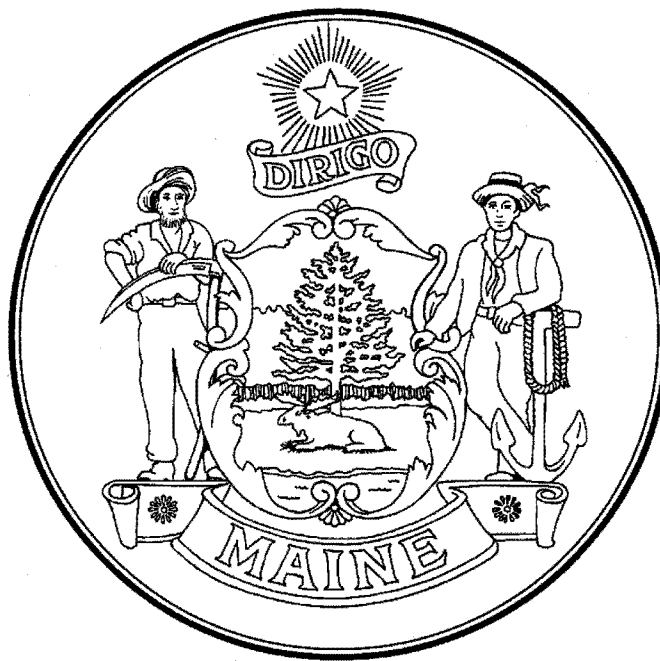


MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**LEGISLATIVE COUNCIL
FEBRUARY 23, 1998
AGENDA**

CALL TO ORDER

ROLL CALL

SUMMARY OF JANUARY 21, 1998, COUNCIL MEETING

EXECUTIVE DIRECTOR'S REPORT

Item #1: Personnel Activity

Item #2: Legislative Budget: Status

Item #3: State House Master Plan for Capital Improvements: Status and Items Requiring Council Action

Item #4: Legislative Computer System: Report from Paul Mayotte, Director, Legislative Information Services

REPORTS FROM COUNCIL COMMITTEES

Committee on Legislative Information Technology

Personnel Committee

Legislative Facilities Committee

OLD BUSINESS

NEW BUSINESS

Item #1: Report from Joint Standing Committee on State and Local Government regarding Council's Position on LD 566, An Act to Provide Computers for Use in the Legislature (letter from Senate Chair Nutting and House Chair Ahearne)

Item #2: Special Committee to Review the Study Commission Process: Submission of Report

Item #3: Submission of Study Reports

Studies Pursuant to Joint Order

- ◆ Joint Select Committee to Oversee the Maine Yankee Atomic Power Company (pursuant to Joint Order, H.P. 1345)
- ◆ Joint Select Committee on Research and Development (pursuant to Joint Order, S.P. 669)

Reports Pursuant to Government Evaluation Act

- ◆ Joint Standing Committee on Business and Economic Development: Review of Department of Professional and Financial Regulation
- ◆ Joint Standing Committee on Health and Human Services: Review of Office of Substance Abuse

Statutory Study Commissions

- ◆ Blue Ribbon Commission to Study the Effects of Government Regulation and Health Insurance Costs on Small Businesses in Maine (pursuant to Resolves of 1997, Chapter 85)
 - ◆ Task Force to Study Equal Economic Opportunity for All Regions of the State (pursuant to P & S 1997, Chapter 51)
 - ◆ Commission to Study Insurance Fraud (submitted to Joint Standing Committee on Banking and Insurance, pursuant to Resolves of 1997, Chapter 77)
-
- ◆ Maine Commission on Children's Health Care (submitted to the Legislature, pursuant to P.L. 1997, Chapter 560, Part B)
 - ◆ Commission to Study the Restructuring of the State's Fiscal Policies to Promote the Development of High-technology Industry in Maine (submitted to the Legislature, pursuant to P.L. 1997, Chapter 557, Part C)
 - ◆ Commission to Study the Unemployment Compensation System (submitted to Joint Standing Committee on Labor, pursuant to Resolves of 1997, Chapter 65)
 - ◆ Task Force on Improving Access to Prescription Drugs for the Elderly (submitted to the Legislature pursuant to P.L. 1997, Chapter 560, Part E)
 - ◆ Task Force to Study the Cost-effectiveness of the Child Development Services System (submitted to the Legislature, pursuant to P.L. 1997, Chapter 534)

Study Authorized by the Legislative Council

- ◆ Joint Standing Committee on Criminal Justice: Scope of Juvenile Justice Problems and Services in Maine

Item #4: Request for Extension of Reporting Deadline

- ◆ Task Force to Study the State's Regional Service Center Communities: (letter from Rep. Richard Farnsworth, Task Force Chair)

Item #5: Performance Budgeting: Discussion of Proposed Amendments to Current Law and Their Implications

Item #6: After Deadline Requests

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

REP. ELIZABETH H. MITCHELL
CHAIR

SEN. MARK W. LAWRENCE
VICE-CHAIR



118th MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. CHELLIE PINGREE
SEN. JANE A. AMERO
SEN. ANNE M. RAND
SEN. R. LEO KIEFFER
REP. CAROL A. KONTOS
REP. JAMES O. DONNELLY
REP. MICHAEL V. SAXL
REP. RICHARD H. CAMPBELL

SARAH C. TUBBESING
EXECUTIVE DIRECTOR

MEETING SUMMARY

JANUARY 21, 1998

CALL TO ORDER

The Chair, Speaker Mitchell, called the Legislative Council to order at 10:25 a.m., in the Taxation Committee Hearing Room, State House.

ROLL CALL

Senators:	President Lawrence, Sen. Pingree, Sen. Amero, Sen. Rand, Sen. Kieffer
Representatives:	Speaker Mitchell, Rep. Kontos, Rep. Donnelly, Rep. Saxl Absent: Rep. Campbell
Legislative Officers:	Sally Tubbesing, Executive Director, Legislative Council John Wakefield, Director, Office of Fiscal and Program Review David Boulter, Director, Office of Policy and Legal Analysis Margaret Matheson, Revisor of Statutes Lynn Randall, State Law Librarian Joy O'Brien, Secretary of the Senate Joseph Mayo, Clerk of the House

SUMMARY OF DECEMBER 18, 1997, COUNCIL MEETING

Motion: That the Meeting Summary be approved and placed on file. (Motion by Rep. Saxl; second by Sen. Rand, unanimous).

The Council proceeded to **New Business**, out of order in deference to those sponsors who were present.

NEW BUSINESS

Item #1: After Deadline Bill Requests

After deadline requests were considered by the Legislative Council. The Council's action on these requests is included on the attached list.

Upon concluding the list of request, the Chair, Speaker Mitchell, stated that she had learned late the previous day of an opportunity regarding potential acquisitions for the Maine State Museum. She recognized Joseph R. Phillips, Director of the Museum, and Earle Shettleworth, Executive Director of the Maine Historic Preservation Commission, and invited them to make a brief presentation to the Council. Mr. Shettleworth passed around a color photo of a watercolor depicting the original State House in Portland, noting that it is the only known view of Maine's first seat of government. He stated that this watercolor was part of a collection of more than 700 items that a local Hallowell family -- well known antique collectors - had decided to auction.

Mr. Phillips reported that his staff had gone through the catalogue that the auctioneer had published and identified 24 items that would fill in key gaps in the Museum's collection -- items that are significant historic "documents". They had tried to estimate the price that each item would command and concluded that they needed to raise \$162,000 to cover the total amount. He noted that the Museum had turned first to individuals who had assisted the Museum with purchases in the past, but that these same sources had supported three major acquisitions in the past year, and appeared to be temporarily "tapped out."

The Chair, Speaker Mitchell, stated that this was an extraordinary request, but that it was also an extraordinary collection, and she reminded Council members that if they approved a bill for introduction to fund these purchases, it would require final action by the Legislature at its next session the following Monday since the auction was two days later. She opened the floor for discussion. Council members' questions and comments focused on the following

- How does the State usually acquire art and/or artifacts? (Rep. Saxl)

Mr. Phillips: 90% of the Museum's acquisitions come as direct donations from the owner. The Museum has \$10,000 in its General Fund budget for this purpose, but these funds have already been spent in the current fiscal year.

- Has the Museum explored other funding sources?

- Governor's Contingency Fund (Speaker Mitchell)

Mr. Phillips: The Governor has indicated he would support legislation, but that his Contingency Fund does not have the funds available to cover this purchase.

- Outdoor Heritage Trust Fund (Sen. Kieffer)

Mr. Phillips: Thus Fund has never been suggested before. He added that he and his staff would continue to explore private funding sources.

The Chair, Speaker Mitchell, noted that the Museum is in the process of establishing an Endowment Fund, which would provide a resource in the future for this kind of opportunity. Mr. Phillips stated that the Museum has come to the Legislature for General Fund support for specific acquisitions only twice in the past - once to purchase the well known painting of the State House by Charles Codman and, again, in 1972, to purchase items from the Shaker collection at Sabbathday Lake.

- How does the Museum know the market value of individual items? What if the bids exceed the Museum's estimates? (Sen. President Lawrence)

Mr. Phillips: The Museum's curatorial staff are very knowledgeable about market prices, and their estimates are conservative. Because it is at auctions of this nature that the market value of items gets reset, he and his staff have developed a priority list to ensure that the available funds would be used on the highest priority items.

- Why the notice for such a significant auction was so limited (Sen. Kieffer)

Mr. Shettleworth: Although his staff and Museum staff knew the auction was coming up, the catalogue, which was published only two weeks ago, provided the first information about the specific items that would be auctioned. The ice storm delayed "mobilization" efforts as well.

Motion: That the Council approve for introduction a bill with the following title:
Resolve, to Authorize the Maine State Museum to Purchase Historic Maine Artifacts (Motion by Sen. President Lawrence; second by Rep. Kontos; unanimous).

Item #1: Submission of Study Reports

- ◆ Commission to Determine the Adequacy of Services to Persons with Mental Retardation (Resolves of 1997, Chapter 79)
- ◆ Select Committee to Study the Health Effects of Reformulated Gasoline (Established by Presiding Officers)
- ◆ Task Force to Review the Applied Technology Centers and Applied Technology Regions (Resolves of 1997, Chapter 74)
- ◆ Task Force to Study the Feasibility of a Single Claims Processing System for 3rd-party Payors of Health Care Benefits (Resolves of 1997, Chapter 63)

Motion: That these study reports be accepted and placed on file. (Motion by Senate President Lawrence; second by Rep. Donnelly; unanimous).

- ◆ Blue Ribbon Commission to Study the Effects of Government Costs on Small Businesses in Maine

The Council had received a memorandum, from Representative Arthur F. Mayo, III, who chairs this Commission. Rep. Mayo reported that the Commission had had to postpone its final meeting as a result of the ice storm and required additional time beyond the deadline previously approved by the Council.

Motion: That the Blue Ribbon Commission be granted an extension of its reporting deadline until Friday, January 23. (Motion by Sen. President Lawrence; second by Rep. Donnelly; unanimous).

Item #2: Requests to Extend Reporting Deadlines

The Chair, Speaker Mitchell, noted that most of the requests that the Council was about to discuss were attributable to the ice storm. She stressed that it was important for Council members to keep in mind that granting extensions beyond the week ending January 30 would divert OPLA staff from their work for the joint standing committees.

- ◆ Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities

The memorandum from the Commission Chair, Senator Treat proposed that the Commission continue to meet until February 6 and then resume after adjournment to complete the Commission's work by September 30, 1998.

Motion: That the Commission be authorized to have one additional meeting on January 26, 1998 and that it be requested to submit its final report to the Legislative Council following that meeting. (Motion by Senate President Lawrence; second by Speaker Mitchell; unanimous).

- ◆ Task Force on Improving Access to Prescription Drugs for the Elderly

The letter from Senator Pingree, who chairs the Task Force, requested an extension until February 13. In response to a question from the Chair, Speaker Mitchell, David Boulter indicated that a draft final report had been completed and he thought the Task Force could complete its work with a day's worth of meeting.

Motion: That the extension be approved as requested. (Motion by Senate President Lawrence; second by Sen. Pingree; unanimous).

- ◆ Commission to Study the Use of Pharmaceuticals in Long-Term Care Settings.

A letter from Michael J. Fiori, Commission Chair, requested authorization either to continue work following completion of the Second Regular Session, or to schedule one final meeting and conclude the Commission's work.

Motion: That the Commission be authorized to have one final meeting for the purpose of completing a report and to submit a final report by January 23, 1998. (Motion by Senate President Lawrence; second by Sen. Rand; unanimous).

◆ Commission to Study the Unemployment Compensation System

A letter from the Commission Chair, Senator Treat, requested that the Commission be granted an additional extension to February 15. In discussion, Senate President Lawrence noted that the issues that the Commission had been charged with addressing were significant and that Maine faces a shortfall in the Unemployment Compensation Fund in 2003. Senator Rand added that these issues are not new and that the Joint Standing Committee on Labor had been dealing with them for several years.

The Chair, Speaker Mitchell turned to David Boulter, who indicated that a final report had not yet been drafted and that substantial work remained. He further stated that the unemployment issue was before the Labor Committee this session.

Motion: That the Commission be authorized to hold its scheduled meeting on January 27, and issue a final report, and transmit its work papers to the Labor Committee, with the understanding that any additional work on this policy issue that was necessary would be carried out by the Labor Committee. (Motion by Senate President Lawrence; second by Sen. Pingree; unanimous).

◆ Task Force to Study the Feasibility of Creating a Maine Mobility Fund

The letter from Alan B. Stearns, Task Force Chair, requested an extension of the reporting deadline from January 1 to October 15, 1998, with suspension of all activity until after adjournment of the Second Regular session. The Chair, Speaker Mitchell, recognized Mr. Stearns, asking him whether the Legislature's Transportation Committee had a position on the request to delay reporting until the 119th Legislature. Mr. Stearns indicated that he was not aware of the Committee's position, but reminded Council members that this Committee's original recommendation to create the study had been a divided report, noting that he thought Committee members would still be divided. Senate President Lawrence pointed out that the extension would not require legislation, and offered the following motion:

Motion: That the extension be denied. (Motion by Sen. President Lawrence; second by Sen. Amero; unanimous).

Mr. Boulter stated that there were additional study commissions staffed by his office that had not requested extensions even though their reporting deadlines had passed, and that clarification from the Council regarding how to proceed would be helpful. The Council took action as follows.

Joint Select Committee on Research and Development: Motion: That an extension be approved to permit the Committee to finalize technical issues and issue its final report by January 30, 1998. (Motion by Sen. President Lawrence; second by Rep. Donnelly; unanimous).

Sally Tubbesing then stated that although the **Maine Commission on Outstanding Citizens** was not staffed by the Legislature, it did require an extension and should be included in the omnibus bill. The Chair, Speaker Mitchell, directed the Revisor's Office to include this Commission in the "omnibus" extension bill. The Council took no other action on this item. (**Note:** It was later determined that this extension did not require legislation).

The Chair, Speaker Mitchell then returned to the remaining items on the agenda.

EXECUTIVE DIRECTOR'S REPORT

Sally Tubbesing drew members' attention to the following items:

Item #1: New Employees/ Office of Policy and Legal Analysis

Ms. Tubbesing reported that Mr. David Webb and Ms. Danielle Tetreau had recently joined the OPLA staff as a Legislative Analyst. Mr. Webb has been hired on a temporary basis to fill in for Carrie McFadden, who is on leave, and he will be staffing the Business and Economic Development Committee. Ms. Tetreau, a graduate of the Muskie School of Public Service, has been the Regional Director of the American Heart Association. She will be co-staffing the State and Local Government and Legal and Veterans Affairs Committees.

This item did not require Council action.

Item #2: State House Renovations: Inquiries

EXECUTIVE SESSION

Motion: That the Council go into Executive Session for the purpose of discussing matters related to current contracts. (Motion by Rep. Saxl; second by Sen. Rand).

The Council proceeded to go into Executive Session at 11:32 a.m.

RECONVENE

The Chair reconvened the Council in open session at 11:52 a.m.

REPORTS FROM COUNCIL COMMITTEES

None.

OLD BUSINESS

Item #1: Request to Pay Maine's Annual Dues to the Assemblée Internationale des Parlementaires de Langue Française (AIPLF). Tabled at December 18 meeting pending further information.

The Chair, Speaker Mitchell, drew Council members' attention to information that Ms. Tubbbesing had compiled regarding the Legislature's participation in the AIPLF in prior years. She then recognized Senator Judy Paradis and asked her to describe the work of the organization. Sen. Paradis stated that she is the new President of the Maine section of the AIPLF, whose membership includes 52 countries throughout the world. Sen. Paradis indicated Maine benefits from professional and technical support that the organization provides to French-speaking areas in Maine, and pointed out that the AIPLF had been involved in negotiating a potato contract with one of the French-speaking African counties. She expressed her embarrassment that Maine had not paid its dues for several years and noted that the AIPLF has even paid for her travel.

Senator Amero asked why the organization continued to allow Maine to participate, given the dues situation; and Sen. Paradis responded that the participation of French-speaking Americans was of great value to the organization. Senator Kieffer followed by asking what benefits Maine is deriving from Sen. Paradis' participation in the AIPLF; and Sen. Paradis reiterated the activities she had mentioned earlier, including the materials that are provided to many schools in Maine and the potato contract negotiations. Senator Kieffer inquired whether the Maine Potato Growers or any of the other large growers' organizations have been involved in these negotiations, and Senator Paradis responded no. The Chair, Speaker Mitchell, noted that it is important to share information about the organization with a broader group of legislators.

Motion: That the Council authorize payment of the annual dues to the AIPLF for the current year only, in an amount not to exceed \$2,200.00. (Motion by Sen. Pingree; second by Sen. President Lawrence; approved 6-3).

