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February 19, 2020

**Testimony of Nina A. Fisher
Deputy Commissioner – MaineDOT**

Before the 129th Legislature, Joint Standing Committee on State and Local Government

**In Opposition to LD 1280
*An Act to Establish the Maine Buy American and Build Maine Act***

Senator Claxton, Representative Martin, and distinguished members of Joint Standing Committee on State and Local Government, my name is Nina Fisher, and I am the Deputy Commissioner for the Maine Department of Transportation. As this committee will remember, MaineDOT testified in opposition to LD 1280 last year during the first public hearing. We remain opposed to this legislation in its original form and the proposed amendment as currently drafted.

We appreciate the sponsor proposing to exclude us from the “Use of American-made materials” section of this bill. This section would mandate that a contract for the construction, reconstruction, alteration, repair, improvement, or maintenance of a public building or public work made by a public agency contain a provision that the manufactured goods be manufactured in the United States. Should this provision pass without exempting MaineDOT, it would increase our costs significantly and create construction delays.

The “Preference for in-state contractors” portion of the proposed amendment remains problematic for our contracting operations. If Maine enacts such legislation, Maine contractors could be penalized when bidding on out-of-state projects. MaineDOT awards the vast majority of our contracts, roughly 93 percent, to Maine companies. We question whether capturing that remaining seven percent of our work is worth imposing onerous regulations on Maine contractors who bid on out-of-state jobs. This, of course, is a policy decision for this committee and the legislature.

If the committee has the desire to enact an in-state preference provision, the following revisions to the proposed amendment would limit the damage to the integrity of our bid process:

1. Under §1780, remove the sentence “If an in-state contractor submits a bid that is substantially higher than other submitted bids, the public agency shall give the in-state contractor the opportunity to match the lowest bid submitted.” and
2. Under §1780-A, amend the sentence to include “The department with contracting jurisdiction, shall adopt routine technical rules as described in chapter 375, subchapter 2-A to implement this subchapter.”

Even with these possible revisions, this legislation will have a fiscal impact on our operations. Our contracting staff is currently examining the approximately seven percent of bids that are awarded to out-of-state companies, culling through those that contained only state funds as this amendment proposes, and reviewing what impact this legislation would have had on the bid prices. We also are reviewing whether there will be need for added contracting staff to oversee the separate bidding process that this legislation intends. We hope to have this analysis to the committee for the work session.

Thank you for your time and consideration. As always, I am happy to try to answer any questions you may have.

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