

# MAINE STATE LEGISLATURE

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LEGISLATIVE COUNCIL MEETING  
Legislative Council Chamber  
September 17, 1976

CALL TO ORDER

The meeting was called to order at 10:50 a.m. by Vice Chairperson Mary Najarian.

ROLL CALL

Senators: Sen. Cummings, Sen. Danton, Sen. Sewall,  
Sen. Speers

Representatives: Rep. Martin, Rep. McKernan, Rep. Najarian, Rep. Palmer, Rep. Rolde

Staff: William H. Garside, Legislative Admin. Director  
Edith Hary, Law Librarian  
David Silsby, Legislative Research Director  
Helen Ginder, Coordinator Leg. Staff Assistants

Guests: William Garsoe, Legislative Designee for Collective Bargaining  
Lanning Mosher, State Employee Relations Board  
Robert Farley, House Chairman Committee on Energy  
Steve Lakis, Joint Committee on Legislative Resource Improvement  
Rep. Roger Snow, Chairman, Temporary Compensation Review Board

SECRETARY'S REPORT

It was moved and unanimously carried that the secretary's report be accepted as presented.

STAFF REPORTS

Legislative Administrative Director: William Garside presented a merit increase recommendation for the Legislative Assistants.

MOTION

Rep. Martin moved that the Council authorize merit increases for the legislative assistants, effective September 13, 1976 to be as follows:

	<u>Present Salary</u>	<u>Recommended</u>
Robert Clark	\$285.68	\$300.78
Thomas Downing	300.78	315.88
Jonathan Hull	255.48	270.58
Helen Ginder	280.58	295.68
Edward Potter	255.48	270.58
Diana Scully	250.00	255.48

Legislative Administrative Director (Cont'd)

	<u>Present Salary</u>	<u>Recommended</u>
James McKenna	\$255.48	\$270.58
Edward Brown	285.68	300.78

The motion was seconded by Sen. Sewall and carried unani-  
mously.

William Garside introduced for the Council's consideration a new pay plan for Legislative employees in unclassified ser-vice. This pay plan establishes treatment for Legislative em-ployees which is similar and equitable to that given the Executive Branch. It gives a 5% increase over present salaries to heads and assistant heads of Legislative agencies, which provides the same treatment as Title 2, section 6 given department heads and assistants in the Executive Branch.

MOTION

A motion was made to approve the 5% increase for the following unclassified positions:

Administrative Director	-	Asst. Legislative Research Dir.
Legislative Finance Dir.	-	Law Librarian
Asst. Legislative Finance Dir.	-	Deputy Law Librarian
Legislative Research Dir.	-	

And further moved to approve a 6.4% or \$11 per week increase, whichever is greater, for other unclassified permanent Legislative employees. All salary increases are to be effective the first pay period in November.

The motion was duly seconded and carried.

Presented to the Council was a request by the Joint Select Committee on State Property Tax Valuation to allocate \$25,000 from the Legislative Account as authorized in SP 610 until a Ford Foundation grant is awarded, in order to sign a contract with Thomas L. Jacobs Associates of Chicago, Illinois.

MOTION

Rep. Martin moved that this item be tabled until later in the day.

The motion was duly seconded and carried.

Legislative Administrative Director (Cont'd)

The Legislative Administrative Director requested that permission be granted for James McKenna and Robert Clark, Legislative Assistants, to attend a seminar in Cambridge, Massachusetts on Sept. 27-28, 1976 on property tax assessment. This seminar is provided by the Lincoln Institute on Land Policy at a total cost not to exceed \$125 for both assistants.

MOTION

Rep. Rolde moved that travel expense be allotted for James McKenna and Robert Clark, Staff Assistants for the Committee on State Property Tax Valuation, to attend a seminar on Sept. 27-28, 1976 in Cambridge, Massachusetts on property tax assessment.

The motion was duly seconded and carried.

The Legislative Administrative Director requested an after-the-fact-approval for Ronald Lord, Legislative Finance Officer, and Bent Schlosser, Assistant Legislative Finance Officer, to attend the Eastern Regional Legislative Finance Officer Association convention in Maryland. Advance request for approval was not possible as the Legislative Council did not meet during July and August.

MOTION

Sen. Sewall moved that approval be granted for Ronald Lord and Bent Schlosser to attend the Eastern Regional Legislative Finance Officer Association convention on Sept. 15, 16, and 17.

The motion was seconded by Rep. Martin and carried.

The Legislative Staff Assistants' September report was submitted to the Council.

Law and Legislative Reference Librarian: Edith Hary reported that the Law Library is unable to handle individual requests for committee reports as they are too voluminous. She advised that a research company in Brunswick might be able to handle these requests. Sen. Cummings suggested printing a form letter which would include this information to be used in answering this type of correspondence.

Legislative Research Director: David Silsby distributed for the Council's consideration a proposed recodification of the Joint Rules of the Legislature.

The Director then advised that Bernice Lee will be working her last session this year and requested to bring in a part-time proofreader to be trained by her, at a salary of \$125 a week.

Legislative Research Director (Cont'd)

MOTION

Rep. Martin moved that the Council approve the hiring of a proofreader for the Office of Legislative Research on a part-time basis, effective December 1, 1976 through the end of the first regular session.