Item #2: Production of a Video on the Legislative Process: Progress Report

The Chair, Speaker Mitchell, recognized Rep. Kontos, who reported that since the December Council meeting, the Maine Development Foundation had agreed to serve as the fiscal agent for the Project, and the planning group has now obtained firm pledges of \$25,000 out of the projected budget of \$30,000. She continued that the group is in the process of forming a formal Advisory Committee for the purpose of reviewing the text to ensure accuracy. Members of this committee would include 4 legislators, the Secretary of the Senate, the Clerk of the House, and representatives from the Offices of Fiscal & Program Review, Policy & Legal Analysis and the Revisor. She concluded by saying that enthusiasm for the project continues to grow, and that there is interest in producing additional videos.

The Chair, Speaker Mitchell, congratulated Rep. Kontos. Senate President Lawrence echoed the congratulations and specifically commended the idea of having a written agreement with the Maine Development Foundation. He offered several suggestions that were incorporated in the ensuing motion.

Motion: That the Legislative Council formally authorize this project and that the Council's authorization be included in the credits on the video; and, further, that the written agreements with the Maine Development Foundation and Spring Point specifically define the ownership of the videos; and further, that the presiding officers work with Rep. Kontos to appoint the legislators to the Advisory Committee and to assure bipartisan, bicameral representation. (Motion by Senate President Lawrence; second by Sen. Rand; unanimous).

Rep. Kontos concluded the discussion with an invitation to all Council members to attend a reception and previews of the video on January 28.

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

Motion: That the Council adjourn. (Motion by Sen. President Lawrence; second by Rep. Donnelly). The Council adjourned at 12:30 p.m.

MAINE STATE LEGISLATURE					
FY 98 EXPENDITURES (BY ACCOUNT)					
(AS OF 2/13/98)					
			ADJUSTED		
APPROP #	LINE CAT	EXPENSE CATEGORY TITLE	BUDGET	SPENT/OBLIGATED THRU 2/13/98	UNOBLIGATED BALANCE AS OF 2/13/98
Legislative					
01030A008101	Per. Svcs.	Salaries			
		Legislators	1,466,110.00	617,389.42	848,720.58
		Employees			
		Full Year	4,959,976.00	2,883,358.28	2,076,617.72
		Session	707,837.00	261,424.60	446,412.40
		Overtime	91,720.00	18,299.89	73,420.11
		Unemployment Comp	75,740.00	29,992.42	45,747.58
		Per Diem	90,200.00	59,510.00	30,690.00
		Benefits	2,994,454.00	1,584,617.56	1,409,836.44
		Total Personal Services	10,386,037.00	5,454,592.17	4,931,444.83
	All Other	PROF. SERVICES, NOT BY STATE	154,000.00	148,045.68	5,954.32
		PROF. SERVICES, BY STATE	115,553.00	45,452.73	70,100.27
		TRAVEL EXPENSES, IN STATE	830,090.00	340,035.18	490,054.82
		TRAVEL EXPENSES, OUT OF STATE	78,584.00	62,797.81	15,786.19
		UTILITY SERVICES	358,622.00	221,575.40	137,046.60
		RENTS	44,650.00	25,439.56	19,210.44
		REPAIRS	141,790.00	9,540.95	132,249.05
		INSURANCE	21,105.00	17,970.65	3,134.35
		GENERAL OPERATIONS	1,253,570.00	768,448.43	485,121.57
		Postage	(237,820.00)	(216,328.91)	(21,491.09)
		Printing	(692,080.00)	(294,925.62)	(397,154.38)
		Photocopying	(65,500.00)	(60,047.39)	(5,452.61)
		Dues/Registration Fees	(34,700.00)	(30,328.53)	(4,371.47)
		Software	(60,000.00)	(46,858.70)	(13,141.30)
		Advertising	(79,650.00)	(46,736.33)	(32,913.67)
		Subscriptions	(32,490.00)	(22,360.62)	(10,129.38)
		Miscellaneous	(51,330.00)	(50,862.33)	(467.67)
			(1,253,570.00)	(768,448.43)	(485,121.57)
		COMMODITIES - FOOD	1,765.00	1,053.67	711.33
		OFFICE SUPPLIES	57,908.00	29,503.85	28,404.15

MAINE STATE LEGISLATURE					
FY 98 EXPENDITURES (BY ACCOUNT)					
(AS OF 2/13/98)					
APPROP #	LINE CAT	EXPENSE CATEGORY TITLE	ADJUSTED BUDGET	SPENT/OBLIGATED THRU 2/13/98	UNOBLIGATED BALANCE AS OF 2/13/98
		CLOTHING	3,000.00	2,003.48	996.52
		MINOR EQUIPMENT	271,776.00	218,188.88	53,587.12
		OTHER SUPPLIES	34,704.00	27,474.15	7,229.85
		CONSTITUENT SVC. ALLOWANCE	200,250.00	149,500.00	50,750.00
		WORKERS' COMP	5,000.00	476.00	4,524.00
		INTEREST PAYMENT LATE FEE	0.00	144.54	(144.54)
		Total All Other	3,572,367.00	2,067,650.96	1,504,716.04
	Capital	EQUIPMENT	57,536.00	18,016.00	39,520.00
		Total Capital	57,536.00	18,016.00	39,520.00
		Account Total	14,015,940.00	7,540,259.13	6,475,680.87
<u>Commission on Interstate Cooperation</u>					
01030A005301	All Other		143,087.00	141,892.00	1,195.00
<u>Commission on Uniform State Laws</u>					
01030A024201	All Other		19,077.00	17,556.58	1,520.42
<u>Misc. Study Commissions</u>					
01030A044403	Per. Svcs.	Per Diem	16,610.00	10,065.00	6,545.00
	All Other		25,750.00	14,996.54	10,753.46
		Account Total	42,360.00	25,061.54	17,298.46
<u>State House and Capitol Park Commission</u>					
01030A061501	All Other		155,212.00	47,067.58	108,144.42

MAINE STATE LEGISLATURE					
FY 98 EXPENDITURES (BY ACCOUNT)					
(AS OF 2/13/98)					
			ADJUSTED		
APPROP #	LINE CAT	EXPENSE CATEGORY TITLE	BUDGET	SPENT/OBLIGATED THRU 2/13/98	UNOBLIGATED BALANCE AS OF 2/13/98
State House Pres. & Maintenance Fund					
01030A074701	All Other		107,954.00	107,540.59	413.41
	Capital		850,000.00	560,105.16	289,894.84
		Account Total	957,954.00	667,645.75	290,308.25
Education Research Institute					
01030A082401	All Other		100,000.00	25,000.00	75,000.00
Law and Legislative Reference Library					
01031A063601	Pers. Svcs.	SALARIES	576,297.00	345,689.95	230,607.05
		BENEFITS	184,660.00	115,324.11	69,335.89
		Total Personal Services	760,957.00	461,014.06	299,942.94
	All Other	PROF SERVICES, NOT BY STATE	1,000.00	239.20	760.80
		PROF. SERVICES, BY STATE	0.00	34.80	(34.80)
		TRAVEL EXPENSES, IN STATE	618.00	397.59	220.41
		TRAVEL EXPENSES, OUT OF STATE	4,400.00	1,864.55	2,535.45
		UTILITY SERVICES	14,630.00	5,586.93	9,043.07
		RENTS	1,811.00	94.50	1,716.50
		REPAIRS	1,185.00	217.00	968.00
		INSURANCE	1,850.00	42.75	1,807.25
		GENERAL OPERATIONS	193,210.00	135,613.11	57,596.89
		OFFICE SUPPLIES	3,987.00	2,748.36	1,238.64
		OTHER SUPPLIES	61,790.00	17,993.54	43,796.46
		WORKERS' COMP	10,500.00		10,500.00
		Total All Other	294,981.00	164,832.33	130,148.67
	Capital	EQUIPMENT	15,740.00	0.00	15,740.00
		Account Total	1,071,678.00	625,846.39	445,831.61



STATE HOUSE MASTER PLAN FOR CAPITAL IMPROVEMENTS

- ◆ Status
- ◆ Proposed Work for 1998 Interim (enclosed)



MAINE STATE LEGISLATURE
OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

February 19, 1998

TO: Members of the Legislative Council

FROM: Sally *Sally*

SUBJECT: State House Capital Improvements: Proposed Work for the 1998 Interim

The attached list presents a recommended scope of work to be accomplished during the upcoming interim. The recommendations incorporate the thinking of our architect/engineering team, as well as specific requests from the Senate and House.

As you know, the replacement of the sound system was one of the key projects that we put forward last fall to be accomplished with the funds from the bond issue. Several of the other projects on this list are directly tied to the replacement of the sound system and, from the perspective of cost effectiveness, should be carried out in conjunction with this project. They include:

- Renovation of the House Chamber
- Replacement of the "Front Desks" in both the Senate and House Chambers
- Upgrading the wiring that supports the Local Area Network (computer)

The replacement of the north and south elevators this summer is a necessary first step in the major mechanical/electrical systems (Utilities) project that is a central element of the overall Master Plan. Replacement of the elevators will permit the use of a portion of the existing elevator shafts for the vertical cable and wiring runs that are required to support sound, data, and telecommunications systems throughout the State House.

This document is a **recommendation**. The Council's Legislative Facilities Committee has begun reviewing it, and I am in the process of gathering some additional information for them.

I would be happy to go over this with you.

Enclosure

State House Capital Improvements Master Plan

Proposed Work for 1998 Interim

Project #1: Replacement of Legislative Sound System/Related Wiring	Estimated Cost	Proposed Funding Sources
Scope Installation of a new system, including provisions for conformance with ADA. System will include areas not covered by current system, (e.g. selected hearing rooms; Hall of Flags; South "Old Museum" area). <ul style="list-style-type: none"> ◆ Replacement of equipment and installation of new wiring throughout State House. ◆ Wiring House Chamber to accommodate other technologies (electrical; data; video) ◆ Upgrade wiring that supports Legislature's Local Area Network (LAN). Upgrade is required to assure stability of LAN and to extend LAN to all areas in State House and State Office Building 	System components/sound : \$ 530,000 System components/LAN : 300,000 Architectural finishes : 270,000 Architect/Engineer fees : 120,000 Contingency : <u>138,000</u> \$1,358,000	Bond Issue : \$1,058,000 Additional Requirement: 300,000

Project #2: Renovation/Restoration of House Chamber	Estimated Cost	Proposed Funding Sources
Scope Project would involve complete cosmetic upgrade (carpet, paint, plaster repair and furnishings) and first phase of utilities upgrade in the State House. <ul style="list-style-type: none"> ◆ Existing Ventilation system would be replaced and upgraded yielding improved temperature control in House Chamber. ◆ Window upgrades would involve replacement of exterior wood sash; replacement of glazing with thermal units; reconditioning of wood frames. 	Windows : \$ 200,000 Ventilation System : 125,000 Electrical Upgrades : 97,000 Paint/patch/carpet (including abatement) : 165,000 Front Desk Furnishings : 110,000 Members' Chairs & Desks : <u>350,000</u> \$1,047,000	FY 99/State House Fund: \$ 372,000 Additional Requirement: \$ 675,000

Project #3: Replace Senate Front Desk	Estimated Cost	Proposed Funding Sources
<p>Scope Objective of redesign and replacement is to accommodate technology and support enhanced work flow during the legislative session in a manner that incorporates accessibility.</p>	<p>Front Desk Furnishings : \$ 80,000</p>	<p>FY 99/State House Fund</p>
Project #4: Repair/Restore Stairwells	Estimated Cost	Proposed Funding Sources
<p>Scope Completion of installation of smoke doors and draft curtains in these areas is a priority life safety requirement. Work would also include abatement, patching and painting; refurbishing of marble treads; replacement of lighting fixtures.</p>	<ul style="list-style-type: none"> Stairwells <p>Fire protection : \$ 105,550</p> <p>Refurbishing : <u>200,000</u></p> <p>\$ 305,550</p> 	<p>Bond Issue : \$ 105,550</p> <p>Additional Requirement: \$ 200,000</p>
Project #5: Replace/Upgrade North & South Elevators	Estimated Cost	Proposed Funding Sources
<p>Scope Elevator cars would be replaced with higher speed cars and cars that achieve compliance with ADA requirements. Cars would be relocated within the existing shaft to provide a “free” area for vertical cabling runs (computer/phone/sound). Elevator penthouses would be reconstructed to accommodate new cars.</p>	<p>\$ 600,000</p>	<p>Bond Issue</p>

Project #6: Accessibility	Estimated Cost	Proposed Funding Sources
<p>6a. Interpretive Signage/ADA</p> <p>Complete installation of signage on all floors, consistent with ADA requirements.</p>	\$ 75,000	Bond Issue
<p>6b. Wheel Chair Lift/4th Floor, West Wing</p> <p>Wheel Chair Lift would replace ramp and provide ADA compliant access to West Wing offices and committee rooms. Funds available in current year were not sufficient to cover the cost of this project.</p>	<p><u>\$ 35,000</u> \$110,000</p>	Bond Issue
Project #7: Refurbish Proofreader's Office	Estimated Cost	Proposed Funding Sources
<p>Scope</p> <p>Work in this area has been deferred previously pending completion of Perimeter Drainage System. Project would include abatement paint, patching; replacement of ceiling lighting; upgrading of wiring; installation of carpet, and modification in furnishings to increase desk top work space.</p>	\$ 35,475	FY99/State House Fund
Project #8: Replace East Portico Ceiling	Estimated Cost	Proposed Funding Sources
<p>Original demolition, which cost \$24,000, was unbudgeted. Funds are not currently available for replacement.</p>	\$ 60,000	FY 99/State House Fund
Project #9: Capitol Park Paths & Walkways: Phase I	Estimated Cost	Proposed Funding Sources
<p>Scope</p> <p>Goal of proposed design, which is consistent with Olmsted's original plan for the park, is to increase use and "user friendliness" of the Park.</p>	\$ 100,000	Additional Requirement

Project #10: Replacement of North Exterior Doors	Estimated Cost	Proposed Funding Sources
<p>Scope</p> <p>Project would involve replacing both sets of doors. Electronics would be installed to permit remote locking/unlocking and eventual use of magnetic cards. Vestibule area would be completely refurbished (ceiling; walls; flooring and lighting).</p>	<p>\$ 65,000</p>	<p>FY 99/State House Fund</p>

**SUMMARY OF PROPOSED FUNDING SOURCES AND USES
1998 INTERIM**

Bond Issue

<input type="checkbox"/> Sound System	\$ 1,058,000
<input type="checkbox"/> North & South Elevators	600,000
<input type="checkbox"/> Stairwells: Restoration & Completion of Fire Suppression	105,550
<input type="checkbox"/> ADA Signage	75,000
<input type="checkbox"/> 1% for Art	<u>8,750</u>
Total	\$ 1,847,300

**State House Preservation & Maintenance Fund
(FY 99 Appropriation (\$850,000))**

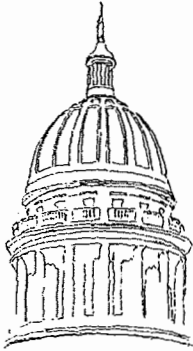
<input type="checkbox"/> House Chambers (partial)	\$ 372,000
<input type="checkbox"/> Senate Chamber/Front Desk	80,000
<input type="checkbox"/> East Portico Ceiling	60,000
<input type="checkbox"/> Replace Exterior Doors	65,000
<input type="checkbox"/> Proofreader's Office	<u>35,475</u>
	\$ 612,475

☐ **Reserves Required**

Recarpet
Repaint
Window Washing
Marble Floor Polishing
Roof Maintenance/Repairs to West Wing

Additional Funds Required/FY 98-FY 99

<input type="checkbox"/> House Chamber Restoration		
- Ventilation System	\$ 125,000	
- Windows	200,000	
- Furnishings	<u>350,000</u>	
		\$ 675,000
<input type="checkbox"/> Computer System Upgrade		
- LAN Reconfiguration	\$ 300,000	
- Software Development for Bill Drafting/Bill Status	<u>\$1,139,600</u>	
		\$1,439,600
<input type="checkbox"/> Capitol Park Paths/Walkways	\$ <u>100,000</u>	
Total Additional Required for FY 98 Interim Work		\$2,214,600



MASTER PLAN IMPLEMENTATION:

SUMMARY OF COST ESTIMATES

Life-Safety and Health	\$ 7,315,165 <u>- 105,550</u> ♦	
		\$7,209,615
Accessibility	3,518,000 <u>- 1,768,000</u> ♦	
		\$1,750,000
Structural Integrity	762,250	
		\$ 762,250
Restore Major Public Spaces	6,257,305 <u>- 635,000</u> *	
		\$5,622,305
Support Expanded Use of Technology	<u>2,089,000</u>	
		<u>\$2,089,000</u>
Total additional funding requirements		\$ 17,433,170

♦ Not included in total: included in Bond Issue "budget."

* Not included in total: to be funded from FY 99 Appropriation to
State House Preservation & Maintenance Fund.



State House Master Plan

LIFE-SAFETY AND HEALTH

Fire Suppression & Protection		
Lighting Protection System	\$ 35,000	
[Smoke Doors/Draft Curtains	105,550 ♦]	
Sprinkler System	297,565	
Electrical System Upgrade	1,371,225	
Catwalk System	157,000	
Window Replacement	1,292,000	
HVAC/General	2,512,575	
Senate & House Chambers	225,000	
Water Quality/Toilet Facilities	1,204,250	
Security		
Replace Exterior Doors/Install Electronics		
North Doors/1st Floor	50,000	
Handicapped Entrance/1st Floor	(see West Wing)	
Governor's Entrance/2nd Floor	50,000	
Door to 3rd Floor Balcony	<u>15,000</u>	
		\$7,209,615

RESTORE MAJOR PUBLIC SPACES

East Entry Stair Reconstruction	\$ 800,000	
South Entrance ("Old Museum")	450,000	
South Stairs	40,000	
Corridor Upgrades (2nd/3rd floors)	300,000	
[Stairwells	200,000 *]	
Leg. Hearing Rooms	1,140,000	(Does not include furnishings)
Leg. Offices/State House	1,279,340	(Does not include furnishings)
Law Library	620,000	
Capitol Park/Paths & Walkways	222,965	
Senate/House Chambers		
Senate	410,000	
Front Desk	80,000 *	
House	540,000	
	-245,000 *	
Front Desk	110,000 *	
Dome Lighting	<u>65,000</u>	
		<u>\$ 5,622,305</u>
Subtotal : Additional Funding Required		\$12,831,920

♦ Not included in total: to be included in Bond Issue "Budget".

