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**April 14, 2015**

### **Testimony in Support of L.D. 828**

#### **“An Act to Improve Regulatory Consistency within the Jurisdiction of the Maine Land Use Planning Commission”**

Senator Edgecomb, Representative Hickman, and members of the Joint Standing Committee on Agriculture, Conservation, and Forestry:

My name is Larry Dunphy and I represent House District 118, which is 16 towns and 6 unorganized territories in parts of Franklin, Somerset, and Piscataquis Counties. I am here today to present to you L.D. 828 “An Act to Improve Regulatory Consistency within the Jurisdiction of the Maine Land Use Planning Committee.”

The bill before you provides relief for the citizens of part of the unorganized territories. They have been disenfranchised by a law put in place in 2008 that effectively silenced their voices in the area of industrial wind site development. They have been denied a basic right to a public hearing and are now bound by rules that restrict them to a reduced form of citizen participation in comparison to the vast majority of the state. There are many others who will follow me who will speak to the many issues around citizen’s rights and fairness.

That is what this bill is about: fairness and rights, not wind power or policy. L.D. does not ban or prohibit wind development. It merely returns the process to the open-door, light of day hearings that all the rest of Maine adheres to when decisions are made about land use and policy in local areas. They are asking you to provide them with a public hearing process exactly like this one here today!

Thank you for listening to the testimony and concerns of these people here today. Then please vote in favor of citizen’s rights.

Respectfully submitted,

  
Larry Dunphy

State Representative

District 118 Athens, Bingham, Caratunk, Cornville, Embden, Harmony, Jackman, Moose River, Moscow, Wellington and Plantations of Brighton, Dennistown, Highland, Kingsbury, Pleasant Ridge, The Forks and West Forks, plus the unorganized territories of Concord, Lexington and Wyman Townships, Northeast Somerset (including Rockwood Strip), Northwest Somerset and Seboomook Lake

1 **LD 828 - An Act To Improve Regulatory Consistency within the Jurisdiction of**  
2 **the Maine Land Use Planning Commission**  
3 **(Amendment)**

4 **PART A**

5 **Sec. A-1. 12 MRSA §685-A sub-§13**, as enacted by PL 2007, c. 661, Pt. C, §1,  
6 is amended to read:

7 **13. Additions to and removals from the expedited permitting area and the**  
8 **provisional expedited permitting area for wind energy development.** The  
9 commission may add ~~areas in the State's unorganized and deorganized areas~~  
10 specified places to the expedited permitting area and remove specified places from  
11 the provisional expedited permitting area for wind energy development in  
12 accordance with Title 35-A, section 3453.

13 **Sec. A-2. 35-A MRSA §3402, sub-§2**, as enacted by PL 2007, c. 661, Pt. A, §5  
14 and amended by PL 2011, c. 682, §38, is further amended to read:

15 **2. Need for modification of regulatory process for siting wind energy**  
16 **developments.** The Legislature finds that it is in the public interest to reduce the  
17 potential for controversy regarding siting of grid-scale wind energy development by  
18 **expediting** development in places where it is most compatible with existing patterns  
19 of development and resource values when considered broadly at the landscape level.  
20 Accordingly, the Legislature finds that certain aspects of the State's regulatory  
21 process for determining the ~~environmental~~ acceptability of wind energy  
22 developments should be modified to encourage the siting of wind energy  
23 developments in these areas. Such changes include, but are not limited to:

24 ~~A. Establishing a participatory process for making~~ **Making** wind energy  
25 development a permitted use within certain parts of the State's unorganized and  
26 deorganized areas;

27 ~~B. Establishing a participatory, public process for considering where expedited~~  
28 ~~permitting of wind energy development may be implemented in the unorganized~~  
29 ~~and deorganized areas.~~

30 ~~BC.~~ **Refining** certain procedures of the Department of Environmental Protection  
31 and the Maine Land Use Planning Commission; and

32 ~~CD.~~ **Because** the Legislature recognizes that wind turbines are potentially a  
33 highly visible feature of the landscape that will have an impact on views, judging  
34 the effects of wind energy development on scenic character and existing uses  
35 related to scenic character based on whether the development significantly  
36 compromises views from a scenic resource of state or national significance such  
37 that the development has an unreasonable adverse effect on the scenic character  
38 or existing uses related to the scenic character of that resource.

