

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
MARCH 28, 2001
REVISED AGENDA**

CALL TO ORDER

ROLL CALL

**SUMMARIES OF THE FEBRUARY 13 and 21, 2001 COUNCIL
MEETINGS**

**REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE
DIRECTORS**

- Executive Director's Report
- Renovations: Status Report
- Fiscal Update
- Migration Project Status
- Interim Studies: Status Report

REPORTS FROM COUNCIL COMMITTEES

- Personnel Committee
- Space Committee
- Technology and Migration Committee
- Time and Attendance Subcommittee

OLD BUSINESS

Item #1: Submission of Study Report:

- Task Force on Educational Programming At Juvenile Correctional Facilities
(pursuant to P.L. 1999, Chapter 770).

Item #2: Report Back From the Percent for Art Committee

NEW BUSINESS

Item #1: Submission of Study Report:

- Committee to Study Access to Private and Public Lands in Maine
(pursuant to H.P. 1951)

Item #2: Proposed Drafting Guidelines for Legislative Studies-120th Legislature

Item #3: After Deadline Requests

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT



REP. MICHAEL V. SAXL
CHAIR

SEN. RICHARD A. BENNETT
VICE-CHAIR

SEN. BEVERLY C. DAGGETT
SEN. MARY E. SMALL
SEN. PAUL T. DAVIS, SR.
SEN. SHARON ANGLIN TREAT
REP. PATRICK COLWELL
REP. JOSEPH BRUNO
REP. WILLIAM S. NORBERT
REP. WILLIAM J. SCHNEIDER

120th MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

JAMES A. CLAIR
EXECUTIVE DIRECTOR

**MEETING SUMMARY
FEBRUARY 13, 2001**

CALL TO ORDER

The Chair, Speaker Saxl, called the Council meeting to order at 12:02 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	Sen. Bennett, Sen. Daggett, Sen. Davis, Sen. Treat Absent: Sen. Small,
Representatives:	Speaker Saxl, Rep. Colwell, Rep. Bruno, Rep. Norbert, Rep. Schneider
Legislative Officers:	Joy O'Brien, Secretary of the Senate Pamela Cahill, Assistant Secretary of the Senate Millicent MacFarland, Clerk of the House David Shiah, Assistant Clerk of the House James A. Clair, Executive Director, Legislative Council Grant Pennoyer, Acting 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 Paul Mayotte, Director, Legislative Information Services

**REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE
DIRECTORS**

Mr. Clair, given today's agenda, deferred on this item.

REPORTS FROM COUNCIL COMMITTEES

None.

OLD BUSINESS

Item #1: Establishing an Early Deadline for Submission of Major Substantive Rules

David Boulter had posed a policy question to the Council at their meeting of February 7, 2001 as to whether they wanted to establish an early deadline for the submission of rules in light of an early anticipated adjournment of the legislative session. The Council asked that he to speak with the Executive Branch regarding an April 6 date, which is the earliest by law that could be set. Mr. Boulter said he had spoken with Kay Rand from the Governor's Office, who had polled most agencies and she represented that they would do whatever the Legislature wanted the best they could, but for some of the larger agencies the April 6 date may pose some problems. They may have to come back before the Legislature and ask for after deadline submission of rules. An April 20th deadline would work better. Mr. Boulter said that April 20th, 2 weeks early, would be beneficial to the Legislature and that would allow the agencies enough time to complete the work they had started. His recommendation would be April 20th.

Motion: That the Council adopt the April 20, 2001 deadline for submission of major substantive rules. (Motion by Sen. Bennett, seconded by Rep. Colwell, unanimous).

Item #2: 120th Maine Legislative Council - Rules of Procedure

Speaker Saxl referred members to information in their packet prepared by Mr. Clair at the request of the Council at its February 7, 2001 meeting. The Legislative Council had deferred preparing a ballot for circulation so that they could have further discussion on this item. He asked Sen. Daggett to present her recommendations.

Sen. Daggett said that the Advisory Committee she was presenting was made up of 2 members of the Legislative Council, 1 member from the Senate and 1 member from the House. The Chair of the State House and Capitol Park Commission or the Chair's designee, be appointed Chair of the Advisory Committee, since it is the State House and Capitol Park Commission that has jurisdiction over the Park as opposed to the Maine Historic Preservation Commission. The previous proposal before the Council did not include necessarily any legislators who represented the City of Augusta or the area, and that had always been a tradition. When there are issues affecting a particular area, legislators from that area are included, therefore 2 legislators from the City of Augusta are included in the recommendation. Two members appointed by the Mayor. Another change was to have the 2 members of the public appointed by the Kennebec County Legislative Delegation. Sen. Daggett said that it had been her experience and she had talked with others who were not comfortable with the Kennebec County Commissioners and did not feel that there was a relevant connection between the Commissioners and the Park. The new recommendations clarified that the Advisory Committee would be coterminous with the Council. The Advisory Committee elects its own chair, decides how the meetings are called, that all meetings are public and notice must be given to the Kennebec County Legislative Delegation and to the Executive Director to make sure there was always notice. Any action affecting the Park, either permanent or temporary, should be approved by a majority of the Council and any final decision on the Park had to have the advice and recommendation of the Committee.

Motion: That the Legislative Council accept Sen. Daggett's recommendations. (Motion by Rep. Saxl, seconded by Rep. Bruno).

Discussion: Sen. Bennett referred members to proposed Section 16 (e) of Sen. Daggett's Recommendation "two members of the public who reside in Kennebec County, appointed by the Chair of the Kennebec County legislative delegation". He asked how and when the Chair was appointed. Sen. Daggett said the Chair is chosen by a vote of the members of the Kennebec County legislative delegation and would be elected in the next week or so. She said the delegation meets at the beginning of the session after the elections and at that time a Chair and Vice-chair is elected for the upcoming 2 years.

Rep. Colwell thanked Sen. Daggett and said that he found her version to improve the advisory committee.

Rep. Colwell said the recommendations assured public input and made sure that the Council had to approve by majority vote, any action and also makes sure that before any action is taken, it takes into account the consideration of the public.

Sen. Daggett wanted to make it clear to the members of the Council that she does feel that there should be something additional in statute than what is there presently so that it gives a little more statutory authority beyond the rule. Not necessarily something that ties the Council to a particular plan, but something with stronger statutory authority, and would be supporting that before the Committee.

Speaker Saxl asked if the above required a roll call and Mr. Clair read the revision of rules, section 15, "The Council may amend these rules with the exception of rule 4 upon a 2/3 vote of the Council members present and voting provided that the vote to amend is at least 6 affirmative votes".

A roll call was called: Sen. Davis-yes; Sen. Treat-yes; Sen. Daggett-yes; Sen. Small-absent; Sen. Pro Tempore Bennett-yes; Speaker Saxl-yes; Rep. Colwell-yes; Rep. Norbert-yes; Rep. Bruno-yes and Rep. Schneider-yes. With 1 absent and 9 voting in favor the motion passes 9-0.

Item #3: Legislature's FY 2002-2003 "Part I Budget Request

Rep. Bruno said in light of the structural gap in the Legislature, as a member of this Council, felt uncomfortable with a 21% biennial increase in the Legislative Budget. He had asked the Executive Director for numbers looking at different proposals and what he would do at this point would be to form a committee so it becomes a bipartisan effort of looking at certain areas of reducing the Legislative budget. He understood that it was the 119th Legislative Council that proposed the budget, but that did not mean that this Council had to accept it. It was different times a year ago and he would put forth a working group to look at the budget.

Speaker Saxl thought it appropriate that the Council review the Legislative budget in their capacity as the 120th Legislative Council. He informed members of a time frame issue that he was just made aware of and that the Council was suppose to report back to the Appropriations Committee on Thursday, February 15, 2001. There were scheduling conflicts with many of the Council members so he recommended that if a subcommittee was convened, that the subcommittee make recommendations to the full

Legislative Council, if they are able to come to agreement, so it could be heard in its entirety in 1 day. He asked how long a subcommittee would need to look at the recommendations from the last Legislative Council and Rep. Bruno said it would take about 1 week, 2 meetings. Rep. Bruno said his experience on the Appropriations Committee was that you can report back on the due date but the actual negotiating of the budget does not take affect until March 29th at midnight. He felt the Council needed to set an example to the other committees that there are problems with the budget and the Council needed to look at it.

Speaker Saxl thought the Council should write a letter to the Appropriations Committee asking that the budget be deferred for one week. He asked for volunteers to serve on the subcommittee. Members of the subcommittee were: Sen. Daggett, Rep. Bruno, Rep. Colwell and Sen. Small. Rep. Bruno said input from the Executive Director and other Office Directors was needed. It should be a complete look at the entire budget line-by-line.

Motion: That the Council form a subcommittee to review the Legislative budget. (Motion by Sen. Treat, second by Sen. Davis, unanimous).

NEW BUSINESS

None.

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

Speaker Saxl moved that the Council adjourn at 12:22 p.m. (Motion by Sen. Daggett, second by Sen. Davis, unanimous).



REP. MICHAEL V. SAXL
CHAIR

SEN. RICHARD A. BENNETT
VICE-CHAIR

SEN. BEVERLY C. DAGGETT
SEN. MARY E. SMALL
SEN. PAUL T. DAVIS, SR.
SEN. SHARON ANGLIN TREAT
REP. PATRICK COLWELL
REP. JOSEPH BRUNO
REP. WILLIAM S. NORBERT
REP. WILLIAM J. SCHNEIDER

120th MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

JAMES A. CLAIR
EXECUTIVE DIRECTOR

**MEETING SUMMARY
FEBRUARY 21, 2001**

CALL TO ORDER

The Chair, Speaker Saxl called the Council meeting to order at 1:17 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	Sen. Bennett, Sen. Daggett, Sen. Small, Sen. Davis, Sen. Treat
Representatives:	Speaker Saxl, Rep. Colwell, Rep. Bruno, Rep. Norbert, Rep. Schneider
Legislative Officers:	Joy O'Brien, Secretary of the Senate Pamela Cahill, Assistant Secretary of the Senate Millicent MacFarland, Clerk of the House David Shiah, Assistant Clerk of the House James A. Clair, Executive Director, Legislative Council Grant Pennoyer, Acting 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 Paul Mayotte, Director, Legislative Information Services

**SUMMARIES OF THE JANUARY 31, AND FEBRUARY 7, 2001
COUNCIL MEETINGS**

Motion: That the Summaries of January 31 and February 7, 2001 be accepted and placed on file. (Motion by Sen. Bennett, second by Rep. Colwell, 10-0 unanimous)

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

- **Executive Director's Report**

James Clair deferred his report other than to say he had spoken with the Mayor of the City Augusta regarding the appointments for the Capitol Area Advisory Committee and he will draft something about getting the appointments made. OPLA staff informed him that the LD 169 work session was scheduled for February 28, 2001 at 1:00 p.m. Speaker Saxl asked Mr. Clair send a letter to the appointing officials from Augusta and the Kennebec County Delegation from Sen. Bennett and himself on behalf of the Council.

No Council action was required.

- **Renovations: Status Report**

Stan Fairservice told Council members the foundation was completed around the West side of the building. On February 22nd they will begin to remove the steel and the building will be placed back on the foundation. Speaker Saxl asked for an update from Mr. Fairservice on negotiations with the Executive regarding tearing down of the Education Building. He said the majority of the demolishing would be done on the weekend, and was scheduled for March 3rd and 4th. Speaker Saxl asked if the Senate had been briefed, and if they not, recommended that they do because it impacts their end of the building.

No Council action required.

- **Fiscal Update**

Grant Pennoyer reported on the fiscal note production saying, although it was early in the process, as of Friday, February 16, they had completed fiscal notes on 1/4 of the bills printed and also had completed 80% of the fiscal notes on those that had been heard. Their goal was to get a fiscal note memo to the Committee prior to their public hearing. The fiscal notes on the original bills are not technically required by joint rule, but it is helpful to get the information to the committees as early as possible in the process. In terms of amendments, they are required to respond to amendments by joint rules and have had 24 requests for fiscal review on amendments, have completed 2/3 of those. OFPR's goal is to respond within 5 working days, but we did have 2 requests that took longer.

Sen. Bennett asked if OFPR, when they provide fiscal notes to the Committee make sure that sponsors and cosponsors get copies of the fiscal notes too. Mr. Pennoyer responded not necessarily the sponsors, the fiscal note form is set up to send it to the primary sponsor, that is all the system generates. They do not have a means within the system to easily pull down the cosponsors and distribute to them.

Mr. Pennoyer provided a summary of January 2001 revenue reports for the General Fund and Highway Fund variances. The Commissioner of the Department of Administrative and Financial Services just released the revenue report. The major reason they were ahead for the month was a significant variance in the individual income tax. It was up \$27 million for the month. \$9 million of it was revenue that should have been credited in February, so the amount will reverse itself in February, but was still \$18 million of positive variance that could not be explained. Without the positive variance for individual income tax, there would be a substantial negative variance for the month, of approximately \$12.8 million. While the

Highway Fund is doing well, there are a few lines in the General Fund that will need to be revisited by the Revenue Forecasting Committee, which meets February 26, 2001 at 10:00 a.m. at the State Planning Office. Speaker Saxl asked if action would be taken at that meeting and Mr. Pennoyer replied if consensus can be reached, action will be taken.

Sen. Bennett noted that, in the footnotes, the summaries incorporated the change in revenue forecasting of November, 1999. Mr. Pennoyer said the sheets had been copied over, and the date had not been changed. Sen. Bennett asked if they incorporated the revenue reforecast of November, 2000, and Mr. Pennoyer responded they had been adjusted upward to reflect the upward reprojection that was approved technically in December of 2000. Sen. Bennett said the individual income tax and sales tax are quite stark variances considering the revenue that was reforecasted 2 months ago and asked Mr. Pennoyer if he had any comment. Mr. Pennoyer said they were concerned about the underlying assumption of the sales tax estimates at the last reprojection and decided to go with the underlying assumption of growth, with the most recent reforecast of the economic forecast by the Consensus Economic Forecasting Commission bears out that a reduced underlying growth assumption is appropriate for the line. Sen. Bennett asked if the Economic Forecasting Commission had personal income growing at 5 1/2%, did it drop to 5% for the upcoming year? Mr. Pennoyer said that was the personal income number, not individual income, there is a difference. The Economic Forecast looks at personal income. That is a factor determining individual income tax collection, but there is not a one-to-one relationship between the two. Personal income numbers for the State are one indicator of economic activity and then feed what would be included as income for the income tax. Sen. Bennett then asked about the expensive modeling that we had purchased over the last few years, does it for ordain the revenue forecast amount or is there something that will cause or give the Revenue Forecasting Commission latitude to look at the numbers? Mr. Pennoyer responded that the unexplained variance in the individual income taxes in the past month would need to be discussed. He does not believe the model will be able to capture that so it will be a focus of their discussions, what caused it. It may be that the Maine Revenue Services did not have good data at that point to explain it. They experienced that in the past when trying to forecast Capital Gains Revenue, individual income tax from capital gains. It may be related to people deferring income into tax year 2001.

No Council action required.

- **Migration Project Status**

Paul Mayotte informed the Council members that the issue surrounding the conversion of the WANG database for the statutes had been resolved and well into the development of an automated process to convert the statutes from WANG to client-server format. They were defining the bill drafting systems security levels and will be presenting it to the user community shortly. The development of the interface between the drafting system and the Legislative data repository is 50% complete.

Compaq will install the production version of the bill drafting application during the week of March 19th and will start technical and systems integration testing of the product. His office was working with International Roll Call on their efforts with the Legislative Management System for the Chambers.

Mr. Mayotte referred members to the Contract Amendment 1 document. The 119th Legislative Council directed the Executive Director, supported by his office, to negotiate with Compaq to come up with a cost project contract reduction of \$300,000, to lower the value of the contract from \$4.5 million to \$4.2 million. The Contract Amendment reduces the contract price in three ways. \$223,000 worth of reductions resulting from a decrease in actual

scope; \$42,000 reduction based on a decrease in the number of software licenses that will be provided to the Legislature; and price adjustment with no reduction in scope of \$35,000 reflecting damages to the Legislature from the delay in the implementation from Compaq. The above figures add up to the \$300,000 reduction. The document has been reviewed by the Attorney General's Office and their comments and suggested changes have been integrated into the document and had also been reviewed by Compaq. It is now before the Council for their consideration.

Speaker Saxl inquired if the Council had to act on the Contract Amendment at the meeting and Mr. Clair said yes, at some point during the meeting, because the Council was not scheduled to meet again until the end of March. If there were no objections, it would be appreciated if the Council would make a motion so they could get the sign offs and get it implemented and underway. Speaker Saxl asked how Council members wanted to proceed. Did members have time to review the Amendment, or would they want to meet next week? Sen. Treat responded that she felt it should be dealt with as quickly as possible, but would like to have it explained. She questioned the list of items that would not be done, and wanted to make sure she knew what they were. Speaker Saxl said time permitting, the Council would do it at the meeting, but wanted to make sure there was time to discuss the budget. If needed they could have a Council meeting next week.

Speaker Saxl asked if the contract would be fulfilled, would the system be fully tested and fully operational before the next Legislative session and Mr. Mayotte said that was the plan. He then asked if additional items would be needed for the full compliance and full migration, added resources that the Council would need to give in order to make it work. Mr. Mayotte said it would deliver the basic bill drafting system. One of the items being eliminated from the scope of work was the interface with the budgeting system in the Executive Branch. There is nothing to interface with as of now, so part of the \$223,000 is \$32,000 for work that is not needed at this point and to his knowledge, that was the only item that he would have to come back to the Council for in the future. Speaker Saxl asked with the additional appropriation of \$32,000, would the Legislature be at a fully operational system, would not have to make any other programmatic changes to migrate fully off the WANG and, if that decision is made in the Part 2 budget appropriation, have that portion ready for the Legislative session, no questions asked. Mr. Mayotte's reply was yes.