The motion was duly seconded and carried.

David Silsby requested that a salary adjustment of \$30 be authorized for Ellen McMonagle, Legislative Indexer, effective September 20, 1976 and funded under the existing Legislative Research budget.

MOTION

Rep. Palmer moved that the Council adjust the salary of Ellen McMonagle from \$177.80 to \$207.80 weekly, effective September 20, 1976.

The motion was duly seconded and carried.

The Legislative Research Director inquired whether or not the Council wanted to look into a course on bill drafting for legislators through the University of Maine or separately. Discussion followed. No motion was made. It was decided not to recommend a bill drafting course for individual legislators.

COMMUNICATIONS

MOTION

It was moved that all publications be placed on file.

The motion was duly seconded and carried.

COMMITTEE REPORTS

The Joint Standing Committee on Appropriations and Financial Affairs submitted a report pertaining to state bidding practice.

Submitted reports are to be discussed under New Business.

MOTION

Rep. Martin moved that Committee Reports be accepted as presented.

The motion was duly seconded and carried.

OLD BUSINESS

MOTION

Rep. Martin moved to have taken from the Table Item "a", salary increase of Bent Schlosser, Assistant Legislative Finance Officer, and further moved to table the item until later in the day.

The motion was duly seconded and carried.

MOTION

Rep. Martin moved that Item "b", Engrossing Problem, be taken from the Table.

The motion was duly seconded and carried.

Secretary of State, Mark Gartley presented suggestions for solving the Engrossing situation. Through discussion it was recommended that rules be adopted as well as deadlines set, instead of running the office on a day-to-day demand basis. Recommendations were made to have new drafts printed in-house.

NEW BUSINESS

#1 - Rep. Martin explained that the Governor's letter pertaining to Legislative Committees requesting information was mainly to advise that when the Legislative Council or a committee contacts an employee for information or to give information before the Council or a committee, the director of that department should be notified to ensure that the employee contacted is the correct source for the information required.

MOTION

Based on the letter from the Governor, it was moved that the Council inform each committee chairman that when they call an employee of a department, the chairman should notify the director of that department of that fact.

The motion was duly seconded and carried.

#2 - Letter from Rep. Kelleher regarding Tax Policy Committee meeting outside Augusta.

MOTION

Rep. Martin moved that the letter from Rep. Kelleher be placed on file.

New Business (Cont'd)

The motion was duly seconded and carried.

#3 - Reception of Grants. Through discussion it was mentioned that a statute was passed in last session stating that the Legislative Council could accept grants on behalf of the Legislature.

MOTION

Rep. Martin moved that a policy be accepted by the Council that any grant accepted by the Legislature be specifically granted to the Legislative Council.

The motion was duly seconded and carried.

#3a - Ford Foundation.

MOTION

It was moved that this item be placed on file and that the Council continue to seek grants through the Legislative Administrative Director's office.

#4 - The Council authorized that the Committee on Performance Audit send subcommittees to the University of Maine Campuses.

Discussion.

MOTION

It was moved that the Performance Audit Committee be advised to authorize subcommittees to visit any campus of the University of Maine in connection with their study.

The motion was duly seconded and carried.

Rep. Rolde requested that Rep. Roger Snow, Chairman of the Hay Study Appeals Board be heard before the Council.

Chairman Snow stated that the board found that 700 out of over a thousand job positions were appealed. The board has heard over 200 of these appeals to date, involving approximately 3,000 employees. Unclassified positions have not been heard at this point nor have the state troopers and prison guards, but the board should be hearing these within a few more weeks. Hopefully, the Personnel Board has come to a decision on non-standard work weeks. The Chairman advised that the board had been meeting 5 days a week, 10 hours a day and that

NEW BUSINESS (Cont'd)

there will be many recommendations which will be made for changes in relationship to the Hay classification and pay raises. Rep. Snow advised that the deadline on appeals is set for November 1st. It was stated that the board has perhaps 20 to 30 suggestions by state agencies to adjust salaries downward.

#5 - Cost Effective/Low Priority Programs. It was requested that two committees be assigned to investigate the three suggested areas covered in this memo.

MOTION

Rep. Martin moved that recommendations from Roger Mallar and David Huber of the Joint Executive-Legislative Committee on town road improvement and snow removal reimbursements be referred to the Joint Standing Committee on Transportation and that those on town histories be assigned to the Joint Standing Committee on Appropriations and Financial Affairs, for their recommendations in the next session of the Legislature.

The motion was duly seconded and carried.

#6 - Local & County Government Committee.

MOTION

Rep. McKernan moved that the letter from the Local and County Government Committee be placed on file.

The motion was duly seconded and carried.

#7 - State Employees Collective Bargaining. This item was presented to the Council at 2 p.m.

#8 - Contract renewal - Steve Lakis. This item was tabled until later in the day.

#9 - Bangor Mental Health Institute.

MOTION

Rep. Martin moved that the memo from Joseph Brennan, Attorney General, regarding the Bangor Mental Health Institute be placed on file.

The motion was duly seconded and carried.

At this time Rep. Robert Farley, House Chairman on Joint Standing Committee on Energy appeared before the Council to request the services of a Legislative Assistant in attending meetings on solid waste.

New Business (Cont'd)

MOTION

Rep. Martin moved to table this matter.

