

MAINE STATE LEGISLATURE

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LEGISLATIVE COUNCIL

JUNE 12, 1991

PRELIMINARY AGENDA

CALL TO ORDER

ROLL CALL

SECRETARY'S REPORT

Summary of June 11, 1991, Council Meeting

EXECUTIVE DIRECTOR'S REPORT

Item #1: Proposed Study Commissions: Analysis of Staffing
Requirements

REPORTS FROM COUNCIL COMMITTEES

OLD BUSINESS

Item #1: After Deadline Requests

NEW BUSINESS

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

JUNE 11, 1991

MEETING SUMMARY

CALL TO ORDER

The Legislative Council meeting was called to order by the Chair, Sen. Pray, at 3:15 p.m., in the Council Chamber.

ROLL CALL

Senators:	Sen. Pray, Sen. Clark, Sen. Webster, Sen. Dutremble, Sen. Cahill
Representatives:	Rep. Martin, Rep. Gwadosky, Rep. Whitcomb, Rep. Mayo, Rep. Marsano
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 Joy O'Brien, Secretary of the Senate

SECRETARY'S REPORT

Motion: That the Summary of the June 5, 1991, Council meeting be approved and placed on file. (Motion by Speaker Martin; second by Rep. Mayo; unanimous).

EXECUTIVE DIRECTOR'S REPORT

Sally Tubbesing, Executive Director, reported that of the bills remaining in committee, about half were recommitments. There was brief discussion about the specific bills that remained in committee and the prognosis for getting them out on the floor.

No Council action required.

REPORTS FROM COUNCIL COMMITTEES

Sen. Pray reported that he had received a letter from Jim Sanders, the General Manager of WGME-TV, who reported that having looked at his newly-assigned space carefully, he did not think that it would be possible to share the dark room with Mike Brown of the Ellsworth American.

This was an informational item; no Council action was required.

OLD BUSINESS

None.

NEW BUSINESS

Item #1: Requests to Carry Over Legislation to the Second Regular Session

Motion: That the pending requests be approved. (Motion by Speaker Martin; second by Rep. Mayo, unanimous).

NOTE: A list of the bills carried over by this action is attached to these minutes.

Item #2: After Deadline Requests

A summary of the Council's action on After Deadline Requests is attached.

ANNOUNCEMENTS AND REMARKS

Sen. Pray notified members that the Council would meet the next day (Wednesday, June 12) to consider proposed studies, noting that the Council's primary focus was on the funding and legislative staff requirements. Speaker Martin noted that his Legal Counsel, Jon Hull, had identified several study bills that raised policy issues, the foremost being the funding mechanism. Due to the budget situation, committees have sought other means to fund studies than a General Fund appropriation; however, some of these raise potential conflict issues which need to be looked at more carefully. These bills have subsequently been tabled in the House.

ADJOURNMENT

The Legislative Council meeting was adjourned at 3:35 p.m. on the motion of Sen. Dutremble.

PROPOSED STUDIES/STUDY COMMISSIONS

I. Legislative Staff Roles and Estimated Time Requirement

A. Staff Study

These are studies conducted by an analyst on behalf of a committee. Working on an issue defined by the committee, the analyst may collect and organize information, surveys, other states' approaches, conduct legal research and/or develop options for further legislative consideration. The final product is a report to the Committee

Average Staff Effort: 6 weeks

B. Council-authorized Interim Study

These are studies by a subcommittee (generally 5 members) of a joint standing committee on an issue that has emerged from the committee's work during the session. The scope of the study may be limited to a specific LD, but often attempts to put the LD in context of the broader policy issue.

Staff work includes working with the subcommittee chair to organize and schedule the work; research and preparation of materials for subcommittee meetings; assisting subcommittee to reach closure on findings, conclusions and recommendations; and preparation of a final report and draft legislation for the subcommittee's consideration.

Average Staff Effort: 8 weeks

C. Statutory Study

Studies are generally performed by a study commission that includes legislators and may also include, representatives from the executive branch, from particular interest groups, and from the general public. Staff work is similar to that performed for Council-authorized studies except that the issues are usually broader, the commission has a larger number of members, and the members are less familiar with the legislative process. Proposed study commissions range in size this year from 7 to 25 members.

