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Testimony of Michael Roland, Bureau of Labor Standards, Maine Department of Labor
Neither for nor Against LD 469, An Act To Ensure Safety across Maine's Construction Industry
To the Joint Standing Committee on Labor and Housing
Public Hearing, Monday, March 1, 2021

Greetings, Senator Rafferty, Representative Sylvester and members of the Joint Standing Committee on Labor and Housing. I am Mike Roland, Director of the Bureau of Labor Standards at the Maine Department of Labor (Department).

The Bureau of Labor Standards (BLS) works with businesses to continually improve workplace safety, health and workplace rights. Our programs include Division of Workplace Safety and Health, SafetyWorks!, the Wage and Hour Division and the Technical Services Division.

I am here today to speak on behalf of the Department neither for nor against LD 469, "An Act To Ensure Safety across Maine's Construction Industry." This bill seeks to require that certain employees on publicly funded construction projects, costing over \$50,000, receive a certain prescribed level of safety training. While we support this in concept, we have several concerns with bill as written.

The bill would require the Department—effectively BLS's Wage and Hour Division—to regularly collect and review safety training documentation submitted with certified payroll by construction employers on publicly funded projects. The Department currently does not and is not required to regularly collect certified payrolls; they are required to be submitted to the contracting agencies and to be available to BLS for inspection if necessary. For BLS to regularly collect and catalogue such safety training documents would create an entirely new function and responsibility within the Department, necessitating added staff and programming at significant cost.

We believe that most construction employers in Maine, and particularly on public works, already require training at the level the bill would require. To the extent that they do not, the new requirement could create additional demand for OSHA 10 classes, which the Bureau would be delighted to provide at no cost via its SafetyWorks! Training activities. However, these added classes would require additional staff and resources, which would entail an expense.

We believe that the Cease Operations Order (COO) component of the bill is excessive and out of proportion with the violation it seeks to remedy. This is a concern that is shared by several of our sister agencies. It may prove more difficult to implement than mere penalties and exercising this option would likely incur considerable additional expenses in staff time and support from our Assistant Attorney General. The Department would suggest eliminating the COO and exploring a graduated penalty section if that is a direction the committee wishes to pursue.

Another area of concern is the definition of workers who would be required to receive mandatory safety training. The bureau has not had experience with the particular language referring to "craft workers" and so is uncertain how to interpret it. Other agencies have also had the same concern and the definition leaves questions of who would be covered by the proposed legislation.

The Department understands and supports the concept of ensuring that all workers on publicly funded construction projects have received adequate safety training. However, for the several reasons cited above, we are concerned that the bill as written may not effectively achieve its purpose and would certainly require additional resources to implement that the Department does not currently possess.

We would be willing to pull together a group of interested stakeholders and have a broader conversation about the legislation and its intent. It is our understanding that several other agencies would be interested in participating in such a conversation.

Thank you for your time and attention. I would be happy to answer any questions you may have now or at a future work session.

The Maine Department of Labor is committed to serving Maine workers and businesses by helping employers recruit and train a talented workforce, providing workers with skills needed to compete in our economy, assisting individuals when jobs are lost, aiding people with disabilities reach career goals, ensuring safe and fair workplaces for people on the job and providing research and analysis of employment data to support job growth.