



TO: The Honorable Louis Luchini  
The Honorable John Schneck, Co-Chairs  
Members of the Joint Standing Committee on Veterans and Legal Affairs

DATE: January 29, 2020

RE: LD 1988 An Act To Prohibit the Distribution of Deceptive Images or Audio or Video Recordings with the Intent To Influence the Outcome of an Election

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Good morning Senator Luchini and Representative Schneck. My name is Ann Luther, and I am here today as a volunteer member of the board of the League of Women Voters of Maine, where I chair the Advocacy Committee.

The League of Women Voters, since its inception 100 years ago, has helped Americans carry out their responsibilities as voters. We encourage eligible citizens not only to vote, but also to be informed voters. This idea of an informed electorate is central to our mission, and that is because it is central to the success of our democracy.

Senator Millet's bill has identified one of the emerging forces of our technological age that works in direct opposition to this notion. We agree that the publication, broadcast, and dissemination of misinformation, especially "deep fakes," does not help voters carry out their duties responsibly. The bill rightly targets deliberately misleading information and clearly is not meant to entrap someone who inadvertently misspeaks on the campaign trail or who creates satirical material meant to illuminate larger truths in the election.

That being said, the bill does raise the famously sticky constitutional issue of allowing the government to scrutinize the content of speech. The line between a malicious deep fake and a legitimate (though edited) depiction of a candidate's image or speech may not be a bright line. No one wants the government to tell us what we can and cannot say. No one wants the government to have the power to shut us up. It is vital that any ban on political speech is thoroughly vetted and carefully crafted to serve its specific purpose.

When a similar bill was introduced in California, last year, our colleagues in the League of Women Voters of California had these observations for the sponsor:

While we share Assemblymember Berman's alarm about deep fakes, we have a number of concerns with the bill. From a practical standpoint, the solution offered may not be strong (or fast) enough to warrant wading into the waters of prior restraint on speech inherent in injunctive relief. And to the extent that the legislation gives publishers pause, and pushes them to put better screening mechanisms into place, we're concerned that the unintended flip side could be to chill (or erroneously label) the

publication of truthful depictions based on a false assertions of manipulation through communications to the publisher.

We believe these sticky issues are worth grappling with for the good of democracy. In a recent poll, 35% of Americans said that “misleading information” is the biggest threat to keeping our elections safe and accurate. That beat out voter fraud (24%), voter suppression (16%), and foreign interference (15%). ([NPR/PBS/Marist](#))

In today’s media environment, voters are inundated with political messages all day every day. This bill will not obviate the need for each of us to be alert consumers of the news. We all need to apply a healthy skepticism to click-bait headlines and determine the source and veracity of information. But if it can help block the worst examples of malign misinformation, a bill like this will help voters.

We thank Senator Millet for her efforts to address this difficult problem, and we encourage the committee to give this bill careful scrutiny. Its purpose is important. We believe that with careful consideration of legitimate constitutional concerns, it is possible to have a bill that serves democracy. That means eliminating the most egregious types of misinformation and supporting the critical goal of having a well-informed electorate.

Thank you for your consideration.