MAINE STATE LEGISLATURE

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JUNE 24, 1991 AGENDA

CALL TO ORDER

ROLL CALL

SECRETARY'S REPORT

EXECUTIVE DIRECTOR'S REPORT

OLD BUSINESS

Item #1: Review of Pending Study Requests

NEW BUSINESS

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

Item #2: After Deadline Requests

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

JUNE 18, 1991 MEETING SUMMARY APPROVED JUNE 24, 1991

CALL TO ORDER

The Legislative Council meeting was called to order by the Chair, Sen. Pray, at 2:11 p.m., in the Legal Affairs Committee Room (Room 436, State House).

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 Martha Freeman, Director, Office of

Policy and Legal Analysis

David Kennedy, Revisor of Statutes Richard N. Sawyer, Administrative

Services Director

SECRETARY'S REPORT

None.

EXECUTIVE DIRECTOR'S REPORT

None.

REPORTS FROM COUNCIL COMMITTEES

None.

OLD BUSINESS

Item #1: Review of the Legislative Budget

Sally Tubbesing, Executive Director, drew Council members' attention to an analysis of Current Balances in Allotment Reserve for the General Legislative Account that she and Dick Sawyer had prepared in response to information requests made at the previous day's Council meeting.

Ms. Tubbesing explained that funds in Allotment Reserve represented funds that were a part of the Legislature's FY 1991 appropriation that had originally been allocated to one of the first three quarters of the current fiscal year, but had not been spent in the quarter in which they were allocated. She explained that she and Dick Sawyer intentionally "front load" the allocation plan -- or work program -- for the legislative account in order to ensure that sufficient funds will be available for unanticipated expenditures such as special sessions. Thus, a balance in Allotment Reserve is expected in most years, and the funds are generally required to fully fund the fourth quarter.

The current Allotment Reserve is unusually high this year due to the fact that the Legislature has sustained low levels of expenditure throughout the year through a variety of cost savings measures. Based on an analysis of the funds required to complete the current fiscal year and a small contingency amount to fund 2 additional special session days in FY 1992 (requested at the June 17 Council meeting), Ms. Tubbesing reported that she and Mr. Sawyer estimate that between \$2.2 and \$2.4 million originally budgeted for the current year will not be used to meet obligations in the current year.

Motion: That the Legislative Council authorize \$2.4 million to lapse from the Legislative account to the General Fund. (Motion by Speaker Martin; second by Sen. Clark).

After brief discussion about whether the Council should give up the money before June 30, Speaker Martin withdrew his motion.

Motion: That the Legislative Council reduce the FY 1992 budget request by \$2.4 million. (Motion by Speaker Martin).

The motion received no second and was withdrawn.

Motion: That the Legislature's FY 91 budget, for the period ending June 30, 1991, be reduced by \$2.4 million and that said amount be carried over for the purpose of being applied to the Legislature's 1992-93 biennial budget. (Motion by Speaker Martin, second by Sen. Clark; approved 8-1).

Motion: That the Maine-Canadian Legislative Advisory Office be eliminated effective July 1, 1992, with the provision that the functions currently assigned to this office be appropriately relocated to other units of state government. (Motion by Rep. Whitcomb; second by Rep. Marsano).

Discussion: The Chair, Sen. Pray, asked whether the motion was appropriate given that the statute (3 MRSA § 223) had been amended in recent years to give the Speaker of the House day-to-day supervision over the Office. Rep. Gwadosky responded that the Council did not have the authority to eliminate the position, but did have the authority to reduce the legislative budget request.

EXECUTIVE SESSION

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

The Council proceeded to go into Executive Session at 2:58 p.m.

RECONVENE

The Council reconvened in public session at 3:24 p.m. (Motion by Sen. Dutremble; second by Sen. Webster)

Rep. Whitcomb withdrew the motion he had offered previously.

OLD BUSINESS/Item #1 (cont.)

Motion: That the Legislative budget include funding for the Maine-Canadian Office as originally budgeted for Fiscal Year 1992 and that the relocation of functions currently assigned to the Office be referred to the Special Commission on Governmental Restructuring. (Motion by Rep. Gwadosky; second by Rep. Marsano).

Discussion Sen. Clark inquired whether it was the intent of the motion to terminate the Maine-Canadian Office on June 30, 1992. The Chair, Sen. Pray, clarified that the Special Commission is required by law to submit its final report to the Legislature by December 15, 1991.

The Motion was approved 6-2.

