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**STATE OF MAINE
120TH LEGISLATURE
FIRST REGULAR SESSION**

**Final Report
of the**

**COMMITTEE TO STUDY THE LOSS OF
COMMERCIAL FISHING WATERFRONT
ACCESS AND OTHER ECONOMIC
DEVELOPMENT ISSUES AFFECTING
COMMERCIAL FISHING**

December 2001

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EXECUTIVE SUMMARY

The Committee to Study the Loss of Commercial Fishing Waterfront Access and Other Economic Development Issues Affecting Commercial Fishing was established in the First Regular Session of the 120th Legislature by Joint Order H.P. 1384. The Committee was co-chaired by Senator Ken Lemont and Representative David Lemoine and was composed of 10 members representing the Legislature, the fishing industry, the general public, and state agencies that regulate the fishing industry. The Committee was charged with studying current policy regarding the State's fishing industry and making recommendations to preserve the fishing industry. The Committee was specifically directed to address waterfront access for commercial fisheries and economic development for commercial fisheries.

The Committee convened in October of 2001 to begin its review of current policy regarding the State's fishing industry. The Committee reviewed the framework of coastal management in Maine, the Small Harbor Improvement Program, the Submerged Lands Program, the Shore and Harbor Management Fund, economic impacts of the fishing industry and issues affecting the fishing industry.

At its last meeting, the Committee made the following recommendations:

A. Recommendations Related to Waterfront Access Issues

A-1. Recommendation: *The Committee recommends that the Maine Coastal Program at the State Planning Office conduct a review of the structure and effectiveness of coastal management in Maine. Specific attention should be paid to state oversight functions, incentives for quality local coastal management and development of effectiveness indicators. While the specific issues of shoreline land use regulation, protection of public access and protection of commercial access should be a priority focus of the review, it should not be limited to these topics. The review should be completed and a report submitted to the Joint Standing Committee on Marine Resources by December 15, 2002. The Joint Standing Committee on Marine Resources should have authority to report out legislation relating to the report.*

A-2. Recommendations:

A. *The Committee recommends that the State Planning Office, through an outside contract, collect baseline data relating to the loss of waterfront access for commercial fishing.*

B. *The Committee recommends that the Department of Transportation update the Port Facilities Database every 5 years.*

C. The Committee recommends that the State Planning Office and the Department of Marine Resources, within existing resources, convene a working group of staff from all State agencies that deal with water access issues to share data, program activities and areas for collaboration on water access issues.

Each working group member should provide for that member's agency:

- *The data on water access the agency has;*
- *The data that the agency needs; and*
- *Potential funding sources for the collection of the needed data.*

Other stakeholders should be included in working group meetings as appropriate.

The working group should submit a report of its activities to the Joint Standing Committee on Marine Resources on an annual basis.

A-3. Recommendations:

A. The Committee recommends that the Maine Coastal Program, State Planning Office hold a series of community dialogues to identify local interest in and local issues relating to the working waterfront.

B. The Committee recommends the Maine Coastal Program, State Planning Office use the community dialogues to identify towns that want to pursue working waterfront strategies and provide technical assistance in the development of those strategies to those towns.

C. The Committee recommends that regional councils discuss working waterfront strategies with coastal towns during the comprehensive planning process.

D. The Committee recommends that the Maine Coastal Program, State Planning Office increase the accessibility of waterfront development resources, such as model ordinances and water dependent use maps, to towns by providing ready Internet access to the information.

A-4. Recommendation: *The Committee recommends that every biennial budget include a \$3 million bond issue for the Small Harbor Improvement Program.*

A-5. Recommendation: *The Committee recommends investigation into the feasibility of using a nonprofit organization or a program that can purchase vulnerable waterfront lands, purchase development rights, hold title to property and development rights and lease the lands to towns or businesses. The investigation should include the development of a business plan and research into capitalization issues.*

A-6. Recommendations:

A. The Committee recommends that the current favorable treatment provided to commercial fishing activities under the Submerged Lands Program should not be diminished. Specifically, the following provisions should be retained:

- *Any new structure may not unreasonably interfere with commercial fishing industries and infrastructure, including: fishing opportunity, access to fishing grounds, repair services, and buying facilities.*
- *Temporary commercial fishing structures less than 2000 square feet in size are exempted from the program.*
- *Lease rental fees for commercial fishing uses are set at 1% of the upland land value with a set cap.*

B. The Committee recommends that if there are any changes in lease or easement fees as a result of the 2005 grandfather review, a reduction in lease fees to marine operations should be provided as long as the marine operation guarantees access for year-round commercial fishing.

C. The Committee recommends that additional lease or easement fees that are received as a result of the 2005 grandfather review should be applied to projects for the preservation of commercial fishing access.

D. The Committee recommends that the Submerged Lands Advisory Board be directed to explore ways of linking the benefits of reduced fees for commercial fishing leases with long-term obligations to use the land for commercial fishing purposes.

E. The Committee recommends that the Governor fill the commercial fishing member vacancy on the Submerged Lands Advisory Board.

A-7. Recommendation: *The Committee recommends that the Bureau of Parks and Lands recognize the importance of water access for commercial fishing activities when distributing grants from the Shore and Harbor Management Fund.*

A-8. Recommendation: *The Committee recommends that the State Planning Office work with the Department of Conservation and the Department of Transportation to create a preference system for awarding SHIP and Shore and Harbor Management Fund grants to towns with consistent comprehensive plans.*

A-9. Recommendations: *The Committee recommends that the Department of Transportation review how the three-port strategy addresses commercial fishing access.*

A-10. Recommendation: *The Committee recommends the creation of a legislative task force to study issues related to preserving the commercial fishing industry in Maine. A particular charge to the task force should be to study the ability of commercial fishing industry workers to find affordable housing.*

