

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-Second Legislature

State of Maine

Daily Edition

Second Regular Session  
January 4, 2006 to May 24, 2006

Pages 1382 - 2139

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
SECOND REGULAR SESSION  
JOURNAL OF THE SENATE**

In Senate Chamber  
Wednesday  
April 5, 2006

Senate called to order by President Beth Edmonds of Cumberland County.

Prayer by Pastor E. Terry Courtney, Mt. Zion Chapel of Wells.

**PASTOR COURTNEY:** About 70 years ago two poor middle-aged women lived in a flat in London. Life was very drab and uneventful for them and life seemed to hold no hope. Neither one was very well physically. One of them didn't even want to go on living. Then He spoke and spoke again and for one year both women received messages from above. The messages were copied and put into a book. They refused to put their names on the book. They referred to themselves as 'The Listeners'. Here is one of the messages. I thought it would be especially appropriate for this time of year for all of you.

'Wonders will unfold. I am with you. Do not fear. Never doubt my love and power. Your heights of success are won by the daily persistent doing of what I have said. Daily, steady persistence, like the wearing away of a stone by steady drops of water, so will your daily persistence wear away all the difficulties and gain success for you and secure your help for others. Never falter. Go forward so boldly, so unafraid. I am beside you to help you and strengthen you. Wonders have unfolded and more still will unfold. Beyond your dreams. Beyond your hopes. Say all is well to everything. All is well.'

Our Heavenly Father, life is so tumultuous these days; hard to deal with and hard to bear. We are in great need of Your wisdom. The quality of Your help is unmatched. Teach us to be good listeners. May we not merely become religious, but take time to get to know the founder of our faith. This we ask in Jesus' name. Amen.

Reading of the Journal of Tuesday, April 4, 2006.

Off Record Remarks

**COMMUNICATIONS**

The Following Communication: S.C. 602

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
COMMITTEE ON HEALTH AND HUMAN SERVICES**

April 4, 2006

Honorable Beth Edmonds, President of the Senate  
Honorable John Richardson, Speaker of the House  
122nd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2022 An Act To Implement Recommendations of the Study Commission Regarding Liveable Wages Concerning Subsidized Child Care

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Arthur F. Mayo, III  
Senate Chair

S/Rep. Hannah Pingree  
House Chair

**READ** and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 603

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

April 4, 2006

Honorable Beth Edmonds, President of the Senate  
Honorable John Richardson, Speaker of the House  
122nd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on State and Local Government has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1882 An Act To Expand the Auditing Powers of the Department of Audit and To Clarify the Confidentiality of Audit Working Papers and Information

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Elizabeth M. Schneider  
Senate Chair

S/Rep. Christopher R. Barstow  
House Chair

**READ** and with accompanying papers **ORDERED PLACED ON FILE.**

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The Following Communication: S.C. 604

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
COMMITTEE ON TAXATION**

April 4, 2006

Honorable Beth Edmonds, President of the Senate  
Honorable John Richardson, Speaker of the House  
122nd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1660 An Act To Reduce Income Taxes and Encourage Economic Growth in Maine
- L.D. 1917 An Act To Establish Requirements and Standards for Health Savings Accounts for Small Businesses
- L.D. 2079 An Act To Encourage the Preservation of Historic Structures

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Joseph C. Perry  
Senate Chair

S/Rep. Richard G. Woodbury  
House Chair

**READ** and with accompanying papers **ORDERED PLACED ON FILE.**

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The Following Communication: S.C. 605

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
COMMITTEE ON TRANSPORTATION**

April 4, 2006

Honorable Beth Edmonds, President of the Senate  
Honorable John Richardson, Speaker of the House  
122nd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Transportation has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 510 An Act Concerning Dismantling of Railroad Track

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Dennis S. Damon  
Senate Chair

S/Rep. Boyd P. Marley  
House Chair

**READ** and with accompanying papers **ORDERED PLACED ON FILE.**

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The Following Communication: H.C. 431

**STATE OF MAINE  
CLERK'S OFFICE  
2 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

April 4, 2006

Honorable Joy J. O'Brien  
Secretary of the Senate  
122nd Maine Legislature  
Augusta, Maine 04333

Dear Secretary O'Brien:

The House voted today to adhere to its previous action whereby it accepted Report "C" Ought Not to Pass of the Committee on State and Local Government on Bill "An Act To Increase the Salary of the Governor" (H.P. 1349) (L.D. 1908).

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

**READ and ORDERED PLACED ON FILE.**

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**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act To Prohibit the Use of Foreign Labor Unless a Federal Prevailing Wage Is Set"

H.P. 873 L.D. 1276

Reported that the same **Ought to Pass as Amended by Committee Amendment "C" (H-748).**

Signed:

Senators:

STRIMLING of Cumberland  
BARTLETT of Cumberland

Representatives:

SMITH of Van Buren  
DRISCOLL of Westbrook  
JACKSON of Allagash  
HUTTON of Bowdoinham  
TUTTLE of Sanford  
CLARK of Millinocket

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass.**

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

HALL of Holden  
DUPREY of Hampden  
CRESSEY of Cornish  
HAMPER of Oxford

Comes from the House with Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED.**

Reports **READ.**

Senator **STRIMLING** of Cumberland moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in concurrence.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Just to advise you that this bill was actually a bill that we were holding until such time as the Department of Labor promulgated the rules and they were subsequently approved by the Attorney General's Office. That has occurred this past week and this bill is no longer needed. That is why the bill is being indefinitely postponed.

On motion by Senator **STRIMLING** of Cumberland, Bill and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

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**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Implement Recommendations of the Study Commission Regarding Liveable Wages Concerning Conformity with Federal Tax Laws"

H.P. 1427 L.D. 2026

Reported that the same **Ought Not to Pass.**

Signed:

Senator:

COURTNEY of York

Representatives:

HANLEY of Paris  
McCORMICK of West Gardiner  
WOODBURY of Yarmouth  
CLOUGH of Scarborough  
BIERMAN of Sorrento  
SEAVEY of Kennebunkport

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-911).**

Signed:

Senators:

PERRY of Penobscot  
STRIMLING of Cumberland

Representatives:

CLARK of Millinocket  
HUTTON of Bowdoinham  
WATSON of Bath

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**

Reports **READ.**

On motion by Senator **STRIMLING** of Cumberland, Bill and accompanying papers **INDEFINITELY POSTPONED.**

**Senate**

**Ought to Pass As Amended**

Senator HOBBS for the Committee on **JUDICIARY** on Bill "An Act Regarding Working Waterfront Covenants under the Land For Maine's Future Board"

S.P. 730 L.D. 1930

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-556)**.

Report **READ** and **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-556) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.**

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Senator HOBBS for the Committee on **JUDICIARY** on Bill "An Act To Implement Model Time-share Foreclosure Procedures"

S.P. 732 L.D. 1932

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-557)**.

Report **READ** and **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-557) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.**

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**SECOND READERS**

The Committee on **Bills in the Second Reading** reported the following:

**House**

Resolve, Regarding Legislative Review of Portions of Chapter 33: Home Day Care Provider Rules, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)

H.P. 1459 L.D. 2064

**READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

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**House As Amended**

Bill "An Act To Amend Certain Animal Health Laws"

H.P. 1293 L.D. 1853  
(C "B" H-918)

Bill "An Act To Amend the Motor Vehicle Laws"

H.P. 1306 L.D. 1866  
(C "A" H-849)

Bill "An Act To Establish Guidelines and Criteria for Audits Conducted by the Department of Health and Human Services"

H.P. 1368 L.D. 1951  
(C "A" H-933)

Resolve, Directing the Department of Health and Human Services To Develop a Model for Community-based Therapeutic Living Settings for Adults with Mental Illness

H.P. 1390 L.D. 1983  
(C "A" H-932)

Bill "An Act To Amend the Notice of Risk to Personal Data Act"

H.P. 1417 L.D. 2017  
(C "A" H-925)

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Create a Property Tax Exemption for Property Owners with Limited Personal Property Assessments

H.P. 1446 L.D. 2052  
(C "A" H-877)

**READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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**Senate As Amended**

Bill "An Act To Clarify the Taxable Status of Lobster Traps"

S.P. 656 L.D. 1739  
(C "A" S-552)

Bill "An Act To Improve the MaineCare Program"

S.P. 674 L.D. 1757  
(C "A" S-547)

Bill "An Act To Conform the Certificate of Need Law to Industry Standards" (EMERGENCY)

S.P. 701 L.D. 1784  
(C "A" S-548)

Resolve, To Ensure Proper Accounting for Funds at the Department of Health and Human Services

S.P. 748 L.D. 1949  
(C "A" S-546)

Bill "An Act To Protect the Confidentiality of Prescription Information"

S.P. 771 L.D. 1992  
(C "A" S-549)

Bill "An Act To Amend the Harness Racing Laws Regarding Distributions from the Fund to Supplement Harness Racing Purses" (EMERGENCY)

S.P. 786 L.D. 2042  
(C "A" S-553)

**READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Sent down for concurrence.

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All matters thus acted upon were ordered sent down forthwith for concurrence.

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Senate at Ease.

Senate called to order by the President.

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Out of order and under suspension of the Rules, the Senate considered the following:

#### SENATE PAPERS

Bill "An Act To Amend the Charter of the Anson Water District"  
S.P. 842 L.D. 2100

Sponsored by Senator MILLS of Somerset.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator **BARTLETT** of Cumberland, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed.

Sent down for concurrence.

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All matters thus acted upon were ordered sent down forthwith for concurrence.

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#### ORDERS OF THE DAY

##### Unfinished Business

The following matter in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (4/03/06) Assigned matter:

Bill "An Act To Authorize Chebeague Island To Secede from the Town of Cumberland"

H.P. 1243 L.D. 1735  
(C "A" H-915)

Tabled - April 3, 2006, by Senator **BRENNAN** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-915)**, in concurrence

(In House, April 3, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-915)**.)

(In Senate, April 3, 2006, **READ A SECOND TIME**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President and colleagues of the Senate Chamber. I rise to speak in favor of L.D. 1735. This was a unanimous report out of our committee of State and Local Government. Certainly when I went in I went in with a very open mind to the concept of cession. I also was deeply concerned about the motivations for cession. I was concerned with whether or not splitting into a separate government of their own if they would have enough people interested in taking part in their governing process. They have certainly convinced me of this. Every generation was present and they all seemed extremely eager to govern themselves. The main reason for the cession is to preserve a way of life and maintain a thriving year-round population. It is to keep an island school available to the children of the island and certainly I believe that they were very convincing in conveying to us their concern that, should they lose their school, they would lose their year-round community. These issues certainly came up about local control over the island school and the stability for a year-round community; local oversight for land use and marine resources; and the improved access and ability to participate in their government, both municipal and educational. The year-round community faces challenges, but they've worked through those challenges. They originally did not have the support of Cumberland. They have received unanimous support of their governing body to move forward with this. They worked diligently, were incredibly organized, and though there were some people who were not in favor of this, the vast majority of the community was in favor of this measure. I urge you to all support this. It will require a 2/3 vote of this Body and I hope you will respect the good work not only of this community, who has acted in good faith, but also that of the committee of State and Local Government who worked very well together and I appreciate your time. Thank you, Madame President.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Andrews.

