

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 562

S.P. 170

In Senate, February 18, 1993

An Act to Reestablish the Maine Committee on Aging.

Reference to the Committee on Aging, Retirement and Veterans suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator VOSE of Washington.
Cosponsored by Representative TREAT of Gardiner and
Representatives: KILKELLY of Wiscasset, LOOK of Jonesboro, MITCHELL of Freeport,
TOWNSEND of Eastport.

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

2
4 Sec. 1. 5 MRSA §12004-J, sub-§12 is enacted to read:

6 12. Maine \$25/day 22 MRSA
 Human Committee on §5112-A
 Services Aging

8 Sec. 2. 22 MRSA c. 1455-A is enacted to read:

10 CHAPTER 1455-A

12 MAINE COMMITTEE ON AGING

14 §5112-A. Committee established; memberships; appointments

16 The Maine Committee on Aging, established pursuant to Title
18 5, chapter 379, is an independent agency outside the Department
 of Human Services.

20 1. Membership; general qualifications. The committee is
22 composed of 15 members who must be citizens of the State. The
24 members must have an unselfish and demonstrated interest in older
 people, a knowledge of the status of survival common to the
26 State's elderly and an unwavering allegiance to the challenge of
 the declaration of a people made by older Americans.

28 2. Appointment; specific qualifications. Members of the
 committee must meet the specific qualifications of and be
30 appointed as provided in this subsection.

32 A. The Governor shall appoint 13 members who are current
34 leaders of the State's elderly from a number of fields, such
 as income, health, housing and community and social
36 services, and who have proven experience in private, public
 and voluntary organizations on the state, regional and
38 community level, such as statewide membership groups, task
 forces on aging, regional and county councils of older
40 people and municipal level senior citizens clubs.

42 B. At least 2 members of the committee must be current
 members of the Legislature, one from the House of
44 Representatives who must be appointed by the Speaker of the
 House of Representatives and one from the Senate who must be
46 appointed by the President of the Senate.

48 C. At least 8 members must be older Americans. An
 official, employee, consultant or any other individual
 employed, retained or otherwise compensated by or

2 representative of the executive branch of State Government
3 may not be a member of the committee.

4 D. No member of the committee or staff member or volunteer
5 employed by the committee may have a conflict of interest as
6 prohibited by the amended federal 1987 Older Americans Act,
7 42 United States Code, Section 3027(a)(12)(F)(i, ii and iii).

8
9 E. The Director of the Bureau of Elder and Adult Services
10 or the director's designee shall serve as a liaison between
11 the bureau and the committee.

12
13 3. Terms and reappointments. Legislative members serve
14 during their legislative terms. The other members are appointed
15 for terms of 3 years. Members may be reappointed, but no member
16 may serve more than 2 consecutive full terms of 3 years each.
17 Members may serve after the expiration of their terms until their
18 successors have been appointed and qualified.

19 The Governor may terminate the appointment of any member of the
20 committee appointed by the Governor for just cause and the reason
21 for the termination of each appointment must be communicated to
22 each member terminated. The appointment of any member of the
23 committee must be terminated if a member is absent from 3
24 consecutive meetings without just cause that is communicated to
25 the chair.

26
27 4. Vacancies. Any member appointed to fill a vacancy
28 occurring prior to the expiration of the term for which that
29 member's predecessor was appointed may be appointed only for the
30 remainder of that term.

31 Any vacancy in the committee does not affect its powers, but must
32 be filled in the same manner in which the original appointment
33 was made.

34
35 5. Chair; number of meetings. The Governor shall designate
36 the chair for a term of 2 years from among the members appointed
37 to the committee. The chair may be reappointed by the Governor.
38 The committee shall meet at the call of the chair, but not less
39 often than 4 times a year.

40
41 **§5112-B. Administrative authority**

42
43 The committee shall keep minutes of all meetings, including
44 a list of people in attendance. Minutes of all meetings must be
45 sent forthwith to the Governor and leadership of the Legislature.

46
47 The committee is authorized to employ, subject to the Civil
48 Service Law, such staff as is necessary to carry out its
49

2 objectives. The committee is authorized to employ consultants
3 and contract for such projects as it determines necessary. The
4 commissioner and the director, to the extent feasible and
5 reasonable, shall make available to the committee such staff,
6 facilities, equipment, supplies, information and other assistance
7 as it may reasonably require to carry out its activities.

8 Each member of the committee is entitled to compensation
9 according to the provisions of Title 5, chapter 379. The
10 committee is authorized to appoint subcommittees consisting of
11 its own members and to allow guests of the committee to attend
12 any and all meetings.

13 A majority of the committee members constitutes a quorum for
14 the purpose of conducting the business of the committee and
15 exercising all the powers of the committee. A vote of the
16 majority of the members present is sufficient for all actions of
17 the committee.

