

MAINE STATE LEGISLATURE

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L.D. 419

DATE: 1-16-04

(Filing No. H-631)

MINORITY
STATE AND LOCAL GOVERNMENT

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 327, L.D. 419, Bill, "An Act To Repeal Outdated and Unfunded Municipal and Educational Mandates"

Amend the bill by striking out the title and substituting the following:

'Resolve, To Establish the Municipal and Educational Mandate Audit Commission'

Further amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

'Emergency preamble. Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this resolve creates the Municipal and Educational Mandate Audit Commission; and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

COMMITTEE AMENDMENT

9.018

2 **Sec. 1. Commission established. Resolved:** That the Municipal
and Educational Mandate Audit Commission, referred to in this
4 resolve as "the commission," is established; and be it further

6 **Sec. 2. Commission membership. Resolved:** That the commission
consists of 12 members appointed as follows:

8
10 1. Two members of the Senate, appointed by the President of
the Senate. Of these 2 members, only one may belong to the
12 political party holding the largest number of seats in the
Senate. When making the appointments, the President of the
14 Senate shall give preference to members from the Joint Standing
Committee on State and Local Government and the Joint Standing
Committee on Education and Cultural Affairs;

16
18 2. Two members of the House of Representatives, appointed
by the Speaker of the House. Of these 2 members, only one may
20 belong to the political party holding the largest number of seats
in the House of Representatives. When making the appointments,
22 the Speaker of the House shall give preference to members from
the Joint Standing Committee on Natural Resources and the Joint
Standing Committee on Criminal Justice and Public Safety;

24
26 3. The Commissioner of Administrative and Financial
Services or the commissioner's designee;

28 4. The Commissioner of Education or the commissioner's
designee;

30
32 5. The Commissioner of Environmental Protection or the
commissioner's designee;

34 6. The Commissioner of Public Safety or the commissioner's
designee;

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38 7. One member representing municipal government and one
member representing school administrative units, appointed by the
40 President of the Senate; and

42 8. One member representing county government and one member
representing a wastewater or water district, appointed by the
44 Speaker of the House; and be it further

46 **Sec. 3. Appointments; convening of commission. Resolved:** That
all appointments must be made no later than 30 days following the
48 effective date of this resolve. The appointing authorities shall
notify the Executive Director of the Legislative Council once all
50 appointments have been completed. Within 15 days after
appointment of all members, the chairs shall

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2 call and convene the first meeting of the commission; and be it
further

4 **Sec. 4. Ad hoc committees. Resolved:** That the commission, in
the conduct of its duties, may form ad hoc committees or other
6 means to seek information from all related state agencies;
statewide or regional associations representing municipalities,
8 counties, schools and quasi-municipal associations; and statewide
associations representing the beneficiaries or interests that may
10 be affected by the repeal, modification, redesign, enhanced
coordination or delayed implementation of the mandates under the
12 commission's purview; and be it further

14 **Sec. 5. Reimbursement. Resolved:** That legislative members of
the commission are entitled to receive the legislative per diem,
16 as defined in the Maine Revised Statutes, Title 3, section 2, and
reimbursement for travel and other necessary expenses related to
18 their attendance at authorized meetings of the commission.
Public members not otherwise compensated by their employers or
20 other entities that they represent are entitled to receive
reimbursement of necessary expenses and, upon a demonstration of
22 financial hardship, a per diem equal to the legislative per diem
for their attendance at authorized meetings of the commission;
24 and be it further

26 **Sec. 6. Quorum; actions. Resolved:** That a quorum is a
majority of the members of the commission. An affirmative vote
28 of the majority of the members present at a meeting is required
for any action. Action may not be considered unless a quorum is
30 present; and be it further

32 **Sec. 7. Chairs. Resolved:** That the first-named Senate member
is the Senate chair of the commission and the first-named House
34 of Representatives member is the House chair of the commission;
and be it further

36 **Sec. 8. Staff assistance. Resolved:** That, upon approval of the
38 Legislative Council, the Office of Policy and Legal Analysis
shall provide necessary staffing services to the commission; and
40 be it further

42 **Sec. 9. Duties. Resolved:** That the commission shall:

