

# MAINE STATE LEGISLATURE

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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

## **MEETING SUMMARY**

**Monday, November 11, 1991**

**Approved January 8, 1992**

### **CALL TO ORDER**

The Legislative Council meeting was called to order by the Chair, Senator Pray, at 10:17 a.m.

### **ROLL CALL**

<b>Senators:</b>	Sen. Pray, Sen. Clark, Sen. Webster, Sen. Dutremble, Sen. Cahill
<b>Representatives:</b>	Rep. Martin, Rep. Gwadosky, Rep. Whitcomb, Rep. Mayo, Rep. Marsano
<b>Legislative Officers:</b>	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 Edwin Pert, Clerk of the House Richard N. Sawyer, Jr., Administrative Services Director

## SECRETARY'S REPORT

The Summary of the October 27, 1991, Council meeting was approved and placed on file. (Motion by Speaker Martin; second by Sen. Cahill; unanimous).

## EXECUTIVE DIRECTOR'S REPORT

None.

## REPORTS FROM COUNCIL COMMITTEES

### Committee on the Legislative Budget

The Committee's report, the ensuing discussion, and the Council's formal actions are all summarized below.

## OLD BUSINESS

### Item #1: Proposed Amendment to Procedures for Council Review and Approval of Applications to Use Capitol Park

Sally Tubbesing provided Council members with an overview of the materials that had been distributed, which included a copy of the Administrative Rules promulgated by the Department of Public Safety regarding security in the Capitol Area and a copy of an amendment proposed by Senator Cahill. Sen. Cahill's concern had been that the procedures for reviewing and approving applications to use Capitol Park, which the Council had adopted previously, contained no specific guidelines regarding the types of use that would be permitted. Speaker Martin pointed out that, legally, these rules no longer apply to Capitol Park since the statute establishing the State House and Capitol Park Commission (3 MRSA § 902 et seq.) gives the Legislative Council jurisdiction over the State House and the immediate grounds, including Capitol Park. After some further discussion, consensus seemed to emerge that the restrictions embodied in the rules by the Department of Public Safety covered the concerns of various Council members.

**Motion:** That the Council authorize the Executive Director to promulgate rules in accordance with the Administrative Procedures Act regarding the use of Capitol Park, using the rules which had previously been in effect. (Motion by Speaker Martin; second by Sen. Clark).

**Discussion:** Speaker Martin noted that his motion to promulgate these rules in accordance with APA procedures, rather than to use the Legislature's Joint Rules as a vehicle, was in recognition of the fact that the use of Capitol Park has nothing to do with the legislative process. Sen. Clark requested that the rules be gender-neutralized.

The motion was approved 7-0.

## **NEW BUSINESS**

### **Item #1: After Deadline Bill Requests**

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

## **COMMITTEE ON THE LEGISLATIVE BUDGET**

At this point, the Council turned its attention to the legislative budget. The focus of the discussion was the reduction target established by the Governor for the Legislature of \$1,029,512.

The Council's initial discussion focussed on the smaller accounts that are assigned to the Legislative Department. Speaker Martin noted that these accounts total almost \$1 1/2 million and represent, for the most part, funding for activities that are neither directly related to the legislative process nor, in many cases, even under the Legislature's direct administrative control.

**Motion:** That language be drafted to assign funds for maintenance, repair and renovation of the State House, which are currently carried in the Legislative account, to the Bureau of Public Improvements, with the stipulation that the Legislative Council and the State House and Capitol Park Commission retain their current statutory authority for overseeing and approving all work in the State House and its immediate grounds (3 MRSA § 902-A). (Motion by Speaker Martin; second by Sen. Webster; unanimous).

## **Law & Legislative Reference Library**

**Motion:** That the funds appropriated for the operation of the Law and Legislative Reference Library be transferred to the judicial branch, with the provision that the administration of the Library remain under the control of the Legislative Council. (Motion by Speaker Martin; second by Sen. Clark).

**Motion:** That this item and the pending motion be tabled. (Motion by Rep. Gwadosky).

The item was then tabled.