Sen. Treat wanted to clarify that members of the Technology Committee were apprised of a number of other things she thought the Legislative Council intended to be part of the Legislature's technology system which include all of the technical support for the Appropriation's Committee and for the functioning of the committees and management of amendments, etc. If you are just talking about bill drafting, the answer is yes, but the other answer is no, when it comes to other things that she thought would be anticipated as being part of technology going on in the Legislature. Sen. Treat said it was a lot of money. Rep. Colwell asked the amount. Mr. Mayotte said the first item on the list included \$300,000 in case they were unable to negotiate with Compaq, pending Council approval, the need for the \$300,000 no longer exists. He asked the Technology Committee for direction on how to proceed with a budget module for the Fiscal Office, how to proceed with new support items for Committees and will be asking them if they want to proceed on remote access for Representatives and staff. There was a list of potential new technology items, but to answer the Speaker's question directly, for bill drafting, other than the caveat that he had put on it, bill drafting was there.

Rep. Colwell thought because the Council was going to be taking up the budget shortly, it would be helpful to know what anticipated costs might be needed. If all of the above things were done, was there an estimate of cost. Sen. Treat said what they were given, its lists items

that the Committee had not discussed, \$2.5 million in FY 02 and \$744,925 in FY 03, understanding that you would subtract \$300,000 of the first number but even so, still talking about close to \$3 million.

Speaker Saxl asked for comments from the Secretary and Clerk regarding the Chambers' integration of the new system and migration off the WANG, if there were any changes they anticipated that had not been outlined that would add additional costs to the Part 2 budget request. Secretary O'Brien did not think any more money would be needed, but Mr. Mayotte would be more familiar with that part of it than she. Once the system was up and running, there might be some tweaking, but thought the biggest part would be in the Committees. Clerk MacFarland agreed with Secretary O'Brien. Speaker Saxl asked the Clerk to explain the Committee system. She said it would allow Committees to, for example, schedule their public hearings electronically, electronically report their Committee reports to the House and Senate, notify sponsors and cosponsors of public hearings on their bills, etc. Speaker Saxl asked Clerk MacFarland to get a cost and she said their best estimate right now was approximately \$150,000, but that is a guess. Speaker Saxl said that if they were talking about full migration, thought the Council should have the entire landscape in front of them. He asked Mr. Clair if there was anything the nonpartisan offices might need and Mr. Clair replied the figures that Sen. Treat had started to take the Council through reflects an older "Part 2" version, one that he believed they had seen previously, but will have some updates. It has a whole series of issues related to IS, migration phase 2, some staff needs, and committee status had been talked about. He said nothing stands out over and above what was either on this list or what was just talked about regarding the Committee management status with the Secretary and Clerk.

Clerk MacFarland talked about the time reporting systems that was still in WANG. Mr. Clair said that was one of the things in the Part 2 item. Mr. Mayotte said it was their intent that the number that Sen. Treat had in front of her, did have an allowance for the Committee support that the Clerk and Secretary were referring to. He did not see their numbers added to it, but adjusting the number that was in there. Speaker Saxl asked the partisan and nonpartisan representatives to come back to the Council with their ultimate needs and prioritize them for the Council so they could have an understanding, but to share it with the Technology Committee first. Sen. Treat said there was a Technology Committee and that was the point of the Committee, to run through it first and make recommendations to the full Council. She had concern about how the Council meeting was proceeding and thought it more appropriate if the Technology Committee had their meeting, had the material at the meeting and then the Committee make recommendations and give briefings to the Council. Speaker Saxl agreed. Sen. Bennett thought it would be useful if the Technology Committee could review the contract in detail and then either come back to the Council next week to advise them if it should be adopted, signed, amended or deferred. Sen. Treat said this was the first she had seen it and Mr. Clair said the process of getting a draft for the Attorney General to sign off on the wording, was completed this morning. Speaker Saxl asked if the Council was open to allowing the Technology Committee to review the contract and report back to the Council for a brief meeting next week so the Council could vote on the recommendation.

Motion: Allowing the Technology Committee to review the contract and report back to the Council for a brief meeting next week so the Council could vote on the recommendation. (Motion by Sen. Bennett, seconded by Rep. Schneider, unanimous).

Discussion: Sen. Daggett had concerns about the time constraints because some Council members would only be available Monday and Tuesday of next week. Speaker Saxl said they would try to meet by Tuesday. Because of the time constraints, Sen. Treat asked if the

Technology Committee could meet briefly that day. Speaker Saxl asked Mr. Clair to try to schedule a brief meeting of the Council subject to the extraordinary limitations of each of the members.

- Interim Studies: Status Report

David Boulter reported that the Studies of the 119th/2nd Regular Session had concluded with the exception of 4 studies that were authorized as 2 year studies. Those studies had been suspended as of now until adjournment of the session, and would reconvene in the summer. All other studies had concluded and the reports have either been issued or will be issued within the next day or so.

Speaker Saxl asked Mr. Boulter how joint studies got established and if he would talk about the Study Committee on Studies and their report of 2 or 3 years ago. Mr. Boulter said after extensive and broad participation on the Study Committee back then, the Council adopted changes that are reflect in the Joint Rules that encourage the use of joint study orders which historically, was the principle vehicle for legislative studies. There is now a renewed emphasis to create studies not by resolve, which require pieces of legislation and signature by the governor and elapsing of 90 days after the close of the session to begin, but use joint study orders which is in the domain of the Legislature itself, with the rationale being they are in fact legislative studies and they ought to be controlled, both in terms of timing and scope, by the Legislature as much as possible. That is suggested as the principle vehicle now to both the study report and the rules, and is consistent with the joint rules, treated as if it were a piece of legislation and LD, referred to a joint standing committee for its review, but a policy committee for its recommendation, back to the full Legislature as to whether the study should proceed.

Sen. Treat wanted members to be aware that there had been a number of the joint orders that still had not been signed and wanted to make sure that study requests did not inadvertently get killed. Speaker Saxl said it was the tradition of the Legislature to refer studies to committee, to have the committee of jurisdiction make the determination and priorities. There is a special study table, established last year. The Council has a budget by which they allot money for studies. Studies had traditionally been standardized, 4 meetings allowed, every Legislative participant received per diem and that the standard allotment was approximately \$3,500. In the past each committee got 2 studies in the off session, and reserved 2 or 3 additional studies that the Council felt were priorities above and beyond the recommendations of those committees. He recommended dialogue by the Council, but also thought it was up to the committees of jurisdiction to make the determination on their priorities, unless the chamber wants to kill bills on reference.

Mr. Clair wanted to clarify that the Joint Rules speak to establishing an account from the studies, and technically that had not happened yet. When the studies were funded, either there was an express appropriation or it was absorbed in the Legislative account. He talked with Mr. Boulter, and Rose Breton going through the budget the past fall and early winter and with the Part I Budget having already been submitted, establishing a "study" line will have it be a Part II item. Sen. Bennett said he did not believe the intent of the Senate was to kill bills on reference, he believed there had been confusion in the Senate about where they were coming from. For example, the House Chair of the Utilities Committee submitted something that dealt with utility matters and none of the Senate members of that Committee were apprised of it, certainly not the Chair and he believed, there needed to be more dialogue. The effects of making the change to the process of joint orders is now that they are not doing them by bill or resolve form, doing them by joint order and joint orders can be put in at any time by a member, there is no cloture, and he believes they are treated differently in the Legislature than a bill.

Mr. Boulter said they had tried to draft them in a consistent fashion, so when looking at them, they looked similar. There are guidelines that they go by that had been adopted by past Legislative Councils, and given the nature of the change here, it made sense to bring the drafting guidelines before this Council for ratification. He said they did not anticipate a lot of changes, but it gave the Council an opportunity to look at whether there are certain provisions on a standardized basis that they would like his office to draft in a different matter.

Speaker Saxl suggested that as members wanted to bring forward studies, they try to adhere to the guidelines.

No Council action required.

NEW BUSINESS

Item #1: Legislature's FY 2002-2003 "Part I" Budget Request

Speaker Saxl said the Ad Hoc Part I Budget Subcommittee appointed for the purpose of today's Council meeting met and had several unanimous recommendations and several divided recommendations. He asked if Rep. Colwell could report to the Council and Rep. Bruno had information for the Council as well.

Rep. Colwell said the Subcommittee met twice. They had unanimous agreement on some items and were divided on a few. Looking at the cost drivers in the budget, it was clear that, of the \$7.6 million biennial increase, roughly \$5.2 were driven by the Collective Bargaining, Compensation Study, Retirement cost, and Health Insurance costs. There was consensus that the Subcommittee was not interested in laying people off, or addressing those major cost drivers, so looked at other areas of the budget. They had come to unanimous agreement on shortening the 2nd Regular Session 1 week, a savings of approximately \$100,000, as estimated by the Executive Director, reducing the Capital Park Commission by \$50,000 per year, for total savings of \$100,000. They agreed unanimously to ask the Executive Director to work with the Directors of the nonpartisan offices as to what type of efficiencies and management recommendations they could come back to the Executive Director, to streamline their operations. Mr. Clair has a list of the areas the Subcommittee wanted the Office Directors to look at. The Subcommittee also reached unanimous agreement on Sen. Small's suggestion to poll the staff and the Legislature to inquire if people would voluntarily withdraw from the health insurance plan if there were some type of monetary reward for them. They also looked at cutting the Legislative Apportionment Budget, which is approximately \$500,000, and to cut it \$100,000. Rep. Colwell said 3 members recommended that cut, but he had opposed it because they did not know what it was costing other states. The Executive Director was to provide that information. He said the Subcommittee had unanimous agreement on approximately \$200,000 of cuts.

Rep. Bruno requested additional information after looking back over the history of the Legislature. It had carried a balance of over \$1 million a year, the past 11 years, except for 1 year. It started at \$2.5 million and went up to \$3.5 million in 1991, 1998 was \$2 million, 1999 was \$1.8 million and at the end of last fiscal year was \$1.8 million. Looking at the above numbers, it is reasonable that the Council, as a compromise position, without cutting to deep, can look at some easy cuts to get to \$500,000 a year over the next 2 years for a total of budget cuts of approximately \$1 million based on the balance forward. Rep. Bruno also said to cut the budget \$500,000 a year, would only be a 2 1/2% cut in the budget per year. The items he came up with

are the ones already talked about. Earle Shettleworth gave up \$100,000. The Maine Education Research Institute had carried forward, \$75,000. Last year was the first year they actually spent the total \$150,000. He thought \$25,000 could be taken from them a year, for a total reduction of \$50,000. He also thought interim committee meetings could be reduced by \$125,000 a year for a total of \$250,000. A reduction in the length of session, a week off next year, the short session and two weeks off the 1st Regular Session of the 121st would save almost \$250,000. Reducing out-of-state travel by \$15,000 a year would give another \$30,000. Longevity payments total approximately \$67,000. The Legislative account carried approximately \$800,000 to \$900,000 every year so could take \$150,000 per year out of that. The items listed above total \$1,047,000, take \$100,000 from reapportionment, gives you \$1,147,000.

Sen. Small brought up a comment that had previously been made that the President Pro Tem's Office cost more than the President's Office. She asked if those figures are correct and asked the Executive Director's Office to update them.

Mr. Clair responded that Rose Breton would be updating that information and would furnish that information. Sen. Small said what she was getting at, are those figures incorrect? Are there variations? Mr. Clair asked Ms. Breton if she had done an update? She said she had not updated this - but certainly could do that. Mr. Clair said that it could be updated to take a look at where everyone is, the earlier version being his best look on January 12, now admittedly a month old. He did not believe it would change appreciably, but it could.

Sen. Treat asked for clarification on Rep. Bruno's proposal regarding longevity payments. She did not know what they were and asked if it could be explained. Speaker Saxl said there are employees who had reached the cap on their range and step. After a period of 15 and 20 years, an employee receives one last increase as a reward for serving many, many years. It also extends to legislative and executive staff. Rep. Bruno said longevity was not done in the private sector, if someone worked for a long time they were simply compensated. He believed the NCSL study had been done to look at compensation. It is separate from a longevity payment, but quite a few people received a good raise when the study was done, because they were brought up to the level where everyone else was. The question is, do you need to give people longevity bonuses to stay, or does it become an added part of their compensation. Speaker Saxl said his position was you give that person longevity. If someone was willing to work an extraordinary number of years, he believed the person should be compensated. Sen. Treat said now that she knew what longevity was she was uncomfortable cutting it. The amount of the cut, \$67,000, was not a lot of money when looking at total picture, to retain experienced staff, particularly with term limits.

Sen. Bennett said one of the issues was not talking about cutting money, but talking about affecting the budget. Rep. Bruno's proposal would actually still result in an increase of 18% or so, in the Legislative budget, which was a staggering increase. He did not believe the Council had come to a collective conclusion about how much money to "cut", or how much money it would increase to. Was there to be an increase of 12%, 15%, 18%, 22%. Started with a proposal of 22% and now talking about cutting that increase back. He did not know if \$67,000 was a lot of money, because the Council had not agreed on the amount of money they were seeking to trim from the \$7 million plus increase. Sen. Bennett did not feel it was fair to ask Directors where they could save money without providing targets. They would not voluntarily come up with ideas they had not already come up with. You may get an answer that is useful if you said \$150,000 had to be cut from your office's budget, where would you do that explaining to the Council the ramifications and impact. He did not know how the issue

could be tackled without picking a target figure and then attempting to reach it. If each had their own view of what the figure was, it would be disaster. He was aware that a lot of the increases are foreordained by the way they had decided to organize themselves. Compensation of the staff, what kinds of benefits to provide, with health insurance in particular. The House and Senate had reorganized itself and had added costs because of new positions. He would not be opposed to looking at some of those issues, but would the Senate and House cut their budget without some sense of equanimity of equivalency by the other body.

Speaker Saxl thanked Mr. Clair for drafting a good budget and a balanced budget. It was the first time in modern history that the Legislature was fully funded. It had taken 10 years for the Legislature to fund itself to their statutory requirement for legislative session. By law, the Legislature had until a certain date, to meet as a Legislature and it had taken a long time to get back to it. It had taken a long time to make sure they look at educational opportunities, rather it be through travel or other opportunities of training, at the same time faced term limits and devolution so had less functional legislative experience, but at the same time, had more responsibilities. The Legislature had completed an NCSL study and had unanimously voted to accept it, which showed the Council was providing compensation for an inordinate amount of over time worked by both partisan and nonpartisan staffs. They had recommended those changes and higher level of threshold before getting comp time as an offset and also looked at comparable jobs in this State and fair wages. Speaker Saxl also said the Legislature was undergoing the first major reconstruction of the institution, in the last century. To do things that they had an obligation to do under law, meet the requirements for the Americans With Disabilities Act, the needs of modern technology for themselves and their constituents, and are doing things that had to be done in order to be a modern, functioning institution. He applauded Rep. Bruno's efforts to be constructive, and he was trying to find reasonable cuts. He felt the Council had a responsibility to make sure that this Legislature was a co-equal branch of government. Once fully funded, which they were according to Mr. Clair, if they were going to begin to cut funds which keep this institution whole, without holes in the wall and ceilings, if money was going to be cut from research programs, limit the oversight capability of the Legislature, cut back the statutory length the Legislature, cut back on the travel budget, stop giving longevity payments to long term employees, take \$150,000 out of the Personnel account or take money out of the reapportionment without looking at what other states our size had done, then we should insist on the same percentage cuts from every other branch of government. He did not think they should unilaterally disarm as a co-equal branch of government, and did not believe he could get to \$1.147 million that way, but thought it possible that some cuts could be made. He would only vote for those cuts if the Council agreed to send with the areas of cuts to the Appropriations Committee asking them to look for similar levels of cuts from the Executive and Judicial Branches. Speaker Saxl knew the Council went through this every 2 years, but was proud they had a fully funded Legislature and wanted to make sure they remain co-equal.

Sen. Treat asked if the Council could go through the unanimous suggestions from the Subcommittee on the Budget and the additional proposals that had come before the Council, discuss them briefly and then vote.

Rep. Colwell said there was a 3-1 recommendation on cutting the legislative apportionment study, he being the one who opposed it because he wanted information on it. Speaker Saxl wanted to take the matters up in order.

Speaker Saxl said the apportionment recommendation was to cut \$100,000, it was a 3-1 vote and asked if Mr. Clair had done background checking on it. Mr. Clair stated there

was a "list serve" through NCSL called the NALFO, National Association of Legislative Fiscal Officers, we had utilized that service, and listed the "apportionment budget" responses he had received to date: Idaho had about \$480,000, Budget put together in 99 to support the effort \$400,000 plus \$80,000 is available through a contingency fund; Arkansas had \$250,000 to \$300,000, the AG's office also receives \$500,000 for litigation expenses. Speaker Saxl asked if litigation expenses were included in our budget. Mr. Clair said no. New Jersey, this decade \$1 million is being set aside for the work of the Commission; Vermont - \$45,000; South Dakota - \$90,000 for redistricting expenses, includes funds for an estimated 3 day special session and the Legislature can tap into a contingency fund of about \$50,000. Sen. Bennett asked if he knew what was spent on redistricting 8 years ago? Mr. Clair said that came up in the budget Subcommittee deliberations and they could come up to about \$200,000 for over 3 fiscal years, FY 91, 92 and 93. Sen. Bennett asked what it would be in present dollars and Mr. Clair said their rough math it would be about \$400,000. Sen. Bennett then asked if \$500,000 was being requested for this budget over 2 years and Mr. Clair said it was for 1 year. Sen. Bennett thought it extreme and also thought the technology was less expensive and easier to use now than it was back then. He had not participated in the Redistricting Commission but felt they should come in with the proof they needed the additional dollars rather than just allocate a large sum of money and then see if capacity was built in.