Senator **ANDREWS:** Thank you, Madame President and fellow colleagues. I would like to lend my support to the remarks that the Senator from across the aisle has spoken about. This was a unanimous report. This is not about taxes. This is about preserving an island way of life. I had the privilege of going out there, although I'm not so sure I chose the best time of year, in the middle of December, to take a boat ride. Reminds me of the

bill that I talked about yesterday, lobster traps. Only a hardy lot can live this island life. These are very hardy people. This is not an island of trophy homes. It is a fishing community. A very down to earth community. This is a process that has been well thought and well worked out. They were able to reach agreement with both the town of Cumberland and the school department. They all have signed off on this process. This is an island community that takes care of their own. They have a library, a community center, a rec department, a swimming pool, and they even have a home for assisted living to take care of their older islanders as they need help in their final years. I would ask you to give the 2/3 support. I was very impressed by everyone who got up and spoke, both for and against. I think this process has been well thought out, well documented, and I urge your support.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I believe some of you already know my position about communities seceding from other communities. I indicated from the very beginning that I intended to vote against the bill for reasons that I believe were clearly based on taxation. After yesterday's caucus, I went back and reviewed some of the material. I want to say that I've changed my mind. I do want to make sure that everyone understands that, if you read the Chebeague Island annual newsletter, on page 49 you will find the treasurer of that organization is John Martin. This is not me.

Let me just tell you my concerns and lay them out. My concerns have been with people who have tried to secede from a community or from an area because of taxes. That's been, for the most part, what we've had to deal with in this legislature for as long as I've been here. The motive here, to me, seems a little bit different. That's the reason why I've changed my mind. It is a community that wants to keep its small school in existence. That is the thing that drove me to change my position on this bill. I firmly believe that local people have a better control of the quality of education in their community than someone who is from away. As the people of Chebeague are willing to pay the price, to pay the cost of educating their children in their hometown, then I'm all for it. I am, of course, on the other side of that coin concerned that Cumberland's going to get a kickback from the state for more money. They will probably get somewhere around 3/4 of a million dollars from the school subsidy program which will be taken from the other communities in Maine and the distribution formula. I do want to make sure that this distribution does not come in this year, the fiscal year 2006 - 2007. That, I think, can be accomplished. I think after that they roll into the system, but remember that every school district in Maine has now been told how much money they are going to be receiving. I am going to support this contrary to what I told the proponents of Chebeague and others better than a month ago because I believe that the reason for them to secede is different from other parts of the state that have tried to do that same.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Cowger.

Senator **COWGER:** Thank you, Madame President and colleagues in the Senate. I rise as a former resident of the town of Cumberland and actually the first town engineer that the town of Cumberland had. I was very fortunate to spend much of my

time on the island and I very much enjoyed some boat trips out to that island, in very fair weather as well as during the wintertime. I had the great pleasure of spending the greater part of one summer rebuilding one of the piers on the island. I also had a great deal of pleasure getting to know the people of this island. It has been very good to see several of them again after many years as we've gone through this process. Chebeague is a very unique, very vibrant, year-round community, yet a very small community. They care deeply about their history and they definitely care deeply about their future. I've seen this island build their own library and community center and do so much work within their own small community. Their desire is to keep a school on this island so young families will continue to live on the island and move to the island and keep the community vibrant and a live. I will be wholeheartedly supporting this legislation and hope we can all do so today. Thank you.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-915), in concurrence.**

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All matters thus acted upon were ordered sent down forthwith for concurrence.

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The Chair laid before the Senate the following Tabled and Later (4/03/06) Assigned matter:

Bill "An Act Requiring Equal Retirement Benefits for Corrections Officers and Mental Health Workers with 25 Years of State Service " (EMERGENCY)

S.P. 246 L.D. 748  
(C "B" S-432)

Tabled - April 3, 2006, by Senator **WESTON** of Waldo

Pending - motion by Senator **STRIMLING** of Cumberland to **RECEDE** and **CONCUR**

(In House, March 2, 2006, Report "B", **OUGHT NOT TO PASS, READ** and **ACCEPTED**.)

(In Senate, March 7, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-432), in NON-CONCURRENCE**.)

(In House, April 3, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-432) AS AMENDED BY HOUSE AMENDMENT "A" (H-935)** thereto, in **NON-CONCURRENCE**.)

On motion by Senator **STRIMLING** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

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The Chair laid before the Senate the following Tabled and Later (4/03/06) Assigned matter:



**Mandate**

An Act To Amend the Election Laws

H.P. 1329 L.D. 1889  
(C "A" H-866; H "A" H-888)

Tabled - April 3, 2006, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, March 29, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-866) AND HOUSE AMENDMENT "A" (H-888).**)

(In House, March 31, 2006, **PASSED TO BE ENACTED.**)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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The Chair laid before the Senate the following Tabled and Later (4/03/06) Assigned matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Clarify Deadlines for Submitting Direct Initiatives to Municipal Officials for Signature Verification

S.P. 782 L.D. 2033  
(C "A" S-513)

Tabled - April 3, 2006, by Senator **GAGNON** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In Senate, March 27, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-513).**)

(In House, March 31, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-513) AS AMENDED BY HOUSE AMENDMENT "A" (H-895)** thereto, in **NON-CONCURRENCE.**)

On motion by Senator **PLOWMAN** of Penobscot, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-513).**

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED COMMITTEE AMENDMENT "A" (S-513).**

On further motion by same Senator, Senate Amendment "A" (S-544) to Committee Amendment "A" (S-513) **READ.**

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. This was a divided report out of our committee, needing a 2/3 vote to send this out for a Constitutional amendment. We proceeded to work on some language that would be acceptable to the committee. This language has been agreed upon and I'm offering it as the person who took out the minority report. I believe this clears up some of the contention part of the issue. What this bill actually does is guarantees our clerks a suitable amount of time to certify citizens' petitions. The amendment continues to keep the burden upon the clerks to return the petitions to the petitioners. As we have talked in the last two years, that was some comments by clerks that people never return to pick up their petitions. The reading of the Constitution during our committee debate showed that it has always been the duty of the clerk to return the petitions if they were not picked up. There was a move to make this no longer the duty of the clerks and we have come to the conclusion that it should remain the duty of the clerks in order to make sure the petitions do get back in a timely fashion. It was contentious. I think we've agreed and have got some language that will help that. I hope that you will support this amendment and the bill as it flows through. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I would concur with my colleague. The major thrust of this bill was not the issue that the good Senator is trying to deal with. I appreciate her getting on board the report and I heartily endorse this amendment. Thank you.

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Senate at Ease.

Senate called to order by the President.

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On motion by Senator **PLOWMAN** of Penobscot, Senate Amendment "A" (S-544) to Committee Amendment "A" (S-513) **ADOPTED.**

House Amendment "A" (H-895) to Committee Amendment "A" (S-513) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (S-513) as Amended by House Amendment "A" (H-895) and Senate Amendment "A" (S-544) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-513) AS AMENDED BY HOUSE AMENDMENT "A" (H-895) AND SENATE AMENDMENT "A" (S-544)** thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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The Chair laid before the Senate the following Tabled and Later (1/31/06) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Amend the Laws Governing the Enactment Procedures for Ordinances" S.P. 507 L.D. 1481

Majority - **Ought to Pass as Amended by Committee Amendment "C" (S-437)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - January 31, 2006, by Senator **SCHNEIDER** of Penobscot

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report

(In Senate, January 31, 2006, Reports **READ**.)

On motion by Senator **ROTUNDO** of Androscoggin, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Lincoln, Senator Dow.

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. I'll try to make this as short as I can because I don't know how long my voice will hold out.

I come from a district where this matter has become as well known as getting up in the morning and washing your face. I've had several towns that have gone through procedures to make changes and I will say that they are scared to death by changes that could be made that would affect the processes they have gone through. I think the changes have to do with a concern about time limits they feel are too short because of one main problem. I think it will resort to a lot of secrecy and drive things underground and make companies that wish to make big changes in communities hold their cards pretty close to the chest. If you can get closer to the 75-day limit, you stand a better chance of getting things through in towns. I believe this process is wrong to impose upon the people.

Damariscotta is held out as a community that went through the proper channels and did things the right way, but those people that did all the things the right way sent me hundreds of e-mails and blue slips. I had so many that if this was a court of law I'd bring the aide in to testify how many I had and the fact that she got tired of writing them on blue slips and said she was just going to record all the phone calls on a slip of paper and give them to me.

In my district, these people are afraid. It's a political fireball in my district because in the town of Damariscotta more people turned out for a referendum than turned out for the Presidential election. In the neighboring town, where they did a town meeting type, they had hundreds turn out and the vote was hundreds against five or six. They fear a massive change of life for traditions that Maine people have had for many years.

I'm not saying that we don't need to correct this system. We do have a faulty system and it's based on an open system where there is never any end to it, or a possibility that there is no end. I'm asking if the 75-days in here is long enough for these people because they realize that the process they went through took

eight to nine months, and longer in some instances. In one case the decision on whether to go out and seek signatures to have a people's referendum had to do with some information they got from one of the public officials. I guess that's me. The reason I gave them the information was because I don't like secrecy. I always feel that every group that's making decisions deserves to have all of the information that's coming forth and it all needs to be on the table so that proper decisions can be made by each community that is judging these decisions. It's amazing to me the response that I've gotten. It's amazing all the papers we've had out.

I just want to point out to you that the people in my district don't understand all of the proper ways that things are done, but they are scared to death because they are Maine people and as Maine people I guess they elected me the head Mainer for their district or maybe I'm the head Maniac. I don't know. Many of you probably consider me a raving maniac at times, I'm sure. I will oppose this legislation and go with the people in my district that are afraid of changing a Maine tradition. Not that some changes don't need to be made to it. Some do. I guess, not in the words of my father but maybe some of the principles he taught me, tread lightly when making major decisions on major policy changes. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you, Madame President. I rise in opposition to this bill. In preparing to speak today, I went and looked through the Constitution of the United States. In the very first amendment in the Bill of Rights is protection of our freedom of speech, our freedom of religion, and our right to petition our government for redress of our grievances. It is a constitutional right, just like freedom of speech. I then looked at the Maine Constitution, looked at our declaration of rights, and in Section 15 it, too, grants citizens the right to petition the government to redress their grievances. This is a well established, long standing, constitutional right and fundamental in our republican form of government. We're not purely democratic. People don't go and make every single decision. They have representatives that go to various bodies, including this one, to make decisions on their behalf. When we make those decisions, it is important that there be some kind of popular check on what we're doing. At this level we have the citizen's veto. At the local level there is a citizen's referendum process. It is important, and a fundamental one, in order to maintain the vibrancy of our republican government. That is not to say that you cannot place reasonable restrictions upon it. Of course you can, just like with freedom of speech. If you have reasonable limitations, that are narrowly tailored, you can impose those limitations.

