

MAINE STATE LEGISLATURE

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***Background Materials on
Proposed Legislative Studies***

***Please bring this binder to the
Council Meeting***

SEN. BEVERLY C. DAGGETT
CHAIR

REP. PATRICK COLWELL
VICE-CHAIR



121st MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. SHARON ANGLIN TREAT
SEN. PAUL T. DAVIS, SR.
SEN. KENNETH T. GAGNON
SEN. CHANDLER E. WOODCOCK
REP. JOHN RICHARDSON
REP. JOSEPH BRUNO
REP. ROBERT W. DUPLESSIE
REP. DAVID E. BOWLES

DAVID E. BOULTER
EXECUTIVE DIRECTOR

TO: Senate and House Chairs, Joint Standing Committee
121st Legislature

FROM: Beverly C. Daggett, Chair *B.C.D./rkm*
Legislative Council

Patrick Colwell *PC*
Vice-Chair
Legislative Council

DATE: April 22, 2004

SUBJECT: Notice of Legislative Study Table

Please be advised that on Monday, April 26, 2004 at 1:00 PM, the Legislative Council will review legislative studies that have been proposed during the Second Special Session.

As part of its deliberations, the Council will consider the necessity for each study and the availability of budgetary and staffing resources to support the study.

Committee chairs are welcome to attend the meeting as the Legislative Council does the Study Table on Monday. Chair will not be asked to present proposed studies but may be asked for clarification if Legislative Council members have any questions about the study proposals. A listing of the studies to be considered by the Legislative Council will be made available by the Executive Director's Office by noon on Friday, April 23rd.

If you have any questions, please speak with either one of us or contact the Executive Director's Office.

Thank you.

cc: Legislative Council Members
Joy O'Brien, Secretary of the Senate
Millicent MacFarland, Clerk of the House
David Boulter, Executive Director, Legislative Council
Legislative Council Office Directors

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SEN. BEVERLY C. DAGGETT
CHAIR

REP. PATRICK COLWELL
VICE-CHAIR



Lynn Randall
Legislative Council Info.

ARON ANGLIN TREAT
JL T. DAVIS, SR.
NNETH T. GAGNON

SEN. CHANDLER E. WOODCOCK
REP. JOHN RICHARDSON
REP. JOSEPH BRUNO
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REP. DAVID E. BOWLES

DAVID E. BOULTER
EXECUTIVE DIRECTOR

121st MAINE STATE LEGISLATURE

LEGISLATIVE COUNCIL

Memorandum

To: Senate Chairs and House Chairs
Joint Standing Committees
121st Maine Legislature

From: Beverly C. Daggett, Chair *BCD/sat*
Patrick Colwell, Vice-chair
Legislative Council

Date: April 15, 2004

Re: Committee priorities for proposed legislative studies

The Legislative Council will be meeting very soon to review legislative studies that have been proposed this session as well as requests to extend on-going legislative studies. Due to budgetary constraints, there is limited funding available for studies during this legislative interim. Therefore, it is unlikely that all requests for studies will be authorized. To assist the Legislative Council in its review, we request that the joint standing committees develop a list of priorities for studies proposed in their respective policy area. Each committee that has studies proposed in its policy area should submit its priorities for funding and a brief explanation of the priority ranking to the Legislative Council c/o the Executive Director's Office as soon as possible, but no later than Friday afternoon. A list of proposed studies sorted by committee is attached for your reference.

If you have any questions, please speak with your committee analyst.

Thank you.

Attachment

cc: Legislative Council Members
Dave Boulter, Executive Director
Committee Analysts

Maine State Legislature - Proposed Study Bills

Sort Fields: Policy Area LD

LD/Paper	Emer?	Bill Title	Study Type	Policy Area	Purpose	# Members / # Legislators	Start Date	Report Date(s)	Compensation/ Fiscal Costs	Staff	Notes
1 - LD1856	Y	An Act To Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners	Legislative	CRJ	Continuation of the Commission's examination of factors leading to prison overcrowding, the impact of current sentencing laws, the use of alternative sentences and ways to reduce recidivism.	23 / 6	Continuation	January 1, 2005: Criminal Justice and Public Safety Committee	Legislative per diem and expenses; public members may receive per diem and expenses Fiscal Costs: FY04 \$1,260.00 Source: GF FY05 \$3,780.00 Source: GF	Department of Corrections	This bill proposes to continue the work of the study commission.
2 - LD1903	N	An Act To Further Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners and the Recommendations of the Commission To Improve Community Safety and Sex Offender Accountability	Legislative	CRJ	Continue the work of the Commission with new duties assigned by law.	17 / 4	Continuation		Legislative per diem and expenses; public members may receive per diem and expenses Fiscal Costs: FY04 \$840.00 Source: GF FY05 \$2,520.00 Source: GF	State Planning Office	Please refer to LD 1856

Maine State Legislature - Proposed Study Bills

Sort Fields: Policy Area LD

LD/Paper	Emer?	Bill Title	Study Type	Policy Area	Purpose	# Members / # Legislators	Start Date	Report Date(s)	Compensation/ Fiscal Costs	Staff	Notes
3 LD0595	Y	An Act To Appropriate Funds for a Study To Determine the Feasibility of a Medical School in Maine	Legislative	HHS	Study the feasibility of a medical school in Maine to be located at the University of Maine or in conjunction with hospitals in Bangor	19 / 4	Not applicable		Not applicable Fiscal Costs: FY05 \$1,680.00 Source: OSR Contingent on funding through the Maine Area Health Education Center at UNE	UNE	
4 LD1823	Y	Resolve, Extending the Reporting Deadline for the Commission To Study Public Health	Legislative	HHS	Study obesity in the state and methods to decrease the cost of health care and improve public health	31 / 4	Continuation	November 3, 2004: First Regular Session of 122nd Legislature	Legislative per diem and expenses; public members may receive expenses and per diem Fiscal Costs: FY05 \$6,384.00 Source: OSR Sufficient funds remain to conduct the remaining meetings from the OSR funds that were contributed.	OPLA	The Legislative Council approved the extension of this study until November 3, 2004 by ballot on January 20, 2004.
5 LD1826	Y	An Act To Encourage the Proper Disposal of Expired Pharmaceuticals	Legislative	HHS	Work on implementation issues for the Unused Pharmaceutical Disposal Program	11 / 3	No later than September 30, 2004	January 31, 2005: Health and Human Services Committee	Legislative per diem and expenses; public members may receive per diem and expenses Fiscal Costs: FY05 \$2,860.00 Source: OSR Contingent on receipt of outside funding by September 15, 2004 to fully funds all costs of the implementation group.	Statewide association of medical professionals and OPLA	

Maine State Legislature - Proposed Study Bills

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6 LD1913	Y	An Act To Establish the Department of Health and Human Services	Committee	HHS	Meet during the interim to oversee the planning, service delivery and implementation of the newly created Department of Health and Human Services	13 / 13	Not specified	November 30, 2006: First Regular Session of the 123rd Legislature	Legislative per diem and expenses Fiscal Costs: FY05 \$5,460.00 Source: GF	OPLA	
7 LD1957	N	An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws	Legislative	JUD	Continue the work of the Committee to Study Compliance with the Freedom of Access Laws	16 / 2	Continuation	November 3, 2004: First Regular Session of the 122nd Legislature	Legislative per diem and expenses; public members may receive per diem and expenses Fiscal Costs: FY05 \$2,800.00 Source: GF \$2,800 available from unexpended balance. Sufficient to fund 4 additional meetings if meeting expenses are comparable to the first 4 meetings.	OPLA	This bill proposes to continue the work of the Committee to Study Compliance with the Freedom of Access Laws.
8 LD0746	N	Resolve, Directing the Joint Standing Committee on Taxation To Study the State's Participation in the National Streamlined Sales and Use Tax Agreement and Report Legislation Necessary To Bring the State into Conformity with That Agreement	Committee	TAX	Analyze and study conformity of the State's sales and use tax laws with the National Streamlined Sales and Use Tax Agreement.	13 / 13	Not applicable	December 1, 2004: First Regular Session of the 122nd Legislature December 1, 2004: Legislature	Legislative per diem and expenses Fiscal Costs: FY05 \$6,210.00 Source: GF	OFPR	

Maine State Legislature - Proposed Study Bills

Sort Fields: Policy Area LD

LD/Paper	Emer?	Bill Title	Study Type	Policy Area	Purpose	# Members / # Legislators	Start Date	Report Date(s)	Compensation/ Fiscal Costs	Staff	Notes
9 LD1813	N	An Act To Make Minor Substantive Changes to the Tax Laws	Legislative	TAX	Review the sales tax exemption for truck bodies and trailers manufactured in Maine	13 / 13	Not specified		Legislative per diem and expenses Fiscal Costs: FY05 \$5,460.00 Source: GF	OFPR	

Maine State Legislature - Proposed Study Bills

Sort Fields: Policy Area Paper Number

LD/Paper	Emer?	Bill Title	Study Type	Policy Area	Purpose	# Members / # Legislators	Start Date	Report Date(s)	Compensation/ Fiscal Costs	Staff	Notes
1 LD1915	N	Resolve, To Implement the Recommendations of the Commission To Study the Scope and Quality of Citizenship Education	Funding/Staff Request	EDU	Develop recommendations to assist the Department of Education in its review of learning results; examine the content of preservice education related to citizenship education and consider any implications for teacher certification; develop a plan for the creation of a civic education index to track data on civic skills, attitudes and behaviors of Maine youth and make recommendations on ways to promote voter education and registration for students in secondary schools	0 / 0	Not specified	January 15, 2005 Interim Report: Education Committee, State Board of Education and December 5, 2005 Final Report: Education Committee and State Board of Education	Not applicable Fiscal Costs: FY05 \$0.00 Source: Cannot be determined. Costs dependent on number of forums and number of legislators that will attend.	Department of Education and the State Board of Education	
2 LD1917	N	An Act To Implement the Recommendations of the Legislative Youth Advisory Council	Funding/Staff Request	EDU	Make recommendations on matters related to youth to the Legislature.	22 / 4	Continuation	Annually by February 15, 2005: Legislature	Legislative per diem and expenses Fiscal Costs: FY06 \$10,100.00 Source: GF Future Costs-additional costs beginning in FY 06 estimated to be \$10,100 each fiscal year.	Muskie School until July 1, 2005	Under this bill, beginning July 1, 2005, funding for the Youth Council becomes the responsibility of the Legislature.

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Maine State Legislature - Proposed Study Bills

Sort Fields: Policy Area Paper Number

LD/Paper	Emer?	Bill Title	Study Type	Policy Area	Purpose	# Members / # Legislators	Start Date	Report Date(s)	Compensation/ Fiscal Costs	Staff	Notes
4 LD1930	N	An Act To Promote Intergovernmental Cooperation, Cost Savings and Efficiencies	Funding/Staff Request	SLG	Work on ways to improve communication, cooperation and efficiencies within all three levels of government and provide state assistance to encourage regionalization and cost effective service delivery.	15 / 2	Not specified	Annually in January: State and Local Government Committee	Legislative per diem and expenses; public members may receive expenses Fiscal Costs: FY05 \$3,230.00 Source: OSR Ongoing Title V Commission: All OSR funds accepted by SLG Committee must be administered by the Executive Director of the Legislative Council. FY06 \$3,230.00 Source: OSR FY07 \$3,230.00 Source: OSR	Staffing indetermined - Executive Director to administer any funds received by the advisory group.	