## **Commission to Advise DHS on AIDS**

**Motion:** That the language establishing the Commission to Advise DHS on AIDS be repealed and that all funds currently appropriated to the Commission, including any balance forward, be cut. (Motion by Speaker Martin; second by Rep. Mayo).

**Discussion:** Rep. Gwadosky noted that it was important for the record to reflect the important work that this Commission had accomplished in the period of its existence.

The motion was approved unanimously.

## **Special Select Committee on Access to Health Care**

**Motion:** That the language establishing the Special Select Committee on Access to Health Care be repealed and that all funds appropriated to the Committee, including any balance forward, be cut. (Motion by Speaker Martin; second by Sen. Dutremble; unanimous).

## **Miscellaneous Studies Account**

**Motion:** That the total balance forward be applied toward the reduction target. (Motion by Speaker Martin; second by Sen. Clark; unanimous).

## **Commission on Uniform State Laws**

Sally Tubbesing explained that the annual dues to the National Conference of Commissioners of Uniform State Laws had been paid and that the remaining balance had been budgeted to defray travel expenses that the Commissioners incurred in order to attend the annual meeting.

**Motion:** That the remaining balance be cut. (Motion by Speaker Martin; second by Sen. Dutremble; unanimous).

## **Interstate Cooperation Commission**

Ms. Tubbesing reported that the balance remaining in the account had been budgeted to pay the Legislature's annual dues to the Caucus of New England Legislatures.

**Discussion:** Speaker Martin stressed the importance of the Legislature's continued participation in the New England Caucus and suggested that the Council follow the approach the Governor had taken with regard to the New England Governor's Association - i.e., to ask the organization to develop a revised budget which reflected the diminished dues available.

Sen. Clark observed that this approach seemed inconsistent with the Council's action last spring, which had resulted in totally eliminating the dues to the Council of State Governments/Eastern Regional Conference, an organization that she said many Senators had found to be more valuable than the New England Caucus.

Motion: That the balance in this account be reduced to \$5,000 in order to allow a partial payment to the New England Caucus of State Legislatures. (Motion by Speaker Martin; second by Sen. Dutremble; approved 9-1).

### **Maine-Canadian Legislative Advisory Office**

Discussion: In response to a question, Ms. Tubbesing clarified that most of this Office's budget is committed to the salaries and related benefits for the Office's 2 employees for the balance of the current fiscal year. The budget for the Office's operation in FY 93 had been eliminated in the course of the budget cuts last spring. Speaker Martin noted that he had instructed Donat Boisvert, the Director of the Maine-Canadian Office, to begin billing the Department of Labor for translation services. Sen. Pray then stated that the Maine-Canadian Office, like the other accounts under discussion, did not belong in the Legislature's overall department budget.

The Council took no action on this account.

### **Law & Legislative Reference Library (tabled earlier)**

The Chair, Sen. Pray, restated the motion offered by Speaker Martin and tabled earlier in the meeting.

Discussion: Rep. Marsano questioned how the Legislative Council would be able to retain administrative and budgetary control over the Library if the account were moved to another branch of government. He noted that the Library's assignment to the legislative account may be unique compared to other states, but that Maine is also unique in that it is the only state where the court does not have a permanent base in the state capital. In response to an invitation from the Chair to react to the pending motion, Lynn Randall, State Law Librarian, indicated that she would anticipate some issues related to the separation of powers. Speaker Martin expressed confidence that an agreement could be worked out with the Chief Justice of the Supreme Judicial Court. Finally, in response to a question from Rep. Whitcomb regarding what percentage of the use of the Law Library is by members of the bar, Ms. Randall stated that 40-50% of the use was legislative.

The motion was restated:

**Motion:** That the Law Library Account be transferred to the Judicial branch effective January 1, 1992, with the provision that administrative control would remain with the Legislative Council in accordance with an agreement to be worked out with the Chief Justice. (Motion by Speaker Martin; second by Sen. Clark; approved 7-3) in accordance with the motion.

The Chair, Sen. Pray, then appointed Speaker Martin, Rep. Marsano, and Ms. Randall to meet with the Chief Justice to work out an agreement.

## **General Legislative Account**

Council members turned to a list of proposed cuts in the Legislature's general operating account, which had previously been considered by the Budget Subcommittee.