The problem with what is being proposed here today is that it is not reasonable and not very narrowly tailored. What the bill would have you do would be to give you 45 days, or we may hear about a later version that gives you 75 days, in which to do everything. That is X number of days to get your petition language approved, to file your petition, and get it to go through whatever it needs to at the local level with the city council or whatever process it needs to go through to actually get on the ballot. Typically, it will take at least another 30 days, minimum, to get it onto a ballot for people to vote.

The problem with this bill is that we're imposing a time limit upon municipalities that have their own ordinances, their own

procedures. This is our own time line of whether it's 45 days, 70 days, or 90 days. It doesn't matter. We would be imposing that kind of deadline that does not take into account the fact that many municipalities have ordinances to which they are bound and that will prohibit them from ever granting a vote under this statute. When this happens to somebody, there will be a lot of angry people. The first thing that will be done is that they will file a lawsuit saying, 'Wait a minute, under the procedures of my town it cannot be done. I cannot get to the voters to get a particular permit voted on under the town rules and within the days specified by the statute.' We have heard that this language is constitutional on its face, but I would argue, as applied in those circumstances, it most certainly is not constitutional to totally prohibit someone's right to petition their government for redress of their grievances. That is what this does.

How might we go about doing this so that we could provide a reasonable avenue? This is how I first read the bill when I looked at it. I read the bill and I thought it was saying that I would have 45 days after a final permit is issued to turn in petitions and to start the process. At first blush it did seem all that unreasonable. This bill does not do that. It says the whole process has to be complete. You want to be reasonable and make sure you are protecting the rights of the voters, no matter what the municipality's rules, because if you file those petitions within that set timeframe; they go through the process out lined by their towns, which in some towns can be done very quickly, maybe within 30 days but some towns may take 60 days, but whatever those ordinances would provide. Secondly, if you are concerned about having a clear timetable because one of the concerns is that we want developers across the state to know how long the final permit is going to be valid. You could say that once the petitions are turned in, once someone has petitioned their government for redress of their grievances, notwithstanding any other provisions of local or state law, an election must be held within 60 days. Again, that would provide a reasonable alternative. You have X number of days to turn in your petitions and the town is forced to vote on it. An interesting thing about this bill is that there is no requirement that the town ever hold a vote, so that time can lapse or the town can set up a vote for 46 days out, or if you go to 75 then it would be 76 days out, and thereby abrogate the rights of the citizens to have that election.

What I'm concerned about is not necessarily opposing some reasonable restrictions, but I want to make sure that anyone in this state will continue to have a right to exercise their right to petition their local government to have their grievances redressed. This bill, in many communities around our state, would never allow anyone to get to the ballot box. If you want a reasonable solution, I think there are ways to work on it, as I've suggested. This is not going to cut it because this simply is going to deprive too many people of any opportunity to be heard, any reasonable opportunity to file their petitions and get an issue voted on. In a state where we pride ourselves on local control, where we allow municipalities to establish ordinances and allow municipalities to govern themselves with a wide range of options, we are going to turn around and say that it doesn't matter what their town procedures are or what their ordinances are, and throw them out and impose this 45 day deadline. If you can't get a vote in, well that's too bad. The citizens who want to petition are just out of luck. I think if we do this we will rue the day. As soon as it starts happening in communities that citizens are deprived of their right to go to their town government when a new development is coming in we'll be scrambling back to this Body as quickly as

possible to chance the law because it is absolutely unfair that someone would be completely denied the opportunity. Unfortunately, that is what this bill would do for too many people across the State of Maine. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President. I rise to ensure to my colleagues that after much discussion, not only within our own committee but within our own caucuses, that there will be an extension offered of the days. That came after much deliberation throughout the various chambers, actually. I do hope that you will support this motion to get us there, to the point where I may allow an extension of that.

I just want to briefly touch on what my good colleague, my good seatmate, just stated, which was that this work that our committee did on this bill over a period of a year and a half is unreasonable. I think that the work that is not only going to be presented today is incredibly reasonable. I think it actually increases fairness. I believe as much in democracy as anybody in this chamber. I believe in the vetting of all issues and I believe strongly in citizen's participation as much as anybody in this chamber. I do wish to speak further on this, but I do hope to offer an extension to the days as soon as we get by this first hurdle. I do hope you support the motion. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Bromley.

Senator **BROMLEY:** Thank you, Madame President and colleagues in the Senate. This has been a difficult conversation to have and the passage of this bill is not something that we can put in our campaign brochures because it's complicated. It's very complicated. Only those of us that have had the opportunity to sort of hang out with the whole system and look at it in its depth and all of the various details can see the path clearly. I want to first thank the Senator from Penobscot, Senator Schneider, and her committee for immense diligence in this regard. You will note that it is a very robust 11 - 2 report coming out of that committee and this issue is difficult and complicated and full of detail. They hung out with that detail and listened to all sides of the issue over and over and over again. I commend her and her committee on that. I also want to commend members of this Body, in my caucus particularly, in helping us think through additional measures that might make this even better, which will be coming to you shortly. Let me start by saying there is a lot of myth and there is fact and it's circulating in the Chamber. Let me do my best to help sort that out.

When we have legislation that comes before us in our committees, my measure of what's good is when the parties bring a legislation have clearly outlined the problem. Oftentimes people accuse us of solving things that don't need solving. This, I assure you, is not one of those things. You'll notice on some of the papers that are being circulated around, the list of supporters of this bill. I hope at the very top is the Maine State Housing Authority. Others are going to talk to you today about general fairness. I support those arguments, but what brings me to this issue with such conviction is my concern for affordable housing. You also have before the Measures of Growth Report. You'll notice on page 19 that we get a red flag on affordable housing and on page 26 there is another discussion about the population

of service centers. These things, too, are very linked. They are linked to our way of life. They are linked to our economy. I'm going to do my best to help us all understand how this bill is going to help that.

You can see how complicated this is. I'm thinking of where to start. One of the problems with affordable housing is that we need to go out and get financing and funding. The commitment at the federal level for housing financing has eroded over the years. We have, in Maine, in our public and private communities, had to pick up that slack. Why that is important for this bill is that in order to ask a bank, a lending institution, the Maine State Housing Authority, or any other entity to play in the financing game, shall we say, there has to be some predictability. They have to understand that this project that they are going to be funding, financing, or putting front money in, has a good chance of going through if everybody plays by the rules. If that doesn't happen, if we can't say to people, with some assurance, that this project will go forward because we are playing by the rules, it's near impossible to get funders interested, and thus, the people that we have left willing to stand in and do the very difficult work of developing affordable housing are people that can afford to hold that risk themselves. I will tell you they are precious few.

I want to quickly tell you, or share with you, the steps that a developer in my community had to go through and how long it took to go from an idea to a now almost completely built publicly supported and revered, actually, affordable housing project in my city of South Portland. In the fall of 2001 this developer started talking about options for redevelopment. An RFP was put out. There was a property inventory and analysis done at significant cost. From August to November of that year there were public meetings, one and two each month. Whenever a neighborhood association asked for more information another public meeting was held, all at the expense of the developer. Then there was a larger meeting where the master plan, as it was called, was shared with all stakeholders. It was broadcast on public access television. Back to the drawing board, again at the cost of the developer. Now we're getting up to December 2002 and January 2003. Another municipal process in February 2002. February 2004, DEP approvals, subdivision approval. It was June 2004 before the shovel hit the dirt. At that point, this particular developer had \$800,000 of his own money invested in this project.

I know it's hard for us to imagine feeling bad for anybody that can have \$800,000 of their own money at risk, but let's say that even though all the rules were played by, all the ordinances were respected, all of the public input was taken, and this is consistent with the voted-upon and highly discussed comprehensive plan of my city, the rules as they stand right now say that even though you played by all the rules we can still, at the last minute, change the rules after the fact. What we are asking in this bill to say that at some point in time there has to be a hard stop where all the public input has been taken, all the rules have been followed, and we get to say, 'Okay, your elected bodies, your public process, your ordinances, your comp plan all say this can go forward, so it needs to go.'

There are protections in this bill for the public process and perhaps we can talk about those when we get to the next step. What I want to bring out to those of you who think \$800,000 to put at risk is hard to imagine, let me give you an example of what it would look like on a smaller scale. Let's say that you're a family whose income is dependent upon maybe a manufacturing job that you think might not be here. You think, 'You know, why don't we

move in the direction of having a childcare center here at our home because we know there is a need in our community?' Maybe you start working part-time in your job so you can finish your Early Childhood Education degree. Then maybe you take out a loan on your home equity to do a site plan to build the appropriate structure that the zoning allows and the Department of Health and Human Services will approve for such a childcare center. You go through that process. You go through the planning board process. There are public hearings. You are doing everything that you are supposed to do. You get to the place where you quit your job, maybe, and you take out another home equity loan and are ready for construction. Your neighbors, or maybe a childcare provider competitor down the road, can decide, even though you've gone through all of those steps, it's still okay to change the rules after the fact.

I'm hoping others will hop up and talk about other issues, but I'll leave it at that for now. The point of this bill, for those of us who have looked at the system in depth and detail, who have shepherded it through many iterations to get it to this product, which the committee worked so hard on, we believe, fervently, that without this bill we're not able to go forward with many of the important affordable housing projects that we must. Again, you also will see a letter on your desk linking affordable housing availability and economic development. I urge you to read that. Thank you very much, Madame President.

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Off Record Remarks

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**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hastings.

**Senator HASTINGS:** Thank you, Madame President and ladies and gentlemen of the Senate. I rise to support this bill. I hope we can all agree that those people; developers of businesses, subdivisions, and low income housing, deserve, at some point, a bright line at which they can rely on the fact that the permits they have obtained by following the existing procedures can be relied upon and the project can go ahead without the risk of having the law changed at a later date, retroactively, to adversely effect their project. I also hope that we all agree on the concept of home rule for municipalities for local townspeople to decide the fate of their own communities. I don't think this law, as presented to us, makes us chose between one or the other. I think what we have to focus on, as the good Senator from Cumberland, Senator Bromley, indicated, the timeline for any of these projects, be it a low income housing project, a factory, or a sub-division, is much longer than the 30 or 45 days. We shouldn't focus here today on the 30, 45, or 75, although the extending of it is fine and I hope we do that.

As the Senator from Lincoln, Senator Dow, pointed out, there was great concern on the coast about the big box stores. What has happened in Damariscotta happened before the first permit application was even filed. In reality, any one of these projects in a small town, or even in a large town, becomes common knowledge probably long before even the first application is filed with the planning board or the board of appeals. Every one of these projects requires a fairly complex and long hearing process through planning board and board of appeals. In reality, it can be

months, sometimes even year, but certainly months from the time the proposed project becomes common knowledge in town and then an initial application is filed. It can be months before any final permit is ever granted. There may be minor permits; a curb cut or a septic permit, but the big permit that actually allows the project to go forward takes months to obtain. I think we all know that from our experience. I think we also know that, at least in rural Maine, most people don't like exerting control until they need it, until somebody actually proposes something that they don't like. I want them to have time to react and do what they need to do. Any one of these numbers, 30, 45, or 75, will allow that. I think the most common method used now by towns when something like this happens, is to petition for a moratorium. That can be done quite quickly, I believe. Certainly within 75 days.