Maine State Legislature - Proposed Study Bills

Sort Fields: Policy Area LD

LD/Paper	Emer?	Bill Title	Study Type	Policy Area	Purpose	# Members / # Legislators	Start Date	Report Date(s)	Compensation/ Fiscal Costs	Staff	Notes
1 LD1856 (p. 1)	Y	An Act To Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners	Legislative	CRJ	Continuation of the Commission's examination of factors leading to prison overcrowding, the impact of current sentencing laws, the use of alternative sentences and ways to reduce recidivism.	23 / 6	Continuation	January 1, 2005: Criminal Justice and Public Safety Committee	Legislative per diem and expenses; public members may receive per diem and expenses Fiscal Costs: FY04 \$1,260.00 Source: GF FY05 \$3,780.00 Source: GF	Department of Corrections	This bill proposes to continue the work of the study commission.
2 LD1903 (p. 5)	N	An Act To Further Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners and the Recommendations of the Commission To Improve Community Safety and Sex Offender Accountability	Legislative	CRJ	Continue the work of the Commission with new duties assigned by law.	17 / 4	Continuation	: Not specified	Legislative per diem and expenses; public members may receive per diem and expenses Fiscal Costs: FY04 \$840.00 Source: GF FY05 \$2,520.00 Source: GF	State Planning Office	Please refer to LD 1856

Maine State Legislature - Proposed Study Bills

Sort Fields: Policy Area LD

LD/Paper	Emer?	Bill Title	Study Type	Policy Area	Purpose	# Members / # Legislators	Start Date	Report Date(s)	Compensation/ Fiscal Costs	Staff	Notes
3 LD0595 (p.14)	Y	An Act To Appropriate Funds for a Study To Determine the Feasibility of a Medical School in Maine	Legislative	HHS	Study the State's current policies regarding the recruitment, retention and training of physicians, particularly in rural areas of Maine	19 / 4	30 days following appointment of all members	November 1, 2004: First Regular Session of the 122nd Legislature	Legislative per diem and expenses; public members may receive per diem and expenses Fiscal Costs: FY05 \$1,680.00 Source: OSR Contingent on funding through the Maine Area Health Education Center at UNE	UNE	
4 LD1823 (p.19)	Y	Resolve, Extending the Reporting Deadline for the Commission To Study Public Health	Legislative	HHS	Study obesity in the state and methods to decrease the cost of health care and improve public health	31 / 4	Continuation	November 3, 2004: First Regular Session of 122nd Legislature	Legislative per diem and expenses; public members may receive expenses and per diem Fiscal Costs: FY05 \$6,384.00 Source: OSR Sufficient funds remain to conduct the remaining meetings from the OSR funds that were contributed.	OPLA	The Legislative Council approved the extension of this study until November 3, 2004 by ballot on January 20, 2004.
5 LD1826 (p.23)	Y	An Act To Encourage the Proper Disposal of Expired Pharmaceuticals	Legislative	HHS	Work on implementation issues for the Unused Pharmaceutical Disposal Program	11 / 3	No later than September 30, 2004	January 31, 2005: Health and Human Services Committee	Legislative per diem and expenses; public members may receive per diem and expenses Fiscal Costs: FY05 \$2,860.00 Source: OSR Contingent on receipt of outside funding by September 15, 2004 to fully funds all costs of the implementation group.	Statewide association of medical professionals and OPLA	

Maine State Legislature - Proposed Study Bills

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6 LD1913 (p.35)	Y	An Act To Establish the Department of Health and Human Services	Committee	HHS	Meet during the interim to oversee the planning, service delivery and implementation of the newly created Department of Health and Human Services	13 / 13	Not specified	November 30, 2006: First Regular Session of the 123rd Legislature	Legislative per diem and expenses Fiscal Costs: FY05 \$5,460.00 Source: GF	OPLA	
7 LD1957 (p.49)	N	An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws	Legislative	JUD	Continue the work of the Committee to Study Compliance with the Freedom of Access Laws	16 / 2	Continuation	November 3, 2004: First Regular Session of the 122nd Legislature	Legislative per diem and expenses; public members may receive per diem and expenses Fiscal Costs: FY05 \$2,800.00 Source: GF \$2,800 available from unexpended balance. Sufficient to fund 4 additional meetings if meeting expenses are comparable to the first 4 meetings.	OPLA	This bill proposes to continue the work of the Committee to Study Compliance with the Freedom of Access Laws.
8 LD0746 (p.76)	N	Resolve, Directing the Joint Standing Committee on Taxation To Study the State's Participation in the National Streamlined Sales and Use Tax Agreement and Report Legislation Necessary To Bring the State into Conformity with That Agreement	Committee	TAX	Analyze and study conformity of the State's sales and use tax laws with the National Streamlined Sales and Use Tax Agreement.	13 / 13	Not specified	December 1, 2004: First Regular Session of the 122nd Legislature December 1, 2004: Legislature	Legislative per diem and expenses Fiscal Costs: FY05 \$6,210.00 Source: GF	OFPR	

Maine State Legislature - Proposed Study Bills

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LD/Paper	Emer?	Bill Title	Study Type	Policy Area	Purpose	# Members / # Legislators	Start Date	Report Date(s)	Compensation/ Fiscal Costs	Staff	Notes
9 LD1813 (p. 77)	N	An Act To Make Minor Substantive Changes to the Tax Laws	Legislative	TAX	Review the sales tax exemption for truck bodies and trailers manufactured in Maine	13 / 13	Not specified		Legislative per diem and expenses Fiscal Costs: FY05 \$5,460.00 Source: GF	OFPR	

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Sort Fields: Policy Area LD

LD/Paper Emer?	Bill Title	Study Type	Area	Purpose	# Legislators	Start Date	Report Date(s)	Fiscal Costs	Staff	Notes
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Maine State Legislature - Proposed Study Bills

Sort Fields: Policy Area LD

LD/Paper	Emer?	Bill Title	Study Type	Policy Area	Purpose	# Members / # Legislators	Start Date	Report Date(s)	Compensation/ Fiscal Costs	Staff	Notes
4 LD1930 (p.66)	N	An Act To Promote Intergovernmental Cooperation, Cost Savings and Efficiencies	Funding/Staff Request	SLG	Work on ways to improve communication, cooperation and efficiencies within all three levels of government and provide state assistance to encourage regionalization and cost effective service delivery.	17 / 2	Not specified	Annually in January: State and Local Government Committee	Legislative per diem and expenses; public members may receive expenses Fiscal Costs: FY05 \$3,230.00 Source: OSR Ongoing Title V Commission. All OSR funds accepted by SLG Committee must be administered by the Executive Director of the Legislative Council. FY06 \$3,230.00 Source: OSR FY07 \$3,230.00 Source: OSR	Staffing undetermined - Executive Director to administer any funds received by the advisory group.	

Interim Legislative Studies Authorized by Action of the 121st Legislature, Second Regular Session

Chapter #	LD/Paper	Emer?	Study Name	Policy Area	Purpose	Appointment Deadline	Start Date	Report Date	Fiscal Costs	Staff Requirements	# Mtgs	Staff Assigned
P.L. 2003, c. 492 (p.82)	LD0020	Y	Health Care System and Health Security Board	BAN	Develop recommendations to provide health care to all citizens of Maine	Not applicable	Continuation	November 1, 2004: First Regular Session of the 122 Legislature	PS AO Total	OPLA	3	
Resolve 2003, c. 76 (p.86)	LD1343	Y	Task Force to Study Parity and Portability of Retirement Benefits for State Law Enforcement Officers, Municipal and County Law Enforcement Officers and Firefighters	LAB	Examine issues related to retirement and health insurance benefits for state and municipal law enforcement officers and firefighters	No new appointments needed	Continuation	November 3, 2004: First Regular Session of the 122nd Legislature	PS AO Total	OPLA	2	
Resolve 2003, c. 95 (p.19)	LD0471	N	Commission to Study Public Health	HHS	Study obesity in the State and methods to decrease the cost of health care and improve the public health.	No new appointments needed	Continuation (Council approved extension of study by ballot on Jan. 20, 2004.	November 3, 2004: Legislature	PS AO Total	OPLA	2	

Legislative Council Meeting
April, 2004
Review of Legislative Study Requests

Requirements relevant to Studies in the Second Special Session

1. Under the terms of the Joint Rules of the 121st, section 353, all joint orders and legislation proposing legislative studies regardless of funding source must be placed on a special study table. The legislative Council must review proposed studies and establish priorities for allocation of budgetary and staffing resources.

For studies authorized by the Legislative Council, the Legislative Council must provide funds sufficient to enable the committee to reasonably conduct and complete the requirement of the studies.

2. Also under the Joint Rules, The Legislative Council must adopt guidelines for studies. The Legislative Council unanimously adopted guidelines for the 121st Legislature on January 28, 2003. Among other things, the guidelines specify manner of appointment, selection of chair, compensation of members and report date.

Suggested Protocol for deciding legislative bill requests

- A. The Legislative Council will review study requests alphabetically by policy area.
- B. Voting will be by a show of hands, with each Council Member's vote on each bill being recorded. The record of each vote will be made available for public inspection following the meeting.
- C. Committee chairs and others are welcome to observe the Council's deliberations on the study requests, but discussion of the requests will be confined to Council Members. However, Legislative Council members may ask questions of committee chairs and other Legislators regarding the proposed study.
- D. Unless otherwise specified by the Legislative Council, authorized studies are to be drafted consistent with applicable guidelines approved by the Council. Floor amendments to authorized studies making Council-authorized changes will be prepared in the name of the Chair of the Legislative Council except for studies tabled in the House which will be in the name of the Vice-chair of the Council.

Policy Issues Needing Decision

- a) **Number of authorized meetings and meeting location-Recommendation:** Number of meetings not to exceed 4 and meetings to be held in Augusta area unless the Legislative Council specifies otherwise.
- b) **Compensation of Members-Recommendation:** Legislators receive per diem and reimbursement of necessary expenses; other members not otherwise compensated are eligible for reimbursement of necessary expenses, and a per diem only upon a bona fide demonstration of financial hardship.
- c) **Studies conducted using non-General Fund sources-Recommendation:** Study committee may not convene until sufficient funds are received to pay for the study.
- d) **Preferred legislative instrument for establishing study committees-Recommendation:** Use joint study orders, rather than resolves, when feasible.

LD 1856

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOUR
—

H.P. 1382 - L.D. 1856

**An Act To Implement the Recommendations of the Commission
To Improve the Sentencing, Supervision, Management and
Incarceration of Prisoners**

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

Whereas, the Commission to Improve the Sentencing, Supervision, Management and Incarceration of Prisoners was established by the Legislature to examine the factors leading to prison overcrowding, the impact of current sentencing laws, the use of alternative sentences and the means to reduce recidivism, in particular recidivism caused by mental illness and substance abuse; and

Whereas, the commission has submitted its report to the Legislature, including recommendations to apply immediate solutions to the factors contributing to jail and prison overcrowding; however, additional research and deliberation are necessary to examine the impact of current sentencing laws on prisoner populations, to address the issues of mental illness in the criminal justice system and to enhance juvenile delinquency prevention and diversion from the criminal justice system; and

Whereas, in order to continue the work of the commission and to address these compelling issues, an extension in its reporting deadline is required; and

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

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

Sec. 1. PL 2003, c. 451, Pt. K, §2, sub-§1 is amended to read:

1. **Initial commission membership.** The commission consists of 17 initial members appointed as follows:

- A. Two members of the Senate appointed by the President of the Senate;
- B. Two members of the House of Representatives appointed by the Speaker of the House;
- C. The Attorney General or a designee;
- D. The Commissioner of the Department of Corrections or a designee;
- E. The Commissioner of Behavioral and Developmental Services or a designee;
- F. A representative of Adult Community Corrections appointed by the Commissioner of Corrections;
- G. A representative of a statewide association of prosecutors nominated by the association and appointed by the Governor;
- H. A representative of a statewide association of county commissioners nominated by the association and appointed by the Governor;
- I. A representative of a statewide association of county sheriffs nominated by the association and appointed by the Governor;
- J. A representative of a statewide association of criminal defense lawyers appointed by the Governor;
- K. A member of the public appointed by the Governor; and
- L. A representative of a statewide membership organization representing people with mental illness and their families appointed by the Governor.

The commission shall ask the Chief Justice of the Supreme Judicial Court to serve or name a designee to serve as a voting

member of the commission and to appoint 2 trial judges or their designees to serve as voting members of the commission.

Sec. 2. PL 2003, c. 451, Pt. K, §2, sub-§1-A is enacted to read:

1-A. Additional members; appointments. In addition to the commission members in subsection 1, the commission includes 6 members appointed as follows:

A. One member of the Senate representing the political party holding the 2nd-largest number of seats in the Senate, appointed by the President of the Senate;

B. One member of the House of Representatives representing the political party holding the 2nd-largest number of seats in the House, appointed by the Speaker of the House;

C. One representative of the Maine Chiefs of Police Association, appointed by the President of the Senate;

D. One representative of people who provide direct support services to victims of sexual assault, appointed by the President of the Senate;

E. One representative of people who provide direct support services to victims of domestic violence, appointed by the Speaker of the House; and

F. The Commissioner of Inland Fisheries and Wildlife or the commissioner's designee.

Appointments must be made pursuant to this subsection no later than 15 days following adjournment of the Second Special Session of the 121st Legislature. Legislators serving on the commission may continue to serve until the commission completes its work, regardless of whether those Legislators are elected to serve in November 2004.