39 The Legislature further finds that, while wind energy may be developed at many  
40 sites with minimal site-specific environmental impacts, wind energy developments

1 may have, in addition to their beneficial environmental effects and potential scenic  
2 impacts, specific adverse environmental and local community effects that must be  
3 addressed in state ~~permitting~~ regulatory decisions pursuant to approval criteria  
4 tailored to address issues presented by wind energy development. Nothing in this  
5 section is meant to diminish the importance of addressing, as appropriate, site-  
6 specific impacts on persons, property, and natural values, including, but not limited  
7 to, wildlife, wildlife habitats and other ecological values.

8 The Legislature further finds that development of the State's wind energy resources  
9 should be undertaken in a manner that ensures consideration of, and participation by,  
10 people within communities where wind energy facilities are proposed and that  
11 ensures significant tangible benefits to the people of the State, including, but not  
12 limited to, residents of communities that host wind energy facilities; and that the  
13 State should seek to host a substantial amount of wind energy as part of a strategy to  
14 reduce greenhouse gas emissions and meet the goals established in the state climate  
15 action plan developed pursuant to Title 38, section 577.

16 **Sec. A-3. 35-A MRSA §3451 sub-§3, ¶B,** as enacted by PL 2007, c. 661, Pt. A,  
17 §7 and amended by PL 2011, c. 682, §38, is further amended to read:

18 B. ~~Specific Specified~~ places within the State's unorganized and deorganized  
19 areas, ~~as defined by Title 12, section 682, subsection 1,~~ that are identified by rule by  
20 the Maine Land Use Planning Commission in accordance with this chapter.

21 **Sec. A-4. 35-A MRSA §3451 sub-§8, ¶B,** as amended by PL 2011, c. 682, §26,  
22 is further amended is to read:

23 B. The Maine Land Use Planning Commission, in the case of a community-based  
24 offshore wind energy project as defined in Title 12, section 682, subsection 19 and a  
25 wind energy development in the unorganized and deorganized areas ~~as defined in~~  
26 ~~Title 12, section 682, subsection 1~~ that is not grid-scale wind energy development.

27 **Sec. A-5. 35-A MRSA §3451 sub-§8-B** is enacted to read:

28 **8-B. Provisional expedited permitting area.** “Provisional expedited permitting  
29 area” means specific places within the unorganized and deorganized areas that are  
30 identified by rule by the Maine Land Use Planning Commission.

31 **Sec. A-6. 35-A MRSA §3451 sub-§9-A** is enacted to read:

32 **9-A Specified place.** “Specified place” means the entirety or a portion of a  
33 township, ~~or~~ plantation, or municipality in the unorganized and deorganized areas, or  
34 combination thereof.

35 **Sec. A-7. 35-A MRSA §3451 sub-§10-A** is enacted to read:

36 **10-A. Unorganized and deorganized areas.** “Unorganized and deorganized  
37 areas” has the same meaning as in Title 12, section 682, subsection 1.

1           **Sec. A-8. 35-A MRSA §3453**, as enacted by PL 2007, c. 661, Pt. A, §7 and  
2 amended by PL 2011, c. 682, §38, is further amended to read:

3           **§3453. Additions to the expedited permitting area**

4           The Maine Land Use Planning Commission may, by rule adopted in accordance  
5 with Title 5, chapter 375, ~~establish standards and~~ add a specified place in the State's  
6 unorganized ~~or~~ ~~and~~ ~~deorganized~~ areas, including specified places within the  
7 provisional expedited permitting area to the expedited permitting area. In order to  
8 add a specified place to the expedited permitting area, the Maine Land Use Planning  
9 Commission must determine that the proposed addition to the expedited permitting  
10 area:

11           **1. Geographic extension.** Involves a logical geographic extension of the  
12 currently designated expedited permitting area, except that the addition of a specified  
13 place from the provisional expedited permitting area does not require that it involve a  
14 logical geographic extension of the expedited permitting area;

15           **2. Meets state goals.** Is important to meeting the state goals for wind energy  
16 development established in section 3404; and

17           ~~**3. Principal values and goals.** Consistent with principles of sound planning.~~  
18 ~~Would not compromise the principal values and the goals identified in~~ be consistent  
19 with the comprehensive land use plan adopted by the Maine Land Use Planning  
20 Commission pursuant to Title 12, section 685-C and would be consistent with  
21 statutory purpose and scope pursuant to Title 12, section 681.

