

MAINE STATE LEGISLATURE

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LEGISLATIVE COUNCIL

**Wednesday, April 17
11:00 a.m.
Taxation Committee Hearing Room**

REVISED AGENDA

CALL TO ORDER

ROLL CALL

SECRETARY'S REPORT

Summary of April 8, 1991, Council Meeting

EXECUTIVE DIRECTOR'S REPORT

Item #1: Legislation Drafted by David Kennedy, pursuant to the
Council Request, related to handling of the Errors
Bills

REPORTS FROM COUNCIL COMMITTEES

OLD BUSINESS

Item #1: After Deadline Requests
(Tabled at April 8 Council meeting)

NEW BUSINESS

Item #1: Front Steps of the State House: Memo from David Silsby

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

SEN. CHARLES P. PRAY
CHAIR

REP. DAN A. GWADOWSKY
VICE-CHAIR



STATE OF MAINE

115th LEGISLATURE

LEGISLATIVE COUNCIL

SEN. NANCY RANDALL CLARK
SEN. DENNIS L. DUTREMBLE
SEN. CHARLES M. WEBSTER
SEN. PAMELA L. CAHILL
REP. JOHN L. MARTIN
REP. JOSEPH W. MAYO
REP. WALTER E. WHITCOMB
REP. FRANCIS C. MARSANO

SARAH C. TUBBESING
EXECUTIVE DIRECTOR

LEGISLATIVE COUNCIL

April 8, 1991

MEETING SUMMARY

APPROVED APRIL 17, 1991

CALL TO ORDER

The Legislative Council meeting was called to order by the Chair, Senator Pray at 2:11 p.m., in Room 221, the Taxation Committee Room.

ROLL CALL

Senators:	Sen. Pray, Sen. Clark, Sen. Webster, Sen. Dutremble, Sen. Cahill
Representatives:	Rep. Gwadosky, Rep. Whitcomb, Rep. Mayo, Rep. Marsano Absent: Rep. Martin
Legislative Officers:	Sally Tubbesing, Executive Director, Legislative Council Lynn Randall, State Law Librarian John Wakefield, Director, Office of Fiscal and Program Review Martha Freeman, Director, Office of Policy and Legal Analysis David Kennedy, Revisor of Statutes Richard N. Sawyer, Administrative Services Director Joy O'Brien, Secretary of the Senate Ed Pert, Clerk of the House

SECRETARY'S REPORT

The Summary of the March 12, 1991, Council meeting was accepted and placed on file. (Motion by Sen. Cahill; second by Sen. Dutremble; unanimous).

EXECUTIVE DIRECTOR'S REPORT

None.

REPORTS FROM COUNCIL COMMITTEES

None.

OLD BUSINESS

Item #1: Letter from Jon S. Oxman, Chair, Special Committee on the New Capitol Area Master Plan.

Motion: That the letter be accepted and placed on file. (Motion by Sen. Cahill; second by Rep. Mayo; unanimous).

NEW BUSINESS

Item #1: Mackworth Island Management Plan, pursuant to Ch. 113, P & S 1989. (Copies of Executive Summary distributed previously).

Motion: That the report be accepted and placed on file. (Motion by Rep. Mayo; second by Sen. Cahill; unanimous).

Item #2: Requests to Relocate from Currently-Assigned Space in the Press Area to the Office formerly occupied by UPI

Sen. Pray reported that he had received letters from both WGME - TV and Mike Brown, Ellsworth American, expressing interest in moving into the space that had previously been occupied by United Press International.

Motion: That the requests be referred to a subcommittee to be appointed by the Chair. (Motion by Sen. Clark; second by Rep. Marsano; approved 7-2).

Item #3: After Deadline Requests

The item was tabled by consent.

Item #4: Review of Legislative Department's Budget Request for Fiscal Years 1992 and 1993

Sen. Pray opened the discussion with some general comments, noting that the Council's charge was to re-examine the budget request that had originally been submitted for the next fiscal biennium - - FY 1992 and FY 1993 - - and to assess whether the Governor's reduction target of 15.2% can be met, while still maintaining the Legislature's independence as a branch of government. He observed that the Council, like every other agency of state government, had a responsibility to re-evaluate priorities and to assess where changes could be made without compromising the character of the Maine Legislature. Finally, he noted that the Council had done several studies of itself - the Peat Marwick study being the most recent - and had made a variety of changes as a result of these studies which were directed at both improving the efficiency of legislative operations and ensuring that the Legislature was able to recruit and retain staff who are critical to support the quality of the Legislature's work.

