STATE OF MAINE

MAINE SERVICE EMPLOYEES ASSOCIATION	)	
SEIU LOCAL 1989	)	
	)	
and	)	**REPORT OF**
	)	**FACT FINDING PANEL**
	)	
STATE OF MAINE EXECUTIVE BRANCH	)	
	)	

For the Union: Tom Feeley, Esq., Lindsey Bigelow, Esq., and Joseph Gribbin, Esq.

For the Employer: Linda McGill, Esq.

INTRODUCTION AND BACKGROUND

The Maine Service Employees Association, SEIU Local 1989 ("MSEA" or "Union") is the certified bargaining agent for Executive Branch employees of the State of Maine ("State") working in positions in the Administrative Services ("Admin"), Professional and Technical Services ("Pro-Tech"), Operations, Maintenance and Support Services ("OM&S"), and Supervisory Services ("Supervisory") bargaining units. The MSEA and State are parties to collective bargaining agreements (CBAs) for all four of these bargaining units, all of which expired on June 30, 2025.

The parties held eleven bargaining sessions between June 2025 and September 2025. After the State declared an impasse on September 30, 2025, the parties moved to mediation, and held several sessions in November and December. When mediation did not resolve all of the outstanding issues, the MSEA filed for fact finding. Prior to fact finding, the parties reached tentative agreements on 22 proposals, including 10 of MSEA's 31 proposals and 12 of the State's 20 proposals. MSEA withdrew one proposal and the State withdrew two, leaving unresolved 20 MSEA proposals and six State proposals.

The fact finding panel ("Panel") consists of Jeffrey Neil Young, Esq., Employee Representative; Bruce W. Smith, Esq., Employer Representative; and Shari Broder, Chair. The Employer and Employee representatives of the Panel met with the parties on February 24, 2026 to attempt to work out these issues. Although the parties have reached tentative agreements on a number of proposals, there remained many outstanding for the Panel to consider.

The Panel held hearings on March 31, and April 7, 2026 at the Cross State Office Building in Augusta, ME.

Both parties submitted prehearing summaries, presented evidence and made oral arguments. The record closed on April 21, 2026 upon receipt of the closing summaries of the parties. This report is based upon the entire record.

REPORT ON ISSUES

The parties submitted a large number of issues to fact finding, but were able to resolve several of them while the fact finding process was ongoing. They reported either having reached tentative agreements (TAs) or thought they could do so on the following issues, and therefore, the Panel did not address them:

U-11 New Article: Artificial Intelligence
U-12/S-5 Article 35 Labor Management Committees
U-13 Article 26 Leave for Recruitment and Retention Committees
U-15 Article 63/64 Telework
U-18 New Article: Immigration
U-27 New Article: MRS Progression

The following issue was dropped during fact finding:

U-26: Winter Allowance

The following issues were housekeeping matters that the parties agreed need not be addressed by this Panel:

S-9 Conclusion of negotiations
S-14 Preamble

MSEA and the State have been parties to numerous CBAs. The Panel's general approach, absent strong evidence to the contrary, has been to leave longstanding language unchanged.

UNION Issue #1: Article 14. Job Security and Contracting Out

Union proposed new language:

Existing Contractor Transparency: The State shall provide upon request all Costs, work product and dates of renewal/expiration of contracted work. Before contracts are extended, renewed or continued, there shall be an opportunity to assess options for the work being performed by State workers by investing equivalent resources in State workforce as would have been spent on the contractor.

The State shall cap indirect payout to contractor/subcontractors at the cap that would have been spent the [sic] hire and retain State workers to perform the same positions.

Position of the Union : The Union is concerned about the expansive use of contractors across State government, many of whom are doing bargaining unit work and earning well in excess of what is earned by State workers. Some State employees, including former members of the Union bargaining team, have left State service to work for contractors employed by the State for higher pay. Contractors should not be paid a premium for work that State employees could be doing.

MSEA’s proposed changes to the Contracting Out article would bring transparency to the State’s use of contractors doing bargaining unit work. The language proposed would ensure MSEA receives information regarding contractors in a timely manner and would allow the parties to have a dialogue about whether future contracts with contractors are necessary or whether the contracted work can be performed by members of the bargaining unit. The proposal does not require the State to bring the work back into the bargaining unit following such dialogue.

Additionally, despite the State's argument that they do not often use contractors in work that could be done by bargaining unit employees, that is not true. MSEA provided several examples of contractors being hired to do bargaining unit work. Additional language in this proposal would cap the total payout for contractors to the cost of the equivalent position in State government. Several examples provided show that the State hired contractors to perform the exact same work that State employees were performing, with some contractors making 40-50% more than their State-employee counterparts.