* Not included in total: to be funded from FY 99 Appropriation to State House Preservation & Maintenance Fund.

STATE HOUSE MASTER PLAN

Page 2

ACCESSIBILITY

Replace/Upgrade Sound System	\$1,058,000 ♦	
Install Wheel Chair Lift/4th Floor	35,000 ♦	
Complete Installation of Interpretive Graphics (ADA)	75,000 ♦	
Replace Elevator Cars		
North & South Wings	600,000 ♦	
West Wing Entrance	<u>1,750,000</u>	(Interior only)
Total Funding Required		\$1,750,000

ENSURE STRUCTURAL INTEGRITY

Replace 1st Floor Slab	\$ 450,000	
(Does not include work in South or West Wing lobbies)		
West Wing/East Porch Roofing/High Dome Copper	252,250	
Replace East Portico Ceiling	<u>60,000</u>	
Total Funding Required		\$762,250

OTHER

Enhancements to LAN (Network wiring)	\$ 300,000	
Software development to complete migration from Wang	1,139,000	
Replace Members' Desks/Chairs	<u>650,000</u>	
		\$ 2,089,000
Subtotal		\$ 4,601,250
Total Additional Funding Required		\$17,433,170

♦Not included in total: included in Bond Issue "budget."

Revised 2/4/98

118th Maine State Legislature Legislative Council

Legislative Information Technology
Council Briefing
February 23, 1998

Legislative Technology Council Briefing February 23, 1998

■ Today's Objectives

- Update the Council on I/T progress to date
- Review the Proposed Migration Project Plan
- Discuss Next Steps
 - Approval to Issue Request for Proposal
 - Project Funding

Legislative Technology Findings

■ Areas Requiring Action

- User Support
- I/S Staff and Organization
- System Reliability
- Delivering Functionality
- Migration Project

Legislative Council 2/23/98

3

Legislative Technology Progress to Date

■ User Support

- Improved "Cyber Room" Environment
- Working with IRC in Supporting Applications
- Facilitated the WEB Users Group (WUG)
- Installed Committee PCs and Printers
- Coordinated Legislative Staff Training
- Reviewing Office Use of Technology Tools
- Completed Help Desk Implementation

Legislative Council 2/23/98

4

Legislative Technology Progress to Date

■ Staff and Organization

- Supported Dual Systems Environments
- Established Network, Desktop, and WEB/Internet Administration Functions
- Focused I/S Staff Training on Future Needs
- Implemented Structured Task Management
- Implementing Customer Oriented Support
- Supported Committee on Legislative Information Technology

Legislative Council 2/23/98

5

Legislative Technology Progress to Date

■ System Reliability

- Upgraded Electrical Power Supply
- Upgraded "UPS"
- Rebuilt Network in Several Areas
- Mirrored Production Servers
- Improved Maintenance Support
- Installing Heat Alarms in Computer Room
- Assessed Year 2000 Risk
- Monitored/Corrected Extensive Virus Attacks

Legislative Council 2/23/98

6

Legislative Information Technology

1998

High Level Objectives for 1998:

- Improve customer service support levels
- Raise organizational levels of cost effective and efficient use of technology
- Increase the reliability of the technology environment
- Meet the goals of the Legislature's Strategic Plan to provide information to the public
- Ensure the I/S staff is talented, involved, and has modern skill sets
- Install, upgrade, and maintain technology applications and tools that continuously improve the Legislative process

Targeted 1998 Accomplishments:

- ✓ Expand the use of help desk tool (trending, early problem identification)
- ✓ Measure I/S staff performance in part by customer satisfaction levels
- ✓ Improve levels of involvement and communication with our customers
- ✓ Continue the office by office review of technology application
- ✓ Coordinate Legislator and staff desktop tools training
- ✓ Install application and database servers
- ✓ Ensure the appropriate support and administration levels for client/server
- ✓ Upgrade/expand the Legislative local area network including all Committee areas
- ✓ Replace Committee 486 PCs with networked Pentium PCs
- ✓ Implement an ADA compliant Law Library Public Workstation environment
- ✓ Define options to address Legislative e-mail issues
- ✓ Define options for telephone service and Internet service provision
- ✓ Define options for Legislative software "site" licensing
- ✓ Define options for Office Suite release level standardization
- ✓ Begin shift to network based software vs. individual desktop copies
- ✓ Continue expanding WEB Page content in concert with the WUG
- ✓ Establish a Legislative "Intranet" for Legislator and staff use
- ✓ Implement I/S staff cross-training to provide technical backup support/depth
- ✓ Award bill drafting/status systems contract, and begin development

Legislative Technology Progress to Date

■ Delivering Functionality

- Implemented New Content on the WEB Page
 - Statutes
 - Council Approved 2nd Session Bills/(Bill Text)
 - Hearing/Work Session Schedules
- Replaced File Server, & Internal Mail Server
- Replaced 486 PCs
- Installed Networked Color Printing/Faxing, etc.
- Installed Windows NT O/S & MS-SQL DB

Legislative Council 2/23/98

7

Legislative Technology Migration Defined

- The process of moving the Legislature's automated business systems from the existing WANG VS minicomputer to a client/server based computing environment
- Key Migration Actions
 - Establish Network Operating Software, Hardware, Database Environments
 - Develop replacement application software
 - Convert current and historical data

Legislative Council 2/23/98

8

Why Migrate Off WANG VS?

■ Obsolete Technology

- Hardware is wearing out
- Support people scarce
- Maintenance and modification of software slow, limited, & costly (Year 2000)
- Application software/files 1980s based, no clean support of "Windows" and WEB

■ Cost of Maintaining 2 I/T Architectures

■ Support Future Chamber Automation

Legislative Council 2/23/98

9

Legislative Technology Migration - Status

■ Where are we today

- Legislative drafting/status processes are defined
- Software application requirements are defined
- Technical infrastructure has been defined and is being stabilized
- Request for Proposal prepared, in final review

■ The time window for proceeding with bill drafting/status is ideal

Legislative Council 2/23/98

10

Reasons for Contracting Drafting/Status System Replacement

■ Resources

- In-house Software Development Skill Sets Limited, Staff Size Inadequate
- Hiring Staff is Expensive, Skills May Not Be Available in the Local Job Market
- Added Staff Not Required After Completion

■ Time

- Starting From Scratch VS Established Baseline
- Best Case, 3 to 6 Months Required to Hire Staff

Legislative Council 2/23/98

11

Reasons for Contracting Drafting/Status System Replacement

■ Quality/Functionality

- Pre-tested Baseline Software
- Functions Designed In Baseline Software
- Allow Focus on Conversion of Data
- Paying for Maine Specific Modifications

■ Cost

- In-house Staffing Costs Are Open Ended
- Shorter Timeline

Legislative Council 2/23/98

12

Legislative Technology Migration Proposed Plan/Timeline

- Define user requirements 9/97 -12/97
- Prepare drafting/status RFP 1/98 – 2/98
- Issue drafting/status RFP 3/98
- Bidder RFP response 4/98
- RFP review 4/98 – 5/98
- Legislative Council review/approval 6/98
- Contract award 6/30/98
- Drafting/status in production 12/1/99

Legislative Council 2/23/98

13

Legislative Technology Migration Estimated Cost

<u>Migration</u>	<u>Total Estimated</u>	
	<u>Cost</u>	<u>Unfunded</u>
Application Server Install	\$25,000	\$0
BD/BS User Training	\$25,000	\$25,000
Bill Drafting/Bill Status	\$793,750	\$793,750
Migration Development Tools	\$12,500	\$0
Office Suite Upgrade (Office 97)	\$67,500	\$67,500
Replace Misc. WANG Applications	\$106,250	\$93,750
Windows NT/SQL Server Prep.	\$6,250	\$0
Migration Off WANG VS Computer	\$1,036,250	\$980,000
PCs (networked) in Committee Rooms	\$157,000	\$71,400
Total Unfunded Costs		\$1,051,400

Legislative Council 2/23/98

14



Legislative Technology Migration - Discussion

- Council Approval to Advertise/Release Request for Proposal
- Funding for Migration Project Over the Current Biennium

Legislative Council 2/23/98 15

SENATE

JOHN M. NUTTING, DISTRICT 20, CHAIR
JILL M. GOLDTHWAIT, DISTRICT 5
JAMES D. LIBBY, DISTRICT 34

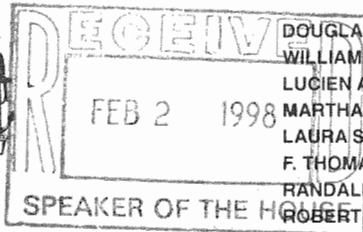
ROY W. LENARDSON, LEGISLATIVE ANALYST
DEBORAH C. FRIEDMAN, LEGISLATIVE ANALYST
DAVID C. ELLIOTT, LEGISLATIVE ANALYST
JACKIE CHAMBERLAIN, COMMITTEE CLERK

Important

Sally



STATE OF MAINE



HOUSE

DOUGLAS J. AHEARNE, MADAWASKA, CHAIR
WILLIAM LEMKE, WESTBROOK
LUCIEN A. DUTREMBLE, BIDDEFORD
MARTHA A. BAGLEY, MACHIAS
LAURA SANBORN, ALTON
F. THOMAS GIERINGER, JR., PORTLAND
RANDALL L. BUMPS, CHINA
ROBERT F. FISK, JR., FALMOUTH
SUSAN KASPRZAK, NEWPORT
BELINDA A. GERRY, AUBURN

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

COMMITTEE ON STATE AND LOCAL GOVERNMENT

February 2, 1998

Speaker Elizabeth H. Mitchell, Chair
Members of the Legislative Council
118th Maine Legislature
Augusta, Maine 04333

Received by:

Carrie _____
David _____
Jane _____
Chuck _____
Pat _____
Patrick _____
Peggy _____

Dear Speaker Mitchell and Members of the Legislative Council,

We are writing to request your input on a bill currently before us in the Joint Select Committee on State & Local Government. The bill is LD 566, An Act to Provide Computers for Use in the Legislature, sponsored by Rep. Belinda Gerry.

We carried the bill over from the First Regular Session to await the report of the legislator/staff committee developing a plan to make computers available to legislators and meeting other computerization goals. We heard a presentation by Paul Mayotte, with comments from Rep. Vedral and later from Rep. Carleton. Our initial thoughts after the presentations were that the computer committee was proposing plans that achieved the bill's purpose and that there perhaps was no need for us to approve the bill.

However, we are writing to inquire whether any needs of the Council would be met by our amending the bill and sending it to the floor. For example, this bill could serve as the funding vehicle for computerization plans. It could also be written in a general way to allow an opportunity for a vote to gauge legislative support for the general idea. A third option would be to place a clear mandate in the law that a certain type of computerization is required by a date certain, to give impetus to the project. We are aware that the plans have not yet been approved by the Council, so there may be changes in the structure, timing and cost of the project. We could send out the bill based on the current tentative plans, expecting that it would be amended on the floor when plans are finalized.

Would you please let us know what your wishes are regarding this bill. Since it appears that the committee supports some level of computerization plans, we would like to

know whether you think this bill can assist in seeing computerization plans become a reality. Thank you.

Sincerely,



Senator John Nutting
Senate Chair



Rep. Douglas J. Ahearne
House Chair

cc: Members of the Joint Standing Committee on State & Local Government

G:\OPLAGEA\COMMTTEE\SLG\CORRESP\LD566C.DOC



HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002
(207) 287-1400
TTY: (207) 287-4469

Richard R. Farnsworth

55 Old Mast Road
Portland, ME 04102
Residence: (207) 874-6399
Business: (207) 878-9663
Fax: (207) 878-2259

January 26, 1998

Speaker Elizabeth Mitchell
Legislative Council, Chair
115 State House Station
Augusta, ME 04333

Dear Speaker Mitchell,

I am writing to request an extension for the report of the Task Force to Study the State's Regional Service Center Communities.

Due to the ice storm, our scheduled meeting last week was canceled. In addition, there is consensus among the members of the committee that the recommendations we have developed will require further study. When we began this process, we did not expect our recommendations to be as comprehensive as they are, and feel we need additional time to study them more closely. We would like to present the report in March, with recommendations to be considered in the 119th Legislature. We respectfully request this extension

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "R. R. Farnsworth", with a large, sweeping flourish at the end.

Richard Farnsworth
State Representative

District 32 Part of Portland

Members of the Task Force to Study the State's Regional Service Center Communities

~~Mark Adams~~
Mark Adams

Jay Mitchell

~~John Smith~~

Bill Beem

Mark Adams

Sally Crowley

per phone - R.R. 4

Rae Donlin

per phone R.R. 4

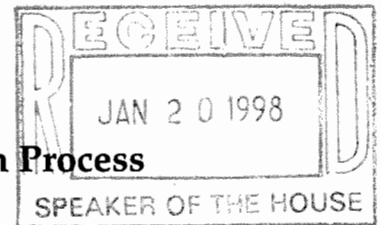
Mag Charles Gore

per phone R.R. 4

Terri Jones

per phone R.R. 4

Special Committee to Review the Study Commission Process



January 16, 1998

The Honorable Elizabeth H. Mitchell, Speaker
Maine House of Representatives
Office of the Speaker
State House
Augusta, Maine 04333

Received by:

Peggy _____
Carrie _____
David _____
Jan _____
Chuck _____
Pat _____
Patrick _____
Peggy _____

Received by:

Dear Speaker Mitchell:

The Special Committee to Review the Study Commission Process is pleased to submit the attached report that discusses the current legislative study process and makes recommendations for improvement. We appreciated the opportunity to study this issue and offer our suggestions for your consideration.

The committee reviewed the current study commission process and identified a number of barriers to establishing legislative study commissions and conducting timely and efficient studies. These barriers decrease the ability of the Legislature to direct the course of its own studies to meet legislative needs. The committee concluded that making relatively few, but important, changes to the current study commission process would significantly improve the effectiveness of study commissions and allow for efficient convening and conduct of the commissions. The areas where a change may improve the process are reflected in the 15 recommendations made by the committee.

We would be pleased to review our findings and recommendations with you in some detail and answer any questions you may have about the process or this report.

Sincerely,

Joy J. O'Brien
Secretary of the Senate

Joseph W. Mayo
Clerk of the House

Peggy Schaffer, Special Assistant
Speaker's Office

Peter Chandler, Chief of Staff
Senate President's Office

David E. Boulter, Director
Office of Policy and Legal Analysis

attachment

JAN 23 1998



MAINE STATE LEGISLATURE
Augusta, Maine 04333

January 30, 1998

The Honorable Elizabeth H. Mitchell, Chair
Legislative Council
118th Maine Legislature
State House
Augusta, ME 04333

Dear Chair Mitchell:

Pursuant to Joint Order, H.P. 1345, the Joint Select Committee to Oversee Maine Yankee Atomic Power Company is pleased to submit its final report. Copies of the report have also been transmitted to the Joint Standing Committee on Utilities and Energy. Copies of the report have been placed on file in the Law and Legislative Reference Library.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard J. Carey".

Sen. Richard J. Carey, Chair
Joint Select Committee to Oversee Maine
Yankee Atomic Power Company

Enclosure

cc: Members of the Legislative Council (w/encls. c/o Executive Director)
Sen. Richard J. Carey, Rep. Kyle W. Jones, Chairs, Joint Standing Committee on
Utilities and Energy
Sally Tubbesing, Executive Director, Legislative Council
David E. Boulter, Director, Office of Policy and Legal Analysis



MAINE STATE LEGISLATURE
Augusta, Maine 04333

February 11, 1998

The Honorable Elizabeth H. Mitchell, Chair
Legislative Council
118th Maine Legislature
State House
Augusta, ME 04333

Dear Chair Mitchell:

This letter is to inform you that the Joint Select Committee on Research and Development has submitted the attached report including recommended legislation to the Legislature pursuant to Joint Order of the Maine Legislature, S.P. 669. Copies of the report have also been placed on file with the Law and Legislative Reference Library.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mary R. Cathcart".

Senator Mary R. Cathcart, Co-Chair
Joint Select Committee on
Research and Development

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard A. Bennett".

Senator Richard A. Bennett, Co-Chair
Joint Select Committee on
Research and Development

Attachment

cc: Members of the Legislative Council (w/encls. c/o Executive Director)
Sally Tubbesing, Executive Director, Legislative Council
David E. Boulter, Director, Office of Policy and Legal Analysis

G:\OPLAGEN\PROJECTS\R&D-STDY\REPORT\R&DLCLR.DOC

FEB 13 1998

SENATE

JOHN T. JENKINS, DISTRICT 21, CHAIR
ANNE M. RAND, DISTRICT 28
BRUCE W. MACKINNON, DISTRICT 33

DAVID WEBB, LEGISLATIVE ANALYST
DIANE WHITE, COMMITTEE CLERK



HOUSE

MARC J. VIGUE, WINSLOW, CHAIR
ROSAIRE J. SIROIS, CARIBOU
RICHARD R. FARNSWORTH, PORTLAND
THOMAS P. SHANNON, LEWISTON
THOMAS J. WRIGHT, BERWICK
ROBERT A. CAMERON, RUMFORD
THOMAS W. MURPHY, JR., KENNEBUNK
WILLIAM E. BODWELL II, BRUNSWICK
JAY MACDOUGALL, NORTH BERWICK
ADAM MACK, STANDISH

STATE OF MAINE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

January 30, 1998

To: The Honorable Elizabeth H. Mitchell, Chair, Legislative Council

From: Senator John Jenkins, Representative Marc Vigue
Joint Standing Committee on Business and Economic Development

Re: Government Evaluation Act Review of the Department of Professional and
Financial Regulation

This memorandum is to inform you that the Joint Standing Committee on Business and Economic Development has submitted its findings and recommendations from the review and evaluation of the Department of Professional and Financial Regulation under the State Government Evaluation Act to the Legislature pursuant to Title 3 Maine Revised Statutes, chapter 35.

cc: Members, Legislative Council
Executive Director, Legislative Council

FEB - 2 1998

<p style="text-align: center;">JOINT STANDING COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT AND BANKING AND INSURANCE</p>

**Review of the Department of Professional and Financial Regulation
under the Government Evaluation Act**

The Government Evaluation Act

The Government Evaluation Act ("Act") provides for a system of periodic review of the efficacy and performance of state government agencies. The review of an agency's finances and programs must include a review of agency management and organization, program delivery, goals and objectives, statutory mandates and fiscal accountability. 3 MRSA § 951 et seq. The law was enacted in the 117th Legislature to replace the old Government Audit and Program Review Program and substituted a legislative audit of each agency on a rotating basis with an agency self assessment. The first reviews under the Act will be completed at the end of the 118th Legislature.

