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### Testimony Concerning LD-1572

Senator Brenner, Representative Tucker, and Distinguished Members of the Environment and Natural Resources Committee:

This Republican thinks the initiative set forth in LD-1572 is long overdue.

I suggest that the Attorney General should be included in the proposed list of agency “actors”. Some of the initiatives likely to emerge from this review effort will be for new or revised policies or activities with novel legal aspects.

One such will undoubtedly be the need or desire for the State and Towns to abandon roads and structures which can no longer be economically maintained as sea levels rise.

In the current legal environment, when a public road is damaged by the elements, the town has an obligation to repair the road or to discontinue the road and to pay damages to impacted land owners.

Sea Level Rise will challenge the State to find Constitutional and equitable means of abandoning what can't be reasonably defended. A half century ago, the Legislature created a class of roads, “Limited-Use Highways”, which would permit towns to avoid road maintenance costs on what had been accepted and maintained ways and to do so without paying damages. In *Jordan v. Town of Canton*, 265 A.2d 96 (1970), the court struck down that attempt as clearly un-Constitutional.

The logic of 1970 roads and emerging retreat up hill situations are similar, but not totally parallel. Careful crafting and perhaps new legal doctrine may be required to achieve affordable, fair, and practical outcomes.

Having the Attorney General at the table would be appropriate.

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