Position of the State: The Departments of the Executive Branch are responsible for effectuating legislatively established missions, such as law enforcement, road construction and maintenance, child protective services, social safety nets and natural resources conservation. To effectuate these missions, the State needs to have the flexibility to contract out, which usually means to get work done that cannot be done by state workers, or to fill a particular need. Contracting out is a management right. There is no evidence of an existing problem that would cause a need for changing this language. The contracts are all public record, available to the Union on the General Services website, as confirmed by General Counsel Michael Dunn at the hearing. The CBA requires negotiation of the impact of any reductions in force (RIFs) due to contracting out, but there have not been any RIFs for this reason. For example, the DOT has contracted for a bridge designer for complex bridges, which is a very specific skill set that State employees do not have, or for very specific elevated cybersecurity. DHHS staff was overwhelmed, so the State contracted with 70 workers to process SNAP benefit eligibility, so that people in need would not have unreasonable wait times for benefits. When contractors receive a higher rate for the same work, it is often because they are not receiving state benefits, and the hourly rate takes this into account.

The Union's proposed cap on the cost of contractors and subcontractors is the most troubling and unworkable part of this proposal. As Mr. Dunn explained, a Department may choose to contract out for a variety of reasons listed under 5 MRS 1816-A. Not all of these reasons involve cost savings. The State has the ultimate right to determine how to best effectuate its missions, including determining whether to use contractors.

The Mills administration has added 2000 state employees to the roll, which should dispel the idea that the State is using contractors to avoid hiring state employees.

Recommendation: The evidence before us shows that the Union has access to the information it seeks about contractors, and the State can assist the Union in accessing it. We are not convinced that the State is contracting out to avoid hiring more Union employees, and the State at times needs the flexibility to utilize contractors to serve the needs of the public. For these reasons we recommend no changes to this article.

Union Issue #2: Article 58. Seniority

Union proposed new language:

Section B. Layoffs

Notice. If the Employer plans a layoff, the Employer will give the Union and individuals within the affected job classification as much notice as possible. The notice will identify the date of the proposed action, the individuals who would be laid off and/or whose hours would be reduced, and the reason for the action.

Meeting. At the Union's request, the Employer will meet with the Union to negotiate over the effects and alternatives to a reduction in force. The meeting will be scheduled within ten (10) days of the request.

(1) The appointing authority determines which positions, in each organizational and unit division, are to be abolished or funding eliminated. The State must layoff in the following order:
   a. First, private contractor/subcontracted work when possible;
   b. Second any temporary employees;
   c. If additional layoffs are still necessary than [sic] that State may layoff MSEA Bargaining Unit Employees

Programs will be empowered to shift the use of funding when possible and allowed by statute in order to prioritize maintaining staffing.

J. Positions Outside Bargaining Unit
An employee in the bargaining unit as of the effective date of this Agreement in a position in a class covered by this Agreement but who becomes excluded pursuant to Section 979-A(6)(C) of the State Employees Labor Relations Act and an employee who by way of a promotion through a normal career ladder is in a classified position excluded from the bargaining unit pursuant to Section 979-A(6)(B) or Section 979-A(6)(D) of the State Employees Labor Relations Act and any other employee promoted through a normal career ladder to a position outside of the bargaining unit shall have no right to return to a bargaining unit position in the event of layoff unless all workers within the bargaining unit rights to displacement, recall and other rights have already been satisfied ~~have the same layoff, seniority, displacement, recall and other rights under this Article for return to a position in the bargaining unit as a covered employee would have if the exercise of those rights is occasioned by a layoff.~~

~~Employees covered by previous MSEA-SEIU Agreements in any status described above shall continue to have such rights for return to a position in the bargaining unit as described above.~~

~~Otherwise, employees excluded from bargaining units pursuant to the State Employees Labor Relations Act shall have no rights under this Article within the bargaining unit.~~

K. Laid Off Employees in State Housing
Full-time year-round employees who live in State housing and are laid off shall have at least ninety (90) ~~sixty (60) days~~ to vacate the State housing.

Position of the Union: State employees are anxious about possible layoffs. This proposal

would clarify the parties' obligation to impact bargain permanent layoffs, would require as much notice to workers being laid off as possible, and would dictate who gets laid off first and what bumping rights exist for workers outside of the bargaining unit. The State objected to the Panel making recommendations regarding the State's obligation to impact bargain permanent layoffs. There is no reason why the Panel cannot and should not make recommendations as to that section of this proposal.

Although the State claimed at hearing that there were often times where they received little to no notice about funding issues that could lead to layoffs, citing recent funding issues with the federal government, MSEA simply proposed that employees receive as much notice as possible.

Finally, MSEA proposed that certain employees be laid off prior to other employees, such as temporary or contract employees being laid off before bargaining unit employees. In addition to order, MSEA proposed that, if possible, departments work with employees to avoid potential layoffs by moving around funding where possible.

Position of the State: As with the Union's contracting out proposal, the State needs the flexibility to make reductions in force when necessary to effectuate the State's mission, and this is a management right. Article 58 already has order of layoff language and the right to bump. The changes proposed by the Union limit the flexibility that the State needs. When the State lays people off, it is a last resort. No one wants to lay off employees if it is not necessary. This proposal also does not take into account the realities of life under the current administration in Washington, DC. The State has largely been able to mitigate the impact of the Federal damage. Furthermore, the proposal implicates the State's broad management rights to run the State as efficiently as possible. Departments that can move funding will often do that, but the State was not agreeable to MSEA's proposed language that would require them to do so whenever possible. The language regarding confidential employees returning to the bargaining unit has been longstanding. Sixty days' notice regarding removal from State Housing is a reasonable time. The Union has provided no examples of the current language being a problem, and the State is not aware of any.

