



MAINE STATE LEGISLATURE

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February 18, 2011

To: Members, Joint Select Committee on Regulatory Fairness and Reform

From: Patrick Norton, OPLA *PAN*

Re: Preliminary list of recommendations on regulatory reform received by the RFR committee during its 7 off-site meetings and its February 14th public hearing

Attached is a categorical and preliminary list of the regulatory reform recommendations received by the Committee during its meetings in Presque Isle, Belfast, Machias, Auburn, South Portland, Sanford and Bangor and its public hearing in Augusta. The list begins with a summary of the statutory recommendations submitted by the Governor in his proposed amendment to LD 1. Those are followed by a list of the recommendations submitted by others during the committee's past eight meetings.

During its 31 hours of meetings, the committee heard oral testimony from at least 350 people. At least 225 people also submitted written testimony, many in lieu of oral testimony. We are also continuing to receive testimony in the form of emails and letters. I am continuing to read through the written testimony and will provide the committee with an updated list at your work session on the 24th.

My recommendation is that the committee spend the first work session familiarizing itself generally with these recommendations (I would be happy to walk you through them) and making broad process decisions about what groups of issues to send to the policy committees, what groups of issues to keep within RFR and what groups of issues to set aside for later consideration. Once those broad process decisions are made, it will be somewhat easier for the committee to begin a systematic substantive review of the issues kept within the RFR committee at subsequent work session.

Thank you.

**SUMMARY OF RECOMMENDATIONS IN THE GOVERNOR'S PROPOSED
AMENDMENT TO LD 1**

- **Job Impact Analysis.** Require all departments and agencies to prepare and publish a jobs impact analysis for every new proposed rule. (p.1)
- **Fiscal impact.** Require that every proposed rule must contain a fiscal impact note. (p.2)
- **Small business ombudsman.** Create an Office of the Small Business Ombudsman within DECD. (p.2)
- **Judicial review.** Provide “limited deference” to an agency decisions in the judicial review of a rule and modify the evidentiary standard for reversing or modifying an agency decision to from substantial evidence to a preponderance of the evidence. (p.2)
- **Informed growth act.** Repeal the informed growth act. (p.4)
- **BEP.** Require that all DEP licenses and permits be issued by the commissioner, rather than the board, and restructure the BEP into a Board of Environmental Appeals, consisting of three administrative law judges to hear appeals of enforcement actions brought by the department. (p.4)
- **Timetables.** Set a processing time limit for projects requiring more than one permit at the published timetable for the permit with the longest timetable plus 30 days. (p.24)
- **Nullification of final permits.** Prohibit municipalities from nullifying or amending a municipal land use permit or permit application by subsequent enactment, amendment or repeal of a local ordinance, under certain conditions. (p.37)
- **Sound science and clarity.** Require all DEP rules to be based on sound science and clarity of language. (p.38)
- **Regulatory impact analysis.** Require all DEP rules to include a regulatory impact analysis (a C/B analysis, needs statement, reporting requirements, local government mandates and identification of duplicate rules). (p.38)
- **Beneficial reuse of hazardous and solid wastes.** Require DEP to adopt rules encouraging the beneficial reuse of hazardous and solid wastes. (p.39)
- **Statute of limitations.** Reduce the statute of limitations for enforcement of civil or administrative penalties for environmental violations from 10 years after the

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licensee reports the violation to 6 years after the state discovers the violation.
(p.40)

