

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

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Good afternoon, Senator Tipping, Representative Roeder, and members of the Committee on Labor and Housing, my name is Arthur Phillips, and I am an analyst at the Maine Center for Economic Policy. I submit this testimony in support of LD 1756, which would allow workers to decide whether to listen to political speech from their employer while on the job.

Unions are more popular today than at any point in nearly 60 years. Last year, a Gallup poll found 71 percent of Americans approve of unions.ⁱ This aligns with how workers think about joining a union themselves – a national survey found 70 percent of workers would join a union if given the opportunity, and 41% are more likely to consider joining a union now than they were three years ago.ⁱⁱ Despite these sentiments, just 10 percent of all US workers are unionized, including only six percent of people employed in the private sector.ⁱⁱⁱ One of the reasons for this gap is employers' widespread use of aggressive anti-union campaigns, a central tool of which is the captive audience meeting.

When people clock into work, they check many of their rights at the door. Under current law, workers can be forced to listen to their employer's views on political issues, including the choice of whether to join a union during an organizing drive. If workers decline to attend meetings when this speech is delivered, they are vulnerable to discipline up to and including termination of employment. Similarly, workers can be subject to one-on-one conversations about whether to unionize with their direct supervisors, who have influence over those workers' schedules, job duties, and vacation requests. It is therefore not surprising that, even when employers abide by the letter of the law, workers often feel intimidated in these meetings.

As others have noted in their testimony, employers have used these tactics in recent attempts by workers to form unions in Maine, as well as around the country. One study found nearly 90 percent of US employers forced employees to attend captive audience meetings during union organizing drives, with the average employer holding 10 such mandatory meetings during a union election campaign, while 77 percent of employers held supervisory one-on-one meetings with workers.^{iv}

Employers have a right to free speech, but workers deserve the right not to listen if they so choose. This bill would not restrict an employer's right to speech – rather, it would realize workers' first amendment rights by giving them the choice of whether to listen to their employer's political speech while on the clock.

Last year, the General Counsel of the National Labor Relations Board (NLRB) issued a memo announcing she would ask the Board to find the use of mandatory captive audience meetings a violation of federal labor law.^v While this was a welcome step, rulemaking at the federal level can take years and may not be durable, as future Board appointees could overturn such a rule.

For these reasons, we support the aims of LD 1756 and urge you to support this bill.

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Notes

ⁱ U.S. Approval of Labor Unions at Highest Point Since 1965, Gallup, August 30, 2022, U.S. Approval of Labor Unions at Highest Point Since 1965, <https://news.gallup.com/poll/398303/approval-labor-unions-highest-point-1965.aspx>

ⁱⁱ Jobcase survey finds 70% of U.S. skilled and hourly workers would consider joining a union if given the chance, August 10, 2022, <https://www.jobcase.com/newsroom/union-survey-22/>

ⁱⁱⁱ US Bureau of Labor Statistics, Union Members Summary, January 19, 2023, <https://www.bls.gov/news.release/union2.nr0.htm>

^{iv} Kate Bronfenbrenner, “No Holds Barred: The Intensification of Employer Opposition to Organizing,” Economic Policy Institute, May 2009, <https://files.epi.org/page/-/pdf/bp235.pdf>

^v NLRB General Counsel Jennifer Abruzzo Issues Memo on Captive Audience and Other Mandatory Meetings, April 7, 2022, <https://www.nlr.gov/news-outreach/news-story/nlr-general-counsel-jennifer-abruzzo-issues-memo-on-captive-audience-and>