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Committee on Physical Resources

Mr. Robert Cope, Co-chair
The Honorable Patrick McGowan, Co-chair
Mr. Richard Anderson

Outline for Discussion
October 4, 1991

Background

The Committee on Physical Resources has met several times to develop a study methodology, to prioritize the issues pertaining to natural resources that it will study and to review background materials pertaining to the structure of the natural resource agencies in the State and the implementation of natural resource policy.

To date, the Committee has discussed natural resource policy and implementation issues with the Commissioners of the Department of Environmental Protection, Conservation, Inland Fisheries and Wildlife and Marine Resources. The Committee has also had discussions on those same issues with the Executive Director of the Maine Waste Management Agency, the Deputy Director of the Department of Agriculture, Food and Rural Resources and the Director of the Bureau of Health in the Department of Human Services. The Committee will continue these discussions with the Departments as it conducts its examination of the role and structure of state government in the areas of natural resource management and regulation and the administration of natural resource programs.

In October, the Committee will be holding public hearings in Bangor and Portland for the purpose of receiving testimony from the public on matters pertaining to natural resource policy and program implementation.

Some Specifics

In their memo of September 20th, the Chairs requested that we address 3 specific questions at this meeting.

Since the first 2 questions raised in that memo pertain to findings and recommendations, we will address them together.

1. What are the top substantive issues or problems your committee has identified as probable findings? What are the causes and implications of those issues or problems?

2. What possible recommendations does the committee have under consideration?

Based upon discussions and materials reviewed to date, the Committee on Physical Resources, a unit of the Special Commission on Governmental Restructuring, is discussing the following options for restructuring or consolidating programs and functions within the natural resource agencies. These options have been discussed by the

Committee and were revised at its meeting on September 20, 1991. These options are not final and may change as the Committee continues its discussions with the agencies, reviews new information and receives comments from members of the public at its public hearings scheduled for October 10th in Portland, and October 16th in Bangor.

A. A "Facilities Consolidation Commission" should be established with a specific 5-year goal of closing, leasing, selling or consolidating 20% to 40% of the facilities owned by the 5 natural resource agencies. Revenues from the sale or lease of facilities would be allocated to the "Facilities Consolidation Commission" and used to construct, repair or lease consolidated regional natural resource agency facilities. Consolidation of regional natural resource agency facilities, elimination of duplicative square footage and facility life-cycle cost would be criteria for determining the facilities to be closed, leased, sold or consolidated.

Discussion: Historically, the natural resource agencies have acquired or constructed facilities without the benefit of formal inter-departmental planning mechanisms to ensure efficiency in capital expenditures and avoid duplication. It appears likely that overall facility operation and maintenance costs can be reduced significantly through the consolidation, lease or sale of duplicative or unnecessary facilities.

B. Revenues from the sale of all other obsolete or unnecessary capital assets should be retained by the natural resource agency.

Discussion: Existing State budgeting procedures that require revenue from the sale of capital assets to revert to the General Fund may be removing incentives for efficient financial management of capital assets. Permitting the agencies to retain, and re-invest, revenues derived from the sale of capital assets may, in the short term, create direct incentives for managers to identify and sell obsolete or unnecessary capital goods, and may, in the longer term, create savings through more efficient capital planning.

C. Address fundamental issues in policy development and implementation in order to meet long-term trends of reduced funding and increased resource utilization:

- The Legislature will need to prioritize policy choices, enact only those policies that it is willing to fund and legislate in a manner that provides natural resource managers with "room" to innovate;*

- Natural resource managers must re-think the false dichotomy of the "broke" vs "ain't broke" model of program evaluation. Programs that are not necessarily "broke" may still be operating below the optimal level of effectiveness. All natural resource programs will be affected by the trends towards less funding and increased resource utilization, and managers must push for continuous improvement in all areas; and*

•Cross-training of personnel in the natural resource agencies will become increasingly important, particularly in the areas of natural resource management and law enforcement.

Discussion: The natural resource agencies face a future of reduced funding and increased resource utilization. These complex and competing trends are expected to be long-term and, as such, will require establishment of a process that provides critical review of legislative mandates imposed on the agencies as well as flexibility and innovation from management. Fewer resources will require personnel to be cross-trained, and will place substantially more importance on sharing of resources and responsibilities.

D. Amend the Administrative Procedures Act by removing language that prohibits an agency from adopting a rule unless that rule was specifically included in the agency's most recent legislative rulemaking agenda.

Discussion: The Legislature has given the natural resource agencies the responsibility of managing and protecting the State's natural resources. To fulfill that mission, those agencies must have the flexibility to respond rapidly, when necessary to protect the resource, with the full rulemaking authority granted to them by the Legislature. Restricting a legislative grant of rulemaking authority only to those events that can be anticipated months in advance may be severely limiting the ability of the natural resource agency to manage and protect the State's natural resources.

E. Transfer the responsibility for regulating pesticides from the Department of Agriculture, Food and Rural Resource to the Department of Environmental Protection.

Discussion: The mandate of the Pesticides Control Board is broad, and its decisions implicate environmental quality and public health concerns that range far beyond the agricultural sector alone. In the 1970's, Congress transferred federal pesticide regulatory authority from the Department of Agriculture to the Environmental Protection Agency in recognition of the fact that pesticide laws had shifted from a focus on protecting the farmer to broader societal issues of environmental quality and protection of the public health. That transfer appears to have been appropriate, and should be accompanied by a similar transfer of pesticide regulatory responsibility at the state level.