- **Issuance of NOV.** Require that notices of violation must be issued within 30 days after the commissioner discovers the violation. (p.40)
- **Environmental audit.** Create a 75% penalty reduction for persons who voluntarily disclose a violation within 21 days, take corrective or remediation actions within 60 days and prevent the violation from recurring. If the violation is discovered through an environmental audit or a compliance management system and all these other steps are completed, the person is exempt from all penalties in any enforcement action brought by the state. Exempt repeat violations, violations that result in serious actual harm to human health and the environment and violations of an administrative or judicial order or consent decree. (p.41)
- **Review of Site Law applications.** Require DEP Commissioner to publish timetables for processing that reduce processing time to the maximum extent practicable. Prohibit the use of third party inspectors. (p.42)
- **Municipal subdivision review.** Increase the size of subdivisions that may be reviewed by municipalities from less than 100 acres to less than 200 acres and “structures” from less than 7 acres to less than 20 acres. (p.43)
- **Sand dune construction.** Define “impervious area” in NRPA law to include buildings, decks, parking lots and roadways or other similar construction. Exempt from NRPA permitting requirements the repair or modification of structures in a coastal sand dune system if the repaired structure does not exceed the square footage of the structure as it existed 24 months prior to the repair, if the modification is within an impervious area or if the modification is within applicable height restrictions. Exempt from NRPA permitting activity associated with the release of water from a dam pursuant to a DEP order and activity associated with the breach or removal of a dam pursuant to an order by the Commissioner of the Department of Defense, Veterans and Emergency Management. (p.43)
- **Extend Site Law manufacturing exemption.** Extend the Site Law exemption for new construction at existing licensed manufacturing facilities to include new construction at existing commercial or industrial structures. Expand the size of the disturbed area not to be revegetated under this exemption from 30,000 to 45,000 square feet per calendar year and from 60,000 to 120,000 square feet in total area. (p.44)
- **Align Site Law with NRPA.** Amend certain parts of “no adverse effect on the natural environment” standard in site law with standards requiring that the development comply with applicable air quality requirements, that it comply with applicable surface and groundwater quality requirements, that it not create any

undue adverse impact on ground water quality; that it has no undue adverse impact on historic sites; that it use the same standard as NRPA regarding impacts on existing scenic, aesthetic, recreational or navigational uses; that it has no undue adverse impact on regional populations of aquatic life, wildlife and flora and that it use the same standards as NRPA regarding harm to habitats and fisheries. (p.45)

- **Minor project permitting.** Require the DEP to adopt rules to process applications for minor amendment or revisions to developments licensed under Site Law. (p.46)
- **Subdivided lots.** Increase the number of lots and the aggregate parcel size that trigger subdivision review and increase from 3 acres to 10 acres the area that qualifies as a “structure” (p.47)

**PRELIMINARY SUMMARY OF ORAL AND WRITTEN
RECOMMENDATIONS PRESENTED TO THE RFR COMMITTEE DURING
ITS LISTENING TOUR AND IN THE PUBLIC HEARING ON LD 1**

AGRICULTURE

- **Pesticides.**
 - BPC should remain with the Department of Agriculture but the level of expertise on the board needs to be increased.
 - BPC should not report to the Department of Agriculture.
 - BPC should be moved into the DEP.
 - BPC notification laws are a burden to business and result in the use of less cost-effective application methods due to concerns about potential litigation. Notification distances for neighbors are too far and should be reduced.
 - There is no need for two spray registries.
 - Eliminate pesticide spraying along inactive railroad tracks
- **Blueberries/cranberries.**
 - DEP regulations have allowed Quebec to out compete Maine in the production of blueberries and cranberries.
 - Wetlands used for agriculture (such as cranberry production) should be regulated by DAFRR rather than DEP.
- **Food safety laws.**
 - State food safety laws should have an exemption for farms with less than \$500,000 a year in sales.
 - Simplify licensing standards for home food sales and home kitchen licensing.

- **Lands/access roads.**
 - Roads constructed only to provide access to agricultural lands should be done through a permit-by-rule, as with roads constructed for timber harvesting.
 - Eliminate requirement that logging roads be made impassable when the harvest is completed.
 - Lands used to grow agricultural products should be regulated by the Agriculture department, not DEP.

- **Farms/farm stands.**
 - The state should encourage and incentivise the development of small farms through TIF's, grants, low interest loans, etc.
 - Reduce the number of licensing categories for farm stands and farmer's markets.
 - Schools should not be allowed to compete directly with farms by growing and selling their own food.

- **Dog licensing.**
 - Veterinarians should not be required to mail rabies certificates to the state, and local animal control officers should not be enlisted to collect license fees and late fees

- **Agricultural research.**
 - The state should do cost of production studies of major agricultural commodities.

BANKING

- **Truth in lending.**
 - Make Maine's truth in lending laws conform to the new federal law.

- **Consumer credit protection.**
 - Repeal the laws that require permission from an original creditor before a debt collection company can sell that account to another debt collection company.