Sec. 3. PL 2003, c. 451, Pt. K, §2, sub-§2 is amended to read:

2. Appointments; chair; meetings. All Except as provided in subsection 1-A, all appointments must be made no later than 30 days following the effective date of this Act. The Governor shall appoint a chair from among the membership of the commission, who shall call and convene the first meeting of the commission no later than 15 days after appointments of all members. The commission may held-a-total-of-6-meetings--one-of

~~which may be a public hearing~~ meet as often as necessary to complete its final report within authorized resources.

Sec. 4. PL 2003, c. 451, Pt. K, §2, sub-§6 is amended to read:

4. **Staff assistance.** The ~~State Planning Office~~ Department of Corrections shall provide staffing assistance.

Sec. 5. PL 2003, c. 451, Pt. K, §2, sub-§6 is amended to read:

6. **Initial report to address immediate needs.** The commission shall submit ~~a~~ an initial report that includes its findings and recommendations, including legislation, to the joint standing committee of the Legislature having jurisdiction over ~~sentencing policies during the Second Regular Session of the 121st Legislature~~ criminal justice and public safety matters no later than ~~December 3, 2003~~ February 2, 2004. The commission is authorized to introduce legislation related to its report to the Second Regular Session of the 121st Legislature at the time of submission of its report.

Sec. 6. PL 2003, c. 451, Pt. K, §2, sub-§7 is enacted to read:

7. **Authorized duties; nonlapsing funds.** The commission is authorized to conduct any additional work authorized by law within its budgeted resources. Any unencumbered balance of General Fund appropriations originally appropriated to support the work of the commission that remain on June 30, 2004 within the Department of Corrections may not lapse but must be carried forward to June 30, 2005 to be used for the same purpose.

Sec. 7. **Final report to address long-term needs.** The Commission to Improve the Sentencing Supervision Management and Incarceration of Prisoners that was established in Public Law 2003, chapter 451, Part K, section 2 shall submit a final report to address long-term needs that includes its findings and recommendations, including legislation, to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters during the First Regular Session of the 122nd Legislature no later than January 1, 2005.

Sec. 8. **Retroactivity.** This Act applies retroactively to December 3, 2003.

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

LD 1903

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOUR

H.P. 1409 - L.D. 1903

An Act To Further Implement the Recommendations of the
Commission To Improve the Sentencing, Supervision,
Management and Incarceration of Prisoners and the
Recommendations of the Commission To Improve Community
Safety and Sex Offender Accountability

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

PART A

Sec. A-1. 4 MRSA §422, sub-§1, as enacted by PL 1999, c. 780, §1, is repealed and the following enacted in its place:

1. Coordinator of Diversion and Rehabilitation Programs.
The judicial branch shall employ a Coordinator of Diversion and Rehabilitation Programs. The Coordinator of Diversion and Rehabilitation Programs is responsible for helping the judicial branch establish, staff, coordinate, operate and evaluate diversion and rehabilitation programs in the courts.

Sec. A-2. 4 MRSA §422, sub-§2, as enacted by PL 1999, c. 780, §1 and amended by PL 2001, c. 354, §3, is further amended to read:

2. Pass-through services. The Administrative Office of the Courts, with the assistance of the ~~Drug--Court~~ Coordinator of Diversion and Rehabilitation Programs, may enter into cooperative agreements or contracts with:

A. The Department of Behavioral and Developmental Services, Office of Substance Abuse or other federal-licensed treatment providers or state-licensed treatment providers to provide substance abuse services for alcohol and drug treatment program participants. To the extent possible, the

this account only for adult or juvenile community corrections as defined in subsection 1.

Before distributing to a county that county's entire distribution from the County Jail Prisoner Support and Community Corrections Fund, the department shall require that county to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections as defined in subsection 1. If a county fails to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections, the department shall distribute to that county only 80% of its distribution from the County Jail Prisoner Support and Community Corrections Fund. The department shall distribute the 20% not distributed to that county to all other counties that submit appropriate documentation verifying compliance with the 20% expenditure requirement for the purpose of community corrections. The department shall distribute these funds to those qualifying counties in an amount equal to each county's percent distribution pursuant to subsection 3.

Sec. A-21. 34-A MRSA §3036-A, sub-§2, ¶C, as enacted by PL 1991, c. 845, §4, is amended to read:

C. A Except as provided in paragraph C-1, a prisoner may not be transferred to supervised community confinement unless the prisoner has no more than one year remaining on the term of imprisonment or, in the case of a split sentence, on the unsuspended portion, after consideration of any deductions that the prisoner has received and retained under Title 17-A, section 1253.

Sec. A-22. 34-A MRSA §3036-A, sub-§2, ¶C-1 is enacted to read:

C-1. If the commissioner determines that the average statewide probation case load is no more than 90 probationers to one probation officer, then a prisoner may be transferred to supervised community confinement if that prisoner has no more than 2 years remaining on the term of imprisonment or, in the case of a split sentence, on the unsuspended portion, after consideration of any deductions that the prisoner has received and retained under Title 17-A, section 1253.

Sec. A-23. PL 2003, c. 451, Pt. K, §2, sub-§6 is amended to read:

6. **Initial report to address immediate needs.** The commission shall submit -a- an initial report that includes its

findings and recommendations, including legislation, to the joint standing committee of the Legislature having jurisdiction over ~~sentencing policies during the Second Regular Session of the 121st Legislature~~ criminal justice and public safety matters no later than ~~December 3, 2003~~ February 2, 2004. The commission is authorized to introduce legislation related to its report to the Second Regular Session of the 121st Legislature at the time of submission of its report.

Sec. A-24. PL 2003, c. 451, Pt. K, §2, sub-§7 is enacted to read:

7. Authorized duties; nonlapsing funds. The commission is authorized to conduct any additional work authorized by law within its budgeted resources. Any unencumbered balance of General Fund appropriations originally appropriated to support the work of the commission that remain on June 30, 2004 within the Department of Corrections may not lapse but must be carried forward to June 30, 2005 to be used for the same purpose.

Sec. A-25. Addressing mental illness in prisons and jails. No later than July 1, 2004, the Department of Corrections and the Department of Behavioral and Developmental Services shall develop a joint plan of action to address mental illness in the criminal justice community. In developing the plan the departments shall invite the Maine Sheriffs' Association to participate. The plan will be delivered to the Commission to Improve the Sentencing, Supervision, Management and Incarceration of Prisoners. No later than January 1, 2005, the Department of Corrections and the Department of Behavioral and Developmental Services shall present the plan to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.

Sec. A-26. Review of probation case load. No later than July 1, 2004, the Department of Corrections, Adult Community Services Division shall direct each probation officer to review that officer's own case load to identify and proceed with those cases appropriate for early termination. An application for early termination must include the reasons for recommending early termination. The victim and the prosecuting attorney must be notified of the filing of the application. Judges and prosecutors are urged to give deference to these applications. The department shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by February 1, 2005 on the numbers of applications for early termination that were filed, the number of cases that were reviewed by the court and the number of cases terminated from July 1, 2004 to December 31, 2004.

LD 1915

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOUR

H.P. 1417 - L.D. 1915

Resolve, To Implement the Recommendations of the Commission
To Study the Scope and Quality of Citizenship Education

PART A

Sec. A-1. Considering citizenship education during review of system of learning results. Resolved: That the Department of Education shall consider the recommendations of the Commission to Study the Scope and Quality of Citizenship Education, established in Resolve 2003, chapter 85, related to implications for the system of learning results when the department reviews the guiding principles, the performance standards and the content indicators of the system of learning results beginning during the 2003-2004 school year in accordance with the Maine Revised Statutes, Title 20-A, section 6209, subsection 4; and be it further

Sec. A-2. Statewide public forums for youth. Resolved: That the Legislative Youth Advisory Council shall conduct a series of statewide public forums on issues important to youth and invite Legislators from the various regions of the State to participate in these public forums. The Legislative Youth Advisory Council shall submit a report including its findings and recommendations no later than January 15, 2005 to the Governor, the joint standing committee of the Legislature having jurisdiction over education matters, the Judicial Department and the Task Force on Citizenship Education established in Part B, section 1.

PART B

Sec. B-1. Task Force on Citizenship Education established. Resolved: That the Department of Education and the State Board of Education shall jointly establish and provide support for the Task Force on Citizenship Education, referred to in this resolve as "the task force." The task force shall address the recommendations of the Commission to Study the Quality and Scope of Citizenship Education, which was established pursuant to Resolve 2003, chapter 85, including, but not limited to, the following components:

1. Developing recommendations to assist the Department of Education in its review of the guiding principles, the performance standards and the content indicators of the system of learning results, beginning with the 2003-2004 school year;

2. Engaging state and local educational agency officials, educators, college officials, researchers, policy makers and other key stakeholders in an effort to research, produce and disseminate a resource guide to effective citizenship education in the State;

3. Examining the content of preservice education in this State related to citizenship education and considering any implications for teacher certification;

4. Developing a plan for the creation of a civic education and citizenship engagement index to track data on civic skills, attitudes and behaviors of youth in this State. The task force shall review the North Carolina Civic Index and other measures of citizenship engagement and coordinate the development of an index in this State that builds upon the work begun by the Muskie School of Public Service in establishing Maine Marks: Social Indicators of Child, Family and Community Well-being and the Maine Economic Growth Council;

5. Examining in-service professional development programs for educators in this State and identifying ways to infuse civic skills, attitudes and behaviors into curricular and cocurricular programs for students in this State; and

6. Examining national voter education and voter registration models and making recommendations to the Secretary of State on ways to promote voter education and voter registration efforts for students in our secondary schools across the State; and be it further

Sec. B-2. Report; legislation. Resolved: That the task force shall submit an interim status report including any preliminary findings and recommendations to the joint standing committee of the Legislature having jurisdiction over education matters, to the Commissioner of Education and to the State Board of Education no later than January 15, 2005.

The task force shall submit its final report, including findings, recommendations and suggested legislation, to the joint standing committee of the Legislature having jurisdiction over education matters, the Commissioner of Education and the Chair of the State Board of Education no later than December 5, 2005. The joint standing committee of the Legislature having jurisdiction over education matters has authority to report out legislation based on the report to the Second Regular Session of the 122nd Legislature.

LD 1917

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOUR

H.P. 1419 - L.D. 1917

An Act To Implement the Recommendations of the Legislative
Youth Advisory Council

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

Sec. 1. 3 MRSA §168-A, sub-§10, as amended by PL 2003, c. 20, Pt. F, §3, is further amended to read:

10. Staff. The Edmund S. Muskie School of Public Service shall provide funding and staff assistance to the council from within its existing budgeted resources or from grants received by the school for that purpose until expiration of the cooperative agreement between the Legislative Council and the Edmund S. Muskie School of Public Service on June 30, 2005. Beginning July 1, 2005, the Legislative Council shall provide staffing assistance to the council. That assistance may not interfere with the staff support the Legislative Council provides to the Legislature. The Office of Policy and Legal Analysis shall draft all legislation submitted to the Legislature by the council.

Sec. 2. 22 MRSA §3-A, as amended by PL 1971, c. 622, §69-D, is further amended to read:

§3-A. State wards

When a state ward becomes 18 years of age and he the state ward and the department agree that need for care and support for educational, social or physical reasons exists, the department is authorized to continue care and support of this person up to the age of 21 years.

1. Continued support for certain state wards who reach 21 years of age and are enrolled in postsecondary education programs. When a state ward who is enrolled in a postsecondary education program becomes 21 years of age prior to the completion of the postsecondary education program, the department is authorized, at its discretion and by agreement with that state ward, to continue providing support for room, board and related education expenses until the state ward becomes 23 years of age. Funds allocated under this subsection must come from an identified education and training account specifically established for the postsecondary education-related costs of state wards after they become 21 years of age and before they become 23 years of age.

Sec. 3. Participation in school activities by students residing with other than parent or parents. The Department of Human Services, the Department of Behavioral and Developmental Services and the Department of Education shall jointly study the impact of school parental consent requirements on opportunities for students residing with other than the parent or parents to participate in extracurricular and off-site school activities, identify barriers to participation in such activities by those students and develop a plan to address identified needs. In conducting the study, the departments shall solicit input from students residing with other than the parent or parents. The departments shall submit a written report on the results of the study, including suggested implementing legislation, to the Legislative Youth Advisory Council not later than December 15, 2004. Upon request of the council, a representative of each department shall appear before the council to discuss the study.