He then opened the floor for general discussion, during which the following themes recurred:

- What savings could be achieved by reducing the length of the legislative session.
- The growth in the Legislative branch over the past 10 years must be evaluated in the context of what has happened to the other two branches of government during that same period.
- The Legislature is experiencing a shift in priorities, and legislators will only feel more and stronger demands, particularly from municipalities.

Sen. Pray then asked the Secretary of the Senate, the Clerk of the House, and each of the staff directors to review the operations for which they are responsible, identifying potential cuts and discussing their implications.

EXECUTIVE SESSION

Motion: That the Council go into Executive Session for the purpose of discussing matters related to personnel. (Motion by Rep. Mayo; second by Sen. Clark; unanimous).

The Council proceeded to go into Executive Session at 3:28 p.m.

RECONVENE

Sen. Pray reconvened the regular Council meeting at 4:50 p.m. The Council took up two other business items at this time.

Item #5: Legislative Staff Management Institute, Humphrey Institute of Public Affairs.

Sen. Clark, referring to a memo that Sally Tubbesing had sent to all Council members, offered the following motion:

Motion: That the Legislative Council support the application of one candidate from the non-partisan staff, with the understanding that attendance would be contingent upon receipt of a scholarship through the Institute. (Motion by Sen. Clark; second by Rep. Mayo; unanimous).

Item #6: After Deadline Bill

Motion: That the Council approve introduction of an errors bill for the purpose of correcting technical errors in the Supplemental Appropriations Act, Chapter 9, P.L. 1991. (Motion by Rep. Mayo; second by Rep. Marsano; approved 7-0).

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

The Council meeting was adjourned on the motion of the Chair, at 4:55 p.m.

OFFICE OF THE REVISOR OF STATUTES

BILL DRAFT SUMMARY

LR #: 704 ITEM #: 1 TYPE: O

(EMERGENCY)

TITLE:

An Act to Provide for Administrative Correction of Certain
Errors and Inconsistencies in the Maine Revised Statutes
and to Establish the Commission to Study Resolution of
Conflicting Enactments

SPONSOR:
COSPONSORS:

LEGEND:

AUTHORITY FOR INTRODUCTION: LBC

DRAFTER: JDK TECH: DJG

DATE/TIME LAST PRINTED: 04/09/91 18:02

LAST ACTION: PRF/RVPRF 03/29/91

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this bill provides a mechanism for remedying certain statutory errors during the annual update of the statutory data base; and

Whereas, the bill also establishes a commission to study mechanisms for resolving conflicting enactments; and

Whereas, the annual update will be well under way before the expiration of the 90-day period and the commission needs to begin work promptly in order to report back to the Second Regular Session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

1 MRSA c. 4 is enacted to read:

CHAPTER 4

STATUTORY MAINTENANCE

§91. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Conflicting enactments. "Conflicting enactments" means multiple enactments, amendments, repeals, reallocations or reenactments, or any combination of these actions, that affect the same statutory unit and that have been adopted by Acts of the Legislature that do not refer to each other.

2. Executive director. "Executive director" means the Executive Director of the Legislative Council appointed under Title 3, section 162.

3. Revisor. "Revisor" means the Revisor of Statutes, or the person under Title 3, section 162 who is responsible for the form and format of legislative instruments.

4. Revisor's change. "Revisor's change" means a change made in the course of update under the authority of section 93.

5. Revisor's report. "Revisor's report" means the post-update report made by the revisor pursuant to section 95. This report may be cited as Revisor's Report 19XX, §X or RR 19XX, §X.

6. Revision clause. "Revision clause" means a section of a law that is not allocated to the Maine Revised Statutes and that changes a term throughout the laws and instructs the revisor to implement the revision as part of update.

7. Statutory unit. "Statutory unit" means a title, chapter or section or a part of a title, chapter or section of the laws of Maine.