B. Recommendations Related to Economic Development Issues

- B-1. Recommendation:** *The Committee recommends that the Department of Marine Resources, with assistance from the Marine Resources Advisory Council, study the value of creating an on-going Seafood Innovation, Marketing and Research Fund for industry to use for, among other things, scientific research, researching new products, new markets and new gear types and for enhancing value-added processing. The department should also study and recommend a mechanism for funding the fund, specifically, industry contribution through a landings tax or license fee. The department should report their recommendations to the Joint Standing Committee on Marine Resources by January 10, 2003. The Joint Standing Committee on Marine Resources should be authorized to report out legislation relating to the report.*
- B-2. Recommendation:** *The Committee recommends that a study of pier and wharf maintenance needs and the potential sources for funding the necessary repairs be conducted.*
- B-3. Recommendation:** *The Committee recommends that an inventory of critical infrastructure for commercial fishing be completed.*
- B-4. Recommendation:** *The Committee recommends that the Department of Marine Resources, with assistance from the Marine Resources Advisory Council, study mechanisms for improving public relations with the public, the media and the financial community.*

I. INTRODUCTION

I. Introduction

A. Establishment and Charge to the Committee

The Committee to Study the Loss of Commercial Fishing Waterfront Access and Other Economic Development Issues Affecting Commercial Fishing (hereinafter “the Committee”) was established in the First Regular Session of the 120th Legislature by Joint Order H.P. 1384. A copy of the Joint Order is attached as Appendix A.

The Committee was composed of 10 members: 1 member of the Senate; 3 members of the House of Representatives; 2 members representing the fishing industry; 2 members of the general public; and 2 members representing state agencies that regulate the fishing industry. Senator Ken Lemont served as the Senate chair and Representative David Lemoine served as the House chair. A list of Committee members is included as Appendix B.

The charge to the Committee was specified in the Joint Order. The duties of the Committee were to review current policy regarding the State’s fishing industry and make recommendations to preserve the fishing industry. Specifically, the Committee was directed to address waterfront access for commercial fisheries and economic development for commercial fisheries.

B. Meetings

The Committee was convened on October 9, 2001. In addition to this first meeting, the Committee held 4 other meetings. These meetings were held on October 24th, November 8th, November 26th and December 10th.

C. Report and Legislation

Joint Order H.P. 1384 established December 5, 2001 as the date by which the Committee was to complete its work and submit its report to the Joint Standing Committee on Marine Resources. However, the Committee requested and received authorization from the Legislative Council to extend the reporting date to December 14, 2001. Joint Order H.P. 1384 authorized the Joint Standing Committee on Marine Resources to report out a bill during the Second Regular Session of the 120th Legislature concerning the findings and recommendations of the Committee.

II. Background; Overview of Issues

A. Water Access Overview

1. History

Maine's commercial fishing industry relies on access to the water for its livelihood. However, only a small percentage of the approximately 4,500 miles of Maine's coastline is available for use by the industry. As far back as 1989, a study by the State Planning Office noted that of the 175 miles of Maine's coastline that are best suited for working waterfront activities, more than 50% was occupied by a variety of residential, commercial and industrial uses. (source: Protecting Prime Sites for Water Dependent Uses, 1989). Despite lulls and peaks in the Maine economy since that time, growth pressures and rising real estate values have continued to provide incentives for the conversion of properties, structures and boatyards that supported maritime industries to housing, professional offices and other types of land use activities that do not require a waterfront location. Additionally, access to the water for commercial fishing is also facing pressures from the high cost of maintaining necessary infrastructure, regulations related to dredging and the high level of regulation of fishery resources.

In response to some of these pressures and the adverse financial impacts that were placed on commercial fishing enterprises along the coast, the 119th Legislature, Second Regular Session, passed Constitutional Resolution 4. Constitutional Resolution 4 proposed an amendment to the Constitution of Maine to allow the Legislature to provide for the assessment of waterfront land used for commercial fishing purposes based on the current use of the property instead of the "highest and best use" standard. However, in November, 2000, Maine voters defeated the proposal (50.46 percent voted against the referendum and 49.54 percent voted in favor of the referendum).

Although the Committee was presented with anecdotal data relating to the loss of access for commercial fishing interests, one issue that the Committee kept running into is the lack of empirical data as to historical access, current access and what the reasons for any change in access are.

2. Regulation of coastal development in Maine

a. Maine's coastal management program. In 1978, Maine initiated a coastal management program in accordance with the United States Coastal Zone Management Act. Maine's coastal management program is administered by the State Planning Office. In 1985, the Legislature determined that the Maine coast is an asset of "immeasurable value" to the people of the State and that "development of the coastal area is increasing rapidly and that this development poses a significant threat to the resources of the coast and to the traditional livelihoods of its residents". (38 MRSA §1801.) The Legislature also acknowledged that a balance must be struck among the competing uses of the State's coastal area. Furthermore, the Legislature directed state

and local agencies with responsibility for regulating, planning, developing or managing coastal resources, to conduct their activities affecting the coastal area consistent with 9 coastal management policies. Two of those policies specifically address the issue of fishing and water dependent uses.

Policy #1 – Promote the maintenance, development and revitalization of the State’s ports and harbors for fishing, transportation and recreation.

Policy #3 – Support shoreline management that gives preference to water-dependent uses over other uses, that promotes public access to the shoreline and that considers the cumulative effects of development on coastal resources.

b. Shoreland zoning. Maine’s shoreland zoning law requires all of Maine’s organized municipalities to adopt locally administered ordinances that regulate land use activities in the shoreland zone. The municipal ordinances must be consistent with and be no less stringent than the minimum guidelines adopted by the Board of Environmental Protection. Those minimum guidelines include provisions governing commercial fisheries and maritime activity zones. In addition, for coastal communities, the municipal ordinances must address the 9 coastal management policies referenced in Section 2.a. above. If a municipality does not enact an ordinance that satisfies the requirements of the law, the Board of Environmental Protection is required to adopt an ordinance for the municipality through a rulemaking process.