If we pass this bill, we're not taking away any town's right to self-determine their land use. All we're doing is giving those people who go through this entire long process a time; a month, a month and a half, or two and a half months, after they've actually obtained their permit to say they can rely upon that permit. I think it's a fair balancing of the interests between those who bring development to Maine and the interest of home rule. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I rise today to urge you to vote against L.D. 1481 as amended by Committee Amendment 'C'. I believe everyone in this chamber appreciates the intent behind L.D. 1481, which my friend and colleague, the good Senator from Cumberland, Senator Bromley, has brought before us.

The problem is that in providing greater certainty and predictability to developers the bill severely limits Maine citizen's right to petition their local government for redress, paralyzing their ability to challenge elected official's decisions and to control growth within communities. The state Constitution gives local communities in Maine the ability to establish a local people's veto, which, while infrequently used, has enabled citizens to seek redress when they felt that poor decisions had been made by their local municipalities. L.D. 1481 effectively strips the citizens of this right to challenge government decision making by severely limiting the time citizens have for the petition and referendum process needed to challenge and change municipal decisions. L.D. 1481 gives citizens only 30 days to collect their signatures, have the signatures verified, have the election date set, and have the election completed. If you speak with your town manager or city clerk he or she will tell you that 30 or even 45 or even 75 days do not give towns the time they need to print and mail out absentee ballots. According to the Maine Municipal Association, the average period of time for a citizen initiated referendum is 120 days. In Auburn, when there was a referendum, it took the community and the citizens' group 30 days just to decide upon and negotiate the language for the petition and for the referendum question. Towns would also not have the option of saving money by putting the referendum question on the ballot in the next regularly scheduled election. Towns would incur additional expense by having to hold special elections. The power to set the election remains vested with the elected municipal officials, who are not required to set the election date within the stipulated period of time. They could set it outside the 30 or 75 day period if they wanted to kill the referendum.

Proponents of L.D. 1481 will argue that citizens have much more than 30 days to complete the necessary process, that they can initiate the referendum process at any point and that the bill actually encourages citizens to pay attention and get involved earlier. The problem is that developers have become much more guarded while negotiating with municipalities. More planning is taking place under the public radar screen. Often citizens don't have the full details of the project until very late in the planning stages. It's often impossible for citizens to know what's going on before the final permitting. We've had a couple of examples of this in Lewiston recently. Presently, local elected officials have the ability to retroactively put land use ordinances in place to prevent or control development they were unable to anticipate. Suppose a developer shows up and wants to put a cell phone tower or wind turbines within a particular community. Presently a community is able to retroactively establish or amend ordinances to protect itself from these land uses it had not anticipated. Under L.D. 1481 the time elected officials have to enact these retroactive ordinances is severely limited. Often towns, when presented with some big commercial development project or some large sub-division, realize that their ordinances aren't as comprehensive as they need to be and they need additional time in order for a town board to conduct a rigorous review of the project or perhaps they realize they need zoning to address the issue of where a certain type of use should be allowed to locate. Under these circumstances towns need time, much more than L.D. 1481 would give them, to work through these issues. Nobleboro, for example, has just enacted a 6 month moratorium while it figures out how to handle big box development. The town of Freedom is being faced with a wind turbine project, for example, that might need retroactive ordinances. The town of Bowdoin is facing lots of new large sub-division development and might need time to develop better ordinances.

When a bill similar to L.D. 1481 was debated several years ago selectmen from the Maine town of Pittston came forward to say how important a retroactive moratorium had been for them when they were suddenly confronted with someone who came into their community and wanted to spread sludge. Municipalities can get caught by surprise by big development projects, the citizens of a community even more so. To amend an ordinance to address the impact of that development can take longer than it takes to get a land use permit by the developer. In some cases the amendment of an ordinance involves amending the municipalities' comprehensive plan. L.D. 1481 can trigger a race among developers, municipalities, and citizens. Rather than fostering community-wide discussion about the proposed development, each side would work on their own agendas to see who will get to the finish first.

Proponents will argue that L.D. 1481 is needed to protect Maine business people and non-profits. If you look at the history of citizen initiated referendum on land use over the past 20 years you will see that only 8 of the initiatives ever culminated in a public vote and that the majority of the initiatives dealt with big box development from out-of-state. I'd also note that when the referenda take place citizens often vote to continue, not stop, the development. I would also note that no citizens initiated referendum has ever stopped an affordable housing project, something that I think is important for all of us to remember in today's debate.

The process that citizens need to go through to bring the initiative to a vote is cumbersome and filled with hurdles. This is not a process that enables one neighbor from keeping another

neighbor from putting on a deck to his home. In our community you have to have 1,000 signatures on a petition, people have to go to city hall to sign those petitions, and you then have to have the majority of people voting in a referendum to side with you in order to be able to stop development. In many ways this bill is a solution in search of a problem. The courts already have determined at what point people's rights are vested in terms of land use. This bill would over-turn two State Supreme Court decisions. Citizens initiated referendums have only been used rarely, but when they are used they are vitally important to communities.

Proponents of L.D. 1481 challenge us to think about fairness as we think about the bill. I would ask you to ask the question of yourself; fairness to whom? We would probably never suggest in this chamber doing away with the people's veto, yet somehow it's okay for us to be discussing the people's veto at the local level and doing away with that. Local municipalities currently can establish the type of referendum that we are contemplating in L.D. 1481, but none of them would do away with the right to those referendums because they would know they probably wouldn't be reelected at the local level. As Legislators, who are we here to protect and to defend? Are we here primarily to look out for the interests of the citizens of Maine or are we here primarily to look out for the interests of developers? I do not believe that we are here to provide greater predictability for developers at the expense of citizens' right to petition their government or at the expense of local control. Please vote to defeat L.D. 1481 as amended. You'll be able to go home and let your constituents know that you helped protect their local control and put their interests first, putting their interests before many high paid lawyers and lobbyists who have been here the past few days and past few weeks lobbying hard to get this bill passed. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Lincoln, Senator Dow.

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate for giving me this opportunity for Part 2. Let's see how long I can go this time.

This started as a low income housing bill. A noble cause. It has ended up as a gift for big box stores in the nation. It's a gift for them. Such a gift that they wanted to come on board and help out with this bill and were told to stay out because if they didn't this bill could fail. Why is it a gift? Because there is a time limit and the time limit is going to promote secrecy about projects, even more than it does today. In the town of Damariscotta, which everybody likes to keep using all the time as the example of which to go by, the secrecy was such that people thought there was something coming to town, but nobody knew for sure just exactly what. I got phone calls at one time asking me if I knew and I said, 'No, I don't know. The reason that I don't think it's the certain big box coming to town that you think it is is because there one 30 miles to the north of us, there is a new expanded one 30 miles to the south of us, and there is one right here in this community.' Two days later I found out for sure, it was this particular big box that they were asking about and I called up and told them so just to clear the record because I don't feel it's right for any community to have to decide things without having all the cards on the table and having all the information. I abhor that. To me, this bill, with 30, 45, or 75, is going to drive things underground and cause secrecy to occur more often.

You are right about this not being on a campaign flyer, but it isn't because it's too complicated an issue, it's too hot an issue. It's very hot when more people turn out to vote on an issue than turned out in the Presidential election. That's a hot issue and 62% said that I don't come here next time if I vote that way. I want you to judge whether I am going to vote this way because of that pressure or because I believe in the ideals that this will destroy. In the town of Newcastle it was probably 95% plus in favor. Another town in Lincoln County. It's moved into Edgecomb, another town in Lincoln County. Nobleboro, another town in Lincoln County. It's moving into my own town of Waldoboro. It's moving into Warren, the next town in Knox County. It's already been an issue in Thomaston, another town in Knox County. I'm telling you that there are Damariscottas and Newcastles and Edgecombs and Nobleboros in your districts. It will become a hot campaign in your district. Had you gone through the experience that I've gone through, I don't think you'd be voting for this because you'd realize that there is something going on out there that the people are very scared about. You have to ask yourself this question, is the 30 or 45 or the 75 days enough time? I think the great movie lawyer, Vincent Gambini, maybe said it the best. You'd remember Vincent Gambini if you've ever watched My Cousin Vinny. 'Are you sure about that tie?' This is a major change in policy and we've got to be sure because I can envision this law passing and there are some people out there that are waiting to file applications. They are not filing them right now. They are waiting for this law to pass. The day that this law goes into effect, 90 days after the session ends, some of these applications are going to start getting filed in communities that know nothing about it yet. That may be the middle of July. The next day you are going to start getting phone calls from the 62% of the people in your Damariscotta or the 95% of the people in your Newcastle. They are going to ask one question; 'How did you vote on this bill?' You are going to say, 'Well, I voted against it.' They are going to say, 'Is that all you did? You just voted against it?' As emotional and a hot button that this issue is with the people can you say to them that all you did was vote against it? If you voted for this bill, then what are you going to do? You are going to start blaming the towns because they don't have adequate planning. Small towns. How about Stacyville, for instance. Do you think they've got all their planning on board? Do you think these towns are ready for the types of changes that can be imposed on them by millions of dollars just waiting to develop somewhere? Somewhere in your district there is a crossroads on two major intersections. It might be in a small town and it's a vital piece of property. These companies are willing to spend a lot of money because some of these big boxes do more business on the day after Thanksgiving than I do in an entire quarter in my business. Secrecy is going to be the order of the day to get these permits through these small communities, or even the large communities. In Westbrook they did not want to stop the big box, they just wanted some arrangements made so that they could protect the surrounding areas, some buffer zones and some other things. So are you going to blame the town managers, maybe, or the planning boards in the towns for not preparing in advance for changes? What kind of changes do we have? Big changes. Maybe 10 or 20 years ago in the State of Maine we never even heard the term big box. We never heard condos at one time. Two years ago who in here could tell me what LNG even stood for? Nobody, because changes come upon our society fast and our small towns that do not have the money to plan in advance to dot all the

I's and cross all the T's and nobody will because change is an ever constant thing that happens in society. Who are you going to blame to get out from under this hot potato? You could blame the head administrators. You could blame the head of the hospitals for all the problems in Medicaid, but that was a tactic that was tried by another former incumbent Senator. That argument will not work.

