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Testimony of Representative David Sinclair presenting

LD 1408, An Act to Codify Judicial Deference to Agency Interpretations

Before the Joint Standing Committee on Judiciary

Senator Carney, Representative Kuhn and fellow members of the Joint Standing Committee on Judiciary, good afternoon. I am David Sinclair, and I proudly represent House District 50, which is the City of Bath. I appreciate the opportunity to come before you today and present **LD 1408, An Act to Codify Judicial Deference to Agency Interpretations**.

Despite our best efforts as legislators and as members of policy committees, we sometimes pass laws that are ambiguous – sometimes this ambiguity is inadvertent and results from loose drafting, and sometimes the ambiguity is intentional, leaving the sharpening of the policy-implementing decisions to the administrative agencies responsible for administering the statutes in question.

For several decades, following a federal doctrine called Chevron deference, Maine courts have given deference to executive departments when it comes to interpreting laws and regulations that could have more than one meaning. For example, if a labor law is unclear, the Maine courts look to the Maine Department of Labor to see how it has interpreted and implemented the statute. If the Department provides an interpretation of the law that the court deems reasonable, then the court will accept that interpretation as the meaning of the law. This makes sense because it is the department that has the relevant specialized knowledge and expertise to best understand the law's intent and how it operates in practice. By deferring to agency interpretations, courts promote consistency in the application of laws and allow agencies to operate efficiently, making policy decisions that are better suited to the specific context.

This judicial deference serves an important separation of powers purpose, by acknowledging and honoring the role of the executive branch in implementing laws enacted by the Legislature, while courts focus on resolving legal disputes within that regulatory framework.

This bill promotes and preserves clarity in the law, by codifying the Maine courts' existing practice of deferring to agency interpretations as set out above. The bill would have no immediate impact other than to preserve the status quo. It is still worth doing however, because the courts can change how they

approach these issues which is what has happened at the federal level. Federal courts used to defer to federal agencies in the same way as the Maine courts currently do with state agencies, until the US Supreme Court recently ended that practice, by overturning the Chevron doctrine in *Loper Bright Enterprises v. Raimondo*. This ruling has caused uncertainty for regulated businesses, non-profits, labor unions and citizens more broadly at the federal level. By codifying the existing state court deference to agency interpretations, this bill will avoid these legal uncertainties for the state.

Thank you for your time and consideration. I am happy to answer any questions committee members may have.