The keystone to the Act is the agency program evaluation report which consists of a number of components required by the statute. Essentially, the report is an agency self-assessment which the committee of jurisdiction uses as a starting point for its evaluation of the agency's effectiveness, efficiency and performance. The components that must be included in the report are: the agency's enabling state and federal legislation; program descriptions; organizational structure, position count and job classifications; compliance with federal and state health and safety laws; ten-year financial summaries; regulatory agenda; coordinated efforts with other state agencies; constituencies served by the agency; alternative delivery systems; and emerging issues for the agency.

Review Process

Pursuant to the requirements of the Act, the Joint Standing Committee on Business and Economic Development notified the Department of Professional and Financial Regulation of its intent to review the agency shortly after the end of the 118th Legislature's First Regular and First Special Sessions. Although the Act requires that agencies submit the program evaluation report to the committee of jurisdiction by November 1, 1997, the Business and Economic Development Committee revised its review schedule with the approval of the Legislature Council in order to conduct the reviews of the Department of Professional and Financial Regulation, Department of Economic and Community Development and Maine Development Foundation before the start of the Second Regular Session. The Department of Professional and Financial Regulation submitted its program evaluation report on September 15, 1997.

The Business and Economic Development Committee held three meetings to conduct the review under the Act: September 24, October 27 and December 4. At these meetings, the

committee reviewed the Commissioner's Office, the Office of Licensing and Registration and the Office of Consumer Credit Regulation. For the remaining areas of the department, the committee was assisted in its review by the Joint Standing Committee on Banking and Insurance. At the invitation of the Business and Economic Development Committee, the Banking and Insurance conducted the primary review of the Bureau of Banking, the Securities Division and the Bureau of Insurance because of the committee's substantive expertise and familiarity with banking and insurance regulatory issues and its role as the committee of jurisdiction over these areas of the Department of Professional and Financial Regulation. In addition the Banking and Insurance Committee conducted a partial review of certain of the activities of the Office of Consumer Credit Regulation, due to its members' familiarity with those issues and the committee's jurisdictional role with respect to that agency. The Banking and Insurance Committee held two meetings on October 29 and November 24 and reported its findings and recommendations to the Business and Economic Development Committee. These findings and recommendations were accepted and are incorporated into this report.

Findings of Review

The Joint Standing Committee on Business and Economic Development, in conjunction with the Joint Standing Committee on Banking and Insurance, has reviewed the Department of Professional and Financial Regulation and finds that the Department is operating within its statutory authority. The committees find that the Department is performing effectively and efficiently in carrying out its statutory mandate to administer and enforce the consumer credit, banking, insurance and securities laws and to register, license and discipline a wide range of occupations and professions in order to protect the public. However, the committees do make several recommendations for statutory and administrative changes that are outlined in the Recommendations portion of this report.

While further detailed information about the Department and its six divisions can be found in the Department's Program Evaluation Report, the following is a brief outline of each division reviewed by the committees pursuant to the Act.

OFFICE OF THE COMMISSIONER

Statutory Authority

The commissioner is the chief administrative officer of the department and supervises the administration of the following bureaus and other offices: the Bureau of Banking and the Securities Division, the Office of Consumer Credit Regulation, the Office of Licensing and Registration and the Bureau of Insurance. 10 MRSA § 8002. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic development matters and confirmation by Legislature. The commissioner serves at the pleasure of the Governor.

The duties and authority of the commissioner's office include:

- preparing the department's budget;
- appointing and removing necessary personnel subject to the civil service law, and appointing an assistant to the commissioner to serve at the commissioner's pleasure;
- coordinating the purchase and use of all equipment and supplies;
- reviewing the organization, functions and operations of bureaus, offices, boards and commissions within and affiliated with the department to ensure that overlapping functions and operations are eliminated and that each complies with statutory and public service responsibilities;
- acting as liaison among the bureaus, offices, boards and commissions within the department and acting as liaison between them and the Governor;
- recommending changes in the law relating to the organization, functions, services or procedures of the bureaus, offices, boards and commissions of the department to the Governor and the Legislature;
- delegating the duties and authority of the commissioner to the heads of bureaus, offices, boards and commissions; and
- ensuring that each bureau, office, board and commission has adequate resources to carry out regulatory functions and that the department's expenditures are equitably apportioned.

Although the Commissioner has broad administrative and policymaking powers, the Commissioner may not "exercise or interfere with the exercise of discretionary regulatory or licensing authority granted by statute to the bureaus, offices, boards or commissions within and affiliated with the department." 10 MRSA § 8002.

Legislative History

At its inception in October 1973, the Department was called the Department of Business Regulation. It was created as part of a government effort to reorganize related agencies along functional lines. Originally, the agencies under the jurisdiction of the department included the Bureau of Banking, Bureau of Insurance, Real Estate Commission, and the Maine State Boxing Commission (now called the Maine Athletic Commission). The administrative services division was established in 1974 by the Commissioner but not codified in statute until 1983. PL 1983, chapter 553. The Bureau of Consumer Credit Protection (later changed to Office of Consumer Credit Regulation in 1995 by the 117th Legislature) was created by the 106th Legislature to administer and enforce the Maine Consumer Credit Code which took effect January 1, 1975. The central licensing division was created by the 107th Legislature (it is now called the Office of Licensing and Registration after the Productivity Realization Task Force's recommendations were codified in 1995). Since that time, over 40 professional licensing boards, registrations and commissions have been housed or affiliated with the department. In 1987, the department was renamed the Department of Professional and Financial Regulation.

An audit and program review of the Department was conducted in 1985 by the 112th Legislature's Joint Standing Committee on Audit and Program Review.

Organization

The Office of the Commissioner includes a division of administrative services and a computer services section that provides administrative, personnel, budgeting and technical assistance to the Department. There are 17 authorized positions within the Commissioner's Office--department-wide there are 193 authorized positions, which excludes affiliated board positions.

Funding

The Department and each of its entities are funded through dedicated revenue. This means that the Department receives no General Fund revenue, but instead gets its funding from assessments, volume fees and licensing fees paid by the regulated professions and industries. Internally, the Commissioner may assess each bureau, office, board or commission served by the functions performed in the Commissioner's Office an amount equal to its reasonable share to cover the operational costs of those agencies. Total expenditures for the Office for fiscal year 1997 were \$1,727,523. The total budget for the Department was \$14,596,971 which includes the budgets of the affiliated boards.

Review of Office of the Commissioner's Legislative Charge:

Upon reviewing the legislative charge of the Commissioner's Office and the Department's program evaluation report, the Joint Standing Committee on Business and Economic Development has determined that there are no areas where the office is failing to meet the requirements of its statutory authority.

OFFICE OF CONSUMER CREDIT REGULATION

Statutory Authority

The Office of Consumer Credit Regulation's primary responsibility is the administration and enforcement of the Maine Consumer Credit Code. 9-A MRSA § 1-101 et seq.. The office also has responsibility for administration of state laws related to fair debt collection, fair credit reporting, money orders and check cashers, plain language in consumer loan contracts, mortgage companies and other supervised lenders, rent-to-own companies, pawnbrokers and the use of social security numbers on credit and debit cards. The Office has also been granted authority to ensure that the regulation of consumer credit transactions in Maine complies with the federal Truth-in-Lending and Fair Debt Collection Acts (see Program Evaluation Report for citations to enabling legislation).

Legislative History

The Maine Consumer Credit Code ("Code") was enacted by the 106th Legislature and became effective on January 1, 1975. The Code established the Bureau of Consumer

Protection to administer and enforce the Code as an independent agency within the Department of Business Regulation. The name of the agency was changed by the 110th Legislature to the Bureau of Consumer Credit Protection.

In 1995, Public Law 390 again changed the name of the agency to the Office of Consumer Credit Regulation which became effective January 1, 1996. Public Law 390 also transferred responsibility for compliance of banks and credit unions with the Maine Consumer Credit Code to the Bureau of Banking.

Organization

The Office of Consumer Credit Regulation is a small office headed by a director with a total of 10 authorized positions, including the director. The Office licenses the following entities: collection agencies, supervised lenders, repossession companies and money order issuers. It registers the following entities: credit service organizations (loan brokers), credit reporting agencies, rent-to-own companies and pawnbrokers. Other creditors licensed or registered by the office include: new and used auto dealers, insurance premium finance companies, and mobile home dealers. The total of licensees and registrants for fiscal year 1997 was 1508. The Office also has a Consumer Complaint division which responded to over 2400 consumer grievances in fiscal year 1997.

Funding

The office is supported by dedicated revenue alone through assessments, license and registration fees, volume fees and other fees paid by its regulated entities. Total expenditures for fiscal year 1997 for all funds was \$590,964.

Review of Office of Consumer Credit Regulation's Legislative Charge:

Upon reviewing the legislative charge of the Office of Consumer Credit Regulation and the Office's portion of the program evaluation report, the Joint Standing Committee on Business and Economic Development has determined that there are no areas where the office is failing to meet the requirements of its statutory authority.

OFFICE OF LICENSING AND REGISTRATION

Statutory Authority

The Office of Licensing and Registration was established to provide assistance to the Commissioner; to direct the boards and commissions within the office in complaint procedure and investigation, disciplinary actions and enforcement, examinations and licensing; and to perform other duties as the commissioner may designate. 10 MRSA 8003, sub 2.

The office has the following powers, authority and duties:

- to prepare and administer budgets necessary to carry out the regulatory functions of the boards and commissions;
- to disapprove expenditures by boards and commissions that are not necessary to protect the public health and welfare or would seriously jeopardize a board's or commission's fiscal well-being;
- to provide all staffing necessary to assist the boards and commissions;
- to adopt rules governing a uniform complaint procedure; and
- to perform licensing functions for other state agencies on a fee-for-service basis.

Legislative History

While the Department has had a central licensing division since the 107th Legislature, the current Office of Licensing and Registration replaced the former Division of Licensing and Enforcement on January 1, 1996. The Office of Licensing and Registration was established as part of the legislation enacted pursuant to the recommendations of the Productivity Realization Task Force. At that time, the office's licensing functions were expanded beyond professional licensure and the office was designated as the future entity responsible for licensure of all types within state government. Since January 1, 1996, the responsibility and functions for licensing by the Bureau of Insurance and the Real Estate Commission have been transferred to the Office. Additionally, the Board of Boiler Rules and the Board of Elevator and Tramway Safety have been relocated from other departments of state government to the Office of Licensing and Registration.

Organization

The office is headed by a director and has a total of 61 authorized positions ranging from board administrators to inspectors to clerks. During fiscal year 1996-1997, the Office maintained 128,848 licenses (both active and inactive) for professional occupations governed by boards within the Office's jurisdiction. In cooperation with the Bureau of Insurance, the Office also maintained 19,453 licenses for professions related to insurance. In terms of registrations, the total number was 2,051 for athletic trainers, massage therapists, itinerant vendors, door-to-door home repair and charitable organizations/professional fund-raisers.

Funding

The Office, like the rest of the Department of Professional and Financial Regulation, is funded by dedicated revenue through various licensing and registration fees. According to the Bureau of the Budget, the total expenditures for fiscal year 1996-1997 were \$3,388,549.

Review of Office Of Licensing And Registration's Legislative Charge

Upon reviewing the legislative charge of the Office of Licensing and Registration and the Office's portion of the program evaluation report, the Joint Standing Committee on Business and Economic Development has determined that there are no areas where the office is failing to meet the requirements of its statutory authority.

BUREAU OF BANKING

Statutory Authority

The Bureau of Banking's primary responsibility is the administration and enforcement of the Maine Banking Code. The bureau also has responsibility for enforcement of the Maine Consumer Credit Code as applied to financial institutions. 9-B §111; §121.

The duties and authority of the Bureau of Banking are:

- to supervise the business of financial institutions to assure the strength, stability and efficiency of those institutions
- to assure reasonable and orderly competition among financial institutions
- to maintain close cooperation with other supervisory authorities
- to supervise financial institutions' compliance with the Maine Consumer Credit Code to protect consumers against unfair practices by financial institutions that provide consumer credit, to provide consumer education and to encourage the development of economically sound credit practices

Legislative History

The state government oversight of banks in Maine has been in place since 1831. At that time, 2 commissioners were appointed by the Legislature and required to examine each incorporated bank at least once a year. Over time, the authority and duties of the commissioners was expanded to include the supervision of every state bank and savings bank; the approval of mergers and new charters and the supervision and regulation of credit unions. As part of the reorganization of state government in 1973, the Bureau of Banks and Banking was placed within the Department of Business Regulation, now the Department of Professional and Financial Regulation.

Organization

The Bureau of Banking is headed by a superintendent and has 32 authorized positions as of July 1, 1997. In 1985, the bureau was reorganized under its current structure and divided into two functional groups: an Examination and Supervision Division supervised by the Chief Bank Examiner and a Research and Administration Division supervised by the Deputy Superintendent. The Securities Division is also affiliated with the Bureau of Banking.

Funding

The Bureau is wholly supported by dedicated revenue through assessments and fees paid by its regulated industry: financial institutions. The total expenditures for fiscal year 96-97 were \$2,109,195.

Review of Bureau of Banking's Legislative Charge

Upon reviewing the legislative charge of the Bureau of Banking and the Department's program evaluation report, the Joint Standing Committee on Banking and Insurance has determined that there are no areas where the bureau is failing to meet the requirements of its statutory authority.

SECURITIES DIVISION

Statutory Authority

The Securities Division is a division affiliated with the Bureau of Banking. It has responsibility for the administration and enforcement of the Revised Maine Securities Act, the Maine Commodity Code and the law regulating the sale of business commodities.

The Securities Division's duties include:

- reviewing applications to register securities for sale in Maine;
- review filing for exemptions from registration;
- licensing securities broker-dealers, sales representatives and investment advisers doing business in Maine; and
- investigates complaints and violations of the securities laws.

Legislative History

Maine has had a law governing the activities of "dealers in securities" since 1913. Initially, these activities were supervised by the Bank Commissioner. In 1985, Maine replaced its existing securities laws with the Maine Revised Securities Act based on the Revised Uniform Securities Act. In 1989, responsibility for administering and enforcing the securities laws was transferred by the Legislature from the Bank Superintendent to the Securities Administrator while keeping the Division within the Bureau of Banking.

Organization

The Securities Division is supervised and directed by the Securities Administrator who is appointed by the Superintendent subject to the Commissioner's approval and in

accordance with the Civil Service Law. The Securities Division has 11 positions of the total positions authorized for the Bureau of Banking.

Funding

The Securities Division was at one time supported by General Fund revenue, but now gets its funding from dedicated revenue alone. The total expenditures for fiscal year 96-97 were \$561,682.

Review of Securities Division's Legislative Charge

Upon reviewing the legislative charge of the Securities Division and the Department's program evaluation report, the Joint Standing Committee on Banking and Insurance has determined that there are no areas where the division is failing to meet the requirements of its statutory authority.

BUREAU OF INSURANCE

Statutory Authority

The Bureau of Insurance's primary responsibility is to regulate insurance companies and insurance professionals in the public interest. To carry out that responsibility, the Bureau has the authority to license the following entities to operate in the State:

- insurance companies
- nonprofit hospital and medical service organizations
- nonprofit health care organizations
- health maintenance organizations
- medical utilization review entities
- third-party administrators
- advisory organizations
- reinsurance intermediaries
- insurance producers, independent producers and agencies (formerly agents and brokers)

The Bureau of Insurance also registers the following entities:

- preferred provider organizations
- risk purchasing groups
- risk retention groups
- managing general agents
- employee leasing companies

Other duties and responsibility of the Bureau include the examination of domestic insurers and limited oversight of foreign and alien insurers, the approval of all policies

and contract forms used by insurers in the State, the authorization of individual and group workers' compensation self-insurers and the regulation of captive insurance companies.

Legislative History

The first State Bank and Insurance Examiner was appointed in 1868 and charged with examining both banks and insurance companies annually. In 1870, the two office were made independent of each other and the Office of the Insurance Commissioner was established. The Office of the Insurance Commissioner became the Department of Insurance in 1959. When state government was substantially reorganized in 1973, the Insurance Department became the Bureau of Insurance and was placed within the Department of Professional and Financial Regulation.

Organization

The Bureau of Insurance is headed by a Superintendent with the help of two Deputy Superintendents. Functionally, the Bureau is organized into the following sections: Property and Casualty; Life and Health; Financial Analysis and Alternative Risk Markets; Administration; Legal; and Examination. The Bureau has 73 authorized positions as of July 1, 1997.

Funding

The Bureau of Insurance, like the Department as a whole, relies on dedicated revenue to support the Bureau's operations. Primarily this revenue comes from the regulated industry in the form of assessments, license and certificate of authority fees. These amounts are set in statute. The total expenditures for fiscal year 1996-1997 were \$5,155,213.

Review of Bureau Of Insurance's Legislative Charge

Upon reviewing the legislative charge of the Bureau of Insurance and the relevant portions of the Department's program evaluation report, the Joint Standing Committee on Banking and Insurance has determined that there are no areas where the bureau is failing to meet the requirements of its statutory authority.

Recommendations

As part of the review process, the committee asked the Department to identify areas for self-improvement and streamlining that would assist the Department in its service to both regulated entities and the public. Based on the suggestions made by the Department and the committee's discussions, the Joint Standing Committee on Business and Economic Development and Joint Standing Committee on Banking and Insurance make the following recommendations.