Average Staff Effort: 12 weeks

D. Drafting Legislation

Virtually every bill creating a study commission of any variety includes specific language authorizing the commission to recommend legislation. Even if the Council does not assign staff, the drafting of this legislation inevitably becomes part of the fall bill drafting load.

In addition, many bills authorize departments or legislative committees to report out legislation without creating a special study commission to do this. OPLA and the Revisor's Office are often asked to draft the legislation initially; but, in all cases, one of these offices is responsible for reviewing the proposed draft and, in many cases, undertaking an extensive redrafting effort.

Average Staff Effort: 2 weeks

E. Consultant/Contract Management

Studies that rely on consultants and other contractual arrangements as the primary staff resource do not eliminate the need for legislative staff involvement in the study; indeed, both the Council's Guidelines for Budget and Expenditure Reporting and the Procedures for Solicitation and Selection of Contractors define part of the legislative staff role. Legislative staff are, as a rule, involved in the following activities related to consultant and/or contract management:

- * Developing a Request for Proposal. This involves essentially staffing the study commission in its initial phase of work.
- * Staff support in proposal/qualifications evaluation and consultant selection
- * Liaison with the consultant/contractor. Legislative staff are a primary information resource, regardless of who is actually staffing the study.
- * Fiscal analysis to assist the study commission to assess the financial impact of their proposals and alternative funding mechanisms.
- * Review and revision of draft legislation.
- * Administrative support, including budget and accounting; scheduling meetings; and preparing any reports that may be required by an outside funding source.

Average Staff Effort 2-8 weeks

STATUTORY STUDY COMMISSIONS

Issues

1. Staffing

- Opportunities exceed resources available
- The implicit requirements for legislative staffing
- Issues of Co-staffing

2. Authorization to Recommend Legislation

- Impact on Second Regular Session workload

3. Report Date

6/12/91

SENATE

N. PAUL GAUVREAU, DISTRICT 23, CHAIR
 GEORGETTE B. BERUBE, DISTRICT 16
 MURIEL D. HOLLOWAY, DISTRICT 20



HOUSE

PATRICK E. PARADIS, AUGUSTA, CHAIR
 CONSTANCE D. COTE, AUBURN
 PATRICIA M. STEVENS, BANGOR
 CUSHMAN D. ANTHONY, SOUTH PORTLAND
 SUSAN FARNSWORTH, HALLOWELL
 MARY R. CATHCART, ORONO
 ANDREW KETTERER, MADISON
 DANA C. HANLEY, PARIS
 JOHN H. RICHARDS, HAMPDEN
 DAVID N. OTT, YORK

STATE OF MAINE
 ONE HUNDRED AND FIFTEENTH LEGISLATURE
 COMMITTEE ON JUDICIARY

June 12, 1991

President Charles P. Pray, Chair
 Legislative Council
 115th Maine Legislature

Re: Judiciary Committee staff study request: Resolution of conflicting enactments

Dear President Pray:

The Joint Standing Committee on Judiciary requests approval of a staff study to carry out the purposes of the study originally proposed in LD 1718, 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. The Committee amended LD 1718 to delete the study commission, with the agreement that the study would still occur as a staff study.

LD 1718 provides for the administrative correction of technical errors in the statutes without going through the process of an Errors Bill. LD 1718 deferred resolving how conflicting enactments affecting the same section should be corrected to the Commission to Study Resolution of Conflicting Enactments. The two major questions the Commission was to answer are: 1) Whether administrative correction of errors and inconsistencies in the Maine Revised Statutes should be extended to conflicting enactments; and 2) Whether there is a need to enact a statutory rule of construction to aid in the resolution of conflicting enactments. The Judiciary Committee determined that a staff study could serve the same purposes as a commission study, plus would not necessitate the \$3,380 appropriation included in the original bill.