The law encourages municipalities to give preference to water-dependent uses and allows, but does not require, coastal communities to establish districts to give preference to commercial fishing and other maritime activities. (38 MRSA §447). In addition, a coastal municipality may adopt zoning ordinances establishing a commercial fishing and maritime activity zone. (38 MRSA §448). Commercial fishing activities are defined in law to mean “activities directly related to commercial fishing and those commercial activities commonly associated with or supportive of commercial fishing, such as the manufacture or sale of ice, bait and nets, and the sale, manufacture, installation or repair of boats, engines and other equipment commonly used on boats”. (38 MRSA §436-A)

In 1989, the BEP minimum shoreland zoning guidelines were amended to include optional guidance language for commercial fisheries and maritime districts. According to the State Planning Office, as of August 2000, 71 out of 139 coastal towns had adopted some type of maritime or waterfront district in their ordinances. These ordinances vary widely with respect to their purpose and the uses allowable in the district and therefore are not equally protective of water dependent uses. While many towns adopted the state’s suggested language for a commercial fisheries and maritime district, other towns changed the language to meet local needs, or created a different type of waterfront district. A list of coastal municipalities that have adopted some form of commercial fisheries maritime district is attached as Appendix C.

c. Municipal authority. With the authority to enact ordinances to protect public health, safety and welfare, local governments in Maine play a major role in local land-use decisions, including waterfront development decisions. Technical assistance to coastal towns is coordinated by the State Planning Office. Technical assistance includes training, access to information on the Internet, printed technical assistance documents, and direct contact with local officials. According to the Maine Coastal Plan, Assessment and Strategy under Section 309 of the Coastal Zone Management Act (2/2001), technical assistance needs identified by local governments relate to coastal access and harbor planning grants, coastal access acquisition and harbor infrastructure grants.

3. Small Harbor Improvement Program

The Small Harbor Improvement Program (SHIP) is a matching grant program for municipalities to upgrade or improve their public harbor infrastructure along the Maine coast. Due to the lack of public investment in its coastal infrastructure since 1979, a backlog of needed municipal harbor projects accumulated. In 1995, the \$58.9 million transportation bond issue that was passed by Maine voters included \$2.5 million for the SHIP program. The program has funded new wharf construction, complete pier rehabilitations, float construction and installation, pier re-fendering, commercial boat ramp installation or rehabilitation, shoreside improvements such as parking, and land purchases to improve public access. Overall, the program has been successful in funding waterfront and harbor improvement projects in 36 Maine coastal municipalities.

- Total project applications: 76
- Total projects funded: 40
- Total proposed projects not funded: 36
- Total dollar amount of projects funded: Approximately \$4 million

In the first round of grants, a minimum 20% local match was required. The total program effort in the first round of projects was approximately \$3.3 million (\$2.1 million in SHIP funds and \$1.2 million in local match). The second round of grants required a 50% match and totaled \$400,000 in grants and an additional \$400,000 in local match. Another \$1.5 million in funds for the program was approved in the 2001 transportation bond package.

A list of projects to date and their impact on commercial fishing is attached as Appendix D. A list of future projects that have been proposed by coastal municipalities is attached as Appendix E.

4. Submerged Lands Program

The Bureau of Parks and Lands administers a submerged lands leasing program. Under the program, the State leases the right or grants an easement to dredge, fill or erect permanent causeways, bridges, marinas, wharves, docks, pilings, moorings or other permanent structures on submerged and intertidal land owned by the State.

The Submerged Lands Advisory Board provides the Bureau with advice and information on the management of submerged and intertidal lands. The Board is composed of 8 members:

- The Director of the Bureau of Parks and Lands;
- 1 member who is a lessee or grantee of submerged or intertidal land;
- 1 member who represents the general public;
- 1 member who represents anglers, hunters and recreational boaters;
- 1 member who represents municipalities;
- 1 member with expertise in the subject of public trust as it pertains to the State's submerged and intertidal lands;
- 1 member who represents commercial fishing; and
- 1 member who represents marinas.

Currently, the commercial fishing representative's seat is vacant.

For purposes of coastal regions, publicly owned submerged lands include all land from the mean low-water out to the three mile territorial limit. Generally, structures located on submerged land require a lease or easement when: the existing use is being changed; a new structure will be permanent; or a seasonal structure will be larger than 2,000 square feet and used for commercial fishing related purposes, or will be larger than 500 square feet for any other purpose.

According to the Bureau of Parks and Lands, since 1975, 470 leases and 1050 easements have been issued. Twenty-one leases and 68 easements, or approximately 5% of the total, involve commercial fishing structures. The leases include 13 piers, 3 wharves, 3 lobster pounds and 2 buildings. The easements include 57 piers and 11 wharves. The average annual lease fee for a commercial fishing structure is \$138. The minimum is set at \$100 and the maximum is capped at \$1,200. Easements have no annual rent, but there is a \$50 registration fee due every 5 years.

In 1975, all existing structures located on publicly-owned submerged lands were granted a 30-year constructive easement. Those easements expire on September 30, 2005. At that time, those constructive easements that meet the minimum program thresholds will be converted to a standard lease or easement. The Bureau of Parks and Lands has identified approximately 2300 pre-1975 structures that appear to be located over submerged lands. Of the 2300, approximately 1500 may require a lease or easement. Approximately 75% of the structures appear to be private recreational piers

and floats. If the 5% average for existing commercial fishing structure leases holds true for pre-1975 structures, it is possible that approximately 75 commercial fishing structures will be involved in the constructive easement conversion process.

The Committee identified the following provisions of the program that are beneficial to commercial fishing interests:

- Any new structure may not unreasonably interfere with commercial fishing industries and infrastructure, including: fishing opportunity, access to fishing grounds, repair services, and buying facilities.
- Temporary commercial fishing structures (ramps, floats, etc.) less than 2000 square feet in size are exempted from the program. Other uses have a 500 square foot exemption.
- Lease rental fees for commercial fishing uses are set at 1% of the upland land value. Other uses have a 2% to 4% rate.

B. Economic Development Overview

1. Economic impacts of the industry

Over 50 species are fished commercially in Maine. According to statistics provided by the Department of Marine Resources, Maine's commercial fishing industry provides 26,000 direct and indirect jobs to the Maine economy and generates \$750 million in income. A total of 18,000 fish harvesting licenses were issued in the year 2000. A total of 575 wholesale dealer/processor licenses were issued in 1999.

The value of seafood landed in 2000 was \$336.1 million. Lobster, salmon and groundfish are the top 3 fisheries. Lobster landings totaled \$1.85 million, representing 60.1% of the market share in the United States; Atlantic Salmon landings totaled \$78.9 million; and Groundfish landings totaled \$60 million. More information on the economic impacts of the industry is attached as Appendix F.