### **1. Costs of Extended First Regular Session and First Special Session**

**Motion:** That the Legislature absorb the estimated costs of \$600,000 attributable to the extension of the First Regular Session beyond the June 19 statutory adjournment date and the First Special Session out of its existing budget. (Motion by Speaker Martin; second by Rep. Mayo; unanimous).

**Discussion:** Rep. Gwadosky pointed out that the Legislature had not asked for either of these sessions. Rep. Whitcomb clarified that the effect of the motion was that the Legislature could not use the \$600,000 as a "credit" towards its target of \$1,029,512.

### **2. Cost of Second Special Session**

**Motion:** That the Council ask for a supplemental appropriation to cover the cost of the upcoming Special Session and that this practice be followed for future special sessions. (Motion by Speaker Martin; second by Rep. Mayo).

**Discussion:** Speaker Martin noted that the purpose of his motion was to establish a precedent to be sure that the costs of future special sessions would be clearly identified, and Rep. Whitcomb expressed support for this concept. Sen. Cahill then offered an amendment to the motion to the effect that legislators forego the salary for the Second Special Session; however, the Chair, Sen. Pray, ruled that this amendment should be dealt with separately.

The motion was approved unanimously.

### 3. Capital Budget

**Motion:** That the capital budget in the general legislative account be reduced by \$100,000 (Motion by Speaker Martin; second by Rep. Mayo; approved unanimously).

**Motion:** That the Library's capital budget be reduced by \$4,900 (thus essentially eliminating its capital budget). (Motion by Speaker Martin; second by Rep. Mayo; unanimous).

### 4. Recommendation to Delay the Effect of Chapter 922, P.L. 1989

This law, which took effect July 1, 1991, requires that the Legislature fully-fund any bill that would have a fiscal impact on municipalities. Implicit in this requirement is the need to prepare a "municipal fiscal note" on each bill.

**Motion:** That the effective date of the law be delayed until July 1, 1993. (Motion by Speaker Martin; second by Sen. Clark).

**Discussion:** Rep. Whitcomb noted that the Budget Committee had discussed whether it would be possible to implement this program by reallocating existing staff in the Office of Fiscal and Program Review and leaving the 2 additional positions vacant. He stressed that since many of the proposals in the Governor's budget would affect municipalities, it would be important to keep the statutory language. Speaker Martin responded that it was inconsistent for the Legislature to begin a new program when all other agencies had been admonished to undertake no new activity.

Rep. Gwadosky expressed his concern that reallocation of staff within the Office would mean reducing the staff available to support the audit and program review process. Since the Restructuring Commission appears to be analyzing this process "in depth," he argued that the Council should wait for the results of this study before taking any precipitous action. Rep. Mayo, Sen. Pray and Sen. Clark all expressed support for this position.

Members of the Council then directed several questions to John Wakefield, Director of the Office of Fiscal and Program Review:

1. Given the lack of a data base (which Mr. Wakefield had described previously), what expectations could the Legislature hold regarding the quality of the fiscal analysis that could be done? (Rep. Mayo)

Mr. Wakefield responded that he and members of his staff had had a series of meetings over the summer with the Maine Municipal Association, which has been trying to develop a data base for the past year and a half. Based on those meetings, Mr. Wakefield reported that the first year would be a learning experience.



2. Could the existing statute be cleaned up? (Rep. Mayo)

Mr. Wakefield responded that he and his staff had looked at the approaches several other states have taken with regard to municipal fiscal notes in conjunction with their analysis of LD 66, which has been carried over to the Second Regular Session. This analysis suggests that two modifications to the existing law might be considered: 1) an exemption for the cost of local elections and 2) setting a "floor", whereby bills containing mandates whose total estimated impact is \$100,000 or less, would not be analyzed in detail.

3. Whether the municipal fiscal note function could be assigned to one person initially, thus requiring funding only one of the two positions. (Sen. Webster)

4. Whether this position could be funded as a contractual position initially to reduce the cost. (Speaker Martin and Sen. Webster).