F. Abolish the wastewater plumbing control program in the Department of Human Services and transfer its functions as follows:

•*Locate all state plumbing functions in one agency by transferring the responsibility for the Maine State Plumbing code and responsibility for maintaining copies of all plumbing permits to the Plumbers Examining Board in Department of Business Regulation;*

•*Locate all wastewater regulatory functions in one agency by transferring responsibility for the Maine State Subsurface Wastewater Code, the responsibility for maintaining copies of all subsurface wastewater permits and the licensing of soil evaluators for subsurface wastewater systems to the DEP; and*

•*Locate all code enforcement functions in one agency by transferring the responsibility for training and certifying Local Code Enforcement Offices in court procedures (Rule 80K) to the Office of Comprehensive Planning, Department of Economic and Community Development.*

Discussion: Administrative responsibility for the State's plumbing and wastewater laws is divided among several agencies. Improvements in program coordination, reporting and enforcement can be accomplished by consolidating functions into the appropriate agencies.

G. *Abolish the Atlantic Sea Run Salmon Commission and transfer its staff and salmon fisheries management functions to the Department of Inland Fisheries and Wildlife.*

Discussion: The history of the Atlantic Sea Run Salmon Commission has been characterized as one of chronic underfunding. The funding and personnel reductions contained in the FY92 and FY93 budget appear to make it nearly impossible for the Commission to fulfill its mission of managing and protecting the State's salmon fishery. Consolidating the Commission's fisheries management functions into the Department of Inland Fisheries and Wildlife will permit the staff to fulfill the mission by drawing upon the existing resources of the department.

H. *Establish a Bureau of Recreational Vehicles within state government with sole responsibility for management and enforcement of recreational vehicle programs and laws. The Bureau would be funded using existing dedicated and other special revenue funds allocated to the departments currently responsible for those functions.*

Discussion: Program management and enforcement of recreational vehicle laws is divided among 3 natural resource agencies. The Department of Marine Resources enforces recreational boating laws in the marine environment, the Department of Conservation administers a boating facility grant program, a snowmobile program and an ATV program, and the Department of Inland Fisheries and

Wildlife is responsible for the registration of ATV's, watercraft, and snowmobiles, as well as operating an ATV education program and safety programs for snowmobile, boat and ATV operators. This division of responsibility appears to have resulted in a lack of coordination in policy development, law enforcement and site development.

I. *Encourage a coordinated effort to integrate computers into the natural resource agencies.*

Discussion: Thoughtful integration of computers into the workplace can increase productivity, enhance the exchange of information among agencies, improve efficiency and provide management access to current and accurate information. Acquisition of computer systems by the natural resource agencies is hindered by lack of funds and the absence of planning or benefit-cost analyses upon which to base management decisions regarding computerization.

J. *Create a "Natural Areas Office" within state government by consolidating the functions of the Natural Heritage Program, currently within the Department of Economic and Community Development, and the Critical Areas Program, currently within the State Planning Office.*

Discussion: Consolidation of the Natural Heritage Program and the Critical Areas Program would increase the efficiency of the programs by eliminating duplication and improving the opportunities for cooperation among the staff while retaining the integrity of each program.

K. *Another area of interest to the Committee is the permitting processes of the Department of Environmental Protection and the Land Use Regulation Commission. Although the Committee has not developed options or recommendations on the environmental permitting procedures, determining what problems exist in those procedures and how to improve the efficiency and equity of the permit process is of critical importance.*

3. *What single issue or methodological problem is giving your committee the most trouble?*

Although we feel we are successfully narrowing the scope of our study to issues that are manageable within the time allowed, we, as a Committee, are not clear as to the level of detail expected in our final recommendations. Should we focus on "broad-brush" policy recommendations in the natural resource areas, or do we limit the scope of our study sufficiently to allow time for more detailed analysis of fewer issues?

Interim Report

Committee on Physical Resources
a unit of
The Special Commission on Governmental Restructuring

September 6, 1991

The Committee on Physical Resources has met several times to develop a study methodology, to prioritize the issues pertaining to natural resources that it will study and to review background materials pertaining to the structure of the natural resource agencies in the State and the implementation of natural resource policy.

To date, the Committee has discussed natural resource policy and implementation issues with the Commissioners of the Department of Environmental Protection, Conservation, Inland Fisheries and Wildlife and Marine Resources. The Committee has also had discussions on those same issues with the Executive Director of the Maine Waste Management Agency, the Deputy Director of the Department of Agriculture, Food and Rural Resources and the Director of the Bureau of Health in the Department of Human Services. Over the next 2 months, the Committee will continue these discussions with the Departments as it conducts its comprehensive examination of the role and structure of state government in the areas of natural resource management and regulation and the administration of natural resource programs. The Committee intends to make recommendations in those areas that are consistent with the Commission's mandate to streamline the administration of services through functional integration of similar operations and to consolidate, restructure and realign functions of government.

In October, the Committee will be holding public hearings in Bangor and Portland for the purpose of receiving testimony from the public on matters pertaining to natural resource policy and program implementation.

The Committee will be submitting its final report to the full Commission for review by November 1st.