Award of 3% Cost-of-Living Increase to Legislative Employees

Ms. Tubbesing distributed a listing of Employees Occupying Positions listed in Titles 2 and 5 MRSA, with both their current salary and most recent salary action, noting that the information had been provided by the Office of Fiscal & Program Review and that Mr. Sawyer had had an opportunity to verify only a few of these with the Bureau of Human Resources. Based on those few, however, it appeared that all of these employees had received the 3% cost-of-living increase awarded in April, 1990, but had not received either of the 2 subsequent cost-of-living increases (October, 1990, and April, 1991). In addition, a few of these employees had received step increases, but a majority appeared not to have.

Motion: That the Legislature's FY 1992-1993 biennial budget request be reduced by \$400,000 to eliminate the amount originally budgeted to fund the 3% increase. (Motion by Sen. Webster; second by Rep. Marsano).

Sen. Webster then withdrew his motion.

Motion: That all legislative employees who earn \$25,000 or less be awarded the 3% increase. (Motion by Sen. Webster; there was no second).

Discussion: The ensuing discussion of the motion centered on the following points:

• That any Council decision to award the cost-of-living increase to some, but not all, legislative employees should be tied to salary ranges rather than to a specific dollar amount in order to preserve the integrity of the salary ranges and equity, both among legislative employees and between the legislative branch and the executive branch. (Sen. Pray). This point was expanded upon later in the discussion by Rep. Mayo, who noted that, while a separate branch of state government, the Legislature is, nevertheless, an integral part of state government and that its employees need and deserve to be treated like other state employees.

- Concern about voting for a budget that includes salary increases. (Sen. Webster; Rep. Whitcomb).
 - Employees making more than \$25,000 should simply be grateful to have a job and not expect cost-of-living increase at this time. (Sen. Webster).
 - Rep. Whitcomb then suggested a \$40,000 salary ceiling above which legislative employees would not get the increase, noting that this would affect about 33 employees.
- Suggestion that the award of the 3% cost-of-living increase be tied to furlough days as it had been elsewhere in state government. (Sen. Dutremble). Rep. Mayo responded that, in no case, had the 3% been tied to furlough days. Rep. Gwadosky also noted that the Personnel Committee had studied the issue of furloughs earlier in the spring and concluded that furlough days would actually cost the Legislature more in the end than simply awarding the increase.
- Concern that the Council had already achieved cuts through savings in other expenditure lines in order to preserve the 3% increase. (Sen. Clark).
- Concern that some state employees included on the list of Title II and Title V positions had not received step increases for several years. (Sen. Clark). Sen. Pray observed that this issue was one that leadership might discuss, but was not one in which the Council had a role.

Finally, the Executive Director was asked to develop information regarding the costs associated with implementing each of the following options:

- Award COLA's in accordance with the policy applied to confidential employees.
- Award in accordance with the policy applied by the Governor to his personal staff (i.e. only to those earning \$30,000 or less)
- 3. Award to all legislative employees

In addition, Ms. Tubbesing was asked to factor in 2 different implementation dates for each of the options -- April 1 and July 1. Further discussion and final action on this issue were tabled by consensus until the cost information was available.

* * *

Rep. Whitcomb noted his desire to bring up 2 other budget lines for further review and discussion:

1. Out-of-State Travel

Motion: That the budget for out-of-state travel be reduced to \$175,000 in both FY 92 and FY 93. (Motion by Rep. Mayo; second by Rep. Whitcomb).

Discussion: Rep. Gwadosky noted that it was important for the Governor's travel budget to be scrutinized as well and that cutting the Legislature's budget simply for the sake of perception is not good policy.

Rep. Whitcomb noted that he had planned to propose a larger reduction than stated in the motion, but was willing to compromise given the Council's prior action on the allotment reserve.

The motion was approved unanimously.

2. In-State Travel

Rep. Whitcomb expressed concern that the statute currently allows legislators who live within 50 miles of Augusta to collect the lodging allowance even though they may commute daily. He suggested that the statute be amended to exclude legislators living under a certain number of miles away from Augusta from claiming lodging except under extraordinary circumstances (e.g. weather conditions; age; impairment; late night sessions).

Discussion focused on the fact that those legislators "under 50 miles" are subject to different deduction standards by the IRS. (Rep. Mayo).

Motion: That the Chair appoint a subcommittee to review the current law and policies governing reimbursement for in-state travel. (Motion by Sen. Dutremble; second by Rep. Whitcomb).

Discussion: Rep. Gwadosky, noting that he had been seeking alternatives to the current reimbursement policies for the last 2 years, expressed support for the subcommittee approach but concern that this could not be worked out quickly enough to incorporate changes into the budget currently under consideration.