Sen. Danton seconded the motion and it was carried.

The Council recessed at 12:30 p.m. and reconvened at 2:05 p.m.

#8 - Contract renewal - Steve Lakis

MOTION

Rep. Plamer moved to continue the contract with Steve Lakis, who is conducting a Legislative Resource Improvement study. \$9,000 of this continued study will be funded by the State.

Rep. Najarian seconded the motion and it was carried.

Rep. Martin suggested that an hour be set aside on next month's agenda to take up Steve Lakis' report. At this time Mr. Lakis gave a short summary of his study.

The Council took up the subject of the contract with Thomas L. Jacobs Associates for assistance on the State Property Tax Valuation Study which was tabled earlier in the day.

MOTION

Rep. Najarian moved to allocate \$25,000 from the Legislative Account as authorized in SP 610 until a grant is awarded, in order to sign a contract with Thomas L. Jacobs Associates of Chicago, Illinois for assistance on the State Property Tax Valuation Study.

The motion was seconded by Rep. Rolde and carried.

Rep. Martin brought before the Council the matter of the Pre-legislative Conference.

MOTION

It was moved that the Pre-legislative Conference be held November 30th and December 1st and further moved that Charles Priest, Assistant Director of Legislative Research prepare a schedule for this conference.

The motion was duly seconded and carried.

Helen Ginder, Staff Assistant, advised the Council that Bowdoin College in Brunswick is holding a solid waste disposal alternative conference on October 2nd, 5th, and 12th. She

New Business (Cont'd)

advised that Rep. Farley might be interested in this conference based on his request for the services of a staff assistant for the Committee on Energy. It was suggested that Jon Hull, Staff Assistant, Committee on Natural Resources, might be interested in attending this conference.

MOTION

It was moved that the request of the Energy Committee to hold meetings with staff assistant membership be denied.

The motion was duly seconded and carried.

The Council went into an executive session at this time. At the conclusion of this portion of the executive session the Council took up the tabled subject of salary raise for Bent Schlosser.

MOTION

Rep. Martin moved that the Council approve a 5% raise for Bent Schlosser, Assistant Legislative Finance Officer, effective July 1, 1976 and that Ronald Lord, Legislative Finance Officer receive an increase of \$500 effective the same date.

The motion was duly seconded and carried.

MOTION

Sen. Cummings moved that the present Legislative Staff Coordinator be granted a \$20 per week raise over and above present salary (\$295.68 to \$315.68).

The motion was seconded by Rep. Najarian and carried.

Rep. William Garsoe, Legislative Designee for Collective Bargaining, and Lanning Mosher, State Employee Relations Board, met with the Council in an executive meeting.

COMMENTS AND REMARKS

The Next Legislative Council meeting is scheduled for Thursday, October 21, 1976 at 10 a.m.

ADJOURNMENT

At the conclusion of the executive meeting, the Council adjourned at 3:30 p.m.

# STATE OF MAINE

Inter-Departmental Memorandum Date September 16, 1976

Legislative Council,  
To Senator Jerrold Speers, Chairman

Dept. \_\_\_\_\_

From Helen Ginder

Dept. Coordinator, Legislative Staff

Subject Office of Legislative Assistants

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Salaries: Effective September 15, 1976, each of the following members of the Legislative Staff is recommended for a one step salary increase according to the schedule adopted by the Legislative Council September 15, 1975: Bill Brown, Bob Clarke, Tom Downing, Jon Hull, Jim McKenna, Ted Potter and Diana Scully.

Annual Review of Salaries: In addition, it is recommended that the annual review of present staff members and recommendations for salary adjustment be made on each staff member's anniversary of employment. This system is followed by each of the other Legislative Service Offices. In the case of Legislative Assistants, it will permit review on an equitable and individual basis related to length of employment. The schedule as currently applied penalizes present staff members from two to ten months for no reason. In past years, timely submission of a recommendation for each Assistant would have eliminated the creation of this problem.

Studies: The Staff is assisting Committees with study orders passed by the Special Session of the Legislature. With one exception each of the Committees has met. The material to be reviewed by the Joint Select Committee on Justice Systems has not been completed by the several independent groups studying selected topics. As soon as their reports are available that committee will meet. Progress has been made on studies ordered by the Regular Session of the 107th Legislature. It appears that most studies will be completed and reported to the 108th Regular Session.

Grant Proposal: Renewed communications with the Ford Foundation have resulted in Staff and Tax Valuation Committee meetings with Mr. David Clark of the Foundation. A grant proposal was discussed with him and prepared for the Legislative Council. The draft proposal is attached and is self explanatory. Please note especially sections 8 and 9.

Student Interns: The students from Bates College working in the office during the months of May and June completed their assignments and presented their findings to us at a staff meeting. Because of the limited time that they were able to spend, their research effort was restricted.

During July and August Michael Clark, employed under the Comprehensive Employment and Training Act, worked with us. His interest was State taxes and he carried out a research assignment for the Committee on Tax Policy.

The Staff enjoyed working with these students and providing the opportunity for them. The arrangement would be more beneficial for students and staff during a legislative session. In addition, it was clear that only in an exceptional case would the expertise and research skill developed by undergraduate level students be of real assistance to the staff.