I'm passionate, not because I have to vote for this, but because I believe in the principles of allowing people to decide for themselves in their own communities what they want that community to be. I'll ask Vincent Gambini's question again, 'Are you sure about that tie?' Regardless of what time we put on it. I'll finish up by saying one other thing. In the Chapter 33 of Ezekiel he is called to be a watchman to the House of Israel. The watchman was set outside in a tower, outside the city limits, to warn the people when impending danger came. There isn't a single person in here that will be able to look me in the eye and say I didn't send some kind of a warning to you. This is a political hot button. It's a major change of our way of life and we've got to make sure that we get it done right if you are going to make this major change, because you are going to get the stack of e-mails, telephone calls, and blue slips if it happens in your community and now they've discovered there is a big limit on the way they can do things. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you, Madame President. I appreciate the comments from the good Senator from Cumberland, Senator Bromley, and the good Senator from Oxford, Senator Hastings, in outlining a very real concern. I appreciate that concern. I respect that concern. I think we ought to try to solve that problem.

I am reminded of a story I heard early when I started Worker's Comp about a person who had injured his foot. He was having long-going treatments, a lot of therapy, and so forth. The reason he needed it was because it allowed him to keep his foot. The doctor said he needed this and the insurer should pay for it so he could keep his foot. The insurer went to the Worker's Comp Board and said, 'I shouldn't have to pay this. Why do I have to pay these on-going benefits? If we would just amputate his foot, his problem is solved.' They actually said this. The hearing officer didn't miss a beat and said, 'Well, thank God, he didn't injure his neck.' Just imagine.

You need a solution that addresses the problem in a real and considered way. I'm not necessarily opposed to having some kind of a hard stop, having some kind of a fixed time period. The problem with this bill is that it doesn't take into account the process of getting to that hard stop. It simply says we're going to throw a big barrier in the way whether the towns can accommodate it or not. Some people say that there is plenty of time, much more than whatever date is in the bill, because as soon as they get the first permit you can start mobilizing. Well, you're not going to have much success circulating a petition to challenge an electricity permit or a permit for this or that or the other thing. Suppose you knock down that permit, they are just going to go get another one that's slightly different. It's the final building permit that is the operative document on which you want to challenge, if you are going to challenge. It's not until that is final that you can even get the language of a petition certified by the clerk or if it is acceptable by the clerk to start circulating a

petition. You don't have lots of time. Your time clock begins the day that the final permit is issued. Someone said, 'Well, there is a good solution in place. You can always, within the time period, enact a moratorium.' I guess I would just ask all of those who support this, all the businesses, and all the developers who want to move their projects forward if they would rather have a period of an election over 60, 90, or 120 days that is reasonable or if they would like to have a moratorium that is indefinite in nature, that's going to not only effect that property but lots of other properties with similar kinds of businesses? Is a moratorium going to be good for your business? I think that is a solution that is not compatible with the problem and will actually create more problems for developments.

A lot are concerned that this bill will help to prevent sprawl and help promote affordable housing and these projects move forward. The problem is the presumption here is that these projects cannot earn public support and therefore we need to throw up as many barriers as we can to stop the public from having the final say. I think if we put our resources more into educating people about the impact of sprawl on our environment, on our municipalities, on our services, and on our tax rate we can build popular support for them. If you talk to people about the fact that the firemen or the police officers that you've grown to love and respect in your communities can't live there is no affordable housing you are going to have far more luck over the long run in getting approval for these projects.

As a final note, as I've said, I think we can put a procedure in place that will restrict or put a final end date on it, but it's got to be a procedure. This isn't. This simply says you've got to do whatever you need to do within X number of days. It doesn't matter whether that is doable or not. If it's not doable in your community, tough luck. Don't try to challenge it in court. I don't think that is the solution. Let's develop a real process that assures that people have X number of days to submit signatures and the town has X number of days to hold an election and put it together. That is a comprehensive solution that addresses the problem.

I've heard some concern that when you do that it might be considered a mandate. To avoid the concern with the mandate, or the need to get 2/3 to over-ride the additional cost, to avoid that you need to build consensus. What we are going to do is put in a solution that is far disproportionate to the problem we are trying to address. Thank you, Madame President.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Bryant.

Senator **BRYANT:** Thank you, Madame President, men and women of the Senate. I won't try to repeat what the Senator from Lincoln, Senator Dow, presented. I think he did a good job in presenting the whole picture. I just want to bring to the attention of the Senate that I served in the other Body. This bill is not new. It's been around for a long time. It's been moved around. I think the initial piece is still the same. The municipality could apply this rule to themselves if they wanted to and I think that this is where it should stay. I would urge you to oppose the pending motion.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Brennan.

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. It's rare, if ever, that we have the

opportunity to confront the future totally in this Body. We have different pieces that come before us and that we talk about how they will affect the future of Maine. I submit to you that this is an opportunity; this is an instance that really does affect the future of Maine, directly and today. This bill is not a piece. It's not a part. It directly affects the future. Let me tell you why. There are some estimates, some research that indicates or suggests, if not says, that by 2020, a short 16 years from today, that southern Maine, the greater Portland area, will be considered part of the greater metropolitan area of Boston. When I heard that statistic, when I read that research that frightened me more than anything else that I've seen in the time that I've been in the legislature. In another 14 years we'll be considered to be part of the greater Boston metropolitan area. What that speaks to, men and women of the Senate, is how quickly those development pressures are that are facing the State of Maine. Not only southern Maine but throughout the State of Maine. Those development pressures are going to continue as we speak today. That's why the future is today. I think the good Senator from Lincoln, Senator Dow, really captured the essence of the discussion today when he said we have the opportunity here, today, to determine what the communities of Maine are going to look like today, tomorrow, and into the future. If we strip away, through this bill, the opportunity for citizens to determine what those communities are going to look like we are now going to pave the way for developers to determine what those communities are going to look like.

I want to give you two quick examples. We had a referendum in the late 1980's in Portland around the working waterfront. The Working Waterfront Referendum. People's veto. That referendum passed and that referendum over turned all the decisions that had been made by the planning board and by the city council up to that point because the citizens of Portland stood up and said, 'We don't agree with what you have approved and put on the table here.' The citizens went and voted and they voted to reject that proposal. That vote saved the city of Portland's working waterfront. It saved the city of Portland's working waterfront. If that vote had not occurred, and the citizens had not stood up and rejected that proposal, Portland's waterfront would now be a line of condominiums. We have abolished, we would no longer have a working waterfront. We would have boutiques, specialty shops, and condominiums.

In the mid-1990's another proposal was put forward to build housing on Munjoy Hill. Some people in the neighborhood and other parts of Portland didn't particularly like that proposal. There was another citizen's referendum held. The city of Portland overwhelmingly, over 60% of the people in Portland voted to allow that project to go forward. It's now been a very important and significant part of housing for Portland.

In two instances in Portland where we've had referendums one has dictated the future of Portland in an incredibly positive way and another one did not prevent a housing project to go forward and in fact reaffirmed the commitment from the community to have that type of housing.

A previous speaker said that this issue had to do with affordable housing. I wish that it did. In fact, I might even support this bill if it had something to do with affordable housing. I have been involved with dozens of affordable housing issues and projects in the greater Portland area. This has nothing to do with affordable housing. This is not going to create more affordable housing. Affordable housing has to do with financing, acquisition of land, and a whole lot of other things. If somebody wants to bring forward a bond issue for \$15 million to provide financing for

affordable housing that would create affordable housing, not this bill.

Lastly, and probably most importantly, there have been several other speakers that have been far more eloquent than I will be in my final comment. We are privileged to live in a democracy. That democracy that we live in rests on people having the opportunity to petition their government. If we ever forget that, if we ever compromise that, or if we ever take away that opportunity for people to petition their government, we have struck a significant blow against the democracy that we know. I do not believe that this legislation is necessary because I don't think that is a problem that needs to be addressed in the way people have framed this. What I do believe is that this is a significant blow to democracy and this is a significant blow for the people of this state for their opportunity to petition government. If there is anything that scares the most about our future in this state, in addition to becoming part of the greater Boston metropolitan area, it is doing anything to take a step to undermine democracy in this state. I urge you to vote against the pending motion.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President and good colleagues. Well, I've heard a lot of fear, a lot of being scared, and certainly when it comes to voting, I would say that what will I say when somebody asks me about the way I voted, I will tell them the truth. I believe this is reasonable and I don't believe that this is a blow to democracy. I believe it actually improves it. I believe that this is going to add fairness, stability, predictability, and allows for transparency, input, discussion, and debate. I certainly do not support sprawl. In fact I'm a member, or have been a member, of an anti-sprawl group. I can tell you that many people in my district will tell me, scary as it may be to some, they want sprawl. They are looking for development and they want jobs. Maybe some of you disagree with that, but that is true. I don't get paid big bucks for being here. I'm not afraid of losing this job. I do this work because I care deeply about my community and if the community chooses to oust me then that is their decision. I hope they will vote for me because they know that I'll tell them the truth, that I won't be made afraid by emotion and scare tactics about the way I vote on any issue. Maybe I should be afraid, but I'm not. That is what democracy is all about. People need to make their decisions based on your entire record, not just one single issue. If they choose to let me go, well I have a lot of things I can be doing with my time, believe me. I do this out of love for my community. I am not afraid and I think acting on fear is not good democracy. I think we must act out of our conscience and caring.

It severely limits our ability to redress our community. I don't believe so. A bi-partisan group of us worked diligently to try to reach fairness for everybody. I believe in democracy. I believe in taking part in our government. I believe in being reasonable. I believe in transparency. That's what this bill is about. Though some want to deny that this is about affordable housing, they certainly can do it, but the Maine State Housing Authority would debate you on that. They have been working very much with us on this piece of legislation. Others came forward who are non-profits and were speaking in favor of this because of the lack of funds coming from the federal government. They believe this is necessary. There may not be a problem I can point to exactly,



but I can tell you there is a housing crisis in this state for affordable workforce housing. I don't know what can speak more adequately to that than the crisis that we're currently having with affordable workforce housing than that, although I don't think that this is just about that. This is deeply about a fairness issue.

I'm glad that the deck issue was brought up. It was something that I brought up in our discussions on this. When people have asked me to justify the way I am supporting this piece of legislation with the 75 days that will be coming forward shortly, hopefully, it is because I frame it in a way that they can feel whether or not they would feel it was justified because of the actions somebody might take. That story that I told people who address me on this issue about why I'm supportive of this is if somebody goes out and gets approval to put on a deck on their home and they've jumped through the hoops that the community has put forward about putting that deck on their home and gotten that approval and got the seal of approval from the community and they go forward and they buy the decking and they get the tools and they start building out that deck and then somebody in the community decides they don't want that decking there. They can go out after that deck's been built and rip that rug right out from under them. That is essentially the way I frame it. Then I say, 'Do you think that is fair?' I have not had one person tell me that this is fair. In fact they are appalled at the current system. They didn't know that this is the way it could happen. I am the kind of person who tries to jump into both sides' shoes to try to reach some kind of consensus, which we did in our committee with an 11 - 2 report.