Council members agreed by consensus that the subcommittee should work over the summer with the objective of making any changes in reimbursement law and policies effective with the beginning of the Second Regular Session.

The vote on the motion was approved unanimously by those present, 7-0.

NEW BUSINESS

Items #1: After Deadline Requests

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

ANNOUNCEMENTS AND REMARKS

The Chair, Sen. Pray, announced that the Council would meet at 1 p.m. the following day (June 19) to continue its discussion of the legislative budget.

ADJOURNMENT

The Legislative Council meeting was adjourned at 4:20 p.m. (Motion by Sen. Clark; second by Rep. Marsano).

LEGISLATIVE COUNCIL ACTION ON REQUESTS TO INTRODUCE LEGISLATION FIRST REGULAR SESSION June 18, 1991

Action

SPONSOR: Sen. Dutremble

ACCEPTED

LR 2780 An Act to Amend the Maine Administrative

Procedures Act

Cosponsors Rep. Lord

Sen. Cahill Rep. Gray

- I. STUDIES ENACTED AND/OR UNDERWAY
- II. A. STUDIES/COMMISSIONS THAT PROPOSE LEGISLATIVE STAFFING
 - B. STUDIES/COMMISSIONS THAT CREATE A CONTRACT MANAGEMENT ROLE FOR LEGISLATIVE STAFF

These studies are conducted during the interim (115th 1st: July-November). They call upon a range of staff services from OPLA, OFPR, and ROS: organizing meetings, gathering and analyzing information, developing options, managing consultants, developing fiscal notes, writing reports and legislation. Depending on the type (staff, subcommittee, commission) and scope of a study, between 6 to 12 weeks of professional staff time are devoted to it.

POSSIBLE AMENDMENT TO STUDY FUNDING SOURCE LANGUAGE

Funding. The Legislative Council may seek outside sources of funding to finance the activities of the commission. The Legislative Council may authorize the commission to develop funding proposals. The Executive Director of the Legislative Council shall review and approve any proposal prior to its submission to a funding source. Prior to approving a funding source, the Legislative Council shall examine whether accepting funds from this source will risk the appearance of or actual undue influence upon the study. If the Legislative Council determines that accepting funds from the source will cause this risk, the Legislative Council may not approve the funding source. The Legislative Council shall administer any outside funds acquired for the conduct of the study. Administration of these funds includes the authority for the Executive Director of the Legislative Council to approve or disapprove any contract for assistance to the study in accordance with guidelines adopted by the Legislative Council. Expenditures may not be incurred that have an impact on the General Fund. Expenditures may not be incurred relative to this study unless funding from outside sources has been received by the Legislative Council.

III. STUDIES/COMMISSIONS REQUIRING DRAFTING ASSISTANCE

While these studies are conducted during the interim, they are primarily staffed by departments. The legislative staff is called upon to assist with the drafting of final legislation for these studies during the drafting season (115th 2nd: November -February). This drafting assistance by ROS, OPLA, and OFPR takes several forms: technical and substantive review of a department draft, developing fiscal notes, drafting of legislation from recommendations, attending final meetings to assist with legislation development. level of legislative staff drafting assistance needed depends on the legislators and other study group members involved, the skills of the departmental staff, and the scope of the study. Since the actual composition of these study groups and the staffing are not yet known, it is difficult to ascribe a reliable estimate of legislative staff time to be devoted to these efforts. As a general estimate, 2 weeks of professional staff time are needed for the average study requiring drafting assistance; however, for a particular study the actual assistance required may be more or less.

STUDIES/COMMISSIONS REQUIRING DRAFTING ASSISTANCE

Primary Staffing Funding Study Commission **MSRS** Commission to Study a Long-term MSRA Staff; Actuary Disability Program for the Maine State Retirement System Members LD 770 NOTE: Amend to correct reporting date (Currently 12/1/91) SPO \$43,525 (GF) Commission on Electric Utilities and Long-Range Energy Production Planning LD 774 NOTE: Amend to correct reporting date (Currently 2/1/92) Task Force on Local Public Employees MLRB \$8,900 (GF) Collective Bargaining LD 932 NOTE: Amend to correct reporting date (Does not include a specific date) Commission to Study the Safe Operation DOT DOT (absorbed) of Truck Tractors LD 1260 NOTE: Report date (legislation) is 2/19/92 Amend to correct reporting date and to remove Legislative Council member Study of Motorcycle Driver Education Sec. of State LD 1499 **ENACTED** (Report date is 3/1/92) Commission to Study the Feasibility of a Capital Cultural Center UMA UMA (absorbed)

