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*Testimony of Representative Amy D. Kuhn introducing*

## **LD 517, An Act Regarding Synthetic Material in Campaign Advertising**

*Before the Joint Standing Committee on Judiciary*

Senator Carney and distinguished members of the Judiciary Committee, my name is Amy Kuhn, and I proudly represent House District 111 in the town of Falmouth. It is a pleasure to be with you today to introduce **LD 517, An Act Regarding Synthetic Material in Campaign Advertising**.

Artificial Intelligence (AI) generated or “deep fake” media is increasingly common and increasingly convincing in today’s political discourse. By “deep fake” in this context, I am referring to fabricated content depicting a candidate, for example, saying or doing something that they never did or said, and that is deployed for political benefit. Such content can create a materially false impression and potentially alter an election outcome by deceiving voters. Unfortunately, these deepfakes are increasingly common, convincing and easy to produce.

For example, in 2024, a political consultant sent robocalls to thousands of New Hampshire voters using an AI-generated voice that mimicked then President Biden’s speech in tone and content. The robocall falsely advised Democratic voters that they should not vote in New Hampshire’s primary because it could preclude them from voting in the general election that November.<sup>1</sup>

Another example is a deep fake video that was circulated by a political action committee in North Carolina’s sixth congressional district.<sup>2</sup> This video depicts a candidate slandering himself, saying that he is unqualified and that he endorses his opponent.

Most recently, here in Maine, we saw an ad featuring AI-generated content that cast a candidate for the US Senate in a negative light. The ad begins with what appears to be a photo of Governor Mills, which morphs into an artificial version of the image and then becomes animated, depicting her in realistic-looking, but fabricated, scenes.

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<sup>1</sup> Company that sent fake Biden robocalls in New Hampshire agrees to \$1m fine:

<https://www.theguardian.com/technology/article/2024/aug/22/fake-biden-robocalls-fine-lingo-telecom>; A political consultant faces charges and fines for Biden deepfake robocalls: <https://www.npr.org/2024/05/23/nx-s1-4977582/fcc-ai-deepfake-robocall-biden-new-hampshire-political-operative>

<sup>2</sup> North Carolina 6th District candidate Mark Walker calls video shared by PAC a ‘deep fake’:

<https://myfox8.com/news/politics/your-local-election-hq/north-carolina-6th-district-candidate-mark-walker-calls-video-shared-by-pac-a-deepfake/>

As high-quality deep fakes become easier to create and circulate,<sup>3</sup> these occurrences are likely to increase, posing new threats to voters and our elections. In the settlement of the New Hampshire case described previously, FCC chair Jessica Rosenworcel stated, “Every one of us deserves to know that the voice on the line is exactly who they claim to be. If AI is being used, that should be made clear to any consumer, citizen and voter who encounters it.”<sup>4</sup> Today, more than ever, it is important for people to know what is real.

To this end, for a few years now, states across the country have sought to address misleading deepfake political content.<sup>5</sup> Initially, some states adopted total bans on AI-generated content in political advertising. Others imposed criminal penalties. Over time, those approaches came under scrutiny as potentially unlawful infringements on protected political speech.

Since then, numerous states have adopted a different approach, laws such as this one, where AI generated speech is not prohibited, but must be disclosed. This approach adopts a viewpoint that the remedy for disagreeable speech is more speech. Adding more information to the marketplace of ideas allows voters to consider the content with eyes wide open.

And now, my own disclosures. First, the committee should be aware that I had a similar bill (LD 1690), which was worked in the Veterans and Legal Affairs Committee in the very last weeks of session in 2025. Unfortunately, I did not have time to work with the stakeholders and finalize the language, and the bill failed on an ought not to pass. At that time, I had planned to bring the bill back in the 133<sup>rd</sup>; however, during the interim, the Governor's Task Force on Artificial Intelligence released its final report, which specifically recommended that Maine adopt this type of measure in the “near term”:

### ***RECOMMENDATIONS (p. 38)***

***E1) Pursue near-term legislative and executive action where harmful AI uses are apparent, responses are clear, and protections are lacking, ensuring that Maine is prepared to respond as these risks become more complex and widespread, including:***

- ***Election security: Preventing fraud or misinformation campaigns amplified by AI. Maine election laws currently make no mention of plain language disclosure requirements around artificial or manipulated content; many other states have passed laws regulating deepfakes in elections that may offer models.***

The release of the report and the urgency of the recommendation in light of the elections coming up this year led me to move ahead at this time.