Motion: Speaker Saxl said he would move to cut it \$100,000, second by Rep. Colwell.

Discussion: Rep. Bruno asked if the Council was going line by line. Speaker Saxl replied they would go by his suggestions and then if there was an additional suggestion outside of that list, let the Council know, unless he had a concern. He said members would have differences, it was appropriate to go through the process if members disagreed. The Legislative Council had asked the Appropriations Committee for an extension, and tomorrow was the deadline. They could deliver a minority report from the Council if they so choose, but they needed to finish the process. They would have a Part 2 recommendation for additional spending.

Sen. Bennett said one thing discussed was to divide the budget into areas of jurisdiction, House, Senate, Council, so there could be clear lines of accountability and understanding and asked if the Subcommittee had looked at that at all? Rep. Colwell asked if he meant changing the entire format of how they budget for these offices? Sen. Bennett had heard various people from different parties make that suggestion, for example, instead of having a travel budget for out-of-state travel, have a Senate budget, a House Budget, a non-partisan budget or Council budget so there are clear lines of authority and accountability, you are not only looking at printing costs but are looking at House printing, Senate printing, other printing, had the Subcommittee looked at that? Rep. Colwell said that it brought up and believed there was a certain amount of that was already being done. The Clerk and the Secretary of the Senate break it down, but the Subcommittee did not recommend redoing a new format. He agreed with Sen. Bennett regarding the 22% increase, it was inescapable if you looked at where the increases are. Collective bargaining an 18.4% increase, compensation study a 13.2% increase, position changes 13%, health insurance 23%, and retirement costs 13.2%. That was where the cost increases were in the budget. Looking at a \$3 million dollar unanticipated cost in the WANG migration in the upcoming year, if cut down too much, what would be accomplished.

Speaker Saxl said there were philosophical differences but the Council needed to go through the appropriate cuts, try to move in as many as they could agree on. If they could not, if any member wanted to go to the Appropriations Committee on February

22 and talk further cuts, that was perfectly fine. Sen. Bennett believed his comments were not philosophical, but were completely about management of the institution, the Legislative Council is a managing board. The Republicans on the Council, since philosophical may be construed as a word really meaning partisan or ideological, believed in not making this a partisan issue, or a philosophical issue at all. He was interested in making sure the Council recognized they were entering into very difficult economic times as a State, and the Legislature ought to lead. They had chosen to invest in the staff, which he believed was good, but at the same time, investing in staff, they might want to take a harder look at some of the other items, some staff related, some not, that are contributing to costs, to see if they could be trimmed back.

Speaker Saxl told members of the Council they needed to go through a budget process for the Appropriations meeting the following day. They were going to make recommendations to cut, hopefully it could be done in a nonpartisan manner and hopefully it could be unanimous. What he would ask would be to defer comments on how money would be apportioned, and make decisions on making cuts. Sen. Bennett said he would be happy to do that, but the real opportunity was on the management side, that was what a budget was for, and that was what he was interested in.

Rep. Bruno said the recommendations that the Council was voting on, represent his look at the budget, his recommendations, and did not feel it was fair to only take his suggestions up at this time. Everyone had their own recommendations and if the Council went one by one on everyone that would be different. Speaker Saxl said that was what the Council was going to do. The Council was going to take the unanimous recommendations for the Subcommittee, define them, and then vote on them.

Sen. Treat believed there was a motion on the floor, concerning apportionment, the Council never voted on, which was not a unanimous recommendation of the Subcommittee.

Motion: Apportionment recommendation is to cut \$100,000 out of the budget. (Motion by Speaker Saxl, second by Rep. Colwell, 9-1, Sen. Bennett abstained).

Discussion: Sen. Bennett abstained from the vote because if the Council was going to vote on the above item, he supported \$100,000 but would like to see more of a reduction if one in present dollars cost \$400,000. Speaker Saxl said he could make his minority report, but he would not support a deeper cut than \$100,000.

Motion: Reduce the length of the Second Regular Session by one week for a savings of \$100,000. (Motion by Sen. Treat, second by Sen. Small, failed 5-5).

Discussion: Rep. Bruno said it was a 2-year budget, if the Legislative Council was going to reduce the session they do it not only in the short session but also the next long session of the 121st. He did not believe it fair to take 1-year worth of cuts, when there was a second year of a budget, and would not support one week. Sen. Treat asked for clarification on Rep. Bruno's proposal. She had made the above motion because she did not think it appropriate to make a decision now as to what would be going on in two years. Speaker Saxl said there would be a new governor in 2 years, would be delivering their first budget document, and during the changes of an administration, budget documents came out later. He also did not feel comfortable managing and making a decision for the next Legislature and could not support cutting the 121st.

Motion: To cut one week off the Second Regular Session and two weeks off the First Regular Session. (Motion by Rep. Schneider, failed 5-5).

Motion: To cut one week off of the Second Regular Session and one week off the First Regular Session, a total of two weeks, rather than three or one. (Motion by Sen. Bennett, failed 5-5).

Motion: Reduce funding for the State House and Capitol Park Commission in FY 2002 by \$50,000 and FY 2003 by \$50,000. (Motion by Sen. Treat, second by Rep. Colwell, unanimous 10-0).

Motion: To cut interim study committees by \$150,000 total, \$75,000 per session.

Discussion: Speaker Saxl asked what the total allocation for interim studies was and Rep. Colwell said \$330,000 over the biennium. The Speaker said there was no motion on the floor because there were 2 different suggestions. He said under the good work of Sen. Bennett, former Speaker Rowe and himself had met to reform the way business was done at the Legislature. One of the concerns was they felt they did a very good job of ascertaining their oversight of the Executive and thought it would be helpful to allow committees to meet off session. Last summer was the first time it was tried and Committees met at the cost of \$60,000. Many of the members did not have a full understanding of the opportunities they had, and believed that under devolution and term limits it was critical to assert legislative oversight, and believed \$50,000 was different than \$130,000, and there may be accommodations in between. Sen. Treat asked the amount allocated currently and was told \$331,500.

Motion: That the Legislative Council cut \$100,000 out of the account over the two year period, \$40,000 in 2002 and \$60,000 in 2003. (Motion by Sen. Treat)

Discussion: Sen. Treat thought they had an obligation to tighten up the budget. Given the tough times, may have reduced revenues in the future, but thought it was important to have the Committee role, especially with term limits. However, she felt each Committee cut a couple of meetings and still have a sufficient amount of meeting time. Rep. Bruno asked for the amount spent last session and was told \$58,000 with every committee meeting as they wanted. Even with the cuts of \$250,000, there was \$75,000 per year, plenty of room to play with. Speaker Saxl said the cost of 1 committee to meet 1 day was \$1,625.00. If 17 committees met, the cost would be \$27,625.00. He wanted to find a balance, it was a new policy for Committees, were trying to reform the way business is done.

Sen. Treat thought it may be an inaccurate representation of what was likely to happen in the future because it was a new policy, the first year was during an election year, she believed there was going to be more use of the oversight function this summer and fall.

Motion: That the Legislative Council cut \$100,000 out of the account over the two year period, \$40,000 in 2002 and \$60,000 in 2003. (Motion by Sen. Treat, second by Rep. Colwell, failed 5-5).

Discussion: Sen. Small asked who called the meeting? Speaker Saxl said the Chairs of the Committee and the leads agree on a meeting, a request is made to the Presiding Officers, and the Presiding Officers approve the request. Committees are pre-approved basically for 1 meeting a month. Sen. Small agreed that some money should be budgeted but believed some will take advantage and meet when they do not need to if a larger amount is put in the budget.

Sen. Bennett had tried to find the budgeted studies amount and looked at the two items as being related. The extent that members meet outside of regular sessions is important, also agreed with the oversight function and thought in some cases, it was appropriate for those committees to engage in other kinds of studies. If money had been budgeted for studies, he could not find it. Speaker Saxl said it would come from the Part 2 appropriations.

Speaker Saxl asked if there were any other proposals from the Subcommittee that had not been voted on and Rep. Colwell replied that travel was divided. The current budget was \$185,000 per year for travel and believed the Subcommittee was divided. Speaker Saxl said he would be open to some type of cut, but would not recommend it until the Executive and Judicial cut their travel budget by the same proportion, and would include that in a letter to the Appropriations Committee. A reasonable cut in travel would be appropriate during fiscally difficult times but not unless they exercise the same cuts to other branches of government. Rep. Bruno thought the Legislative Council should manage the Legislative budget. Speaker Saxl believed it was the first time the Legislature was fully funded and should not unilaterally disarm. Rep. Bruno asked what the Speaker meant by that, when there was \$1.8 million being carried forward every year, why hadn't the Legislature taken advantage of whatever fully funded meant. Speaker Saxl said the Legislature had not tried to spend their account down every year, but if you looked at what had been carried forward, the Legislative account figure as being the major portion of that, and they did not have a choice unless they cut positions, the positions had to be funded at a certain level, so unless the Legislature eliminated positions, there was not a lot of money to carry forward. The money that had been carried forward were the areas they had just agreed to cut, the Capital Park, etc. Rep. Bruno said the legislative budget was not due to having to cut positions, you had the amount to carry forward because somehow there was extra money built in, whether it was through attrition of vacant positions or whatever, money was being carried forward, but not due to an increase in positions, but an increase probably in attrition, bringing people at lower grades of pay or unfilled positions, that was where the money carried forward. Speaker Saxl agreed, but could not cut those positions because they reflect the number of positions, and asked Mr. Clair to explain how positions are budgeted in the Legislative account.

Mr. Clair said, like all agencies, we assumed every position would be funded with a minor adjustment made by the Governor at 99.2% for "attrition". There would be a certain amount of attrition savings, but otherwise every position would be filled 52 weeks a year. Speaker Saxl asked if that was a standard budget practice and Mr. Clair said yes. Rep. Bruno asked Mr. Clair if he would explain how the Legislature carried forward \$800,000. He said the budget practice was different from the actual experience due to the turnover that would actually occur. Rep. Bruno asked if attrition or hiring people at lower salaries generated savings and Mr. Clair said yes, for both of those reasons. Rep. Bruno said the last thing he wanted to do was to cut positions or people's salaries and benefits, but this did not touch that. What was being carried forward was more money than what was actually needed for these positions. Speaker Saxl said the Legislature was identical to the Executive's behavior, the way the Governor budgets for his position. The Legislature was not deviating at all, they were carrying money that was dedicated to positions, were not taking money from the personnel line, for personal services in the legislative account and spending it on furniture, they use it and carrying it forward if it is not expended due to attrition or for lower salaries. As long as the Legislature followed standard budget practices in concurrence with the Executive, there were not ways that you can cut that, but you cannot spend that money additionally and that was up to the Council.

Sen. Bennett referred back to travel, which he believed started the recent exchange, the budget of the State of Maine is now in the hands of the Legislature. The Legislative Council was in the position as managers for the Legislative account, advising the Appropriations Committee, but also had a unique role, in that they were the leaders of the Legislature, and leaders of the legislative branch, which was currently looking at the budget. If the Legislative Council wanted to take the lead on travel for its own budget, he thought it was also appropriate, since the rest of the budget for the State of Maine was within their purview, to suggest to the Appropriations Committee they reflect similar reductions to the other two branches of government. He thought the Council could affect the same sort of change that way without sending a letter to the Judiciary or the Executive branch asking if it is okay to cut their budget, it is up to the Appropriations Committee and the Legislature to make that determination. We are managing this branch and in order to maintain and put the investment in the people of the Legislative branch that they need to look hard at the other issues.

Sen. Daggett did not support cutting the travel budget and also had concerns about some of the other cuts, saying it was difficult to compare the Legislative branch to the other branches. She also believed because the budget had not been completely spent down, spoke to the fact that there had been continued efficiencies and was concerned about cutting money before the fact. She was agreeable with the reapportionment cut but was reluctant to cut travel.

Rep. Schneider was interested in an answer regarding the earlier statement that it was the first time the Legislative Budget had been fully funded. Speaker Saxl asked that the travel part be dealt with and then he would ask Mr. Clair, the Secretary and Clerk to respond.

Motion: To cut the travel budget by \$15,000 each year. (Motion by Rep. Bruno, second by Rep. Schneider, failed 5-5).

Speaker Saxl referred back to Rep. Schneider's question regarding the budget being fully funded. He said up until 1996 or 1998 the Legislature had budgeted fully for the legislative session until statutory adjournment. In addition they had budgeted an amount for an emergency or special session; had a measure of flexibility in the personal services line for an emergency; had fully funded the Capital Park, the state operating reserve fund, the travel budget to a similar level of what is being proposed today. Every year since the cutbacks, the Legislative Council and the Legislature as a whole, had worked to add a week back to the short session and a week back to the long session, and was the first budget since that time that had been accomplished. The Legislature had begun to again achieve the reserves that were there under the original Legislative budget.

Motion: To reduce or eliminate 3 positions in the Senate related to the 120th organization by \$119,000. (Motion by Speaker Saxl, second by Rep. Norbert).

Sen. Bennett asked if there were any positions in the House that were deemed temporary as well that might have been accommodated in the full budget. Speaker Saxl said the one position in the House which was not in the full budget, was not anticipated in the House was the position of Clerk Emeritus. It had not been funded in the subsequent budget. Sen. Bennett said it had been brought to his attention by Sen. Small, when the issue was raised about the various numbers, that the numbers had not been changed, updated or made more accurate since the January 15 accounting. He thought it made sense because they could not decide what was going to happen to the

next Legislature, which had to be budgeted for. The reduction was fine by him, but wanted to make sure they had not made errors in the Senate numbers that would reflect what the Speaker suggested. Senator Treat asked if there was money for the transition of staff from the previous session into the next and Speaker Saxl said it was included, it just did not anticipate the need of an additional pro tempore's office. Sen. Bennett still questioned, the accuracy of the figures for the Senate, whether the Speaker's motion reflected those numbers. Mr. Clair had a two-part answer. First, to Sen. Small's question about the accuracy count by office: First there were updated data, Rose Breton had started that work and would get the information to them. They were specifically tasked with trying to figure out what the three incremental positions would be after the dust settled and he thought the \$119,000 number was that updated figure. Second, as to which office cost more, the Senate President or the Pro Tempore, what was done on January 12th was to take the budgeted positions and as positions had actually been filled at certain steps within the allowable ranges, we think the costs are now lower. We will be doing the update for every one of those positions, and do think the \$119,000 reflects the updated data along with the transition period. Sen. Bennett asked if Mr. Clair was accommodating the fact that the people associated with the President's Office are actually going to be employed in the President Pro Tempore's Office and that the dates of transfer of those are not coincidental with the fiscal years. Mr. Clair said that was correct. Sen. Bennett said he supported the Speaker's motion.

Sen. Daggett asked that the motion be repeated. She then asked that an amended version be read.

Motion: To eliminate funding for three Senate positions but leave the position counts effective December, 2002, two in the President Pro Tempore's Office, which would be the Chief of Staff and the Legislative Aide and one in the Senate Secretary's Office which would be the Senior Technology and Systems Support Coordinator but replace that to make sure there is fully funded back to the last fiscal year, the Calendar Clerk position Range 8 in the Secretary's Office so that we go forward with the previous status quo.

Speaker Saxl wanted members to know that he had expressly read the motion to the Senate President before the Council meeting so he was aware of the motion.

Sen. Daggett preferred the language to be that those positions be defunded as opposed to eliminated. Mr. Clair believed Sen. Daggett's point was that they would reflect a deappropriation of \$119,000 but not minus 3 positions. She said there were transitional issues involved for the individuals. Speaker Saxl asked Mr. Clair if they had the authority to blue line transitional issues and he said they had up until now. There had been a certain number of unfunded, authorized, but unestablished positions where they had not gone through the whole Bureau of Human Resources process to establish positions, known as the floating positions. The way the 120th had been organized, had used those in both the Senate and House accordingly. As of now, the number of those vacant slots was minimal. Sen. Treat thought the Pro Tempore and the President had certain people in positions and the President would then be the Pro Tempore and visa versa, the same people would be in positions. There was concern that during any transition into the next Legislature those people not be thrown out there be a vacant position they could be moved into over the transition. An example in her office, they could not hire a secretary they were allowed to have for a month because there wasn't a vacant position for that person even though they were allocated the position. It was not to continue to have three additional people, it was to make sure they did not end up with one or two people, during the interim period over Christmas, out on the street. She believed that was the issue. Sen. Bennett said positions were created by the

Chamber, in an order at the beginning of session. The next Legislature would have the ability to create or eliminate positions and did not understand the issues. He said there are more positions here, were not talking about creating new positions, talking about reducing the number of positions, he did not understand the dynamic being the same. Sen. Treat thought there was agreement to cut the \$119,000 it was the wording of the motion. They had received different information than the Speaker did and wanted to clarify it before the vote.

Speaker Saxl moved the previously tabled matter of the President Pro Tempore's Office and the 2 positions there and the 1 position in the Secretary's Office. Second by Rep. Colwell, unanimous. He said that Sen. Daggett had revised information and wanted to make a friendly amendment to the motion.

