

TESTIMONY IN OPPOSITION TO

L.D. 1347—AN ACT TO INCREASE THE CAP ON LIABILITY FOR
GOVERNMENTAL ENTITIES UNDER THE MAINE TORT CLAIMS ACT

AND

L.D. 1348—AN ACT TO INCREASE THE LIMIT ON DAMAGES UNDER THE MAINE
TORT CLAIMS ACT FOR NEGLIGENCE INVOLVING SCHOOL FIELD TRIPS

April 7, 2025

Senator Carney, Representative Kuhn, and members of the Judiciary Committee, I am Eileen King, the Deputy Executive Director of the Maine School Management Association, testifying on behalf of the legislative committees of the Maine School Boards Association and Maine School Superintendents Association in opposition to L.D. 1347 and L.D. 1348.

L.D. 1347, An Act to Increase the Cap on Liability for Governmental Entities Under the Maine Tort Claims Act, and L.D. 1348, An Act to Increase the Limit on Damages Under the Maine Tort Claims Act for Negligence Involving School Field Trips, both speak to the interest of the sponsors of increasing the cap on damages currently highlighted in §8105 – limitation on damages are set at \$400,000 for any and all claims arising out of a single occurrence.

The current cap has not been adjusted since 1999, and we appreciate the intent behind L.D. 1347 to ensure that damages are reflective of current conditions. However, we are unsure of the need for this proposal: based on conversations with school districts and their counsel, we are unaware of more than just a handful of claims in which schools have paid up to the \$400,000 cap. We have concerns about the unintended effects of this proposed increase on school budgets and operations, especially when there has not been a preponderance of cases where the need has been demonstrated for such an increase.

Increasing the cap limit within either bill could substantially increase school districts' liability insurance costs. School districts are already facing tight budgets and financial constraints, and the increase in insurance premiums could place an undue financial burden on our already stretched resources. Many other legislative mandates – from minimum wage increases for support staff to paid family and medical leave – have also pushed up school budgets.

Our members expressed particular concern around the broad language in L.D. 1348 – specifically, that it would award damages for any “negligent act or omission” related to the “planning, transportation, administration, supervision or execution of a school field trip.”

While we understand the importance of accountability, we are concerned that this expansive language, as well as a higher cap, could incentivize claims that are not necessarily grounded in merit. With more risk of additional lawsuits, we worry that some schools would need to spend more on their liability policies, or in

some cases, choose to limit future field trip opportunities for students. We do not want to see this happen, as we all know the value of field trips for providing experiential, hands-on education and exposing students to new experiences beyond the walls of their local school.

Our associations suggest that, if the cap is to be raised, that an alternative amount be considered—one that strikes a balance between addressing the concerns of plaintiffs and avoiding an excessive burden on public entities. In addition, if your committee is intent on changing these laws, we would advocate for more restrictive language that would limit claims to only the most serious situations.

On the face of each of these proposed bills, L.D. 1347 and L.D. 1348, the legislative committees of MSSA and MSBA urge the Judiciary Committee to vote Ought Not to Pass on both bills.