BUSINESS REGULATION/LICENSING AND PERMITTING

- **One-stop licensing.**

- Some form of “one-stop shopping” for business licenses is needed, with an emphasis on education . A business ombudsman is needed to help guide businesses through the licensing process .
- **Licensing in general.**
 - Business licensing fees should be reduced.
- **Building codes.**
 - The Maine Uniform Building and Energy Code (MUBEC) sometimes requires building owners/developers to have building plans certified by a third party inspector in instances where a certified code enforcement officer is not employed by the town. This is unnecessary for small projects and increases the cost to the building owner and should be repealed.
 - Building and energy codes create unnecessary costs and work against their own goals.
 - Increase the number of certified CEO’s and third party inspectors.
 - The state should delay implementation of the code to July 2012 to allow more code enforcement officers and third party inspectors to be certified and to allow for more training and education to occur about the code.
 - We need to improve the building codes with respect to retrofitting old buildings for ADA and fire code compliance.
 - Repealing MUBEC is unwise; state should provide resources to “train the trainers” with respect to building codes.
 - MUBEC is too broad and should exempt certain farm out-buildings.
- **Reciprocity.**
 - Maine should accept professional licensing credentials recognized by other states.
- **Pharmacy student licenses.**
 - Reduce the number of licenses required for pharmacy students to a single “intern” license good for the entire time they are students.
 - Repeal or significantly restructure the Maine Health Data Organization to reduce the per-store assessments on multi-store pharmacies.
- **Real estate brokers.**
 - State standards for disclosure of lead based paint are identical to federal standards and should be repealed.
 - More public education about the lead paint regulations are needed.

- Lead paint disclosure form should be reduced from 3 pages to 1 page, as in Massachusetts.
- **Business climate.**
 - Improving the business climate will require more clarity and consistency in rules and in the enforcement process.
- **Business development.**
 - Maine should follow the lead of other states and offer tax rebates and credits for pellet appliances.
- **Local suppliers.**
 - All businesses should be required to purchase from local suppliers
- **Boiler inspection.**
 - Repeal the statute requiring the state to inspect boilers located in school houses or owned by municipalities.
- **OSHA.**
 - Remove fines on municipal fire departments that are acting in good faith to comply with OSHA standards.
- **Restaurants.**
 - Change the definition of “full course meal” for restaurants by eliminating references to tableware and the standing/walking distinction
- **Lodging licenses.**
 - Eliminate requirement for separate lodging license for each building in a hotel/motel complex; one license for all buildings should be sufficient
- **Dental hygienists.**
 - Resolve conflicts in laws that create unnecessary competition between dentists and dental hygienists
- **Gift cards.**
 - Eliminate the requirement that 60% of the value of unused gift cards escheats to the state.

ECONOMIC AND COMMUNITY DEVELOPMENT.

- **Tourism.**
 - Do not reduce environmental protections to the extent it hurts tourism, which is one of the largest economic drivers of the Maine economy.
- **Scale.**
 - Small business development occurs at the community level and is more compatible with small scale economic development efforts than large scale efforts.
 - Small communities are more affected by large developers than by environmental regulations.
 - There is a need for more assistance in the area of small business development.
 - Farm Share program and local development corporations are good examples of effective economic development programs operated at the local level.
- **Business development.**
 - Companies offering business development assistance expressed frustration in state permitting process and access to information from state agencies about businesses in the state. State should assist business development through a consolidated and accessible tiered database of business information that avoids the duplication and lack of access to that information that currently exists among state agencies.
 - State should provide grants to mobile food vendors who want to upgrade equipment for indoor operation during winter months.
- **Comprehensive plans.**
 - Eliminate, or greatly limit, the statutory requirement that local comprehensive plans be consistent with state goals.
- **Research.**
 - More funding for research into new technologies is needed to create jobs

ENVIRONMENTAL PROTECTION

- **Vernal pools/wetlands and wading bird habitat.**

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- Eliminate 250' vernal pool buffer but retain protection of travel corridors for animals that use the pool.
 - Reduce vernal pool buffer from 250 feet to 100 feet.
 - Reduce vernal pool buffer from 250 feet to 75 feet.
 - The current definition of vernal pool is not sufficiently clear to allow certainty in delineation in the field and state-level expertise is minimal.
 - Definition of vernal pool should be limited to sites having water year-round and be at least 1/5th of an acre in size.
 - Vernal pool rules should be reviewed, but not necessarily eliminated.
 - Existing vernal pool regulations should be retained.
 - Vernal pools that cross property boundaries should only be evaluated on the property of the applicant.
 - Vernal pools are increasing the cost of development and should be revisited or repealed for designated municipal growth areas.
 - Applying federal rules to vernal pools would result in an increased set-back and an increase in the number of vernal pools subject to regulation.
 - Reduce set-backs for significant waterfowl and wading birds habitats
- **Wetlands compensation.**
 - DEP assessments for cash compensation for the loss of wetland functions and values are arbitrary and should be reexamined.
- **Sand dunes.**
 - Implement the Governor's recommendations concerning exemptions for certain types of construction in coastal sand dunes.
 - Allow existing building located on sand dunes to be modified to comply with the ADA.
 - Allow for certain types of rebuilding in coastal sand dune areas within existing impervious areas which continue to maintain height allowance
- **Duplication of environmental laws and rules.**
 - DEP should be required to review all their statutes and rules to identify and repeal irrelevant or duplicate laws and rules. Working groups that include citizens should be created within all departments to look for duplication.
- **BEP.**
 - The BEP is operating effectively and should not be repealed or replaced with an administrative law judge.
 - Consideration should be given to an alternative permitting process in place of the current BEP process.

