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TESTIMONY OF ZACHARY L. HEIDEN, Esq.

LD 771 - Ought Not To Pass

**An Act To Protect Political Speech and Prevent Climate Change
Policy Profiling**

JOINT STANDING COMMITTEE ON THE JUDICIARY

April 6, 2017

Greetings Senator Keim, Representative Moonen, and members of the Judiciary Committee. My name is Zachary Heiden and I am the Legal Director of the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the United States and Maine Constitutions through advocacy, education, and litigation. On behalf of our members, we ask you to reject LD 771.

LD 771 starts off well. It is true, though incomplete, that courts have accorded political speech the highest level of protection from abridgment; courts have also accorded the highest level of protection to scientific, literary, artistic, and religious speech. It is also accurate that the government may not impose restrictions on certain disfavored speakers. But, there is no basis—in law or in history—for the claim that “statutory prohibitions on state action concerning political speech are necessary in order to ensure the highest level of protection for political speech.” Constitutional protection is a higher form of protection than statutory protection, because the Constitution cannot be altered by successive legislatures. Speech on topics of political concern is already protected by both the First Amendment to the United States Constitution and by Article I, Section 4 of the Maine Constitution. This bill does nothing to enlarge that protection.

Though this bill is cloaked in the language of freedom of speech, in actuality it is an attempt to insulate one of the most pressing topics of scientific and public-policy from discussion and debate, thus undermining the “free market of ideas” that the First Amendment is meant to nurture. Freedom of expression means that all ideas can compete with one another on an equal footing. It does not mean that all ideas are equally true. This bill is antithetical to the values of the First Amendment, and we urge you to reject it.