While we do not expect the staff study to result in recommendations, the study should provide the Judiciary Committee with all the information necessary to consider the two questions and take any action, including reporting out legislation, necessary to implement the Committee's conclusions. We recommend that the staff of the Office of Policy and Legal Analysis, in conjunction with the Office of the Revisor of Statutes, do the following in preparing the Judiciary Committee to answer the two basic questions posed by the bill:

1. Procure and analyze relevant data;
2. Conduct legal research and prepare opinions on legal questions within the scope of the study;
3. Determine and summarize the legislative actions, statutes and rules adopted in other jurisdictions related to issues within the scope of the study; and
4. Report to the Joint Standing Committee on Judiciary no later than November 1, 1991.

Thank you for your consideration of our request for this staff study.

A handwritten signature in dark ink, appearing to read "N. Paul Gauvreau".

N. Paul Gauvreau
 Senate Chair

Sincerely,

 A handwritten signature in dark ink, appearing to read "Patrick E. Paradis".
 Patrick E. Paradis
 House Chair

I. STUDIES ENACTED AND/OR UNDERWAY

Study Commission	Primary Staffing	Legislative Staffing	Legislative Staff FTE	Funding
Commission to Study and Evaluate the Status of Education Reform in Maine Resolves 1989, C. 88	Consultant; UMS	Manage consultant; Review draft legislation (OPLA)	6 weeks	Transfer balance from a completed study (GF)
Special Commission on Governmental Restructuring P.L. 1991, c. 139	Leg. Council	OPLA/OFPR	48 weeks	\$25,000 (GF)
Annual Report From ENR Committee to Appropriations Committee re Bureau of Public Lands Budget P.L. 1991, c. 192	OPLA	OPLA	1 week	Legislature (absorbed)
Commission to Investigate Census Data LD 1892 (enacted)	Leg. Council	?	?	Legislature (absorbed)
Identification of Municipal Fiscal Impact P.L. 1989, c. 922	Leg. Council	OFPR	2 FTE (year round)	No new positions have been budgeted; could reassign existing Audit positions as an alternative

NOTE: This is an ongoing statutory commitment

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POTENTIAL

Staff Study of the Resolution of Conflicting Enactments LD 1718	Leg. Council	Revisor/OPLA	6 weeks	Legislature (absorbed)
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II A. STUDIES/COMMISSIONS THAT PROPOSE
LEGISLATIVE STAFFING

Study Commission	Leg Staffing	Leg FTE	Funding
Commission to Study Maine's Oil Spill Clean-up Preparedness (re-established) LD 246	Leg. Council	12 Weeks	Balance of appropriation from "Phase I" (Dedicated)

Lobster Management Task Force LD 967	Leg. Council	12 weeks	\$9,000 (GF)
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NOTE: a) Report date is confused
b) No Emergency Preamble

Staff Study of Federal Law & the Constitution of Maine vis a vis the Provision of Information to Patients & Potential Patients Concerning Physicians LD 1179	OPLA Staff Study	6 weeks	None
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Commission to Study the Need for a Technical College in York County LD 1604	No provision	12 weeks	Council may seek outside funding
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Joint Select Committee to Develop a Plan for a Statewide Health Insurance Program LD 1727	Leg. Council (implicit)	12 weeks	\$80,000 (GF)
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NOTE: Report dates are 1/1/92 (report)
and 7/1/93 (legislation)

6/12/91

II A. STUDIES/COMMISSIONS THAT PROPOSE
LEGISLATIVE STAFFING (Cont)

Study Commission	Leg Staffing	Leg FTE	Funding
Commission to Study State Permitting & Reporting Requirements LD 1769	Leg. Council (1/3); Business community (2/3)	12 weeks	\$2,710 (GF)

NOTE: Staffing provision

Commission to Study Secondary Vocational & Technical Education in Maine LD 1809	Leg. Council unless find funding to hire consultants	4-12 weeks	Commission may seek outside funding or technical assistance
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NOTE: Report date is 2/15/92

Federal & Dedicated Funds Subcommittee LD 1819	Leg. Council	12 weeks OFPR	\$4,150 (GF/1991)
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NOTE: This establishes a permanent subcommittee of the
Appropriations Committee

