

# Maine Policy Review

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Volume 29  
Issue 2 *Maine's Bicentennial*

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2020

## “We are Maine”—Is There an Authentic Maine Public Policy?

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### Recommended Citation

Anderson, Mark, and Caroline L. Noblet. "“We are Maine”—Is There an Authentic Maine Public Policy?" *Maine Policy Review* 29.2 (2020) : 39 -44, <https://digitalcommons.library.umaine.edu/mpr/vol29/iss2/6>.

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# “We are Maine”—Is There an Authentic Maine Public Policy?

by Mark W. Anderson and Caroline L. Noblet

## INTRODUCTION

In her first State of the State address in January 2020, Maine Governor Janet Mills evoked a recurrent theme, “We are not Washington. We are Maine.” (Mills 2020). Embedded in this idea was a critique of the dysfunction in federal policy making and an assertion that Maine is different when it comes to public policy. This difference might be described as authenticity, that our public policy is genuinely Maine in character.

The issue of authenticity has been explored across many realms including literature (Gates 1991), crafts, and even food. The question remains the same: is there an authentic form based on some commonality? The same question has been asked about regionalism in Maine arts as well. For example, is there such a thing as an authentic (genuine or real) Maine writer (Anderson 1997) or something we could call authentic Maine humor (Ives 1984)? The idea is that the geography or cultural history of a place creates unique forms of literature or art that somehow reflect the uniqueness of that place. The idea of a Maine writer or a Maine artist is contested, but it leads to asking similar questions about public policy making.

Is there something about how policy is developed, approved, and implemented—or something about the content of policy—that is based upon Maine as place? Is there a genuine Maine public policy that reflects the unique demography, geography, and culture of

this place? Or is the work of policy here essentially the same as anywhere else in our democracy? Indeed, the very presence of *Maine Policy Review* hints at a prevailing sense that there is an authentic Maine approach to policy that merits documentation in this journal. This is not to assert that authentic Maine policy making is better than policy making elsewhere, rather it is a way of thinking about how we do policy so that we may make policy better for ourselves in the future.

The best way to answer these questions about authenticity in Maine policy making is to think about the attributes of public policy making and see if there is a pattern in those attributes that is characteristic of Maine. After looking at attributes of public policy relevant to authenticity, we will consider some policy controversies of the past century in Maine as a vehicle for thinking about the idea of an authentic Maine public policy. It is an important opportunity to ask what it means to assert that “We are Maine.”

## PUBLIC POLICY ATTRIBUTES RELEVANT TO AUTHENTICITY

Public policy is ultimately about values (Anderson and Teisl 2012; Dietz et al. 2005). Policy in the public realm is about shared values, those perspectives on either how society works or how it should work that dominate in a particular place. Different societies emphasize different shared values for their place, such as fairness, efficiency, progress, growth,

conservation, modernity, and tradition (Anderson, Noblet, and Teisl 2012; Noblet et al. 2013). These values are products of local culture, history, demography, or even geography in ways that are not fully understood. Policy-making processes may both reflect these shared values and, importantly, contribute to their evolution over time. Sometimes policies reinforce predominant values, and other times the unintended consequences of policies lead to changes in values. If there is authentic Maine public policy, it is likely due in part to something about the shared values in Maine that are different from other parts of the country.

Another way to think about values in public policy is the concept of ideology, what is sometimes called *world view*. People have a way of seeing the world that reflects how they think the world works and, more significantly, how they think it works best. If people who hold similar ideologies cluster together in one place or at one time, then the policy process and policies developed are going to reflect that ideology. For example, some people see a world that is best if decisions about the allocation of resources are made through market mechanisms, largely unfettered by government regulation (Stigler and Becker 1977). Others question whether such spontaneous outcomes from market processes are in the best interests of society (Bromley 1998). Policies derived from these differing world views will be very different.

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Adoption of public policies usually creates winners and losers—for example, those who share the values reflected in the adopted policy (the winners) and those who do not share such values (the losers). In neoclassical economics terms, winners are those whose welfare is improved by policy and losers those whose welfare is diminished. Economists talk of the potential Pareto outcomes where public policies make some people better off and no one worse off, but these are rare. In most cases gains by some are offset by losses to others, and rarely are losers compensated for their losses (Anderson et al. 2016). For example, when we build new energy production facilities like mountain-top wind farms, many people benefit from reduced greenhouse gas emissions from the displaced fossil fuel power plants, while residents near the wind farm or some recreationists experience losses from noise or visual pollution or birders lose from increases in bird mortality. The losers are almost never compensated for their losses by the winners.