18
19 **§5112-C. Powers and duties**

20
21 The committee has the power and duty to:

22
23 1. **Advise, consult and assist.** Advise, consult and assist
24 the executive and legislative branches of State Government,
25 especially the Governor, on activities of State Government
26 related to older people. The committee is solely advisory in
27 nature. The committee may make recommendations regarding any
28 function intended to benefit older people. If findings, comments
29 or recommendations of the committee vary from or are in addition
30 to those of any state bureau or department, these statements of
31 the committee must be sent to the respective branches of State
32 Government as attachments to those submitted by that bureau or
33 department. Recommendations may take the form of proposed
34 budgetary, legislative or policy actions;

35
36 2. **Advocate.** Serve as an advocate on behalf of older
37 people promoting and assisting activities designed to enhance at
38 the national, state and community levels the well-being of older
39 people. The committee shall serve as an ombudsman on behalf of
40 individual citizens and older people as a class in matters under
41 the jurisdiction of State Government. It shall serve as a voice
42 on behalf of older people to officers of State Government, the
43 Governor, the Legislature, the public-at-large and the Federal
44 Government.

45
46 To serve as advocate and ombudsman for older people, the
47 committee may enter onto the premises of any boarding care
48 facility licensed according to section 7801 and any nursing home
49 facility licensed according to section 1817 to investigate
50

2 complaints concerning those facilities. In addition, the
4 committee shall investigate complaints received on behalf of
6 individuals receiving long-term care services provided by the
8 home-based care programs, Medicaid waiver program, licensed home
10 health agencies, certified homemaker agencies and licensed adult
12 day care agencies. To carry out this function, any committee
14 member, staff or volunteer authorized by the committee may enter
16 onto the premises of any adult foster care facility, any boarding
18 care facility or any nursing home during the course of an
20 investigation, speak privately with any individual in the
22 facility or home who consents to the conversation and inspect and
24 copy all records pertaining to a resident as long as the resident
26 or the legal representative of the resident consents in writing
28 to that inspection. The consent, when required and not
30 obtainable in writing, may be conveyed orally or otherwise to the
32 staff of the facility or home. When a resident is not competent
to grant consent and has no legal representative, the committee
may inspect the resident's records and may make copies that do
not contain personally identifiable material without the written
consent of a duly appointed legal representative. The committee
may authorize up to 25 persons, in addition to committee members
and staff of the committee, to carry out this function.
Appropriate identification must be issued to all such persons.
In accordance with the federal 1987 Older Americans Act, 42
United States Code, as amended, a person may not serve as an
ombudsman without training by committee staff as to the rights
and responsibilities of an ombudsman or without a specific plan
of action under direction of committee staff. The committee
shall renew the authorization and issue identification annually.
The findings of the committee must be available to the public
upon request.

34 In addition, the committee, staff and volunteers shall visit,
36 talk with and make personal, social and legal services available
38 to residents; inform residents of their rights, entitlements and
40 obligations under federal and state laws by distributing
42 educational materials and meeting with groups or individuals;
44 assist residents in asserting their legal rights regarding claims
for public assistance, medical care and social security benefits
or in actions against agencies responsible for those programs, as
well as in all other matters in which residents are aggrieved,
including, but not limited to, advising residents to litigate;
and investigate complaints received from residents or concerned
parties regarding the care or other matters concerning residents.

46 Information or records maintained by the committee concerning
48 complaints may not be disclosed unless the ombudsman authorizes
the disclosure. The ombudsman may not disclose the identity of
any complainant or resident unless the complainant, the resident

2 or a legal representative of either consents in writing to the
3 disclosure; or a court orders the disclosure.

4 A complainant, a resident or a legal representative of either, in
5 providing the consent, may specify to whom that identity may be
6 disclosed and for what purposes, in which event no other
7 disclosure is authorized.

8 Any person, official or institution who in good faith
9 participates in the registering of a complaint pursuant to this
10 subsection, or in good faith investigates that complaint or
11 provides access to those persons carrying out the investigation
12 about an act or practice in any boarding care facility licensed
13 according to section 5154 or 7801 or any nursing home licensed
14 according to section 1817 or who participates in a judicial
15 proceeding resulting from that complaint is immune from any civil
16 or criminal liability that otherwise might result from these
17 actions. For the purpose of any civil or criminal proceedings,
18 there is a rebuttable presumption that any person acting pursuant
19 to this subsection did so in good faith;

20
21
22 3. Advisory committee. Serve as the advisory committee on
23 behalf of the elderly of the State to state agencies pertinent to
24 or as may be required by state or federal laws and their
25 successors, including, but not limited to:

26
27
28 A. The Priority Social Services Act of 1973 including only
29 coordinated elderly programs, meals for older people and
30 transportation for the elderly;

31
32 B. The Maine Residents Property Tax Program;

33
34 C. The laws governing the Maine State Housing Authority;

35
36 D. The federal 1987 Older Americans Act, 42 United States
37 Code; and

38
39 E. The United States Social Security Act, Title IV or Title
40 VI, as amended, as it relates to older people.