Sen. Daggett wanted to amend the motion to defund the positions and take the money, but leave the positions. This was not part of the motion, but leave the positions for transitional reasons. Speaker Saxl asked if there was a period at which defund becomes eliminated, so the transition could occur. Sen. Daggett said presumably the next Council at that point would be doing the budget as well and could eliminate them at the time. Speaker Saxl said he was trying to make sure there was a full transition period. Sen. Daggett hoped a transition period would take place in that time. He said it would eliminate the position count in the Legislature, and she said where they were not funded at all they certainly could be eliminated at another time. Speaker Saxl asked if she would be open to defund the \$119,000 and then eliminate the positions as of March 1 of that year.

Sen. Bennett said he was mystified by the entire conversation of defunding positions. If the Legislature keeps the positions, the presiding officer, who ever it may be, of the next Senate, would be able to fill those positions, and would be able to fill them on their authority if there was money appropriated for that purpose. The presiding officer had the authority to take money out of another account and move it to fund those positions if they were left intact. Sen. Treat did not know what a reasonable transition period was. It would be a bipartisan impact on the staff of both parties and offices there should be some period of time where the position counts are still available so new people can be on and old people can phase out or transition to the different positions. The intent was not to create new positions; it was to be fair to the people in the positions. Sen. Bennett said they were talking about positions that would be decided on election day, and people in the positions understand the reality of their job, were talking about a window of time between election day and the date they take office, about 1 month, and thought it efficient transitional time. He did not understand the need for additional time. Rep. Colwell did not think it would be a bad thing if all the offices had transitional time, but what the Council was talking about was the Senate Pro Tempore and the Secretary's Offices having the transitional time. It was not a budget issue, it was a personnel issue. If a transition time was needed it should come before the Personnel Committee and they should present it to the Legislative Council. Mr. Clair said the only transition policy unannounced was there had always been the "floating" positions. There had always been an ability to fill positions, because the presiding officers or the chambers took actions and the paperwork then would be sent to the Executive Director's Office, and they would then have to fill new positions using those "floaters". The ability to do that 2 years from now when positions were eliminated, would be severely limited, and we would be sending letters back saying we did not have the head count to do that. Clerk MacFarland said they had a couple of part-time, session only positions that they had used in the past for that type of personnel activity.

Motion: Cut \$119,000, defer transition to Personnel Committee. (Motion by Speaker Saxl, second by Sen. Treat, unanimous 9-0).

Motion: That the Legislative Council reduce the budget by \$1 million dollars; take what we had agreed on unanimously, and allow management, including the Executive Director and all the Department Managers, to come up with the difference in savings. (Motion by Rep. Bruno, second by Sen. Small, failed 4-6).

Discussion: Sen. Bennett said clearly the Council members were not agreeing on trimming back at the rate of increase in the budget. They had agreed on a few items but had not agreed on a lot of things. Some members of the Council wanted to make additional deappropriations from the proposal, and thought it best to take what they had agreed to, forward it to the Appropriations Committee with a letter saying they had agreed on these, there had been disagreement over other potential deappropriations and members of the Council, may in fact, approach the Appropriations Committee individually or collectively, to suggest other areas. The Legislative budget would be voted on as part of the big budget they will be considering and thought it would be part of that dynamic. They might as well move on, but keep open the option for any of the Council members to go to the Appropriations Committee with ideas to introduce, particularly the ones already talked about as part of their on going debate. Speaker Saxl thought that was fine if members wanted to do that. He knew it is tough, they had a goal of cutting \$1 million, from his perspective he had put forward \$519,000 of cuts that he did not want to cut. Rep. Bruno understood the differences in philosophy on budgeting, but thought the Legislative Council needed to set an example to the rest of the Legislature as leaders, they were in tough budget times, and if they could not make simple cuts, they would never approach the large budget and do what was right in the long run. That was his concern.

Speaker Saxl said they had the opportunity to make cuts, they had made cuts at the meeting, but thought there was very little room due to the personal services line and the enormity of it in the budget and that the last Council had agreed to accept increases in pay due to NCSL, and the Collective Bargaining Agreement. Sen. Bennett said he would be voting against the motion but was planning to take ideas directly to the Appropriations Committee for more specific kinds of cuts.

Sen. Bennett said he had commented earlier to authorize the Speaker and himself, in their capacity as Chair and Vice-Chair of the Council, to send a letter to the Appropriations Committee outlining the reductions in the proposed budget the Council had agreed to and with the language suggested earlier about other proposals raised, some voted on, but could not reach a majority conclusion, that members of the Council may take those issues directly to the Appropriations Committee for their consideration.

Speaker Saxl asked if on the 5-5 votes, some voted to cut and there was another interest in making a higher cut, would those all be included in the vote totals, or would they be included in the lower amount, how would they be included. Sen. Bennett was not suggesting including them at all, but certainly could be if that was the Council's wishes. Sen. Treat said other committees had done that, this was what the committee had agreed to unanimously and here are 2 recommendations that each received 5 votes. Sen. Bennett would consider that friendly but also did not want to foreclose the possibility of members of the Council taking to the Appropriations Committee further ideas, because believed some ideas presented by Rep. Bruno were done in the spirit of compromise and some felt there could be even further cuts.

It has been moved, Speaker Saxl seconded on the letter being sent to the Appropriations Committee reporting on the Council's actions, 10-0 unanimous.

Item #3: After Deadline Requests

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

Discussion: Speaker Saxl talked about the procedure for after deadline requests. He proposed that any after deadline request that sit on the table for 3 weeks, be pulled off the table by the Council and they will vote on it unless a Legislator specifically advocates their position. Sen. Bennett thought it would be helpful if the sponsors wanted to do a letter to Council members. Sen. Treat did not know in the past it had been a prerequisite that you show up in order to have your bill acted on, if that was the policy, people need to know it. Speaker Saxl asked if the members were comfortable with that for a policy change, to give sponsors notice and also give one of the Council members the information as opposed to attending the meeting.

REPORTS FROM COUNCIL COMMITTEES

- **Technology and Migration Committee**

Sen. Treat said there was a subcommittee meeting immediately following the Council meeting.

- **Personnel Committee**

Motion: That income protection for a legislative employee be granted as reviewed and accepted by the Personnel Committee at its February 21, 2001 meeting. (Motion by Speaker Saxl, second by Sen. Bennett, unanimous 10-0).

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

Sen. Bennett moved that the Council meeting be adjourned at 4:10 p.m., second by Sen. Davis, unanimous.



Executive Director's Report

March 28, 2001



1. Authority to enter into an agreement for North Wing Furnishings Design
2. Authority to enter into an agreement for Library issues:
 - Temporary Shelving
 - Move in/move out services
 - 161 Capitol St. rental during North Wing renovations
3. 3rd Quarter FY 01 Budget Variance Report
 - Should be available ~ 4/4/01

TITLE 3: LEGISLATURE

- CHAPTER 7: LEGISLATIVE COUNCIL
 - SUBCHAPTER I: GENERAL PROVISIONS
 - § 162. Authority

PAGE < PAGE >

DOWNLOAD TEXT

§ 162. Authority

The Legislative Council shall have the authority: [1973, c. 590, §4 (rpr).]

12. Physical facilities for Legislature. To ensure that adequate physical facilities are provided for the efficient operation of the Legislature and to provide for and determine the utilization of legislatively controlled facilities both within and without the State House and, notwithstanding Title 5, section 1742, subsection 18, to control and assign the use of all rooms in the State House, except the immediate offices occupied by the Governor and the Governor's staff in the west wing of the State House. The Legislative Council shall ensure that the Governor and the Governor's staff occupy sufficient and appropriate office space within the State House.

The Legislative Council has the authority to authorize the Executive Director to enter into contracts for the purpose of maintaining or improving the physical facilities assigned to the Legislature, as long as the work to be performed is consistent with the official plan for the preservation and development of the aesthetic and historical integrity of the State House as described in section 902, subsection 1;

[1997, c. 671, §1 (amd).]



Fiscal Briefing for the Legislative Council

March 28, 2001

Prepared by the Office of Fiscal & Program Review

- 1. Fiscal Note Production Update**
- 2. February Revenue Reports**
(see Attached Sheets)
- 3. Question-and-Answer**

Revenue Update

General Fund Revenue Variance Summary		
For the Month of February 2001		
(Note: Does not include effects of March 2001 Downward Revenue Reprojection of \$11.4 Million in FY01)		
In Millions		
Revenue Source	February 2001	Fiscal Year-to-Date February 2001
Sales and Use Tax	\$1.7	(\$9.2)
Individual Income Tax	(\$18.3)	\$9.6
Corporate Income Tax	(\$0.1)	(\$1.4)
Cigarette and Tobacco Tax	\$1.1	\$0.3
Public Utilities Tax	\$0.0	\$0.1
Insurance Companies Tax	(\$0.6)	\$0.1
Inheritance and Estate Tax	\$1.7	(\$1.6)
Property Tax - Unorganized Territories	\$0.0	\$0.8
Income from Investments	\$0.6	\$0.6
Transfer to Municipal Revenue Sharing	\$0.9	\$0.0
Transfer from Liquor	\$0.2	\$1.8
Transfer from Lottery	(\$0.2)	(\$0.7)
Other Revenues	\$1.4	\$0.1
Total General Fund - Variances	(\$11.5)	\$0.5

Highway Fund Revenue Variance Summary		
For the Month of February 2001		
In Millions		
Revenue Source	February 2001	Fiscal Year-to-Date February 2001
Fuel Taxes	(\$2.5)	\$1.1
Motor Vehicle Registration and Fees	\$0.5	\$1.9
Inspection Fees	(\$0.1)	(\$0.4)
Other Revenues	\$0.3	(\$0.3)
Total Highway Fund - Variances	(\$1.9)	\$2.3

*Prepared by the Office of Fiscal and Program Review
Based on Preliminary Data; Subject to Change*

STATE OF MAINE
 Undedicated Revenues - General Fund
 For the Eighth Month Ended February 28, 2001

Feb-01

	Month				Year to Date				Total Budgeted Fiscal Year Ending 6-30-2001
	Actual	Budget	Variance Over/(under)	Percent Over/(under)	Actual	Budget	Variance Over/(under)	Percent Over/(under)	
Sales and Use Tax	53,491,278	51,762,497	1,728,781	3.3%	500,271,357	509,467,810	(9,196,453)	(1.8%)	833,200,000
Individual Income Tax	35,210,462	53,475,918	(18,265,456)	(34.2%)	684,697,012	675,070,961	9,626,051	1.4%	1,121,964,159
Corporate Income Tax	750,699	884,396	(133,697)	(15.1%)	45,634,848	47,014,658	(1,379,810)	(2.9%)	113,548,431
Cigarette and Tobacco Tax	6,450,766	5,336,167	1,114,599	20.9%	51,147,355	50,879,505	267,850	0.5%	77,466,005
Public Utilities Tax	-	-	-	-	(82,754)	(150,000)	67,246	(44.8%)	29,800,000
Insurance Companies Tax	156,936	727,588	(570,652)	(78.4%)	7,514,758	7,386,416	128,342	1.7%	39,993,634
Estate Tax	4,432,059	2,712,102	1,719,957	63.4%	15,889,885	17,521,814	(1,631,929)	(9.3%)	32,753,971
Property Tax - Unorg Territory	-	-	-	-	8,399,884	7,622,802	777,082	10.2%	9,213,301
Income from Investments	1,828,770	1,200,841	627,929	52.3%	11,337,328	10,696,454	640,874	6.0%	17,000,000
Transfer to Municipal Revenue Sharing	(4,562,074)	(5,412,263)	850,189	(15.7%)	(62,760,764)	(62,809,230)	48,466	(0.1%)	(105,504,342)
Transfer from Liquor Commission	1,613,860	1,406,696	207,164	14.7%	16,785,201	15,030,659	1,754,542	11.7%	21,477,758
Transfer from Lottery Commission	2,794,712	3,010,424	(215,712)	(7.2%)	24,618,831	25,352,337	(733,506)	(2.9%)	37,975,384
Other Revenues	10,581,689	9,187,993	1,393,696	15.2%	84,152,702	84,059,189	93,513	0.1%	133,467,400
Total General Fund Revenues	112,749,157	124,292,359	(11,543,202)	(9.3%)	1,387,605,642	1,387,143,375	462,267	0.0%	2,362,355,701

NOTES: (1) Included in the above is \$4,562,074 for the month and \$62,760,764 year to date, that was set aside for Revenue Sharing with cities and towns.

(2) In addition to the amounts above, \$1,152,347 was transferred from the Maine Rainy Day Fund to Municipal Revenue Sharing in accordance with PL 1999 Chapter 528, October 1999.

(3) Figures reflect revised estimates of the Revenue Forecasting Committee as of February 2000.

(4) This report has been prepared from preliminary month end figures and is subject to change.

STATE OF MAINE
 Undedicated Revenues - Highway Fund
 For the Eighth Month Ended February 28, 2001

Exhibit V

	Month				Year to Date				Total Budgeted Fiscal Year Ending 6-30-2001
	Actual	Budget	Variance Over/(under)	Percent Over/(under)	Actual	Budget	Variance Over/(under)	Percent Over/(under)	
Fuel Taxes	10,641,693	13,190,894	(2,549,201)	(19.3%)	105,423,261	104,326,790	1,096,471	1.1%	177,634,606
Motor Vehicle Registration & Fees	6,220,106	5,724,501	495,605	8.7%	47,355,015	45,464,907	1,890,108	4.2%	72,356,030
Inspection Fees	13,147	129,403	(116,256)	(89.8%)	1,129,015	1,525,084	(396,069)	(26.0%)	2,421,945
All Other	1,077,352	810,286	267,066	33.0%	7,228,572	7,532,827	(304,255)	(4.0%)	11,443,386
Total Revenue	17,952,298	19,855,084	(1,902,786)	(9.6%)	161,135,863	158,849,608	2,286,255	1.4%	263,855,967

NOTE: This report has been prepared from preliminary month end figures and is subject to change.

**LEGISLATIVE COUNCIL
MIGRATION PROJECT STATUS
MARCH 28, 2001**

Bill Drafting:

- **Completed a technical review of the current of the version bill drafting software last week**
- **Based on the technical review, developed a “punch list” of vendor corrective actions**
- **Complete the final pre-testing bill drafting software build with corrections this week**
- **Installation of the pre-test version of the bill drafting software now planned for the week of April 2nd**
- **Start testing on completion of the software installation by Compaq in early April**

Legislative Data Repository (LDR):

- **Preparing to support the testing of the bill drafting system data transfer process**
- **Continuing to support International Roll Call’s requirements for the Legislative Management System (LMS)**

**Maine State House
Percent for Art Committee
Report to the Legislative Council**

The Maine State House Percent for Art committee has met nine times over a seven month period, electing to carry out an *open competition* to engender the widest possible participation among the artistic community. The committee drafted a competition prospectus describing the project and **stating the art selection committee's intent to consider works of art in all media, styles, and formats appropriate to public settings. Works would be selected to represent the geographic and cultural diversity of the state of Maine, and artists representing all of Maine's diverse communities were encouraged to apply.**

Following *statewide advertisement* of the availability of the prospectus through direct mail and press accounts, approximately 150 artists requested application materials and 65 artists attended an informational meeting with members of the committee. Ultimately, *95 artists responded* with letters of interest and proposals.

The selection committee reviewed the slides and letters of each artist, narrowing the field to twelve for further consideration. The committee narrowed the field further to ten artists to interview regarding commissions for the public floors of the West Wing entry and the Connector. Following the interviews, the committee unanimously voted to request more detailed proposals from *six finalists*. This *committee has proceeded with unanimity* throughout the process, both in narrowing the field and in selecting the artists who are currently working on proposals.

The committee discussions stressed *several concerns* in this selection process regarding the appropriateness of the work to be chosen. The work should be compatible and resonate with the character and dignity of the State house. It should bear relevance not only to the building design, it should be respectful of the importance of the activity that takes place there and to the significance that the State House represents. It should possess aesthetic longevity, an enduring timelessness, and quality of design that is sustained over time and that corresponds to its physical permanence. It should define a sense of place and where possible be interactive. Finally, the work should be the distillation of the collective vision of the committee and the artist.

The committee believes that the proposed work by *Evan Haynes* fulfills all of these criteria. His work centers on the theme of communication and how it is revealed within Maine's ethnic and cultural roots. He has employed a very thorough process to consider a variety of "interest groups" and has done extensive research with this committee in developing his work.

Recommendation: The State House Percent for Art committee is today recommending the selection of Evan Hayne's proposal to the Legislative Council for its endorsement. This is a critical step, which is required prior to Maine Arts Commission approval, in order for the process of creating and installing the artwork to move forward in time with the progress of the construction.

Maine Arts Commission
Percent for Art Approval # 327
Maine State House
Total Percent for Art Budget: \$240,000
Selection Process: Open Call to Maine artists

Art Selection Committee:

MAC: Nathaniel Bowditch, Office of Tourism, Augusta
MAC: Richard Entel, Artist, Hallowell
Site: Hon. Elizabeth Watson
Site: Hon. Joel Abromson
Architect: Weinrich & Burt, Damariscotta
Non-voting: Alden Wilson, Director, Maine Arts Commission
Non-voting: Earle Shettleworth, Director, Maine Historic Preservation Commission
Agency: Sally Tubbesing, Director, 119th Legislative Council
Jim Clair, Director, 120th Legislative Council

Meetings: 5/24/00 Introduction to Percent for Art Guidelines & Rules,
Construction plans review
6/20 Publicity & prospectus design
7/26 Information meeting for artists
8/30 Applications and proposals review
9/13 Semi-finalist interviews
9/21 Semi-finalist information meeting
10/11 Review of Committee process and decisions
11/14 One proposal, plus one semi-finalist interview
12/11 Haynes final proposal
1/5/01 Meeting with Chris Crosman & Bruce Brown

Artist selected: Evan Haynes, Portland, Maine.