Recommendation: Giving "as much notice as possible," is a worthy goal, and if the State has more notice before making layoffs, it should give more notice. On the other hand, the Panel is concerned that including this term in a CBA could lead to disputes about its interpretation, as its meaning is vague. We do not believe that the Union has provided examples of there being problems with the seniority article and do not see a need to change the existing contract language. We recommend no changes to this article.

Union Issue #3: New Article. State Shutdown

Union proposed new language:

In the event that there should be no state budget for a fiscal year to go into effect, there is a shutdown of the state government until a budget can be signed into law. Only employees designated by the Governor as emergency personnel may be approved to work.

In the event of a full or partial state shutdown, the following shall govern the compensation of emergency and essential personnel during the state government shutdown:

1. Employees who were declared essential personnel and who were required to report to work during the shutdown will also receive hour-for-hour straight time compensatory time for work performed. Such compensatory time is to be taken at a mutually convenient time.
2. State employees who, because of the shutdown, did not report to work for their regularly scheduled shifts will be paid all hours they were scheduled to work and would have worked but for the shutdown. Such time for which an employee is paid will be considered as time worked for the purpose of computing overtime pay, retirement and other benefit calculations.

3. Employees who received prior approval to use accrued paid leave credits shall receive administrative leave for their regularly scheduled work day, and are not to have their accrued leave credits changed.
4. Employees on unpaid leave (e.g. unpaid personal leave, unpaid sick, unpaid FML or voluntary cost savings are not eligible to receive pay or administrative leave, even if they received prior approval to be on unpaid leave.
5. An employee is not eligible to receive administrative leave or pay for time not worked for any day during the shutdown that the employee was not scheduled to work.
6. Time on shutdown shall be treated as time worked for all employees for purposes of maintaining continuous employment, retirement, all benefit accruals and seniority.

Position of the Union: The purpose of this proposal is to put into writing what happens when there is a state shutdown. This proposal is motivated by a state shutdown that occurred in 2017. The Union is asking the State to commit to pay employees for time lost during the shutdown. It is not a vacation, as employees are worried about the situation and are not enjoying themselves.

Position of the State: The problem is not that there is a history of employees not being paid. The Union is asking for a commitment to pay. This would require the State to violate Article V, Part 3, Section 4 of the Maine Constitution, which states that "No money shall be drawn from the treasury, except in consequence of appropriations or allocations authorized by law." The State cannot issue paychecks without legislative approval to do so. The Legislature had to pass legislation to pay employees in prior shutdowns. The proposal would require the State to make a commitment that the Executive Branch could not fill. Furthermore, the proposal does not distinguish between storm closures and state shutdowns due to budgetary issues.

Recommendation: The Panel is concerned about the legality of this proposal and that it is speculative. The Union has not shown a need for this, and the Panel does not see a need for this change.

Union Issue #5: Article 68/70. Vacation

Union Proposal: Allow employees who left State service and returned to have all of their service counted in calculating vacation time, after they complete their probationary period. The State agreed to this. The Union also proposed the following:

If an employee above the maximum accrual rate on January 1 has been denied vacation leave in the preceding 12 months, or there has been a department prohibition on time off in the preceding 12 months, the employee may use overage during the first quarter of the new year.

Position of the Union: The situation of workers being denied vacation leave and finding themselves over the accrual cap happened several times over recent years, typically due to short staffing or other operational need. This is a cost-neutral proposal to allow these employees the opportunity to use this vacation time, rather than losing it through no fault of their own.

Position of the State: Denials of vacation time are rare in State government, but the State has no way to track them. As they are not budgeted now, if extended into the next year, departments could not figure out what their obligation would be. This lands at a bad time in the budget process.

Recommendation: The Panel recommends that in so-called “use it or lose it" situations, affected employees should be permitted to use the overage during the first quarter of the new year if they were denied vacation leave or if there has been a department prohibition on time off in the preceding six months.

Union Issue #6: Article 61/62 Sick Leave

Union Proposed New Language:
2\. . . . Employees may elect to use their sick leave in conjunction with their family medical leave, but will not be required to do so.
9\. When an employee is on extended sick leave and has used all but one (1) week of their own sick leave, that employee or their representative may submit a request to their Human Resources representative to establish a sick leave bank in the employee's name. Once approved, the HR Representative will circulate a form asking for donations of sick, vacation or compensating leave from employees within that Department.

Once the employee returns to work following the extended sick leave, any unused donations to the sick leave bank shall be credited back to the donors in proportion to their original donation.

