

## Testimony of Kaitlin A. Caruso in Support of LD 1408: An Act to Codify Judicial Deference to Agency Interpretations

Senator Carney, Representative Kuhn, and Honorable Members of the Joint Standing Committee on Judiciary,

My name is Kaitlin Ainsworth Caruso, and I am writing to urge you to vote that LD 1408, An Act to Codify Judicial Deference to Agency Interpretations, ought to pass. I am an Associate Professor at the University of Maine School of Law, where among other things I teach Administrative Law (covering both federal and Maine administrative law concepts). I do want to make clear, though, that I am offering this testimony in my personal capacity, and not in any way as a representative of, or on behalf of, the Law School or University system.

I would like to thank Rep. Sinclair and Sen. Carney for sponsoring this legislation, and Committee for considering it. LD 1408 represents an important codification of the sensible and well-established practice of judicial deference to agency interpretations—an approach already embraced by the Maine Supreme Judicial Court. As the Court has long recognized, agencies possess specialized knowledge and expertise that can provide crucial context when they interpret statutes and rules within their purview. The Court's existing practice of deferring to reasonable agency legal interpretations has proven to be effective in promoting consistency and ensuring that laws are applied with the expertise they require. LD 1408 would codify this approach, ensuring that courts continue to give sufficient weight to agency constructions of statutes and regulations and thereby sufficient weight to the judgment of this Legislature about the value of agency experience and the scope of their authority.

The bill codifies a two-part test that would be familiar to anyone who has taken Administrative Law in the last half-century: if a statute or rule is unambiguous, courts will apply its plain meaning; however, if the language is ambiguous, courts will defer to the agency's interpretation, provided the interpretation is reasonable and the statute is one in the agency's area of expertise or for which it has responsibility. This approach is consistent with the Law Court's current practice and is not meant to re-shape or displace any of the Court's current practice. Instead, it is a grateful recognition of the thoughtful approach that the Maine courts have taken combining their own institutional strengths with those of the state agencies that serve the people of Maine in so many ways each day.

Now is an important moment to explicitly protect this approach. As you know, the U.S. Supreme Court recently rejected its similar, longstanding deference regime, generally known as *Chevron* deference. The primary rationale for that rejection, as set out in the Court's 2024 ruling in *Loper Bright Enterprises v. Raimondo*, was the idea that requiring deference to reasonable agency legal interpretations is inconsistent with the text of the federal Administrative Procedure Act (APA), which instead requires each judge to use their independent best judgment about the construction of a statute. This shift created almost immediate uncertainty and disuniformity nationwide, as different judges reached differing but reasonable conclusions to the same interpretive questions. LD 1408, by codifying deference to reasonable and appropriate agency interpretations in Maine, will eliminate any analogous doubt about whether such deference is consistent with the Maine

Administrative Procedure Act (APA). This bill ensures that Maine's legal framework will continue to support and reflect the expertise of our state agencies, while also providing a clear and well-founded basis for judicial review.

By codifying judicial deference, LD 1408 not only affirms the court's existing practice but also strengthens the role of agencies in the regulatory process, allowing them to effectively perform their duties with greater predictability and confidence. This bill strikes a practical balance, ensuring that courts can review agency actions, including their interpretations of statutes and regulations, while recognizing the agencies' valuable expertise in interpreting the laws they administer.

Thank you for your time and consideration.

Sincerely,

Kaitlin Ainsworth Caruso

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