Office of the Commissioner

1. Amend the State Government Evaluation Act to provide for joint review of the Department of Professional and Financial Regulation by the Joint Standing Committees on Banking and Insurance, and Business and Economic Development.
2. Amend Title 10, Section 8002, to provide for confirmation of appointment of Commissioner of Department of Professional and Financial Regulation by a joint select committee of members from both the Banking and Insurance Committee and the Business and Economic Development Committee.
3. Amend Title 10, Section 8002, to clarify authority of the Commissioner to coordinate all administrative processes related to licensing functions of boards and agencies, including, but not limited to, frequency and form of applications and licenses.

Office of Consumer Credit Regulation

1. Authorize the Office to employ more flexibility in how examination costs are allocated within and among the regulated parties.
2. Expand authority of the Office to regulate automobile credit sale documents.
3. Simplify the method whereby dollar amounts in the law are determined by creditors (the process currently requires the creditor to refer not only to the law, but also to regulations), so that creditors can consult one source to find the necessary information.
4. Amend the bond requirements so that bond terms run concurrent with licensing terms, simplifying the process for lenders and debt collectors, as well as for the agency's licensing personnel.
5. Allow different types of financial statements to be provided to prove net worth requirements under the appropriate statutes.

Office of Licensing and Registration

1. Standardize board member terms to 3 years.
2. Reduce membership to no more than 9 members per board.
3. Provide for a minimum of 2 public members per board.

With respect to recommendations 1, 2 and 3, the Committee makes no recommendation for legislation at this time. Instead, the Committee directs the Department of Professional and Financial Regulation and the Office of Licensing and Registration to

work with the internal boards and the affiliated health boards to achieve the goals of standardizing board member terms, setting a maximum for board membership as nine members and setting a minimum of two public members for each board. Given the need for a clearly identified transition plan to achieve these goals, the Committee directs the Office of Licensing and Registration staff to develop proposed legislation for introduction in the 119th Session of the Maine Legislature.

4. Eliminate unduly restrictive qualifications on "public member" board positions.
5. Eliminate "mortgage lender" position from the Real Estate Appraiser Board.
6. Eliminate the requirement that gubernatorial appointments to the Real Estate Commission be confirmed by the Maine Senate.
7. At the recommendation of the Department of Human Services, Division of Health Engineering, transfer administration and interpretation of the State Plumbing Code from Health Engineering to the Plumbers' Examining Board.
8. At the request of the Department of Public Safety, Fire Marshal's Office, transfer permitting authority for above-ground flammable liquid facilities to the Propane and Natural Gas Board.
9. Amend Title 32, general provisions, to provide for choice of civil or criminal prosecution for unlicensed practice.
10. Direct the Office of Licensing and Registration to study the administrative complaint process and submit a report before the start of the 119th Legislature regarding the feasibility of adding a Chief Investigator position to provide professional support for board complaint officers and staff with complaint investigations.
11. Review of the State Board of Alcohol and Drug Abuse Counselors, Board of Licensure in Podiatric Medicine, State Board of Veterinary Medicine, Board of Complementary Health Care Providers, Maine Athletic Commission and the Arborist Examining Board should be conducted by the Joint Standing Committee on Business and Economic Development in 1999 to address financial problems with these boards.
12. Transfer the administrative responsibility for the Maine Pilotage Commission from the Office of Licensing and Registration to the Department of Transportation.

Bureau of Banking

1. Amend 9-B MRSA § 232 to authorize the Bureau of Banking to bar an officer or director removed from a financial institution or holding company from working for special purpose financial institutions, i.e. merchant banks, non-depository trust companies and uninsured banks. Although federal banking authorities issue orders

barring removed individuals from working for other financial institutions, special purpose banks are not considered “financial institutions” under federal law. Since the Bureau of Banking can not rely on the federal regulators to prohibit an individual removed as an officer or director from working for a special purpose financial institution, Maine law should be amended to extend this type of authority to the Bureau of Banking.

2. Amend the enabling legislation for merchant banks (enacted in the last session) to make technical corrections and changes discovered recently by the Bureau during the chartering process for the newly established merchant bank

Securities Division

1. Amend the Revised Maine Securities Act to update its criminal penalty provisions and bring them in line with the current class system for criminal conduct under the Maine Criminal Code.
2. Amend the Revised Maine Securities Act to provide authority to the Securities Division to bring a action involving multiple violations in any county in which any violation occurs. Current law does not contain a specific venue provision so the Securities Division has been forced in the past to bring multiple actions alleging the same scheme or course of conduct in different counties where the violations occurred or has decided not to pursue some actions because of the difficulties of bringing multiple actions in different counties for essentially the same set of violations.

Bureau of Insurance

1. Transfer legal responsibility for the collection of insurance premium taxes from surplus lines insurers from the Treasurer of State to Maine Revenue Services (formerly the Bureau of Taxation). The tax is required to be paid by the insurer’s licensed producer with surplus lines authority.
2. Amend 24-A MRSA § 228 to address the inequity between large insurance companies and smaller companies with fewer assets. Current law requires Maine domestic insurance companies to pay an assessment to the Bureau of Insurance to reimburse the Bureau for the costs associated with financial examination. There is a potential for inequity because the law allows a company two options for payment: either to pay actual expenses or to pay an annual assessment based upon the total admitted assets of the preceding calendar year.

Draft legislation to implement the recommendations requiring statutory changes are included in Appendix A and B to this report.

Appendix A:

**Draft Legislation of An Act to Implement the Recommendations Relating to the Review of
the Department of Professional and Financial Regulation's Office of the Commissioner,
Office of Consumer Credit Regulation and Office of Licensing and Registration under the
Government Evaluation Act**

Sponsor: Joint Standing Committee on Business and Economic Development pursuant to 5 MRSA § 955, sub-§ 4

Drafted by: Colleen McCarthy Reid/CMM

Date: January 15, 1998

Doc. Name: G:\OPLAGEA\COMMTTEE\BAN\DEPTINFO\GOVTEVAL\BECLEG.DOC

Title: An Act to Implement the Recommendations Relating to the Review of the Department of Professional and Financial Regulation's Office of the Commissioner, Office of Consumer Credit Regulation and Office of Licensing and Registration under the State Government Evaluation Act

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

Part A

Sec. A-1. 3 MRSA § 959, sub-§ 1, ¶ B is amended to read:

B. The joint standing committee of the Legislature having jurisdiction over banking and insurance matters shall use the following list as a guideline for scheduling reviews:

(1) State Employee Health Commission in 1999; and

(2) Department of Professional and Financial Regulation, in conjunction with the joint standing committee of the Legislature having jurisdiction over business and economic development matters, in 2007.

Sec. A-2. 3 MRSA § 959, sub-§ 1, ¶ C, sub-¶ 5 is amended to read:

C. The joint standing committee of the Legislature having jurisdiction over business and economic development matters shall use the following list as a guideline for scheduling reviews:

(5) Department of Professional and Financial Regulation, in conjunction with the joint standing committee of the Legislature having jurisdiction over banking and insurance matters, in-1997 2007;

Sec. A-3. 10 MRSA § 8002 is amended to read:

10 § 8002. Duties and authority of commissioner

The commissioner is the chief administrative officer of the department and is responsible for supervising the administration of the department. The commissioner is appointed by the Governor, subject to review by ~~the joint standing committee of the Legislature~~ a joint select committee appointed by the President of the Senate and the Speaker of the House comprised of 5 members from the joint standing committee having jurisdiction over banking and insurance matters and 5 members from the joint standing committee having jurisdiction over business and economic development matters and to confirmation by the Legislature. The commissioner serves at the pleasure of the Governor. As chief administrative officer of the department, the commissioner has the following duties and authority to:

- 1. Budget.** Prepare the budget for the department;
- 2. Personnel.** Except as otherwise specified, appoint and remove, subject to the Civil Service Law, all personnel considered necessary to fulfill the duties and functions of the department; appoint an assistant to the commissioner to serve at the commissioner's pleasure; and transfer personnel within the department to ensure efficient utilization of department personnel;
- 3. Purchases.** Coordinate the purchase and use of all equipment and supplies within the department;
- 4. Review.** Review the organization, functions and operation of bureaus, offices, boards and commissions within and affiliated with the department to ensure that overlapping functions and operations are eliminated and that each complies fully with its statutory and public service responsibilities;
- 5. Liaison.** Act as a liaison among the bureaus, offices, boards and commissions within and affiliated with the department and act as liaison between them and the Governor;
- 6. Recommendations.** Recommend to the Governor and Legislature those changes in the laws relating to the organization, functions, services or procedures of the bureaus, offices, boards and commissions of the department as the commissioner determines desirable;
- 7. Delegate authority.** Authorize the heads of bureaus, offices, boards and commissions within the department to carry out the commissioner's duties and authority; ~~and~~
- 8. Adequate resources.** Ensure that each bureau, office, board and commission has adequate resources to carry out regulatory functions and that the department's expenditures are equitably apportioned; and
- 9. Licensing.** Coordinate all administrative processes related to licensing functions of bureaus, offices, boards and commissions within the department, including but not limited to the frequency and form of applications and licenses.

The commissioner may not exercise or interfere with the exercise of discretionary regulatory or licensing authority granted by statute to the bureaus, offices, boards or commissions within and affiliated with the department.

Part B

Sec. B-1. 9-A MRSA § 1-106 is repealed.

Sec. B-2. 9-A MRSA § 2-201, sub-§ 2 is amended to read:

2. The finance charge, calculated according to the actuarial method, may not exceed the equivalent of the greater of either of the following:

A. The total of:

(i) 30% per year on that part of the unpaid balances of the amount financed which is ~~\$700~~ \$1000 or less;

(ii) 21% per year on that part of the unpaid balances of the amount financed which is more than ~~\$700~~ \$1000 but does not exceed ~~\$2,000~~ \$2800; and

(iii) 15% per year on that part of the unpaid balances of the amount financed which is more than ~~\$2,000~~ \$2800; or

B. 18% per year on the unpaid balances of the amount financed.

Sec. B-3. 9-A MRSA § 2-201, sub-§ 8 is repealed.

Sec. B-4. 9-A MRSA § 2-307, sub-§§ 2 and 3 are amended to read:

2. With respect to a supervised loan in which the amount financed is ~~\$2,000~~ \$2800 or less, a lender may not take a security interest in the principal residence of the consumer. This subsection does not apply when the lender holds a first mortgage on the residence at the time the loan is made or when the loan is made pursuant to an open-end credit plan involving a commitment to advance amounts in excess of ~~\$2,000~~ \$2800. Notwithstanding Title 14, no judgment of foreclosure of a mortgage upon the principal residence of a consumer may be entered on account of the consumer's failure to repay supervised loans under an open-end credit plan, unless the consumer's outstanding balance described in section 8-205, subsection 2, paragraph I, has at some time exceeded ~~\$2,000~~ \$2800 and the consumer has not paid the account in full subsequent to the date of the last periodic statement showing an outstanding balance in excess of ~~\$2,000~~ \$2800.

~~3. The amount of \$2,000 in subsection 2 is subject to change pursuant to the provisions on adjustment of dollar amounts, section 1-106.~~

Sec. B-5. 9-A MRSA § 2-308, sub-§§ 1 and 2 are amended to read:

1. Except as provided in section 3-308, supervised loans, not made pursuant to open-end credit and in which the amount financed is ~~\$700~~ \$1000 or less and the principal of which is payable in more than a single payment, shall be scheduled to be payable in substantially equal installments at equal periodic intervals except to the extent that the schedule of payments is adjusted to the seasonal or irregular income of the debtor and over a period of not more than 25 months.

A.

B.

~~2. The amount of \$700 in subsection 1 is subject to change pursuant to the provisions on adjustment of dollar amounts, section 1-106.~~

3.

Sec. B-6. 9-A MRSA § 2-401, sub-§ 2 is amended to read:

2. With respect to a consumer loan, other than a loan pursuant to open-end credit, a lender may contract for and receive a finance charge calculated according to the actuarial method, not exceeding the equivalent of the greater of either of the following:

A. The total of:

(i) 30% per year on that part of the unpaid balances of the amount financed which is ~~\$700~~ \$1000 or less;

(ii) 21% per year on that part of the unpaid balances of the amount financed which is more than ~~\$700~~ \$1000 but does not exceed ~~\$2,000~~ \$1000; and

(iii) 15% per year on that part of the unpaid balances of the amount financed which is more than ~~\$2,000~~ \$2800; or

B. 18% per year on the unpaid balances of the amount financed.

Sec. B-7. 9-A MRSA § 2-401, sub-§ 6 is repealed.

Sec. B-8. 9-A MRSA § 2-502, sub-§ 5 is repealed.

Sec. B-9. 9-A MRSA § 4-301, sub-§ 3 is amended to read:

3. With respect to a transaction, except pursuant to open-end credit, a creditor may not contract for or receive a separate charge for insurance against loss of or damage to property, unless the amount financed exclusive of charges for the insurance is ~~\$1,000~~ \$1400 or more and the cash price of the item or property is ~~\$1,000~~ \$1400 or more.

Sec. B-10. 9-A MRSA § 4-301, sub-§ 5 is repealed.

Sec. B-11. 9-A MRSA § 5-103, sub-§ 2 is amended to read:

2. If a creditor takes possession of or voluntarily accepts surrender of goods in which he has a security interest to secure a debt and the amount financed is ~~\$2,000~~ \$2800 or less, the consumer and any sureties are not personally liable to the creditor for the unpaid balance of the debt.

Sec. B-12. 9-A MRSA § 5-103, sub-§ 6 is repealed.

Sec. B-13. 9-A MRSA § 6-106, sub-§ 6 is amended to read:

6. The expenses of the administrator necessarily incurred in the examination or investigation of any person engaged in conduct governed by this Act shall be chargeable to that person. The expenses of the administrator incurred in the examination of supervised financial organizations shall be assessed in accordance with the provisions of Title 9-B, section 214, subsection 1. With respect to any other person, that ~~That~~ person shall be assessed for the actual expenses incurred by the administrator, including, but not necessarily limited to, travel expenses and the proportionate part of the salaries and expenses of examiners engaged in the examination or investigation. Notwithstanding the foregoing, in the case of a person other than a supervised financial organization, the administrator may adjust the examination assessments to make travel related costs which result from a creditor's location in this state more

equitable. Notice of the assessment of those costs shall be given to the person by the administrator as soon as feasible after the close of the examination or investigation and the person shall have the time specified by the administrator to pay the assessment, which may not be less than 30 days.

Sec. B-14. 9-A MRSA § 6-201 is amended to read:

9A § 6-201. Applicability

This Part applies to a person engaged in this State in entering into consumer credit transactions and to a person having an office or place of business in this State who takes assignments of and undertakes direct collection of payments from or enforcement of rights against debtors arising from these transactions. In addition, this Part applies to a person, wherever located, who takes assignments of and undertakes direct collection of payments or enforcement of rights against debtors arising from consumer credit sale of a motor vehicle subject to this Title.

Sec. B-15. 9-A MRSA § 2-302, sub-§ 2, ¶ A is amended to read:

2. No license may be issued unless the administrator, upon investigation, finds that the financial responsibility, character and fitness of the applicant, and of the members thereof, if the applicant is a copartnership or association, and of the officers and directors thereof, if the applicant is a corporation, are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this Act. In determining the financial responsibility of an applicant proposing to engage in making insurance premium loans, the administrator shall consider the liabilities the lender may incur for erroneous cancellation of insurance.

A. Every applicant shall also, at the time of filing such application, file with the administrator, if ~~he the administrator~~ so requires, a bond satisfactory to the administrator in an amount not to exceed \$25,000. The terms of the bond must run concurrent with the period of time during which the license will be in effect. The bond shall run to the State for the use of the State and of any person or persons who may have a cause of action against the licensee under this Act. The bond shall be conditional that the licensee will faithfully conform to and abide by the provisions of this Act and to all rules and regulations lawfully made by the administrator hereunder and will pay to the State and to any such person or persons any and all amounts of money that may become due or owing to the State or to such person or persons from the licensee under and by virtue of this Act during the period for which the bond is given;

Sec. B-16. 9-A MRSA § 10-202 is amended to read:

9A § 10-202. Bond

Each application shall be accompanied by evidence of a surety bond, in a form approved by the administrator in the aggregate amount of \$10,000, to run to the State for use by the State and any person or persons who may have a cause of action against a credit services organization. The terms of the bond must run concurrent with the period of time during which the license will be in effect.

Sec. B-17. 32 MRSA § 11032 is amended to read:

32 § 11032. Bond

The ~~superintendent~~ administrator shall require each licensee to file and maintain in force a surety bond, in a form prescribed by the ~~superintendent~~ administrator and acceptable to him, and in such sum as ~~he the administrator~~ may deem reasonably necessary, to safeguard the interests of the public. The terms of the bond must run concurrent with the period of time during which the license will be in effect. The bond may be cancelled by the surety on the bond by giving 30 days' notice to the ~~superintendent~~ administrator, but the cancellation shall not in any manner affect the liability of the surety as to anything occurring prior to the cancellation.

Sec. B-18. 32 MRSA § 11036, sub-§ 1 is amended to read:

1. Financial statements. The ~~superintendent~~ administrator may at any time require a licensee to submit to the bureau ~~a verified financial statement~~ such financial statements as deemed necessary for examination by the ~~superintendent~~ administrator so that ~~he the administrator~~ may determine whether or not the licensee is financially responsible to carry on a debt collector's business.

Part C

Sec. C-1. 10 MRSA § 8001, subsection 38, ¶ X is repealed.