41
42 The committee shall advise regarding state and federal plans,
43 policies, programs and other activities relating to the older
44 people of the State. The committee shall submit to the federal
45 or state agencies its recommendations and comments on the state
46 plan and any revisions thereof or other pertinent reports.
47 Statements at variance with or in addition to those of the Bureau
48 of Elder and Adult Services or the department reports must be
attached to the plan or reports upon submission by the bureau to
agencies of the United States Government or to state agencies;

2 4. Review committee. Authorize a subcommittee, consisting
4 of 5 persons, appointed by the chair to be responsible for
6 analysis of proposals and submission of advisory recommendations
8 to the Director of Elder and Adult Services concerning the
10 acceptability of proposals requesting award of state-administered
12 grant funds under subsection 3, paragraphs A and D. In order to
14 ensure coordination and prevent duplication of services, the
 committee shall review and comment on, under its own initiative
 or at the request of any state or federal department or agency,
 any proposed agreement from any agency or organization within the
 State to a state or federal department or agency for assistance
 related to meeting the needs of older persons;

16 5. Review and evaluation. Review and evaluate, on a
18 continuing basis in consultation with the appropriate state
20 agency, state and federal policies regarding the elderly of the
22 State and programs and other activities affecting the elderly
 conducted or assisted by any state departments or agencies to
 determine the value of and impact of those programs or activities
 on the elderly of the State;

24 6. Inform the public. In consultation with the Bureau of
26 Elder and Adult Services, inform the public so as to develop a
28 firm public understanding of the current status of the survival
30 of Maine's elderly, including information on effective programs
32 elsewhere in the State or nation, by collecting and disseminating
34 information, conducting or commissioning studies and publishing
 the results of the studies and by issuing publications and
 reports for which a reasonable fee may be charged. The committee
 may expend from a dedicated revenue account, upon allocation by
 the Legislature, all collections and fee payments in carrying out
 the purposes of this section;

36 7. Public forums. Provide and sponsor public forums,
38 public hearings, conferences, workshops and other meetings to
40 obtain information about, discuss or publicize the needs and
 solutions to problems of older people. The committee shall hold
 a statewide Blaine House Conference on Aging at least every 2
 years and may hold regional conferences and meetings; and

42 8. Administration. Administer in accordance with current
44 fiscal and accounting regulations of the State, and in accordance
46 with the philosophy, objectives and authority of this Part, any
48 funds appropriated for expenditure by the committee or any grants
50 or gifts may become available, accepted and received by the
 committee; and make an annual report, which must be submitted
 directly to the director, commissioner, Governor and Legislature
 not later than September 1st of each year, concerning its work,
 recommendations and interests of the previous fiscal year and

future plans. The committee shall make such interim reports as it deems advisable or as requested by the Governor or Legislature. In addition, the long-term care ombudsman program shall submit reports on its activities as required by the Bureau of Elder and Adult Services.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1993-94	1994-95
AGING, MAINE COMMITTEE ON		
Aging - Maine Committee on		
Positions - Legislative Count	(4.5)	(4.5)
Personal Services	\$140,175	\$147,611
All Other	14,412	14,772
Provides funds to reestablish the Maine Committee on Aging, including one Executive Director position, one Planning and Research Associate II position, one Clerk Typist II position, one Clerk IV position, one 1/2-time Advocate position and support costs.		
MAINE COMMITTEE ON AGING		
TOTAL	\$154,587	\$162,383

Sec. 4. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Act.

	1993-94	1994-95
AGING, MAINE COMMITTEE ON		
Aging - Maine Committee on		
Positions - Other Count	(1.5)	(1.5)
Personal Services	\$55,149	\$57,947
All Other	31,763	28,965
Provides funds for allocation of funds to reestablish the Maine Committee on Aging, including one part-time		

2 Advocate position, one Social
3 Services Program Specialist
4 II position and support costs.

6 MAINE COMMITTEE ON AGING
TOTAL \$86,912 \$86,912

8 Sec. 5. Allocation. The following funds are allocated from
9 Other Special Revenue funds to carry out the purposes of this Act.

10 1993-94 1994-95

12 AGING, MAINE COMMITTEE ON

14 Aging, Maine Committee on

16 All Other \$3,000 \$3,000

18
20 Provides for the allocation
21 of funds for support costs of
22 the Maine Committee on Aging.

24 STATEMENT OF FACT

26 This bill reestablishes the Maine Committee on Aging, which
28 was repealed by Public Law 1991, chapter 780.