44 1. Prepare a comprehensive listing of the state and federal
mandates placed on municipalities, school administrative units,
46 counties and quasi-municipal entities that are considered by the
affected units of government to be deserving of analysis and
48 review;

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- 2 2. Identify for each listed mandate the precise legal
3 origin of the mandate, whether federal or state law or regulation
4 or a combination of both, or any originating authority;
- 6 3. Identify the statewide local government costs of each
7 listed mandate within the limits of practicability; and
8
- 10 4. Identify the characteristics of each listed mandate that
11 cause the affected units of government to believe the mandate is
12 deserving of review. Identified characteristics may include, but
13 are not limited to, the following:
- 14 A. Archaic or unnecessary features or features lacking
15 significant public purpose;
- 16 B. Inadequate funding;
- 18 C. Disproportionate efforts to the public policy benefit;
- 20 D. Coordination purely between federal and state law and
21 regulation;
- 24 E. Subjection to excessive administrative oversight; and
- 26 F. An insufficient structure to predict, measure or control
27 local costs; and be it further

28 **Sec. 10. Report. Resolved:** That, no later than November 3,
30 2004, the commission shall submit a report that includes its
31 findings and recommendations, including suggested legislation,
32 for presentation to the joint standing committees of the
33 Legislature having jurisdiction over education and cultural
34 affairs and state and local government matters and the
35 Legislative Council. In its proposed implementing legislation,
36 the commission may include proposals to repeal, modify, redesign,
37 effectively coordinate or delay the implementation of any of the
38 listed mandates, as may be appropriate, and may recommend changes
39 to federal law or regulation to be considered as a resolution to
40 Congress or a communication to Maine's congressional delegation.
41 The commission is not authorized to introduce legislation.
42 Following receipt and review of the report, the joint standing
43 committees of the Legislature having jurisdiction over education
44 and cultural affairs and state and local government matters may
45 jointly report out a bill to the First Regular Session of the
46 122nd Legislature; and be it further

48 **Sec. 11. Extension. Resolved:** That, if the commission requires
49 a limited extension of time to complete its study and

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make its report, it may apply to the Legislative Council, which may grant an extension; and be it further

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Sec. 12. Commission budget. Resolved: That the chairs of the commission, with assistance from the commission staff, shall administer the commission's budget. Within 10 days after its first meeting, the commission shall present a work plan and proposed budget to the Legislative Council for its approval. The commission may not incur expenses that would result in the commission's exceeding its approved budget. Upon request from the commission, the Executive Director of the Legislative Council shall promptly provide the commission chairs and staff with a status report on the commission budget, expenditures incurred and paid and available funds.

Emergency clause. In view of the emergency cited in the preamble, this resolve takes effect when approved.'

SUMMARY

This resolve replaces the concept draft and is the minority report. It creates the Municipal and Educational Mandate Audit Commission. The 12-member commission consists of members of the Legislature, representatives from the Department of Administrative and Financial Services, the Department of Education, the Department of Environmental Protection and the Department of Public Safety and representatives of municipal and county government, school administrative units and quasi-municipal special purpose districts. The commission is charged with identifying the state and federal mandates placed on local and regional governmental entities and recommending legislation for reducing the burden of those mandates.

**FISCAL NOTE REQUIRED
(See attached)**

**121st Maine Legislature
Office of Fiscal and Program Review**



LD 419

**Resolve, To Establish the Commission to Study Unfunded and Outdated
Municipal and Educational Mandates**

LR 1535(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: State and Local Government

Fiscal Note Required: Yes

Minority Report

Fiscal Note

Current Costs - Legislative Study

Legislative Study

The projected cost to fund the general operating expenses of this study is \$2,480 in fiscal year 2004-05. The Legislature has budgeted \$20,000 in fiscal year 2004-05 for legislative studies. Whether the amount is sufficient to fund all studies will depend on the number of studies authorized by the Legislative Council and the Legislature. Additional costs to the Department of Administrative and Financial Services, the Department of Education, the Department of Environmental Protection and the Department of Public Safety to serve on the Commission can be absorbed utilizing existing budgeted resources.