Sec. C-2. 10 MRSA § 9003, sub-§ 2, ¶¶ A and B are amended to read:

2. Composition of board; terms of members. The members of the board must include:

~~A. One member who is a manufactured housing owner and whose manufactured housing unit is not located in a mobile home park or similar rental community;~~

B. Three public ~~Two members, at least one of which who lives in manufactured housing who are manufactured housing owners and the manufactured housing units in which the owners live are located on lots, within mobile home parks or similar rental communities, that the manufactured housing owners do not own;~~

Sec. C-3. 22 MRSA § 42, subsection 3, first ¶ is amended to read:

3. Subsurface waste water disposal. The department shall adopt minimum rules relating to ~~plumbing and~~ subsurface sewage disposal systems. All rules, including installation and inspection rules, must be consistent with Title 30-A, chapter 185, subchapter III, and Title 32, chapter 49, but this does not preempt the authority of municipalities under Title 30-A, section 3001, to adopt more restrictive ordinances. The department shall hold hearings on the first Tuesday of February of each year for the purpose of considering changes in the rules pertaining to ~~plumbing and~~ subsurface sewage disposal systems and the installation and inspection thereof. These rules may regulate the location of water supply wells to provide minimum separation distances from subsurface sewage disposal systems. The department may require a deed covenant or deed restriction when determined necessary.

Sec. C-4. 23 MRSA § 4206, sub-§1, ¶ H is amended to read:

H. To acquire, construct, operate and maintain such harbor facilities as may be necessary to implement the planned development of coastal resources, ports and harbors; to operate and maintain the port facilities as now within or as may hereafter come within the jurisdiction of the Department of Transportation; to oversee the administration of the Maine State Pilotage Commission;

Sec. C-5. 25 MRSA § 2441, subsection 3 is repealed.

Sec. C-6. 32 MRSA § 60-G is amended to read:

32 § 60-G. Disciplinary actions; unlicensed practice

1. Filing of complaints. A board or commission listed in Title 10, section 8001, subsection 38 shall file complaints received from a person or initiated by a board or commission with the Office of Licensing and Registration.

2. Investigation of allegations of unlicensed practice; ~~prosecution.~~
Allegations of unlicensed practice may be investigated by a board's or commission's complaint officer or inspector in conjunction with the Office of Licensing and Registration's complaint unit. If sufficient evidence of unlicensed practice is uncovered, the evidence must be compiled and presented to the Department of the Attorney General or the local district attorney's office ~~for prosecution.~~

3. Unlicensed practice; criminal penalties. Notwithstanding any other provision of law, any person who practices, or represents to the public that the person is authorized to practice, a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by this Title or intentionally, knowingly or recklessly practices, or represents to the public that the person is authorized to practice, after the license required by this Title has expired or been suspended or revoked commits a Class E crime. Violation of this subsection is a Class D crime if the person has a prior conviction under this subsection. For purposes of this subsection, the date of the prior conviction must precede the commission of the offense being enhanced by no more than 3 years.

4. Unlicensed practice; civil penalties. Any person who practices, or represents to the public that the person is authorized to practice, a profession or trade without first obtaining a license as required by this Title or after the license has expired or has been suspended or revoked commits a civil violation punishable by a forfeiture of not less than \$100 but not more than \$2000 for each violation. An action under this subsection may be brought in District Court or, in combination with an action under subsection 5, in Superior Court.

5. Unlicensed practice; injunctions. The Attorney General may bring an action in Superior Court to enjoin any person from violating subsection 4 and to restore to any person who has suffered any ascertainable loss by reason of the unlawful conduct any money or personal or real property which may have been acquired by means of the unlawful conduct and to compel the return of compensation received for engaging in the unlawful conduct.

Any person who violates the terms of an injunction issued under this subsection shall pay to the State a forfeiture of not more than \$10,000 for each violation. In any action under this subsection, when a permanent injunction has been issued, the court may order the person against whom the permanent injunction is issued to pay to the State General Fund the costs of the investigation of that person by the Attorney General and the costs of the suit, including attorneys' fees. In any action by the Attorney General brought against a person for violating the terms of an injunction issued under this subsection, the court may make such necessary orders or judgments to restore to any persons who have suffered any ascertainable loss or to compel the return of compensation received by reason of such conduct found to be in violation of an injunction.

Sec. C-7. 32 MRSA § 3403-A, subsection 1 is amended to read:

1. Rules. The board may, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, adopt rules commensurate with the authority vested in it by this chapter. These rules may include, but not be limited to plumbing, licensing requirements, examinations and reciprocity of licensing with similar boards of other states which maintain standards equivalent to this State.

Sec. C-8. 32 MRSA § 3403-B is enacted to read:

§ 3403-B. Plumbing Code

1. Plumbing and plumbing code. The board shall adopt minimum rules relating to plumbing including a plumbing code. All rules, including installation and inspection rules, must be consistent with Title 30-A, chapter 185, subchapter III, and this chapter, except that the authority of municipalities to adopt more restrictive ordinances under Title 30-A, section 3001 is not preempted. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

2. Plumbing code violations. Any person who violates the rules adopted pursuant to this section, or who violates a municipal ordinance adopted pursuant to Title 30-A, sections 4201 and 4211, must be penalized in accordance with Title 30-A, section 4452. Enforcement of the rules is the responsibility of the municipalities rather than the board. The board or a municipality may seek to enjoin violations of the rules or municipal ordinances. In the prosecution of a violation by a municipality, the court shall award reasonable attorney's fees to a municipality if that municipality is the prevailing party, unless the court finds that special circumstances make the award of fees unjust.

Sec. C-9. 32 MRSA § 6208-A, sub-§ 1 is amended to read:

1. Membership. The State Board of Alcohol and Drug Counselors, as established by Title 5, section 12004-A, subsection 41, consists of 11 members. Nine members are appointed by the Governor. One member must be the Director of the Office of Substance Abuse or a designee. One member, appointed by the Chancellor of the University of Maine System, must be a member of the university faculty involved in the training of substance abuse or alcohol and drug counselors. Of these 11 members, 5 members must be licensed alcohol and drug counselors. Two members must be nonproviders, one of whom must be a family member of a consumer of alcohol and drug counseling services ~~or a consumer of alcohol and drug counseling services who has abstained from the use of alcohol and other drugs for a period of at least 2 years.~~ One

member must be a public member. One member must be a representative of a regional alcohol and drug abuse council. Members must represent a broad geographic distribution of the State and must be from among the professional associations representative of the field.

Sec. C-10. 32 MRSA § 12502, sub-§ 1 is amended to read:

1. Membership. The Board of Complementary Health Care Providers, as established in Title 5, section 12004-A, subsection 8-A, shall regulate the professions of acupuncture and naturopathic medicine according to the provisions of this chapter. The board consists of 7 members appointed by the Governor. The Governor shall make the initial appointments to the board no later than 60 days after the effective date of this section and shall inform the Commissioner of Professional and Financial Regulation of these appointments. The commissioner shall call the first meeting of the board on a date no later than 30 days following notification of appointments by the Governor. All members of the board must be residents of this State. Two members of the board must be acupuncturists licensed in this State. Two members of the board must be practitioners of naturopathic medicine who are eligible for licensure under, or are licensed pursuant to, the requirements of subchapter III. One member must be a member of the public ~~who is not a practitioner of any healing art or has no family connection with such a practitioner.~~ One member must be an allopathic or osteopathic physician who is licensed in this State. One member must be a pharmacist who is licensed in this State.

Sec. C-11. 32 MRSA § 13062, sub-§ 2 is amended to read:

2. Qualifications. Each industry member of the commission must have been a real estate broker or associate broker by vocation in this State for at least 5 years prior to appointment. The public members, the members' spouses, parents and children must have no professional or financial connection with the real estate brokerage business.

Sec. C-12. 32 MRSA § 13062, sub-§ 3 is amended to read:

3. Geographic distribution. There shall be at no time more than one industry member of the commission from any one county.

Sec. C-13. 32 MRSA § 13062, sub-§ 6 is amended to read:

6. Appointments. The members of the commission are appointed by the Governor, ~~subject to review by the joint standing committee of the Legislature having jurisdiction over business legislation and to confirmation by the Senate.~~ Appointments of members must comply with section 60.

Sec. C-14. 32 MRSA § 13967, sub-§ 2 is amended to read:

2. Members. The board consists of 7 members appointed by the Governor. Each member must be a citizen of the United States and a resident of this State. The composition of the board consists of:

~~A. One representative of a mortgage lending organization;~~

B. ~~One~~ Two public ~~members~~ member; and

C. Five members who hold valid appraiser licenses or certifications, including at least one residential and one ~~commercial~~ commercial real estate appraiser.

Sec. C-15. 32 MRSA § 14804, subsection 8 is enacted to read:

8. Inspection of aboveground flammable liquid storage facility. The board shall inspect and permit aboveground flammable liquid storage facilities. The cost of inspection of an aboveground flammable storage facility and the permit may not exceed \$50.

Sec. C-16. 38 MRSA , §85-A , sub-§§ 1 and 2 are amended to read:

1. **Commissioner.** “Comissioner” means the Commissioner of ~~Professional and Financial Regulation~~ Transportation.

2. **Department.** “Department means the Department of ~~Professional and Financial Regulation~~ Transportation.”

Sec. C-17. 38 MRSA, § 90-B is amended to read:

The commission’s budget must be prepared ~~and administered as provided in Title 10, section 8003.~~ and submitted to the commissioner for approval.

Sec. C-18. 38 MRSA, § 90-C is amended to read:

The Commissioner of ~~Professional and Financial Regulation~~ Transportation may appoint employees as necessary, ~~as provided in Title 32, section 60-F.~~

Sec. C-19. .38 MRSA, §106, first ¶ is amended to read:

All money received by the commission must be paid to the Treasurer of State and credited to the account for the commission within the budget of the ~~Office of Licensing and Registration within the Department of Professional and Financial Regulation~~ Transportation.

Summary

This bill implements the recommendations of the Joint Standing Committee on Business and Economic Development made as a result of the committee’s review of the Department of Professional and Financial Regulation under the State Government Evaluation Act.

Part A implements the recommendations relating to the Office of the Commissioner and does the following.

1. It amend the State Government Evaluation Act to provide for joint review of the Department of Professional and Financial Regulation by the Joint Standing Committees on Banking and Insurance, and Business and Economic Development.

2. It provides for confirmation of the appointment of Commissioner of Department of Professional and Financial Regulation by 5 members of each of the Joint Standing Committee on Banking and Insurance Committee and the Joint Standing Committee on Business and Economic Development Committee.
3. It clarifies the authority of the Commissioner to coordinate all administrative processes related to licensing functions of boards and agencies, including, but not limited to, frequency and form of applications and licenses.

Part B implements the recommendations relating to the Office of Consumer Credit Regulation and does the following.

1. It authorizes the Office to employ more flexibility in how examination costs are allocated within and among the regulated parties.
2. It expands the authority of the Office to regulate automobile credit sale documents.
3. It simplifies the method whereby dollar amounts in the law are determined by creditors.
4. It amends the bond requirements so that bond terms run concurrent with licensing terms, simplifying the process for lenders and debt collectors, as well as for the agency's licensing personnel.
5. It allows different types of financial statements to be provided to prove net worth requirements under the appropriate statutes.

Part C implements the recommendations relating to the Office of Licensing and Registration and does the following.

1. It eliminates unduly restrictive qualifications on "public member" board positions.
2. It eliminates the "mortgage lender" position from the Real Estate Appraiser Board.
3. It eliminates the requirement that gubernatorial appointments to the Real Estate Commission be confirmed by the Maine Senate.
4. It transfers the administration and interpretation of the State Plumbing Code from the Department of Human Services, Division of Health Engineering to the Plumbers' Examining Board.
5. It transfers permitting authority for above-ground flammable liquid facilities from the State Fire Marshal's Office to the Propane and Natural Gas Board.
6. It amends the general provisions governing occupational and professional licensing to provide for a choice of civil or criminal prosecution for unlicensed practice.
7. It transfers the administrative responsibility for the Maine Pilotage Commission from the Office of Licensing and Registration to the Department of Transportation.

Appendix B:

Draft Legislation of An Act to Implement the Recommendations of the Joint Standing Committee on Banking and Insurance Relating to the Review of the Bureau of Insurance, Bureau of Banking and Securities Division under the State Government Evaluation Act

LR #

Sponsor: Joint Standing Committee on Banking and Insurance pursuant to 3 MRSA § 955, sub-§ 4

Drafted by: Colleen McCarthy Reid/CMM

Date: January 15, 1998

Doc. Name: G:\OPLAGEA\COMMTTEE\BANDEPTINFO\GOVTEVAL\BANLEG.DOC

Title: An Act to Implement Recommendations of the Joint Standing Committee on Banking and Insurance Relating to the Review of the Bureau of Insurance, Bureau of Banking and Securities Division under the State Government Evaluation Act

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

Sec. A-1. 9-B MRSA §232, first ¶ is amended to read:

§ 232. Removal or prohibition of officer or director

The superintendent may remove any officer or director of a financial institution organized pursuant to this Title or any officer of a branch of an out-of-state financial institution authorized to do business in this State, or any officer or director of a financial institution holding company, in accordance with the procedures and subject to the conditions and limitations set forth in this section. The superintendent may prohibit an officer or director of a financial institution, financial institution holding company or branch of an out-of-state financial institution from participating, in any manner, in the conduct of the affairs of a financial institution, financial institution holding company or branch of an out-of-state financial institution if the superintendent determines that such action is necessary for the protection of the public, the financial institution, financial institution holding company or out-of-state financial institution or the interests of the institution's depositors or creditors.

Sec. A-2. 9-B MRSA §232, sub-§1, ¶B is amended to read:

B. By reason of the violation, practice or breach of fiduciary duty described in paragraph A:

- (1) The financial institution or financial institution holding company has suffered or will probably suffer financial loss or other damage;
- (2) The interests of the financial institution's depositors or creditors or the public have been or could be prejudiced; or
- (3) The officer or director has received financial gain or other benefit by reason of the violation, practice or breach of fiduciary duty;

Sec. A-3. 9-B MRSA §232, sub-§1, ¶E is enacted to read:

E. The officer or director has been removed or prohibited from participation in any manner in the conduct of the affairs of the financial institution by the appropriate federal banking agency.

Sec. A-4. 9-B MRSA §232, sub-§8 is enacted to read:

8. Prohibition on participation in banking industry.

A. Any officer or director who, pursuant to an order issued under this section, has been removed from office in a financial institution, out of state financial institution, or Maine financial institution holding company or prohibited from participating in the conduct of the affairs of a financial institution, out of state financial institution, or Maine financial institution holding company may not, while such order is in effect, continue or commence to hold any office, or participate in any manner, in the conduct of the affairs of any financial institution, out of state financial institution, or Maine financial institution holding company.

B. If, on or after the date an order is issued under this section which removes from office an officer or director or prohibits an officer or director from participating in the conduct of the affairs of any financial institution, out of state financial institution, or Maine financial institution holding company the order is modified, terminated or set aside in accordance with subsection 6, then the prohibition imposed in paragraph A must be similarly modified, terminated or set aside.

Sec. A- 5. 9-B MRSA § 468, sub-§1, ¶C, is enacted to read:

C. “Affiliate” has the same meaning as section 131, subsection 1-A, except that a subsidiary of a financial institution is not an affiliate of that financial institution.

Sec. A-6. 9-B MRSA § 468, sub-§6 is amended to read:

6. Rulemaking. The superintendent may, by rule or order, define or further define terms used in this section and establish limits, requirements or exceptions to this section other than those specified in this section, if the superintendent determines such action is necessary for the protection of depositors or the public and is consistent with the purposes of this section. For institutions organized pursuant to Part 12 of this title, the superintendent may, by rule or order, define or further define the terms used in this section and establish limits, requirements or exceptions to this section other than those specified in this section, if the superintendent determines that such action is consistent with the powers and limitations accorded institutions organized pursuant to Part 12. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. A-7. 9-B MRSA § 1224, sub-§6 is amended to read:

6. Provisions inapplicable. The following provisions of this Title are inapplicable to merchant banks: sections 223, 316-A, 439-A, 445, 446-A and 465-A and chapters 33, 37 and 42.

The limitations on the holding of equity securities and the purchase of speculative securities, equities and venture capital investments contained in section 419, subsection 1 are also inapplicable to merchant banks.

Part B

Sec. B-1. 24-A MRSA § 228, sub-§ 1 is amended to read:

1. The expense of examination of an insurer or of any person regulated under section 222, shall be borne by the person examined. Such expense shall include only the reasonable and proper hotel and travel expenses of the superintendent and his examiners and assistants, including expert assistance, and examiners furnished for the purpose by other states in which the insurer is authorized to transact insurance, reasonable compensation as to such examiners and assistants and incidental expenses as necessarily incurred in the examination. As to expense and compensation, involved in any such examination the superintendent may give due consideration to scales and limitations recommended by the National Association of Insurance Commissioners and outlined in the examination manual sponsored by that association.

2. Such person examined shall promptly pay to the superintendent the expenses of the examination upon presentation by him of a reasonably detailed written statement thereof. Any insurer with total admitted assets as of the end of the preceding calendar year of \$50,000,000 or greater must comply with this section in satisfaction of the examination assessment.

3. Except that in lieu of payment of examination expense as above required, a domestic insurer, with total admitted assets of less than \$50,000,000, shall have the right, at its option, of making an annual payment to the superintendent of an examination expense allotment in an amount equal to .001 of its total admitted assets as of the end of the preceding calendar year, and which payment shall be made on March 1st with the filing of the insurer's annual statement with the superintendent; or, if the insurer's admitted assets exceed \$10,000,000, but do not exceed \$50,000,000, the insurer shall have the right, and its further option, to pay to the superintendent with respect to any examination the lesser of:

A. The expense of the examination as determined pursuant to subsections 1 and 2 above; or

B. An annual amount equal to .001 of the first \$10,000,000 of the insurer's admitted assets plus .0002 of the remainder of such assets, limited, however, to insurers whose admitted assets do not exceed \$25,000,000 as such assets are shown by the insurer's financial statement filed with the superintendent for the year-end next preceding the commencement of the examination; such payment to be made on March 1st with the filing of the insurer's annual statement with the superintendent; or

C. If the admitted assets of the insurer exceed \$25,000,000, but do not exceed \$50,000,000, an annual payment of an examination expense allotment ~~of 1/5~~ of an amount equal to .001 of the first \$10,000,000 of the insurer's admitted assets, plus .0002

of the next \$15,000,000 of such assets, plus .000175 of the remainder of such assets as are shown by the insurer's financial statement filed with the superintendent for the preceding calendar year. Such payment shall be made on March 1st with the filing of the insurer's annual statement with the superintendent.