2. Major issues affecting the industry

- a. Coastal development and infrastructure.** As discussed in Section A above, the coast of Maine is undergoing dramatic change. Those communities where the coast is still dominated by commercial fishing are facing pressures from residential development and tourism. The commercial fishing industry is impacted by coastal development through the loss of water access (water access for the public in general is impacted by coastal development), conflicts over waterfront uses, the cost of maintaining necessary infrastructure and an increased cost of doing business.

- b. Training and education.** The fishing industry is increasingly becoming a global market and, due to a number of factors, it is becoming more competitive. Increased skill levels in business and management will become vital to the success of the industry.
- c. Health care.** The commercial fishing industry in Maine is predominantly a single proprietor industry. As with most small businesses in Maine, the cost of health insurance for people in this industry is extremely high. As a result, many people in the industry do not have health insurance. The Executive and Legislative branches of government should include members of the commercial fishing industry in discussions regarding health insurance for small businesses.
- d. New products/new markets/research.** The need for additional research relating to the commercial fishing industry is necessary for the stabilization and growth of the industry in Maine. Specifically, research into new products, new markets and new gear types is essential to the survival of harvesters and processors. Good scientific data is also essential to stabilizing the resource.
- e. Processing.** Although seafood processing in Maine provides 2200 jobs, a significant amount of seafood is exported out of Maine for processing. Reasons for out of state processing include lower costs for processing outside of Maine, a shortage of trained workers, a lack of incentives for processors to do business in Maine and a lack of critical infrastructure.
- f. Housing.** As a result of the pressures facing the coast, housing for commercial fishing industry workers is increasingly difficult to afford.
- g. Stability of the resource and the uncertainty of regulation.** Many of the fishery resources that commercial fishermen depend on are considered over harvested or at the least unstable. As examples:
 - The groundfish collapse in the mid-1990s
 - Sea urchin declines
 - Concerns over the recruitment of new lobsters

Overall, there is general consensus that the fisheries must be managed in a way that will ensure that they provide a sustainable resource. A related issue the industry is faced with, in part due to the instability of the resource, is the uncertainty of already complex fisheries management regulations.

III. Findings and Recommendations

A. Findings and Recommendations Related to Waterfront Access Issues

A-1. Structure and effectiveness of the Coastal Zone Management Program in Maine

Findings: The Committee finds that Maine’s approved coastal management program is a federal, state and local partnership whose foundation is a series of “core laws” that officially comprise the program. Despite a framework of state oversight, implementation of land use planning and regulation to conserve waterfront access for commercial and recreational purposes is largely a function of local government.

Recommendation: *The Committee recommends that the Maine Coastal Program at the State Planning Office conduct a review of the structure and effectiveness of coastal management in Maine. Specific attention should be paid to state oversight functions, incentives for quality local coastal management and development of effectiveness indicators. While the specific issues of shoreline land use regulation, protection of public access and protection of commercial access should be a priority focus of the review, it should not be limited to these topics. The review should be completed and a report submitted to the Joint Standing Committee on Marine Resources by December 15, 2002. The Joint Standing Committee on Marine Resources should have authority to report out legislation relating to the report. (Draft legislation that implements this recommendation is included as Appendix G.)*

A-2. Information and data needs

Findings: The Committee finds there is a lack of hard data on the pressures currently facing the working waterfront. There is currently no definitive baseline data on the amount of commercial fishing access across the state and how municipalities are protecting that access. In order to begin making major statewide policy decisions regarding the protection of water access for commercial fishing activities, an in-depth review of data availability and data needs is necessary.

The Committee also finds that several different agencies have responsibility for and administer programs related to commercial fishing and water access. However, these agencies infrequently collaborate on waterfront access issues, projects and funding.

Recommendations:

A. *The Committee recommends that the State Planning Office, through an outside contract, collect baseline data relating to the loss of waterfront access for commercial fishing.*

B. *The Committee recommends that the Department of Transportation update the Port Facilities Database every 5 years.*

C. *The Committee recommends that the State Planning Office and the Department of Marine Resources, within existing resources, convene a working group of staff from all State agencies that deal with water access issues to share data, program activities and areas for collaboration on water access issues.*

Each working group member should provide for that member's agency:

- *The data on water access the agency has;*
- *The data that the agency needs; and*
- *Potential funding sources for the collection of the needed data.*

Other stakeholders should be included in working group meetings as appropriate. The working group should submit a report of its activities to the Joint Standing Committee on Marine Resources on an annual basis. (Draft legislation that implements this recommendation is included as Appendix G.)

A-3. Community dialogues and technical assistance

Findings: The Committee finds that community dialogues where municipalities can express their interest in working waterfront issues would enable limited state resources to be targeted to coastal communities that have a need and a desire to move forward with a working waterfront strategy. Additionally, regional councils that work with municipalities in developing comprehensive plans should be encouraged to discuss working waterfront strategies with their client towns during the planning process.

The Committee further finds that although a great deal of information is available to towns to enable them to devise strategies to address working waterfront issues, that information is not readily accessible. Towns may be encouraged to plan for commercial fishing waterfront access issues if the tools for that planning are easier to access.

Recommendations:

A. *The Committee recommends that the Maine Coastal Program, State Planning Office hold a series of community dialogues to identify local interest in and local issues relating to the working waterfront.*

B. *The Committee recommends the Maine Coastal Program, State Planning Office use the community dialogues to identify towns that want to pursue working*

waterfront strategies and provide technical assistance in the development of those strategies to those towns.

C. The Committee recommends that regional councils discuss working waterfront strategies with coastal towns during the comprehensive planning process.

D. The Committee recommends that the Maine Coastal Program, State Planning Office increase the accessibility of waterfront development resources, such as model ordinances and water dependent use maps, to towns by providing ready Internet access to the information.

A-4. Small Harbor Improvement Program bond issue

Findings: The Committee finds the Small Harbor Improvement Program has been successful in funding over 40 waterfront and harbor improvement projects in 36 coastal communities. Approximately 35 of those projects have benefited commercial fishing activities. The Committee also finds the SHIP program is a good example of inter-agency cooperation as well as state and local government cooperation.

Recommendation: *The Committee recommends that every biennial budget include a \$3 million bond issue for the Small Harbor Improvement Program.*

A-5. Funding program; feasibility study

Findings: The Committee finds that a funding program specifically geared towards commercial water access needs may be beneficial to providing water access for commercial fishing activities in the future. The Committee also finds that the value of coastal lands is an important component of the municipal tax base.