I might add that the people who largely have spoken had told me before we even vetted this in committee that they were not going to favor this no matter what happened with this bill in my committee. They don't like the bill. It doesn't matter how many days we put on it and what we do, they are not going to favor this bill. This is a bill that many have said, 'I don't like.' That is what I was told before any discussion even took place on it. I hope you don't buy those arguments. We all know and I'm an honest person and I like the people of Maine to know there are politics to kill bills in these chambers. When you have a certain number of votes to move legislation forward, the way you kill a bill is that you add amendments onto it often times because then the side that has the votes starts to pick off those votes and tries to peel them away. That's why I hope you will support the current motion so that we can move on and add the 75 days as has been agreed upon. A lot of people don't know what you go through behind the scenes in this chamber and others. It takes a great deal of effort to move legislation. A great deal. We work night and day. I let my community know that in no way am I trying to take away democracy. In some ways it's sad that some people feel that way. That is not what I believe this is about. I believe this is about serving all people and making this fair. I will have additional remarks, but I thought it was necessary, unfortunately, to speak this fear tactic. When I go campaigning I'm going to be proud of the way I've supported this piece of legislation. I have no problem with talking about this with people in my district. I know there will be a lot of disagreement on it. That's what democracy is all about. It's about talking about issues. It's about getting the issues out there for everybody to vet. We did that here with our committee. We had bi-partisan support on this piece of legislation. I do hope you will support the pending motion. Thank you very much, Madame President.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. I've been up and down on this bill. As President of the Windham Land Trust, a long time member, we've had our battles with developers. I started out with a questionable eye on the whole bill but then as I learned about it I learned that the intent here, and I believe the intent, was to be fair to the citizens, fair to the town, and fair to the developers. There is nothing wrong with fairness. That seemed to make sense to me. It seemed to be reasonable. Then I learned last Thursday that the 45 day safety net that had been proclaimed by the supporters of the bill was not just to initiate an initiative, it was initiates and complete the initiative. We all understand, I think, doing an election is a very time consuming matter in many cases. You have absentee ballots that have to be ready 30 days before the election. You have at least two weeks of printing. You have to call the election. Forty-five days was not even practical. When I learned that I became a non-supporter of the bill for that reason, even though I firmly believe there is a fairness doctrine here. If you oppose developments there should be some point where it comes to an end. That is reasonable, it's fair. With the 45 day safety net, as it was being proclaimed, that was not reasonable and that was not fair. Then I've learned, as you all have, that this may change. If that does change, of course we can't talk about this now, to 75 then that is something we might want to talk about when it's appropriate. I could support that. Until it's changed, I couldn't. I think we're talking about fairness. We're talking about fairness to all participants. Developers aren't all good guys; they are not all bad guys. We know that the initiative process could start even earlier than waiting until the permit is issued. If it is reasonable and it's fair to everybody and the changes can be made to make it fair, even for the safety net area, then I think it's something we probably should support. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President and men and women of the Senate. I only am standing to speak because the picture that we've seen develop is the big guy, the big corporations somewhere out there in some big city reaching in and taking over our state. I had a call a few nights ago from one of my friends in my district who didn't even know this bill existed. He has a family business. He and two brothers and his dad have a business that was started by his grandfather. They've grown this business and they work very hard. He has spent \$75,000 out of pocket for planning, engineering, and etcetera. He has gone before the planning board of a town that has everything done; the comprehensive plan and their ordinances. He sailed through and got his permit because exactly what he wants to do is zoned for exactly the place he wants to do it. There is someone on the town council who has a personal issue with his developing. Now he has to stop and pause. He has a \$1 million option to complete this deal. He is in no-man's land because he doesn't know if this person is going to come forward and try to stop this. Should he continue to spend money? Should he go out there and begin this job? He's holding back. I told him about this bill. It's not going to help him because he's already gotten his permit, but that is the face we should put in front of us. Some of our own family businesses, who have been here for years, who have to hold

back and perhaps not go through with something they were given permission to do.

If I were a sports enthusiast I would say that is like changing the rules in the middle of the game, but I really don't know basketball from football or any of those rules. That is what it feels like to me. We're giving them assurance under the town's own plan. I would ask you to think about those faces when you vote. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. I'm going to be supporting this L.D. From what I hear I think I'm going to support it even more strongly if it's amended. That's all I can say about that at this point.

I'm supporting this bill because we, in the natural resources based industries in Maine, have already had to live through this type of situation. We have been subject to dozens and dozens of post-approval town ordinances all over the state for years. I'm particularly frustrated to hear good Senators from Lewiston and Portland, who produce a vast high percentage of the sludge that is produced in Maine, stand here and say they want to make it very easy for local towns, where the sludge is going to end up, to prohibit its use. This is what we, in the natural resource based industries, have lived through the last 15 years in Maine. In fact, a number of years ago the state finally had to step in and pass a statute that superseded any town's ability to even craft an ordinance on this subject because it was out of control. I don't want the state to have to step in more and more times in the future. I'm looking for a reasonable compromise to avoid that. I think L.D. 1481 is that type of compromise.

Also a few years ago we had to step in, as a state, for any forest practices and agricultural practices that meet best management practices. The municipalities are now superseded by the state from being able to pass any local town ordinances because they were out of control. I'm going to be supporting this bill as a member of an industry who has lived through these very subjects and this very issue for the last 15 years. This bill is a far better choice than having the state supersede in totality any municipality's right to have a local ordinance. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I just wanted to clarify one thing; again I would encourage you to look at the history of the use of these citizens' initiated referendums in the last 20 years. Only eight times have these initiatives ever gotten to the point where they get to a vote. The reason we're talking about high impact development today is because the neighbor who had a deck put on or someone who had invested in a small business don't end up being involved in these citizens' initiatives because you can't get a thousand people within a community to sign a petition saying that somebody can't put a deck on the back of his house. I would just ask you to look at the history and think about how these referendum have played out in the past and that we aren't talking about individuals, we're talking about high impact development because those are the only issues around which you can get a community mobilized. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I have never supported this legislation, but today I will. I will because I think the time has come for the state to deal with the issue. We went through that with natural resources. A number of years ago when I was in the other Body we had community after community objecting to the spreading of manure. Passing referendum questions. Not eight times, but eight times in one year in some communities, simply because they did not want manure. Then came the issue of what you did with sludge coming from the sewer systems of municipalities. We ended up having to pass legislation because of that very issue. As I hear the discussion today saying it only is eight times, but people forget, and I understand because you haven't been here, that we have dealt with those issues for the last 30 years. Town after town making their own decisions. We are either one state or we are not. I am also hopeful that if we get to that point that there will be amendments offered which will make this bill more palatable for me. As a principle, I will vote today to accept the report and hopefully move on so we can deal with making this bill palatable for the rest of us.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Bromley.

Senator **BROMLEY:** Thank you, Madame President. I first want to begin by noting that the good Senator from Lincoln, Senator Dow, was worried about his voice but the longer he talked the better it was.

Three quick things. Esteemed colleagues in this Body are speaking passionately and proudly for the people's right to say no. You've heard the arguments why many of us think that's not the issue, the pivot point, the fulcrum of the issue, as you know. I want to also say is that we owe the citizens of Maine more than the right to say no. Affordable housing, how their communities look, the walk ability of them, the livability of them, all those things are important. It is our hope that the zeal that you feel in this chamber today regarding the ability to say no gets converted in some important fashion to discussion, a state-wide discussion, a community by community wide discussion about what we want our communities to look like. Planning, comprehensive planning, and showing up at all those meetings are really important. Affordable housing is at stake as is the character of our neighborhoods and our communities.

I also want to quickly mention something about affordable housing. On one of your handouts, I think it's the green one, the Maine State Housing Authority; the Southern Maine Affordable Rental Housing Coalition; the People's Regional Opportunity Program, PROP, in Portland; and Avesta Housing Incorporated all entities whose mission is only affordable housing and who are supporting this bill. I would push back a bit on my Majority Leader, the esteemed Senator from Cumberland, Senator Brennan's assertion to you that this is not about affordable housing and hope that all those organizations I just mentioned will help reeducate the good Senator.

Then I just want to say, what are we doing for affordable housing? Those of us who are supporting this issue do it out of our concern for affordable housing and our understanding of the barriers. Again, the financing pieces, all of those moving parts, are hard to understand unless you are paying attention to whole

system. All of you have other things and other committees and we are sharing our conviction that the passage of this bill will have a positive impact of the supply of affordable housing. This is a hot issue. There is a lot of fear around it. I think that is because there's nothing easy left to do, particularly around this issue. In the BRED Committee last year we worked on the building code, we worked on the rehab code, we worked on the affordable housing TIF, and we worked on the restoration of the home fund. I hope others of you will join us in that continuing effort. We've tried to put forth an affordable housing bond, and it sounds like I may have some support for that on my side of the aisle here, and this bill.

Yes, it's hot, but all of the important things are that are cutting edge. Yes, there is fear, but I hope what communities fear, and I think what communities are fearing, is that they don't have a say and that all they can do is show up and say no. What I want to say is that communities can have a say and they can show up long before no and say, 'This is how we want our communities to look.' Please join the Maine State Housing Authority and the others on the green sheet, our new Commissioner of the Maine State Housing Authority, the Community Preservation and Advisory Committee, the Legislative committee charged with anti-sprawl measures, and eleven of the thirteen members on the State and Local Government Committee in supporting the pending motion. Thank you, Madame President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider, to Accept the Majority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#382)**

YEAS: Senators: ANDREWS, BROMLEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, HASTINGS, HOBBS, MARTIN, MAYO, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

NAYS: Senators: BARTLETT, BRENNAN, BRYANT, CLUKEY, DOW, GAGNON, ROTUNDO, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: MILLS

24 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

**READ ONCE.**

Committee Amendment "C" (S-437) **READ.**

On motion by Senator **SCHNEIDER** of Penobscot, Senate Amendment "C" (S-554) to Committee Amendment "C" (S-437) **READ.**

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President. This amendment will extend the date in which a municipality may amend the land use permit to 75 days instead of 45 days.

There is no doubt that this L.D. has had vetting, much like that of the budget, which had much debate taking place prior to making it to the Senate floor. It does share that common dynamic with the budget, of being passed out of the State and Local Government Committee with a strong bi-partisan vote. In fact, it was so strong that the bill was reported out with an 11 out of 13 members voting in favor of the bill as it was originally amended with only 30 days. In a way that makes sense, I would say common sense but I am beginning to believe that common sense may not be so common, L.D. 1481, once one has received a lawfully issued land use permit or approval from a municipality or town and 75 days has passed, the criteria for issuing the permit cannot be changed retroactively to invalidate the permit. Each permit has its own 75 day window. There is no question for me, and many on my committee, that this bill is about standing up for fairness, predictability, and consistency when addressing the local permitting process.

What is it about the law that now, as it stands, makes us want to change it? Permit law holds that land use zoning did not apply to valid issue municipal permit or land use approval once the substantial construction has begun. So what's the problem? If you believe, like me, that once rules and laws are set one should be able to depend on them for fairness and consistency, then the current set up will not pass muster. Additionally the need to change the way things are today is best stated by others. One non-profit at a public hearing said, 'Creating affordable housing is more difficult than ever before. With incredibly limited state and federal financial resources, it is common today that affordable housing development needs to secure five or six layers of financing from different sources, which may take years to accomplish.' Additionally, the numerous impact fees, market studies, environmental studies, and environmental reviews all make it very difficult to develop affordable housing.

