

MAINE STATE LEGISLATURE

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STATE OF MAINE
LEGISLATIVE RESEARCH COMMITTEE

Reports
to the
ONE HUNDRED AND FOURTH LEGISLATURE
Volume One

January, 1969

Legislative Research Committee

Publication 104-20 (Vol. I)

STATE OF MAINE
LEGISLATIVE RESEARCH COMMITTEE

REPORTS
TO THE
ONE HUNDRED AND FOURTH LEGISLATURE
VOLUME ONE

JANUARY, 1969
LEGISLATIVE RESEARCH COMMITTEE
PUBLICATION 104-20 (VOL. I)

LEGISLATIVE RESEARCH COMMITTEE

Senator Horace A. Hildreth, Jr., Falmouth, Chairman
 Resigned August 14, 1968
 Senator Kenneth P. MacLeod, Brewer, Chairman
 Elected September 19, 1968
 Representative Samuel A. Hinds, Vice Chairman

From the Senate:

Sam A. R. Albair, Caribou
 Armand Duquette, Biddeford
 Harvey Johnson, Smithfield
 Carlton D. Reed, Jr., Woolwich
 Appointed October 20, 1967
 Joseph Sewall, Old Town
 Appointed August 16, 1968
 Roger V. Snow, Jr., Falmouth
 Resigned October 18, 1967
 J. Hollis Wyman, Milbridge

From the House:

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Ex Officio:

Joseph B. Campbell, Augusta
 President of the Senate
 David J. Kennedy, Milbridge
 Speaker of the House

Office of Legislative Research:

Samuel H. Slosberg, Gardiner, Director
 David S. Silsby, Augusta, Assistant Director

Office of Legislative Finance:

Frederick W. Kneeland, Augusta, Finance Officer
 Resigned July 12, 1968
 William H. Garside, Augusta, Finance Officer
 Appointed July 17, 1968
 Samuel A. Hinds, Assistant Finance Officer
 Appointed November 20, 1968; Effective, January 1, 1969

LETTER OF TRANSMITTAL

January 1, 1969

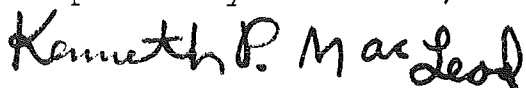
To the Members of the 104th Legislature:

It is my honor to transmit herewith the first volume of studies authorized by the 103rd Legislature for Legislative Research Committee study and determination during this past biennium.

This volume, designated as Legislative Research Committee publication 104-20 (Vol. I), combines in a single publication the findings and recommendations developed in ten specific areas of study which are individually reported in committee publications numbered 104-1 through 104-10.

The Members of the Committee wish to express their appreciation for being chosen to participate in these assignments and sincerely hope the reports contained herein will prove of benefit to the Members of the Legislature and the people of the State of Maine.

Respectfully submitted,



KENNETH P. MACLEOD, Chairman
Legislative Research Committee

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STATE OF MAINE
LEGISLATIVE RESEARCH COMMITTEE

REPORT ON
LEGISLATIVE PROCEDURES, SESSIONS AND COMPENSATION
to
ONE HUNDRED AND FOURTH LEGISLATURE

JANUARY, 1969
Legislative Research Committee
Publication 104-5

LEGISLATIVE PROCEDURES

SUBCOMMITTEE ON LEGISLATIVE PROCEDURES, SESSIONS AND COMPENSATION

CHAIRMAN - Raymond M. Rideout, Jr.

VICE CHAIRMAN - Rodney E. Ross, Jr.

David B. Benson

David J. Kennedy

Harrison L. Richardson

Carlton D. Reed, Jr.

Horace A. Hildreth, Jr., Ex Officio

Kenneth P. MacLeod, Ex Officio

ORDERED, the House concurring, that the Legislative Research Committee be directed to study the Rules of the Senate, the Rules of the House, and the Joint Rules, as well as the several statutes and the Constitution of the State of Maine, to determine any changes or improvements that might be made in the mechanics of legislative procedure to make them conform more closely to the requirements, necessities and practicalities of increased legislative workloads; and be it further

ORDERED, that the Committee be directed to report their findings and recommendations in the form of proposed orders or legislation, together with their reasons therefor, to the 104th Legislature.

The State of Maine has long enjoyed a high reputation for procedural efficiency in the conduct of its legislative affairs. Under the authority of the preceding joint legislative order, the Legislative Research Committee has studied existing rules and procedures with a view toward change or improvements which could further strengthen the effectiveness and expediency of the State's legislative process. The Committee fully recognizes the slow development of worthy improvements in rules and proceedings of the Legislature, and future progress in perfecting procedures will, as in the past, result only from continuous study and deliberations.