Recommendation: *The Committee recommends investigation into the feasibility of using a nonprofit organization or a program that can purchase vulnerable waterfront lands, purchase development rights, hold title to property and development rights and lease the lands to towns or businesses. The investigation should include the development of a business plan and research into capitalization issues.*

A-6. Submerged Lands Program

Findings: The Committee finds that certain provisions of the Submerged Lands Program related to commercial fishing treat commercial fishing enterprises favorably and should be retained.

Recommendations:

A. *The Committee recommends that the current favorable treatment provided to commercial fishing activities under the Submerged Lands Program should not be diminished. Specifically, the following provisions should be retained:*

- *Any new structure may not unreasonably interfere with commercial fishing industries and infrastructure, including: fishing opportunity, access to fishing grounds, repair services, and buying facilities.*
- *Temporary commercial fishing structures less than 2000 square feet in size are exempted from the program.*
- *Lease rental fees for commercial fishing uses are set at 1% of the upland land value with a set cap.*

B. *The Committee recommends that if there are any changes in lease or easement fees as a result of the 2005 grandfather review, a reduction in lease fees to marine operations should be provided as long as the marine operation guarantees access for year-round commercial fishing.*

C. *The Committee recommends that additional lease or easement fees that are received as a result of the 2005 grandfather review should be applied to projects for the preservation of commercial fishing access.*

D. *The Committee recommends that the Submerged Lands Advisory Board be directed to explore ways of linking the benefits of reduced fees for commercial fishing leases with long-term obligations to use the land for commercial fishing purposes.*

E. *The Committee recommends that the Governor fill the commercial fishing member vacancy on the Submerged Lands Advisory Board.*

A-7. Shore and Harbor Management Fund

Findings: In the early 1990's, the Legislature created the Shore and Harbor Management Fund to support municipal shore and harbor management, planning and access efforts. The Department of Conservation, Bureau of Parks and Lands administers the fund. Annual revenues less operating expenses from the submerged and intertidal lands program and the abandoned watercraft program and conveyances of submerged and intertidal lands by the Legislature must be deposited in the fund. Historically, the program revenues of the submerged lands program were significantly less than anticipated resulting in minimum funding of the fund. However, during 2000 and 2001, the fund received significant revenues as installment payments were deposited from the sale of submerged lands to Bath Iron Works.

***Recommendation:** The Committee recommends that the Bureau of Parks and Lands recognize the importance of water access for commercial fishing activities when distributing grants from the Shore and Harbor Management Fund.*

A-8. Create incentives for municipal waterfront planning.

Findings: Under 30-A MRSA §4349-A, sub-§2-A, all state agencies are recognized as partners in growth management efforts and contribute to the successful implementation of comprehensive plans and local growth management programs by making investments, delivering programs and awarding grants in a manner that reinforces state policies and strategies. The Committee finds that Small Harbor Improvement Program (SHIP) grants and Shore and Harbor Management Fund grants are two programs where local grants, if awarded on a preference basis to towns with consistent comprehensive plans, could provide an incentive for quality waterfront planning.

***Recommendation:** The Committee recommends that the State Planning Office work with the Department of Conservation and the Department of Transportation to create a preference system for awarding SHIP and Shore and Harbor Management Fund grants to towns with consistent comprehensive plans.*

A-9. Three-port strategy

Findings: Today, Maine follows a three-port strategy that was developed over 20 years ago. Since that time, the ports of Eastport, Searsport and Portland have grown on a steady, consistent basis.

***Recommendations:** The Committee recommends that the Department of Transportation review how the three-port strategy addresses commercial fishing access.*

A-10. Further legislative study

Findings: The Committee finds that further legislative study is needed to fully review current policy regarding the State's fishing industry and to make recommendations on how to preserve the fishing industry.

***Recommendation:** The Committee recommends the creation of a legislative task force to study issues related to preserving the commercial fishing industry in Maine. A particular charge to the task force should be to study the ability of commercial fishing industry workers to find affordable housing.*

B. Findings and Recommendations Related to Economic Development Issues

B-1. Seafood Innovation, Marketing and Research Fund

Findings: The Committee finds that the growth and, at certain times, the stabilization of the commercial fishing industry is vital to the economic development of the state. At various times, there is a need for funding when stocks decline, a need for better prices and new markets and a need to increase value-added processing. The Committee further finds that by meeting these needs the result will be a more robust and stable industry and more long-term investment in the industry.

Recommendation: *The Committee recommends that the Department of Marine Resources, with assistance from the Marine Resources Advisory Council, study the value of creating an on-going Seafood Innovation, Marketing and Research Fund for industry to use for, among other things, scientific research, researching new products, new markets and new gear types and for enhancing value-added processing. The department should also study and recommend a mechanism for funding the fund, specifically, industry contribution through a landings tax or license fee. The department should report their recommendations to the Joint Standing Committee on Marine Resources by January 10, 2003. The Joint Standing Committee on Marine Resources should be authorized to report out legislation relating to the report. (Draft legislation that implements this recommendation is included as Appendix G.)*

B-2. Repair and maintenance of waterfront facilities

Findings: The Committee finds that one of the pressures facing the commercial fishing industry is the high cost of maintaining piers and wharves. Additionally, commercial rents and fees may not cover necessary upkeep costs.

Recommendation: *The Committee recommends that a study of pier and wharf maintenance needs and the potential sources for funding the necessary repairs be conducted.*

B-3. Investment in physical infrastructure

Findings: The Committee finds that there is currently no complete inventory of the key infrastructure, such as transportation infrastructure, cold storage, etc., necessary for a thriving fishing industry.

Recommendation: *The Committee recommends that an inventory of critical infrastructure for commercial fishing be completed.*

B-4. Public relations and communications

Findings: The Committee finds:

- Consumer awareness of Maine seafood needs to be increased. If consumers are more aware of local products, the local products may be in more demand and it may lead to the ability of industry to raise prices;
- The image of commercial fishing needs to be improved. If the industry has a positive public image it may lead to less conflict and more support from the public;
- Communication between the fishing industry and the financial community needs to be strengthened. The more informed lenders are about the fishing industry, the easier it may be for the industry to get financial backing.