Legislative            The Assistants have met with Mr. Stephen Lakis on several  
Consul-                occasions to provide him with information on our work, com-  
tant:                    mittee procedures and the Legislative Process in Maine.

HTG/sym

Joint Study Orders

Special Session 107th Legislature  
Office of Legislative Assistants  
Staff Assignments

1. Joint Select Committee, H.P. 2247 State Tax Policy -  
James McKenna  
William Brown
2. Joint Select Committee, H.P. 2315 Bureau of Census -  
Jon Hull
3. Joint Select Committee, H.P. 2324 Coordinate Several Studies  
on Children and Youth -  
Thomas Downing  
Diana Scully  
Robert Clarke
4. Health and Institutional Services, H.P. 2357 Administration  
of Medication -  
Diana Scully  
Robert Clarke
5. Appropriations and Financial Affairs, H.P. 2250 Medical Care  
Programs of Human Services -  
Diana Scully
6. Performance Audit, H.P. 747 Review of Statutory Programs on  
a Cost-Effective Basis -  
William Brown
7. Performance Audit, H.P. 2173 Maine State Lottery Commission -  
Jon Hull
8. Performance Audit, H.P. 2181 University of Maine -  
Robert Clarke  
Diana Scully
9. Performance Audit, H.P. 2245 Snowmobile and Watercraft Regis-  
tration -  
William Brown  
Thomas Downing
10. State Government, H.P. 710 Administrative Rules and Regulations -  
James McKenna  
Helen Ginder  
William Brown
11. Joint Select Committee, S.P. 610, State Valuation of Property -  
James McKenna  
William Brown

DRAFT

September 16, 1976

Mr. David G. Clark  
Project Specialist  
Division of Education and Research  
Public Education  
The Ford Foundation  
320 East 43rd Street  
New York, New York 10017

Dear Mr. Clark:

Please find enclosed a proposal for Ford Foundation of the procedures used by the Bureau of Taxation in arriving at the state valuation.

The state valuation establishes the 100% just value of property in the State and is the basis upon which we raise almost half of the revenues needed for school financing.

Please contact us as to whatever additional information is needed to properly consider our proposal.

Thank you for your consideration.

Sincerely,

JERROLD B. SPEERS  
Chairman, Legislative Council

A PROPOSAL FOR  
FUNDING A STUDY OF  
THE MAINE STATE VALUATION

1. Introduction

The Legislature of the State of Maine, in the Joint Order entitled Senate Paper 610, June 27, 1975, ordered that a non-partisan study be undertaken of the procedures used by the Bureau of Taxation in arriving at the state valuation.

The state valuation is the Bureau's estimate of the 100% just value of all property in the State of Maine. This valuation is a basis for the computation and apportionment of state and county taxes, state revenue sharing, and perhaps most importantly, the school subsidy formula. Nearly 50% of the expense of education is raised by a state-levied uniform property tax.

The state valuation is an especially crucial factor in Maine due to the fact that Maine's education funding formula requires towns with high property valuations to contribute property tax dollars for the support of education in Maine's less fortunate towns. This, of course, has made the accuracy of the state valuation a very emotional issue.

Unfortunately, the results of the state valuation are often vigorously criticized. Confidence in its accuracy, especially among the "pay-in" communities (those which must raise more tax dollars for education than they need for their own schools), is lacking. It is the purpose of Senate Paper 610 to restore this lost confidence in the equity of the state valuation.

2. Specific study goals

Senate Paper 610 offered the following rationales, goals and procedures for the study of the state valuation:

WHEREAS, state valuation has increased since 1968 from \$2,820,000,000 to \$4,649,000,000, an average of 17% per biennium; and

WHEREAS, predictions by the Bureau of Property Taxation indicate significant future increases in value; and

WHEREAS, there is heavy reliance in Maine statutes on state valuation for distributing more than \$175,000,000 each year in grant-in-aid programs, including education; and

WHEREAS, in a democratic society, the public must have confidence in the accuracy and validity of the valuation base used for taxation and for distribution of state financial resources; and

WHEREAS, there has been no adequate review in recent years of the procedures used by the Bureau of Taxation in establishing state valuation; now, therefore, be it

ORDERED, the House concurring, that the Legislative Council be authorized to study the subject of this order either through the Joint Standing Committee on Taxation or through the establishment of a Select Committee on State Property Tax Valuation comprised of 8 members to be constituted and appointed as follows: One member of the Senate who serves on the Committee on Taxation to be appointed by the President of the Senate; one member of the House who serves on the Committee on Taxation to be appointed by the Speaker of the House; 3 municipal officials, representing various sized communities and various geographical areas, one of whom shall be representative of a so-called high valuation town, and 3 members of the general public, all of whom shall be appointed by joint agreement of the President of the Senate and the Speaker of the House; and be it further

ORDERED, that whichever committee is selected to conduct the study shall:

1. Review the procedures by which state valuations are established;
2. Review the validity of the state valuation with respect to a representative sampling of communities;
3. Review the need for a sales certificate to be filed with all real estate transactions;
4. Report its findings to the Governor and the Legislature no later than January 1, 1977 along with recommended administrative action and legislation to implement its findings; and be it further

ORDERED, that whichever committee is selected by the Legislative Council to conduct this study shall be directed to employ outside professional assistance in the implementation of this order and all departments of State Government shall cooperate with the committee in the pursuit of its assigned task; and be it further

ORDERED, that if the Legislative Council establishes the Joint Select Committee on State Property Tax Valuation to conduct this study, that committee shall hold its organizational meeting upon the call of the president and shall choose a chairman from among its membership at that time; and be it further

ORDERED, that if the Legislative Council selects the Joint Select Committee on State Property Tax Valuation to conduct this study, the members of that committee shall serve without compensation, but may be reimbursed for their reasonable expenses in attending meetings, procuring supplies, correspondence and other related and necessary expenditures....