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- Assumption of permit application review by the BEP once the department begins its review should be eliminated.
- A remedy in the event of a tie vote among the BEP's 10 members should be created.

- **Enforcement/Education resources.**
 - DEP permitting and enforcement staff should be increased.
 - DEP should do much more education for code enforcement officials and the public on shoreland zoning, sand dunes and NRPA.
 - Separate functions of an ombudsman and enforcement within DEP.
 - Conform Maine's statute of limitations for environmental regulations to the federal statute.
 - Notice of violations should be issued within 30 days of discovery of violation.
 - Access by DEP to private property is essential to effective enforcement and should be retained.
 - Reduce the level of deference given by the courts to agency decisions.
 - Prohibit DEP from considering agency guidelines as having the force of law.

- **Permitting standards/science.**
 - Ensure that DEP permits are health and science based.
 - DEP should incorporate better risk analysis in its permitting process.
 - Rules should be subject to an environmental audit, impact or cost/benefit analysis.
 - Regulatory impact statements requiring an estimate, based on sound science, of the environmental and economic consequences of proposed rules should be enacted.
 - Permitting standards based on actual conditions in the environment are preferable over static modeling methods used in the past.
 - DEP permitting with respect to the Port of Eastport's on-going expansion efforts have been "long, laborious and expensive" and could be improved if the DEP was given the ability and tools to make real decisions in real time.
 - Do not reduce environmental permitting time.
 - Create a minor projects permitting process within DEP.
 - "Permit by rule" eligibility should be expanded to more routine and small projects.
 - Eliminate the requirement for proof of "right, title and interest" in DEP permit applications.

- **Air.**

- Maine requires gasoline to meet a certain Reid Vapor Pressure (RVP) in two separate areas of the State. DEP's Clean Air Act State Implementation Plan should be amended to allow the use of only one type of gasoline statewide.
- Implement the Governor's recommendation for a general permit for small air emission sources.
- Prohibit the registration of automobiles purchased outside the state that do not comply with California air emission standards.

- **Water quality.**
 - Eliminate the DEP requirement that a water quality reserve of 15% be kept for new or changed discharges when calculating allowable discharges for licensing purposes.

- **Storm water.**
 - Mandatory DEP reporting requirements that are not required for enforcement of storm water rules should be eliminated.
 - Storm water runoff standards should be lessened or allowed to be done through "permit by rule".
 - Reduce the fees and regulations associated with storm water management.
 - Costs of a storm water treatment system that is replacing the former function of a wetland should be count toward the need for compensation.
 - Align storm water requirements to federal standards.

- **Shoreland zoning.**
 - Limits on the expansion of a structure's footprint within a shoreland zone are understandable, but volumetric limitations on expansions of such structures are overcomplicated and unnecessary.
 - Do not relax shoreland zoning.
 - DEP should study and resolve areas of regulatory overlap between Shoreland Zoning and the Natural Resources Protection Act.

- **Kid-safe products/toxics.**
 - Legislature should not repeal Kid-safe product law or Bisphenol-A regulations.
 - Regulations in place to reduce carcinogens, toxics and other harmful substances must not be weakened or repealed.

- **Sulfur dioxide.**
 - Oppose proposals to revise or eliminate rules that lower sulfur content in residual fuel oil.

