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May 6, 2025

JOINT STANDING COMMITTEE ON ENERGY, UTILITIES AND TECHNOLOGY

Re: LD1860 An Act to Allow Certain Distributed Energy Resources to Participate in the State's Net Energy Billing Program (EMERGENCY)

Dear Chairs and Members of this committee, my name is Jim LaBrecque, I am from Bangor and a former Technical Advisor on Energy to Governor Paul LePage. I give notice to all of you that LD1860 is improperly before this committee and should immediately be withdrawn. This is not an emergency as defined by our constitution, but simply a favor for two special interest solar companies that missed their legal connection deadline date due to their own negligence and a lack of legislative planning.

First, LD1860 is a revenue bill which will specifically tax one class of non-solar users (ratepayers) without option to opt out, and transfers those funds to a class consisting of two solar investors looking for a continuum of unjust returns provided under LD1711 in the 132nd.

Second, because this is a revenue bill, Maine's constitution prohibits senators from originating any revenue bill. Senator LAWRENCE of York unlawfully originated this bill as the primary sponsor.

Maine Constitution Article IV Part Third Legislative Power Section 9:

Either House may originate bills; revenue bills.

Bills, orders, or resolutions, may originate in either House, and may be altered, amended, or rejected in the other; but all bills for raising a revenue shall originate in the House of Representatives, but the senate may propose amendments as in other cases; provided, that they shall not, under color of amendment, introduce any new matter, which does not relate to raising revenue.

Third, this bill was presented as an emergency bill and clearly does not fit the definition or constitutional intent of an emergency. Connecting two solar projects to the electric grid at any time, does not raise to the level of being immediately necessary for the preservation of the public peace, health, and safety of the state.

A delay in electrical interconnect only means that the unjust giveaway program under the original moving bill, LD1711 in the 129th legislation, will not flow to two private companies that missed their statutory deadline. Missing their deadline does not mean they will lose their investment, instead they will only be assured that they will receive a just and reasonable ROI when they do connect.

Such a connection delay will not affect the public peace in any way, it will not cause any health issues, and it will not endanger the safety of our state. To claim that this bill is an emergency is a scam by our legislative leadership, a sheer abuse of their unchecked power, clearly a violation of their legislative oath of office to protect the constitution.

Forth, Title 35-A, section 3209-A, subsections 7 and 9, and 3209-B, were codified through LD1711 in the 132nd. LD 1711 is the foundation for which LD1860 is being piggyback, is also without a constitutional foundation, see my attached April 17, 2025 complaint under President Trump's Executive Order, of April 8, 2025, submitted to US Attorney General Bondi for details.

The real emergency regarding Maine's solar legislation is the serious harm to Maine's economic health if LD1711 continues on or if LD1860 is passed. For example, families like McCrum's in Aroostook County invest millions in a potato factory, then face the challenge of Maine legislators taxing them an additional monthly "social benefit charge" of \$57,500.00 over and above their already exorbitant high electric bill. One must ask, how long can they sustain such a competitive market disadvantage before throwing in the towel.

Companies like the four-man wood chip operation in Milo that closed its doors after receiving an \$11,000.00 monthly "public benefit charge" and every other company throughout the state facing competitive market disadvantages, may soon be going out of business or cutting back their operations, because they are wrongfully being taxed under color of law with unconstitutional legislation like LD1711 as well as LD1860 if passed.

These two solar companies seeking legislative favor knew or should have known that there was a serious shortage of power and transmission equipment, electrical supplies, and available manpower across the nation and that there was a slim chance that they could meet the legal completion deadline of December 31, 2024 as codified under LD1711. These companies took a risk on moving forward without securing the agreements, equipment, contracts, or services needed to complete their solar projects in a timely manner and lost their bet.

Maine legislators should not compel ratepayers to pay for bad, risky decision on behalf of a private venture.

For these reasons this bill LD1860 MUST be withdrawn. Someone on this committee should make a motion to withdraw the bill.

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The Honorable Pam Bondi
Attorney General
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950 Pennsylvania Avenue, NW
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April 17, 2025

Re: Protecting American Energy from State Overreach, President Trump's Executive Order, April 8, 2025 and; Maine LD 1711 in the 129th legislature.

Dear Attorney General Bondi,

I have 50 years' experience with energy issues, and was the Technical Advisor on Energy for Maine Governor Paul R. LePage for his eight-year term. I write today for the following reason:

Maine legislation LD1711, a solar bill, was improperly brought before the 129th legislature, passed and unlawfully signed by Governor Janet Mills, then codified into Maine statute in 2019. This unlawful act is the basis that authorizes solar interests to wrongfully receive federal funds in the form of tax credits, accelerated depreciation, and other federal benefits that would not have come to pass if not for the unconstitutional passage of this bill.

LD 1711 is intentionally structured to raise revenues from one class of electric consumers (non-solar panel owners) with no means of opting out, and redistributing those funds to another class of electric ratepayers (solar panel owners/developers). These acts fit squarely within the common court case findings of a tax.

The courts have consistently held that government entities can tax through a variety of means, most notably in the case of the National Federation of Independent Businesses v. Sebelius, 567 US 519 (2012). That was the landmark United States Supreme Court Decision in which the Court upheld Congress' power to enact most provisions of the Patient Protection and Affordable Care Act. The majority opinion written by Chief Justice John Roberts authorized the individual mandate which compels individuals who choose not to participate in an insurance pool to pay a fee under the constitutional exercise of Congress' taxing power.

While Congress has the authority to compel non-users to pay a fee under their authority to tax, so too has Maine's legislative body compelled non-users of solar panels via LD 1711 to pay a fee under the Maine legislature's authority to tax. The problem arises constitutionally when consideration is given to Section 9 of the Maine constitution, which prohibits a senator from originating a revenue bill, as in the case of LD1711, originated by Senator Dana Dow.

This violation of law is the basis for the state's ability to allow for the wrongful application and receipt of federal funding in the form of solar subsidies, and other federal monetary funds. If not for the illegitimate passing of LD1711, the flow of federal solar funds under that statute would not find their way from Washington to Maine.

Maine Constitution Article IV Part Third Legislative Power Section 9:

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As this bill's primary sponsor was Senator Dow of Lincoln, and it clearly is a bill which raises a tax, I am respectfully submitting that LD 1711 was improperly before the Maine legislature and illegally signed by Governor Janet Mills which makes it an unconstitutional law. I do not believe federal funding programs can exist on a foundation of unconstitutional law.

Summary of Facts

1. Dana Dow was duly sworn under oath as a Maine Senator
2. Dana Dow was the lead sponsor of LD 1711
3. Senator Dow was prohibited by Maine constitution from sponsoring a revenue bill.
4. LD 1711 is clearly a revenue bill that compels one class of citizens, to pay a fee "tax" without means of opting out, to a class of citizens receiving those monetary benefits.
5. Senator Dow in sponsoring a revenue bill, violated Maine's constitution and his oath of office to uphold the constitution.
6. Governor Janet Mills violated the constitution by enacting LD1711 into law, and violated her oath of office to uphold the constitution.

Conclusion:

The Trump administration should investigate the funding scheme derived from LD1711, parse out federal and state issues, prohibit the continuation of federal funding under LD1711, recover wrongful funding back to the US treasury and penalize Maine for their illegal actions.

Sincerely

James C. LaBrecque