LD 1705

Revised 6/20/91

STUDIES/COMMISSIONS REQUIRING DRAFTING ASSISTANCE (Cont)

Study Commission **Primary Staffing** Funding Authorized to seek outside Maine Criminal Justice Commission Hire staff LD 1729 funding **ENACTED** Dept. of Admin. Academy for Public Service Study None Committee LD 1782 NOTE: Report date is 11/1/92 (Balance of original Commission on Maine Lakes Legislative LD 1789 appropriation) **ENACTED** Commission to Arrange for the Display of the Flags of Maine Desert Storm Units in the Hall of Flags LD 1862 Not specified None **ENACTED** Revise Statutes to Incorporate "People First" Language Staff Study (GF) LD 1845 **CARRYOVER** Commission to Study Retirement Benefits MSRS (absorbed) MSRS LD 1935

NOTE: Amend to correct reporting date (Currently 12/1/91)

I. STUDIES ENACTED AND/OR UNDERWAY

Study Commission	Primary Staffing	Legislative Staffing	Funding	Membership	Compensation
Commission to Study and Evaluate the Status of Education Reform in Maine Resolves 1989, C. 88 (See also LD 366)	Consultant; UMS	Manage consultant; Review draft legislation (OPLA)	Transfers balance from a completed study (GF)	19 total 4 legislators	Per diem; expenses
NOTE	: Amend for reporting date funding oversight, and s	es outside session staffing		. :	
Special Commission on Governmental Restructuring P.L. 1991, c. 139	Leg. Council	OPLA/OFPR	\$25,000 (GF)	22	Expenses
NOTE	: Underway!				
	4-1			······	
Annual Report From ENR Committee to Appropriations Committee re Bureau of Public Lands Budget P.L. 1991, c. 192	OPLA	OPLA ·	Legislature (absorbed)	(Committee)	Per diem; expenses
		•			
Commission to Investigate Census Data LD 1892 (enacted)	Leg. Council	?	Legislature (absorbed)	9 total; # of legislators not defined	None
Identification of Municipal Fiscal Impact P.L. 1989, c. 922	Leg. Council	OFPR	No new positions have been budgeted; could reassign existing Audit positions as an alternative	 N/A	N/A
NOTE	: This is an ongoing statu	itory commîttee	*		·
		* * * * * * * * * * * * * * * * * * *	. * * * *		
	•				
POTENTIAL		•			•
Staff Study of the Resolution of Conflicting Enactments LD 1718	Leg. Council	Revisor/OPLA	Legislature (absorbed)	N/A	N/A

Revis ~/20/91

II A. STUDIES/COMMISSIONS THAT PROPOSE LEGISLATIVE STAFFING

Study Commission	Legislative Staffing	Funding	Membership	Compensation
Commission to Study Maine's Oil Spill Clean-up Preparedness (re-established) LD 246	Leg. Council	Balance of appropriation from "Phase I" (Dedicated)	15 total; 2 legislators	Per diem; expenses
				<u>-</u>
Lobster Management Task Force LD 967	Leg. Council	\$9,000 (GF)	Committee on Marine Resources	Per diem; expenses
NOT	E: Amend to provide interi	n-only staffing	a.	
Staff Study of Federal Law & the Constitution of Maine vis a vis the Provision of Information to Patients & Potential Patients Concerning Physicians	OPLA staff Study	None	N/A	N/A
LD 1179 NOTI	E: Council 6/13: Amend Stat	ff Study out		
			· .	······································
Commission to Study the Need for a Technical College in York County LD 1604	No provision	\$500 (GF) Council may seek outside funding	8 total; 4 legislators	No provision
NOTE	E: 1) Amend to provide over outside funding 2) Provide staffing from College System (Counc	ı Technical		`.
				
Joint Select Committee to Develop a Plan for a Statewide Health Insurance Program LD 1727	Leg. Council (implicit)	Council may seek outside funding up to \$80,000 \$13,920 (GF)	<pre>16 total; 13 legislators</pre>	Per diem; expenses
·	: Amond for reporting date	or and Council	•	

NOTE: Amend for reporting dates and Council oversight of funding. Will require additional staff during session.