Recommendation: *The Committee recommends that the Department of Marine Resources, with assistance from the Marine Resources Advisory Council, study mechanisms for improving public relations with the public, the media and the financial community.*

APPENDIX A

Authorizing Joint Order

H.P. 1384

**JOINT STUDY ORDER ESTABLISHING THE COMMITTEE TO
STUDY THE LOSS OF COMMERCIAL FISHING WATERFRONT
ACCESS AND OTHER ECONOMIC DEVELOPMENT ISSUES
AFFECTING COMMERCIAL FISHING**

WHEREAS, it is necessary and vital to the people of the State that Maine's fishing heritage be preserved; and

WHEREAS, this order convenes a committee to study waterfront access and other policies concerning the commercial fishing industry; and

WHEREAS, the Legislature would benefit from a study of issues and recommendations regarding loss of waterfront access for commercial fishing and economic development issues affecting commercial fishing; now, therefore, be it

ORDERED, the Senate concurring, that the Committee to Study the Loss of Commercial Fishing Waterfront Access and Other Economic Development Issues Affecting Commercial Fishing is established as follows.

1. Committee established. The Committee to Study the Loss of Commercial Fishing Waterfront Access and Other Economic Development Issues Affecting Commercial Fishing, referred to in this order as the "committee," is established.

2. Committee membership. The committee consists of 10 members appointed as follows:

- A. One Senator appointed by the President of the Senate;
- B. Three members of the House of Representatives, at least one of whom serves on the Joint Standing Committee on Marine Resources, appointed by the Speaker of the House of Representatives;
- C. Two members representing the fishing industry, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives;
- D. Two members of the general public, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives. The member appointed by the Speaker of the House of Representatives must be a representative of municipal government; and
- E. The Governor is invited to appoint 2 members representing state agencies that regulate the fishing industry.

3. Chairs. The first named Senator is the Senate chair of the committee and the first named member of the House is the House chair of the committee.

4. Appointments; meetings. All appointments must be made no later than 30 days following passage of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once the appointments have been made. When the appointment of all members has been completed, the chairs of the committee shall call and convene the first meeting of the committee no later than August 15, 2001.

5. Duties. The committee shall review current policy regarding the State's fishing industry and make recommendations to preserve the fishing industry. Specifically, the committee shall address the following issues:

A. Waterfront access for commercial fisheries, including zoning restrictions, municipal comprehensive plans, current-use taxation, smart growth and set asides; and

B. Economic development, including incentives and disincentives, taxation policies, promotion and marketing issues, financing and workforce development.

6. Staffing. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide staffing services to the committee. The Department of Marine Resources and the Executive Department, State Planning Office shall provide information and assistance as requested by the chairs of the committee.

7. Compensation. Members of the committee who are Legislators are entitled to the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for necessary expenses incurred for their attendance at authorized meetings of the committee. Other members of the committee who are not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses incurred for their attendance at authorized meetings.

8. Report. The committee shall submit its report, together with any recommended implementing legislation, to the Joint Standing Committee on Marine Resources no later than December 5, 2001. The Joint Standing Committee on Marine Resources may report out a bill during the Second Regular Session of the 120th Legislature concerning the findings and recommendations of the committee. If the committee requires a limited extension of time to complete its report, it may apply to the Legislative Council, which may grant the extension.

9. Committee budget. The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for its approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget.

Upon request from the committee, the Executive Director of the Legislative Council or the executive director's designee shall promptly provide the committee chairs and staff with a status report on the committee's budget, expenditures incurred and paid and available funds.

**Passed by the House of Representatives June 20, 2001 and the Senate
June 21, 2001.**

APPENDIX B

**Membership list, Committee to Study the Loss of Commercial Fishing Waterfront Access
and Other Economic Development Issues Affecting Commercial Fishing**

**COMMITTEE TO STUDY THE LOSS OF COMMERCIAL FISHING
WATERFRONT ACCESS AND OTHER ECONOMIC DEVELOPMENT
ISSUES AFFECTING COMMERCIAL FISHING**

Joint Order, H.P. 1384

Appointment(s) by the Governor

Sue Inches
Department of Marine Resources
21 SHS
Augusta, Maine 04333-0021
Representing Department of Marine Resources

Kathleen Leyden
State Planning Office
38 SHS
Augusta, Maine 04333-0038
Representing State Planning Office

Appointment(s) by the President

Sen. Kenneth F. Lemont, **Chair**
154 Whipple Road
Kittery, ME 03904
(207)-439-3698
Senate Member

Brian Beal
University of Maine - Machias
9 O'Brien Avenue
Machias, ME 04654
Public Member

J. Douglas Guy, III
JD Enterprises
RR1 Box 23C
Machias, ME 04654
Representing the Fishing Industry

Appointment(s) by the Speaker

Rep. David G. Lemoine, **Chair**
48 Date Street
Old Orchard Beach, ME 04064
(207)-934-4146
House Member

Rep. David Etnier
260 Basin Point Road
Harpwell, ME 04079
(207)-833-2378
House Member

Rep. Deborah Kaler McNeil
67 Waldo Avenue
Rockland, ME 04841
(207)-596-6242
House Member

John Bubier, City Manager
City of Bath
55 Front Street
Bath, Maine 04530-2588
Representing Municipal Government

M. Elizabeth Sheehan
Coastal Enterprises Inc.
2 Portland Fish Pier, Suite 201
Portland, Maine 04401
Representing the Fishing Industry

Staff: Susan Johannesman (OPLA) - 287-1670

APPENDIX C

Commercial fisheries maritime districts

Coastal Town	Maritime District?
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York County

Arundel	no
Biddeford	Yes
Eliot	no
Kennebunk	no
Kennebunkport	no
Kittery	no
Ogunquit	no
OOB	no
Saco	Yes
South Berwick	no
Wells	Yes
York	no

Cumberland County

Brunswick	No
Cape Elizabeth	No
Cumberland	Yes
Falmouth	No
Freeport	Yes
Harpswell	Yes
Long Island	No
Portland	Yes
Scarborough	No
South Portland	Yes
Yarmouth	Yes

Sagadahoc County

Arrowsic	No
Bath	No
Bowdoinham	Yes
Georgetown	No
Phippsburg	No
Richmond	No
Topsham	No
West Bath	No
Woolwich	Yes