### 3. Committee membership

In order to remove the results of the committee's study as far as possible for partisanship, the Legislative Council decided to form a Joint Select Committee made up of members of the general public, town officials and legislators. The persons chosen were:

#### A. General public

(1) John D. Coupe,

Orono, Maine

- (2) Norman Goseline, Gardiner, Maine  
(3) John E. O'Donnell, Augusta,  
Maine

B. Municipal officers

- (1) Alfred Lucci, Portland, Maine  
(2) Eugene Paradis, , Stillwater, Maine  
(3) Dana Connors, City Manager, Presque Isle, Maine

C. Legislators

- (1) Senator Hollis Wyman, Milbridge, Maine  
(2) Rep. Frank Drigotas, , Auburn,  
Maine

The backgrounds of these members include University teaching of economics, day to day professional involvement in the problems and management of large and small municipalities, and long-term membership on the Legislature's Committee on Taxation. At the September 11th organizational meeting of the committee, Mr. John E. O'Donnell was elected by his fellow members as chairman of the committee. Mr. Alfred Lucci was elected Vice-Chairman. Mr. O'Donnell's professional expertise is in federal taxation and Mr. Lucci is currently head of the property assessment office of Portland, Maine's largest city.

4. Committee identification of goals

At the close of their last meeting, September 2nd, upon completion of a lengthy discussion with Dr. Dick Netzer of New York University, the committee tentatively identified the goals of their study as:

- A. To document the overriding importance of accurate local assessment in Maine to an accurate Maine state valuation;
- B. To recommend ways in which the current state valuation procedures (e.g., sales ratio studies) can be made more accurate.

The committee is all too aware that their study and its conclusions will be of major importance not only to the success of Maine school finance mechanisms, which seek to provide an education of equal quality to all Maine children whether they come from wealthy or poor communities, but also to the equity of the local property tax.

5. Possible outcomes of the study

The study may have one of the four following major outcomes:

- A. That the committee would find the state valuation to be reasonably accurate;
- B. That the committee would find the procedures used by the state valuation to be correct but, due to inaccuracies by assessors at the local level, that the results of the state valuation continued to reflect the local assessor's errors;
- C. That, while local assessments are reasonably accurate, the state valuation itself distorts community property values;
- D. That neither local assessments nor the state valuation are accurate and both must be reformed.

If the committee reaches any of the latter three conclusions, then the report would be expected to offer ways to correct the situation and, if necessary, draft legislation to implement the needed changes. Certainly, the committee's final report would provide space for any minority reports.

#### 6. Professional support for the committee

The Legislature, in the Joint Study Order, Senate Paper 610, authorized \$25,000 toward the costs of this study, including consulting fees and committee expenses.

The committee will receive professional support from four areas:

- A. The Bureau of Taxation, within the limits of their already overburdened personnel, will seek to provide the information and expertise requested by this committee;
- B. The Office of Legislative Assistants, the non-partisan research office of the Legislature, will assign at least one person to assist the committee;
- C. A professional, unbiased, consultant, not currently employed by the State, will be hired to perform the technical analysis of the Bureau's procedures in arriving at the state valuation; and
- D. Outside experts willing to donate their time. (The committee has already received significant assistance from Mr. David G. Clark of the Ford Foundation. Mr. Clark arranged for Dr. Dick Netzer of N.Y.U. to travel to Maine to discuss the committee's general goals. September 28th the committee is scheduled to travel to Cambridge, Massachusetts for a one day seminar on valuation practices given by the Lincoln Institute of Land Policy. Both the National Conference of State Legislatures and the Education Commission of the States have been asked to assist the committee.)

## 7. Necessity of a professional consultant

If the report of the committee is to restore confidence in the state valuation, the information upon which the committee bases its conclusions must be not only expert but objective and demonstrably non-partisan. Clearly, neither the Executive branch nor the Legislature can be the best judge of its own procedures. Further, neither the Executive branch nor the Legislature possess the necessary expertise. Thus, a non-biased, professional consulting firm must be hired. Its duties will include:

- A. An intensive examination of each stage of the Maine state valuation, including:
  - (1) the local assessor's attempt to assign values to different classes of property,
  - (2) appeals from those decisions,
  - (3) the state's statistical analysis and equalization of these values, and
  - (4) the appeals of the state valuation itself;
- B. An evaluative report to the committee on its findings, with any recommendations for change;
- C. A close working relationship with the committee, frequent meetings with the committee during the course of its study and assistance to the committee in its preparation of the final report to the Legislature;
- D. Possible testimony before citizen or legislative groups on its methods or findings.