Sen. Webster offered an amendment to the original motion:

**Motion:** That the effective date of the law be delayed to January 1, 1993. (Motion by Sen. Webster; second by Speaker Martin; approved 8-2).

The vote was then taken on the original motion as amended, and it was approved 8-2.

5. Out of State Travel

**Motion:** That the Legislature's out-of-state travel budget be reduced by \$91,932. (Motion by Sen. Pray; second by Sen. Dutremble).

**Discussion:** Rep. Whitcomb stated that he had considered several alternative proposals for consideration by the full Council. One option would be a complete moratorium on out-of-state travel except essential travel to Washington, D.C., and the Speaker's official travel in his role as President of the National Conference of State Legislatures. A second option would be to require prior Council approval of all out-of-state travel.

Sen. Dutremble responded that the proposal to reduce the budget by more than \$91,000 is more than a token reduction of the travel budget. He expressed concern that the Legislature needs to retain some financial capacity to travel out-of-state so that it not become isolationist and that the opportunity to travel be available to all members, and not just the presiding officers. Rep. Marsano, noting that he disagreed both with Rep. Whitcomb on this issue

and with the size of the reduction proposed by Sen. Pray, stated that the Legislature has a responsibility to prepare itself as well as it can to do its job and that the meetings he had attended offered a unique resource. Speaker Martin pointed out that he was going to Washington next week to meet with both the President and the Secretary of Health and Human Services with regard to the Medicaid "tax and match" provisions, provisions which are critical to the budgets of Maine and more than 35 other states.

Continued discussion of the Legislature's budget raised the following points:

- The minority leaders should have more input in the members of their party who are authorized to travel out-of-state. (Sen. Cahill) Speaker Martin suggested that this issue should appropriately be discussed by the leadership in each house, not the Council.
- Concern about legislators who were authorized to travel out-of-state even after they have announced they are not running again. (Rep. Whitcomb). Rep. Gwadosky pointed out that the presiding officers certainly have the authority to freeze travel for those who have declared that they are not running again.

The following amendments were then offered to the original motion:

**Motion to Amend:** That the amount of the reduction be increased to \$95,000. (Motion by Rep. Gwadosky; second by Sen. Clark; unanimous).

**Motion to Amend:** That Legislative Council approval be required for all out-of-state travel. (Motion by Rep. Whitcomb; second by Sen. Cahill).

The motion was subsequently withdrawn by Rep. Whitcomb.

**Motion to Amend:** That a report of all out-of-state travel be presented to the Legislative Council, which includes information about who traveled and the purpose and cost of each trip. (Motion by Rep. Whitcomb; second by Rep. Marsano). After further discussion, which clarified that this information was already available to the Council, Sen. Dutremble offered an amendment to Rep. Whitcomb's proposed amendment:

**Motion to Amend the Amendment:** That the Council recommend to the Appropriations Committee that language be inserted in the budget bill to require all departments and agencies of state government to submit reports on a quarterly basis to the Committee

listing all out-of-state travel by any state employee during the prior quarter, including the name of the traveler, destination, purpose and total cost of the travel regardless of the source of funds used to support the travel. (Motion by Sen. Dutremble; second by Speaker Martin; unanimous).

The Council then voted on Sen. Pray's original amendment, as amended by both this amendment and Rep. Gwadosky's amendment to increase the amount of the reduction to \$95,000, and it was approved unanimously.

**6. Proposals to "pair" Committee Clerks for the small workload committees and to leave one Senate Stenographer position unfilled**

The Council took no action on these proposals since they fall wholly within the purview of the presiding officers.

**7. Secretarial Position/Office of Policy and Legal Analysis**

**Motion:** That the vacancy remain vacant through the end of FY 92 and that the associated savings of \$16,815 be applied to the reduction target. (Motion by Sen. Pray; second by Sen. Cahill; unanimous).

**8. Early Adjournment of the Second Regular Session**

**Motion:** That the Council approve a reduction in the In-State-Travel line by \$195,000 with the understanding that these savings can be achieved by adjournment of the 2nd Regular Session sine die no later than March 27. (Motion by Speaker Martin; second by Sen. Dutremble; unanimous).