Artwork description: Granite engraving
Artwork location: State House Connector

Maine Arts Commission project coordinator:
Paul V. Faria, Public Art Associate

Maine Arts Commission approval date:
February 15, 2001

Percent for Art

What is Percent for Art?

The Percent for Art law was enacted in 1979 to provide for art in public buildings. Under the law, an amount equal to one percent of the construction budget is set aside to purchase original works of art for new or renovated buildings receiving state funds. In the case of public schools, a maximum of \$50,000 may be used for art purchases.

How Many Sites have Taken Advantage of this Program?

Since 1979 there have been more than 350 Percent for Art projects, resulting in the purchase or commissioning of over 1,000 works of art. State buildings account for about 20% of the total. University and Technical College projects account for an additional 20%. Public schools account for the remaining 60%. Public school participation is optional, and has increased from 14% in 1979 to consistently more than 90% over the past 10 years.

Who Chooses the Art?

The contracting agency has final authority over the selection of artwork. An art selection committee, made up of one or two representatives appointed by the contracting agency, one or two arts professionals appointed by the Maine Arts Commission, and the project architect, selects the art. The art selection committee recommends commissions or purchases to the contracting agency for final approval. Non-voting representatives of the contracting agency are encouraged to attend committee meetings.

What is the Commission's Role?

The Maine Arts Commission provides leadership, resources, and materials to facilitate the art selection process. Following the approval of the contracting agency, the Maine Arts Commission approves the art selection process.

What Kind of Art May Be Purchased with Percent for Art Funds?

The art selection committee may consider all art forms. Paintings, stained glass windows, ceramic murals, sculpture, fiber art, photography, and prints are some of the choices available to your selection committee. A slide registry of artists working in each of these media is available to the committee from the Maine Arts Commission office.

What is the Artist Registry?

The Maine Arts Commission maintains a registry of the portfolios of artists who would like to be considered for purchases or commissions in the Percent for Art program. Portfolios include resumes, news clippings, artists' statements, and slides and photographs of each artist's work. Additional slides are retained in juried carousels for viewing by art selection committee members. These carousels and portfolios are the primary resource for art selection committees.

How Do I Learn More?

For more information or a list of Percent for Art projects in your area, contact Paul Faria at 287-2726 or paul.faria@state.me.us

MISSION The Maine Arts Commission shall encourage and stimulate public interest and participation in the cultural heritage and cultural programs of our state; shall expand the state's cultural resources; and shall encourage and assist freedom of artistic expression for the well being of the arts, to meet the needs and aspirations of persons in all parts of the state.

If you need special accommodation to participate in any Maine Arts Commission program, please contact Kathy Ann Jones, associate for Contemporary Arts, Maine Arts Commission, 287-2750 or kathy.jones@state.me.us

Bolduc, Jennifer

From: Faria, Paul
Sent: Friday, March 16, 2001 1:16 AM
To: Clair, Jim; Watson, RepElizabeth; Abromson, SenJoel; 'Rick Burt'; 'Sally Tubbesing'; Knicely, Bryan; Shettleworth, Earle; Bowditch, Nathaniel; 'Rich Entel'
Subject: Senator Bennett's question

Dear Committee members,

With respect to Senator Bennett's question regarding use of Percent for Art funds to offset the cost of preservation and restoration of the dioramas, I have attached a copy of **The Percent for Art Act** and **Rules to Carry Out the Percent for Art Act**.

I have highlighted relevant sections in each document.

Please refer to section **452 Definitions**, paragraph 7. Works of art.
and in the **Rules, Section 3. Standards**, paragraph B. 2. Exclusions, i. "In connection with the works of art, . . ."

The important thing is that the original intent of the Law, as stated in the opening paragraph, is to encourage the development of Maine artists.

The committee did review these concerns at the inception of our selection process for the State House.

I hope that this will serve to elucidate why Percent for Art funds are not intended to be used for purposes of restoration.

Sincerely,
Paul Faria



Percent for Art Act
Rules, Co...

PERCENT FOR ART

**The Percent for Art Act
Rules and Regulations
Standard Contract**

THE PERCENT FOR ART ACT

§451 Purpose

Recognizing the need to enhance culture and the arts and to encourage the development of artists, it is the intent of the Legislature to establish the Percent for Art Program to provide funds for and authorize the acquisition of works of art for certain public buildings and other public facilities.

§452 Definitions

As used in this chapter, unless the context indicates otherwise, the following terms shall have the following meanings.

1. Architect. "Architect" means the person or firm retained by the contracting agency to design the project to which the 1% provision of this chapter applies.
2. Artist. "Artist" means a practitioner in the arts, generally recognized as a professional by critics and peers, who produces works of art and who is not the architect or an employee of the architectural firm retained by the contracting agency.
3. Commission. "Commission" means the Maine Arts Commission.
4. Construction. "Construction" means the construction or renovation of a public building or public facility, the cost of which is at least \$100,000, but does not include repairs or minor alterations. In their rulemaking and decisions regarding construction projects governed by this Act, the Commission shall be guided by the determinations of the Director of the Bureau of General Services.
5. Contracting agency.
 - A. "Contracting agency" means the agency of State Government to which funds have been appropriated or allocated by the Legislature for the construction of any public building or other public facility. In the case of school construction projects, the contracting agency shall be the governance body of the school administrative unit.
 - B. "Contracting agency" does not include municipalities and special purpose quasi-municipal districts such as, but not limited to, sewer districts and water districts.
6. Public building or public facility. "Public building" or "public facility" means any building or facility which is to be constructed in part or totally with funds from any source appropriated or allocated by the Legislature, including any school construction project approved for state funding by the State Board of Education, and which is intended for the use of the general public.
 - A. If only part or parts of the building or facility are for the use of the public, "public building" or "public facility" includes only that part or those parts designed for the use of the public. The method of cost allocation to the identifiable part or parts shall be determined by a generally accepted method of cost allocation, provided that the allocated cost for that part or those parts shall exceed \$100,000.

- B. "Public building" or "public facility" does not include highways, sheds, warehouses, or buildings of temporary nature.
- C. A school construction project of any building or facility which is part of the project is subject to this Act only upon the affirmative vote of the school board of the school administrative unit.
- D. School construction project. "School construction project" means a project as defined in Title 20-A, section 15901, subsection 4.

7. Works of art. "Works of art" means any of the following original creations of art.

- A. Sculpture in any material or combination of materials;
- B. Painting;
- C. Graphic arts, printmaking and drawing;
- D. Photography;
- E. Video or electronic media;
- F. Crafts in clay, fiber and textiles, wood, metal, plastics and other materials; and
- G. Mixed or conceptual media, or any combination of forms of media, including collage.

§453 Expenditure for and location of art

1. Amount; gifts and donations. Any contracting agency, except a school administrative unit, shall expend out of any money appropriated or allocated by the Legislature for the construction of any public building or facility, except for correctional facilities, a minimum amount of 1% of the construction portion of the appropriation or allocation, for the purpose of acquiring, transporting and installing works of art. Schools units which have decided to participate in the Percent for Art Program shall expend a minimum amount of 1% of the cost of the eligible school construction project or of any building or facility that is part of an eligible project, or \$40,000, whichever is less.

Donations and gifts to the contracting agency may be used to offset the minimum amount identified in this subsection. The value of art received as a donation or a gift shall be determined by the Commission.

2. Location of works of art. Works of art may be included as an integral part of the structure of the building or facility, may be attached to the structure or may be detached within or outside of the structure.

§454 Contracts for works of art

For purposes of this chapter, expenditures for works of art shall be contracted for separately from all other items in any original construction of any public building or facility. Contracts shall be made according to section 457.

§455 Determination of amount for acquisition of art

The Commission, in consultation with the Bureau of General Services, the Bureau of School Management, the Office of Facilities within the University of Maine System or the Maine Technical College System, whichever has budgetary authority over the project, shall determine the minimum amount to be made available for the purchase of art for each public building or facility.

§456 Duties of the contracting agency

Upon selection of an architect for any project, the contracting agency shall:

1. Notify. Notify the architect of this chapter;
2. Commission. Notify the Commission of the selection of the architect and the details of the project;
3. Consultation. Consult with the Commission about the amount to be expended for works of art; and
4. Selection of artist and works of art. Select the artist and the works of art in accordance with the rules established under section 458, and in consultation with the Commission.

§457 Duties of Commission

The Commission shall:

1. Consult. Consult with the architect and contracting agency about any administrative costs or design services required in connection with the selection of works of art;
2. Procedures for participation of architect. Advise the Bureau of General Services, the Bureau of School Management, the Office of Facilities within the University of Maine system and the Maine Technical College System concerning procedures for participation and compensation of the architect in connection with the acquisition of works of art under this chapter;
3. Contracting agency. Advise the contracting agency;
4. Selection. Approve the process used by the contracting agency in selection of the artist or works of art. If the Commission does not approve the process used to select the artist or works of art, then the contracting agency shall use another selection process in accordance with the procedure authorized in section 456, subsection 4;
5. Acquisition of art. Review the design, execution and placement and acceptance of any works of art that are, or are intended to be, acquired under this chapter; and
6. Standards for maintenance. Adopt standards for the maintenance, conservation, relocation, and transfer of ownership of works of art acquired under this chapter.

§458 Rules and Regulations

The Commission shall establish rules in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, section 8051, et. seq., to carry out the purposes of this chapter. These rules shall include, but not be limited to the following:

1. Selection. Procedures for the selection of artists and works of art;
2. Standards. Standards for the artist and works of art which may be eligible for selection;
 - A. Maintenance. Standards for the maintenance, conservation, relocation, and transfer of ownership of works of art acquired under this chapter;
3. Contract procedures. Procedures for contracting with artists for works of art; and
4. Administrative costs. Administrative costs associated with the acquisition of works of art, which are eligible to be included as part of the amount allocated in section 453, subsection 1.

§459 Administrative costs

Eligible administrative costs incurred by the contracting agency that are associated with the acquisition of works of art shall be included as part of the amount allocated to section 453, subsection 1, for works of art.

Rules to Carry Out the Percent for Art Act

Summary: The following rules to carry out the Percent for Art Act outline the purpose, selection procedures, standards, eligibility of artists, inclusions and exclusions, and contracting procedures.

Section 1. Purpose and Scope

The following rules have been established to assure the expeditious and equitable selection of works of art for public buildings and other facilities, and shall be implemented with the guidance of the Maine Arts Commission, the governing authority.

Section 2. Selection Procedures

A. Advisory Committee

Selection shall be by the contracting agency, which shall consider the recommendations presented by an advisory committee composed of members chosen by the contracting agency and by the Director of the Maine Arts Commission.

1. **Size:** The number serving shall be no less than three and no more than five, except that in the case of projects with Percent for Art budgets of less than \$7,000, the number shall be three.
2. **Composition:** The project architect, a representative chosen by the contracting agency, and a representative chosen by the Director of the Maine Arts Commission all be members of all advisory committees. Additional advisory committee members shall be selected equally by the contracting agency and by the Director of the Maine Arts Commission from any of the following areas in whatever combination best applies to the project; museum director or curator, art historian, critic, collector, artist not in competition, art educator, or lay member of the public, except that in the case of any public school, vocational school, or university construction, a student may be appointed by the contracting agency.
3. **Responsibilities**
 - a. **Contracting Agency Representatives:** Committee members representing the contracting agency shall serve as chair and secretary of the committee. A single committee member may serve in both capacities.
 - i. **Chair:** The committee chair serves as the liaison to the contracting agency, keeps records, administers the budget, publicizes the project, and files final reports.
 - ii. **Secretary:** The committee secretary serves as the liaison among committee members, keeps and distributes minutes of each meeting, and prepares requests for proposals and other correspondence with artists.
 - b. **Maine Arts Commission Representatives:** Committee members appointed by the Director of the Maine Arts Commission shall participate in all committee decisions and shall provide artistic and technical advice.

c. Architect: A representative of the architectural firm shall participate in all committee decisions, and shall provide technical assistance. Engineering and design changes required for installation or display shall be compensated separately. See section 3.B., Inclusions and Exclusions.

d. Maine Arts Commission: The Director of the Maine Arts Commission, or the Director's designee, coordinates the Percent for Art program, maintains the Artist Registry, interprets the Percent for Art Act, provides information and technical assistance, and prepares reports and makes presentations to the Commission for approval of the selection process.

4. Remuneration: Committee members not appointed by the contracting agency shall be reimbursed for their necessary travel expenses at current state government rates or contracting agency rates. In the case of necessary off-site travel, committee members appointed by the contracting agency may also be reimbursed for their travel expenses. Reimbursable administrative costs incurred by advisory committee members and by the contracting agency shall include but may not be limited to: honoraria or design fees, postage, duplication, advertising, and telephone costs. The total cost or advisory committee expenses for each project shall not exceed 10% of the amount allocated for the purchase of works of art, except in certain circumstances approved by the Director of the Maine Arts Commission.

5. Commission Approval: The Commission delegates final selection of the artists and artwork to the advisory committee and approves the procedures followed for the project under the rules and regulations.

6. Local Approval: If the contracting agency is a public school or school district which does not delegate final selection of the artists and artwork to the advisory committee, it shall appoint at least one representative from its governing board to sit as a voting member on the advisory committee.

7. Documentation: Each contracting agency shall document the process of selecting works of art and artists. Minutes of each advisory selection committee meeting shall be forwarded to the Maine Arts Commission office by the committee secretary. Final written documentation shall be forwarded to the Commission office within thirty days of the completion and/or installation of any project by the committee chair. Artists shall provide photographic documentation of the artwork installed to the Commission office in the form of six professional quality slides and two 8" x 10" black and white photographs.

8. Conflict of Interest: All committee members shall disclose all potential conflicts of interest and shall disqualify themselves if such conflicts violate state law or established standards for juried competitions.

a. Advisory committee members must not have direct or indirect interest, financial or otherwise, or engage in any business or transaction, or incur any obligation of any nature that conflicts with the selection of artists and artwork for the designated Percent for Art project.

- b. Artists under consideration shall not be affiliated with advisory committee members, the contracting agency, the architectural or design firm involved with the project, or the Commission staff member assigned to the project. Affiliation that constitutes conflict of interest shall include but not be limited to:
 - i. An employee, employer, agent or dealer relationship;
 - ii. A relationship by blood, marriage, business, partnership or collaboration;
 - iii. Any other relationship that may compromise the objectivity of members of the advisory committee.
- c. Artists who are employees of the University of Maine and Maine Technical College Systems shall be ineligible only for Percent for Art projects at the campus where they are employed.

B. Eligibility of Artists

1. Maine Residency: Preference may be given to artists who are Maine residents.
2. Registration: All living artists who wish to be considered for sales or commissions in the Percent for Art program shall register with the Maine Arts Commission. Biographical, visual and other materials, where appropriate, shall be entered into the open Artist Registry, which shall serve as the primary resource for the program. Eligibility to the selective Studio Art and Public Art Registries shall be based upon qualifications and shall be determined by a jury of peers appointed by the Commission. Artists who have not been selected for inclusion in the Studio Art and Public Art Registries shall be eligible for sales or commissions only upon the recommendation of the advisory committee.
 - a. Studio Art Registry: All registered artists selected for inclusion in the Studio Art Registry shall be eligible for sale or existing artwork in the Percent for Art program.
 - b. Public Art Registry: All artists selected for inclusion in the Public Art Registry shall be eligible for commissions in the Percent for Art program.

C. Methods of Selection

1. Direct Selection: The advisory committee recommends the purchase of a completed work of art or the commissioning of a specific artist selected from the Artist Registry.
2. Limited Competition: The advisory committee recommends that a limited number of artists selected from the Artist Registry be interviewed or submit proposals on a competitive basis.
3. Open Competition: A competition to which artists must apply directly. A prospectus, appropriate to the specific project, is prepared and its availability is widely publicized. A limited number of applicants are then selected to prepare detailed proposals.
4. Disapproval: If the advisory committee's recommendation is not approved by the local contracting agency, or if the selection process is not approved by the Commission, the process must begin again. Any of the above Methods of Selection may be used in this case.

5. In all projects in which the total art purchase budget is less than \$7,000, the advisory committee shall select artwork either by direct purchase of existing artwork or by a limited competition in which a single commission is awarded.

Section 3. Standards

A. Criteria for Selecting Works of Art

1. **Style and Nature:** Works of any aesthetic persuasion which are appropriate as Art in Public Spaces and compatible in scale, material, form and content with their surroundings will be considered. Works may be participatory in nature.
2. **Quality:** The consideration of highest priority is the inherent quality of the work itself.
3. **Media:** All art forms may be considered.
4. **Elements of Design:** The advisory committee and the artist will take into account the fact that, as differentiated from works in a museum context, Art in Public Spaces may function as focal points, modifiers, or definers of specific spaces, and/or establishes of identity.
5. **Conservation:** Due consideration shall be given to structural and surface soundness and to permanence in terms of relative proof against theft, vandalism, weathering, or excessive maintenance or repair costs.

B. Inclusions and Exclusions

1. **Inclusions:** The portion of the capital appropriation reserved for works of art may be expended for the following:
 - a. **The cost of the work of art:** Generally, if the artist is commissioned to create a new work, the following are taken into account in the contract:
 - i. Artist's professional design fee;
 - ii. Labor or assistants;
 - iii. Materials required for production of work;
 - iv. Studio and operating costs of the artist, including rent, depreciation, utilities, communications, insurance, and other direct and indirect costs;
 - v. Travel of the artist for site visitation and research;
 - vi. Transportation of the work to the site;
 - vii. Installation of the completed work;
 - viii. Photographic documentation required by the Commission;
 - ix. Engineering, codes compliance, and other regulatory costs associated with the creation of the work of art.
 - b. Identification plaques and labels.
 - c. Waterworks and electrical and mechanical devises or equipment which are integral parts of the work of art.
 - d. Frames, mats, or pedestals necessary for the proper presentation of the works of art.