Kennebec County

Augusta	No
Chelsea	No
Farmingdale	No
Gardiner	No
Hallowell	No
Pittston	No
Randolph	Yes

Lincoln County

Alna	YEs	one parcel
Boothbay	Yes	
BB Harbor	Yes	
Bremen	Yes	
Bristol	No	
Damariscotta	No	
Dresden	No	
Edgecomb	No	
Newcastle	No	
Nobleboro	No	
South Bristol	No	
Southport	No	
Waldoboro	Yes	
Westport	Yes	
Wiscasset	No	

Knox County

Camden	Yes
Cushing	Yes
Friendship	Yes
Isle au Haut	Yes
North Haven	Yes
Owls Head	Yes
Rockland	Yes
Rockport	No
St. George	yes
South Thomaston	Yes
Thomaston	Yes
Vinalhaven	Yes
Warren	Yes

Waldo County

Belfast	Yes
Frankfort	?
Islesboro	Yes
Lincolnville	Yes
Northport	Yes
Prospect	No
Searsport	Yes
Stockton Springs	Yes
Winterport	Yes

Hancock County

Bar Harbor	No
Blue Hill	Yes
Brooklin	No

Brooksville	Yes
Bucksport	Yes
Castine	No
Cranberry Isles	Yes
Deer Isle	Yes
Ellsworth	No
Franklin	No
Gouldsboro	No
Hancock	No
Lamoine	Yes
Frenchboro	No
Mount Desert	No
Orland	No
Penobscot	Yes
Sedgwick	Yes
Sorrento	Yes
Southwest Hrbor	Yes
Stonington	Yes
Sullivan	Yes
Surry	No
Swans Island	Yes
Tremont	Yes
Trenton	No
Verona	No
Winter Harbor	Yes

res uses Ok as secondary uses

Penobscot County

Bangor	Yes
Brewer	No
Eddington	No
Hampden	No
Orrington	No
Veazie	No

Washington County

Addison	Yes
Beals	Yes
Calais	no
Centerville	no
Cherryfield	Yes
Columbia	No
Columbia Falls	Yes
Cutler	Yes
Dennysville	No
East Machias	Yes
Eastport	Yes
Harrington	Yes
Jonesboro	Yes
Jonesport	Yes
Lubec	No

Machias	yes
Machiasport	yes
Marshfield	no
Milbridge	yes
Pembroke	Yes?
Perry	Yes?
Robbinston	yes
Rocque Bluffs	yes
Steuben	yes
Whiting	
Whitneyville	

LURC

Perkins Twnship (Swan Island)
Monhegan yes
Matinicus
Criehaven yes
Muscle Ridge Twnship
Trescott Twnship
Edmunds Twnship
Marion Twnship
T85D
T95D
T75D
T105D

APPENDIX D

Small Harbor Improvement Program projects

Small Harbor Improvement Program (SHIP)

Location	Description	SHIP Grant	Project Help Commercial Fishing?
Addison	Town Landing Purchase	\$136,780	X
Bar Harbor	Municipal Pier Restoration	\$75,000	X
Belfast	Timber Crib Pier Reconstruction	\$40,000	X
Boothbay Harbor	Fish Pier Improvements	\$82,500	X
Boothbay Harbor	Replace Town Pier	\$50,000	X
Bristol	Hanna's Landing Project	\$27,200	X
Bucksport	Harbor Improvements/Pier Replacement	\$144,000	
Castine	Harbor Bulkhead Project	\$250,000	X
Cranberry Isles	Stabilize Town Wharf	\$22,240	X
Freeport	Town Wharf Replacement	\$250,000	X
Freeport	Cove Road Improvements	\$12,500	
Freeport	Dunning Boat Yard Improvements	\$5,000	
Gardiner	Waterfront Floats and Gangway Project	\$75,000	
Goudsboro	Bunker's Harbor Improvement	\$9,000	X
Harrington	Town landing improvements	\$23,500	X
Isle au Haut	Town Landing Re-Decking	\$10,000	X
Jonesport	Floats and Gangways	\$49,000	X
Kennebunkport	Rehab Cape Porpoise pier	\$70,000	X
Kittery	Pepperell Cove Pier Construction	\$41,554	X
Long Island	Lot #2 Municipal Acquisition	\$49,750	X
Matinicus	Steamboat Wharf Refendering Project	\$65,000	X
Milbridge	Town Dock Replacement	\$250,000	X
Mt. Desert	Public Float Access	\$15,000	X
Northport Village	Wharf Repairs at Bayside	\$19,390	
Richmond	Waterfront Development Project	\$100,000	
Rockland	Commercial Pier Improvements	\$24,000	X
Rockland	Pile Fendering and Electrical Work	\$22,500	X
Roque Bluffs	Boat Ramp Project	\$10,000	X
Saco	Camp Ellis Fish Pier Improvements	\$44,800	X
Scarborough	Pine Point Float Addition	\$24,000	X
Searsport	Town Wharf Phase II Rehab	\$127,359	X
Searsport	Phase III Wharf Rehab	\$38,388	X
Sedgwick	Dock Improvements	\$4,400	X
St. George	Port Clyde Pier Improvements	\$75,000	X
Surry	Public Landing Improvements	\$17,150	X
SW Harbor	Replace ½ of Town Dock	\$35,000	X
Swan's Island	Land Purchase	\$32,500	X
Tremont	Town Pier Parking Lot Improvements	\$20,000	X
Wells	Float and Mooring Installation	\$50,000	X
Winter Harbor	Shore Stabilization and Floats	\$35,000	X
Vinalhaven	Wharf Refendering Project	\$31,850	X

For more information, please contact Kevin Rousseau at 287-2841

APPENDIX E

Small Harbor Improvement Program proposed projects

Possible Future Small Harbor Projects

The following is a sample of future projects that have been proposed to MDOT, SPO, and DMR by Maine coastal municipalities:

- Purchase of 1.5 acre site to ensure public access to the coast.
- Rebuild a freight pier
- Pier extension
- Construction and installation of floats and parking lot for fisherman.
- Rip rap and erosion control along City's waterfront
- Small pier replacement
- Purchase of an 11-acre site for new public access
- Repairs to Town pier
- Dredging of harbor
- Rebuild east end of fish pier
- Establish new bulkhead and create berthing
- Replacement of 40-year old steel 16'x32' main float
- Development of a town marina
- Re-fendering of town fish pier.