**9. Affirmation of Rules Established by the Presiding Officers Regarding Restrictions on the "Night Before" and Friday Sessions**

**Motion:** That the Council take an additional \$178,000 from the In-State-Travel budget that reflects savings to be achieved by restrictions on scheduling established by the presiding officers. (Motion by Speaker Martin; second by Sen. Dutremble; unanimous).

## **EXECUTIVE SESSION**

**Motion:** That the Council go into Executive Session for the purpose of discussing personnel. (Motion by Sen. Webster). The Council proceeded to go into Executive Session at 12:11 p.m.

## RECONVENE

The Council reconvened in open session at 12:34 p.m., on the motion of Sen. Clark.

At this point, there was some general discussion about the reduction target figure, about Council members' commitment to achieve that target, and about ways to reach it. Speaker Martin stressed that the Council had a responsibility, above all, to preserve the Legislature's viability as an effective institution.

The discussion then turned to consideration of various approaches to achieving reductions in the Legislature's personal services budget (salaries and benefits). Council members advanced the following ideas and opinions:

- Rather than pursue the direction it had taken last spring, which distinguished between staff earning \$50,000 or more and those earning less, the Council should treat everyone equally, including legislators. (Speaker Martin)
- The Council should not approve any raises for anyone. (Sen. Dutremble and Sen. Webster)
- The Secretary of the Senate, Clerk of the House, and Director of Policy and Legal Analysis should receive the step increases so far denied them, but should continue to be "frozen" with regard to cost-of-living increases. (Rep. Mayo)
- Those employees who received the April 1 3% cost-of-living increase should be assigned a higher percentage reduction than those who have not received the cost-of-living increases. (Sen. Webster and Sen. Pray agreed with this concept)
- The Council should consider rolling back all legislative employees' salaries to their level on April 1, 1991. (Sen. Dutremble)

Speaker Martin responded that he would support such action only if the Governor chose to do the same thing.

- The Council should determine a specific amount that it wants to achieve from salary savings and ask the Executive Director to solicit proposals from the various offices about how specifically to achieve these. (Speaker Martin)

**Motion:** That the 3% cost-of-living increase that had been awarded to most legislative employees effective April 1 be repealed as of January 1, 1992. (Motion by Rep. Gwadosky; second by Rep. Mayo; unanimous).

**Discussion:** Speaker Martin noted that legislative employees, who had not received the 7% increase awarded to all other state employees on July 1, will fall even further behind their counterparts in the executive branch as the result of this motion; however, there was also agreement that it was preferable to reduce salaries in order to preserve positions. There was also consensus among all members present that this 3% repeal should be applied to all confidential employees and the Commissioners.

**Motion:** That the Constituent Service Allowance for the Second Regular Session be decreased by 10%, resulting in a total reduction of \$100 for Senators and \$75 for Representatives. (Motion by Rep. Mayo; second by Speaker Martin; unanimous)

**Motion:** That all legislative employees be given 10 furlough days between April 1 and October 1, 1992. (Motion by Speaker Martin)

The motion was subsequently withdrawn by the Speaker.

**Motion:** That the Chair draft a letter to all members and staff describing the reductions that the Council had approved. (Motion by Sen. Webster; second by Speaker Martin)

The Chair, Sen. Pray, noted that the motion was not necessary since he had already determined that he would take this action.

**Motion:** That the Council finally approve the overall reduction, produced by its separate actions, of approximately \$1,054,000 (final figure to be confirmed by the Executive Director) and that these reductions be presented to the Appropriations Committee. (Motion by Sen. Pray; second by Sen. Clark; unanimous)

A consolidated summary of the Council's action on the budget is attached to these minutes.

#### **Item #2: After Deadline Bill Requests**

The Council considered requests to introduce legislation which had been filed after the October 4 cloture date. A summary of the Council's action on these requests is attached to this meeting summary.

### **ANNOUNCEMENTS AND REMARKS**

#### **Item #1: Meeting of the Redistricting Planning Committee Tomorrow**

Tuesday, November 12  
3:00 p.m.  
Legislative Council Chambers

### **ADJOURNMENT**

The Legislative Council meeting was adjourned at 1:50 p.m., on the motion of the Chair, Senator Pray.