Position of the Union: Maine's new Paid Family Medical Leave (PFML) law prohibits employers from requiring workers to use accrued leave time while collecting PFML benefits. The Union would like the contract to reflect the new law.

The Union also proposes the creation of individual sick leave banks. The State operates a noncontractual catastrophic leave bank, but workers think that the State does not fairly administer this process, and denies requests arbitrarily.

Position of the State: PFML, which will be in effect by the time this decision is issued, is a major change that will allow employees to receive two-thirds of their wages from PFML. They may use their accrued sick leave to cover the other one-third of their time out of work. The State opposes putting one piece of the law into the CBA, and will comply with the law.

The Union's sick leave bank proposal would be difficult to administer. It would involve tracking, and would have to be inconsistent among the different departments. This is a solution in search of a problem. Individual agencies may establish catastrophic leave banks for MSEA employees, should operational needs permit.

Recommendation: Because the law will prohibit employers from requiring workers to use accrued leave time while on PFML, the Panel does not believe this language needs to be included in the CBA. The individual sick leave bank proposal is complicated. The Panel does not see a reason to mandate personal sick leave banks when there was no demonstration of a problem of many workers exhausting their sick leave. There are many requests for catastrophic leave each year, and an employee being unhappy with the State denying leave benefits does not justify setting up a complicated individual sick leave bank system.

Union Issue #14 Article 32/33 Health Insurance

Union Proposals:

1. Increase the State's share of the dependent premium for each eligible employee who selects this coverage from 60% to 75%.
2. The State shall contribute $100 to each health insurance eligible employee's Flexible Spending Account (FSA) annually
3. Any employee who can show proof of insurance may opt out of the State's health insurance plan, and be compensated the cost of this benefit by the State

Position of the Union: Over the past several years, health insurance and health care costs for State workers have skyrocketed. Premiums alone have increased approximately 23.41% since 2020. These increased costs have cut into salary increases, with the biggest impact falling on lower wage workers. Maine employees pay more out of pocket for health insurance than any other New England state. This proposal seeks to offset these increased costs by increasing the State's percentage of the cost of dependent premiums and to create FSAs for each employee to help pay for increased medical costs.

Position of the State: The rising cost of health care is an issue all employers are dealing with. The MSEA has a voice in changes to the State health insurance plan, limiting its impact on employees. This year, the State reduced a number of out-of-pocket costs for things like PCP and specialty physician copays and prescription drugs.

The non-MSEA bargaining units receive the same coverage as the MSEA, and all four of those unions have settled their contracts with no change in the employer-employee premium split or other changes. This should be given heavy weight by the Panel. The State has a strong interest in keeping health insurance costs and terms consistent among all employees, and has always maintained such consistency.

Recommendation: The Panel understands that the rising cost of health care, including insurance, has adversely affected State employees and continues to take a bigger bite from their paychecks. The cost to the State for health insurance premiums has risen considerably as well. Thus, the Panel does not support increasing the State's share of the dependent premium or paying employees who are fortunate enough to have health insurance through their partner or another source. We agree that all State employees, regardless of Union, should have the same health insurance benefits. Rather than recommending a State contribution to an FSA, we would rather put any additional funds into salary increases so that employees may choose to use this money as they see fit. We therefore recommend no changes to health insurance.

Union Issue #16: New Article: ADA Accommodations

Union New Proposed Language:

1. When an Employee makes a request for reasonable accommodation, the employee may choose to have union representation throughout the process. The State will provide the employee with the union's contact information upon request. The State will comply with all federal and state laws regarding disability accommodations.
2. Upon receipt of a request for accommodations, including, if needed, a healthcare provider verification letter, the State shall start the interactive process within 10 work days.

3. If a reasonable accommodation is denied, the State shall communicate in writing a response to the accommodation request within 10 work days of such denial.
4. All approved accommodations shall be reduced to writing. The Employee shall be provided a copy of the accommodation within 5 work days of the accommodation being agreed to, in addition to it being placed in their personnel file.
5. If an employee is off work pending ADA accommodation, the State shall provide paid administrative leave if they take longer than 10 work days to approve or deny accommodations.

Position of the Union: At the hearing, the MSEA pointed to multiple instances where arbitrators have determined that the State failed to meaningfully engage with the ADA process or otherwise provide reasonable accommodations, and has targeted workers exercising their rights to medical leave. This proposal was submitted to place some guardrails on the process. It does not require a decision within a certain time frame, but does set a time in which the process must begin. It also requires the State to document any decisions resulting from the request. These proposals reflect the best practice outlined by the Job Accommodation Network and EEOC. Because employees are sometimes out of work for a period between their request and when they are able to return to work, the last part of this proposal would provide for paid administrative leave for employees when the State takes longer than ten work days to approve or deny the employee's request.

Position of the State: Because there are no "magic words" for employees to initiate an ADA request, this makes the foundation of the MSEA's proposal unworkable. The State processes hundreds of ADA accommodation requests annually. The handful of cases the MSEA used to demonstrate that the State fails to take this seriously is unfair, as the vast majority of requests are processed without issue. The interactive process is designed to be flexible, and the MSEA's proposal limits this flexibility. Also, the MSEA's proposal overlooks the reality that the employer's obligation is to provide an effective, not necessarily the requested, accommodation.