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<sup>3</sup> Tool to create a photo deep fake: <https://deepfake.civai.org>. For audio deep fake: [https://drive.google.com/file/d/1r4a104e\\_AnnTETPiQYVzjx9l\\_veTDfhZ/view?stream=top](https://drive.google.com/file/d/1r4a104e_AnnTETPiQYVzjx9l_veTDfhZ/view?stream=top)

<sup>4</sup> FCC press release: <https://docs.fcc.gov/public/attachments/DOC-404951A1.pdf>

<sup>5</sup> NCSL Report of the Artificial Intelligence, Cybersecurity and Privacy Task Force: The Use of Artificial Intelligence in Elections, The Federal and State Legislative Landscape (Sept. 2024): <https://documents.ncsl.org/wwwncsl/Technology/Elections-State-Fed-Landscape-v02.pdf>

Second, I want to share that some interested parties do have concerns about certain provisions of the bill as it is currently drafted. I will work with those entities following the public hearing to bring an amended version of the bill to the work session.

In conclusion, to date, 26 states have enacted laws addressing deepfake content in campaigns and elections, and many more states have introduced legislation this year.<sup>6</sup> Without regulation, deep fakes are likely to further exacerbate voter confusion and generate a loss of confidence in elections. In other states, many of these bills have passed with strong or even unanimous bipartisan support because they have the potential to impact all of us, and the institutions – like free and fair elections – that we all rely on. It is critical that the public maintains trust in our elections or else we risk losing their participation.

Thank you for the opportunity to present this bill.

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<sup>6</sup> NCSL “AI in Elections and Campaigns” tracker of adopted legislation [https://www.ncsl.org/elections-and-campaigns/artificial-intelligence-ai-in-elections-and-campaigns?utm\\_source=act-on+software&utm\\_term=ai%20in%20elections%20and%20campaigns&utm\\_campaign=a%20deep%20dive%20into%20ai&cm\\_mmc=act-on%20software-\\_email-\\_a%20deep%20dive%20into%20ai-ai%20in%20elections%20and%20campaigns&utm\\_medium=email&utm\\_content=email](https://www.ncsl.org/elections-and-campaigns/artificial-intelligence-ai-in-elections-and-campaigns?utm_source=act-on+software&utm_term=ai%20in%20elections%20and%20campaigns&utm_campaign=a%20deep%20dive%20into%20ai&cm_mmc=act-on%20software-_email-_a%20deep%20dive%20into%20ai-ai%20in%20elections%20and%20campaigns&utm_medium=email&utm_content=email); Public Citizen “Deepfakes in Election Communications” tracker (includes pending bills): <https://www.citizen.org/article/tracker-legislation-on-deepfakes-in-elections/>

Strike the Concept Draft and Replace it with the following:

**New Title: An Act Regarding Synthetic Material in Campaign Advertising**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §1014, sub-§4, as amended by IB 2015, c. 1, §4, is further amended to read:

4. **Enforcement.** A violation of this section may result in a civil penalty of no more than 100% of the amount of the expenditure in violation, except that a violation of subsection 5-C may result in a penalty of no more than 500% of the amount of the expenditure in violation and except that an expenditure for yard signs lacking the required information may result in a maximum civil penalty of \$200. In assessing a civil penalty, the commission shall consider, among other things, how widely the communication was disseminated, whether the violation was intentional, whether the violation occurred as the result of an error by a printer or other paid vendor and whether the communication conceals or misrepresents the identity of the person who financed it. If the person who financed the communication or who committed the violation corrects the violation within 10 days after receiving notification of the violation from the commission by adding the missing information to the public communication, the commission may decide to assess no civil penalty, except for violations of subsection 5-C.

