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Testimony of the Maine Municipal Association

In Opposition to

LD 965 - An Act to Require the Automatic Repealing of Agency Rules

March 30, 2025

Senator Baldacci, Representative Salisbury and distinguished members of the State and Local Government Committee, my name is Rebecca Graham, and I am providing testimony in opposition to LD 965, *An Act to Require the Automatic Repealing of Agency Rules* 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.

Officials recognize the need for consistent legislative oversight of agency rules and acknowledge the growing concern over mandates being passed to municipal governments through the rulemaking process. These rules, carrying the weight of law, directly affect municipal operations, and their validity and enforceability are crucial. As a result, officials are wary of automatic rule repeals without a safety net to ensure that municipal operations will not be disrupted by agencies failing to meet critical deadlines.

Moreover, each time the rulemaking process is initiated, municipal governments must pivot their focus to evaluate the potential impacts of new regulations on their budgets, staffing, and public outreach efforts. This is a significant burden, diverting resources from essential services to explain to regulatory bodies the potential consequences of proposed changes on local duties.

Take, for example, the years-long process to develop the federal municipal separate storm sewer system permit, a task that spanned more than eight years but is required to be revisited every 5 years. Municipalities spent months drafting a model low-impact development ordinance, only to have it challenged by a petition from the Board of Environmental Protection. Meanwhile, the existing permit remains in effect, protecting municipalities and ensuring that local stormwater professionals meet all prescribed duties. If this bill were to pass, these communities would lose their current protection, left to navigate federal requirements without state assistance and facing potentially crippling local costs.

Given this context, officials understand that while the rulemaking process should be transparent, open, and meaningful, it must not become a mere checkbox exercise without careful consideration of its impact on local governments. At the same time, they also understand the intent behind this bill. In several instances, local governments have witnessed rulemaking being used to impose mandates without the constitutionally required legislative review.

Officials urge you to reconsider the automatic repeal of agency rules. Instead, they call for a more thoughtful approach to the rulemaking process that addresses the increasing trend of shifting significant financial burdens onto local governments, often in conflict with the original intent of rulemaking.