Recommendation: The evidence presented at the hearing, including the arbitration decisions, does show that a problem exists with respect to how some State agencies deal with ADA accommodation requests. We realize that this is not a simple issue, however. Sometimes, it can take a while to get a note from a doctor and there are other steps in the process that make it difficult to set hard deadlines, although we acknowledge the importance of employees receiving an answer in a reasonable amount of time. We recommend that the parties discuss this further, as they suggested at the hearing. We further recommend that, in the interest of the State, the Union, and employees that the State acknowledge receipt of ADA requests, document the accommodation that it has agreed to provide, and give a copy of its agreement to the affected employee.

Because of the difficulty involved in setting deadlines in these cases, we likewise do not believe that paid administrative leave is a good option when the State is unable to provide a response to a request within 10 work days.

Union Issue #19: New Article. Performance Evaluations

Union New Proposed Language:

1. Formal evaluations should be conducted upon initial appointment, appointment to another position (promotion or transfer), change in raters, resignation, at the beginning of each performance review period or at the request of the supervisor or employee to discuss progress forward, or changes to previously established expectations. For permanent employees, performance interviews should be held at least once per year, prior to the employee's performance review date.
2. Merit increases shall be automatic and processed on an employee's salary review date. In the event that a merit increase is going to be denied based on an employee's performance, the State must notify an employee at least three weeks prior to their salary review date. If the State does not notify the employee of the denial at least three weeks prior to the salary review date, they waive their right to deny a merit increase.

The State has agreed to the first paragraph about evaluations.

__Position of the Union:__ This proposal largely incorporates the State's own policies and civil service bulletin into the contract. The State would not address the continued issue of late performance evaluations and delayed merit increases. There have been six month delays in evaluations and merit increases. The State's civil service bulletin requires that employees be notified three weeks in advance of their anniversary date if they are going to be denied or granted a merit increases, and if not notified, they would receive their merit increase on their anniversary date. Contrary to the State's allegation that this conflicts with 5 M.R.S. §7065(3), here, if an employee is not meeting performance standards, they have to be notified three weeks in advance that they will not be receiving their merit increase. The absence of such notice would indicate that an employee is meeting the required performance standards and deserves a merit increase. That is not an automatic merit increase.

__Position of the State:__ The second paragraph would require automatic merit increases in direct contradiction to 5 M.R.S. §7065(3), which prohibits this, and requires a specific recommendation from the appointing authority. These merit increases are retroactive, so the State does make people whole when they do not receive their evaluation and subsequent merit increase within the optimal time frame. .

__Recommendation:__ The delay in receiving a merit increase can mean a lot to workers who are earning lower wages. We do not recommend that merit increases be automatically granted when evaluations are delayed. We do recommend, however, as an incentive to supervisors to complete evaluations on a timely basis and compensation for those whose merit increases are delayed, that the contract include language stating that the State will pay interest on retroactive merit increases at the rate established by 14 M.R.S. Section 1602-B(3).

Union Issue #22/State Issue #3. Article 52/53. Reclassifications

State Proposed Changes:

1. The MSEA will not appeal management-initiated requests for reclassifications that result in a range increase
2. Implementation of a trial tripartite arbitration procedure that involves giving priority to arbitration cases involving two or more employees, and other cases will be heard chronologically. The parties would appoint two or more arbitrators experienced in job evaluation disputes.
3. The arbitrator's authority would be limited to determining that the process and procedures used in classification, reclassification and reallocation are fair, objective and equitable. All awards for employee-initiated requests would be implemented retroactively when the funds are provided pursuant to budgetary procedures. Management-initiated reclassifications would not have backpay associated with them, as they are prospective in nature.

The parties do not dispute the use of a tripartite process to try to resolve disputes internally before they go to arbitration.

Position of the State: This proposal is a top priority for the State. Over the past several years, the State has seen a significant increase in classification and reclassification appeals. The MSEA routinely appeals these determinations, including those that have resulted in pay raises, thereby increasing administrative burden, delay and litigation exposure. Arbitration decisions adverse to the State can result in significant fiscal impacts, including classification compression affecting multiple job classes and triggering broader compensation distortions. Such outcomes may require the State to consider workforce reductions, reallocation of funds from other programs, or deferral pending legislative funding approval.

The State has reached comparable agreements with other bargaining units, including AFSCME, FOP, MSLEA, and MSTA, regarding revisions to reclassifications language. The proposed language largely tracks the Civil Service Appeals Board standard, to which all non-union employees are subject. Additionally, although MSEA frequently files appeals, many matters do not progress beyond initial filing stages, resulting in an aging and costly backlog. The parties began developing the pilot process in November 2024 and executed a pilot agreement on March 26, 2025. Monthly sessions to address the backlog began in July 2025; however, implementation has been inconsistent, with only approximately half of scheduled sessions occurring due to cancellations by MSEA. As a result, the backlog has not meaningfully decreased.

