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March 24, 2025

Senator Anne Carney, Senate Chair
Representative Amy Kuhn, House Chair
Committee on Judiciary
100 State House Station, Room 438
Augusta, Maine 04333-0100

Re: *LD 1008, An Act to Require the Attorney General to Seek Legislative Approval Before Filing Any Civil Suit on Behalf of the State and to Authorize Citizen-initiated Petitions to Move for Dismissal*

Dear Senator Carney and Representative Kuhn:

I am writing in opposition to L.D. 1008, *An Act to Require the Attorney General to Seek Legislative Approval Before Filing Any Civil Suit on Behalf of the State and to Authorize Citizen-initiated Petitions to Move for Dismissal*.

This bill would prohibit the Attorney General from filing any civil lawsuit on behalf of the State unless the Legislature passes, and the Governor signs, legislation expressly authorizing the action. And even when the Attorney General has been so authorized, any registered voter may submit to the Secretary of State an application to initiate a petition directing the Attorney General to dismiss the lawsuit. Upon the submission of an application by a single voter the Attorney General must stay the litigation while the petition is circulated. If, within a year, 500 people sign the petition, the Attorney General must dismiss the lawsuit.

This bill would likely violate separation of powers principles and would substantially interfere with the work of the office. First, Maine's Law Court has recognized that while some of the Attorney General's duties are defined by statute, the Attorney General is a constitutional officer and has independent common law duties, the most important of which is to "protect the interest of the general public." *Superintendent of Insurance v. Attorney General*, 558 A.2d 1197 (Me. 1989). Moreover, the Attorney General is not part of the legislative, executive or judicial branches of government. *Opinion of the Justices*, 2015 ME 27, ¶ 8. In order for the Attorney General to properly carry out their duties, it is critical that no other branch of government unduly interfere with the Attorney General's ability to take such actions as determined necessary to protect the public interest.

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Second, even if this bill did not violate separation of powers principles, it would cripple the Attorney General's ability to use one of the most important tools for protecting the public interest: the initiation of litigation. The Attorney General often must use lawsuits to collect money owed the State, protect the public from incompetent licensed professionals, enforce Maine's consumer protections laws, and mitigate the effects of, and recover damages for, environmental and other harms inflicted on our State. By subjecting the initiation of litigation to the legislative process, this bill would, at the very least, result in significant delays before the Attorney General could act. It also raises concerns about how the public legislative process could be used to debate the merits of initiating litigation, given that the underlying considerations are usually sensitive and confidential. And even if the Legislature and Governor authorize a lawsuit, the lawsuit could be put on hold for up to a year by just one registered voter, and terminated by 500 voters. Quite simply, the Attorney General's inherent authority to bring litigation cannot and should not be curtailed.

I urge the Committee to vote Ought Not to Pass on LD 1008.

Sincerely,

A handwritten signature in black ink that reads "Aaron M. Frey". The signature is fluid and cursive, with the first name "Aaron" being the most prominent part.

Aaron M. Frey
Attorney General