As changes in legislative machinery are generally more readily accepted by seasoned legislators, as opposed to freshmen members at the outset of a regular session, the Committee requested affirmative action on several proposals at the Second Special Session of the 103rd Legislature. The Committee Report, Legislative Research Committee Publication No. 103-17, now on file at the Maine State Library, adequately represents the Committee's progress in the first half of the biennium. The result of the Committee's endeavor through that report was the successful adoption of the following recommendations:

Joint Rule 17-A - Reports of Committees

Joint Rule 18-A - Debate and Amendment

Joint Rule 10 - Filing after cloture

Joint Rule 11 - Eliminating cosponsorship

House Rule 1 and Senate Rule 32, appointment of subordinate officers of the House and Senate.

Following these improvements the Committee resumed its deliberations through a number of workshops held on February 15th, March 14th, April 17th, June 26th and August 14th, 1968, in an effort to develop further recommendations over a wide range of legislative activity. During this series of meetings a number of interested persons appeared and testified and respected leaders and members of both branches of the Legislature were frequently consulted.

On the basis of its findings the Committee makes the following specific recommendations.

Recommendation;

House Rule 27-A (relevancy of debate) additional.

House Rule 27-A Debate must always have relation to some definite question which is under consideration and it shall be the duty of the Speaker to decide whether or not such debate is relevant.

This rule will give the Speaker of the House additional power and responsibility to limit debate to only that which is germane or has significant connection to the question before the House. It is anticipated that this rule will eliminate unnecessary delays in the process of debates with no appreciable infringement of rights.

Recommendation:

Joint Rule 17-B (Ought Not to Pass Referrals) Additional

"Joint Rule 17-B. Ought not to pass referrals. Any bill or resolve, which bears a unanimous ought not to pass notation by the committee to which it has been referred, shall be delivered to the Joint Standing Committee on Reference of Bills, which committee shall notify the house of origin of the delivery of such bill or resolve. No further action shall be taken on such bill or resolve unless within 10 calendar days after notification on the informational calendar a majority of the members of the house of origin sign a petition of discharge."

The informational calendar would be a new section of the printed daily calendar.

The unique feature of this rule is the anticipated time-saving in preventing unanimous ought not to pass (ONTP) reports of committees from going back before the Legislature, as has

been the custom, by requiring a signed petition within 10 days after delivery of the report to the Committee on Reference of Bills. Each session the Legislature spends useless hours debating bills of this nature.

A small minority finally do pass in some form, and this rule would provide a safety valve on those rare occasions when a committee unanimously misjudges the merits of a bill.

Recommendation:

Abolish the Campaign Reports Committee.

R. S., T. 21, §§1397 - 1401, repealed. Sections 1397 to 1401 of Title 21 of the Revised Statutes are repealed.

The Committee makes this recommendation in order to alleviate the meaningless, and for the most part, unenforceable practice of requiring candidates for office to furnish a special committee with certain financial information in respect to contributions and expenditures incident to their campaigns. Although this procedure may have merit as a theoretical barrier, in the mind of the candidate, against unethical financing, as a practical consideration the Committee finds no useful purpose to be served by continuing this procedure primarily because no candidate is knowingly expected to furnish information which

would incriminate or disqualify himself from office. The Committee therefore recommends that this process be abolished.

Recommendation:

To establish a new position of chief committee clerk. The members of this Committee are not entirely satisfied with the present standards and system of staffing the various joint standing committees. The Committee, after a careful review of this problem, suggests that the Legislature give serious consideration toward establishing a new position of chief committee clerk to recruit, supervise and guide standing committee personnel. The proposed clerk could also be of invaluable assistance by working in conjunction with legislative leadership to develop and provide for both the immediate and long-range needs of the Legislature for technical and specialized administrative assistance and continuity of service.

Recommendation:

To provide secretarial assistance to the presiding officers of both Houses. With the expanding responsibility of managing the Legislature it is necessary that both the President of the Senate and the Speaker of the House of Representatives be provided with a secretary to be selected and under the direct

supervision of the respective officers on a full-time basis.

In view of these recommendations the Legislative Research Committee submits the following proposals and urges their adoption:

STATE OF MAINE

ORDERED, that the house rules be amended by adding a new House Rule 27-A, to read as follows:

Debate must always have relation to some definite question which is under consideration and it shall be the duty of the Speaker to decide whether or not such debate is relevant.