Make no mistake about it, this is not just about an affordable housing crisis. This is about a chance that, though this change may help ease that, it is not just about that. It's about making the playing field fair. Making the process fair will help promote investment in Maine and our communities, and I hope will increase the number of jobs in our great state.

There are those who have said my support of this bill is somehow squelching the democratic process, taking away the rights of local communities. I would submit that this is false and could not be further from the truth. I believe it is crucial for our communities to be able to determine their desires of how they want to develop. It is crucial that all citizens have a voice and ample input to the land use planning process. With that said, I believe that laws and rules must be fair. I believe that there must be a point in time when a community must stop changing the rules of the game.

When I have talked to people about this, they understand the concerns when I framed it in such a way that makes sense to them and when I ask them what is fair and what is not fair. I

believe in democracy, in strong involvement in process, and in encouraging people to direct their community in the type of growth they desire. I'm the kind of person who believes in jumping into each side's shoes and reaching a balance. I believe that this, as amended, does reach that balance.

I just want to take a quick break and say I want these remarks on the record and I realize that we have the votes. I think it's very important to state this because I've been waiting such a long time and have worked so hard on this bill and that the people hear my remarks. You'll have to just suffer along with me here because I'm getting notes here to stop. I am not the kind of person to necessarily listen to my seatmates on this issue. I did want to say a little bit about the secrecy issue and I just want to say so much for secrecy in 'Scotti'. I grew up near Damariscotta during the summers and I'm proud of them. I applaud what they did in addressing this issue way on in the process. This process is something that I think is the way that a community should react and I think that most of our small communities, fortunately for them, word travels fast. You can't keep a secret in Maine very easily. The recent case of Wal-Mart coming to Damariscotta and community actions in that case are exactly what I commend and applaud. The citizens there said, 'Whoa, let's take a pause, look at this situation, and vote on how we want to proceed.' They had great public involvement and they had it early on in the process. That's exactly how it should be. L.D. 1481 as amended would not, in any way, change that process. Let me say that again. It wouldn't change it in any way. In fact, even if they had gone through all the needed permits they would still have an additional 75 days to address this within their own town government. This clearly says once the entity receives a lawfully issued land use permit or approval under current local ordinance the rule cannot be changed retroactively but they are given an additional 75 day period after that final permit.

I just want to close by saying I appreciate being given this time. I appreciate the work of this committee and I'm glad that we are moving forward with balancing the laws of our land. Thank you very much.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you, Madame President. I will be brief. We've heard a lot about fairness today. I ask, when I think about this and I'm asking my constituents the hypothetical question, 'Do you think it's fair if a permit is issued, you disagree with it, and you have 75 days under state law in which to get a petition out, get signatures back, and have an election held in your town? Do you think it's fair when you go to the town clerk the day after the permit is issued and ask how soon can I get an election and they indicate that it is no problem and they can have an election in 90 days?' You can't do that in 90 days, there is no way because the statute expires in 75 days. You are out of luck. They are sorry, but you've got to go blame those people under the dome in Augusta because they foolishly cut your rights short. Is it fair that people are totally deprived of their right? All I'm asking is that we develop an approach that recognizes a right to petition and guarantees a vote within a certain time period. It could be 75 days, it could be 90 days. It's not so much the length of time that's a problem, but the fact that there is no requirement that a municipality acts on the petition that is brought forward. Why don't we do that? Because we don't want to tell municipalities what to do. Instead we will tell every Mainer that

their right to petition the government to redress their grievances is lost.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Bromley.

Senator **BROMLEY:** Thank you, Madame President and Senate colleagues. Every so briefly. I just want to say that the amendment you see before you went through many iterations, lots of compromise, and I particularly want to thank the Senator from Androscoggin, Senator Rotundo, for helping us understand how important the last sentence in the amendment is. It says, 'Nothing in the paragraph alters or invalidates any provision of any municipal ordinance that provides for expiration or lapse of a permit or approval after expiration of a period of time.' The Senator's concern about them hanging out there forever was very much appreciated and taken into account in this amendment. I hope you will join me in supporting the pending motion. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President. May I pose a question through the Chair?

**THE PRESIDENT:** The Senator may pose his question.

Senator **GAGNON:** Thank you, Madame President. There was an issue raised earlier about whether or not the petition had to begin within that timeframe or had to be completed within that timeframe. I'm just wondering if this amendment dealt with that issue?

**THE PRESIDENT:** The Senator from Kennebec, Senator Gagnon poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President. The amendment does not state the election has to take place within that period of time, if I understood the question correctly.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Adopt Senate Amendment "C" (S-554) to Committee Amendment "C" (S-437). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#383)**

YEAS: Senators: ANDREWS, BROMLEY, COWGER, DAMON, DAVIS, DIAMOND, HASTINGS, HOBBS, MARTIN, MAYO, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, SULLIVAN, TURNER, WESTON, WOODCOCK

NAYS: Senators: BARTLETT, BRENNAN, BRYANT, CLUKEY, COURTNEY, DOW, GAGNON, ROTUNDO, STRIMLING, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: MILLS

24 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SCHNEIDER** of Penobscot to **ADOPT** Senate Amendment "C" (S-554) to Committee Amendment "C" (S-437), **PREVAILED**.

Committee Amendment "C" (S-437) as Amended by Senate Amendment "C" (S-554) thereto, **ADOPTED**.

On motion by Senator **COWGER** of Kennebec, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "C" (S-437) as Amended by Senate Amendment "C" (S-554) thereto.

On further motion by same Senator, Senate Amendment "E" (S-558) to Committee Amendment "C" (S-437) **READ**.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Cowger

Senator **COWGER:** Thank you, Madame President and colleagues in the Senate. I'll try to be brief here too because I know it is lunchtime. I've supported the concepts of this bill. You've seen my vote. I voted for the previous amendment as well. I believe there is a very important element missing here. I think we need to address this concern of secrecy that might potentially shroud a project. I also want to thank the committee and the sponsor for the work they've done in bringing this bill forward. We've heard a lot of talk about balance, reasonableness, and transparency. The only change this amendment makes from the previous amendment, it maintains the 75 day window, but adds a very important element. It adds the requirement that any of these projects have a public hearing. Public hearings are important. The shine the light of day on these development proposals and eliminates the secrecy that the Senator from Lincoln, Senator Dow, so eloquently spoke to earlier. We need to insure that our citizens in our communities are aware of these proposals. We need to allow our citizens in our communities the opportunity to provide public input into the process. As the good Senator from Penobscot, Senator Schneider, just said a moment ago, and I quote, "It is crucial that all citizens should have a voice in the land use planning process." I couldn't agree more. We need to have a requirement that the public hearing take place. If we're going to provide the protections against retroactive notification of a permit we need to allow our public the opportunity to know what is going on and to

provide an opportunity to have some input. This is a friendly amendment to this bill. It's meant to shine the light of day on these projects. We are looking for a balance, a balance between public input and predictability and certainty for a project. It's vital that our appointed and elected officials on the local level that are making zoning decisions and land use decisions that are going to affect our communities a great deal hear from our citizens and that our citizens are provided an opportunity to comment.

Just a couple of examples. We mentioned Pittston earlier today. That happens to be in my district. It happens not to be sludge spreading, but septic spreading. The town of Pittston actually went all the way to the Maine State Supreme Court to be able to enact a retroactive land use ordinance to regulate the spreading of septage. Pittston was a leader in this example. The Board of Selectmen in Pittston granted a permit to spread septic waste in that community without a single public hearing. Nobody in that community knew what was going on until after the fact and that is wrong. It turns out that the entire Board of Selectmen was voted out of office and a whole new Board of Selectmen was voted in over this one single issue. Eventually, as I said, the town went forward and adopted local ordinances. Another example is happening right now in the city of Lewiston. I notice there are some pages here from Lewiston today. I don't take they are in the room at the moment. It is important for them to hear this. The City Council in Lewiston has almost allowed the importation of out-of-state waste into their landfill. There was not a single public hearing on that particular issue. It was buried within a budget process within the city of Lewiston.

I think these issues could be addressed and taken care of if there is a public hearing requirement. I hope you will accept this as a friendly amendment to the bill that continues to add additional balance and additional fairness to the process. Also, regardless of how you voted on the original bill, I hope you see this amendment is meant to shine the light of day on these issues. Thank you, Madame President.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President. I am very miffed right now. I had my request to speak button on and was not recognized prior to this and I have no problem vetting issues but it seemed to me we had taken a vote.

**THE PRESIDENT:** Senator, I can clarify if you are confused. In order to hear the next amendment, we had to reconsider adoption of Committee Amendment C as amended by Senate Amendment C. Nothing has been removed. We simply reconsidered adoption so that we could deal with the next amendment. That's all. Nothing has been removed.

Senator **SCHNEIDER** of Penobscot moved to **INDEFINITELY POSTPONE** Senate Amendment "E" (S-558) to Committee Amendment "C" (S-437).

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS**: Thank you, Madame President, men and women of the Senate. I guess it is the nature of land use ordinances that the more we talk about it the more confused we get. This is certainly an indication of that.

It was my pleasure to serve on a planning board for 12 years so I understand where we are now, at least where I am. We have a problem, we tried to fix it, and we try to fix it more and pretty soon we're staring ourselves right in the eyeballs again and we haven't fixed the problem. I will accept the amendment's sponsor's remark that this amendment is friendly. Who am I to say that this isn't friendly, but it is ineffective. It makes things a lot more complicated, at least in the small towns where I understand about land use ordinances. If this were about Wal-Mart or some big industrial complex, maybe this would have some validity, but in my context, small towns, sub-divisions, and building permits. Madame President, that is the issue. This would appear to require some kind of public hearing on building permits, which can be complicated or can be as easy as a porch or something like a garage or something like that. It appears that we would be potentially, if somebody objects, forced into a public hearing process for relatively small building permits, as a for instance.

Just one other comment, it is my opinion, having been through a lot of these sub-division requests, some of which have taken up to two years, that we have a system that allows somebody who doesn't like the outcome, who may have participated in the process but doesn't like the outcome in the end, to continue to complain. We had, in a different context, an interstate school district agreement that had to go before Congress for approval. We worked for eight years on this. In the end, in the eight year, there were still as many people asking the basic question about why we were doing this as there were in the first year. That is the nature of land use ordinances. For people who don't want to pay attention, or more likely those who don't like the outcome, all this does is give them more ammunition to delay, to stall, and Madame President, in my opinion, that is the nature of this friendly amendment. It is unnecessary and we ought to defeat this proposal and I urge you to do so. Thank you.