Sec. 4. Qualification for driver's licenses by youth residing in group homes. The Secretary of State and the Department of Human Services shall jointly study the process for issuance of driver's licenses to youth and review experiences of and identify barriers to youth residing in group homes in obtaining driver's licenses and develop a plan to address identified needs. In conducting the study, the Secretary of State and the department shall solicit input from students residing in group homes. The Secretary of State and the department shall submit a written report of their study, including suggested implementing legislation, to the Legislative Youth Advisory Council not later than December 15, 2004. Upon request of the council, a representative of the Office of the Secretary of State and a representative of the department shall appear in person before the council to discuss the study.

Sec. 5. Legislative Youth Advisory Council funding. On July 1, 2005, following expiration of the cooperative agreement

between the Legislative Council and the Edmund S. Muskie School of Public Service by which the Legislative Council provided funding to the Edmund S. Muskie School of Public Service in the amount of \$26,300 to be used for the expenses of the Legislative Youth Advisory Council for fiscal years 2003-04 and 2004-05, the Legislature shall provide funding for the expenses of the council.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

HUMAN SERVICES, DEPARTMENT OF

Child Welfare Services - Education and Training Account 0139

Initiative: Provides base allocations in the event that funds are received for a new education and training account established for the postsecondary education-related costs of state wards after they become 21 years of age and before they become 23 years of age.

Federal Expenditures Fund	2003-04	2004-05
All Other	\$0	\$500
	<hr/>	<hr/>
Federal Expenditures Fund Total	\$0	\$500

Other Special Revenue Funds	2003-04	2004-05
All Other	\$0	\$500
	<hr/>	<hr/>
Other Special Revenue Funds Total	\$0	\$500

**HUMAN SERVICES, DEPARTMENT OF
DEPARTMENT TOTALS**

	2003-04	2004-05
FEDERAL EXPENDITURES FUND	\$0	\$500
OTHER SPECIAL REVENUE FUNDS	0	500
	<hr/>	<hr/>
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$1,000

MICHAEL F. BRENNAN, DISTRICT 27, CHAIR
 JOHN L. MARTIN, DISTRICT 1
 CAROL WESTON, DISTRICT 11



STATE OF MAINE

THOMAS J. KANE, SACO, CHAIR
 EDWARD R. DUGAY, CHERRYFIELD
 MARGARET M. CRAVEN, LEWISTON
 WILLIAM M. EARLE, DAMARISCOTTA
 WILLIAM R. WALCOTT, LEWISTON
 ANNE C. PERRY, CALAIS
 THOMAS F. SHIELDS, AUBURN
 DARLENE J. CURLEY, SCARBOROUGH
 JAMES J. CAMPBELL, SR., NEWFIELD
 SARAH O. LEWIN, ELIOT

JANE ORBETON, LEGISLATIVE ANALYST
 LUCIA NIXON, LEGISLATIVE ANALYST
 TIFFANY LEONARD, COMMITTEE CLERK

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
 COMMITTEE ON HEALTH AND HUMAN SERVICES

To: The Honorable Beverly C. Daggett, President of the Senate
 The Honorable Patrick Colwell, Speaker of the House
 121st Maine State Legislature

From: Michael F. Brennan, Senate Chair
 Thomas J. Kane, House Chair
 Joint Standing Committee on Health and Human Services

Date: April 16, 2004

Re: Priorities for Studies

This memorandum is in response to the memo to chairs dated April 15 asking for priorities among studies in a committee's jurisdiction.

The Health and Human Services Committee has one request for a legislative study in 2004, the Maine Drug Return Implementation Group. This study is contained in LD 1826, An Act to Encourage the Proper Disposal of Unused Pharmaceuticals. The study is contingent on receipt of outside funding and does not require any General Fund dollars.

LD 1913, An Act to Establish the Department of Health and Human Services, also appears on the list of proposed studies. LD 1913 authorizes the Health and Human Services Committee to meet as needed, but no fewer than 3 times, during the interim to oversee planning and implementation issues relating to the creation of the new department.

We appreciate your consideration of our priorities for the LD 1826 study and the interim committee meetings related to LD 1913.

Thank you.

cc: David E. Boulter, Executive Director
 Health and Human Services Committee members

G:\COMMITTEES\HUM\CORRESP\2004 study priorities.doc

LD 595

Drafter: JKD
February 27, 2004.

PROPOSED COMMITTEE AMENDMENT TO LD 595 *for 6783*

Sponsor: _____

Amend the bill by striking the title and replacing it with the following:

“Resolve, To Create the Commission to Study the Recruitment, Retention and Training of Physicians

Further amend the bill striking everything following the title and before the summary and inserting the following:

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

Whereas, it has been reported that many hospitals and towns in rural areas of the State are unable to attract enough physicians and must rely on programs that supply physicians on a temporary or transient basis; and

Whereas, many of the graduates of the State’s Preferred Access Program do not return or stay to practice in the State of Maine; and

Whereas, Maine people are deserving of a system that provides a stable and reliable physician workforce and that difficulty in accessing physician services constitute an immediate hardship for many Maine residents; and

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

Sec. 1. Commission established. Resolved: That the Study Commission to Study the Recruitment, Retention, and Training of Physicians for Rural and Medically Underserved Areas of Maine, referred to in this resolve as the “commission,” is established; and be it further:

Sec. 2. Commission membership. Resolved: That the commission will consist of the following members:

- (1) Two members of the House of Representatives appointed by the Speaker of the House as follows:

0000014

- A. One member of the House who is a member of the Joint Standing Committee on Health and Human Services; and
 - B. One member of the House who is a member of the Joint Standing Committee on Education and Cultural Affairs,
- (2) Two members of the Senate appointed by the President of the Senate as follows:
- A. One member of the Senate who is a member of who is a member of the Joint Standing Committee on Health and Human Services; and
 - B. One member of the Senate who is a member of the Joint Standing Committee on Insurance and Financial Services;
- (3) One member from the Maine Osteopathic Association chosen by the Speaker of the House;
- (4) One member from the Maine Medical Association chosen by the Speaker of the House;
- (5) One rural hospital member from the Maine Hospital Association chosen by the Speaker of the House;
- (6) One member representing each of the three medical schools participating in the State's Preferred Access Program chosen by the President of the Senate;
- (7) The President of the Finance Authority of Maine or the President's designee;
- (8) The Director of the Governor's Office of Health Policy and Finance, or the Director's designee;
- (9) The Commissioner of Education, or the Commissioner's designee;
- (10) The President of the Maine Hospital Association, or the President's designee;
- (11) The Chair of the board of directors of the Maine Primary Care Association, or the Chair's designee;
- (12) A representative of the University of Maine System, as designated by the Chancellor;
- (13) Representatives of all four congressional representatives, as appointed by those representatives; and
- (14) The Director of the Maine Recruitment Center or the Director's designee; and be it further

Sec. 3. Chairs. Resolved: That the first named Senate member is the Senate chair of the commission and the first named House of Representatives member is the House chair of the commission; and be it further

Sec. 4. Appointments; convening of commission. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. All appointing authorities must notify the Executive Director of the Legislative Council once the selections have been made. Within 30 days after appointments of all members, the chairs shall call and convene the first meeting of the commission; and be it further

Sec. 5. Duties. Resolved: That the commission shall study the State's current policies regarding the recruitment, retention, and training of physicians and how these policies could be improved and/or changed to improve the recruitment, retention and training of physicians for the rural and medically underserved areas of Maine.

1. In conducting the study, the commission shall:

- A. Develop recommendations to increase the aspirations of Maine students to seek careers as physicians and to attend medical schools participating in the Preferred Access Program;
- B. Develop recommendations to encourage medical schools participating in the Preferred Access Program to accept more Maine students and/or to expand the program to other schools;
- C. Develop recommendations to expand and improve pre-doctoral experiential training in rural and underserved areas in Maine for students in the Preferred Access Program;
- D. Develop recommendations to expand and improve intern and residency training at existing and new sites in rural and underserved areas for allopathic and osteopathic graduates;
- E. Develop recommendations to reduce the indebtedness of Maine students pursuing medical education;
- F. Develop recommendations to address any current and future physician shortages and distribution issues.

2. In examining these questions, the commission may:

- A. Hold hearings throughout the State of Maine.
- B. Conduct, summarize and analyze the results of literature searches, the results of studies on the recruitment, retention and training of physicians, why physicians who are educated and/or trained in the State leave to practice elsewhere.
- C. Conduct, tabulate and analyze the results of a survey of the public or affected persons and groups;
- D. Procure and analyze relevant data to establish the most cost effective and efficient way to attract more physicians to the State and to establish practice in rural and underserved areas. In particular, the commission should examine the issue of physician reimbursement; and be it further

Sec. 6. Staff Assistance. Resolved: That the commission be staffed and supported by the Maine Area Health Education Center (AHEC) at the University of New England; and be it further

Sec. 7. Funding. Resolved: The implementation of this resolve is based upon the receipt of \$75,000 in funding from such agencies or foundations as will support this project, such funds to be administered through the Maine Area Health Education Center (AHEC) at the University of New England. A portion of these funds will be transferred to the Office of the Executive

Director of the Legislative Council to satisfy the requirements of Section 8 of this resolve; and be it further

Sec. 8. Compensation of legislative members. Resolved: That the legislative members of the commission are entitled to the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the commission. Such compensation shall be administered through the Office of the Executive Director of the Legislative Council. If sufficient outside funding has not been received by August 15, 2004 to fully fund all costs of the commission, no meetings are authorized and no expenses of any kind may be incurred or reimbursed. Contributions to support the work of the commission may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied. Any person, other than a state agency desiring to make a financial or in-kind contribution must certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the study. Such certification must be made in the manner prescribed by the Legislative Council. All contributions are subject to approval by the Legislative Council. An accounting record of all funds accepted must be forwarded to the Executive Director of the Legislative Council that includes the amount of funds, the date the funds were received, from whom the funds were received and the purpose of and any limitation on the use of those funds. The Executive Director administers any funds received by the commission for the payment of per diem and expenses for legislative members. The executive director shall notify the chairs of the commission when sufficient funding has been received; and be it further

Sec. 9. Compensation of public members. Resolved: That the public members of the commission who are not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses and, upon demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the commission. Such compensation shall be administered through the Maine Area Health Education Center (AHEC) at the University of New England; and be it further

Sec. 10. Report. Resolved: That, no later than November 1, 2004, the commission may submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the First Regular Session of the 122nd Legislature; and be it further

Sec. 11. Extension. Resolved: That, if the commission requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council and the Maine Area Health Education Center (AHEC) at the University of New England, which may grant an extension; and be it further

Sec. 12. The commission budget. Resolved: That, the chairs of the commission, with assistance from the commission staff, shall administer the commission's budget. Within 10 days after its first meeting, the commission shall present a work plan and proposed budget to the Maine Area Health Education Center (AHEC) at the University of New England, and a copy to the Office of Executive Director of the Legislative Council, for its approval. The commission may not incur expenses that would result in the commission exceeding its approved budget. Upon request from the commission, the Maine Area Health Education Center (AHEC) at the University of New England shall promptly provide the commission chairs and staff with a status report on the commission budget, expenditures incurred and paid and available funds; and be it further

Sec. 13. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

LEGISLATURE

Commission to Study the Recruitment, Retention and Training of Physicians

Initiative: Allocates funds, transferred from the Maine Area Health Education Center (AHEC) at the University of New England, to authorize the per diem and expenditures of the legislative members of the Commission to Study the Recruitment, Retention and Training of Physicians. The cost reflects the 4 legislative members attending 4 authorized meetings of the commission. If more than 4 meetings are authorized, additional resources will have to be transferred from the Maine Area Health Education Center (AHEC) at the University of New England and allotted via Financial Order.

	2003-04	2004-05
Other Special Revenue Funds		
Personal Services		\$ 880
All Other		<u>800</u>
Other Special Revenue Funds		\$1,680

SUMMARY

This amendment changes the bill into a resolve creating a study commission to study the recruitment, retention and training of physicians.