STATE OF MAINE

ORDERED, the Senate concurring, that the joint rules be amended by adding a new Joint Rule 17-B, to read as follows:

17-B. Ought not to pass referrals. Any bill or resolve, which bears a unanimous ought not to pass notation by the committee to which it has been referred, shall be delivered to the Joint Standing Committee on Reference of Bills, which committee shall notify the house of origin of the delivery of such bill or resolve. No further action shall be taken on such bill or resolve unless within 10 calendar days after notification on the informational calendar a majority of the members of the house or origin sign a petition of discharge.

AN ACT Abolishing the Campaign Reports Committee.

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

R. S., T. 21, §§1397 - 1401, repealed. Sections 1397 to
1401 of Title 21 of the Revised Statutes are repealed.

LEGISLATIVE SESSIONS

ORDERED, the Senate concurring, that the Legislative Research Committee is directed to conduct a comprehensive study of an annual session system for the State. Said study to include a review of session systems and their operations in other states; and be it further

ORDERED, that the Committee report its findings, together with any necessary recommendations and implementing legislation, to the next special or regular session of the Legislature.

The Maine Legislature, after meeting annually for 59 years, by constitutional amendment adopted by the people, changed to biennial sessions commencing with the 60th Legislature, January 5, 1881. Shortly before this transition, Governor Alonzo Garcelon, in an 1879 inaugural address, summarized the thinking of the times:

The annual sessions of the Legislature now required by the Constitution is attended with great expense and it is believed a majority of the people demand a change of that instrument authorizing biennial sessions, as also a change in the time of holding elections. So great a savings, both in time and money, can be effected by such changes that I have no hesitation in recommending a submission of these questions to the decision of the people.

Now after a lapse of 87 years, the times again suggest constitutional change thereby permitting the Maine Legislature to revert to the original system of meeting annually in place of existing biennial sessions.

The major political parties of Maine in the text of their respective platforms for 1968 had this to say concerning annual

sessions of the Maine Legislature:

Republican -

. . . do pledge ourselves to the following purposes, beliefs and principals:

The Republican Party recognizes that in the foreseeable future the complexities of State Government and budgeting problems incident thereto will justify the increased costs involved in holding annual sessions of the Legislature.

Democratic -

. . . do hereby adopt our 1968 platform. In the name of good Government we call on all Maine citizens to support the following recommendations: An improved process which would enable voters to have their interests better represented in making legislative policy: Annual legislative sessions.

The appearance of such planks in both platforms supports a rising concern over the necessity for the Maine Legislature to meet again on an annual basis. It is logical for this Committee, which has been directed to study this subject, to assume from these statements that neither party is opposed to the ultimate benefits to be derived from annual

sessions. However, the Committee clearly recognizes the conflicting philosophies as to timing and justification of costs. As the pros and cons of this conflict are well documented in a previous Research Committee Report to the 97th Legislature, January, 1955, the Committee feels no necessity to cover the same ground.

Of all the various aspects in which the fifty state legislatures of the United States differ, perhaps the most significant is the arrangement they have for holding legislative sessions. Absent a specific constitutional provision, the Maine Legislature is possessed with no inherent power to convene itself in extraordinary session for any purpose. Although some states have power to do so conferred by constitutional provision, there is no such provision in the Constitution of Maine. The Legislature of Maine, therefore, can only convene at its regular biennial session or when called into session on extraordinary occasion by the Governor. By way of comparison, twenty-nine states meet biennially, twenty-six convene in odd years, while Kentucky, Mississippi and Virginia convene in even years. Of the remaining twenty-one with annual sessions, six are restricted to fiscal matters in the odd years.

The following chart gives the frequency and length of legislative sessions in 1967 for each of the fifty states.

<u>Frequency</u>	<u>Unlimited</u>	<u>90 or More Days</u>	<u>60-90 Days</u>	<u>Less Than 60 Days</u>
Annual regular sessions	Alaska California Kansas Massachusetts Michigan New Jersey New York Pennsylvania	Oklahoma Tennessee	Arizona Maryland Rhode Island	Georgia So. Carolina
Annual regular and budget sessions		Colorado Delaware	Hawaii Louisiana New Mexico West Virginia	
Biennial sessions	Illinois Iowa Maine Mississippi Nebraska Ohio Oregon Vermont Wisconsin	Connecticut Minnesota Missouri New Hampshire North Carolina Texas	Arkansas Florida Indiana Kentucky Montana Nevada North Dakota Utah Virginia Washington	Alabama Idaho So. Dakota Wyoming

Source: Advisory Commission on Intergovernmental Relations
Fiscal Balance in the American Federal System (Washington, D. C.,
 October, 1967) Vol. I, p. 237.