Sec. B-2. 24-A MRSA § 2016, sub-§ 1 is amended to read:

1. Each ~~broker~~ producer with surplus lines authority shall maintain in the ~~broker's~~ producer's office within the State a monthly report showing the amount of insurance placed for any person or organization, the location of each risk, the gross premium charged, the name of each insurer with which the insurance was placed, the date and term of each insurance contract issued during the preceding month and any other pertinent information required by the superintendent. The report must show in the same detail each contract canceled during the month covered by the report and the return premium on it. The monthly report must be made available to the superintendent for examination at the ~~broker's~~ producer's office location in the State at the time or by delivery to the bureau upon 5 days' notice by the superintendent.

Within 45 days of the end of each calendar quarter, the ~~broker~~ producer shall pay to the Maine Revenue Services ~~pay to the Treasurer of State~~ 3% of the difference between the gross premiums and the return premiums reported for the business transacted during the preceding calendar quarter.

Sec. B-3. 36 MRSA § 2513 is amended as follows:

§ 2513. Tax on premiums and annuity considerations

Every insurance company or association which does business or collects premiums or assessments including annuity considerations in the State, except those mentioned in section 2517, including surety companies and companies engaged in the business of credit insurance or title insurance, shall, for the privilege of doing business in this State, and in addition to any other taxes imposed for such privilege pay a tax upon all gross direct premiums including annuity considerations, whether in cash or otherwise, on contracts written on risks located or resident in the State for insurance of life, annuity, fire, casualty and other risks at the rate of 2% a year. Every surplus lines insurer which does business or collects premiums in the State shall, for the privilege of doing business in this State, and in addition to any other taxes imposed for such privilege, pay a tax upon all gross direct premiums, whether in cash or otherwise, on contracts written on risks located or resident in the State at the rate of 3% a year. The tax must be paid by the insurer's licensed producer with surplus lines authority pursuant to Title 24-A, section 2016.

Notwithstanding this section, for income tax years commencing on or after January 1, 1989, the tax imposed by this section upon all gross direct premiums collected or contracted for on long-term care policies, as certified by the superintendent pursuant to Title 24-A, section 5054, shall be at the rate of 1% a year.

Part C

Sec.C-1. 32 MRSA § 10313, sub-§ 1, ¶ B, as enacted by PL 1985, c. 400, §2, is amended to read:

B. Has intentionally or knowingly ~~or willingly~~ violated or failed to comply with a provision of this Act, a predecessor Act or a rule or order under this Act or a predecessor Act, the United States Securities Act of 1933, the United States Securities Exchange Act of 1934, the United States Investment Advisers Act of 1940, the United States Investment Company Act of 1940 or the United States Commodity Exchange Act, or the securities law of any other state, but only if the acts constituting the violation of that state's law would constitute a violation of this Act had the acts taken place in this State;

Sec. C-2. 32 MRSA § 10502, sub-§ 5, as enacted by PL 1985, c. 400, § 2, is amended to read:

5. Burden of proof. In any civil, ~~criminal~~ or administrative proceeding under this Act, the burden of proving an exemption or any exception from a definition is upon the person claiming it.

Sec. C-3. 32 MRSA § 10604, sub-§ 1, as amended by PL 1991, c. 548, § D-8, is repealed and the following is enacted in its place:

1. Intentional or knowing violation. A person is guilty of the crime of violating the Revised Maine Securities Act if that person intentionally or knowingly violates:

A. Any provision of the Act, except section 10204;

B. Any rule or order of the administrator under the under the Act; or

C. Section 10204, knowing that the statement made is false or misleading in any material respect.

Sec C-4. 32 MRSA §10604, sub-§ 4, as enacted by PL 1985, c. 400, § 2 is repealed.

Sec. C-5. 32 MRSA § 10604, sub-§ 6 is enacted to read:

6. Class C crime. A violation of the Revised Maine Securities Act is a Class C Crime.

Sec.C-6. 32 MRSA § 10604, sub-§ 7 is enacted to read:

7. Venue. When a person pursuant to one scheme or course of conduct, whether upon the same person or several persons, engages in fraudulent or other prohibited practices under subchapter II, engages in unlawful transactions of business or other unlawful conduct under subchapter III or engages in unlawful offers to sell or purchase or unlawful sales or purchases under subchapter IV, the State may opt for a single Class C count and, in that circumstance, prosecution may be brought in any venue in which one or more of the unlawful acts were committed.

Sec. C-7. 32 MRSA § 10604, sub-§8 is enacted to read:

8. Affirmative defense. In any criminal case, an exemption or any exception from a definition under this Act must be proved by the defendant by a preponderance of the evidence.

Summary

This bill implements the recommendations of the Joint Standing Committee on Banking and Insurance's review of the Bureau of Insurance, Bureau of Banking and Securities Division.

Part A implements the recommendations relating to the Bureau of Banking and does the following.

1. It authorizes the Bureau of Banking to bar an officer or director removed from a financial institution or holding company from working for special purpose financial institutions, i.e. merchant banks, non-depository trust companies and uninsured banks.
2. It makes technical corrections and changes to the statutory provisions authorizing the establishment of a merchant bank.

Part B implements the recommendations relating to the Bureau of Insurance and does the following.

1. It transfers legal responsibility for the collection of insurance premium taxes on surplus lines insurers from the Bureau of Insurance to Maine Revenue Services, formerly named the Bureau of Taxation.
2. It clarifies the requirement that Maine domestic insurance companies pay an assessment to the Bureau of Insurance to reimburse the Bureau for the costs associated with financial examination.

Part C implements the recommendations relating to the Securities Division and does the following.

1. It updates the criminal penalty provisions of the Revised Maine Securities Act and brings them in line with the current class system for criminal conduct under the Maine Criminal Code.
2. It provides authority to the Securities Division to bring a action involving multiple violations in any county in which any violation occurs.

SENATE

JUDY PARADIS, DISTRICT 1, CHAIR
SUSAN W. LONGLEY, DISTRICT 11
BETTY LOU MITCHELL, DISTRICT 10

JANE ORBETON, LEGISLATIVE ANALYST
BETSY REINHEIMER, COMMITTEE CLERK



HOUSE

J. ELIZABETH MITCHELL, PORTLAND, CHAIR
JOSEPH E. BROOKS, WINTERPORT
ELAINE FULLER, MANCHESTER
THOMAS J. KANE, SACO
WENDY PIEH, BREMEN
MICHAEL W. QUINT, PORTLAND
GLENYS P. LOVETT, SCARBOROUGH
JEFFERY G. JOYNER, HOLLIS
TARREN R. BRAGDON, BANGOR
LOIS A. SNOWE-MELLO, POLAND

STATE OF MAINE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

COMMITTEE ON HEALTH AND HUMAN SERVICES

February 9, 1998

To: The Honorable Elizabeth H. Mitchell, Chair, Legislative Council

From: Sen. Judy Paradis
Rep. J. Elizabeth Mitchell
Chairs, Joint Standing Committee on Health and Human Services

Re: Government Evaluation Act Review of the Office of Substance Abuse,

This memorandum is to inform you that the Joint Standing Committee on Health and Human Services has submitted its findings and recommendations from the review and evaluation of the Office of Substance Abuse under the State Government Evaluation Act to the Legislature pursuant to Title 3 Maine Revised Statutes, chapter 35.

cc: Members, Legislative Council
Executive Director, Legislative Council

G:\OPLALHS\COMMTTEE\HUM\CORRESP\2-5HUM4.DOC

FEB 10 1998

JOINT STANDING COMMITTEE ON HEALTH AND HUMAN SERVICES

Review of the Office of Substance Abuse of the Department of Mental Health, Mental Retardation and Substance Abuse Services under the Government Evaluation Act

The Government Evaluation Act

The Government Evaluation Act ("Act") provides for a system of periodic review of the efficacy and performance of state government agencies. The review of an agency's finances and programs must include a review of agency management and organization, program delivery, goals and objectives, statutory mandates and fiscal accountability. 3 MRSA § 951 et seq. The law was enacted in the 117th Legislature to replace the old Government Audit and Program Review Program and substituted a legislative audit of each agency on a rotating basis with an agency self assessment. The first reviews under the Act will be completed at the end of the 118th Legislature.

The keystone to the Act is the agency program evaluation report which consists of a number of components required by the statute. Essentially, the report is an agency self-assessment which the committee of jurisdiction uses as a starting point for its evaluation of the agency's effectiveness, efficiency and performance. The components that must be included in the report are: the agency's enabling state and federal legislation; program descriptions; organizational structure, position count and job classifications; compliance with federal and state health and safety laws; ten-year financial summaries; regulatory agenda; coordinated efforts with other state agencies; constituencies served by the agency; alternative delivery systems; and emerging issues for the agency.

Review Process

Pursuant to the requirements of the Act, by letter dated September 24, 1997 the Joint Standing Committee on Health and Human Services notified the Office of Substance Abuse of the Department of Mental Health, Mental Retardation and Substance Abuse Services of its intent to review the agency during the 118th Legislature's Second Regular Session. The Office of Substance Abuse submitted its program evaluation report on November 12, 1997.

The Health and Human Services committee held two meetings to conduct the review under the Act on January 7 and January 22, 1998. At these meetings, the committee reviewed the materials submitted by the Office of Substance Abuse and discussed the mission of the office, office operations and contracting, and office prevention, intervention and treatment programs with the director, Lynn Duby.

Findings of Review

The Joint Standing Committee on Health and Human Services, has reviewed the Office of Substance Abuse and finds that the office is operating within its statutory authority. The committee finds that the office is performing effectively and efficiently in carrying out its statutory mandates. The purposes of the office are as follows:

- 1. Integrated and comprehensive approach.** To adopt an integrated approach to the problem of alcohol and other drug abuse and to focus all the varied resources of the State on developing a comprehensive and effective range of alcohol and other drug abuse prevention and treatment activities and services; and
- 2. Single administrative unit.** To establish a single administrative unit within the Department of Mental Health, Mental Retardation and Substance Abuse Services, with responsibility for planning, developing, implementing, coordinating and evaluating all of the State's alcohol and other drug abuse prevention and treatment activities and services.
- 3. Tobacco use by juveniles.** To enforce the State's laws relating to the sale and use of tobacco products by juveniles and to coordinate state and local activities related to those provisions. The office shall take all necessary actions to ensure compliance with the Synar Act, 42 United States Code 300X-26, including the preparations of reports for the signature of the Governor. All law enforcement agencies, all state departments, including the Department of Public Safety and the Department of Human Services, and municipalities shall cooperate with the office in these efforts.

The office may enter into any contracts or agreements necessary or incidental to the performance of its duties under this section, subject to section 20005, subsection 6 and section 20005-A. The office shall provide or assist in the provision of voluntary training programs regarding the sales of tobacco products to juveniles.

The committee finds that the Office of Substance Abuse is administered and its programs run in a manner that accomplishes its purposes. In addition the committee finds that the office maintains an ambitious program of prevention, intervention, corrections and treatment.

Recommendations

The Health and Human Services Committee voted on January 22, 1998 approval of the Office of Substance Abuse in that it operates in accordance with its legislative authority and is successful in meeting its statutory and administrative mandates.

G:\OPLALHS\COMMITTEE\HUM\CORRESP\GEAREV1.DOC



Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS

13 State House Station, Augusta, Maine 04333-0013
Telephone: (207) 287-1670
Fax: (207) 287-1275

January 27, 1998

The Honorable Elizabeth H. Mitchell, Chair
Legislative Council
118th Maine Legislature
State House
Augusta, ME 04333

Dear Chair Mitchell:

This letter is to inform you that the Blue Ribbon Commission to Study the Effects of Government Regulation and Health Insurance Costs on Small Businesses in Maine has submitted the attached report to the Executive Director of the Legislative Council, and the Joint Standing Committee on Business and Economic Development pursuant to Resolve 1997, Chapter 85. The report has also been submitted to the President of the Senate and the Speaker of the House, and a copy is on file with the Law and Legislative Reference Library.

Sincerely,

A handwritten signature in black ink, appearing to read "Arthur F. Mayo III".

Rep. Arthur F. Mayo III, Chair
Blue Ribbon Commission to Study
the Effects of Government Regulation
and Health Insurance Costs on Small
Businesses in Maine

Attachment

cc: Members of the Legislative Council
Sen. John T. Jenkins, Rep. Marc J. Vigue, Chairs, the Joint Standing Committee on
Business and Economic Development
Sally Tubbesing, Executive Director, Legislative Council
David E. Boulter, Director, Office of Policy and Legal Analysis

JAN 29 1998



MAINE STATE LEGISLATURE
Augusta, Maine 04333

January 29, 1998

The Honorable Elizabeth H. Mitchell, Chair
Legislative Council
118th Maine Legislature
State House
Augusta, ME 04333

Dear Chair Mitchell:

Pursuant to Private and Special Law, chapter 51, the Task Force to Study Equal Economic Opportunity for All Regions of the State is pleased to submit its final report including recommended legislation. Copies of the report have also been transmitted to the Governor and the Joint Standing Committee on Business and Economic Development in accordance with the law. Copies of the report have been placed on file in the Law and Legislative Reference Library.

Sincerely,

A handwritten signature in dark ink that reads "Marc Vigue" followed by a stylized flourish.

Rep. Marc Vigue, Chair
Task Force to Study Equal Economic
Opportunity for All Regions of the State

Enclosure

cc: Members of the Legislative Council (w/encls. c/o Executive Director)
Sen. John T. Jenkins, Rep. Marc Vigue, Chairs, Joint Standing Committee on
Business and Economic Development
Sally Tubbesing, Executive Director, Legislative Council
David E. Boulter, Director, Office of Policy and Legal Analysis

FEB - 2 1998



ANGUS S. KING, JR.
GOVERNOR

January 23, 1998

The Honorable Elizabeth H. Mitchell, Chair
Legislative Council
118th Maine Legislature
State House
Augusta, ME 04333

Dear Chair Mitchell:

This letter is to inform you that the Commission to Study Insurance Fraud has submitted the attached report to the Executive Director of the Legislative Council, the Joint Standing Committee on Banking and Insurance, the Joint Standing Committee on Criminal Justice, and to the Law and Legislative Reference Library, pursuant to Resolve 1997, Chapter 77.

Sincerely,

Lloyd P. LaFountain
Senator Lloyd P. LaFountain III
Commission to Study
Insurance Fraud, Chair

Attachment

cc:
Members of the Legislative Council
Sally Tubbesing, Executive Director, Legislative Council
Joint Standing Committee on Banking and Insurance
Joint Standing Committee on Criminal Justice
Lynn E. Randall, State Law Librarian



PRINTED ON RECYCLED PAPER



MAINE STATE LEGISLATURE
Augusta, Maine 04333

February 2, 1998

The Honorable Elizabeth H. Mitchell, Chair
Legislative Council
118th Maine Legislature
State House
Augusta, ME 04333

Dear Chair Mitchell:

This letter is to inform you that the Maine Commission on Children's Health Care has submitted the attached report including recommended legislation to the Governor and the Legislature pursuant to Public Law 1997, chapter 560, Part B. Copies of the report have also been placed on file with the Law and Legislative Reference Library, the Legislative Council and the Joint Standing Committee on Health and Human Services.

Sincerely,

A handwritten signature in cursive script that reads "Randall L. Berry".

Rep. Randall L. Berry, Chair
Maine Commission on Children's Health Care

Attachment

cc: Members of the Legislative Council
Sen. Judy Paradis, Rep. J. Elizabeth Mitchell, Chairs, Joint Standing Committee on
Health and Human Services
Sally Tubbesing, Executive Director, Legislative Council
David E. Boulter, Director, Office of Policy and Legal Analysis

G:\OPLALHSLHSSTUD\CONLTR4.DOC

FEB - 2 1998



MAINE STATE LEGISLATURE

Augusta, Maine 04333

**COMMISSION TO STUDY THE RESTRUCTURING OF THE STATE'S
FISCAL POLICIES TO PROMOTE THE DEVELOPMENT OF HIGH-
TECHNOLOGY INDUSTRY IN MAINE**

January 30, 1998

Rep. Elizabeth H. Mitchell, Chair
Legislative Council
State House Station 115
Augusta, Maine 04333

Dear Rep. Mitchell:

Enclosed is the report of the Commission to Study the Restructuring of the State's Fiscal Policies to Promote the Development of High-technology Industry in Maine as directed by Public Laws 1997, chapter 557, Part C. The Commission worked diligently to examine the environment for high-technology industry in Maine. The Commission concluded that the high-technology industry provides exciting challenges and opportunities for economic growth in the 21st Century. If Maine is to maintain and improve its ability to attract and retain high-technology industry it must make the commitment:

- To pursue a coordinated strategy for ensuring a technologically skilled workforce,
- Achieve a telecommunications infrastructure that is conducive to high-technology growth
- Maintain a government structure and policy that is responsive to the needs of high-technology businesses

Our report makes the recommendations necessary to move forward that commitment.

We thank you and the other members of the Legislative Council, as well as Governor King, for this opportunity to have a role in shaping the policy of the State in this very important area. If we can be of further assistance, please do not hesitate to contact us.

Sincerely:

Handwritten signature of Mark B. LeDuc in cursive.

Mark B. LeDuc
Co-chair

Sincerely:

Handwritten signature of Jeffrey Nathanson in cursive.

Jeffrey Nathanson
Co-chair



MAINE STATE LEGISLATURE
Augusta, Maine 04333

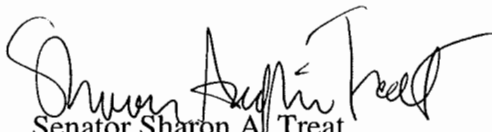
February 11, 1998

The Honorable Elizabeth H. Mitchell, Chair
Legislative Council
118th Maine Legislature
State House
Augusta ME 04333

Dear Chair Mitchell:

This letter is to inform you that the Commission to Study the Unemployment Compensation System has submitted the attached report, including recommended legislation, to the Joint Standing Committee on Labor, pursuant to Resolves 1997, chapter 65. Copies of the report have also been placed on file with the Law and Legislative Reference Library.