- e. Honoraria and Design Fees: Artists selected as finalists shall be paid honoraria or design fees for written proposals or models at rates to be established by the advisory committee, with a minimum of \$100, and shall be reimbursed for necessary travel expenses at current state government rates.
- f. Other items the Commission approves as appropriate to the particular work of art.

2. Exclusions: The portion of the capital appropriation reserved for works of art may not be expended for the following:

- a. Reproductions by mechanical or other means of original works of art. Included, however, may be limited editions, controlled by the artist, of original prints, cast sculptures, photographs, etc.
- b. Decorative, ornamental or functional elements that are designed by the building architect or consultants engaged by the architect.
- c. Those elements generally considered to be components of a landscape architectural design: plant materials, pools, paths, benches, receptacles, fixtures, planters, etc., unless they function as integral components of an earthwork or environmental public art installation.
- d. "Art objects" which are mass produced or of a standard design, such as playground sculpture or fountains.
- e. Directional or other solely functional elements, such as supergraphics, signage, color coding, maps, etc.
- f. Those items that are required to fulfill the basic purpose of the agency. Examples would be works of art in the collection of a state museum or works of art fulfilling an interpretive or educational role in a state park, the state library, or a college or university art museum or gallery.
- g. Electrical, water, or mechanical service for activation of the work.
- h. Exhibitions and educational programs related to the work.
- i. In connection with the works of art, before or after they are installed: lighting, registration, dedication, unveiling, insurance, security, publicity or publications, and maintenance (preservation, conservation, restoration, repair).

C. Long Term Care

1. Insurance: Upon installation, the contracting agency shall insure the work against loss, damage, or theft.

2. Maintenance: The contracting agency shall maintain works of art in accordance with a maintenance agreement negotiated with the artist at the time of installation. The contracting agency shall not alter works of art in any way whatsoever without prior approval by the Maine Arts Commission.

3. Conservation: The contracting agency shall make every reasonable effort to consult with the Commission, the artist and a professional conservator in all matters concerning repairs and restoration of works of art. All restoration work shall be done in accordance with the Code of Ethics and Standards of Practice of the American Institute of Conservation, 3545 Williamsburg Lane, NW, Washington, and DC 20008, as amended.

4. Relocation and removal: Works of art shall be placed in the locations for which they are selected. The Maine Arts Commission and the artist shall be notified if, for any reason, a permanently installed work of art must be removed or moved to a new location. The Commission and the artist shall have the right to advise the contracting agency or its designee regarding this treatment of the work.

a. Relocation: If the work was created for a specific site, the new site to which it is to be moved must be consistent with the artist's original intent.

b. Removal: Works of art acquired in the Percent for Art program may be removed only with the approval of the Maine Arts Commission. Requests for permission to remove works of art shall be made in writing and shall be reviewed at the next regular meeting of the Commission.

5. Transfer of Ownership: If a work of art acquired in the Percent for Art program is removed, ownership shall be transferred by sale of the work. Proceeds from the sale of the work shall be used to acquire new works of art in the Percent for Art program. Sale shall be made, in order of priority, to one of the following parties:

a. Artist: To the artist who created the work. The artist shall have the right to purchase the work for its appraised fair market value. In the case of a work of art whose removal could require destruction of the work, the artist shall have the right to acquire the work or its surviving components for that portion of the cost of removal that exceeds the cost of destruction of the work.

b. Nonprofit Organization: If the artist does not choose to purchase the work of art, a nonprofit organization whose mission includes the presentation of works of art may acquire the work under the same conditions as those that apply to the artist.

c. State of Maine: If neither the artist nor a qualified nonprofit organization wishes to purchase the work of art, the State of Maine may acquire the work under the same conditions as those that apply to the artists, except that the State of Maine shall pay only that portion of the appraised fair market value equal to the portion of the original purchase price paid by the original acquiring institution.

d. Other: In the event that none of the above parties wish to acquire the work of art, then the work may be offered to the public under the same conditions as those that apply to the artist.

Section 4. Contracting Procedures

A. Artists; Contracts: All artists' contracts shall follow the form and substance of the model Percent for Art contract provided by the Maine Arts Commission.

B. Public School construction: A school construction project is subject to this act only upon the affirmative vote of the governing board of the school administrative unit prior to the granting of concept approval by the State Board of Education. After the granting of concept approval to a school construction project to include Percent for Art funds, exclusion of Percent for Art will be allowed only under extenuating circumstances and with the approval of the Commissioner of the Department of Education who shall consider the recommendation of the Director of the Maine Arts Commission.

C. Other Actions: All requests by the contracting agency for actions to be considered by the Commission shall be made in writing.

Basis Statement: These rules are to aid in the implementation of the Percent for Art Act, which was created by the Legislature in order to encourage the art sin Maine.

AUTHORITY: 27 MRSA Section 458

EFFECTIVE DATE:

PERCENT FOR ART CONTRACT

AGREEMENT made _____ (date) by and between _____
_____ (name and address), county of
_____ and State of Maine, (hereinafter called the "Contracting Agency"), and
_____ (name, address and telephone)
(hereinafter called the "Artist").

WHEREAS, the contracting agency, through an advisory selection committee, solicited proposals for artwork for the Public Art project at _____ (site) (hereinafter called the "Project"); and

WHEREAS, the contracting agency approved said proposal for funding and the Maine Arts Commission (hereinafter called the "Commission") ratified said proposal and process of the advisory selection committee under the Percent for Art Act (27 MRSA §451, et. seq.);

NOW, THEREFORE, the parties do hereby agree as follows:

1. Delegation of Authority: The contracting agency hereby delegates authority under this agreement to _____ (contracting agency's representative and telephone number) to be its representative in all matters regarding the administration of the agreement. The artist agrees to work with, and to cooperate fully with said representative of the contracting agency.

2. Description of Artwork: The artist will create and install the following work of art:

Title:

Dimensions:

Medium:

Description of the Work:

The above work of the artist is hereinafter referred to as the "work."

3. Standards of Performance: The artist has familiarized him/herself with the site and the local conditions under which the work is to be installed, and had correlated his/her observations with the contracting agency.

4. Changes in Design: The artist shall create the work in accordance with the approved design. Recognizing that the shift in scale from model to full scale requires artistic adjustments, the artist reserves the right to make minor changes in the final work as is deemed aesthetically or structurally necessary.

5. Permanent Location: The permanent location of the work shall be: _____

6. Price and Payment Schedule: The contracting agency will pay the artist a total sum of _____ dollars (\$ _____). Payment shall be made in the following sequence:

\$ _____ upon signing of this agreement by the artist and the contracting agency's representative;

\$ _____ upon approval of installation methods by the Bureau of General Services;

\$ _____ upon completion of half (1/2) the required construction or creation of the work, as defined in this section;

\$ _____ upon installation of the work in its permanent location;

\$ _____ upon completion and final acceptance of the installed work by the contracting agency and the receipt from the artist of maintenance instructions and photographic documentation as referred to in this agreement. To receive payments subsequent to the initial payment, the artist shall submit a billing or invoice to the contracting agency when each of the stages outlined above have been reached. Failure of the contracting agency to notify the artist within 14 days of filling of the nonacceptance of the artist's estimation of degree of completion forecloses future objection, and payment is authorized.

The contracting agency shall have the right of entry to the premises where the work is being done and/or where materials for the work are stored for purposes of inspecting the work and materials; and for recovering the work or materials in the case of default by the artist under this contract.

7. Final Acceptance: Final acceptance will be reached when the contracting agency signifies that the work has been completed and installed according to terms of this agreement. Official sole ownership of the work occurs when a letter of final acceptance is sent by the contracting agency to the artist. This letter will initiate the final payment process, and final payment will be made within thirty (30) days of the date of acceptance. Copies of the letter of acceptance shall be forwarded to the Commission and to the Bureau of General Services. Failure of the contracting agency to notify the artist within 14 days of nonacceptance of the work forecloses future objections, and payment shall be authorized.

8. Assignment of Work: The work and services of the artist are personal and shall not be assigned, sublet or transferred. This shall not prohibit the artist from employing qualified personnel who shall work under his/her supervision.

9. Artist as Independent Contractor: The artist agrees to perform all work under this agreement as an independent contractor and not as an agent or employee of the State of Maine. The artist as independent contractor shall furnish all supervision, labor, materials, equipment, supplies, other incidentals, as well as storage, transportation, shipping, and installation of the work.

10. Inspection and Review: The contracting agency shall have the right at reasonable times and with advance notice to review the work while in the process of execution and to request and receive progress reports.

11. Installation Time Schedule: The artist will begin work upon receipt of the first check due, and shall complete the work and installation thereof by the date of _____, unless that date is extended by the contracting agency, in which case it shall become the responsibility of the artist to store the work before its installation.

In the event that the work and the installation are not completed by the above date, the artist shall incur a penalty of 1% of the remaining balance which would be due the artist upon completion and installation under this agreement for each day after the above date until completion of the work and installation.

The artist may request an extension of time from the contracting agency within five (5) days of the originally agreed upon installation date. If an extension is granted, a new installation date shall be agreed upon in writing, and the above penalty shall not apply unless the new date is not met. If an extension of time is granted it shall be documented in writing.

12. Documentation and Records: Within thirty (30) days of installation of the work, the artist shall furnish the Commission with a minimum of six (6) professional quality 35mm slides and two (2) 8"x10" black and white glossy photographs of the work, and shall provide a full written narrative description of the work.

13. Public Notice: The contracting agency agrees to provide and install an identification plaque for the work within thirty (30) days of the final acceptance date. The written contents of the plaque shall include at least the following information:

Title of Artwork _____
Year _____
Artist _____
Commissioned for _____
and the citizens of Maine under the Maine Percent for Art Act.

The plaque shall be of such medium and design as to be appropriate to the work itself and the permanent location of the work, and the artist shall be consulted as to design. In the case of a series of works, the artist and the contracting agency will reach agreement in writing concerning the number of plaques needed for appropriate identification.

14. Warranty: The artist warrants that the design of work being commissioned is the original product of his/her own creative efforts. The artist warrants that the work is an edition of one (1), except, for example, in the case of the purchase of signed, limited edition prints. The artist agrees to deliver the work to the contracting agency free and clear of any liens or claims arising from any source whatsoever.

15. Indemnity and Liability: The artist shall, at his own cost and expense, defend and indemnify, and hold harmless the contracting agency, their officers, agents and employees, from and against all claims, damages, losses and expenses, including attorneys' fees, arising out of, or resulting from, the performance of this agreement, provided that such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to, or destruction of, tangible property, including the loss of use therefrom, and (2) is caused in whole or in part by any negligence, act, or omission of the artist, anyone directly or indirectly employed by him, or anyone for whose act he may be liable, except to the extent that it is caused in part by the contracting agency, their officers, agents, or employees. The artist further agrees to defend, indemnify, and hold harmless the contracting agency, their officers, agents, or employees from and against any claims or liens of his subcontractors, and his and their laborers, materialmen, mechanics, and suppliers.

Such obligation shall not be construed to negate or abridge any other obligation of indemnification running to the artist that would otherwise exist. The extent of the indemnification provision shall not be limited by any provision for insurance contained in this agreement. Before final payment is approved, the artist shall supply a completed certification of payment of debts and claims and a lien release.

16. Insurance: Prior to the execution of this agreement, the artist shall provide the contracting agency with a certificate evidencing automobile liability insurance in an amount not less than \$300,000 combined single limit for each occurrence. Said certificate shall name any subcontractors employed by the artist and shall guarantee the contracting agency thirty (30) days written notice prior to cancellation. The Commission shall carry comprehensive general liability insurance. The artist shall notify the Commission of installation times and dates at least 14 days prior to installation, and shall notify the Commission immediately upon completion of installation.

17. Compliance with Laws: In the performance of the work, the artist shall comply with all applicable federal, state, and local laws, rules and regulations.

18. Copyright: The artist expressly reserves every right available to him/her in common law or under the Federal Copyright Act to control the making and dissemination of copies or reproductions of the work, except as those rights are limited by this agreement. The artist shall not unreasonably refuse the contracting agency and/or Commission permission to reproduce the work graphically for purposes strictly for the sole use and benefit of the public. All reproductions of the work shall contain a credit to the artist and a copyright notice substantially in the following form: "Copyright, artist's name, year of publication," in such a manner and location as shall comply with the US Copyright laws. The artist agrees to give a credit substantially in the following form: "Originally owned by _____" in any public showing of reproductions of the work.

19. Non-Destruction/Alteration: The contracting agency agrees that it will not intentionally destroy or alter the work in any way whatsoever without prior consultation with the Commission and the artist.

20. Maintenance: As a condition of, and prior to, final acceptance of the work, the artist shall supply the contracting agency with written maintenance instructions. During his/her lifetime, the artist will supply, at no charge, advise as to problems arising in relation to maintenance of the work. The artist shall incur at no cost to him/her as a result of giving this advice.

21. Repairs: The contracting agency shall make every reasonable effort to consult with the artist and a professional conservator in all matters concerning repairs and restoration of the work. All restoration work shall be done in accordance with the Code of Ethics and Standards of Practice of the American Institute of Conservation (AIC), 3545 Williamsburg Lane, NW, Washington, DC 20008.

22. Relocation: The work will be placed in the location for which it was selected. The contracting agency agrees that the artist and the Commission will be notified if, for any reason, the work has to be removed or moved to a new location. The artist and the Commission have the right to advise or consult with the contracting agency or its designee regarding this treatment of the work.

23. Ownership of Documents and Models: Drawings, specifications, and models of the work, or which relate to the work, including all preliminary studies, shall be the property of the artist following completion of the work under this agreement or following termination of the agreement by the contracting agency without fault on the part of the artist. Under these circumstances, they shall not be used by the artist on other projects or extensions of this project except pursuant to a subsequent agreement in writing between the artist and the contracting agency.

24. Notice: The artist agrees to notify the contracting agency of changes in his address within ninety (90) days of that change and failure to do so shall be deemed a waiver of artist's rights listed in this agreement.

All communications and notices required or permitted under this agreement shall be in writing and shall be deemed sufficiently served if hand delivered or sent by certified First Class Mail to the Commission.

25. Termination: This agreement may be terminated by the contracting agency upon written notice to the artist in the event of failure by the artist to perform in accordance with the terms of this agreement.

Nothing herein shall abrogate any claims which the contracting agency may have against the artist for failure to perform in accordance with this agreement, including any claim for reimbursement of funds advanced to the artist under section 6 above.

26. Non-Waiver: Except as expressly provided in this agreement, no failure or waiver or successive failures or waivers on the part of either party hereto, their successors or permitted assigns, in the enforcement of any condition, covenant or article of this agreement shall operate as a discharge of any condition, covenant or article, nor render the same invalid, not impair the right of either party hereto, their successors or permitted assigns, to enforce the same in the event of any subsequent breaches by the other party hereto, its successors or permitted assigns.

27. Modification of this Agreement: This agreement may be amended or modified only if in writing and signed by the parties, and represents the entire agreement of the parties.

Witness:

Contracting Agency:

_____ **By:** _____
(signature and title)

_____ **Artist:** _____

Social Security # _____

BGS _____



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

MEMORANDUM

TO: The Honorable Michael V. Saxl, Chair
The Honorable Richard A. Bennett, Vice-Chair
Legislative Council
And Honorable Members of the Legislative Council

FROM: *D. B.*
David E. Boulter, Director

DATE: March 28, 2001

RE: Legislative Studies Update

I am pleased to report that all legislative studies have now concluded and reports have been issued, with the exception of 4 studies that were authorized for a 2-year period. These 4 studies, noted in the attachment, are scheduled to conclude in December, 2001.

I would be happy to answer any questions at the Legislative Council Meeting.

Attachment

cc: The Honorable Michael H. Michaud, Senate President
Jim Clair, Executive Director, Legislative Council

MAR 27 2001

David E. Boulter, Director
Offices Located in the State House, Rooms 101/107/135

Legislative Studies Not Concluded
(Studies authorized or undertaken during 119th Legislature, 2nd Regular Session)
Status as of Wednesday, March 28, 2001

<u>Study Commission</u>	<u>Date First Convened</u>	<u>Date, Time & Location of Next Meeting</u>	<u>Report Date</u>	<u>Status/Progress of Study Commission</u>
Domestic Violence , Commission to Study (LD 2651) Resolves 1999, c. 126	9/27/00	TBA	12/05/01	Fourth meeting was held on 01/29/01; discussion regarding further meetings during session – unsure of scope of work.
Environmental Leadership Program , Commission to Study the Establishment of an (LD 1562) Resolves 1999, c. 134	New appointments required	not scheduled	12/01/01	Not convened. Chair appointments need to be made, due to resignations This is a 2-year study.
Forest Products Industry , Round Table to Study Economic and Labor Issues Relating to the (LD 2005) Resolves 1999, c. 124	10/25/00	no more meetings til 7/9/01	12/05/01	The Round Table will take a temporary hiatus during session and reconvene in July. Next, will hold 2 public hearings during summer to gather feedback on recommendations. Will prepare final report in fall.
Solid Waste Hauling and Disposal Industry , Task Force to Study Market Power Issues Related to the (LD 2442) PL 1999, c. 773	8/28/00	not scheduled	12/6/00 Interim Report 12/5/01 Final Report	Interim report issued on 1/26/01. Task Force not authorized to submit legislation. Study continues next interim, with data collection occurring during session.