8. Update. "Update" means the process by which enactments, amendments, repeals, reallocations or reenactments from a legislative session or sessions are integrated into the statutory data base of the Maine Revised Statutes.

§92. Statutory data base; update

The executive director shall ensure that the legislative staff maintains a statutory data base that contains the text of the Maine Revised Statutes and the appropriate history of each statutory unit.

The revisor shall update the statutory data base at least annually after the close of each regular legislative session and may update the data base more frequently.

The Legislative Council shall adopt policies governing access to and publication of the data contained in the statutory data base.

§93. Administrative changes and corrections

The revisor may make the following changes or corrections, when the corrections do not alter the sense or meaning of the laws, without specific legislative action as part of the statutory data base update.

1. Misspellings. Misspelled words may be corrected.

2. Histories. Erroneous enacting clauses or statutory histories may be corrected.

3. Cross-references. Cross-references to statutory units may be changed to agree with renumbered or reallocated statutory units.

2 4. Obsolete dates. Obsolete temporal references may be
3 removed.

4 5. Capitalization. Improper capitalization may be
5 corrected.

7 6. Headnotes. Descriptive headings of titles, chapters,
8 sections or subsections may be edited or added to briefly and
9 clearly indicate the subject matter of the title, chapter,
10 section or subsection.

11 7. Renumbering. The numbering of statutory elements,
12 including duplicative numbering created by conflicting
13 enactments, may be corrected or properly arranged.

14 8. Punctuation. Punctuation, including hyphenization, may
15 be corrected.

16 9. Revision clauses. Changes in nomenclature or
17 terminology authorized by a revision clause must be made in
18 accordance with the instructions of the revision clause.

19 10. Typographical errors. Obvious clerical or
20 typographical errors may be corrected.

21 Any change made by the revisor may not change the
22 substantive meaning of any statutory unit. Any error or
23 inadvertent substantive change made by the revisor must be
24 construed as a clerical error and given no effect. If the
25 revisor is in doubt whether a specific change is authorized by
26 this section, the revisor may not make the change but shall
27 incorporate the proposed change into the legislation authorized
28 by section 94.

29 §94. Omnibus errors and inconsistencies bill

30 The revisor shall prepare legislation containing proposed
31 changes and consolidations identified but not made under section
32 93. The legislation may also contain any other statutory errors
33 or inconsistencies identified by the revisor. The legislation
34 must be submitted to the joint standing committee of the
35 Legislature having jurisdiction over judiciary matters, with a
36 copy to the executive director.

37 §95. Report and publication

38 The revisor shall submit an annual revisor's report
39 containing a description of all changes made pursuant to section
40 93 to the joint standing committee of the Legislature having
41 jurisdiction over judiciary matters by October 1st of the year in
42 which the changes have been made and shall provide copies of the

report to the Secretary of State, to the executive director and to the publisher of the Maine Revised Statutes Annotated. The publisher shall incorporate the changes made in the report in all subsequent publications of the laws. The revisor's report must be published annually in the Laws of Maine.

If the joint standing committee of the Legislature having jurisdiction over judiciary matters disagrees with any change contained in the revisor's report, the committee may instruct the revisor to make appropriate corrections during the next update, may amend the legislation authorized by section 94 to reverse the change or may report out legislation overriding any revisor's change.

PART B

Sec. B-1. Commission established. The Commission to Study Resolution of Conflicting Enactments is established.

Sec. B-2. Commission membership. The commission consists of the following members: 4 Legislators who are members of the Joint Standing Committee on the Judiciary, jointly appointed by the President of the Senate and the Speaker of the House of Representatives, 2 from the majority party and 2 from the minority party; the Attorney General or the Attorney General's designee; and one representative of the Maine State Bar Association appointed by the Governor. The Revisor of Statutes and the Director of the Office of Policy and Legal Analysis shall serve in an advisory capacity. The Chair of the Legislative Council shall request the Chief Justice of the Supreme Judicial Court to appoint a justice or judge to serve in an advisory capacity.

Sec. B-3. Appointments; meetings. All appointments must be made no later than 30 days following the effective date of this Act. The Executive Director of the Legislative Council must be notified by all appointing authorities once the selections have been made. The President of the Senate and the Speaker of the House of Representatives shall jointly appoint the chair of the commission.