LD 1823

LD1823



AVID E. BOULTER
EXECUTIVE DIRECTOR
OF THE LEGISLATIVE COUNCIL

MAINE STATE LEGISLATURE
OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

To: The Honorable John L. Martin, Senate Chair
The Honorable Margaret M. Craven, House Chair
The Honorable Karl W. Turner
The Honorable Sarah O. Lewin
Commission to Study Public Health

Dave
From: David E. Boulter, Executive Director of the Legislative Council

Date: January 21, 2004

Re: Commission's Request for Extension of Report Date

On January 20, 2004 the Legislative Council approved by ballot a motion by Speaker Colwell to extend the reporting deadline for the Commission to Study Public Health to November 3, 2004 and authorize the Commission to introduce a bill related to its final report to the First Regular Session of the 122nd Legislature.

If you have any questions about the Legislative Council's decision, please consult your committee analyst or contact me at 287-1615.

Thank you.

cc: ~~James~~ Adolf, Legislative Analyst, OPLA

0000019



121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1823

H.P. 1346

House of Representatives, January 7, 2004

**Resolve, Extending the Reporting Deadline for the Commission To
Study Public Health**

(EMERGENCY)

Reported by Representative CRAVEN of Lewiston for the Commission to Study Public Health pursuant to Resolve 2003, chapter 95.

Reference to the Committee on Health and Human Services suggested and ordered printed under Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

0000020

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

Whereas, the Commission to Study Public Health has been charged with a number of duties in furtherance of examining the causes of obesity as well as methods to decrease the cost of health care and increase public health, an examination of great importance to the people of this State and worthy of a full year of study and deliberation; and

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

Sec. 1. Resolve 2003, c. 95, §7, amended. Resolved: That Resolve 2003, c. 95, §7 is amended to read:

Sec. 7. Report. Resolved: That the commission shall submit its report, including recommendations for legislative action, along with any accompanying legislation to the Second First Regular Session of the 121st 122nd Legislature by December--3, 2003 November 3, 2004. The commission is authorized to introduce a bill related to its report and recommendations to the Second First Regular Session of the 121st 122nd Legislature. The report, recommendations and legislation must have as goals improving public health, including cardiovascular health, decreasing rates of obesity, decreasing the cost of health care, increasing the physical activity of youth and increasing awareness of healthy eating choices; and be it further

; and be it further

Sec. 2. Resolve 2003, c. 95, §9, amended. Resolved: That Resolve 2003, c. 95, §9 is amended to read:

Sec. 9. Funding. Resolved: That the commission shall seek outside funds to fully fund all costs of the commission. If sufficient outside funding has not been received by August 15, 2003 to fully fund all costs of the commission, no meetings are authorized and no expenses of any kind may be incurred or reimbursed. Contributions to support the work of the commission may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied. Any person, other than a state agency, desiring to make a financial or in-kind contribution must certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the study. Such certification must be made in the manner

2 prescribed by the Legislative Council. All contributions are
3 subject to approval by the Legislative Council. All funds
4 accepted must be forwarded to the Executive Director of the
5 Legislative Council along with an accounting record that includes
6 the amount of funds, the date the funds were received, from whom
7 the funds were received and the purpose of and any limitation on
8 the use of those funds. The Executive Director of the
9 Legislative Council administers any funds received by the
10 commission. The executive director shall notify the chairs of
11 the commission when sufficient funding has been received. Any
12 funds appropriated for fiscal year 2003-04 left unexpended at the
13 end of fiscal year 2003-04 do not lapse and are available for the
14 purposes of the commission in fiscal year 2004-05; and be it
15 further

16 ; and be it further

17 **Sec. 3. Retroactivity. Resolved:** That that section of this
18 resolve that amends Resolve 2003, chapter 95, section 7 applies
19 retroactively to December 3, 2003.

20 **Emergency clause.** In view of the emergency cited in the
21 preamble, this resolve takes effect when approved.
22

23 SUMMARY

24 This resolve extends the reporting deadline for the
25 Commission to Study Public Health until November 3, 2004 and
26 directs that the commission submit its report to the First
27 Regular Session of the 122nd Legislature. The resolve applies
28 this extension retroactively from the original reporting deadline
29 of December 3, 2003 and clarifies that the commission's report
30 will include recommendations for legislative action. The resolve
31 also allows unexpended funds appropriated for use in fiscal year
32 2003-04 to be used in fiscal year 2004-05.
33
34
35
36

LD 1826

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOUR

S.P. 671 - L.D. 1826

An Act To Encourage the Proper Disposal of Unused
Pharmaceuticals

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

Sec. 1. 22 MRSA c. 604 is enacted to read:

CHAPTER 604

DISPOSAL OF UNUSED PHARMACEUTICALS

§2700. Unused Pharmaceutical Disposal Program

1. Establishment; purpose. There is established the Unused Pharmaceutical Disposal Program, referred to in this chapter as "the program." The purpose of the program is to ensure the safe, effective and proper disposal of unused pharmaceuticals. For purposes of compliance with federal law and regulation, the return of pharmaceuticals under this section is deemed to be for law enforcement purposes.

2. Administration. The program is administered by the Maine Drug Enforcement Agency, referred to in this chapter as "the agency," established in Title 25, section 2955.

3. Return of pharmaceuticals. The agency shall create a system for the return of unused pharmaceuticals. The system must use prepaid mailing envelopes into which the unused

pharmaceuticals are placed and returned to a single collection location. The prepaid mailing envelopes must be made available to the public at various locations, including, but not limited to, pharmacies, physicians' offices and post offices. The agency may randomly assess the toxicity of materials received under the program as long as the assessment results do not identify the patient, person who mailed the material, prescriber or pharmacy.

4. Disposal of pharmaceuticals. The agency shall ensure that only agency officers handle the unused pharmaceuticals received pursuant to subsection 3. The unused pharmaceuticals must be disposed of by the agency in a manner that is designed to be effective, secure and in compliance with local, state and federal environmental requirements, including the federal Resource Conservation and Recovery Act of 1976, as amended.

5. Unused Pharmaceutical Disposal Program Fund; funding. The Unused Pharmaceutical Disposal Program Fund, referred to in this chapter as "the fund," is established within the agency to be used by the director of the agency to fund or assist in funding the program. Any balance in the fund does not lapse but is carried forward to be expended for the same purposes in succeeding fiscal years. The fund must be deposited with and maintained and administered by the agency. The agency may accept funds into the fund from any non-General Fund, nonpublic fund source, including grants or contributions of money or other things of value, that it determines necessary to carry out the purposes of this chapter. Money received by the agency to establish and maintain the program must be used for the expenses of administering this chapter.

6. Rulemaking. The agency shall adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Maine Drug Return Implementation Group. The Maine Drug Return Implementation Group, referred to in this section as "the implementation group," is established to work on implementation issues for the Unused Pharmaceutical Disposal Program, established in the Maine Revised Statutes, Title 22, chapter 604, referred to in this section as "the program."

1. Issues. The implementation group shall study the following issues and make recommendations for implementation of the program in a manner that addresses the issues, safeguards the public health and environment and meets the requirements of local, state and federal law, rule and regulation:

A. Postal regulations;

B. The methods and requirements for packaging, including prepaid mailing envelopes;

C. Minimizing drug diversion and theft;

D. Public education regarding program requirements and operation; and

E. Encouraging the development of drug drop-off programs at the local level.

2. Membership. The implementation group consists of 11 members.

A. The President of the Senate shall appoint one Senator, one representative of local municipal enforcement agencies and one representative of pharmacies. The appointed Senator serves as chair of the implementation group.

B. The Speaker of the House shall appoint 2 representatives, one person representing pharmaceutical manufacturers and one representative of a statewide association of medical professionals.

C. The implementation group must also include the Attorney General or the Attorney General's designee, the Commissioner of Human Services or the commissioner's designee, the Commissioner of Environmental Protection or the commissioner's designee and the Director of the Maine Drug Enforcement Agency or the director's designee.

The implementation group shall invite the participation of the federal Drug Enforcement Agency, the Office of the United States Attorney for the District of Maine, the United States Postal Service and interested parties and persons with expertise and interest in issues related to the disposal of unused pharmaceuticals.

All appointments must be made by September 1, 2004. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When appointment of all members of the implementation group is completed, the chair shall call and convene the first meeting no later than September 30, 2004.

3. Staffing. Staffing must be provided by a statewide association of medical professionals and, upon approval of the Legislative Council, the Office of Policy and Legal Analysis.

4. **Compensation.** Legislative members of the implementation group are entitled to the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the group. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses and, upon a demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the implementation group.

5. **Report.** The implementation group shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 31, 2005. The report must include information and recommendations on implementing the program. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall review the report and may report out legislation to the First Regular Session of the 122nd Legislature.

6. **Extension.** If the implementation 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 an extension.

7. **Funding.** The implementation group shall seek outside funds to fully fund all costs of the implementation group. If sufficient outside funding has not been received by September 15, 2004 to fully fund all costs of the implementation group, no meetings are authorized and no expenses of any kind may be incurred or reimbursed. Contributions to support the work of the implementation group may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied. Any person, other than a state agency, desiring to make a financial or in-kind contribution must certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the study. Such certification must be made in the manner prescribed by the Legislative Council. All contributions are subject to approval by the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of funds, the date the funds were received, from whom the funds were received and the purpose of and any limitation on the use of those funds. The Executive Director of the Legislative Council shall administer any funds received by the implementation group. The executive director shall notify the chair of the implementation group when sufficient funding has been received.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

LEGISLATURE

Miscellaneous Studies - Funding

Initiative: Allocates funds for the per diem and expenses of members of the Maine Drug Return Implementation Group and printing a report in fiscal year 2004-05.

Other Special Revenue Funds	2003-04	2004-05
Personal Services	\$0	\$660
All Other	0	2,200
Other Special Revenue Funds Total	\$0	\$2,860

Sec. 4. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 22, chapter 604 takes effect July 1, 2005.

LD 1913

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOUR
—

H.P. 1414 - L.D. 1913

**An Act To Establish the Department of Health and Human
Services**

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

Whereas, the establishment of the new Department of Health and Human Services on July 1, 2004 is necessary for the orderly transition of the Department of Human Services and the Department of Behavioral and Developmental Services to the new department; and

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

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

PART A

Sec. A-1. 22-A MRSA is enacted to read:

TITLE 22-A

HEALTH AND HUMAN SERVICES

SUBTITLE 1

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CHAPTER 1

DEPARTMENTAL ORGANIZATION AND OPERATION

SUBCHAPTER 1

GENERAL PROVISIONS

§101. Definitions

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

1. Commissioner. "Commissioner" means the Commissioner of Health and Human Services.

2. Department. "Department" means the Department of Health and Human Services.

3. Seal. The department has an official seal which must be judicially noticed.

SUBCHAPTER 2

ORGANIZATION

§201. Department established

1. Establishment. The Department of Health and Human Services is established as a cabinet-level department.

2. Bureau and divisions. The department consists of the bureaus and divisions necessary to carry out the work of the department.

§202. Mission; guiding principles

1. Mission. The mission of the department is to provide health and human services to the people of Maine so that all persons may achieve and maintain their optimal level of health and their full potential for economic independence and personal development. Within available funds, the department shall provide supportive, preventive, protective, public health and intervention services to children, families and adults, including

the elderly and adults with disabilities. The department shall endeavor to assist individuals in meeting their needs and families in providing for the developmental, health and safety needs of their children, while respecting the rights and preferences of the individual or family.

2. Guiding principles. The following principles are adopted to guide the department. In the performance of its duties, the department shall strive to:

A. Improve the health and well-being of Maine residents, with this goal guiding all decisions, programs and services of the department;

B. Treat consumers with respect and dignity;

C. Treat service providers with professionalism and collegiality;

D. Value and support department staff as the critical connection to the consumer;

E. Involve consumers, providers, advocates and staff in long-term planning;

F. Use relevant, meaningful data and objective analyses of population-based needs in program planning, decision making and quality assurance; and

G. Deliver services that are individualized, family-centered, easily accessible, preventive, independence-oriented, interdisciplinary, collaborative, evidence-based and consistent with best practices.

§203. Programs and services of department

The department shall, as appropriate to the individual and family and as permitted by the availability of funds, provide programs and services as specified in this section and otherwise by law.