## 8. Cost of the Consultant

On September 14th the committee entered into a preliminary agreement with Mr. Thomas L. Jacobs of the consulting firm of Thomas L. Jacobs and Associates, of Chicago, Illinois. Mr. Jacobs agreed to act as consultant to the committee, beginning work Monday, September 27th. Initially, Mr. Jacobs suggested a tentative cost of \$33,000 to \$37,000, which would fund a full time consultant, a part time consultant and general supervision by himself. However, Mr. Jacobs, when confronted with the committee's limited funds, agreed to a much less ambitious effort at a cost of \$20,000. The contract is to be written with an option clause so that if additional funding from an outside source becomes available, both parties to the contract could agree to an expanded study, costing an additional \$15,000 (approximately). The price of any agreed upon expanded study would be subject to negotiations by the parties to the original contract. Either side could refuse to contract for the additional research.

Thus, the total cost of this study might approach \$40,000:

A. Committee expenses (including printing):	\$ 5,000
B. Consulting fees:	<u>35,000</u>
	\$40,000

#### 9. Necessity and timing of grant

If a grant is forthcoming to fund Mr. Jacob's initially proposed approximately \$35,000 research project, it should be made by the end of October or early November. If it is later than that, the basic research will have already been completed and the committee will have to base its conclusions on limited data. Of course, a grant for only the cost of the \$20,000 consulting fee would be greatly welcomed.

If a timely grant did not total the entire \$35,000 dollars but was less than that, the money would be used to expand Mr. Jacob's research as much as feasible. For example, if a grant of \$20,000 was made by early November and it was still possible to expand the study to Mr. Jacob's initial requirements, approximately \$15,000 of the grant would go toward an expansion of research and only \$5,000 would go toward defraying the cost of the original \$20,000 contract.

#### 10. Nature of the consultant's report

The report of the consultant will be the property of the committee. It will be a research report the purpose of which is basically educational but it will certainly spell out policy alternatives. The committee will consider the report's conclusions and recommendations and then fashion its own report to the Legislature and people of Maine. The committee will adopt, reject or modify any of the report's recommendations. The consultant's report and the committee's final report will be available to any interested state or private party.

#### 11. Committee's relationship to the Legislature

The committee is a Joint Select Committee which includes non-legislative membership. Its deliberations are controlled by the Legislature only to the extent that it must strive to fulfill the goals of Senate Paper 610, the Joint Study Order that brought it into existence. The purpose of creating a committee so insulated from partisan politics was to assure the citizens of Maine of its objectivity. It is anticipated that members of the committee will, if asked, testify to the Legislature, to any other legislative committee, executive branch agency or citizen group on any aspect of its final report and recommendations. The committee's report will be presented to the non-partisan Legislative Council, the Council will make the report public and arrange for the introduction of any legislation the reports might recommend.

## 12. Grantee

The grantee of any funds from the Ford Foundation in support of the committee's work should be the Legislative Council. The council is a non-partisan body of legislators, charged with management of the Legislature. Any funds donated would be made available to the committee through the Office of Legislative Finance, which will maintain a strict accounting of all committee expenditures. The Council is authorized by law to accept such grants (see Appendix A).

JOSEPH E. BRENNAN  
ATTORNEY GENERAL



RICHARD S. COHEN  
JOHN M. R. PATERSON  
DONALD G. ALEXANDER  
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

September 2, 1976

Honorable Jerrold B. Speers  
Chairman, Legislative Council  
State House  
Augusta, Maine 04333

Re: Reception of Grants by the Joint Select Committee on  
State Valuation or Legislative Council.

Dear Jerry:

I am responding to your letter of August 26, 1976, in which you ask the following question:

"What agents are empowered to accept a grant of funds from a private foundation to the Joint Select Committee on State Property Tax Valuation?"

The answer to your question is that both the Joint Select Committee and the Legislative Council have been specifically authorized to accept such grant funds from a private foundation.

The study order which directed a study of the State property tax valuation (SP 610, dated June 27, 1975) authorized the Legislative Council to conduct the study either through the Joint Standing Committee on Taxation or through a Select Committee on State Property Tax Valuation. It was specifically provided as part of the study order that if the Legislative Council chose to use a joint select committee rather than the Joint Standing Committee on Taxation, the Select Committee would be authorized to accept funds ". . . from any agency of the United States, from any private foundation and from any other private source for the purpose of implementing the purposes of [the] order." It is our opinion that this joint study order, passed by the Senate with the concurrence of the House of Representatives, constitutes sufficient authority for acceptance of private foundation funds by the Joint Select Committee.

Hon. Jerrold B. Speers  
Page 2  
September 2, 1976.

The Legislative Council is also specifically authorized by statute to accept such funds. During the first special session of the 107th Legislature, the powers of the Legislative Council were augmented by adding the following authorization:

"To accept, use, expend and dispose on behalf of the State funds, equipment, supplies and materials from any agency of the United States, from any private foundation and from any other private source." P.L. 1975, c. 657; 3 M.R.S.A. § 162,16.

This additional authorization became effective March 1, 1976.

It should be parenthetically noted that we also wrote to you on November 19, 1975, concerning this same matter. At that time the study had been assigned to the Joint Standing Committee on Taxation and it was noted that neither the Legislative Council nor the Joint Standing Committee had specific authorization to accept funds from private foundations. We also suggested in that letter that there might be legislative action to empower the Legislative Council to accept such grants, a suggestion which may have resulted in the legislation noted above. The difference in our present opinion has been caused by the changes in both the assignment of the study and in the statutory authority of the Legislative Council.