APPENDIX F

Economic impacts of the fishing industry, 11/2000

**Economic Impacts
of Maine's
Fish Harvesting and Processing Sectors**
*Prepared by: Sue Inches, Director of Industry Development,
Department of Marine Resources
November 2000*

Fishing Totals:

Total number of fish harvesting licenses, 2000: 18,000
Estimated full time harvesters: 6000
Estimated part time harvesters: 4300

Overall Impact Estimates:

Direct employment, harvesting and processing: 10,550
Indirect employment: 15,450
Total employment: 26,000
Total landed value of all species, 1999: \$323.8m
Total economic impact on state economy: \$777m per year
Maine is first among Eastern states in landed value of seafood

Seafood Processing:

Total number of wholesale dealer/processor licenses, 1999: 575
Est. number of seafood dealer/processors between \$1-5m in sales: 122
Est. number of seafood dealer/processors between \$5-\$10m in sales: 24
Est. number of seafood dealer/processors over \$10m in sales: 13
Rough estimate annual sales of seafood dealer/processors: \$550m
Seafood processing employment: 2400

Top Eight Species with Highest Commercial Value:

1. Lobsters:

Total number of commercial lobster/crab licenses: 5930
Total number of recreational licenses: 829
Estimated full time employment in lobster fishing: 3457
Estimated part time employment in lobster fishing: 2000
Estimated crew: 3400
Value of lobster catch, 1999: \$184.6m (all time record)
Economic impact on state economy: \$500m

2. Salmon Aquaculture:

Estimated employment including processing: 1000
Value of harvest, 1999: \$58.2m
Estimated Economic Impact: \$116.4m

3. Groundfish (*cod, haddock, hake, monkfish, etc*)

Total number of Maine boats reporting groundfish landings, 1998: 179

Number of boats landing more than 10,000 pounds, 1998: 131

Total number of pounds harvested, 1999: 17.5m

Total value of catch, 1999: \$22.2m

Estimated Economic Impact: \$49m

4. Urchins:

Total number of harvesting licenses: 954

Value of urchin harvest, 1999: \$20.3m

Landed pounds, whole urchin, 1999: 15.4m

5. Soft shell Clams:

Total number of commercial clam licenses: 2100

Value of clam harvest, 1999: \$10.5m

Landed pounds, whole clam: 2.28m

6. Herring:

Value of herring harvest: \$7.7m

Total number of pounds harvested, 1999: 111.4m (50,000Metric Tons)

Estimated percentage of catch used for bait: 60%

Canned for human consumption: 40%

7. Scallops:

Number of commercial scallop boats, 1999: 780

Number of commercial scallop divers, 1999: 387

Value of scallop harvest, 1999: \$4.4m

Landed pounds, whole scallop: 2.28m; meats only: 641k

8. Shrimp:

Number of shrimp licenses, 1999: 570

Value of shrimp harvest, 1999: \$3.16m

Landed pounds, 1999: 3.3m

Data sources:

Licensing database, Maine Department of Marine Resources

Economic impacts: Wilson, James; Economic Impact Study, 2000

Lobster employment: Acheson, James; Lobster Zone Questionnaire Project, 1998

Landings: National Marine Fisheries Service

Seafood processing employment: Maine Department of Labor

Portland Fish Exchange Annual Price and Landings Report, 1998-99

Note:

Since fishermen are self-employed and often work at a number of different trades throughout the year, there is no clear data on employment. The estimates made here use a combination of sources such as license data and surveys to give an estimate of employment activity.

APPENDIX G
Draft Legislation

Title: An Act to Implement the Recommendations of the Committee to Study the Loss of Commercial Fishing Waterfront Access and Other Economic Development Issues Affecting Commercial Fishing

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

Sec. 1. Coastal management review. The State Planning Office shall conduct a review of the structure and effectiveness of coastal management in Maine. The review must specifically address state oversight functions, incentives for quality local coastal management and development of effectiveness indicators. Shoreside land use regulation, protection of public access and protection of commercial access must be a priority focus of the review, but the review should not be limited to these topics. By December 15, 2002, the State Planning Office shall submit a report that includes its findings and recommendations, and any legislation necessary to implement its recommendations to the joint standing committee of the Legislature having jurisdiction over marine resources matters. The joint standing committee of the Legislature having jurisdiction over marine resources matters may report out legislation during the First Regular Session of the 121st Legislature concerning the findings and recommendations in the report.

Sec. 2. Interagency review of water access issues. The State Planning Office and the Department of Marine Resources, within existing budgeted resources, shall convene a working group of staff from all State agencies that deal with water access issues to share data, program activities and areas for collaboration on water access issues. Each agency shall identify the water access data that the agency has, the water access data that the agency needs, and potential funding sources for the collection of the needed data. Other stakeholders should be included as appropriate. The State Planning Office and the Department of Marine Resources shall submit an annual report of the working group's activities to the joint standing committee of the Legislature having jurisdiction over marine resources matters by January 15th of each year.

Sec. 3. Seafood Innovation, Marketing and Research Fund. The Department of Marine Resources, with assistance from the Marine Resources Advisory Council, shall study the value of creating an on-going Seafood Innovation, Marketing and Research Fund for the commercial fishing industry to use for scientific research, researching new products, new markets and new gear types and for enhancing value-added processing. The study must include mechanisms for funding the fund, specifically, industry contribution thorough a landings or license fee. By January 10, 2003, the Department of Marine Resources shall submit a report of their findings and recommendations to the joint standing committee of the Legislature having jurisdiction over marine resources matters. The joint standing committee of the Legislature having jurisdiction over marine resources matters may report out legislation during the First Regular Session of the 121st Legislature concerning the findings and recommendations in the report.

SUMMARY

This bill implements some of the recommendations of the Committee to Study the Loss of Commercial Fishing Waterfront Access and Other Economic Development Issues Affecting Commercial Fishing. It directs the State Planning Office to review the structure and effectiveness of coastal management in Maine; it creates a working group of State agencies that deal with water access issues; and it directs the Department of Marine Resources to study the value of creating a Seafood Innovation, Marketing and Research Fund.