22           The addition of a specified place within the provisional expedited permitting area  
23 to the expedited permitting area constitutes its removal from the provisional  
24 expedited permitting area.

25           If the Maine Land Use Planning Commission receives written requests from five  
26 or more interested persons requesting a public hearing be held in relation to a  
27 petition to add a specified place to the expedited permitting area, a public hearing  
28 must be held.

29           Rules adopted by the Maine Land Use Planning Commission pursuant to this  
30 section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

31   **PART B**

32           **Sec. B-1. Provisional expedited permitting area designation.** No later than  
33 December 31, 2015, the Maine Land Use Planning Commission shall adopt a rule  
34 listing the following specified places, ~~except as noted;~~ within the unorganized and  
35 deorganized areas, ~~except as noted under section 3,~~ which comprise the provisional  
36 expedited permitting area for purposes of this Act. The addition of a specified place  
37 to this list in furtherance of this Act constitutes a removal of that same place from the  
38 expedited permitting area. The commission may subsequently remove specified

1 places from this list in accordance with the Maine Revised Statutes, Title 35-A,  
2 section 3453:

3 **1. Entire townships and plantations.** The following entire townships and  
4 plantations: Albany Twp., 17802; Alder Stream Twp., 07801; Argyle Twp., 19801;  
5 Bald Mountain Twp., T2 R3, 25805; Baring Plt., 29040; Barnard Twp., 21030;  
6 Batchelders Grant Twp., 17805; Benedicta Twp., 03050; Big Moose Twp., 21801;  
7 Blake Gore, 25811; Blanchard Twp., 21040; Brookton Twp., 29801; Carroll Plt.,  
8 19080; Carrying Place Twp., 25860; Cary Plt., 03090; Centerville Twp., 29080;  
9 Chase Stream Twp., 25816; Chester, 19100; Codyville Plt., 29110; Concord Twp.,  
10 25818; Connor Twp., 03802; Cove Point Twp., 21805; Cox Patent, 03803; Cross  
11 Lake Twp., 03899; Cyr Plt., 03140; Dennistown Plt., 25090; Drew Plt., 19160;  
12 Dudley Twp., 03804; Dyer Twp., 29803; E Twp., 03160; East Moxie Twp., 25821;  
13 Edmunds Twp., 29804; Fletchers Landing Twp., 09804; Forest City Twp., 29806;  
14 Forest Twp., 29805; Forkstown Twp., 03805; Fowler Twp., 29807; Freeman Twp.,  
15 07808; Garfield Plt., 03220; Glenwood Plt., 03230; Grand Falls Twp., 19250;  
16 Grindstone Twp., 19802; Hamlin, 03250; Hammond, 03260; Harfords Point Twp.,  
17 21811; Herseytown Twp., 19803; Hibberts Gore, 15801; Highland Plt., 25150;  
18 Hopkins Academy Grant Twp., 19804; Indian Stream Twp., 25828; Jim Pond Twp.,  
19 07811; Johnson Mountain Twp., 25829; Kibby Twp., 07812; Kingman Twp., 19808;  
20 Kingsbury Plt., 21110; Lake View Plt., 21120; Lambert Lake Twp., 29809;  
21 Lexington Twp., 25831; Macwahoc Plt., 03360; Marion Twp., 29810; Mason Twp.,  
22 17811; Mattamiscontis Twp., 19810; Mayfield Twp., 25835; Milton Twp., 17812;  
23 Misery Gore Twp., 25837; Misery Twp., 25836; Molunkus Twp., 03806; Moosehead  
24 Junction Twp., 21816; Moro Plt., 03430; Mount Chase, 19450; Moxie Gore, 25838;  
25 Nashville Plt., 03440; No. 14 Twp., 29330; North Yarmouth Academy Grant Twp.,  
26 03807; Orneville Twp., 21821; Osborn, 09230; Oxbow Plt., 03500; Parkertown  
27 Twp., 17814; Parlin Pond Twp., 25839; Perkins Twp., 07818; Perkins Twp. Swan  
28 Island, 23801; Pleasant Ridge Plt., 25250; Prentiss Twp., T4 R4 NBKP, 25843;  
29 Prentiss Twp., T7 R3 NBPP, 19540; Rangeley Plt., 07160; Reed Plt., 03540; Saint  
30 Croix Twp., 03808; Saint John Plt., 03570; Sandbar Tract Twp., 25848; Sandy Bay  
31 Twp., 25850; Sandy River Plt., 07170; Sapling Twp., 25851; Seboeis Plt., 19550;  
32 Silver Ridge Twp., 03809; Squapan Twp., 03810; Squartown Twp., 25854; Summit  
33 Twp., 19812; T1 R5 WELS, 03816; T1 R6 WELS, 19815; T10 R3 WELS, 03829;  
34 T10 R6 WELS, 03830; T10 SD, 09806; T11 R3 NBPP, 29817; T11 R4 WELS,  
35 03833; T13 R5 WELS, 03856; T14 R5 WELS, 03867; T14 R6 WELS, 03868; T15  
36 R5 WELS, 03879; T15 R6 WELS, 03880; T16 MD, 09807; T16 R4 WELS, 03889;  
37 T16 R5 WELS, 03890; T16 R6 WELS, 03891; T17 R3 WELS, 03897; T17 R4  
38 WELS, 03898; T18 ED BPP, 29818; T18 MD BPP, 29819; T19 ED BPP, 29820;  
39 T19 MD BPP, 29821; T2 R4 WELS, 03817; T2 R8 NWP, 19817; T2 R9 NWP,  
40 19819; T22 MD, 09808; T3 Indian Purchase Twp., 19806; T3 R3 WELS, 03818; T3  
41 R4 WELS, 03819; T3 R9 NWP, 19823; T4 R3 WELS, 03820; T6 R6 WELS, 19829;  
42 T7 R5 WELS, 03821; T7 R6 WELS, 19832; T7 SD, 09803; T8 R3 NBPP, 29815; T8  
43 R3 WELS, 03822; T8 R4 NBPP, 29816; T8 R5 WELS, 03823; T8 R6 WELS,  
44 19835; T9 R3 WELS, 03824; T9 R4 WELS, 03825; T9 R5 WELS, 03826; T9 SD,  
45 09805; TA R2 WELS, 03813; TA R7 WELS, 19814; Taunton & Raynham Academy  
46 Grant, 25803; TC R2 WELS, 03814; TD R2 WELS, 03815; The Forks Plt., 25320;  
47 Trescott Twp., 29811; Unity Twp., 11801; Upper Molunkus Twp., 03811;  
48 Washington Twp., 07827; Webbertown Twp., 03812; Webster Plt., 19600; West  
49 Forks Plt., 25330; Williamsburg Twp., 21827; and Winterville Plt., 03680;