Position of the Union: The State seeks to change a system that has been used successfully for over 40 years. It is a good process, and turnaround times have improved, with appeals getting processed more quickly. The State argues that change is necessary, however, because the MSEA appeals virtually every reclassification and reallocation determination. This is simply not true. MSEA has only appealed a small percentage of the State's determinations. The State itself bears significant responsibility for the backlog of these cases.

Although the State argues that management-initiated reclassifications are inherently prospective in nature, this is false. Many of them filed over the years reflect changes that have occurred before the date the request was initiated, and in those instances, back pay runs from the date the request was initiated.

The State also argued that the other bargaining units' acceptance of similar changes to their CBAs should be dispositive, but the MSEA's bargaining units are much broader and more diverse than the relatively homogenous units represented by other unions. As such, changes agreed to for those unions would not work for the employees the MSEA represents.

Essentially, the State seeks this change to save money by limiting the rights and remedies available to MSEA employees. This is an insufficient reason to change the well-established status quo.

Recommendation: In Maine, reviews of agency action are normally given deference, based upon the recognition that agencies have the specialized expertise in the areas they regulate. The Panel recommends eliminating the *de novo* review of appeals of reclassification decisions, and instead establishing a standard of review that permits challenges to the process, procedures and determinations made in reclassification appeals based on clear and convincing evidence, as provided in the MSTA contract:

> The scope of the Arbitrator's authority shall be to determine that the process and procedures utilized and determinations made in classification, reclassification, and reallocation matters are fair, objective, and equitable. A lack of fairness, objectivity, or equity must be shown by clear and convincing evidence.

We also recommend that management-initiated requests not be appealable if they result in a range increase, but this would not prohibit the Union from initiating a separate reclassification request if the outcome of the management-initiated request is deemed unsatisfactory.

Union Issue #24: Article 9. Compensation (Not General Wages

Union Proposals: The Union had a number of different proposals for additional pay or stipends for different positions. Below, some of the proposals are set forth in full underlined) and others in summary form. These stipends and additional compensation are summarized from the Pro-Tech contract proposal, but are largely included in the other contracts in a form identical or similar to what is set forth below. Not all stipend proposals are summarized here because there were over 100 of them.

F. Call out pay: A proposal to extend call out pay to all employees, including those who are not eligible for overtime.

The parties agreed to the following, which are not at issue: 1. the Union's proposal for Oil and Hazardous Materials Responders I, II and III, in lieu of premium may, employees may, upon mutual agreement, take compensating time fo four hours at a rate of one-and-one-half hours actually worked, whichever is greater; (2) the proposed longevity pay increase in paragraph M; (3) the weekend differential for Fish Culture Supervisors; and (4) the ECS training stipend, but not the EMD/EDF QA stipend. The parties were still discussing some of the proposed stipends when the hearing closed.

G. 1. <u>Employees mandated to work on their days off shall be paid two (2) times the regular hourly rate of pay.</u>
G. 3. Is a proposal to increase from two to three the number of personal leave days per year available to employees in pay ranges 22 and above who do not receive any form of overtime compensation, and also increase from two to three the number of personal leave days given to employees of Child Protective Services, Caseworkers for Corrections, Human Services and Mental Health & Developmental Disabilities.
G. 12. Marine resources scientists will be eligible for uncapped flex time and straight overtime pay for any hours worked beyond 80 and up to 90 hours when boat or aerial surveys are taking place, and to pay them one and one-half times their regular hourly rate after working 90 hours.

J. Standby

1. Extend standby pay of 16% to all employees, including those who are exempt from overtime.

M. Longevity pay: this proposal would increase longevity pay by reducing the number of years of continuous State service to be eligible as follows:

9. from 10 cents to 15 cents per hour for employees with between five and less than 10 years of service.
10. 25 cents per hour for employees with 10 years but less than 15 years
11. 35 cents per hour for employees with 15 years but less than 20 years
12. 45 cents per hour for employees with 20 years but less than 25 years
13. 65 cents per hour for employees with 25 years or more service
14. 75 cents per hour for employees with 30 years or more service

N. expand eligibility for the 60 cents per hour weekend differential to the Fish Culture Supervisor classification.

Q. Institutional stipend: increase the institutional stipend 60 cents to $2 to the base salary for hours employees work in correctional and mental health institutions and caseworkers assigned to the DHHS Office of Adults with Disability Services Crisis Prevention unit.

R. Trained Emergency Communications Specialists (ECS) trainers would receive a stipend of $2 per hour for each hour spent on-the-job training a new ECS, and EMD/EFD QA certified employees would receive a $1 per hour stipend for each hour performing QA tasks.

S. Add Correctional Compliance Program Specialist to the list of Department of Corrections employees who are paid an additional $2 per hour to their base pay.

T. Pay an additional $7.50 per hour to the base pay of Human Services Caseworkers in the DHHS Office of Aging and Disability Services (OADS).