Sec. B-4. Duties. The commission shall study whether administrative correction of errors and inconsistencies in the Maine Revised Statutes should be extended to conflicting enactments and whether there is a need to enact a statutory rule of construction to aid in the resolution of conflicting enactments.

In examining these questions, the commission may:

1. Meet up to 4 times in Augusta;

2 2. Hold informational sessions for discussions with
4 knowledgeable persons;

6 3. Procure and analyze relevant data;

8 4. Conduct legal research and prepare opinions on legal
10 questions within the scope of the study; and

12 5. Determine and summarize the legislative actions,
14 statutes and rules adopted in other jurisdictions related to
16 issues within the scope of the study.

18 **Sec. B-5. Staff assistance.** The commission shall request staffing
20 assistance from the Legislative Council.

22 **Sec. B-6. Reimbursement.** The members of the commission who are
24 Legislators are entitled to receive the legislative per diem, as
26 defined in the Maine Revised Statutes, Title 3, section 2, for
each day's attendance of commission hearings.

28 **Sec. B-7. Report.** The commission shall submit its report
30 together with any necessary implementing legislation to the
32 Second Regular Session of the 115th Legislature no later than
34 November 1, 1991.

36 **Sec. B-8. Appropriation.** The following funds are appropriated
38 from the General Fund to carry out the purposes of this Act.

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1991-92

JUDICIAL DEPARTMENT

Courts - Supreme, Superior,
District and Administrative

Personal Services	\$600
All Other	200

Provides funds for the per diem and expenses
of an Active Retired Judge to replace the
Judge or Justice acting as advisor to the
Commission to Study Resolution of
Conflicting Enactments.

JUDICIAL DEPARTMENT
TOTAL

\$800

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Commission to Study Resolution of

Conflicting Enactments

Personal Services	\$880
All Other	1,700

Provides funds for the per diem of
Legislative members and meeting expenses of
the Commission to Study Resolution of
Conflicting Enactments.

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TOTAL	\$2,580
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TOTAL APPROPRIATIONS	\$3,380
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Emergency clause. In view of the emergency cited in the
preamble, this Act takes effect when approved.

STATEMENT OF FACT

This bill establishes an administrative mechanism for the
correction of technical errors and inconsistencies in the Maine
Revised Statutes. Errors such as spelling, history line errors,
headnote changes, erroneous cross-references, renumbering of
sections and the like can be corrected by the Office of the
Revisor of Statutes during the annual update of the statutory
data base. Implementation of nomenclature changes authorized by
revision clauses can be accomplished at the same time. The bill
specifies that administrative corrections are not to be made in
doubtful cases, and sets up mechanisms to provide for legislative
review and adequate publication and citation of these changes.
The purpose is to provide for a more manageable errors bill
process and to avoid the necessity of printing extensive
legislative documents merely to change a term that appears in
many places throughout the statutes.

The bill also establishes the Commission to Study Resolution
of Conflicting Enactments to study whether administrative
correction should be extended to resolution of conflicting
enactments, and whether a rule of construction for conflicting
amendments should be placed in the statutes.

OFFICE OF THE REVISOR OF STATUTES

BILL DRAFT SUMMARY

LR #: 2 ITEM #: 1 TYPE: O

TITLE:

An Act Concerning the Construction of the Maine Revised
Statutes

SPONSOR: Rep. MARSANO of Belfast
COSPONSORS:

LEGEND:

AUTHORITY FOR INTRODUCTION: LBC

DRAFTER: JDK TECH: CLJ

DATE/TIME LAST PRINTED: 04/09/91 19:39

LAST ACTION: PRF/RVPRF 04/09/91

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

4 Sec. 1. 1 MRSA §71, sub-§8 is amended to read:

6 8. Severability. The provisions of the statutes are
8 severable. The provisions of any session law are severable. If
10 any provision of the statutes or of a session law is invalid, or
12 if the application of either to any person or circumstance is
14 invalid, such invalidity shall does not affect other provisions
or applications which can be given effect without the invalid
provision or application. The repeal of a severability clause
located in and applicable to any title or a division of a title,
chapter, section or Act, must be construed as the removal of
surplus language unless the law indicates otherwise.