- **Waste management/recycling/Superfund.**
 - Need to fix federal and state regulations pertaining to “Superfund Sites” that unfairly allocate clean-up costs to those businesses that were otherwise lawfully sending their waste products to DEP licensed recycling facilities.
 - Municipal recycling should be strengthened, it is an industry that reduces litter, provides revenues to towns and removes toxic materials from the environment.
 - Product stewardship laws should not be kept or expanded.
 - Return vehicle recycling law to the prior standard of not requiring a title for recycled vehicles older than 15 years.
 - Laws regarding e-waste recycling should not be repealed.
 - Beneficial reuse laws should be updated and expanded to other materials.
 - Eliminate prohibition on burial or burning of wood waste taken from another property.
 - Align state requirements for reporting of hazardous waste with federal standards.
 - Align oil spill reporting requirements to federal rules.

- **Composting.**
 - Increase from 3 to 5 acres the size of composting facilities that may be permitted by DEP through “permit by rule”.
 - Increase the permit exemption for agricultural composting operations that compost more than 30 cubic yards of food and other residuals.

- **Nesting shorebirds.**
 - Increase the accountability and transparency of DEP and IFW rule-making in areas that can significantly affect development, such as in significant shorebird nesting, feeding and staging.

- **Site law.**
 - Reduce the complexity and cost of DEP site law regulations, particularly when changes to the permit application are required and when the development potentially impacts wetlands.
 - Create an exemption from site law and storm water regulations for projects located in Census Designated Growth Areas.
 - Proposed site law rule changes should be examined carefully to strike a balance between environmental protection and economic development.
 - Oppose recommendations to eliminate 3rd party inspectors for Site Law and NRPA permits.
 - Make site law less redundant with NRPA.

- **Culverts.**
 - Construction of culverts less than 3-4 in diameter should not require a permit.
- **Septic systems.**
 - Maine should have a single state-wide standard for septic systems.
- **Underground storage tanks.**
 - Permitting for the installation of above ground storage tanks for flammable or combustible liquids should be moved from the State Fire Marshall to DEP and regulated along with underground storage tanks.
- **Informed growth.**
 - The informed growth law should be retained.
 - Either repeal the informed growth laws or provide an “opt out” provision for municipalities.
 - Repeal the informed growth law.
- **Environmental regulations in general.**
 - More environmental regulations are needed with respect to watershed protection and water quality.
 - Economic development opportunities should not take second place to environmental regulations.
 - RFR committee should reject the Governor’s proposal and start its own review from scratch.
 - Vermont Act 250 should be a model for Maine.
- **NPDES.**
 - NPDES is an unfunded state mandate and should either be funded by the state or repealed.

HOUSING/LANDLORD TENANT

- **Affordable housing.**
 - Maine should do more to encourage the availability of affordable housing in the mid-coast area
- **Seasonal labor.**

- Standards for hiring seasonal labor in the agriculture sector are unpredictable and burdensome.
- **Landlord/tenant.**
 - 14 MRSA §6001 should be amended to make it more difficult for tenants to launch frivolous appeals to avoid rightful evictions.
 - Landlords should not be responsible for items left behind when tenants vacate or are evicted.
 - A judgment of 7 days for nonpayment by the courts should be sufficient to take possession of abandoned property.
 - Laws requiring landlords to make loans to tenants who have bedbugs should be repealed.
 - Providing a residential energy efficiency disclosure statement by landlords to tenants should be “on request” instead of mandatory.
 - Repeal provisions that make filing a fair housing complaint with the Maine Human Rights Commission by a tenant a rebuttable presumption of retaliation by a landlord in actions of alleging forcible entry.
 - Amend the law to make the residential tenant eviction process more efficient and less expensive.
 - Radon testing and reporting requirements are a burden on landlords and should be repealed.
 - Repeal provisions requiring landlords to test all apartments for radon by 2012 and replace it with a requirement that landlords only be required to disclose whether a radon test was done and disclose the results of those tests.
 - State radon standards should be reduced to match the federal standard.
 - Compliance with the ADA should not be part of an eviction proceeding.

HUMAN RIGHTS COMMISSION.

- The Maine Human Rights Commission should either be strengthened, by making its decisions enforceable, or abolished.

HUMAN SERVICES

- **DHHS rules.**
 - The Maine Uniform Auditing and Accounting Practices for Community Agencies (MAAP), adopted by rule by the Department of Human Services, include a number of requirements that are more stringent than the federal requirements. Auditing to these more stringent standards increases the cost of the audit. The new DHHS rule should be held in abeyance and provisions that are more restrictive than federal requirements should be removed.