We might understand the concern in Maine over the past couple of decades regarding the *two Maines* problem as an example of the winners-and-losers dilemma (Spruce 1994). There has been anxiety that policy has favored those in southern and more economically prosperous regions of Maine. At the same time, there has been concern that rural, sparsely populated regions are subsidized, at least in terms of infrastructure investment.

The creation of societal winners from public policy invites rent-seeking behavior, where market entities seek to influence rulemaking to increase their own wealth at another's expense (Krueger 1974). The best way to get

rules adopted that favor yourself is to couch private interest in terms that sound like the policy serves the public interest. So, the structure and content of tax policy, regulation, antitrust policy, and environmental rules are the subjects of rent-seeking behaviors by private-market actors.

Public policy is a tool that can be used to create a place with attributes that are desirable, a phenomenon called the *Tiebout effect* (Tiebout 1956). In this hypothesis, first applied to municipalities, government sets taxation levels, spends funds, and regulates land markets in such a way as to attract households with shared values and discourage those with a different mindset. One municipality might adopt predominately large-lot-size residential zoning (attract wealthier household willing to pay higher taxes) while a neighboring municipality might zone more land for commercial or industrial uses. Another government might assess higher taxes on incomes or property and spend more on public schools to attract families with young children and higher educational aspirations. This approach can be essentially *conservative*, trying to maintain a certain type of land use or household to maintain what is desirable about the status quo. Or it can be *aspirational*, trying to become something it has not traditionally been.

While the Tiebout hypothesis was originally posed to explain how a local government might go about determining an optimal level of expenditure on local public goods such as schools, highways, recreation facilities, and public safety, it is equally applicable to states. An authentic state public policy would be one that reflects what is essential to maintain about a state in the minds of its people or what those people aspire to become.

Public policy can be principled—built from first principles that are derived from shared values—or it can be pragmatic—doing what is obviously attainable given current constraints and opportunities. Again, this distinction could reflect the history, culture, geography, or demography of a region. Places with fewer advantages might be more pragmatic, while places favored in some way can afford to be more principled. So rural communities within commuting distance of major metropolitan areas will have more economic opportunities from which they can pick and choose the ones that more closely match their values.

Public policy often reflects the wants and needs of the present while invoking the future when politically expedient to do so (Anderson et al. 2012). Environmental ethicist Bryan Norton (2005) called the phenomenon “presentism.” Playing lip service to the needs of future generations can be an effective strategy in rent-seeking behavior while policy making with a genuine concern for the wants and needs of the future might reflect places with a greater concern for the continuity of culture from past, to present, to future.

Policy might be essentially parochial, dominated by local interests, often politically entrenched, or it can be outward looking, drawing on experience from outside the area of interest. In the Maine context, this issue is the classic undercurrent in policy discussions of the distinction between being a *Mainer* vs being *from away*. The sense that there is a difference in ideologies between *us* and *them* can be a pervasive part of policy debates, particularly when the issue threatens the status quo. Indeed, behavioral economists have identified the prevalence of a *status quo bias* in many

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decisions (Kahneman et al. 1991). This bias is essentially human preference for our current state; we use this current state as a baseline and perceive movement away from that baseline as troubling. Colloquially, we may all be familiar with the phrase “the devil you know,” which also encapsulates our reticence for change.

Policy also depends on who leads the process from initiation to implementation. Elected officials set broad policy outlines in legislation enacted into laws. This often means the details are left to be determined by agencies of the state, following processes outlined in administrative procedures legislation. Agency personnel and interested parties (both often characterized as experts in the field at issue) put a distinct imprint on policy implementation. Sometimes the sectors that are intended to be regulated by policy are perceived to have too much influence on policy development, a phenomenon called regulatory capture (Dal Bó 2006). Thus at times in Maine, elected officials and agency experts are perceived to be out of touch with the citizenry, and referenda triggered by citizen initiative are used to challenge adopted public policy. Additionally, as we consider significant policy debates in Maine, we recognize that public policy is made at multiple levels: municipal, regional, and statewide. Consistent themes and decisions across multiple decision-making levels may be further evidence of an authentic Maine approach to public policy.

### SIGNIFICANT POLICY DEBATES IN MAINE

Looking at some specific Maine public policy debates of the past decades might help us understand if there is an authentic Maine approach to public

policy. These issues reveal information about how policy is done in Maine, or because of their outcomes, these issues changed how policy was done subsequently. This list is naturally idiosyncratic, and everyone will come up with their own policy issues and controversies for thinking about the question of authenticity in public policy.

