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## Testimony of Attorney General Janet T. Mills in support of LD 1025, An Act to Amend the Law Pertaining to Staff in the Office of the Attorney General

Tuesday, April 2, 2013

Senator Valentino, Representative Priest and members of the Joint Standing Committee on the Judiciary. I am Janet T. Mills and I am pleased to testify in favor of LD 1025, An Act to Amend the Law Pertaining to Staff in the Office of the Attorney General. This bill will clarify the employee compensation process in the Office of Attorney General and will ensure the independence of the Office.

The position of the Attorney General is created by the Constitution, Article 9, Section 11, which dictates that the office holder shall be chosen in Convention of the Legislature. The Attorney General is chosen by the Legislative branch but works closely with all departments of the Executive Branch of government, and the intent of the Constitution seems to be to maintain the separation of powers between the Chief Executive and the chief legal officer for the state. I have proposed this legislation to remove the provision that arguably violates the spirit of this independence.

My office is subject to the same restraints on budgeting to which all other departments are subject. The Governor submits a budget to the Legislature and the Legislature reviews it and approves it or amends it as it sees fit. This bill would allow the Attorney General to run the office within the financial constraints the Legislature sets in a manner the Attorney General sees fit.

Current law states that the compensation of staff attorneys, assistant attorney generals and the secretary to the Attorney General is fixed by the Attorney General "with the approval of the Governor." The compensations of research assistants, law office manager and deputy attorneys general, however, are fixed by the Attorney General without gubernatorial approval. The attorneys in the Attorney General's Office, both assistants and deputies, and the secretary to the Attorney General are all unclassified employees who serve at the pleasure of the Attorney General. I cannot explain the discrepancy in the statutes. Also, to my knowledge, the compensation of unclassified staff of the Secretary of State and the Office of the Treasurer are not subject to similar gubernatorial approval.

Without this gubernatorial provision, the setting of salaries for attorneys in the Attorney General's Office (currently based on ranges 30 and 38) will be based solely on budgetary constraints, merit and simple common sense.

I would like to propose that you amend this bill in two respects:

First, it was not our intent to delete the last line of the first paragraph of Section 196—“; but such compensations shall not in the aggregate exceed the amount appropriated therefor and shall not result in an increased request to future Legislatures”—so I recommend that that line be reinstated.

Secondly, the District Attorneys and their assistants are subject to the same gubernatorial approval process, within the same budgetary constraints. I propose that this bill be amended to remove this provision.

The proposed additions to the bill are below.

I urge you to support LD 1025 with the suggested amendments and I would be happy to answer any questions.

### **Title 30-A §255. District attorney salaries**

**1. Annual salary.** The District Attorney for each of the prosecutorial districts shall be within salary range 90 with the step within that salary range to be determined by the Attorney General, ~~subject to the approval of the Governor.~~

### **Title 30-A §272. Assistant district attorneys**

**1. Appointment.** Each district attorney shall appoint assistant district attorneys, one or more of whom may be full-time, to serve at the district attorney's will. The district attorney shall designate whether each assistant district attorney will serve full-time or part-time when appointed.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Duties.** The assistants shall take the oath prescribed for district attorneys and assist the district attorney in the ordinary duties of that office, in the drawing of indictments, in the hearing of complaints before the grand juries and in the preparation and trial of criminal causes. They, when directed by the district attorney, shall act as counsel for the State in the trial of complaints before Judges of the District Court and Justices of the Superior Court and in the prosecution of appeals before the Supreme Judicial Court.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Compensation.** The compensation of deputy and assistant district attorneys shall be fixed by the district attorney, subject to the approval of the Attorney General ~~and the Governor.~~ For purposes of compensation and benefits, deputy and assistant district attorneys shall be treated comparably to assistant attorneys general.