1. Programs and services for adults, children and families. The department shall provide adults, children and families with the following programs and services:

A. Economic assistance and employment support services;

B. Mental health and behavioral health services;

C. Mental retardation and developmental disability services;

D. Physical health services;

E. Public health services; and

F. Substance abuse prevention and treatment services.

2. Additional programs and services for children and families. The department shall provide children and families with additional programs and services to assist them in meeting their needs, including, but not limited to:

A. Child welfare services;

B. Head Start and child care services;

C. Maternal and child health services, including home visiting programs;

D. Paternity establishment and child support enforcement services; and

E. Residential and long-term care services for children with disabilities.

3. Additional programs and services for adults. The department shall provide adults, including the elderly and persons with disabilities, with additional programs and services to assist them in meeting their needs, including, but not limited to:

A. Adult protective services; and

B. Long-term care services for the elderly and adults with disabilities.

4. Delivery of programs and services. The department shall deliver programs and services through a coordinated and efficient administrative structure and an integrated delivery system that focuses on meeting the needs of individuals and families. The department shall use a combination of public personnel and contracts with private agencies to deliver programs and services.

§204. Commissioner

The department is under the control and supervision of the Commissioner of Health and Human Services, who reports directly to the Governor.

1. Appointment. The Governor shall appoint the

commissioner, subject to review by the joint standing committee of the Legislature having jurisdiction over health and human services matters and confirmation by the Senate. The commissioner serves at the pleasure of the Governor.

2. Vacancy; deputy commissioner. A vacancy in the office of the commissioner must be filled as follows.

A. Any vacancy of the commissioner's position must be filled in accordance with Title 5, section 1.

B. The commissioner shall appoint one of the department's deputy commissioners to perform the duties of the commissioner, in addition to the duties of that deputy commissioner, during the commissioner's temporary absence or disability.

§205. Powers and duties of commissioner

The commissioner has all of the powers and duties necessary to carry out the mission and responsibilities of the department.

1. Administration. The commissioner shall administer the department in accordance with the requirements of this Title and shall fulfill the duties prescribed to the commissioner by state and federal law.

2. Rulemaking. The commissioner shall adopt rules to implement this Title. Rules adopted pursuant to this subsection are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A, unless otherwise specified.

3. Employees. The commissioner may employ personnel as necessary to carry out the work of the department. All personnel of the department are under the immediate supervision, direction and control of the commissioner. Department personnel must be employed subject to the Civil Service Law, except for deputy commissioners, associate commissioners, assistant deputy commissioners, bureau directors, the director of legal affairs, regional directors, the director of Bangor Mental Health Institute and the director of Riverview Psychiatric Center.

4. Appointments. The commissioner may appoint deputy commissioners, associate commissioners, assistant deputy commissioners, bureau directors, the director of legal affairs, regional directors, the director of Bangor Mental Health Institute and the director of Riverview Psychiatric Center, who serve at the pleasure of the commissioner. These positions are unclassified, major policy-influencing positions as specified in Title 5, sections 931 and 946-A. A bureau director appointed

pursuant to this subsection must have educational qualifications and professional experience directly related to the functions of and services provided by the bureau.

Sec. A-2. Quarterly report; rulemaking. Beginning October 1, 2004, the Commissioner of Health and Human Services shall provide the joint standing committee of the Legislature having jurisdiction over health and human services matters with a quarterly report that summarizes rule-making activity of the Department of Health and Human Services.

Sec. A-3. Bureau structure; restriction. The Commissioner of Health and Human Services may not establish a bureau structure for the new department until that structure has been approved by the 122nd Legislature.

PART B

Sec. B-1. Transition. Notwithstanding the Maine Revised Statutes, Title 22 and Title 34-B, the following provisions apply to the reassignment of the duties and responsibilities of the Department of Human Services and the Department of Behavioral and Developmental Services to the Department of Health and Human Services.

1. The Department of Human Services and the Department of Behavioral and Developmental Services as heretofore created and established by law are incorporated into the Department of Health and Human Services. All references to, responsibilities of and authority conferred upon the Department of Human Services and the Department of Behavioral and Developmental Services, and those departments' predecessors, throughout the Maine Revised Statutes are deemed to refer to and vest in the Department of Health and Human Services created by this Act, as the successor department. The Department of Health and Human Services is the successor in every way to the powers, duties and functions as assigned in the Maine Revised Statutes, Title 22 to the Department of Human Services and Title 34-B to the Department of Behavioral and Developmental Services, as they pertain to services provided to adults, children and families under this Act.

2. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, all accrued expenditures, assets, liabilities, balances of appropriations, allocations, transfers, revenues or other available funds in an account or subdivision of an account of the Department of Human Services and the Department of Behavioral and Developmental Services that pertain to the duties of the Department of Health and Human Services as set forth in this Act must be transferred to the proper accounts of the

Department of Health and Human Services by the State Controller or by financial order upon the request of the State Budget Officer and with the approval of the Governor.

3. All rules of the Department of Human Services and the Department of Behavioral and Developmental Services, as they pertain to the duties of the Department of Health and Human Services as set forth in this Act, that are in effect on the effective date of this Act remain in effect until rescinded, revised or amended.

4. All contracts, agreements and compacts of the Department of Human Services and the Department of Behavioral and Developmental Services, as they pertain to the duties set forth in this Act, that are in effect on the effective date of this Act remain in effect until they expire or are altered by the parties involved in the contracts or agreements. The Department of Health and Human Services is the successor agency for all federal block grants and programs administered under the United States Social Security Act, as amended, and any other federal programs, grants and contracts.

5. All records of the Department of Human Services and the Department of Behavioral and Developmental Services, as they pertain to the duties set forth in this Act, must be transferred to the Department of Health and Human Services as necessary to implement this Act.

6. All property and equipment of any bureau, division or program of the Department of Human Services and the Department of Behavioral and Developmental Services pertaining to the duties set forth in this Act are transferred to the Department of Health and Human Services as necessary to implement this Act.

7. Notwithstanding the Maine Revised Statutes, Title 22-A, section 204 or any other provision of law, upon the effective date of this Act, the individual holding the position of Commissioner of Human Services becomes the Commissioner of Health and Human Services without the need of appointment or confirmation. The Commissioner of Health and Human Services shall assume and is vested with all of the duties and powers of that office, as well as the duties and powers of the office of the Commissioner of Human Services and the office of the Commissioner of Behavioral and Developmental Services. This provision is intended to change the procedure for appointment and confirmation of the first Commissioner of Health and Human Services.

8. Employees of the Department of Health and Human Services who were employees of the Department of Human Services and the

Department of Behavioral and Developmental Services immediately prior to the effective date of this Act retain all their employee rights, privileges and benefits, including sick leave, vacation and seniority, provided under the Civil Service Law or collective bargaining agreements. The Department of Administrative and Financial Services, Bureau of Human Resources shall provide assistance to the affected departments and shall assist with the orderly implementation of this subsection.

9. The Commissioner of Health and Human Services shall consolidate the following functions of the Department of Human Services and the Department of Behavioral and Developmental Services:

A. Administrative components that provide for, without limitation, the following functions: internal auditing; external auditing; financial management; human resources; information technology and data collection and management; facilities management; contracting; licensing; permitting and inspecting; training; administrative appeals; communications and legislative relations; rate setting; and rulemaking; and

B. Adult protective functions.

10. By January 31, 2005, the Commissioner of Health and Human Services shall submit a report, including recommendations and any necessary legislation, to the Governor and the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the establishment and implementation of the Department of Health and Human Services. The report must include recommendations on the following issues:

A. Bureau structure, including the number, title and functions of bureaus and divisions within bureaus. In the development of recommendations regarding the bureau structure, the commissioner shall consider:

(1) The unique needs of special populations, including, but not limited to, children, the elderly, persons with mental health needs, persons with mental retardation or developmental disabilities and persons affected by substance abuse; and

(2) The possible integration of the functions of the Department of Human Services, Bureau of Family Independence into a new bureau of children and families;

B. Administrative structure and functions, including:

- (1) Planning and quality assurance;
- (2) Staff training and professional development;
- (3) Regional structure and administrative functions;
and
- (4) The employment status of division directors;

C. Program and service delivery functions, including:

- (1) A seamless system of care at the local level;
- (2) Information and referral, intake and case management services;
- (3) Guardianship and conservatorship services;
- (4) Resolution of consumer, provider and public inquiries and complaints;
- (5) Advocacy services; and
- (6) Long-term care ombuds services;

D. Advisory boards, including:

- (1) Integration and consolidation of existing advisory boards, councils and commissions that serve the Department of Human Services and the Department of Behavioral and Developmental Services; and
- (2) Opportunities to ensure that advisory bodies to the new department operate efficiently and effectively;
and

E. The child welfare ombudsman program established as an independent program within the Executive Department under the Maine Revised Statutes, Title 22, section 4087-A. In developing recommendations regarding this program, the commissioner shall consider:

- (1) Program independence and structure; and
- (2) The 2003 annual report of the ombudsman submitted pursuant to Title 22, section 4087-A, subsection 10.

Following receipt and review of the report, the joint standing committee of the Legislature having jurisdiction over health and

human services matters may report out legislation to the 122nd Legislature.

11. The Commissioner of Health and Human Services shall work with the Commissioner of Education and the Commissioner of Corrections to review the delivery of child development services and juvenile justice services. By January 31, 2006, the Commissioner of Health and Human Services shall submit a report including recommendations and any necessary legislation to the Governor and the joint standing committee of the Legislature having jurisdiction over health and human services matters. Following receipt and review of the report, the committee may report out legislation to the Second Regular Session of the 122nd Legislature.

Sec. B-2. Conflicts and inconsistencies. If the Commissioner of Health and Human Services finds a conflict or inconsistency between provisions in the Maine Revised Statutes, Title 22 and Title 34-B or rules adopted under those titles, the commissioner shall attempt to resolve that conflict or inconsistency by interpreting the laws or rules together to give effect to the intent of the Legislature or agency, as the case may be. If the commissioner determines rulemaking is required to resolve a conflict or inconsistency, the commissioner may adopt rules as authorized under Title 22-A, section 205, subsection 2. In adopting rules under this section, the commissioner has sole discretion to determine whether an emergency exists. The commissioner shall notify the members of the joint standing committee of the Legislature having jurisdiction over health and human services matters prior to adopting any emergency rule under this section.

Sec. B-3. Legislation; schedule. The Commissioner of Health and Human Services, and designees selected by the commissioner, shall work with the joint standing committee of the Legislature having jurisdiction over health and human services matters and staff from the Office of Policy and Legal Analysis and the Office of the Revisor of Statutes to review those parts of the Maine Revised Statutes governing the Department of Health and Human Services, including but not limited to Titles 22, 22-A and 34-B. The purpose of the review is to develop legislation to consolidate existing law into Title 22-A, to update Title 22-A and to correct any errors and inconsistencies in law that result from this Act. By November 30, 2005 the commissioner and the committee shall agree on the format and organization of Title 22-A. By November 30, 2006 the commissioner shall submit the legislation developed pursuant to this section to the First Regular Session of the 123rd Legislature.

Sec. B-4. Interim meetings; authorized. The joint standing committee of the Legislature having jurisdiction over health and human services matters is authorized to meet as needed, but at least 3 times, during the 2004 legislative interim to carry out its responsibilities to oversee planning, service delivery and implementation issues related to the establishment of the Department of Health and Human Services. At these meetings, the Commissioner of Health and Human Services shall brief the committee on planning issues, progress, challenges and the time line for implementation. The committee shall provide opportunities for consumers, providers and advocates to speak to the committee. The committee may submit legislation to the First Regular Session of the 122nd Legislature based on these meetings.

Sec. B-5. Working groups. During the period from July 2004 through December 2005, the Commissioner of Health and Human Services shall convene advisory working groups to consider planning, service delivery and implementation issues related to the establishment of the Department of Health and Human Services. The working groups shall review the issues identified in Part B, section 1, subsection 10. The working groups must include broad representation from consumers, providers, advocates and members of the public.

Sec. B-6. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Department of Human Services" or "Department of Behavioral and Developmental Services" appear or reference is made to either of those departments with reference to the duties transferred to the Department of Health and Human Services as set forth in this Act, they are amended to read or mean, as the case may be, "Department of Health and Human Services." The Revisor of Statutes shall implement this revision when updating, publishing or republishing statutes.

