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***Testimony in support of LD 1756,  
An Act to Protect Employee Freedom of Speech***

Senator Tipping, Representative Roeder, and honorable members of the Joint Standing Committee on Labor and Housing, my name is Aaron Frey, and I have the privilege to serve as Maine's Attorney General. I am here today to testify in support of LD 1756, *an Act to Protect Employee Freedom of Speech*. This bill recognizes and protects both an employer's right to speak to their employees about religious and political matters as well as an employee's right to be free from retaliation if they decline to listen. This bill does not prohibit employers from engaging in such discussions with their employees but instead, it simply establishes that employees may not be disciplined, discharged, or otherwise penalized if they choose not to participate.

At its root, this is an anti-retaliation measure. The bill imposes no restrictions on an employer's ability to mandate employees receiving information that is necessary for employees to perform their duties or that is legally required. Employers who operate primarily for religious purposes are exempt. For instance, a church or a synagogue would be permitted to make religious discussions mandatory, while a hospital operated by a religious organization would not be. Employees should have the right to go to work without having to fear for their jobs if they choose not to listen to political or religious speech that is unrelated to their employment duties.

Employers may argue that this bill constitutes a restriction on their First Amendment right to speak to their employees. However, this bill does not limit an employer's right to speak on political or religious matters. This bill protects an employee's right to choose not to listen to such speech. The right to speak goes hand in hand with the freedom to choose, without adverse consequences, not to listen. Many employees may wish to participate while others may not. Each employee should be entitled to make that decision individually, without fear of retaliation by their employer. This bill constitutes minimum labor standards legislation<sup>1</sup> that codifies the concept that employers have the right to speak to their employees on a variety of topics, as long as that speech is non-coercive.<sup>2</sup> This bill does not regulate non-coercive speech, but it does protect employees against coercive speech and gives them a remedy for prohibited retaliation.

For these reasons, I believe this is an important and legally defensible bill, and I urge you to support it.

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<sup>1</sup> U.S. Supreme Court precedent makes clear that "pre-emption should not be lightly inferred in this area, since the establishment of labor standards falls within the traditional police power of the State," *Fort Halifax Packing Co. v. Coyne*, 482 U.S. 1, 21 (1987).

<sup>2</sup> *Chamber of Commerce of U.S. v. Brown*, 554 U.S. 60, 68 (2003), holding that the National Labor Relations Act "expressly precludes" regulation of non-coercive speech.