1           **2. Portions of townships and plantations.** The following portions of townships  
2 and plantations: that portion of Adamstown Twp., 17801, north of Route 16; Bald  
3 Mountain Twp., T4 R3, 25806, excluding areas of Boundary Bald Mountain above  
4 2,700 feet in elevation; a 146.6-acre parcel in the northeast corner of the Chain of  
5 Ponds, 07803, along the border with Canada; the portion of Coplin Plt., 07040, north  
6 of Route 16; the portion of Dallas Plt., 07050, north of Route 16; the portion of  
7 Ebeemee Twp., 21853, east of Route 11; the portion of Kossuth Twp., 29808, north  
8 of Route 6; the portion of Lang Twp., 07813, north of Route 16; the portion of  
9 Lincoln Plt., 17160, north of Route 16; the portion of Long A Twp., 19809, east of  
10 Route 11; the portion of Long Pond Twp., 25833, south of Long Pond and Moose  
11 River; the 487.5-acre area above the 2,040-foot elevation around Green Top in  
12 Lynchtown Twp., 17810; the portion of Rockwood Strip T1 R1 NBKP, 25844, south  
13 of Moose River, Little Brassua Lake and Brassua Lake; the portion of Rockwood  
14 Strip T2 R1 NBKP, 25845, south of Little Brassua Lake and Brassua Lake; the  
15 portion of Salem Twp., 07820, south of Route 142; the portion of Sandwich  
16 Academy Grant Twp., 25849, south of Moose River, Little Brassua Lake and  
17 Brassua Lake; the 12.5-acre north-south trending area just south and west of Kibby  
18 Mountain in Skinner Twp., 07822; the portion of Soldiertown Twp., T2 R7 WELS,  
19 19811, east of the East Branch Penobscot River; the portion of T1 R8 WELS, 19816,  
20 south of Millinocket Lake; the portion of T1 R9 WELS, 21833, southeast of  
21 Ambajejus Lake; T24 MD BPP, 29822, excluding a one-mile buffer around Mopang  
22 Stream; the 51.9-acre area in T25 MD BPP, 29823, encompassing Black Brook and  
23 Black Brook Pond, and the area northeast of Holmes Falls Road; the portion of T3  
24 R7 WELS, 19821, east of the Seboeis River and East Branch Penobscot River; the  
25 portions of T4 Indian Purchase Twp., 19807, area northeast of North Twin Lake and  
26 south of Route 11; the portion of T4 R7 WELS, 19824, east of the Seboeis River; the  
27 portion of T4 R9 NWP, 21845, east of Route 11; the portion of T5 R7 WELS,  
28 19827, east of the Seboeis River; and the portion of T6 R7 WELS, 19830, east of the  
29 Seboeis River.

