue summons in the course of their duty to enforce this section. The commissioner may grant statewide power of enforcement of any law of this State to police officers and state police officers described in this subsection. That power may be granted only to police officers and state police officers who have completed a basic training course at the Maine Criminal Justice Academy or for whom the basic training course has been waived by the board of trustees of the academy because of equivalent training, as provided in section 2804-C, subsection 1 or 5. The commissioner shall provide forms and standard operating procedures to police officers and state police officers to carry out their functions under this section.

2. Cooperation of other law enforcement agencies. The State Police, sheriffs, deputy sheriffs, constables and municipal police officers shall, as much as possible, cooperate with the police officers appointed and employed and the state police officers assigned under this section in the enforcement of rules adopted pursuant to this chapter and any law of this State.

3. Assignment of state police officers to Bureau of Capitol Police. The commissioner may assign one or more state police officers to a command position within the Bureau of Capitol Police or any other position within the bureau, as necessary for the operation of the bureau. The Chief of the State Police shall maintain supervision and direction over any state police officer assigned to the bureau pursuant to this subsection.

4. Absorption of Capitol Police by attrition. Beginning September 1, 2026, when a Capitol Police officer and/or Capitol Police Detective position, regardless of rank, is vacated, the Chief of the State Police shall replace that position with a state police officer position, subject to the approval of the Department of Administrative and Financial Services, Bureau of Human Resources and the funding of the reclassification of that position. The replacement of the positions described herein will be by attrition only.

Sec. 5. Reclassification of Chief of Capitol Police position to create State Police Lieutenant position. Pursuant to the Maine Revised Statutes, Title 25, section 1502, as amended by this Act, the Chief of the Bureau of Capitol Police position is reclassified to a State Police Lieutenant position.