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- Direct DHHS to convene an Advisory Committee to develop new single audit rules that do not duplicate or go beyond federal rules.
- DHHS rulemaking process on swimming pools should be reviewed.

- **Health inspections.**
 - Eliminate duplicative state and local health inspection requirements for restaurants.

- **Methadone clinics.**
 - Methadone clinics should be eliminated

- **Medicaid.**
 - Create incentives for Medicaid patients to see their primary care physician before going to the hospital.

- **Childcare.**
 - Maine should provide more options for childcare to allow more people to go to work.

- **Drinking water program.**
 - Do not move the state drinking water program to DEP; leave it with DHHS

INLAND FISHERIES AND WILDLIFE

- **Fishing licenses.**
 - DIFW should relax its restrictions on its family fishing license by issuing the license for one week, rather than two days, and allowing it to cover a specific number of people rather than specific people.

- **Significant wildlife habitat.**
 - Review of significant wildlife habitat should remain in the DIFW

INTERGOVERNMENTAL/INTRASTATE COOPERATION

- **Federal v state standards.**

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- Maine should move to federal standards specifically recommended in the Maine Uniform Accounting and Auditing Rules, lead based paint disclosure, airport regulations, civil rights and radon.
 - Moving to a system that relies on federal permitting will increase delays due to the longer permitting period required by the federal government.
 - Federal standards are generally considered minimum standards for the states.
 - Moving to federal standards is a mistake. States are able to be more responsive to local conditions than are federal minimum standards
- **State versus local administration.**
 - Administering laws and regulations from the state level is less effective than administration locally in terms of transportation land use planning , agriculture and subdivisions.
 - State role in subdivision review should be limited only to localities that do not have sufficient expertise to do the review.
 - State must do better in coordinating rules and jurisdiction of the State Fire Marshall and local fire inspectors.
 - DEP should update Site Law to recognize increased municipal capacity to review projects
- **Intrastate cooperation.**
 - LURC and DEP need to improve cooperation when reviewing projects that are located in both jurisdictions. Inconsistent standards complicate the permitting process.

LABOR

- **Wage rates.**
 - The Department of Labor's annual survey of construction companies to determine wage rates for state projects should be done on a sample of companies instead of every company every year.
 - Maine needs to establish liveable wage standards.
 - Conform Maine to the federal wage and hour laws regarding overtime.
- **Unemployment compensation.**
 - Repeal provisions that transfer liability for unemployment compensation to successor employers.
 - Increase from five to 10 weeks the time an employer may hire and employee without being charged for unemployment benefits
- **Workers compensation.**

- The state should provide more assistance to small businesses in finding insurance providers for workers compensation and in understanding the applicable regulations and rates.
- **Migrant labor.**
 - Department of Labor should not limit sampling of migrant labor wages only to the month of September because it does not represent a fair prevailing wage for the entire season.
- **FMLA.**
 - Make Maine's Family Medical Leave Act conform to the federal law.
- **Sexual harassment notice.**
 - Change the employer's responsibility to provide employees with a copy of their sexual harassment policy from annually to every 10 years.
- **Bonding.**
 - Penalties in the labor bonding law are unreasonable and need to be fixed
- **Worker misclassification.**
 - Support conforming the state's definition of employee to that of the federal government.
 - Reexamine worker misclassification laws and simplify the definitions of employer/employee and independent contractors.
- **Employment law.**
 - Maine employment laws should be consistent with federal law.
 - Statute of limitations for filing a complaint in the Maine Human Rights Commission should be reduced from 300 days to 180 days, as in federal law.
 - Maine Human Rights Act age discrimination protection should apply only to people over 40, as in federal law.
 - Statute of limitations for wage/hour violations should be reduced from 6 years to 2 years, as in the federal FLSA.
 - The definition of a disability in the Maine Human Rights Act is too broad and needs to be tightened.

LAND USE REGULATION COMMISSION

- **General comments.**
 - Transferring LURC responsibilities to the counties raises questions about money and expertise that can not yet be answered.
 - Support transferring LURC to counties.
 - Support leaving LURC where it is but committee should examine look at the differences between LURC and DEP rules.
 - Oppose zoning 30% of LURC for development.
 - Do not repeal the LURC adjacency criteria

MARINE RESOURCES

- **Marine fisheries regulations in general.**
 - DMR should regulate by region or at the single bay level.
 - DMR needs to have more direct contact with local harvesters in the areas in which they harvest.
- **Clam flats.**
 - Coastal development is limiting access to clam flats and to berthing space for commercial fishing boats.
 - DMR could open closed clam flats more quickly if local volunteers were authorized to collect water samples rather than requiring it be done by DMR or if more resources for testing were provided to the DMR.
- **Lobster fishing.**
 - Repeal the law that prohibits a person from obtaining a lobster fishing license unless that person held that license in the previous year.
- **Fuel for commercial fishing vessels.**
 - Provide some relief to commercial fishing vessels with respect to the 5% fuel tax imposed on those vessels.