Y. New proposal to pay an additional $2 per hour to any employee asked to train another employee in a new position a new skill, with a minimum of one hour of compensation, or the length of the assignment, whichever is greater.

Z. New proposal for stipends for individuals at various rates, based upon their post-secondary degrees.

AA. New proposal for a $2 per hour stipend for employees who hold a Commercial Driver's License with HazMat endorsement.

AB. New proposal for an additional $10 per hour for employees who work during Immediately Dangerous to Life and Health events, while performing such work.

AC. New proposal for an additional $2 per hour for employees performing hazardous duties for time spent doing this work.

AD. New proposal for hourly stipends to individuals with Captains' licenses.

AE. New proposal stating that in the event that a classification within a job family receives a stipend, all other classifications within that job family shall receive the same stipend.

AF. New proposal to pay employees required to work in the office due to the nature of their work or as a result of a denial of their telework request a stipend of $2.50 per hour.

AG. New proposal to pay employees in the ICM classification an additional $7.50 per hour, and an additional $1 per hour if they have a relevant Masters' Degree.

Position of the Union: This proposal would make a number of changes to compensation for MSEA workers to pay a variety of premium pay entitlements and stipends to specific groups of workers. This includes: (1) expanding call out pay for all workers, not only those who are overtime eligible; (2) entitling employees who are mandated to work on their scheduled days off to double time pay, rather than 1 ½ time, and giving employees not entitled to overtime compensation three personal days instead of two; (3) expanding standby compensation to overtime exempt employees; (4) increasing longevity pay to help retain staff long term; (5) increasing the stipend for employees in correctional and mental health institutions, OADS and OCFS caseworkers, employees who train new employees, emergency communication specialist leads, employees with CDL and HazMAT certification, employees who work under especially dangerous conditions, and intensive case managers; (6) the adjustments proposed would apply to all classifications that are in the same job family as classifications receiving stipends. This last item is intended to avoid compression where a supervisee is eligible for a particular stipend but the supervisor is not, as such compression discourages employees from promoting to higher roles.

Position of the State: The State is willing to discuss this multi-part proposal. The State has shared with the Union that there is a limited amount of funds available to bargain with, and has asked the Union to set priorities for stipends presented in their proposal. MSEA has been unwilling to do so. There are some stipends that the State is not interested in pursuing, including the OADS caseworker stipend and Job Family Stipends. Although there has been a high turnover of Office of Child and Family Services (OCFS) caseworkers, this is not true for OADS caseworkers. If the Union were willing to set priorities here, the State would be better able to develop a meaningful counter-offer. Within the State's proposal, there are expansions to many areas of this article that would greatly benefit State employees, such as an increase to longevity pay, ECS trainer stipend and DHHS License Renewal Reimbursement.

Recommendation: There is inadequate information available to the Panel to make recommendations on most of the stipends that the parties had not resolved by the end of the second day of hearing, including call out pay and the Correctional Compliance Program Specialist. It is unclear how much the various stipends would cost the State, as we were not provided with this evidence.

Where the Union has proposed across-the-board increases, we encourage the parties to consider whether the wage scale for these positions should be changed, rather than applying stipends to these positions. This is also true for job families. Again, the Panel was provided with no information about the cost, and it was not clear why adjusting pay ranges would not address what the Union seeks, rather than adding stipends to what appears to be a very large number of employees' paychecks.

Regarding the OADS stipend, we do not recommend it, as the market does not dictate the need for it. We recommend that OADS employees doing the OCFS work should get paid at the rate for any OCFS shifts they fill.

Union 25 and State Issue: Article 9. Compensation (General Wage Increases)

Union Proposal:

1. The Union has requested a 5% across-the-board general wage increase, effective July 1, 2025, and another 5% increase in January of 2026.
2. On the pay week commencing closest to February 1, 2026, all scales shall be adjusted so that there is 4% between each step on the scale, and the two bottom

steps shall be dropped from the pay scale in all salary schedules, making the current Step 3 the new first step. Two steps shall be added to the top of the pay scale by adding 4% to the base rate of each previous step. After adjustment, if any pay scale has a Step 1 that is below $18 per hour, Step 1 shall be raised to $18 per hour and the rest of the scale adjusted accordingly to retain 4% between steps.

3. The State will cover the entire cost of the Maine Paid Family Medical Leave benefit.

State Proposal: The State has offered a 4% increase over the course of the CBA, 2% per year. At one point during negotiations, the State offered a signing bonus of $1250 per employee to get a speedy settlement, but this was taken off the table.

Position of the Union: For decades, State worker wages have lagged significantly behind the wages of comparable workers in the public and private sector market. The State clearly has sufficient money to fund the two 5% raises to begin closing the significant disparities between the pay earned by MSEA workers and the general labor market, as well as the disparity between the pay of workers in non-MSEA bargaining units.