Sec. B-7. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Commissioner of Human Services" or "Commissioner of Behavioral and Developmental Services" appear or reference is made to either of these positions with reference to the duties transferred to the Commissioner of Health and Human Services as set forth in this Act, they are amended to read or mean, as the case may be, "Commissioner of Health and Human Services." The Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. B-8. Budget. The Department of Administrative and Financial Services, Bureau of Budget shall work with the employees of the Department of Human Services and the Department of Behavioral and Developmental Services with regard to the

duties transferred to the Department of Health and Human Services as set forth in this Act to develop the budget for the Department of Health and Human Services.

Sec. B-9. Federal approval. If the Commissioner of Health and Human Services determines that federal approval will not be obtained for any part of this Act that requires federal approval, the commissioner shall notify the joint standing committee of the Legislature having jurisdiction over health and human services matters, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the Executive Director of the Legislative Council.

PART C

Sec. C-1. 2 MRSA §6, sub-§1, as amended by PL 2003, c. 469, Pt. A, §1, is further amended to read:

1. **Range 91.** The salaries of the following state officials and employees are within salary range 91:

Commissioner of Transportation;

Commissioner of Conservation;

Commissioner of Administrative and Financial Services;

Commissioner of Education;

Commissioner of Environmental Protection;

Executive Director of Dirigo Health;

~~Commissioner of Human Services;~~

~~Commissioner of Behavioral and Developmental Services;~~

Commissioner of Public Safety;

Commissioner of Professional and Financial Regulation;

Commissioner of Labor;

Commissioner of Agriculture, Food and Rural Resources;

Commissioner of Inland Fisheries and Wildlife;

Commissioner of Marine Resources;

Commissioner of Corrections;

Commissioner of Economic and Community Development; and

Commissioner of Defense, Veterans and Emergency Management.

Sec. C-2. 2 MRSA §6, sub-§1-A is enacted to read:

1-A. Range 58. The salaries of the following state officials and employees are within salary range 58:

Commissioner of Health and Human Services.

Sec. C-3. 2 MRSA §6, sub-§2, as amended by PL 2001, c. 708, §1, is further amended to read:

2. Range 90. The salaries of the following state officials and employees are within salary range 90:

Superintendent of Financial Institutions;

State Tax Assessor;

Superintendent of Insurance;

Executive Director of the Maine Consumer Choice Health Plan;

Associate Commissioner for Programs, Department of Behavioral and Developmental Services;

Associate Commissioner of Administration, Department of Behavioral and Developmental Services;

Associate Commissioner for Systems Operations, Department of Behavioral and Developmental Services;

Deputy Commissioner, Department of Administrative and Financial Services;

Associate Commissioner for Adult Services, Department of Corrections;

Associate Commissioner for Juvenile Services, Department of Corrections;

Public Advocate;

Director, Bureau of Medical Services, Department of Human Services;

Chief Information Officer; and

Associate Commissioner for Legislative and Program Services,
Department of Corrections.

Sec. C-4. 5 MRSA §940, as amended by PL 1995, c. 560, Pt. J, §1,
is repealed.

Sec. C-5. 5 MRSA §946, as amended by PL 2001, c. 439, Pt. J, §§1
to 3, is repealed.

Sec. C-6. 5 MRSA §946-A is enacted to read:

§946-A. Department of Health and Human Services

1. Major policy-influencing positions. The following positions are major policy-influencing positions within the Department of Health and Human Services. Notwithstanding any other provisions of law, these positions and their successor positions are subject to this chapter:

A. Deputy commissioners;

B. Associate commissioners;

C. Bureau directors and division directors;

D. Assistant deputy commissioners;

E. Regional directors;

F. Directors of Bangor Mental Health Institute and Riverview Psychiatric Center; and

G. Director of legal affairs.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 2004.

SENATE

PEGGY A. PENDLETON, DISTRICT 31, CHAIR
MARY R. CATHCART, DISTRICT 7
HANDLER E. WOODCOCK, DISTRICT 17

MARGARET J. REINSCH, LEGISLATIVE ANALYST
SUSAN M. PINETTE, COMMITTEE CLERK



HOUSE

WILLIAM S. NORBERT, PORTLAND, CHAIR
THOMAS D. BULL, FREEPORT
DEBORAH L. SIMPSON, AUBURN
STAN GERZOFKY, BRUNSWICK
PHILIP R. BENNETT, JR., CARIBOU
JANETT T. MILLS, FARMINGTON
ROGER L. SHERMAN, HODGDON
RODERICK W. CARR, LINCOLN
BRIAN M. DUPREY, HAMPDEN
JOAN BRYANT-DESCHENES, TURNER
DONNA M. LORING, PENOBSCOT NATION

STATE OF MAINE

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

COMMITTEE ON JUDICIARY

April 16, 2004

TO: Sen. Beverly C. Daggett, Chair
Rep. Patrick Colwell, Vice-chair
Legislative Council

FROM: Sen. Peggy A. Pendleton, Senate Chair *PP*
Rep. William S. Norbert, House Chair *WN*
Joint Standing Committee on Judiciary

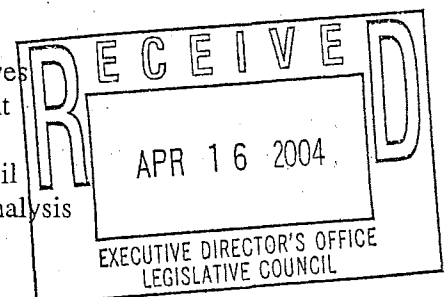
Re: Studies on the Study Table

The Joint Standing Committee on Judiciary has one bill tabled on the Study Table: LD 1957, An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws. The bill makes important changes in the Freedom of Access laws, and continues the Study Committee established by Resolve 2003, chapter 83. Continuation of the study is necessary to allow the Study Committee to resolve a few difficult issues which they did not have time to conclude, and to take up several additional issues that the Study Committee identified as important to effective Freedom of Access laws. There are sufficient funds left in the Study Committee's account to finance the continuation if the second year is similar to the first year of the study, so no additional appropriation or allocation is necessary.

Should you need any additional information, please do not hesitate to contact us.

Thank you for your consideration.

cc: Joy J. O'Brien, Secretary of the Senate
Millicent M. MacFarland, Clerk of the House of Representatives
Rickmond K. McCarthy, Chief of Staff, Office of the President
Patrick D. Damon, Chief of Staff, Office of the Speaker
David E. Boulter, Executive Director of the Legislative Council
David C. Elliott, Director of the Office of Policy and Legal Analysis



LD 1957

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOUR

H.P. 1456 - L.D. 1957

An Act To Implement the Recommendations of the Committee To
Study Compliance with Maine's Freedom of Access Laws

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

Sec. 1. 1 MRSA §405, sub-§4, as enacted by PL 1975, c. 758, is amended to read:

4. **Motion contents.** A motion to go into executive session shall must indicate the precise nature of the business of the executive session and include a citation of one or more sources of statutory or other authority that permits an executive session for that business. Failure to state all authorities justifying the executive session does not constitute a violation of this subchapter if one or more of the authorities are accurately cited in the motion. An inaccurate citation of authority for an executive session does not violate this subchapter if valid authority that permits the executive session exists and the failure to cite the valid authority was inadvertent.

Sec. 2. 1 MRSA §408, as enacted by PL 1975, c. 758, is repealed and the following enacted in its place:

§408. Public records available for public inspection and copying

1. Right to inspect and copy. Except as otherwise provided by statute, every person has the right to inspect and copy any public record during the regular business hours of the agency or official having custody of the public record within a reasonable period of time after making a request to inspect or copy the public record.

2. Inspection, translation and copying scheduled. Inspection, translation and copying may be scheduled to occur at such time as will not delay or inconvenience the regular activities of the agency or official having custody of the public record sought.

3. Payment of costs. Except as otherwise specifically provided by law or court order, an agency or official having custody of a public record may charge fees as follows.

A. The agency or official may charge a reasonable fee to cover the cost of copying.

B. The agency or official may charge a fee to cover the actual cost of searching for, retrieving and compiling the requested public record of not more than \$10 per hour after the first hour of staff time per request. Compiling the public record includes reviewing and redacting confidential information.

C. If translation is necessary, the agency or official may charge a fee to cover the actual cost of translation.

D. An agency or official may not charge for inspection.

4. Estimate. The agency or official shall provide to the requester an estimate of the time necessary to complete the request and of the total cost. If the estimate of the total cost is greater than \$20, the agency or official shall inform the requester before proceeding. If the estimate of the total cost is greater than \$100, subsection 5 applies.

5. Payment in advance. The agency or official may require a requester to pay all or a portion of the estimated costs to complete the request prior to the translation, search, retrieval, compiling and copying of the public record if:

A. The estimated total cost exceeds \$100; or

B. The requester has previously failed to pay a properly assessed fee under this chapter in a timely manner.

6. Waivers. The agency or official may waive part or all of the total fee if:

A. The requester is indigent; or

B. Release of the public record requested is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.

Sec. 3. 1 MRSA c. 13, sub-c. 1-A is enacted to read:

SUBCHAPTER 1-A

EXCEPTIONS TO PUBLIC RECORDS

§431. Definitions

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

1. Public records exception. "Public records exception" or "exception" means a provision in a statute or a proposed statute that declares a record or a category of records to be confidential or otherwise not a public record for purposes of subchapter 1.

2. Review committee. "Review committee" means the joint standing committee of the Legislature having jurisdiction over judiciary matters.

§432. Exceptions to public records; review

1. Recommendations. During the second regular session of each Legislature, the review committee shall report out legislation containing its recommendations concerning the repeal, modification and continuation of public records exceptions and any recommendations concerning the exception review process.

2. Process of evaluation. According to the schedule in section 434, the review committee shall evaluate each public records exception that is scheduled for review that biennium. The review committee shall use the following criteria to determine whether each exception scheduled for review should be repealed, modified or remain unchanged:

A. Whether a record protected by the exception still needs to be collected and maintained;

B. The value to the agency or official or to the public in maintaining a record protected by the exception;

C. Whether federal law requires a record to be confidential;

D. Whether the exception protects an individual's privacy interest and, if so, whether that interest substantially outweighs the public interest in the disclosure of records;

E. Whether public disclosure puts a business at a competitive disadvantage and, if so, whether that business's interest substantially outweighs the public interest in the disclosure of records;

F. Whether public disclosure compromises the position of a public body in negotiations and, if so, whether that public body's interest substantially outweighs the public interest in the disclosure of records;

G. Whether public disclosure jeopardizes the safety of a member of the public or the public in general and, if so, whether that safety interest substantially outweighs the public interest in the disclosure of records;

H. Whether the exception is as narrowly tailored as possible; and

I. Any other criteria that assist the review committee in determining the value of the exception as compared to the public's interest in the record protected by the exception.

3. Assistance from committees of jurisdiction. The review committee shall seek assistance in evaluating public records exceptions from the joint standing committees of the Legislature having jurisdiction over the subject matter related to the exceptions being reviewed. The review committee may hold joint public hearings with the appropriate committees of jurisdiction. The review committee shall notify the appropriate committees of jurisdiction concerning work sessions and shall allow members of the appropriate committees of jurisdiction to participate in work sessions.

§433. Schedule for review of exceptions to public records

1. Scheduling guidelines. The joint standing committee of the Legislature having jurisdiction over judiciary matters shall review public records exceptions as follows.

A. In 2006 and every 10 years thereafter, the committee shall review exceptions codified in:

(1) Title 1;

(2) Title 2;

- (3) Title 3;
- (4) Title 4; and
- (5) Title 5.

B. In 2008 and every 10 years thereafter, the committee shall review exceptions codified in:

- (1) Title 6;
- (2) Title 7;
- (3) Title 8;
- (4) Title 9;
- (5) Title 9-A;
- (6) Title 9-B;
- (7) Title 10;
- (8) Title 11;
- (9) Title 12;
- (10) Title 13;
- (11) Title 13-B;
- (12) Title 13-C;
- (13) Title 14; and
- (14) Title 15.

C. In 2010 and every 10 years thereafter, the committee shall review exceptions codified in:

- (1) Title 16;
- (2) Title 17;
- (3) Title 17-A;
- (4) Title 18-A;
- (5) Title 19-A;

- (6) Title 20;
- (7) Title 20-A;
- (8) Title 21-A; and
- (9) Title 22.

D. In 2012 and every 10 years thereafter, the committee shall review exceptions codified in:

- (1) Title 23;
- (2) Title 24;
- (3) Title 24-A;
- (4) Title 25;
- (5) Title 26;
- (6) Title 27;
- (7) Title 28-A; and
- (8) Title 29-A.