Sec. 2. 21-A MRSA §1014, sub-§5-C is enacted to read:

**5-C. Use of synthetic media in political communications.** A person or an entity required to provide a disclosure under this section as provided under subsections 1, 2, 2-A, and 2-B or any entity required to register with the Federal Elections Commission or its successor organization, shall disclose, in addition to any other required disclosure, when an image, audio or video used in a public communication has been materially manipulated or altered and the communication contains synthetic media. The disclosure must include the words "THIS COMMUNICATION CONTAINS AUDIO, VIDEO AND/OR IMAGES THAT HAVE BEEN MANIPULATED OR ALTERED."

The commission shall establish by routine technical rule, adopted in accordance with Title 5, chapter 375, subchapter 2-A, criteria regarding size and placement of the disclosure required under this subsection.

A. For purposes of this subsection, "deceptive or fraudulent political communication" means synthetic media that depicts a candidate or political party with the intent to injure the reputation of the candidate or political party or otherwise deceive a voter and that:

(1) Appears to a reasonable person to depict a real individual saying or doing something that did not actually occur; or

(2) Provides a reasonable person a materially different understanding or impression of the appearance, action or speech than a reasonable person would have from an unaltered, original version of an image, audio recording or video recording.

B. For purposes of this subsection, "synthetic media" means an image, an audio recording or a video recording of an individual's appearance, speech or conduct that has been created or intentionally manipulated with the use of digital technology or in any other manner to create a materially deceptive or fraudulent political communication.

C. For purposes of this subsection synthetic media does not include modifications to an image, audio recording or video recording that has been modified simply to improve audio or video or image clarity, highlight a specific section of an image, video or audio recording or the addition of captions as long as those

## Rep. Kuhn's Proposed Amendment to LD 517

modifications would not create a different understanding or impression of the appearance, actions or speech from the unaltered video to a reasonable person.

### C. This subsection does not apply to:

(1) A radio or television broadcasting station, including a cable or satellite television operator, streaming provider or other online programming service, programmer or producer, that broadcasts synthetic media as part of a bona fide newscast, news interview, news documentary or on-the-spot coverage of a bona fide news event, if the broadcast clearly acknowledges through content or a disclosure, in a manner that can be easily heard or read by the average listener or viewer, that there are questions about the authenticity of the synthetic media, or in cases where federal law requires broadcasters to air advertisements from legally qualified candidates, as defined by 47 Code of Federal Regulations Section 73.1940 (2022).

(2) A radio or television broadcasting station, including a cable or satellite television operator, streaming provider or other online programming service, programmer or producer, or any of their agents or any other entity that operates in a similar manner or a newspaper, website, other periodicals of general circulation including an Internet or electronic publication which is intended to be read by the general public when it is paid to broadcast or publish synthetic media unless it has intentionally removed a disclaimer included by the creator of the synthetic media or has actual knowledge that the paid content is in fact synthetic media and is circulating on their platform without a required disclaimer, or in cases where federal law requires broadcasters to air advertisements from legally qualified candidates, as defined by 47 Code of Federal Regulations Section 73.1940 (2022). For the purposes of this subsection, actual knowledge does not constitute simply a complaint or notice made by a third party regarding the validity or authenticity of the paid media;

(3) A newspaper, website, other periodicals of general circulation including an Internet or electronic publication which is intended to be read by the general public, that routinely carries news and commentary of general interest and that publishes deceptive or fraudulent political communication, if the communication clearly states that it does not accurately represent the speech or conduct of the depicted candidate or political party, as applicable; and

(4) Materially deceptive audio or visual media that constitutes satire or parody.

D. In addition to any other remedy that may be available, if the commission finds that an provision of this section has been violated and that the person or entity in violation does not come into compliance when notified or cannot for any reason be notified the commission shall notify the office of the Attorney General and the Attorney General may bring a civil action in the Superior Court for recovery of the civil penalty described in subsection 4 as well as injunctive or other appropriate equitable relief in order to prohibit the dissemination of synthetic media in violation of this subsection. If the court finds a violation of this subsection, the court may award to the commission the costs of the action together with reasonable attorney's fees as determined by the court.

## SUMMARY

This amendment replaces the concept draft.

This amendment requires a person or an entity to disclose when an image, audio recording or video recording used in a political communication has been materially manipulated by artificial intelligence or by other means. The amendment establishes that a violation of the requirement may result in a penalty of no more than 500% of the amount of the expenditure in violation and provides exemptions for certain categories of political communications.