Although the national trend is toward a more even distribution and organization of session time, some states have found a reluctance on the part of the electorate toward change. In a general election in November, 1966, voters from Kentucky, North Dakota and Utah rejected amendments which would have established annual legislative sessions. In New Hampshire the voters approved annual sessions, only to have the State Supreme Court rule the amendment void due to ambiguous wording on the ballot.

Movements have been initiated in many states to secure annual sessions despite biennial session provisions. Illinois, Ohio, Tennessee, Vermont and Wisconsin have all instituted annual sessions for the 1967-68 biennium by employing the device of not adjourning their 1967 session sine die. Several states, including Texas and Missouri, pass annual budgets thereby requiring the Governor to call a special session in the other year.

With regard to the matter of special sessions, all state constitutions provide that their respective Governor may call the Legislature back into session. However, the converse, that the Legislature may call itself back into special session, is only existent in fifteen states, nine of which require an

extraordinary majority to do so.

The Committee after having heard public testimony and considering all aspects of this controversy, feels it is in the best interests of the State of Maine, regardless of future legislative action, that the Legislature itself should have the optional right of reconvention which in effect, would make annual sessions possible on the call of the President of the Senate and Speaker of the House as the situation requires and they deem necessary. For these reasons the Committee submits the following Resolve and recommends its adoption.

RESOLVE, Proposing an Amendment to the Constitution Providing for Convening of the Legislature at Such Times as the Legislature Deems Necessary.

Constitutional amendment. Resolved: Two-thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of this State be proposed:

Constitution, Article IV, Part Third, Section 1, amended.
Section 1 of Part Third of Article IV of the Constitution is amended to read as follows:

Section 1. To meet biennially. The Legislature shall convene on the first Wednesday of January biennially and, as provided by rule, at such other times as they deem necessary on the call of the President of the Senate and Speaker of the House, and, with the exceptions hereinafter stated, shall have full power to make and establish all reasonable laws and regulations for the defense and benefit of the people of this State, not repugnant to this Constitution, nor to that of the United States.

Form of question and date when amendment shall be voted upon. Resolved: That the aldermen of cities, the selectmen of towns and the assessors of the several plantations of this State are empowered and directed to notify the inhabitants of

their respective cities, towns and plantations to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of Senators and Representatives at the next general election in the month of November or special state-wide election on the Tuesday following the first Monday of November following the passage of this resolve, to give in their votes upon the amendment proposed in the foregoing resolution, and the question shall be:

"Shall the Constitution be amended as proposed by a resolution of the Legislature Providing for Convening of the Legislature at Such Times as the Legislature Deems Necessary?"

The inhabitants of said cities, towns and plantations shall vote by ballot on said question, and shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same. The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the office of the Secretary of State in the same manner as votes for Governor and Members of the Legislature, and the Governor and Council shall review the same, and if it shall appear that a majority of the inhabitants voting on the question are in favor of the

amendment, the Governor shall forthwith make known the fact by his proclamation, and the amendment shall thereupon, as of the date of said proclamation, become a part of the Constitution.

Secretary of State shall prepare ballots. Resolved:

That the Secretary of State shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing resolve, accompanied by a copy thereof.

LEGISLATIVE COMPENSATION

ORDERED, the Senate concurring, that the Legislative Research Committee be directed to study and review legislative compensation of this and other states to determine whether there are inequities in the amount paid in relation to the effort demanded and the ability required; whether policies regarding salary, per diem and living expense allowances which determine said compensation should be revised, adjusted or be more efficiently handled by other means, and to consider such other matters relating to salary, per diem and allowances as it deems necessary; and be it further

ORDERED, that the Committee report the results of its study to the 104th Legislature.

The Legislative Research Committee has studied the matter of legislative compensation as directed by joint order of the 103rd Maine Legislature and respectfully submits the following report of its findings and recommendations, including implementing legislation, for your favorable consideration.

As so ably stated by the Committee on Legislative Processes and Procedures of the National Legislative Conference. . . it is one of the justifiable boasts of American State Legislatures that the members are drawn from a great many walks of life. This is compatible both with the basic assumptions and aspirations of our democratic system and with the ever increasing interests which are involved in problems coming before the Legislature for solution. The levels of legislative compensation, accordingly, should not be such as to preclude able people who lack private means from serving in the Legislature because of financial sacrifice involved, or to force such people to find supplemental income from private interest groups or individuals. It is the public well-being which suffers most under such circumstances. In light of the costs of running for and then serving in the Legislature, some financial sacrifice is inevitable for most people. The goal should be to reduce this sacrifice in order to assure ample numbers of

qualified candidates and to assure their independence from undesirable interests.¹

The following table indicates specific salaries paid to Maine Legislators on an annual basis through 1880 and biennially thereafter. The table also reflects the rate of increase over the previous amount paid for each period in the development process:

<u>Legislative Years</u>	<u>Salary</u>	<u>Increase</u>
1820 - 1858	2.00/diem	.0
1859 - 1908	150.	.0
1909 - 1916	300.	150.
1917 - 1926	400.	100.
1927 - 1944	600.	200.
1945 - 1954	850.	250.
1955 - 1956	1,000.	150.
1957 - 1958	1,250	250.
1959 - 1960	1,400.	150.
1961 - 1964	1,600.	200.
1965 - 1968	2,000.	400.