**THE PRESIDENT**: The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator **STRIMLING**: Thank you, Madame President. I don't think that is the intent of this amendment. I would say that I have been opposing, so far, all pieces of this bill because I don't think that things are out of balance. I think that things are actually in a good balance right now. People are able to develop what they need to develop and the people are able to react when they need to react. What I like about this amendment, however, is that it actually tries to restore some of the balance that I think is lost in the current bill. That is that it requires that you hold a public hearing. That is a gain, I think, for democracy. That is a gain for the public process. That is saying that in order for these things to go forward, in order for you to get this protection, you must hold a public hearing. That's a gain for the side of people who want to make sure that the public has a part in it and it's a gain for the other side. This is doing something that is in balance. This helps move the ball forward for both sides who want a public process, who want democracy to be served, who want people to have an opportunity to think again about a project, and to make sure that those people who are going to go forward with their development have a final date. They still get their final date as long as they hold a public hearing. That's all they have to do. It's very clear.

This sets the right balance. It doesn't give up too much or take away too little. Thank you, Madame President.

**THE PRESIDENT**: The Chair recognizes the Senator from Cumberland, Senator Bromley.

Senator **BROMLEY**: Thank you, Madame President. I have it on good authority that this amendment would conflict with the one we already passed. Am I correct in saying that if we were to adopt this, and the other Body were to, we would have to call this back from engrossing? Thank you, Madame President.

**THE PRESIDENT**: The Senator is correct. The Chair recognizes the Senator from Kennebec, Senator Cowger.

Senator **COWGER**: Thank you, Madame President and colleagues in the Senate. Just very briefly. First of all, this does not require a public hearing on every building permit. It only requires a public hearing if in exchange you are going to have some protection against retroactive nullification of a zoning change or a land use permit. Just for clarification.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT**: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN**: Thank you, Madame President. I hesitate to even stand, but may I pose a question through the Chair?

**THE PRESIDENT**: The Senator may pose her question.

Senator **PLOWMAN**: Thank you, Madame President. Does this amendment become a mandate on the towns?

**THE PRESIDENT**: The Senator from Penobscot, Senator Plowman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Cowger.

Senator **COWGER**: Thank you, Madame President. The answer is no. This has been checked with the folks as to whether we have a mandate or not. Because the public hearing is not required it is not a mandate. It is an option.

**THE PRESIDENT**: The Chair recognizes the Senator from Cumberland, Senator Bromley.

Senator **BROMLEY**: Thank you, Madame President. I'm going to respond to the question and also talk about this issue we have before us. The committee and others who care very much about public input, please don't think that we didn't talk about that. Please don't think that we didn't have this very discussion about if we could require a public hearing or make sure that the protections only vested once there has been a public hearing. The requirement of a public hearing absolutely is a mandate. This amendment is crafted without that particular language, however if one isn't required then if it were requested it wouldn't have to happen. We're right back in that same cycle. If I want these protections and I request a public hearing but one doesn't

happen then I don't have the protections. The committee and others of us looked at that issue thoroughly because, again, we're all troubled by the notion that this limits public discourse. The public hearing requirements is very much a problem. It also would add huge expenses to the municipal process if you had to have a public hearing for every particular building permit. I think on line 33, I'm just reading this quickly now, 'Any municipal land use permit, including a municipal building permit, a zoning permit, sub-division approval, site plan approval,' there are four public hearings right there and there are many building permits. I urge you to support the pending motion to indefinitely postpone. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Indefinitely Postpone Senate Amendment "E" (S-558) to Committee Amendment "C" (S-437). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#384)**

YEAS: Senators: ANDREWS, BROMLEY, CLUKEY, COURTNEY, DAVIS, DIAMOND, HASTINGS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, SULLIVAN, TURNER, WESTON, WOODCOCK

NAYS: Senators: BARTLETT, BRENNAN, BRYANT, COWGER, DAMON, DOW, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, ROTUNDO, STRIMLING, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: MILLS

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SCHNEIDER** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "E" (S-558) to Committee Amendment "C" (S-437), **PREVAILED**.

Committee Amendment "C" (S-437) as Amended by Senate Amendment "C" (S-554) thereto, **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Mandate**

An Act To Authorize Chebeague Island To Secede from the Town of Cumberland

H.P. 1243 L.D. 1735  
(C "A" H-915)

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I'm rising today to speak on the secession matter and to inform the Chamber that it is an effort that I admire but do not support. In my judgment, as a matter of policy, I believe Maine should be moving to fewer school districts and municipalities, not more. To do otherwise will cost us more money, collectively. First let me acknowledge that team from the Island of Chebeague has done an outstanding job in following both the letter and the spirit of Maine secession law. They have reached an agreement with both the town of Cumberland and the SAD that educates their children. That agreement will require more than \$5 million to be exchanged between the parties as well as the sharing of tax revenues on several islands that will run for at least 50 years. Some have suggested this is all about taxes. In my judgment, it is not. As this packet that went before you earlier states, it is about self-government. It is also a badge that you will see on some visitors in this Chamber. It is really driven, I believe, by a strong desire to preserve a way of life centered around a K-5 school that was threatened by closure on the part of the SAD. That, too, is the conclusion of our State and Local Government Committee, who voted a unanimous Ought to Pass report on the bill before us.

If you don't know, it's hard to live on an island. You have to want that lifestyle badly to make it work. If you are on your way home from the ferry and you realize you've left your prescription at the drug store, that's not a five minute turn around in your car to get it. If you want to participate in your town's government, it's not a stroll down the street to do that participation. You have to spend hours, logistically, navigating your island community, a ferry, and then the mainland community.

Chebeague has been described as a bucolic place and I would agree fully with that description. It probably rests no more than seven miles from the Portland Jet Port, at least as the crow flies. Close to 50 working boats ply the fisherman's trade from this island that they call home. It is very different than the mainland community of Cumberland, which is a wonderful town that is largely a bedroom community for greater Portland. Chebeague is the home of 360 or so registered voters and some 45 children. It has a real estate market value probably in excess of \$30 million today if you could put the money down and purchase it. A majority of its property is actually owned by non-residents, yet when you look around Chebeague you will not find many, if any, McCastles, start-a-castles, or whatever you want to call those things that exceed 4,000 square feet or more of living space and occupy the most desirable waterfront property or water view property scattered around Maine.

Let me speak to some concerns I have regarding this secession. Chebeague's way of life is at significant risk. I think it is that way because market forces drive the value of its real estate. That's going to continue whether Chebeague is a town or remains part of Cumberland. In my opinion, it actually may hasten the demise of Chebeague as a year-round community. It

will actually, in the short run, add to the burden of human and financial capital necessary for the town's success. As its own school administrative unit, the pressures to meet Maine's Learning Results will be particularly arduous. In the long run, the market forces will make property totally unaffordable for families with young children and I believe the school population will decline precipitously, something that those of you in the Casco Bay area have probably seen with regard to Long Island, who's school age population is now down to ten. Over the next 25 year period this highly desirable island close to Portland, if absolved of any accountability for educating Maine's children, will likely become a property tax haven for the wealthy, not unlike Martha's Vineyard and Nantucket in Massachusetts. These are views that I have discussed with members of the secession team from Chebeague. They are not hearing new news from me today. They think I'm wrong in my predictions. Frankly, I hope they are right and I am wrong. Only time will tell us for certain. In the words of one of them, 'We have to try to control our own destiny. We have to try.'

The bill before has no fiscal note. That has properly been determined by OFPR. Since Chebeague, as others have pointed out, has a high market value and very few children, it will be a minimum receiver school administrative unit under EPS while the SAD it leaves will get increased monies somewhere in the neighborhood of \$1 million a year. That's not going to be an additional appropriation of money because this is not effective until fiscal year 2008. It will, as has been pointed out, be a redeployment of money spread across all the other SADs in the state. The pie doesn't get any bigger, but rather each slice gets a little bit smaller. This is a burden, some small and some large, on all the remaining cities and towns of Maine. It proves to me, yet again, that we pay a price for having too many towns and school districts.

Lastly, this bill has a mandate affixed to it. I have to tell you that on the surface it seems illogical since the money that will exchange hands has already been agreed to by the parties to the secession agreement. The bill is simply reflecting an agreement that has already been reached by the parties, and therefore, mandates nothing that the municipality must currently, or in the future, must do. However, it has been suggested that the absence of a mandate preamble could potentially cloud the agreement between the parties over the future years. I accept that explanation. While I respect the work done by the Chebeaguers on this secession quest, and I do wish them well, I cannot vote as they wish because of reasons I stated earlier. I think it takes Maine in the wrong direction. Thank you very much, Madame President.

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 31 Members of the Senate, with 3 Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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Out of order and under suspension of the Rules, the Senate considered the following:

**SECOND READERS**

The Committee on **Bills in the Second Reading** reported the following:

**Senate As Amended**

Bill "An Act Regarding Working Waterfront Covenants under the Land For Maine's Future Board"

S.P. 730 L.D. 1930  
(C "A" S-556)

Bill "An Act To Implement Model Time-share Foreclosure Procedures"

S.P. 732 L.D. 1932  
(C "A" S-557)

**READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

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All matters thus acted upon were ordered sent down forthwith for concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**House Paper**

Resolve, To Provide Assistance to Heating Fuel Customers Who Enter into Prepaid Contracts That Are Not Honored

H.P. 1492 L.D. 2099

Comes from the House, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

On motion by Senator **BROMLEY** of Cumberland, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:



**Emergency Measure**

An Act To Minimize the Risk to Maine's Marine Waters and Organisms Posed by the Application of Pesticides

H.P. 1168 L.D. 1657  
(C "A" H-885)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Resolve, Regarding Legislative Review of Portions of Chapter 520: Rules Regarding Publication of Public Comments on Statewide Referenda, a Major Substantive Rule of the Department of the Secretary of State, Bureau of Corporations, Elections and Commissions

H.P. 1462 L.D. 2067  
(C "A" H-905)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Emergency Resolve**

Resolve, Regarding Legislative Review of Portions of Chapter 355: Coastal Sand Dune Rules, a Major Substantive Rule of the Department of Environmental Protection, Extending the Deadline for the Repeal of the Current Coastal Sand Dune Rules and Convening the Beaches Advisory Group

H.P. 1385 L.D. 1977  
(C "A" H-855)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Resolve**

Resolve, Directing a Review of Cleanup and Minimization Standards for Mold

H.P. 1381 L.D. 1971  
(C "A" H-887)

**FINALLY PASSED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

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Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **LABOR** on Bill "An Act To Create Employment Opportunities for People with Disabilities"

H.P. 1351 L.D. 1910

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-938)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-938)**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE.**

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**Emergency Resolve**

Resolve, Regarding Legislative Review of Portions of Chapter 335: Significant Wildlife Habitat, a Major Substantive Rule of the Department of Environmental Protection

H.P. 1388 L.D. 1981  
(C "A" H-883)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Emergency Resolve**

Committee Amendment "A" (H-938) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **TRANSPORTATION** on Bill "An Act To Allow Heavy Equipment To Be Moved during Nighttime"  
H.P. 1454 L.D. 2058

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-942).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-942).**

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-942) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

Senator **SULLIVAN** of York was granted unanimous consent to address the Senate off the Record.

Senator **NUTTING** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

Senator **BRENNAN** of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator **PLOWMAN** of Penobscot was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Thursday, April 6, 2006, at 10:00 in the morning.