30           **3. Exceptions.** The following portions of townships, ~~or~~ plantations, ~~of~~  
31 ~~municipalities may not be added to the provisional expedited permitting area under~~  
32 ~~section 1 created by this Act, and shall remain in the expedited permitting area,~~  
33 ~~except if the development permit associated with any of the following is revoked,~~  
34 ~~withdrawn, or denied, as applicable:~~

35           **1. Existing development.** Any specified place within the project boundary of  
36 an existing, legally permitted, expedited wind energy development.

37           **2. Proposed development.** Any specified place within the project boundary of  
38 a proposed, legally permitted, expedited wind energy development, as  
39 described in its associated development permit.

40           **3. Accepted for processing.** Any specified place within the project boundary  
41 of a proposed expedited wind energy development, as described in a  
42 development permit application that has been accepted for processing by the  
43 Department of Environmental Protection before the date the rule under section  
44 1 is adopted; and

1 **4. Added by rule.** Any specified place added by rule to the expedited  
2 permitting area after April 18, 2008 in accordance with the Maine Revised  
3 Statutes, Title 35-A, section 3453.

4 **Sec. B-3. Definitions.** As used in this Part, the following terms have the  
5 following meanings.

6 **1. Project boundary.** “Project boundary” means the geographic limits of an  
7 existing or proposed expedited wind energy development, as defined by the dedeed  
8 geographic boundaries of the parcel, or parcels, of land on which the development,  
9 or portions thereof, are located, or proposed to be located.;

10 ~~A. The limits of the project footprint as described in the project development~~  
11 ~~permit issued or the development permit application accepted as complete for~~  
12 ~~processing by the siting authority; or~~

13 ~~B. If no specific project footprint description exists, the dedeed geographic~~  
14 ~~boundaries of the parcel or parcels of land on which the project, or portion of~~  
15 ~~the project, is sited.~~

16 **2. Specified place.** “Specified place” means the entirety or a portion of a  
17 township, ~~or~~ plantation, or municipality in the unorganized or deorganized areas.

18 **Sec. B-4. Rules.** Rules adopted by the Maine Land Use Planning Commission  
19 pursuant to this Part are routine technical rules as defined in the Maine Revised  
20 Statutes, Title 5, chapter 375, subchapter 2-A.

21 **SUMMARY**

22 This bill amends legislative findings of the Maine Wind Energy Act, adding  
23 emphasis to public consideration and participation in decisions related to expedited  
24 wind energy development siting. It directs the Maine Land Use Planning  
25 Commission, through rulemaking, to create a provisional expedited permitting area  
26 comprised of unorganized and deorganized areas of the State, which were previously  
27 included in the expedited permitting area, with specific exceptions to recognize  
28 existing expedited wind energy developments. It amends the statutory criteria for  
29 adding specified places to the expedited permitting area and adds a requirement that  
30 a petition to add a specified place to the expedited permitting area must involve a  
31 public hearing if written requests for a public hearing are received from 5 or more  
32 persons.