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

Study Commission	Legislative Staffing	Funding	Membership	Compensation
Commission to Study State Permitting & Reporting Requirements LD 1769	Leg. Council (1/3); Business community (2/3)	\$2,710 (GF)	9 total; 3 legislators	Per diem; expenses
NOTE:	: Amend to correct staffing and reporting date	provision		
Commission to Study Secondary Vocational & Technical Education in Maine LD 1809	Leg. Council unless find funding to hire consultants	Commission may seek outside funding or technical assistance	15 total; 3 legislators	Per diem; expenses
NOTE	: Amend to correct report d provide oversight of outs			
Federal & Dedicated Funds Subcommittee LD 1819	Leg. Council	\$4,150 (GF/1991)	5 legislators	Per diem; expenses
NOTE:	: This establishes a perman Appropriations Committee	ent subcommittee of the		
Staff Study of the Drugs for Maine's Elderly Program (Request from Human Resources Committee)	Leg. Council	Legislature (absorbed)	N/A	N/A
,	*	* * * * * * * * * * * * * * *	* * * *	
STILL IN COMMITTEE		. !	•	
Special Select Committee on the Reorganization of Natural Resource Management and Regulation	Leg. Council (also, consultants & state agencies)	\$29,175 (GF)	15 legislators	Per diem; expenses
Technical Advisory Committee on the Formation of the Department of Natural Resources LD 1915			<pre>14 total; ? legislators</pre>	Per diem; expenses
Workers' Comp Bill (Banking & Insurance)				· ·
a. Establishment of 3-member insurance commission	Staff Study	None	N/A	N/A
 Establishment of Public Advocate for Insurance 	Staff Study	None	N/A	N/A

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

Study Commission	Primary Staffing	Legislative Staffing	Funding	Membership	Compensation
Commission to Study the Use of Professional Strikebreakers LD 199	Contractual	Manage consultants Review draft legislation	\$7,690 (GF)	7 total; 3 legislators	Per diem; expenses
NOT	E: Amend to provide over	sight of contracting			
	•				
				-	:
Primary Care Residence Commission LD 999	Contract	Manage consultant; Review draft legislation	(Doctors may raise outside funding) Council to administer	25 total; 6 legislators	Expenses
ют	E: Amend to correct repo to provide oversight	rting dates and			
	co provide oversight	or outside randing			
	***************************************			na-quanta	
Special Committee on the New Capital Area Master Plan (extends PL 1989 c. 60) LD 1345	Consultants	Manage contracts; draft legislation	\$250,000 (GF)		Per diem; expenses
		•			
Commission to Study the History, Status, Impact & Role of Independent Higher Education in Maine LD 1452	Consultant	Manage contract; draft legislation	(Outside funding currently being sought) Council to administer	9 total;	Per diem; expenses
ют	E: Amend to provide over:	sight of outside funding			
	. <u> </u>				
Independent Review of DHS LD 1455	Consultant	Manage contract; draft legislation	Up to \$125,000 (surcharge on revenue collections)	No provision	No provision
NOT!	E: Amend to provide overs (or a subcommittee)	sight by Council			
			·		
Recodification of Motor Vehicle Laws LD 1787	Contractual	Review & revise draft	None	N/A	N/A

Legislative Council Requests to Carry Over Bills to the Second Regular Session

DB: TEST5 RPT: SPEC04

June 24, 1991

Committee Name	Title	Sponsors
,		
Judiciary	•	•
L.D. 1952	An Act Regarding the Crime of Prostitution	KILKELLY
		PARADIS P
		SUMMERS
		MARTIN J

--- End of Report ---

Legislative Council Action on Requests to Carry Over Bills to the Second Regular Session

June 24, 1991

Committee Name	Title	Sponsors	Action
•			
Judiciary			
L.D. 1952	An Act Regarding the Crime of Prostitution	KILKELLY	Tabled
		PARADIS P	
		SUMMERS	
		MARTIN J	

DB: TEST5

RPT: SPEC04

--- End of Report ---

LEGISLATIVE COUNCIL REQUESTS TO INTRODUCE LEGISLATION FIRST REGULAR SESSION June 24, 1991

Action

SPONSOR: Sen. Cahill, Pamela L.

LR 2788 An Act to Allow a Referendum in Sagadahoc County
Regarding a Bi-County Work Center with Kennebec
County

Cosponsors: Rep. Coles
Rep. Small
Rep. Chonko

SPONSOR: Rep. Tardy

LR 2789 An Act Regarding Simulcasting of Harness Racing

SPONSOR: Sen. Gauvreau

LR 2791 An Act to Authorize the Establishment of a Violations Bureau in the District Court

Cosponsors: Rep. Paradis, Patrick E. Sen. Holloway

Rep. Ott