G:\STUDIES\STATSTUDIES03-01.DOC 3/26/01 1:31 PM



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

**TASK FORCE ON EDUCATIONAL PROGRAMMING
AT JUVENILE CORRECTIONAL FACILITIES**

February 2001

The Honorable Michael V. Saxl, Chair
The Honorable Richard A. Bennett, Vice-Chair
Legislative Council
115 State House Station
Augusta, ME 04333

Dear Representative Saxl and Senator Bennett:

This letter is to inform you that the Task Force on Educational Programming at Juvenile Correctional Facilities has submitted the attached report including recommended legislation to the 120th Maine Legislature, pursuant to P.L. 1999, chapter 770. Copies of the report have been transmitted to the Joint Standing Committees on Education and Cultural Affairs, Criminal Justice and Health and Human Services. Copies of the report have also been placed on the file with the Law and Legislative Reference Library.

Sincerely,

A handwritten signature in cursive script that reads "Robert E. Murray, Jr.".

Sen. Robert E. Murray, Jr., Co-chair

A handwritten signature in cursive script that reads "Shirley K. Richard".

Rep. Shirley K. Richard, Co-chair

cc: Senate President Michael H. Michaud
Jim Clair, Executive Director, Legislative Council
Members of the Legislative Council
David E. Boulter, Director, Office of Policy and Legal Analysis

FEB 14 2001



MAINE STATE LEGISLATURE
Augusta, Maine 04333

COMMITTEE TO STUDY ACCESS TO PRIVATE AND PUBLIC LANDS IN MAINE

March 19, 2001

The Honorable Michael V. Saxl, Chair
The Honorable Richard A. Bennett, Vice-Chair
Legislative Council
115 State House Station
Augusta, ME 04333

Dear Representative Saxl and Senator Bennett:

This letter is to inform you that the Committee to Study Access to Private and Public Lands in Maine has submitted the attached report to the 120th Maine Legislature, pursuant to H.P. 1951. Copies of the report have been transmitted to the Joint Standing Committee on Agriculture, Conservation and Forestry. Copies of the report have also been placed on file with the Law and Legislative Reference Library.

Sincerely,

Handwritten signature of Marge L. Kilkelly.

Sen. Marge L. Kilkelly, Co-Chair

Handwritten signature of Monica McGlocklin.

Rep. Monica McGlocklin, Co-Chair

cc: Members of the Legislative Council (w/enc.)
Senate President Michael H. Michaud

MAR 22 2001



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

Memorandum

To: The Honorable Michael V. Saxl, Chair
The Honorable Richard A. Bennett, Vice-Chair
120th Legislative Council

Dave
From: David E. Boulter, Director

Date: March 26, 2001

Re: Proposed Drafting Guidelines for Legislative Studies-120th Legislature

Please find attached proposed drafting guidelines for legislative studies that I present to the Legislative Council for its review and adoption, pursuant to Joint Rule 353. Under Joint Rule 353, The Legislative Council must adopt guidelines for the drafting of study orders and legislation at the beginning of each legislative biennium. Study orders and legislation must be consistent with the adopted guidelines.

The proposed guidelines closely track relevant provisions of the Joint Rules of the 120th Legislature and the guidelines that were adopted by the 119th Legislative Council. Some provisions have been revised somewhat or expanded to be provide greater clarity, but the guidelines do not propose any major change in policy with respect to studies. The guidelines also include guidance to staff when preparing joint standing committee requests to the Legislative Council for committee studies and a sample order creating a study committee.

If you have any questions, I would be happy to answer them at the Council meeting.

Cc: Senate President Michael H. Michaud
Jim Clair, Executive Director

G:\ARCHIVES\STUDIES\study guideline memo to council.doc (3/26/01 8:24 AM)

MAR 26 2001

David E. Boulter, Director
Offices Located in the State House, Rooms 101/107/135

Legislative Studies: Drafting Guidelines

DRAFT

**Adopted by the 120th Legislative Council
Pursuant to Joint Rule 353(8)**

March 28, 2001

**Prepared by the Office of Policy and Legal Analysis
Maine Legislature**

Guidelines for Legislative Studies

Introduction. Each session the Maine Legislature considers numerous bills that would enact new law or amend or repeal existing laws. While the vast majority of legislation is considered and finally acted upon by the Legislature in the session in which it is introduced, some legislation warrants further study before a final decision is made. When additional time or information is needed to fully evaluate issues, the Legislature may establish a special commission or committee to study the matter by gathering information, evaluating options and making recommendations to the Legislature for its consideration. Conducting legislative studies is an important way that legislators may better inform themselves about complex issues affecting public policy. Conducting legislative studies also is an important way for the Legislature to seek information from interested persons and members of the general public and to help educate the public on matters affecting state policy.

Consistent with the historic legislative purpose of conducting studies to develop information to assist legislators in making policy decisions, Joint Rule 353 and these guidelines enhance the ability of the Legislature to efficiently establish and independently direct the scope and course of legislative studies in ways that best meet its needs.

Authority. Section 8 of Joint Rule 353 that was adopted by the 120th Legislature on December 6, 2000 directs the Legislative Council to adopt guidelines for drafting legislation that establish studies.

Scope. These guidelines apply to legislative studies. Legislative studies are studies established by action of the Legislature that are conducted by a joint standing or select committee of the Legislature, a subcommittee of a joint standing committee or by a special legislative study commission or committee and which reports its findings, conclusions and recommendations to the Legislature or some component of the Legislature. It is the Legislative Council's policy that membership on a legislative study committee or commission consists wholly or primarily of legislators, and non-partisan staff of the Legislature provide staffing assistance to the study commission or committee.

Legislative studies are distinguished from non-legislative studies which include studies that direct an executive department or agency, the Executive or the Judiciary to study the matter and make a report. Study committees or commissions established by Executive Order of the Governor are also non-legislative studies even if they invite appointment of legislators or make a report to the Legislature.

In addition to legislative studies, these guidelines should be applied to the drafting of legislation for non-legislative studies as well, using standardized elements and language as appropriate.

Purpose and use of the guidelines. These guidelines implement provisions of Joint Rule 353 as they relate to the preparation of study orders and legislation. These guidelines also incorporate many of the recommendations of the Special Committee on Legislative Rules contained in its final report issued in November 1998 and the Special Commission to Review the Study

Commission Process contained in its final report issued on January 16, 1998. The guidelines identify the major elements that should be included in each proposed joint order, resolve or law that establishes a study committee, offer suggested language for each element and comment on or generally explain the purpose for the language.

These guidelines provide assistance to non-partisan staff who prepare orders, resolves or bills proposing legislative studies. The guidelines will insure inclusion of standardized language for core elements of study orders and legislation, promote efficient drafting and encourage drafting consistency among committees and drafters.

The Legislative Council recognizes that from time to time committees or sponsors of study orders and legislation will need flexibility to address unique aspects of proposed studies not encompassed within the suggested language in these guidelines. The guidelines are sufficiently flexible to accommodate those unique circumstances.

These guidelines will also assist in preparing joint standing committees' requests for approval from the Legislative Council for studies proposed to be conducted by joint standing committees or their subcommittees.

Key provisions of the guidelines. These guidelines incorporate the following principles.

1. Joint orders (study orders), resolves or law may be used to establish legislative studies. It is the Legislative Council's general policy that study orders be the legislative instrument for all legislative studies except when studies will: (a) be conducted by a blue ribbon commission or other group created by the Legislature that needs to include substantial membership by non-legislators; or (b) extend beyond the current legislative biennium.
2. Proposed study orders will be referred to joint standing committees for consideration and reported out in the same manner as legislation. Committees also may initiate and report out study orders on their own initiative consistent with Joint Rule 353, section 1.
3. Ordinarily, the presiding officers appoint the members of a study committee, including its chair or co-chairs. In most cases, chairs should be legislators. Also, in most cases, the presiding officers are not directed to make their appointments jointly.
4. Ordinarily, the size of a study committee is between 3 and 13 members and should consist entirely or mostly of legislators. In accordance with the Joint Rules, joint select committees usually consist of 10 members or less.
5. Legislative members, and non-legislative members (if any) who are not otherwise compensated for their time serving on the study committee, are entitled to receive a per diem and reimbursement of necessary expenses, as authorized by their respective presiding officers.
6. Study committees are required to complete their work before the start of a legislative session or to curtail their work during the session if it spans two or more sessions.

7. The Legislative Council may grant limited extensions to the report date for a study committee. However, studies established by joint order may not be extended beyond the current legislative biennium.
8. All study orders or legislation proposing legislative studies must be placed on a special study table in the Senate or in the House and reviewed by the Legislative Council for coordination with legislative priorities and allocation of staffing and budgetary resources to support the study request.
9. Studies will ordinarily be funded from a study line in the legislative budget.
10. Ordinarily, non-partisan employees of the Legislature provide staffing services for legislative studies. Staff and other professional services to the committee or commission are under the direction of the director of the office that provides the primary staffing.

LEGISLATIVE STUDIES

DRAFTING GUIDELINES

<u>Element of Study Order or Legislation</u>	<u>Sample Language</u>	<u>Comments</u>
<p>1. Selection of Legislative Vehicle</p> <ul style="list-style-type: none"> ◆ Five types of document may be used <p style="padding-left: 40px;">A. <u>Joint Study Order</u></p> <p>(This is the principal method of legislative study and is adaptable for most legislative studies. Particularly appropriate for a limited term study of a specific issue by a committee consisting wholly or mostly of legislators that reports back to the Legislature within the legislative biennium. A joint order study may include a minority of non-legislators as members who participate at the request of the Legislature.)</p>	<p>“Ordered, the (Senate or House) concurring, that the Joint Select Committee on Substance Abuse is established as follows.”</p> <p>or “...that the Joint Standing Committee on Fisheries and Wildlife (or a subcommittee) is directed to study the issue of the recodification of the state hunting and fishing laws as follows.”</p> <p>or...that the Legislative Study Committee on the Integration of Social Security and Maine State Retirement System Benefits is established as follows.”</p>	<ul style="list-style-type: none"> ◆ Must pass in each chamber only once (unless amended on the floor) ◆ Governor’s approval not needed ◆ Effective immediately, unless otherwise specified ◆ Appropriation/fiscal note not needed at time of passage ◆ Chair and all or most members are legislators ◆ Public and agency members may be invited but not compelled to serve ◆ Orders are printed in the Calendar and ordinarily are referred to committee. ◆ Introduction of legislation into another biennium requires legislative sponsor ◆ May authorize introduction of legislation directly by study group or by legislative committee without legislative sponsor; however, legislation is either “presented” or “reported” by a legislator ◆ Cannot authorize a committee in the next biennium to report out legislation ◆ Authority terminates with the end of the biennium; Legislative Council cannot extend

Element of Study Order or Legislation

Sample Language

Comments

B. Resolve

(Appropriate for limited-term studies for which the participation of a large proportion of non-legislators is necessary, when outside members may need to be compelled to participate or when the issue to be studied demands the creation of a task force or blue ribbon commission of high profile members. Also appropriate for non-legislative studies to be conducted by agencies with a report back to the Legislature.)

“Resolve, to Establish the Commission to Study Rate Setting and the Financing of Long-term Care Facilities”

NOTE: Unless otherwise noted in these guidelines, the term “study group” means, study committee, study commission, task force, work group, blue ribbon commission or study group.

- ♦ Governor’s approval or veto override needed
- ♦ Unless passed as an emergency, takes effect 90 days after adjournment
- ♦ May compel participation, assistance or other action by non-legislators
- ♦ May authorize introduction of legislation directly by study group or by legislative committee without legislative sponsor; however, legislation is either “presented” or “reported” by a legislator
- ♦ Appropriation/ Fiscal Note required

C. Public Law

(Appropriate for ongoing, periodic studies established in statute [e.g., judicial compensation], for studies that are an integral part of a bill creating a new program [e.g., learning results, electric utility deregulation] and when the issue to be studied demands the creation of a task force or blue ribbon commission of high profile members [e.g. workers’ comp reform].)

“An Act to Establish the State Compensation Commission”

- ♦ Governor’s approval or veto override needed
- ♦ Unless passed as an emergency, takes effect 90 days after adjournment
- ♦ May compel participation, assistance or other action by non-legislators
- ♦ May authorize introduction of legislation directly by study group or by legislative committee without legislative sponsor; however, legislation is either “presented” or “reported” by a legislator
- ♦ Appropriation/ Fiscal Note required

D. Letter request to Legislative Council

(Appropriate for use by joint standing committees or their subcommittees only. Use for limited duration studies.)

See Appendix I for the procedure to request approval from the Legislative Council for study.

<u>Element of Study Order or Legislation</u>	<u>Sample Language</u>	<u>Comments</u>
<p>E. <u>Special Committees</u> established pursuant to the presiding officer(s) order</p> <p>(Appropriate for use by the presiding officers to establish special committees to meet the study needs of the House and Senate, individually or jointly. Neither the Presiding Officers nor Legislative Council may establish Joint Select or Joint Standing Committees; That authority is reserved to the full Legislature.)</p>	See sample order.	Note: Joint standing committees may also study an issue during interim committee authorized by Joint Rule 315.
2. Establishment of Study Group		
A. <u>Order or Resolve</u>	“The (study group), referred to in this (order/resolve) as the (committee/commission/ task force/blue ribbon commission/etc.) is established.”	Not necessary when the study is to be assigned to an existing joint standing committee or a sub-committee of a joint standing committee. (See Appendix 1)
B. <u>Public Law</u>	“The (study group) established in Title 5, section___, subsection___, (boards and commission law) and referred to in this section as the “(committee/commission/ task force/blue ribbon commission/etc.)”, consists of (#) members appointed as follows:...”	
3. Appointment of Study Group Members		
◆ Specify total number of members, usually ranging from 3-13 members	“The (study group) consists of (#) members appointed as follows.”	Conduct of studies by joint standing committees or their subcommittees or by joint select committees consisting entirely of legislators is the method preferred by the Legislative Council See Joint Rule 353 (2).
◆ Describe the method of appointment or selection of members		
A. <u>Joint study order</u>	“The President of the Senate shall appoint (#) members and the Speaker of the House of	Unless specific circumstances warrant, the Presiding Officers should be the appointing

<u>Element of Study Order or Legislation</u>	<u>Sample Language</u>	<u>Comments</u>
	Representatives shall appoint (#) members to the (study group)."	authority for all members, but should not make appointments jointly.
B. <u>Resolve or bill</u>	"The (President of the Senate and Speaker of the House of Representatives, the Governor or other appointing authority) shall appoint (#) members to the (study group)."	
◆ Specify qualifications or affiliations of members	(Describe broad qualifications or other eligibility criteria, if any, e.g. membership on a joint standing committee, professional affiliation, or residency.)	Avoid appointment procedures that include narrow restriction to very specific membership slots or appointment by outside organizations
◆ Establish deadline for appointments	"All appointments must be made no later than 30 days following the (effective date of this resolve or Act/passage of this order)."	
◆ Establish terms and provide for filling vacancies	"All members must be appointed for (# of years or to coincide with the legislative biennium). A vacancy must be filled (specify manner)."	Ordinarily applies only to on-going study group established in statute
◆ Specify notification of appointments to administering authority	"The (appointing authorities) shall notify the (Executive Director of the Legislative Council or other administering authority) upon making their appointments."	
4. Selection of Chair		
◆ Designate the selection process or appointing authority	<p>"The first named Senate member is the Senate chair and the first named House of Representatives member is the House chair."</p> <p><u>(Alternatives to preferred approach:)</u> "The (Governor, the President of the Senate, Speaker of the House of Representatives or other authority) shall appoint the chair of the (study group)."</p>	Unless there is some compelling reason to do otherwise, appointment of study chair or co-chairs is by the presiding officers and is made at the same time the member appointments are made. If the study group consists of 5 or fewer members, one chair should be appointed by the presiding officer of the body in which the study order or legislation originates; otherwise the Senate President should appoint the Senate Chair

Element of Study Order or Legislation

Sample Language

Comments

and the Speaker the House Chair. See Joint Rule 353 (3). Avoid joint appointment of a chair.

or

“At its first meeting, the (study group) shall select a chair from among its members. Notice of selection of the chair must be given to the Executive Director of the Legislative Council.”

Use this method of chair appointment only for blue ribbon commissions or similar groups where there is a compelling reason for the group members to select the chair.

5. Convening of Study Group

◆ Specify who is to call first meeting

“When appointment of all members of the (study group) is completed, the (chair of the study group or chair of the Legislative Council) shall call and convene the (study group) for the first meeting...”

Ordinarily, the chair will do this. However, if the chair is to be selected by the members of the study group, the chair of the Legislative Council shall call and preside at the first meeting.

◆ Establish deadline for first meeting

“ ...which must be no later than (date).”

All study groups should, ordinarily, be convened by August 1 in the first session and by June 1 in the second session. However, studies should not be convened prior to legislative adjournment in order to avoid scheduling conflicts for legislators and staff.

6. Study Subject & Tasks

◆ State subject of study

“The (study group) shall study (subject of study)”

Unlike other legislation, study orders, resolves and legislation should include greater narrative description as to the purpose and scope of the matter to be studied. The purposes and charge of the study group should be specific enough for members to readily understand the nature and scope of the study and expected work products.

◆ Specify issues to be studied

“The (study group) shall examine the following issues: (list issues)”

Listing specific issues to be studied provides a clear legislative charge to the study group. It also will facilitate planning and preparation by

Element of Study Order or Legislation

Sample Language

Comments

- ◆ Specify tasks to be performed when studying the issue

“In examining these issues, the (study group) may:

- Hold (#) public hearings in (places);
- Hold informational sessions for discussions with (list of experts by generic identification); or representatives of programs undertaken in (list states or other jurisdictions) on (topics); etc.”
- Conduct, a (telephone survey or other interview) of (people or groups) on (information sought);
- Identify and summarize the legislative actions or governmental programs undertaken in (list states or other jurisdictions) on (topics); etc.”