#### *Establishment of Baxter State Park*

There is no more iconic public policy decision in Maine than the 1931 legislature’s acceptance of the first of multiple deeds of trust from former Governor Percival Baxter to establish Baxter State Park (Rolde 1997). The long process was contentious, with forces in favor of making Katahdin the centerpiece of a new national park and others seeing the sale of forest land to Baxter and subsequently gifted to the state as a threat to the forest products industry. In significant ways, this debate foreshadowed by decades debates we have today over the public and private uses of Maine’s woods. Baxter’s vision was the first to thread the needle between federal ownership and industrial forestry. Land could be conserved *forever wild* for the benefit of the people of Maine without threatening the industrial forest uses that provide economic benefit to the state. Key to this was management of the conservation lands by the state rather than by the federal government, a choice that leaves a lasting legacy in Maine (Noblet et al. 2015).

#### *Economic Development—Sugar Beets*

Maine public policies often focus on economic development, but policy initiatives are strongly influenced by historical successes and failures. New ideas for economic development in Aroostook County are still met with skepticism by

some and include references to either sugar beets or the name most associated with that crop, Fred Valshing. The effort to develop an alternative crop to potatoes for Maine farmers in the 1960s is a great example of how public subsidies to encourage economic development go awry (Burns 2015). In this case, public guarantees of loans for private development (a sugar-beet-processing plant) left Maine taxpayers to pay for the failure of a new crop for Aroostook farmers. When the public purse shares directly in the risk of new enterprises, it is easier to find entrepreneurs to become engaged. Once private entities defaulted on debts at public expense, memories of the sugar beet incident made many Mainers skeptical of such public policy, seeing it as rent-seeking behavior.

#### *Winter Olympics*

The need for economic development was a common theme for public policy debates in the 1960s. In the mid-1960s, Maine was poised to make a bid for the 1976 Winter Olympics games and develop a world-class ski destination in the Carrabassett Valley (Young 2001). The idea for an Olympic bid faded quickly in the late 1960s, but the development of the ski area remained a vision for the developers and some in state government. A group called Friends of Bigelow fought the development project and collected enough signatures to bring the issue to a vote in June 1976. By a narrow margin, the voters chose to stop commercial development around Bigelow Mountain, leading eventually to the establishment of the public reserve lands comprising 36,000 acres of public preserve. In some important ways, this event paved the way for much of the land conservation momentum in Maine in the last quarter of the twentieth century

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(Irland 2018). In particular, the creative swaps of public reserve lots spread across the unorganized territories into consolidated preserves like Bigelow is an underappreciated creative approach to land conservation—perhaps here, in land conservation, is authentic Maine policy making.

### *Energy Development Projects*

Consistent with the theme of making choices surrounding, or trading off between, natural resources and economic development, many of Maine's policy controversies of the past several decades have been around proposals for large-scale energy development projects. These proposals included

- oil refineries for Eastport (1976) and Machiasport (1968), taking advantage of natural deep-water port potential in each;
- liquified natural gas facility in Eastport (2004);
- nuclear power plant, coal-fired power plants, or deep-water port for Sears Island in Penobscot Bay (1970s–1980s);
- propane gas storage facility in Searsport (2012);
- multiple mountain-top wind-power facilities (2006 on); and
- Big A hydroelectric dam on the West Branch of the Penobscot River (1986).

Most of these projects were stopped by a combination of local opposition, economic conditions, Canadian objections (Eastport developments would require ships to pass through Canadian waters), and, in the case of nuclear power for Sears Island, geological risks. Consistent with status quo preferences, we see Maine people reluctant to pursue change in the form of large-scale energy development. In explaining these preferences, a theme emerges that Maine people

find their piece of Maine to be authentic and worth preserving as is, perhaps because it reflects their own current values and character. Of interest, many of these large-scale projects were never debated or voted on at the state level. Thus, we see Maine citizens in different locations at different decision-making levels making similar decisions and enacting similar public policy.

### *Use-Value Property Tax Assessments*

Property taxes are always a controversial topic in Maine politics, and they are often blamed for the decline in traditional extractive sectors of the Maine economy—farming, forestry, and fishing. A common complaint is that rising property values (usually blamed on those from away buying up Maine land) are central elements of the decline, since property valuation in Maine law should be based on “highest and best use.” Four different initiatives aimed to reduce the property tax burden on traditional industries. In the vernacular, these are known as *tree growth law* for the timber industry, *farmland* and *open space programs* to guard against suburban sprawl, and *working waterfront* taxation to protect access to commercial fishing boats. While the details of the four programs differ, each attempts to preserve traditional land-use patterns that are perceived as threatened, particularly by outside interests. And each has been subject to criticism for abuse by those landowners who were not intended to benefit, another form of rent-seeking behavior (see, for example, Mistler [2012]).

