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**Testimony of Meghan Russo
Maine Department of Transportation
Before the 132nd Legislature, Joint Standing Committee on State and Local
Government**

In Opposition

LD 490, An Act to Provide for a 5-year Automatic Repeal of Agency Rules

Senator Baldacci, Representative Salisbury and distinguished members of the Joint Standing Committee on State and Local Government, I am Meghan Russo, Director of Government Affairs at MaineDOT. MaineDOT submits the following testimony in opposition to LD 490.

LD 490 proposes to amend the Maine Administrative Procedure Act to provide that any agency rule that is adopted or an amendment to which is adopted in accordance with the requirements of that Act after January 1, 2026 is automatically repealed 5 years from the date of final adoption.

Many of MaineDOT's rules are required to be established pursuant to statutory mandates directing MaineDOT to adopt a rule to carry out the statute. For example, Maine's Sensible Transportation Policy Act, 23 MRS §73, required MaineDOT to adopt a rule, in coordination with a number of other designated State agencies "to implement the statewide comprehensive transportation policy." This rule is a major substantive rule and can be found at Chapter 103 of MaineDOT's rules. Subsection 5 of Section 73 states that "Transportation planning decisions, capital investment decisions and project decisions of the Department of Transportation are governed by and must comply with the transportation policy set forth in this section and rules implementing that policy." It is clear from the express language of Section 73(5) that the rules adopted under the Sensible Transportation Policy are of central importance in MaineDOT's planning, capital investment, and project decision-making.

Other MaineDOT rules are key components of assuring safe highway operations while benefiting the public welfare. For example, the Utility Accommodation Rules (chapter 210), accommodate the convenient and economical placement of utility facilities within the right-of-way limits of State and State-aid highways by establishing minimum requirements governing the location, method of installation, maintenance, adjustment and relocation of the accommodated facilities.

These rules have been developed to protect the safety of the public and to safeguard the integrity and capacity of highway infrastructure in the State of Maine even while accommodating the convenient and economical placement of utility facilities that also benefit the public welfare.

MaineDOT's rule on traffic movement permits, Chapter 305, a major substantive rule pursuant to the mandate in 23 MRS §704-A, likewise balances highway safety and economic development. The rule implementing the statutory mandate recognizes that MaineDOT has a responsibility to ensure that development projects that may result in increases in vehicle trips do not cause unacceptable decreases in the safety, access, or level of service for other motorists, pedestrians or bicycle riders. MaineDOT's Traffic Movement Permit rule is intended to emphasize transportation-efficient development while accommodating transit, bicycle, and pedestrian facilities.

Adoption of these and similar rules further the progress of and support MaineDOT's planning, capital investment, and project decision-making as well as highway safety while taking into account the public interest and economic development. They involve multiple stakeholders and require significant time and resources, and also require legislative involvement when the rule is a major substantive rule. LD 490 would apply to any rule adopted or amended after January 1, 2026 and would therefore trigger the automatic repeal of MaineDOT's existing rules if MaineDOT amended such rules after January 1, 2026.

A 5-year sunset provision for such rules would be inefficient and would unnecessarily focus MaineDOT's attention and resources on existing rules that have allowed MaineDOT to implement statutory mandates and have demonstrated an appropriate balance between MaineDOT's operational needs, the needs of the public, and economic development considerations.

For these reasons, MaineDOT urges the committee to vote in opposition to LD 490. Thank you.