RULEMAKING

- **APA process.**
 - Address delays in the rulemaking process by the State Fire Marshall regarding use of conversion pellet burners.
 - The rule-making process should include working groups of stakeholders and state regulators.
 - Major substantive rules process should be kept because it allows for legislative review of proposed rules.

- **Role of the Secretary of State.**
 - Create a Small Business Advocate position with the Office of the Secretary of State (SOS) to assist businesses when agencies fail to resolve regulatory problems or disputes;
 - Empower the SOS to issue temporary stop-action orders when agencies are subject to a claim of improper action
 - Enforce provisions in the APA that require regulatory agencies to engage businesses in the development of rules
 - Establish more independence for the Regulatory Fairness Board by establishing the SOS as the chair of the board and moving staffing responsibilities from SPO to the SOS.
- **Administrative law judge.**
 - Establish an administrative law judge to adjudicate agency enforcement actions.
- **Sunset provisions.**
 - Require that sunset provisions be included in all new rules.
- **Oversight.**
 - All regulatory agencies should report to DECD

TAXES

- **Lodging tax.**
 - Repeal the provisions that require payment of lodging taxes on the non-refunded portion of cancelled advance deposits.
- **Sales/use tax.**
 - Repeal the provisions that require restaurants to pay a use tax on free meals provided to employees.
 - More clarity and consistency is needed in the state's interpretation of sales tax law as it applies to food "not ready to eat".
 - Increase the sales tax by a penny and return that money to the towns.
 - Maine should declare a sales tax holiday.
 - Create a sales tax collection allowance for businesses that collect sales taxes .
- **Aircraft.**

- Repeal the provision that assesses property taxes on aircraft that stay in Maine more than 20 days per year.
- **Property taxes.**
 - An inventory of trust and conservancy lands needs to be done to assess the impact of these lands on property taxes.
 - Municipalities should be given the authority to cap conservancy land either by a moratorium or by a decrease in the percentage of tax reductions allowed.
 - Prohibit any regulation that increases property taxes.
- **Non resident income taxes.**
 - Increase from 10 days to 20 days the standard for assessing nonresident income taxes.

TRANSPORTATION

- **State/local cooperation.**
 - Mandate that transportation land use planning involve both state and local government.
 - Local, regional and interstate train and transportation services are needed.
 - Input from towns on state-owned roads and bridges should be given more consideration.
- **Road repairs.**
 - Gas tax should be raised 1.1 to 1.9 cents per gallon to repair roads.
- **Gravel purchases.**
 - DOT should be required to purchase from licensed gravel pits.
- **Vehicle inspections.**
 - Review DOT truck inspections rules and revise as needed to reduce cost and burden on truckers.
 - Inspections should be required only on automobiles more than 5 years old.
- **Speed limits.**
 - Speed limits on local roads should be set by the town, without any need for DOT review or approval.

- **Snow dumping.**
 - Repeal provisions that prohibit dumping snow in salt water

UTILITY REGULATION

- **Direct access to generation.**
 - Revise laws that prohibit the construction of transmission lines between small generators and nearby manufacturing facilities.
- **Communication corridors.**
 - Improve high speed and two-way interactive communication access to Northern Maine.
- **Electricity prices.**
 - Small businesses could reduce their electricity costs if the electricity pricing structure allowed them to negotiate electricity prices among more than one provider.
 - Licensing of renewable electric energy production facilities should include a consideration of the retail cost of the generated energy.
- **Municipal water utilities.**
 - Municipalities, rather than the PUC, should regulate municipal water utilities.
- **PUC/PA.**
 - Abolish the Office of the Public Advocate and reform the Public Utilities Commission.
- **Telecommunications.**
 - Level the telecommunications regulatory playing field for traditional wireline telephone companies such as Fairpoint (incumbent local exchange carriers) and other telecommunication providers (competitive local exchange carriers).