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Testimony of the Maine Municipal Association

In Opposition to

LD 1656 - *An Act to Facilitate Compliance with Federal Immigration Law by State and Local Government Entities*

April 24, 2025

Sen. Carney, Rep. Kuhn, and distinguished members of the Judiciary Committee, my name is Rebecca Graham, and I am submitting testimony in opposition to LD 1656 at the direction of MMA's Legislative Policy Committee (LPC). Our LPC is made up of individuals from across Maine with municipal officials elected by their peers across Maine's 35 Senate districts representing communities with very different access to available enforcement resources and local capacity.

Municipalities must pay for the policing activities demanded by their law enforcement agencies which include coverage of insurance products needed to answer complaints of violations of Constitutional law. As drafted, LD 1656 forces a municipality to pay for an expansion of activity for local law enforcement agencies at the expense of other real enforcement priorities for the community with no compensation for the activity, while also expanding their legal risk exposure with no compensation.

Under current law, municipal law enforcement at the direction and financial support of their legislative body (residents) may receive training to support expanded duties under the 287(g) program under a formal written memorandum of agreement (MOA) with the Department of Homeland Security (DHS). This is a program that has existed since 1996 and provides two different models for agencies to *voluntarily* assist DHS with certain aspects of immigration law. The "jail enforcement model," or JEM, authorizes local law enforcement officers to interrogate alleged noncitizens being held in a local agency's detention facility. The "warrant service officer model" or WSO, authorizes local law enforcement officials to execute ICE *administrative* warrants and perform arrest functions of an immigration officer within the jails or correctional facilities. Unlike the JEM model, the WSO model does not allow for local law enforcement agencies to interrogate alleged noncitizens about their immigration status.

Only training is funded, all other expenses including those to respond to constitutional challenges against law enforcement actions must be paid for by the local law enforcement entity. According to the terms of the standard 287(g) MOAs, Immigration and Customs Enforcement (ICE) is responsible for providing training instructors and materials, as well as costs for travel for local agents participating in the training programs. ICE also covers installation and maintenance of information technology infrastructure. The participating law enforcement agency is responsible for all other costs, including personnel expenses (salary and overtime, benefits, local transportation, lawsuits), security equipment, and administrative supplies.

This bill proposes a mandate on those agencies removing the choice aspect in current law and forcing the local community to use their resources that should be paid for by the federal authorities that

desire the activity. Either state or federal funds should go to this purpose if LD 1656 is passed, not property tax dollars.

According to the federal law, the 287(g) Program MOAs are purely voluntary and the law may not be construed to require any state or local law enforcement agency to enter into an agreement with ICE (8 U.S.C. § 1357(g)(9)). This means that any local law enforcement agency that is invited by ICE to participate in the 287(g) Program, and to receive local authority to perform some immigration enforcement actions, has the legal discretion to determine whether participation in the Program is feasible based on their needs, interests, and available resources. A 287(g) Program MOA is also cancelable – meaning that even if a local law enforcement agency enters into a formal MOA with ICE, the terms of the standard 287(g) MOAs allow either party to terminate the agreement at any time.

As drafted, the bill neither allows a community to cancel an agreement or voluntarily adopt a MOA and forces the community to direct already limited local law enforcement resources away from community priorities. These include investigations that need cooperative partnerships and information sharing with federal agencies to address human trafficking, drug trafficking, deed fraud, weapons crimes, homicide, violent assaults, threats against schools, theft, sexual exploitation of minors and missing persons, all of which have an interstate and international border component due to our extensive boundaries with Canada and global interconnected reality.

Finding a visitor overstaying a tourist visa is not a local enforcement priority and shouldn't become one without the direct input from the property taxpayers who must fund the expanded activity. If the federal budget has not adequately funded their own enforcement priorities from their far broader fiscal resources, then the Legislature should not force state priorities onto the property taxpayer without compensation for the activity.

For all of these reasons, officials ask that you allow municipal agencies to balance their enforcement resources with local enforcement priorities and available staffing, while protecting and retaining federal information sharing relationships that are necessary to address significant and harmful interstate and cross border criminal activity directly impacting Maine communities.