Please contact us if we can be of any further assistance.

Sincerely,

JOSEPH E. BRENNAN  
Attorney General

JEB/ec  
cc: Office of Legislative Assistance ✓

# STATE OF MAINE

Inter-Departmental Memorandum Date September 17, 1976

To Committee on Engrossed Bills Dept. \_\_\_\_\_  
From Markham L. Gartley, Secretary of State Dept. Secretary of State  
Subject Suggestions for engrossment procedures.

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1. Only Secretary of State to coordinate with Kennebec Journal regarding printing of engrossed Bills.
2. Bills to be engrossed should be delivered to the Secretary of State, Engrossing Room, no later than 5:00 p.m. when there is one session; during double Legislative sessions the deadlines will be 5:00 p.m. and 9:00 p.m.
3. Bills amended in committee will require new draft.
4. Written approval of at least 2 members of Committee on Engrossed Bills will be required for one-day service on engrossing.
5. Pre-engrossment of bills available within the last 20 days of Legislative session and then engrossed only in two variations. Any exceptions require written approval of 2 members of Committee on Engrossed Bills.
6. Auxiliary personnel will be available for 2nd shift if necessary.

Inter-Departmental Memorandum Date September 10, 1976

To John Rosser, Commissioner Dept. Mental Health and Corrections

From Joseph E. Brennan, Attorney General Dept. Attorney General

Subject Bangor Mental Health Institute

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FACTS:

The Department of Mental Health and Corrections is considering the advisability and legality of closing the Bangor Mental Health Institute. In this connection, consideration is being given to transfer of patients and funds to the Augusta Mental Health Institute, The Counseling Center, located in Bangor, Maine, and to the Aroostook Mental Health Center. The latter two entities are privately operated, non-stock corporations providing treatment for the mentally ill on a largely out-patient basis. Investigation reveals that the latter two corporations are negotiating with the Department of Mental Health and Corrections in connection with each of them developing a capability, should funding be made available by the State, to provide in-patient care for mentally ill individuals currently patients at the Bangor Mental Health Institute. Accordingly, the Commissioner of Mental Health and Corrections has submitted the following request for an Opinion of the Attorney General.

QUESTIONS:

"Given the decision concerning the future role of Bangor Mental Health Institute, will you please provide me with an opinion concerning:

"1. The administrative decisions which can be made without legislative approval regarding the movement of patients, funds, programs from Bangor Mental Health Institute to such sites as Augusta Mental Health Institute, Bangor Counseling Center and/or Aroostook Mental Health Center.

"2. Which decisions must be made by the legislative (sic) and which transfers can be made by administrative action."

ANSWER:

Officials of the Department of Mental Health and Corrections may transfer patients of the Bangor Mental Health Institute to the Augusta Mental Health Institute or to any other facility providing in-patient care and treatment of the mentally ill, including such facilities as may be operated by The Counseling Center or the Aroostook Mental Health Center, in accordance with the provisions of 34 M.R.S.A. § 2373.

Monies appropriated by the Legislature to the Department of Mental Health and Corrections for the maintenance of the Bangor Mental Health Institute and not needed for such purpose may be transferred in accordance with the provisions of 5 M.R.S.A. § 1585 for use in maintaining the Augusta Mental Health Institute but may not be transferred to the use of The Counseling Center or the Aroostook Mental Health Center.

The Bangor Mental Health Institute may not be closed without specific legislative authority. The Department of Mental Health and Corrections must maintain the Bangor Mental Health Institute for the emergency care and treatment of the mentally ill. It is required to admit and provide care for all persons in need of emergency care and treatment whose admissions are applied for in accordance with 34 M.R.S.A. § 2333, subject only to the availability of accommodations made possible through legislative appropriations for the maintenance of the Bangor Mental Health Institute.

REASON:

We construe your first question to ask what are the perimeters of the authority of the officials of the Department of Mental Health and Corrections to (1) transfer patients of the Bangor Mental Health Institute to the Augusta Mental Health Institute, to The Bangor Counseling Center and to the Aroostook Mental Health Center; (2) transfer funds appropriated to the Bangor Mental Health Institute to the Augusta Mental Health Institute, to The Bangor Counseling Center and to the Aroostook Mental Health Center; (3) transfer programs from the Bangor Mental Health Institute to the Augusta Mental Health Institute, to The Bangor Counseling Center and to the Aroostook Mental Health Center? We will address each of these questions in sequence.

The authority of the Department of Mental Health and Corrections to transfer patients from the Bangor Mental Health Institute or the Augusta Mental Health Institute to another hospital is set forth in 34 M.R.S.A. § 2373. The applicable definition of "hospital" is set forth in 34 M.R.S.A. § 2251(3), viz: "'Hospital' means a public or private hospital or institution or part thereof, equipped to provide in-patient care and treatment for the mentally ill. For the purpose of (chapter 191), inpatient care and treatment in a mental health center shall be included within the definition of hospital." Section 2373 requires, prior to any transfer, that the department determine "that it would be consistent with the medical needs of the patient to do so." Consideration must also be given by the department to the patient's relations with "his family, legal guardian or friends so as to maintain relationships and encourage visits." We advise, therefore,

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that patients admitted to the Bangor Mental Health Institute may be transferred in accordance with the provisions of § 2373 to the Augusta Mental Health Institute, and to other in-patient units for the care of the mentally ill, including those operated by The Counseling Center and Aroostook Mental Health Center.