¹National Legislative Conference, American State Legislators in the Mid-Twentieth Century, Final Report of the Committee on Legislative Processes and Procedures (Chicago: Council of State Governments, April 1961)

By way of comparison the Citizens Conference on State Legislatures reports that if all the states were ranked according to the level of legislative compensation, the median, or middle ranked states, would show a compensation figure of only \$4,800 in 1964 - 65. . . . that the median amount is considerably smaller than the average of \$7,185, and probably a more meaningful summary figure, since the average is strongly affected by the existence of a small number of states that pay rather high amounts to their legislators. . . . During the fifteen years from 1950 to 1965 the median biennial compensation in the fifty state legislatures went from \$1,456 to \$4,800. The Conference further indicated that in 1964 - 1965 the State of Michigan provided the highest compensation with \$25,000 and New Hampshire remained the national low at \$200 and for that same period of time.²

In view of these statistics, the rapidly rising demands on a state legislator's time both in and out of an expanding number of sessions, the constant swell in workloads and the personal sacrifice and resulting conflict involved, in the "citizen legislator" tradition, of attempting to carry on a fully

²Grum, John G. and Calvin W. Clark, Compensation for Legislators in the Fifty States, Kansas City, Missouri: CCSL, September 1966 pp. 28

responsible position in private business life while serving the needs of a legislative office, at a nominal remuneration, the Committee can only conclude by acknowledging the need for regular examination and adjustment where necessary of compensation levels of State Legislators, with extra compensation in the case of legislative leaders, in order that such levels be kept commensurate with the burdens and responsibilities of the times or at least so far as practical.

In order to reduce personal sacrifice in regard to housing and meal expenses for legislators, the 103rd Legislature has already seen fit to make the following adjustments which were passed and enacted under chapter 531 of the public laws of 1967.

1. Each member of the Senate and House of Representatives shall receive an allowance for meals in the amount of ~~\$5~~ \$7 for each day in attendance at sessions of the Legislature.
2. Each member occupying overnight accommodations away from home immediately preceding or immediately following attendance at daily sessions of the Legislature shall be reimbursed, under procedures governing state employees, for actual housing expenses not to exceed ~~\$7~~ \$9 per night.
3. In lieu of the reimbursement for actual housing expenses, each member shall be entitled to actual daily mileage allowances in an amount up to but not exceeding \$9 per day.

As to salaries for legislators, the Committee, with full awareness of the mounting burdens and responsibilities of serving in the Maine Legislature, unanimously recommends in the light of existing needs of State Government and the limits of funds available, that the salaries of legislators and presiding officers of this State be moderately increased to the extent of \$500 and respectfully submit the following legislation to accomplish that purpose.

AN ACT Increasing Compensation of Members of the Legislature.

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

Sec. 1. R. S., T. 3, §2, amended. The first sentence of section 2 of Title 3 of the Revised Statutes, as amended by section 2 of chapter 412 of the public laws of 1965, is further amended to read as follows:

Each member of the Senate and House of Representatives shall receive ~~\$2,700~~ \$2,500 for the regular session of the Legislature, and shall be paid for travel at each legislative session once each week at the same rate per mile to and from his place of abode as state employees receive, the mileage to be determined by the most reasonable direct route.

Sec. 2. R. S., T. 3, §2, amended. The 3rd paragraph of section 2 of Title 3 of the Revised Statutes, as amended by section 3 of chapter 412 of the public laws of 1965, is further amended to read as follows:

The President of the Senate and Speaker of the House of Representatives shall each receive ~~\$2,300~~ \$2,800 for each regular session of the Legislature, with the same mileage as other members, and subject to the same deduction in case of each absence. Any member acting as President pro tempore of the Senate, or Speaker pro tempore of the House, shall receive \$2 a day extra therefor.

Sec. 3. Appropriation. There is appropriated from the General Fund to the Legislative Appropriation the sum of \$91,500 for the fiscal year ending June 30, 1971 to carry out the purposes of this Act.

Sec. 4. Effective date. This Act shall take effect on the first Wednesday of January, 1971.