16 Sec. 2. 1 MRSA §71, sub-§9-A is enacted to read:

18 9-A. Shall; must; may. "Shall" and "must" are terms of
20 equal weight that indicate a mandatory duty, action or
requirement. "May" indicates authorization or permission to act.

22 STATEMENT OF FACT

24 This bill amends the statute governing construction of the
26 laws to clarify that the repeal of a surplus severability clause
28 does not indicate that a construction of nonseverability is
intended and clarifies that "shall" and "must" are mandatory
terms of equal weight.



MAINE STATE LEGISLATURE

Augusta, Maine 04333

April 10, 1991

TO: Sally Tubbesing
Executive Director of the Legislative Council

FROM: David Silsby *DS*

SUBJECT: Front Steps of the State House

In response to our discussion relating to the dangerous condition of the front steps to the State House, Chairman Shettleworth recommends that the steps to the front entrance be posted and closed off. However, in view of a MTA Rally already scheduled and written invites sent out for Tuesday, April 16, 1991, it is recommended that the area be closed to the public following that event.

To follow that action please refer to a January 2, 1991 letter to Sen. Charles Pray, Chairman of the Legislative Council, from the Director of the State Capitol Commission where it was recommended to keep in the Legislative budget for the current fiscal year \$706,597 in landscape construction costs for the Capitol Proper Plan set forth by William Pressley Associates for the Commission. This would provide urgently needed funds for the immediate grounds in front and at the sides of the State House. Included within the plan are steps, walks and fences all long overdue for repair.

In view of potential harm to the public the subject area should remain closed and posted until necessary funding is provided and the repairs completed.

ADDENDUM

**LEGISLATIVE COUNCIL
REQUESTS TO INTRODUCE LEGISLATION
FIRST REGULAR SESSION
April 16, 1991**

Action

SPONSOR: Sen. Foster

LR 2616 An Act to Exempt Federal Payments to
Japanese-American Internees from State Income
Tax Assessment

SPONSOR: Sen. Gauvreau

LR 2623 An Act Concerning Limitations on Actions for
Penalties

Cosponsors: Sen. Clark, Nancy R.
Rep. Paradis, Patrick E.
Rep. Stevens, Patricia M.

SPONSOR: Rep. Gean

LR 2618 An Act to Provide Accountability for Certain
Purchased Services by the Bureau of Mental
Health

SPONSOR: Rep. Lord

LR 2620 An Act Allowing Zoning Boards of Appeal to Grant
Dimensional Variances Based Upon Practical
Necessity

SPONSOR: Sen. Pray

LR 2622 An Act to Amend the Laws Governing the Special
Commission on Governmental Restructuring

ADDENDUM

LEGISLATIVE COUNCIL
REQUESTS TO INTRODUCE LEGISLATION
FIRST REGULAR SESSION
April 17, 1991

Action

SPONSOR: Rep. Anthony

LR 2633 An Act to Require Consent to Adoption Before a
Probate Judge

SPONSOR: Sen. Brawn

LR 2635 An Act to Amend the Laws Governing Safety Standards
for Over the Road Commercial Vehicles

Cosponsors: Sen. Gould, Robert R.
Rep. Macomber

SPONSOR: Sen. Brawn

LR 2636 An Act to Amend the Classification of the
St. George River

Cosponsors: Rep. Whitcomb
Rep. Savage

SPONSOR: Rep. Daggett

LR 2634 An Act to Establish a Sales Tax Exemption for
Disabled American Veterans Organizations Affiliated
with Veterans Administration Hospitals

SPONSOR: Rep. Handy

*LR 2631 An Act to Establish a Professional Standards
Board for Maine Educators

SPONSOR: Rep. Ketover

LR 2632 An Act to Repeal the Laws Allowing the State
to Participate in Lotto America

* Requests with 1 asterisk do not now have enough
information to begin to prepare a draft.

SPONSOR: Rep. Mitchell, James

LR 2626 An Act to Encourage the Preservation of Historic
Tower Clocks

SPONSOR: Rep. Tracy

LR 2629 An Act to Prescribe the Duties and Liabilities
of Ice-skating Rink Operators and Persons Who
Use Ice-skating Rinks

Cosponsors: Rep. Graham
Rep. Sheltra
Rep. Kutasi, Jr.