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TESTIMONY OF MICHAEL KEBEDE
LD 1690– Neither For Nor Against

An Act Regarding Artificial Intelligence in Campaign Advertising

Joint Standing Committee on Veterans and Legal Affairs

April 28, 2025

Senator Hickman, Representative Supica and members of the Joint Standing Committee on Veterans and Legal Affairs, good afternoon. My name is Michael Kebede and I am policy director for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions through advocacy, education, and litigation. On behalf of our members, we wish to testify neither for nor against LD 1690.

The problem of deceptive political communications is endemic to democracies, and especially troubling in our age of artificial intelligence. We understand the sponsor's intent with this bill: to protect voters against false or misleading information. While we share the sponsor's goal of ensuring the integrity of the campaign and electoral process, this bill raises several concerns we wish to highlight.

First, Section 2 of this bill would require that certain entities include a disclosure in political communications that meet the bill's definition. This is compelled speech. Under the First Amendment, "[l]aws that compel speakers to utter or distribute speech bearing a particular message are subject to ... rigorous scrutiny." *Turner Broad. Sys., Inc. v. F.C.C.*, 512 U.S. 622, 642 (1994) (*citing Riley v. Nat'l Fed'n of the Blind of N. Carolina, Inc.*, 487 U.S. 781, 797 (1988) (summarizing the origins of compelled speech jurisprudence). This bill would require those who fail to make this disclosure to pay penalties of up to 500% of what they spent on the political communication, and would further permit the civil actions for equitable relief and attorneys' fees. We appreciate that this bill imposes civil rather than criminal penalties, and that it requires intentional deception before liability can be imposed. However, the significant civil penalties still risk subjecting a broad range of political communications to compelled disclosures.

Second, the bill covers "political communications." This is a vast concept, potentially encompassing any social media post made by any supporter of a political cause or candidate. We strongly suggest the sponsor and committee consider limiting the bill's applicability to just paid political advertisements.

Third, the exceptions listed under section 2, subsection 5-B(C)(1) and (3) purport to exempt a range of entities as long as they "clearly acknowledge[] through content or a disclosure...that there are questions about the authenticity

of the synthetic media" or "clearly state[] that the deceptive or fraudulent political communication does not accurately represent the speech or conduct of the candidate." The fact that the entities must publish these disclosures defeats the purpose of the exception.

Fourth, the bill's applicability to content that "has been created or intentionally manipulated with the use of digital technology" might sweep in more than intended. The bill's definition of "synthetic media" is very broad. It could apply to a photo altered by photoshop or a wide range of other alterations that we might not think of as AI-generated. We strongly suggest that the committee consider defining the covered content as narrowly as possible.

Thank you for your time and attention.