### *Plum Creek Lands*

The request for rezoning of Plum Creek lands around Moosehead Lake before the Maine Land Use Regulation Commission (LURC) showed that issues in Maine's woods had come to be as

important as large-scale energy developments (Anderson 2007; Bell 2007). The controversy pitted advocates for economic development through second-home subdivisions and major tourism facilities against those with a vision of continued low-impact recreation in what was often erroneously termed Maine's *northern wilderness*. The scale of the rezoning petition by Plum Creek (corporate land-owners from away) overwhelmed LURC, and it entailed weeks of testimony and statewide controversy. The process led to the eventual reconstitution of LURC as the Land Use Planning Commission during the administration of Governor Paul LePage.

The controversial approval of the concept plan included conservation easements over thousands of acres of commercial timberland, the potential for multiple residential subdivisions in the Moosehead Lake vicinity, and the prospect for large resorts around Moosehead Lake. By 2020, the promise of economic development for the region ended either due to the economic effects of the great recession or the flawed fundamental economic logic of the plan, depending on your point of view (Eichacker 2020).

### *Bear-Hunting Referenda*

A final policy debate to consider is the question of hunting methods raised by two citizen initiatives in the twenty-first century. Both initiatives were promoted by Maine groups opposed to hunting bear by baiting, use of dogs, and trapping. The statewide referenda votes demonstrated multiple strands of policy debate in Maine. Supporters of the status quo in hunting accused the referenda supporters of being fronts for out-of-state interests and being anti-hunting. Proponents of the ban claimed to favor *fair-chase* hunting, which they presented as both more ethical (humane)

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and in keeping with Maine hunting tradition. The Maine Department of Inland Fisheries and Wildlife opposed the change in bear-hunting techniques, arguing that the science showed these techniques to be necessary tools for the management of the bear population. This controversy contained almost all the themes that run through Maine policy debates—skepticism of those from away, a strong sense of Maine tradition, the two Maines divide, and different visions of the appropriate use of Maine’s North Woods.

## CONCLUSION

Asking the question is easy: Is there an authentic Maine approach to public policy, or is policy making in Maine much like it is in the rest of the country? Determining the answer is, of course, more challenging. The process of asking and attempting to answer the question, however, is of crucial importance for the future of our state. We are particularly motivated by our concern for Maine’s future. Our past work demonstrates that when Mainers are asked to reflect upon prior public policy, it changes the way Maine citizens proceed with future policy (Noblet et al. 2015). Thus, the process of revisiting our past and identifying preferred characteristics of Maine public policy offers a unique opportunity to intentionally pursue an authentic Maine approach moving forward.

The approach we have taken in this paper to evaluate authentic Maine policy has been to consider issues around natural resources and the environment. Consideration of social policy, taxation, education, or other policy realms might well paint a different picture.

Based on the picture presented here and the public policy attributes described

above, we would suggest that authentic Maine public policy exists and contains the following attributes:

- It is made with explicit discussion of values.
- It recognizes that policy decisions create winners and losers.
- It looks to find pragmatic solutions to the problems created by winners and losers.
- It is inextricably tied to the challenge of inequity in our state, i.e., two Maines.
- It is sensitive to the effects of policy on shaping market outcomes and willing to shape markets to meet state needs.
- It reflects a vision of the state as small, rural, and conservative in the sense of maintaining elements of importance threatened by the modernity of larger American society.
- It is often made in reference to the needs of future generations, reflecting a wide-spread understanding of the legacy of the past.
- It values a process of in-depth citizen participation in the policy-making process.

A friend of ours who does economic development work made a telling observation about the less-prosperous regions of Maine, sometimes referred to as Maine’s *rim counties*. These are places with lower incomes, fewer job opportunities, poorer infrastructure, and other economic differences from southern and mid-coastal Maine. He commented about these places, “Many people choose to live there for a reason.” This captures what is central to authentic Maine public policy. The people of this state would like for Maine to have higher incomes, more broadband internet, better roads, and other benefits of modern industrial

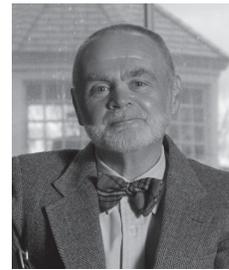
lifestyles, but not at *any cost*. Mainers walk around with various images of what it means to be from Maine and a common theme among those images is that Maine is different from other places. More often than not, our policy decisions reflect a desire to keep it that way. We ask each reader to carefully consider the following: What is your vision of Maine, and what policies do we need to make that vision a reality? What does it really mean when we say, “We are Maine.” 🐷

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