Position of the State: Over the past 5.5 years, wages for MSEA workers have increased 24.1%, and this does not include one-time payments, merit increases and stipends. The State has offered the same salary increase to the MSEA offered and agreed to by the other unions of state employees and the MSEA Judicial Branch units. While other settlements are not dispositive, they should be given heavy weight by the Panel in favor of the State's proposals. MSEA's unwillingness to identify any priorities regarding wage issues has frustrated the process and the ability to reach an agreement.

Recommendation: Based upon the evidence, the Panel recommends a 2.5% increase in the first year of the agreement, with a $1250 signing bonus for each employee, and 3% in year two. We understand the State's interest in being fiscally conservative in light of what is happening at the Federal level with funding and program cuts, but believe this is still a fairly conservative settlement that would help unit members with increased costs of living, including health insurance.

Union Issue #31. Article 9. Compensation (Overtime for Single Position)

Union Proposed Language

> **16.** The Motor Carrier Inspector Supervisor classification shall be eligible for premium overtime pensation at the rate of one and one-half (1 ½) times the regular hourly rate after forty (40) hours of actual work in a week. In lieu of premium payment, upon mutual agreement, an employee may earn compensating time at the rate of one and one-half (1 ½) hours of compensating time for each hour worked outside of the regular scheduled hours.

Position of the Union: There is one Motor Carrier Inspector Supervisor position in State government who supervises six Motor Carrier Inspector positions, each of whom earn overtime when working over forty hours in a week. This position is currently exempt under the Fair Labor Standards Act. This proposal would make the Supervisor eligible for overtime when required to work.

Position of the State: The State is not interested in expanding overtime to this classification.

Recommendation: The parties represented that they may discuss this position in the context of stipends, and did not provide additional information for the Panel to consider this issue.

State Issue #11 . Article 47. Ferry Service Passes

State Proposed Language: Ferry Service Employees who live on the island on which they work will be issued passes authorizing free passage on Ferry Service vessels for the employee, their spouse or significant other, their dependent children and their vehicles for runs to or from the island. Free passage for a vehicle shall be on the same priority as that afforded paying passengers. For the purpose of this article, vehicle is defined as a noncommercial motor vehicle with four (4) tires or less with an overall length (including cargo) of twenty (20) feet or less. The employee is responsible for applicable charges for beyond the 20 feet maximum length, including, but not limited, to trailers or other towable apparatus.

Position of the State: This proposal was presented following a recent arbitration decision which ruled that the contract language was not clear regarding the State's practice, so the State sought to clarify it through this proposal by defining the term "vehicle" in the CBA. Anything over 10,001 pounds is considered commercial, so employees would have to pay the difference between the fare for noncommercial vehicles and a vehicle that exceeds the definition in the CBA.

Position of the Union: The Union has no objection to language stating that the free passes should not be utilized for commercial vehicles, but objects to the State undoing a 50-year practice of allowing workers to use their free passes to bring their personal trailers or RVs across on the ferry.

Recommendation: The Panel recommends changing the language to state that commercial vehicles, as defined by Maine law, are excluded from free passage. While we acknowledge that there was a practice, we believe the proposed vehicle definition is fair and reasonable, and it would continue to be a good perk of working for the Ferry Service. Therefore, we recommend substituting this language for the third and fourth sentences in the State's proposal,

> For the purpose of this article, 'vehicle' is defined as a noncommercial motor vehicle. The employee is responsible for applicable charges for any vehicles meeting the definition of "commercial vehicle" under Maine law.

State Issue #12 . Article 35/36 Hours and Work Schedules (Ferry Service)

State Proposed Language:

7. Whenever ferry runs are canceled because of weather, or breakdown ~~or other such circumstances,~~ as determined by the Captain or Ferry Service Management, Ferry Service employees scheduled to work on those runs shall be credited with and paid for their

scheduled hours as hours worked as long as the employee is available for work. The decision to continue or suspend operations in all other circumstances will be made by management (Ferry Service Director, Director of Maintenance, along with the Chief Operating Officer) and will follow the guidance issued by the Office of Employee Relations.

Position of the State: This would require the Captain to have a discussion with management to determine how employees will be compensated. The goal of this change is to pay administrative time instead of work time.

Position of the Union: This proposal would leave the decision for cancellations to either the Captain of the boat or Ferry Service management for weather or breakdowns. Those cancellations would result in employees being compensated for their scheduled hours as hours worked. For any other cancellations, the State wants management and OER to make the decisions. This would mean that employees would be paid administrative leave versus hours worked, changing a practice that has been in effect for many years. It is important because this time would not be counted towards overtime, and workers would also be paid for fewer hours than they would normally receive if based on guidance from OER. Captains need to be in charge of cancellations, especially those that have to do with safety, which would include cancellations due to short staffing, the levels of which are dictated by the U.S. Coast Guard.

Recommendation: The State was supposed to send the Panel clarifying language for this proposal but did not do so. We consequently do not have adequate information to make a recommendation on this issue.

Dated in Maine this 21st day of May 2026

Shari Broder

Shari Broder, Chair

Jeffrey Neil Young

Jeffrey Neil Young, Esq., Employee Representative

Bruce W. Smith, Esq., Employer Representative