Sincerely,


Senator Sharon A. Treat
Chair, Commission to
Study the Unemployment
Compensation System

cc: Members of the Legislative Council (w/encls. c/o Executive Director)
Sen. Mary R. Cathcart, Rep. Pamela H. Hatch, Chairs, Joint Standing Committee on Labor
Sally Tubbesing, Executive Director, Legislative Council
David E. Boulter, Director, Office of Policy and Legal Analysis

G:\OPLAGEA\COMMITTEE\LAB\ADMIN\UCSSTUDY\TRANSMIT.DOC

FEB 13 1998



MAINE STATE LEGISLATURE

Augusta, Maine 04333

February 17, 1998

The Honorable Elizabeth H. Mitchell, Chair
Legislative Council
118th Maine Legislature
State House
Augusta, ME 04333

Dear Chair Mitchell:

This letter is to inform you that the Task Force on Improving Access to Prescription Drugs for the Elderly has submitted the attached report including recommended legislation to the Governor and the Legislature pursuant PL 1997, chapter 560, part E. Copies of the report have also been placed on file with the Law and Legislative Reference Library and distributed to the Joint Standing Committee on Health and Human Services.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chellie R.", written in dark ink.

Sen. Chellie Pingree, Chair
Task Force on Improving Access to
Prescription Drugs for the Elderly

cc: Joint Standing Committee on Health and Human Services
Sen. Judy Paradis and Rep. J. Elizabeth Mitchell, chairs, Joint Standing Committee on
Health and Human Services
Law and Legislative Reference Library

Enclosure

FEB 18 1998



Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS

13 State House Station, Augusta, Maine 04333-0013
Telephone: (207) 287-1670
Fax: (207) 287-1275

TO: The Honorable Elizabeth H. Mitchell, Chair, Legislative Council
Members of the Legislative Council

FROM: David E. Boulter, Director

DATE: February 6, 1998

SUBJ: Completion of Staff Study on Juvenile Justice Issues

I am pleased to submit the final report of a study to review juvenile justice issues. The study was conducted by Marion Hylan Barr and Megan Dennen of this office over the past few months.

This study was authorized by the Legislative Council last session for the purpose of assisting the Joint Standing Committee on Criminal Justice to prepare to deal with carryover legislation that proposes significant amendments to the Juvenile Code and directs the Legislature to review juvenile programming and services. As requested by the Committee, the report was developed in consultation with Criminal Justice Committee chairs, Senator Robert E. Murray, Jr. and Representative Edward J. Povich.

We enjoyed the opportunity to work on this study and hope that you and the committee find the report to be useful. As you review the report, if you have any questions or suggestions, please do not hesitate to let me know. Marion or I would be happy to follow up with you.

cc: Sally Tubbesing, Executive Director
Members, Joint Standing Committee on Criminal Justice

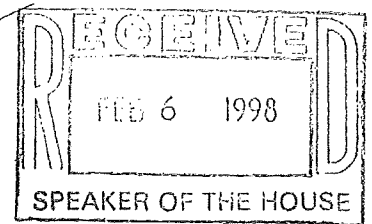
G:\OPLALHSLHSSTUDJUV_JUSTJTRANS.DOC

OFPR
2/10/98
g:\ofpr\bills\118th\ld2002.xls

COMPARISON OF STRATEGIC PLANNING & PERFORMANCE BUDGETING KEY DATES

Issue	Current Law (see 5 MRSA §1710-P)	LD 2002 Proposals	Administration/ CPB Proposed Changes to LD 2002
• Develop policy areas	12/31/97	12/31/99	12/31/99
• Develop prototype performance budget by State agency			12/31/99 (to Legislature)
• Develop performance budgets by State agency			9/1/00 (to Governor) 1/12/01 (to Legislature)
• Develop statewide goals (first round)			12/1/00 (to Commission) 1/31/01 (to Legislature)
• Develop joint strategic plans by policy area	6/30/98	6/30/00	9/1/01
• Develop joint budget proposals by policy area	9/1/98 (to Governor) 1/8/99 (to Legislature)	9/1/02 (to Governor) 1/10/03 (to Legislature)	9/1/02 (to Governor) 1/10/03 (to Legislature)

SARAH C. TUBBESING
EXECUTIVE DIRECTOR
OF THE LEGISLATIVE COUNCIL



MAINE STATE LEGISLATURE
OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

February 6, 1998

TO: Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House

FROM: Sally *Sally*

SUBJECT: LD 2002, An Act to Delay the Implementation of Performance Budgeting

Received by:

Carrie	<input checked="" type="checkbox"/>
David	<input type="checkbox"/>
Jane	<input type="checkbox"/>
Chuck	<input type="checkbox"/>
Pat	<input checked="" type="checkbox"/>
Patrick	<input type="checkbox"/>
Peggy	<input checked="" type="checkbox"/>

As I told you last week, the Appropriations Committee has scheduled the public hearing on LD 2002, sponsored by Rep. Ott, for next Tuesday afternoon, February 10. Rep. Ott's bill would delay the deadline for the submission of final recommendations regarding the specific tools to be used to support performance budgeting until January, 1999. The bill would also give the Commission on Performance Budgeting authority to submit legislation.

We have received today a copy of proposed amendments to Representative Ott's bill that significantly expand the scope of the initial bill, (copy enclosed). Drafted by the Budget Office, these proposed amendments were apparently adopted unanimously by those present at the January 22 meeting of the Commission on Performance Budgeting. Commissioner Waldron's cover memo indicates that these changes are being proposed to address the Legislative Council's concerns. That may be true, in part; but the bill includes language that appears to go far beyond the Council's discussion last fall.

- The amendment provides that "the Legislative Council, or its designee" may replace, modify, or change the currently-defined policy areas, but provides that the current policy areas remain in effect until the Council takes any action.
- The amendment also adds language that specifically includes the legislative and judicial branches in the strategic planning and performance budgeting process. This means that the legislative and judicial branches would be required to participate in developing joint strategic plans and joint budgets.

I think that John Wakefield, Jim Clair and Dave Boulter continue to be your best resources for detailed analysis of the impact of these proposed amendments. In addition, Rose Breton, as you know, worked closely with this process.

Please let me know how you would like to proceed.

Enclosure
cc: John Wakefield
Jim Clair
David Boulter
Rose Breton

Legislative Council
Discussion of Performance Budgeting
February 23, 1998

Introduction

- Wanted to put this item on today's agenda for 2 purposes
 - To get a formal update on the development of performance budgeting since we last discussed this issue in October.
 - To specifically focus on the various amendments that have been introduced and are currently pending before the Appropriations Committee -- and to try and develop a common understanding of their impact.
 - On the original law.
 - On our current budget process.
 - On the balance of power among the 3 branches of Maine State Government.
- Have invited those legislators who serve on the Performance Budgeting Commission to participate with us in this discussion.
 - Also Jack Nicholas, the State Budget Officer.
 - And our own Council staff who have been actively involved:
Jim Clair/John Wakefield/David Boulter and Rose Breton
- Thank you all for coming.
 - Propose this afternoon to ask Jack Nicholas to speak first - give a **very brief** update of current status.
 - And specifically address the new legislation that the Administration is proposing.
 - Then ask Senator Michaud and Rep. Kerr to comment **briefly**.
 - Then pose some questions for discussion.
 - **Encourage our staff to participate in this discussion -- we need your help.**

⇒ Turn to Jack

⇒ Turn to Mike and George

PERFORMANCE BUDGETING

Questions:

1. One of the primary reasons for shifting to Performance Budgeting is to improve accountability.
 - Specifically, how does the proposed process improve accountability?

What is accountability?

Accountability for what?

Accountability to whom?
 - How will the proposed process improve our ability to oversee the implementation of major policy initiatives?

e.g. Child Protective Services?
2. As the process has gone forward, it continues to raise issues for many of us about the fundamental concept that the strength of our government relies upon a system of checks and balances among the 3 coequal branches
 - Will the proposed model result in a shift of some policy setting from the legislative branch to the executive branch?

-- Nicholas' proposed bill regarding "budget rules".
 - Does the proposed model anticipate that the Legislature will need to reorganize its committee structure?

Are we prepared to do that?
3. Does the proposed model require the legislative and judicial branches to develop joint strategic plans and budgets with Executive Branch agencies.
4. **Statewide goals**

Can we develop a process to involve the legislative and judicial branches in the actual **foundation** of statewide goals - rather than simply having us act on a package.

5. Other States' Experience

- How closely are we following the experience of other states with performance budgeting?
 - What are the alternatives to the process that is currently being developed for Maine?

Has there been any in-depth review of alternatives? By whom?

6. Implementation Schedule

- The Ott amendment would postpone full implementation by 4 years.
 - What are the key things that have to be accomplished to make this delay constructive?

7. Costs of Implementation of Performance Budgeting

- The Administration has requested funds to redesign its computer system to support the Performance Budgeting Process.
 - What **other costs** do you anticipate will be required to support this process?

e.g. Performance auditing?

Costs for individual departments?

Other?

PERFORMANCE BUDGETING LEGISLATION

Options

1. Do nothing

2. Kill it

(Kerr amendment, which he has presented to Appropriations Committee, does this.)

3. Support/pass Ott amendment in its current form.

- This would delay implementation for 4 years and builds in various “milestones” that provide for legislative review.

PERFORMANCE BUDGETING

Questions:

1. One of the primary reasons for shifting to Performance Budgeting is to improve accountability.
 - Specifically, how does the proposed process improve accountability?

What is accountability?

Accountability for what?

Accountability to whom?
 - How will the proposed process improve our ability to oversee the implementation of major policy initiatives?

e.g. Child Protective Services?
2. As the process has gone forward, it continues to raise issues for many of us about the fundamental concept that the strength of our government relies upon a system of checks and balances among the 3 coequal branches
 - Will the proposed model result in a shift of some policy setting from the legislative branch to the executive branch?

-- Nicholas' proposed bill regarding "budget rules".
 - Does the proposed model anticipate that the Legislature will need to reorganize its committee structure?

Are we prepared to do that?
3. Does the proposed model require the legislative and judicial branches to develop joint strategic plans and budgets with Executive Branch agencies?
4. **Statewide goals**

Can we develop a process to involve the legislative and judicial branches in the actual **foundation** of statewide goals - rather than simply having us act on a package?

5. **Other States' Experience**

- How closely are we following the experience of other states with performance budgeting?
 - What are the alternatives to the process that is currently being developed for Maine?

Has there been any in-depth review of alternatives? By whom?

6. **Implementation Schedule**

- The Ott amendment would postpone full implementation by 4 years.
 - What are the key things that have to be accomplished to make this delay constructive?

7. **Costs of Implementation of Performance Budgeting**

- The Administration has requested funds to redesign its computer system to support the Performance Budgeting Process.
 - What **other costs** do you anticipate will be required to support this process?

e.g. Performance auditing?

Costs for individual departments?

Other?



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
Bureau of the Budget
State House - Station 58
Augusta, Maine 04333

Honorable Elizabeth H. Mitchell
Speaker of the Maine House of Representatives
Chair, Legislative Council

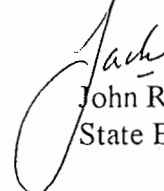
Dear Libby:

Thank you for the invitation to attend the February 23, 1998 meeting of the Legislative Council. I look forward to the opportunity to discuss the proposals on performance budgeting presented to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs in reference to LD 2002, An Act to Delay the Implementation of Performance Budgeting for State Government.

Our intention in presenting the proposed changes was to address, as best we could, the concerns of the Legislative Council as expressed at its October 31, 1997 meeting. The upcoming meeting of the council will provide additional opportunity for discussion about the implications of performance budgeting for all three branches of government.

Thank you again for the invitation.

Sincerely,


John R. Nicholas
State Budget Officer

cc:

Members of the Legislative Council ✓
Janet Waldron, Commissioner of the Department of Administrative and Financial Services
Kay Rand, Director of Policy and Legislation
John Wakefield/Jim Clair, Office of Fiscal and Program Review
David Boulter, Office of Policy and Legal Analysis

FEB 18 1998

**LEGISLATIVE COUNCIL
REQUESTS TO INTRODUCE LEGISLATION
SECOND REGULAR SESSION
February 17, 1998**

Action

SPONSOR: Rep. Chartrand, Paul

LR 3393 An Act to Include Locally Funded Debt Service in
the Formula for Purposes of the Circuit Breaker Program

SPONSOR: Rep. Goodwin, Albion D.

LR 3383 An Act to Reduce the Sales Tax to 5% and to Repeal
Most Sales Tax Exemptions

SPONSOR: Rep. Goodwin, Albion D.

LR 3384 An Act to Allow the Department of Human Services to
Insure all Uninsured Children Under 18 Years of Age
Through a Competitively Awarded Contract

SPONSOR: Rep. Jabar, Sr., Joseph M.

LR 3419 An Act to Make Public the Records of the Department of
Corrections Relating to Inmate Furloughs and Requests
Under the Uniform Act for Out-of-State Parolee Supervision

SPONSOR: Sen. Longley, Susan W.

LR 3417 An Act to Permit the Department of Environmental
Protection to Process an Application by Ivan Davis
to Generate Power at a Dam on the St. George River

SPONSOR: Rep. Mack, Adam

LR 3416 An Act to Prohibit Employers' Unemployment Rates to
Increase Due to the Ice Storm of 1998

SPONSOR: Sen. Mitchell, Betty Lou

LR 3423 An Act to Establish a Task Force to Study Access to
Hospice Coverage and Palliative Pain Control for the
Terminally Ill Citizens of Maine

SPONSOR: Rep. Pieh, Wendy

LR 3377 An Act to Include Ketamine in the List of Schedule W
Drugs

JOINT RESOLUTION

SPONSOR: Rep. Lemont, Kenneth F.

LR 3403 JOINT RESOLUTION MEMORIALIZING THE UNITED STATES POSTAL
SERVICE TO ISSUE A STAMP COMMEMORATING THE 200TH
ANNIVERSARY OF THE PORTSMOUTH NAVAL SHIPYARD

TABLED BY THE LEGISLATIVE COUNCIL

SPONSOR:	Rep. Carleton, Jr., Joseph G.	TABLED 12/18/97
LR 3324	An Act Regarding the Issuance of Depuration Certificates by the Commissioner of Marine Resources	
SPONSOR:	Rep. Donnelly, James O.	TABLED 01/21/98
LR 3333	An Act to Require that the Sex Offender List be Available to Businesses Hiring Personnel Who Will Have Contact With Children	
SPONSOR:	Rep. Gooley, Walter R.	TABLED 01/21/98
LR 3368	An Act to Extend the Deadline for Filing Updated Management Plans Under Tree Growth Tax Laws	
SPONSOR:	Rep. Mitchell, Elizabeth H.	TABLED 11/20/97
LR 3289	An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of Law Necessary for the Operation of State Government for the Fiscal Year Ending June 30, 1998 and June 30, 1999	
SPONSOR:	Rep. Perkins, Royce W.	TABLED 12/18/97
LR 3308	An Act to Exempt Adult Diapers from the Sales Tax	
SPONSOR:	Sen. Pingree, Chellie	TABLED 11/20/97
LR 3288	An Act to Improve Access to Women's Heathcare	
SPONSOR:	Rep. Povich, Edward J.	TABLED 01/21/98
LR 3365	Resolve, Authorizing the Transfer of the Old Hancock County Jail on State Street, Ellsworth from Hancock County to the Ellsworth Historical Society	
SPONSOR:	Rep. Townsend, Elizabeth	TABLED 01/21/98
LR 3344	An Act to License Building Contractors	
SPONSOR:	Rep. Tuttle, Jr., John L.	TABLED 11/20/97
LR 3283	An Act to Permit Employees to Require Receiving Unemployment Benefits in Certain Cases	

SPONSOR: Rep. Tuttle, Jr., John L.

**TABLED
11/20/97**

**LR 3284 An Act to Authorize an Apprentice Cadet Program in the
 Bureau of State Police**

SPONSOR: Rep. Tuttle, Jr., John L.

**TABLED
11/20/97**

**LR 3285 An Act to Establish the State Police Law Enforcement
 Scholarship Program**

SPONSOR: Rep. Tuttle, Jr., John L.

**TABLED
12/18/97**

LR 3303 An Act Regarding the Expanded Archery Deer Hunting Season

SPONSOR: Rep. Usher, Ronald E.

**TABLED
11/20/97**

**LR 3296 An Act to Allow a Utility Company Vehicle to Use a Siren
 When Responding to an Emergency**

ADDENDUM

LEGISLATIVE COUNCIL
REQUESTS TO INTRODUCE LEGISLATION
SECOND REGULAR SESSION
February 23, 1998

Action

SPONSOR: Rep. Bull, Thomas

LR 3453 An Act to Require that Any Natural Gas Pipeline
Constructed Be Constructed Within Existing Utility
Right of Ways

SPONSOR: Sen. Cleveland, John J.

LR 3455 Resolution, Proposing a Amendment to the Constitution
of Maine to Amend the Timing of Elections Following the
Submission of a Petition for People's Veto

SPONSOR: Rep. Mitchell, Elizabeth H.

LR 3449 An Act to Amend the Law Concerning Tax Base Sharing

SPONSOR: Rep. Mitchell, Elizabeth H.

LR 3450 An Act to Create the Kennebec Regional Development Authority

SPONSOR: Sen. Pingree, Chellie

LR 3452 An Act to Ensure Access to Halfway House Services for
Prisoners Leaving the Maine State Prison

SPONSOR: Rep. Powers, Judith

LR 3446 An Act to Limit the Liability of Municipalities With
Respect to Skateboarding Facilities

SPONSOR: Rep. Snowe-Mello, Lois A.

LR 3454 Resolve, to Name the Timber Bridge in Byron the Richard
Lauze Memorial Bridge

SPONSOR: Rep. Wheeler, Edgar

LR 3448 An Act Requiring Notification of Option to Request
Judicial Review