“The (study group) shall (invite the participation of or offer the opportunity for) (entity) to submit comments on proposed recommendations of the study group.”

the chairs and staff before the first meeting.

Listing specific tasks to be performed will facilitate planning and preparation by the chairs and staff before the first meeting. Only those tasks that are essential to the charge of the study group should be mentioned.

Use with study orders when outside participation is necessary to direct the study group to invite the participation of entities that may assist the study group in its work.

7. Staffing

- ◆ Utilize non-partisan staff for legislative studies; (for non-legislative studies, executive agency or other personnel should be directed to staff the study group)

“Upon approval of the Legislative Council the (non-partisan office or offices) shall provide necessary staffing services to the (study group).”

Ordinarily, non-partisan staff will be assigned as primary staff to a study group only if the study is a legislative study.

or

- ◆ Direct another state agency to provide primary staff

“The (state agency) shall provide staff assistance to the (study group).”

Non-partisan staff resources ordinarily should not be committed to non-legislative studies. If it is necessary, they should be committed only during times when the Legislature is not in session.

- specify who is to provide assistance in drafting study legislation

“The (state agency) shall prepare any legislation recommended by the (study group).”

Element of Study Order or Legislation

Sample Language

Comments

<u>Element of Study Order or Legislation</u>	<u>Sample Language</u>	<u>Comments</u>
	or (For non-legislative studies)	
	“If the (study group) requires assistance with the preparation of any recommended legislation, it may request, and upon approval from the Legislative Council, receive such assistance from (non-partisan staff office or offices) staff.”	
- Specify who is to provide clerical assistance	“The (non-partisan staff office) or (state agency) shall provide clerical support to the (study group).”	
◆ Permit the employment of consultants or other staff assistance	“The (study group), with the approval of the Legislative Council, may contract with a (consultant or expert) to provide staffing or other professional services.”	Ordinarily, staffing will not be contracted, but will be provided by nonpartisan legislative staff for study activities. (designate as primary staff or cross-reference the pertinent study issues, tasks and products).

8. Compensation of Members

◆ Specify which members are eligible to receive per diem	“Legislative members are entitled to receive the legislative per diem and reimbursement for travel and other necessary expenses for their attendance at authorized meetings of the study group. Public members not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses and a per diem equal to the legislative per diem for their attendance at authorized meetings of (a study committee).”	This is consistent with Joint Rule 353 (5).
--	---	---

Element of Study Order or Legislation

Sample Language

Comments

9. Report & Study Group Termination

- ◆ Specify work products to be prepared by the study group

“The (study group) shall submit a report that includes its findings and recommendations, including suggested legislation, to the (specify which) Session of the (specify which) Legislature no later than (date). The (study group) is authorized to introduce legislation related to its report to the (specify session) Session of the (specify legislature) Legislature at the time of submission of its report.”
Alternative: “The (study group) is not authorized to introduce legislation.”

or

“The (study group) shall submit a report that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on (joint standing committee) and the Legislative Council by (date). The (study group) is not authorized to introduce legislation.” “Following receipt and review of the report, the (joint standing committee) may report out a bill to the (specify which) Session of the (specify which) Legislature.”

or

“The (study group) shall submit a report that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on (joint standing committee) and the Legislative Council by (date). The (study group) is authorized to introduce legislation related to its report to the (session) Session of the (specify) Legislature at

Reports and legislation are to be submitted by the first Wednesday in November preceding a 1st Regular Session or the first Wednesday in December preceding a 2nd Regular Session. These dates are to assure that the report will be prepared and submitted for review by Legislators before the start of the legislative session and to allow for timely preparation of any accompanying legislation. Due to their committee responsibilities, legislative analysts do not ordinarily staff study commissions during legislative sessions. See Joint Rule 353 (6) and (7).

Ordinarily, the reports should be submitted to the “Legislature.” The language should be specific as to whether the study group has authority to introduce legislation or whether it is prohibited from doing so. The deadline for submission of legislation should be concurrent with submission of the study report.

If, however, the scope of the study is so narrow as to affect only a joint standing committee, then the report may be submitted to the joint standing committee having jurisdiction over the relevant policy area. The language should be specific as to whether the study group has authority to introduce legislation or whether it is prohibited from doing so. Furthermore, the language should be specific as to whether the joint standing committee has authority to report out a bill.

Authority to introduce legislation should not be

<u>Element of Study Order or Legislation</u>	<u>Sample Language</u>	<u>Comments</u>
◆ Specify date for submission of work products to the Legislature and to whom the report or other work product is to be submitted	the time of submission of its report” (If the work product is not a report). “The (study group) shall submit (a questionnaire or survey summary, an informational booklet, legislation only, etc.) no later than (date).”	granted to both the study group and the joint standing committee. In addition, it should not be granted to joint standing committees jointly.
◆ Study Group Termination	“Upon submission of its required report(s), the study group terminates.”	
◆ Extension of reporting deadline	“If the (study group) requires a limited extension of time to conclude its study and make its report, it may apply to the Legislative Council, which may grant the extension.”	A report date should not be extended into a legislative session. A study group created by a joint study order cannot extend beyond the biennium because the authority granted by the Legislature for the joint study order lapses with the convening of the new legislature.

<u>Element of Study Order or Legislation</u>	<u>Sample Language</u>	<u>Comments</u>
10. Funding & Management of Study Expenses		
◆ Seek appropriation lines and figures from OFPR		This is included only if a study is not by joint study order.
◆ Specify the authority to administer the study group budget	<p>“The chair(s) of the (study group), with assistance from the (study group) staff shall administer the study budget. Within 10 days after its first meeting the (study group) shall present a work plan and proposed budget to the Legislative Council for approval. The (study group) may not incur expenses that would result in the study group exceeding its approved budget.”</p> <p>“Upon request from the (study group), the Executive Director of the Legislative Council or the Executive Director’s designee shall promptly provide the (study group) chair and staff with a status report on the study budget, expenditures incurred and paid and available funds.”</p>	Although the projected number of meetings will be a factor in determining the study budget, avoid specifying in the study instrument the specific number of meetings authorized. Allow the study group flexibility to operate within its budget.
◆ Indicate alternative ways the study group may be funded and whether it is precluded from using General Fund dollars	<p>“The chair(s) of the study group may seek and accept outside funding. Prompt notice of solicitation and acceptance of funds must be sent to the Legislative Council. All funds accepted must be forwarded to the Executive Director along with an accounting that includes amount, date received, from whom, purpose and limitation on use of the funds. The (Executive Director of the Legislative Council or other administering authority) administers any funds received. Expenses that have an effect on the General Fund may not be incurred by the (study group).”</p>	The general policy is to not allow solicitation or use of funds other than those appropriated or allocated by the Legislature. However, in the event that use of outside funding is appropriate and necessary, this language should be used.

Legislative Council-Authorized Studies

Requests for Studies

The joint standing committees of the Legislature may request authorization from the Legislative Council to conduct studies during the interim. These studies offer committees the opportunity to carry out research and evaluation on legislative matters of a scope and depth that is not possible during the sessions given legislator time constraints and availability of staff resources.

Limitations

Within the Legislature's budgetary and staff resources, the Council's general policy is to authorize interim studies to be conducted by a subcommittee of the joint standing committee. If appropriate, studies may be conducted by the full committee or by committee staff.

Staffing assistance to Committees

Studies conducted by joint standing committees or their subcommittees are staffed by members of the nonpartisan staff. The appropriate Office Director, in consultation with the Executive Director makes specific staffing assignments. Frequently, more than 1 committee analyst is assigned in order to draw on the expertise of various staff members and to provide adequate staffing levels during a study.

Procedures to Request Studies

Study requests must be made in writing to the Legislative Council and must follow applicable portions of the Drafting Guidelines for Legislative Studies approved by the Council, including those relating to study charge, convening of study groups, administration and reports.

Study requests must include the following (as applicable):

- Topic, policy area or nature of the problem to be studied
- Description of the tasks to be completed
- The proposed chair or chairs
- Number and identification of the members who will serve on the study
- Proposed study budget and workplan
- Number of and anticipated location of any public meeting(s) to be held
- Anticipated convening and completion dates of the study

Decisions by the Legislative Council

Ordinarily, the Council will decide requests for committee studies when it considers other requests for studies when reviewing the Study Table, pursuant to Joint Rule 353(8). The Council will convey its decision regarding committee study requests in writing to the chairs of the joint standing committee and committee staff in a timely manner.

SAMPLE

LEGISLATIVE INSTRUMENT

FOR AUTHORIZING STUDIES

SAMPLE JOINT ORDER (STUDY ORDER) CREATING A STUDY

STATE OF MAINE

—
**IN THE YEAR OF OUR LORD
TWO THOUSAND ONE**

In House _____

H. P. 1951

**Joint Study Order to Establish the Committee to Study Access
to Private and Public Lands in Maine**

WHEREAS, this joint study order establishes the Committee to Study Access to Private and Public Lands in Maine; and

WHEREAS, the charge of this committee is vital to the interests of Maine citizens and camp and business owners in this State; and

WHEREAS, the spring and summer months begin the seasons of peak use of the Maine woods for Maine citizens and tourists and, therefore, are the optimal time for the committee to study access issues; now, therefore, be it

ORDERED, the Senate concurring, that the Committee to Study Access to Private and Public Lands in Maine is established as follows.

- 1. Committee established.** The Committee to Study Access to Private and Public Lands in Maine, referred to in this order as the “committee,” is established.
- 2. Committee membership.** The committee consists of 6 members appointed as follows. The President of the Senate shall appoint 2 Senators; the Speaker of the House shall appoint 3 members of the House; and the Commissioner of Conservation is invited to participate as an ex officio member. When making the appointments, the President of the Senate and the Speaker of the House shall appoint at least one member of a party that does not hold the majority of seats in that body and shall give preference to members who serve the Joint Standing Committee on Agriculture, Conservation and Forestry.
- 3. Committee chair.** The first named Senator is the Senate chair of the committee and the first named member of the House is the House chair of the committee
- 4. Appointments; convening of committee.** All appointments must be made no later than 30 days following the effective date of this order. The appointing authorities shall notify the Executive Director of the

Legislative Council once all appointments have been made. When the appointment of all members has been completed, the chairs of the committee shall call and convene the first meeting of the committee, which must be no later than August 1, 2001.

5. Duties. The committee shall hold its meetings at various locations in the State, to be determined by the chairs. Geographic locations of meetings must be chosen to accommodate maximum participation by landowners and people using lands that are the subject of this study. The committee shall gather information and request necessary data from public and private entities in order to:

- A. Estimate the number of acres of land owned or controlled by landowners or landowner associations to which access is controlled by checkpoints, gates or other means and estimate the number of people accessing those lands, categorize the various uses of those lands and assess environmental damage and costs to landowners associated with public access to those lands;
- B. Determine the number of acres of land managed by the Bureau of Parks and Lands within the Department of Conservation or the Department of Inland Fisheries and Wildlife that are commonly accessed via roads on which checkpoints are located and fees are charged.
- C. Review existing fee structures for accessing lands beyond checkpoints operated by landowners or landowner associations and compare these fees and systems of public access to access and fee systems in other states; and
- D. Assess the need for legislation to ensure reasonable access to the public resources of this state.

6. Staff assistance. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the committee. The Legislative Information Office shall provide clerical services to the committee.

7. Compensation. Members of the committee are entitled to receive the legislative per diem and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the committee. Public members not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings of the committee.

8. Report. The committee shall submit its report that includes its findings and recommendations, including suggested legislation, to the Second Regular Session of the 120th Legislature no later than December 5, 2001. The committee is authorized to introduce legislation related to its report to the Second Regular Session of the 120th Legislature at the time of submission of its report.

9. Extension. If the committee requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension. Upon submission of its required report, the committee terminates.

10. Budget. The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for approval. The committee may not incur expenses that would

result in the committee's exceeding its approved budget. Upon request from the committee, the Executive Director of the Legislative Council shall promptly provide the committee chairs and staff with a status report on the committee's budget, expenditures incurred and paid and available funds.

G:\ARCHIVES\STUDIES\Legislative Studies Drafting Guidelines 03-28-01.doc (3/26/01 8:27 AM)

**LEGISLATIVE COUNCIL
REQUESTS TO INTRODUCE LEGISLATION
As of March 21, 2001**

Action

SPONSOR: Sen. Abromson, I. Joel

LR 2516 An Act to Amend the Review Criteria for Submerged
Leases of Coastal Waters

SPONSOR: Sen. Bennett, Richard A.

LR 2461 An Act to Amend the State's Deferred Compensation Plan

SPONSOR: Rep. Colwell, Patrick

LR 2489 Resolve, to Name Route One Between Bath and Brunswick
the Pearl Harbor Remembrance Highway

SPONSOR: Rep. Cote, William R.

LR 2518 An Act to Reinstate the Death Penalty

SPONSOR: Rep. Duprey, Brian M.

LR 2511 An Act to Prohibit the Provision of Health Insurance
Benefits in Connection with State Employment to Persons
Other than Employees, their Spouses and Dependents

SPONSOR: Rep. Gagne, Rosita

LR 2509 An Act to Stagger Registration Dates for Boat, Snowmobile
and Other Light Trailers

SPONSOR: Rep. Koffman, Theodore

LR 2483 Resolve to Create a Study Group on Smart Growth Policy

SPONSOR: Rep. Lemoine, David G.

LR 2514 An Act to Ensure Statewide Television Coverage for High
School Championship Basketball Games

SPONSOR: Rep. McNeil, Deborah Kaler

LR 2506 An Act to Establish a Lobster Research and Monitoring Fund

SPONSOR: Rep. Mendros, Stavros J.

LR 2521 An Act to Allow the Parents of Logan Marr to Sue
the Department of Human Services

SPONSOR: Rep. Michaud, Marc

LR 2520 An Act to Deregulate the All-terrain Vehicle Market

SPONSOR: Sen. Rotundo, Margaret

WITHDRAWN

LR 2486 An Act to Enhance Teacher Training and Recruitment Efforts

SPONSOR: Rep. Snowe-Mello, Lois A.

LR 2475 An Act to Amend the Laws Regarding Notification by State
Agencies to Landowners Prior to Entering Onto Their Land

SPONSOR: Rep. Trahan, A. David

LR 2494 An Act to Prohibit Municipalities From Putting Down Dogs for
Excessive Barking

SPONSOR: Rep. Twomey, Joanne T.

LR 2495 An Act to Prohibit Discrimination by Insurance Companies
on the Basis of Information Gained by Genetic Testing for
Breast Cancer

SPONSOR: Rep. Waterhouse, G. Paul

LR 2500 Resolution, Proposing an Amendment to the Constitution
of Maine to Require a 2/3 Vote for the Maine Government
Facilities Authority to Issue Securities

JOINT RESOLUTIONS

SPONSOR: Rep. Bunker Jr., George H.

LR 2468 JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND CONGRESS
OF THE UNITED STATES TO SUPPORT THE REFORM OF THE SOCIAL
SECURITY OFFSET REQUIREMENTS

SPONSOR: Sen. Michaud, Michael H.

LR 0993 JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED
STATE AND THE CONGRESS OF THE UNITED STATES TO SUPPORT PAY
EQUITY

TABLED BY THE LEGISLATIVE COUNCIL

SPONSOR: Rep. Bryant, Bruce S. **TABLED**
02/02/01

LR 2415 An Act to Ensure Public Participation in the Waiver
Process for Certificate of Need Review

SPONSOR: Sen. Kilkelly, Marge L. **TABLED**
02/21/01

LR 2460 An Act to Create the Maine Cattle Health Assurance Program

SPONSOR: Rep. Matthews, Zachary E. **TABLED**
01/31/01

LR 2361 An Act to Create a Tax Amnesty Day

SPONSOR: Rep. Snowe-Mello, Lois A. **TABLED**
02/21/01

LR 2433 An Act to Give Veterans Day Back to Veterans

SPONSOR: Rep. Thomas, Jonathan **TABLED**
02/21/01

LR 2457 An Act to Amend the Unemployment Insurance Compensation
Rates

SPONSOR: Rep. Tuttle, Jr., John L. **TABLED**
01/31/01

LR 2383 Resolve, Directing the State Auditor to Simplify the
Reporting Form for Candidates

SPONSOR: Rep. Tuttle, Jr., John L. **TABLED**
02/21/01

LR 2435 An Act to Name the Maine Turnpike the POW-MIA Memorial
Turnpike

ADDENDUM

**LEGISLATIVE COUNCIL
REQUESTS TO INTRODUCE LEGISLATION
March 27, 2001**

Action

SPONSOR: Rep. Cote, William R.

LR 2530 An Act to Establish Comprehensive Measures to Prevent Arson

SPONSOR: Sen. Kneeland, Richard

LR 2529 An Act to Authorize Northern Maine Technical College to Transfer Land to the City of Presque Isle to Ensure Road Safety

SPONSOR: Rep. Paradis, Jr., Rosaire

LR 2522 An Act to Designate the St. John Valley a Separate and Independent Tourism Area

JOINT RESOLUTION

SPONSOR: Sen. Michaud, Michael H.

LR 2525 JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES, THE ATTORNEY GENERAL OF THE UNITED STATES, THE SECRETARY OF TRANSPORTATION AND THE CONGRESS OF THE UNITED STATES TO IMPOSE A MORATORIUM ON MAJOR AIRLINE MERGERS