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**Testimony of Senator Russell Black before the Joint Standing Committee on  
Committee on Agriculture, Conservation and Forestry**

January 21, 2020

*LD 1893, "An Act To Require a Lease of Public Lands To Be Based on Reasonable Market Value and To Require Approval of Such Leases for Commercial Purposes"*

Good afternoon. My name is Senator Russell Black. I represent Franklin County and four towns in Kennebec County. I am here today to present LD 1893, "An Act To Require a Lease of Public Lands To Be Based on Reasonable Market Value and To Require Approval of Such Leases for Commercial Purposes."

First let me thank Legislative Council for allowing this bill into the second session. It clearly meets the emergency criteria for the second session consideration as the State's Public Reserve Lands are presently in jeopardy and possibly into the future. We must act now to protect them.

Let me first apologize for the broad nature of the bill as it was originally submitted and to those who felt it might be targeting their interests. That was never my intention and it's why I am offering an amendment today.

This amendment focuses the bill exclusively on the public reserve lands put at risk by the proposed CMP corridor.

The CMP corridor lease crosses Maine Public Reserve Lands, substantially altering the lands' designated uses. According to the Maine constitution, that should have triggered a 2/3s approval by the Legislature.

Let me provide a bit more detail. The lease signed by the State and Central Maine Power in 2014 is for 36 acres in Somerset County between Johnson Mountain and Wilson Pond. This 36-acre lease cuts the public parcel nearly in half and is located in prime native trout habitat. The

2014 “fair market value” as designated in the lease was \$1400 for the 36 acres. In 2015 the lease was renegotiated for \$3600 or \$100/ acre.

Separately, in 2017, CMP negotiated a lease with the Passamaquoddy Tribe for 2 acres near Beattie Pond. The negotiated payment was a minimum \$125,000 per acre. If you add the other financial considerations stipulated within the lease, the payment per acre balloons to \$146,000/acre!

Think about it. The State gets \$100/ acre while the Tribe’s excellent negotiators get \$125,000 to \$146,000 per acre.... (By the way my hat is off to them!)

Maine taxpayers got a bad deal!

But, more importantly, this lease for CMP’s right-of-way significantly alters the designated uses of the Public Reserve Lands. According to the Maine Constitution and Maine Statutes, this alteration requires a 2/3’s vote of the Maine State Legislature.

I was here in 2014 and 2015. Such a vote never occurred.

The amendment I have offered today seeks to rectify this end-run around the Maine constitution.

Specifically, the amendment requires:

1. The Bureau of Public Lands to audit all current leases related to foreign electric transmission lines originating outside the ISO New England control area and requires the Bureau to bring these leases to the committee for review.
2. It gives the ACF committee the authority to review these leases to ensure they are in compliance with the Maine constitution and, if not, to refer them to the full legislature for a 2/3rd vote. Any leases that do not receive a 2/3 vote of approval would be invalidated.

Our public lands are owned by US, the people of the state of Maine. These lands are a jewel in our State crown. We, the legislature, have a responsibility to protect them. We need to be sure they are being managed for Maine People as the Maine Constitution and Maine Statutes intend. This amendment insures that will happen.

Again, thank you for your time. I will try and answer your questions. I am sure if I cannot there are others that follow who can.

## **An Act To Require a Lease of Public Lands To Be Based on Reasonable Market Value and To Require Approval of Such Leases for Commercial Purposes**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** without immediate action to ensure the State is not entering into leases of designated lands that result in reduction and substantial alteration without a 2/3 vote of the Legislature; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1.** 12 MRSA §598-A, first ¶, as enacted by PL 1993, c. 639, §1, is amended to read:

The following lands are designated lands under the Constitution of Maine, Article IX, Section 23. Designated lands under this section may not be reduced or substantially altered, except by a 2/3 vote of the Legislature and compliance with the requirements in section 598-A. It is the intent of the Legislature that individual holdings of land or classes of land may be added to the list of designated lands under this section in the manner normally reserved for amending the public laws of the State. Once so designated, however, it is the intent of the Legislature that designated lands remain subject to the provisions of this section, section 598-A and the provisions of the Constitution of Maine, Article IX, Section 23 until such time as the designation is repealed or limited by a 2/3 vote of the Legislature.

**Sec. 2.** 12 MRSA §1852-A is enacted to read:

### **§ 1852-A. Approval of leases for utilities and rights-of-way and industrial and commercial purposes.**

The bureau may lease or renew leases or reserved lands for High Voltage Power Transmission Lines that originate outside of the ISO New England control area, as specified in section 1852, including the right to use those public reserved lands, only if the Legislature has approved the lease by a 2/3 vote.

**Sec. 3. Review of leases since 2014.** By February 15, 2020, the Director of the Bureau of Parks and Lands within the Department of Agriculture, Conservation and Forestry shall provide audit of leases of High Voltage Power Transmission Lines that originate outside the ISO New England control area entered into by the State since January 1, 2014 to the joint standing committee of the Legislature having jurisdiction over public lands. The joint standing committee

shall present any leases not in compliance with section 598-A to the full Legislature for a vote. Any leases that do not receive a 2/3 vote of approval shall be invalidated.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

## SUMMARY

This bill requires that any lease of public lands for of High Voltage Power Transmission Lines that originate outside the ISO New England control area approved by a 2/3 vote of the Legislature. This bill also requires the Director of the Bureau of Parks and Lands within the Department of Agriculture, Conservation and Forestry to provide an audit of leases for utilities and rights-of-way since January 1, 2014 that have not received a 2/3 vote of the Legislature to the joint standing committee of the Legislature having jurisdiction over public lands. This bill requires the joint standing committee to present any bills not in compliance with these requirements to the full Legislature for a vote. Any leases that do not receive a 2/3 vote of approval shall be invalidated.