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STILL UNDER CONSIDERATION

Select Committee on the Reorganization of Natural Resource Management and Regulation/Technical Advisory Committee on the Formation of the Department of Natural Resources LD 1915	Leg. Council (also, consultants & state agencies)	16 weeks	None
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Workers' Comp Bill (Banking & Insurance)

a. Establishment of 3-member insurance commission	Staff Study	OPLA 6 weeks	None
b. Establishment of Public Advocate for Insurance	Staff Study	OPLA 6 weeks	None

6/12/91

II B. STUDIES/COMMISSIONS THAT CREATE A CONTRACT
MANAGEMENT ROLE FOR LEGISLATIVE STAFF

Study Commission	Primary Staffing	Legislative Staffing	Leg FTE	Funding
Commission to Study the Use of Professional Strikebreakers LD 199	Contractual	Manage consultants; Review draft legislation	6 weeks	\$7,690 (GF)
Primary Care Residence Commission LD 999	Contract	Manage consultant; Review draft legislation	6 weeks	(Doctors may raise outside funding) Council to administer
Special Committee on the New Capital Area Master Plan (extends PL 1989 c. 60) LD 1345	Consultants	Manage contracts; draft legislation	2 weeks	\$250,000 (GF)
Commission to Study the History, Status, Impact & Role of Independent Higher Education in Maine LD 1452	Consultant	Manage contract; draft legislation	4-6 weeks	(Outside funding currently being sought) Council to administer
Independent Review of DHS LD 1455	Consultant	Manage contract; draft legislation	6-8 weeks	Up to \$125,000 (surcharge on revenue collections)
NOTE: Bill has no explicit provision for oversight by Council or other legislative entity				
Recodification of Motor Vehicle Laws LD 1787	Contractual	Review & revise draft	4 weeks Revisor; OPLA	None

III. STUDIES/COMMISSIONS REQUIRING DRAFTING ASSISTANCE

Study Commission	Primary Staffing	Legislative Staffing	FTE	Funding
Commission to Study a Long-term Disability Program for the Maine State Retirement System Members LD 770	MSRS Staff; Actuary	Review draft legislation	2 weeks	MSRS
NOTE: Report date is 12/1/91				
Commission on Electric Utilities and Long-Range Energy Production Planning LD 774	SPO	Drafting	2 weeks	\$43,525 (GF)
NOTE: Report date is 2/1/92				
Task Force on Local Public Employee Collective Bargaining LD 932	MLRB	Review draft legislation	2 weeks	\$8,900 (GF)
NOTE: No specific report date				
Commission to Study the Safe Operation of Truck Tractors LD 1260	DOT	Review draft legislation	2 weeks	DOT (absorbed)
NOTE: Report date (legislation) is 2/19/92				
Study of Motorcycle Driver Education LD 1499	Sec. of State	Review draft legislation	2 weeks	
NOTE: a) Report date is 3/1/92 b) Need to clarify where members file expenses				
Commission to Study the Feasibility of a Capital Cultural Center LD 1705	UMA	Review draft legislation	2 weeks	UMA (absorbed)

III. STUDIES/COMMISSIONS REQUIRING DRAFTING ASSISTANCE (Cont)

Study Commission	Primary Staffing	Legislative Staffing	Leg FTE	Funding
Maine Criminal Justice Commission LD 1729	Hire staff	Review draft legislation	2 weeks	Authorized to seek outside funding
Academy for Public Service Study Committee LD 1782	Dept. of Admin.	Review draft legislation	2 weeks	None
NOTE: Report date is 11/1/92				
Commission on Maine Lakes LD 1789	Legislative	Drafting legislation (Revisor)	3 weeks	(Balance of original appropriation)
Commission to Arrange for the Display of the Flags of Maine Desert Storm Units in the Hall of Flags LD 1862	Not specified	?	?	None
Revise Statutes to Incorporate "People First" Language LD 1845	Staff Study	Revisor 2 weeks (attorney & paralegal time)	\$5,800 (GF)	
Commission to Study Retirement Benefits LD 1935	MSRS	Review draft legislation	2 weeks	MSRS (absorbed)

NOTE: Report date is 12/1/91