Section 1585 of Title 5 of the Maine Revised Statutes provides:

"Any balance of any appropriation or subdivision of an appropriation made by the Legislature for any state department or agency, which at any time may not be required for the purposes named in such appropriation or subdivision, may, upon the recommendation of the department or agency head concerned and the State Budget Officer, be transferred by the Governor and Council at any time prior to the closing of the books, to any other appropriation or subdivision of an appropriation made by the Legislature for the use of the same department or agency for the same fiscal year."

We find no other authority under which the Department of Mental Health and Corrections could transfer monies appropriated by the Legislature to the Department of Mental Health and Corrections for the operation of the Bangor Mental Health Institute. Should the relevant authorities named in Section 1585 so authorize, monies not needed for the operation of the Bangor Mental Health Institute could be transferred to the appropriate appropriation for the operation of the Augusta Mental Health Institute but not for use by The Counseling Center, a non-stock corporation, and the Aroostook Mental Health Center, another non-stock corporation, neither of the latter two organizations being part of the Department of Mental Health and Corrections.

We are unable to answer what we perceive to be the third part of your first question concerning the transfer of "programs." If you would furnish us with specific information concerning the proposed transfer of "programs," we will be pleased to respond.

Your second question, while broad, appears to ask to what extent the operation of the Bangor Mental Health Institute may be reduced without legislative approval. We emphasize that the Bangor Mental Health Institute is a creation of the Legislature. Section 2101 of Title 34 of the Maine Revised Statutes provides, "The State shall maintain 2 hospitals for the mentally ill, one at Bangor called the Bangor Mental Health Institute and the other at Augusta, called the Augusta Mental Health Institute." While the Legislature does not define what it means by the term "hospital" as

used in chapter 185, within which § 2101 appears, it does provide such a definition in chapter 191 wherein the provisions for the hospitalization of the mentally ill are set forth. Section 2251(3), quoted above, when read together with § 2101, makes clear that the Bangor Mental Health Institute was created by the Legislature to provide in-patient care and treatment for the mentally ill. This office has had occasion in more than one instance to advise that the closing of a legislatively created state institution may only be at the instance of the Legislature.<sup>1/</sup> The above-discussed statutes together with the provisions of 34 M.R.S.A. § 1, clearly require the Department to maintain the Bangor Mental Health Institute for the care and treatment of the mentally ill.

Section 2102 provides, in pertinent part, that, "The superintendent (of each hospital created by the Legislature in § 2101). . . shall receive all patients in need of special care and treatment, legally sent to the hospital, that the accommodations permit, subject to the regulations of the department." Inasmuch as the provisions relating to the civil admission of the mentally ill are contained within chapter 191, we are of the opinion that the above-quoted reference to patients in need of special care and treatment set forth in § 2102, refers to those patients whose emergency admission is applied for in accordance with § 2333. We are of the opinion that the Legislature has therefore mandated that the Bangor Mental Health Institute (as well as the Augusta Mental Health Institute) have an ongoing capability, subject only to the availability of accommodations, to receive all persons in need of emergency care and treatment whose admissions are applied for in accordance with § 2333. The Legislature, through its appropriations, provides funding which makes possible a certain level of accommodations for the care and treatment of the mentally ill at the Bangor Mental Health Institute. We are of the opinion that it would be a violation of the legislative intent in enacting § 2101 for the Department of Mental Health and Corrections to refrain from utilizing portions of monies so appropriated so as to reduce available accommodations at the

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<sup>1/</sup> See advise of William J. Kelleher, Assistant Attorney General, to Richard P. Haskell, Deputy Director of the Bureau of Corrections, September 25, 1975; advise of John W. Benoit, Deputy Attorney General, to the Honorable John L. Martin, Speaker of the House, dated May 21, 1975; advice of Robert J. Stolt, Assistant Attorney General, to Governor James B. Longley, dated April 29, 1975; advise of Courtland D. Perry, Assistant Attorney General, to Senator Walter Hichens, dated March 19, 1974; advice of Courtland D. Perry, Assistant Attorney General, to Ronald H. Lord, Assistant Finance Officer, Office of Legislative Finance, dated December 11, 1973.

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Bangor Mental Health Institute and thus reduce the capability to receive patients in need of emergency care and treatment.<sup>2/</sup> Additionally, monies so saved could not be transferred to another use by the Department of Mental Health and Corrections, the condition precedent to any such transfer under 5 M.R.S.A. § 1585 not being present in such instance; i.e., the monies are not required for the purposes named in the appropriation.

We trust this advice will prove helpful to you as you plan the future course of your agency as well as your recommendations to the Legislature.

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JOSEPH E. BRENNAN  
Attorney General

JEB/ec

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<sup>2/</sup> This does not mean that a patient once admitted to Bangor Mental Health Institute could not be transferred to Augusta Mental Health Institute or another hospital in accordance with 34 M.R.S.A. § 2313 and our advice in that respect.