E. In 2014 and every 10 years thereafter, the committee shall review exceptions codified in:

- (1) Title 30;
- (2) Title 30-A;
- (3) Title 31;
- (4) Title 32;
- (5) Title 33;
- (6) Title 34-A;
- (7) Title 34-B;
- (8) Title 35-A;
- (9) Title 36;
- (10) Title 37;

- (11) Title 37-A;
- (12) Title 38; and
- (13) Title 39-A.

§434. Review of proposed exceptions to public records

1. Procedures before legislative committees. Whenever a legislative measure containing a new public records exception is proposed, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public hearing and determine the level of support for the proposal among the members of the committee. If there is support for the proposal among a majority of the members of the committee, the committee shall request the review committee to review and evaluate the proposal pursuant to subsection 2 and to report back to the committee of jurisdiction. A proposed exception may not be enacted into law unless review and evaluation pursuant to subsection 2 have been completed.

2. Review and evaluation. Upon referral of a proposed public records exception from the joint standing committee of the Legislature having jurisdiction over the proposal, the review committee shall conduct a review and evaluation of the proposal and shall report in a timely manner to the committee to which the proposal was referred. The review committee shall use the following criteria to determine whether the proposed exception should be enacted:

A. Whether a record protected by the proposed exception needs to be collected and maintained;

B. The value to the agency or official or to the public in maintaining a record protected by the proposed exception;

C. Whether federal law requires a record covered by the proposed exception to be confidential;

D. Whether the proposed exception protects an individual's privacy interest and, if so, whether that interest substantially outweighs the public interest in the disclosure of records;

E. Whether public disclosure puts a business at a competitive disadvantage and, if so, whether that business's interest substantially outweighs the public interest in the disclosure of records;

F. Whether public disclosure compromises the position of a public body in negotiations and, if so, whether that public body's interest substantially outweighs the public interest in the disclosure of records;

G. Whether public disclosure jeopardizes the safety of a member of the public or the public in general and, if so, whether that safety interest substantially outweighs the public interest in the disclosure of records;

H. Whether the proposed exception is as narrowly tailored as possible; and

I. Any other criteria that assist the review committee in determining the value of the proposed exception as compared to the public's interest in the record protected by the proposed exception.

3. Report. The review committee shall report its findings and recommendations on whether the proposed exception should be enacted to the joint standing committee of the Legislature having jurisdiction over the proposal.

Sec. 4. 29-A MRSA §2251, sub-§7, as amended by PL 2003, c. 434, §27 and affected by §37, is further amended to read:

7. Report information. An accident report made by an investigating officer or a 48-hour report made by an operator as required by former subsection 5 is for the purposes of statistical analysis and accident prevention.

A report or statement contained in the accident report, or a 48-hour report as required by former subsection 5, a statement made or testimony taken at a hearing before the Secretary of State held under section 2483, or a decision made as a result of that report, statement or testimony may not be admitted in evidence in any trial, civil or criminal, arising out of the accident.

A report may be admissible in evidence solely to prove compliance with this section.

The Chief of the State Police may disclose the date, time and location of the accident and the names and addresses of operators, owners, injured persons, witnesses and the investigating officer. On written request, the chief may furnish a photocopy of the investigating officer's report at the expense of the person making the request. The cost of furnishing a copy

of the report is not subject to the limitations of Title 1, section 408, subsection 3.

Sec. 5. Resolve 2003, c. 83, §4 is amended to read:

Sec. 4. Committee duties. Resolved: That the committee shall meet a total of not more than 4- 8 times to study state and local governmental compliance with Maine's freedom of access laws and other issues relating to citizens' access to public records and public proceedings. In examining these issues, the committee shall:

1. Review and analyze the Report on Public Records Audit, prepared by the Maine Freedom of Information Coalition in November 2002, and the recommendations made in the report;

2. Study what measures, if any, state and local governmental entities in Maine and in other states have taken to ensure their employees are knowledgeable about and comply with Maine's freedom of access laws or other comparable state laws;

3. Investigate and recommend ways in which governmental compliance with Maine's freedom of access laws may be meaningfully improved and calculate what, if any, costs may be associated with making such improvements;

4. Undertake a comprehensive inventory and review of the various exceptions to public access to records and proceedings found within the freedom of access laws and identify possible changes to these exceptions in order to streamline Maine law and thereby make it more easily understood and complied with by governmental employees;

5. Reconsider whether the need for any of the statutory exceptions, as currently worded, is outweighed by the State's general interest in ensuring citizens' access to public records and proceedings; and

6. Study whether and to what extent the freedom of access laws may be used as a harassment tool against local governmental entities and what remedies may be available and appropriate to deter any such harassment; ~~and-be-it-further~~

7. Recommend whether the personal home contact information of public employees should be confidential and not subject to disclosure;

8. Review the fees charged by agencies and officials for copies of public records and determine whether a cap on fees is

appropriate and, if so, recommend the level of such a cap on copying fees;

9. Review the issues surrounding appropriate charges for remote electronic access to public records;

10. Recommend whether the court should have discretion to award attorney's fees to a party denied access to records or proceedings and, if so, under what circumstances;

11. Recommend whether the enforcement procedures of Maine's freedom of access laws, including the imposition of monetary penalties, should be modified;

12. Explore options for providing staffing assistance for the legislative review of exceptions to the definition of "public records";

13. Review the issues surrounding the extent to which voice mail and electronic mail are public records and determine if statutory changes are necessary to ensure public access to public records;

14. Review the issues surrounding the conduct of public proceedings through electronic means and the methods of ensuring public access to such proceedings;

15. Review the options for standardization and clarification of Maine law contained in the report to the Legislature, Confidentiality of Public Records (1992), prepared by the Office of Policy and Legal Analysis;

16. Review the efforts of the Department of the Attorney General to provide public access assistance to the public and entities covered by Maine's freedom of access laws; and

17. Review any other public access issues that may improve compliance with Maine's freedom of access laws and enhance public access to public proceedings; and be it further

Sec. 6. Resolve 2003, c. 83, §7-A is enacted to read:

Sec. 7-A. Funding for 2nd year of study. Resolved: That any unexpended balance of funds originally budgeted to support the work of the committee that remain within the Legislature's Miscellaneous Studies account must be used for the same purposes; and be it further

Sec. 7. Resolve 2003, c. 83, §9 is amended to read:

Sec. 9. Initial report. Resolved: That the committee shall submit a- an initial report that includes its findings and recommendations including suggested legislation for presentation to the Joint Standing Committee on Judiciary and the Legislative Council by December 3, 2003. Following receipt and review of the report, the Joint Standing Committee on Judiciary may report out a bill to the Second Regular Session of the 121st Legislature to implement the committee's recommendations. If the committee requires a limited extension of time to conclude its study and to make its report, it may apply to the Legislative Council, which may grant the extension; and be it further

Sec. 8. Resolve 2003, c. 83, §9-A is enacted to read:

Sec. 9-A. Final report. Resolved: That, not later than November 3, 2004, the committee shall submit a final report that includes its findings and recommendations, including suggested legislation, for presentation to the First Regular Session of the 122nd Legislature. The committee is authorized to submit legislation related to its report for introduction to the First Regular Session of the 122nd Legislature at the time of submission of its report; and be it further

Sec. 9. Codification of public records exceptions. The Office of Policy and Legal Analysis and the Office of the Revisor of Statutes shall produce a bill for introduction in the First Regular Session of the 122nd Legislature that lists in the Maine Revised Statutes, Title 1, chapter 13, subchapter 1-A all the public records exceptions that exist elsewhere in the statutes, including cross-references to those exceptions.

Sec. 10. Retroactivity. Those sections of this Act that amend Resolve 2003, chapter 83, section 9 and enact Resolve 2003, chapter 83, section 9-A apply retroactively to December 3, 2003.

LD 1815

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOUR

H.P. 1337 - L.D. 1815

An Act To Establish the Maine Jobs, Trade and
Democracy Act

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

Sec. 1. 5 MRSA §12004-I, sub-§79-A is enacted to read:

<u>79-A.</u>	<u>Citizen Trade</u>	<u>Legislative</u>	<u>10 MRSA</u>
<u>Trade</u>	<u>Policy</u>	<u>Per Diem</u>	<u>§11</u>
	<u>Commission</u>	<u>and Expenses</u>	
		<u>for Legislators/</u>	
		<u>Expenses Only</u>	
		<u>for Other</u>	
		<u>Members</u>	

Sec. 2. 10 MRSA c.1-A is enacted to read:

CHAPTER 1-A

INTERNATIONAL TRADE AND THE ECONOMY

§11. Maine Jobs, Trade and Democracy Act

1. Short title. This section may be known and cited as
"the Maine Jobs, Trade and Democracy Act."

2. Definitions. As used in this section, unless the
context otherwise indicates, the following terms have the
following meanings.

A. "Commission" means the Citizen Trade Policy Commission established in Title 5, section 12004-I, subsection 79-A.

B. "Trade agreement" means any agreement reached between the United States Government and any other country, countries or other international political entity or entities that proposes to regulate trade among the parties to the agreement. "Trade agreement" includes, but is not limited to, the North American Free Trade Agreement, agreements with the World Trade Organization and the proposed Free Trade Area of the Americas.

3. Purposes. The commission is established to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and Legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements.

4. Membership. The commission consists of the following members:

A. The following 17 voting members:

(1) Three Senators representing at least 2 political parties, appointed by the President of the Senate;

(2) Three members of the House of Representatives representing at least 2 political parties, appointed by the Speaker of the House;

(3) The Attorney General or the Attorney General's designee;

(4) Four members of the public, appointed by the Governor as follows:

(a) A small business person;

(b) A small farmer;

(c) A representative of a nonprofit organization that promotes fair trade policies; and

(d) A representative of a Maine-based corporation that is active in international trade;

(5) Three members of the public appointed by the President of the Senate as follows:

(a) A health care professional;

(b) A representative of a Maine-based manufacturing business with 25 or more employees; and

(c) A representative of an economic development organization; and

(6) Three members of the public appointed by the Speaker of the House as follows:

(a) A person who is active in the organized labor community;

(b) A member of a nonprofit human rights organization; and

(c) A member of a nonprofit environmental organization.

In making appointments of members of the public, the appointing authorities shall make every effort to appoint representatives of generally recognized and organized constituencies of the interest groups mentioned in subparagraphs (4), (5) and (6); and

B. The following 5 commissioners or the commissioners' designees of the following 5 departments who serve as ex officio, nonvoting members:

(1) Department of Labor;

(2) Department of Economic and Community Development;

(3) Department of Environmental Protection;

(4) Department of Agriculture, Food and Rural Resources; and

(5) Department of Human Services.

5. Terms; vacancies; limits. Except for Legislators, commissioners and the Attorney General, who serve terms coincident with their elective or appointed terms, all members are appointed for 3-year terms. A vacancy must be filled by the same appointing authority that made the original appointment. Appointed members may not serve more than 2 terms. Members may

continue to serve until their replacements are designated. A member may designate an alternate to serve on a temporary basis.

6. Chair; officers; rules. The first-named Senate member and the first-named House of Representatives member are cochairs of the commission. The commission shall appoint other officers as necessary and make rules for orderly procedure.

7. Compensation. Legislators who are members of the commission are entitled to receive the legislative per diem and expenses as defined in Title 3, section 2 for their attendance to their duties under this chapter. Other members are entitled to receive reimbursement of necessary expenses if they are not otherwise reimbursed by their employers or others whom they represent.

8. Staff. The Office of Policy and Legal Analysis shall provide the necessary staff support for the operation of the commission. After one year, the commission shall assess the need for and qualifications of a staff person, for example, an executive director. If the commission determines that it requires such a person, it may request additional funds from the Legislature.

9. Powers and duties. The commission:

A. Shall meet at least twice annually;

B. Shall hear public testimony and recommendations from the people of the State and qualified experts when appropriate at no fewer than 2 locations throughout the State each year on the actual and potential social, environmental, economic and legal impacts of international trade agreements and negotiations on the State;

C. Shall conduct an annual assessment of the impacts of international trade agreements on Maine's state laws, municipal laws, working conditions and business environment;

D. Shall maintain active communications with and submit an annual report to the Governor, the Legislature, the Attorney General, municipalities, Maine's congressional delegation, the Maine International Trade Center, the Maine Municipal Association, the United States Trade Representative's Office, the National Conference of State Legislatures and the National Association of Attorneys General or the successor organization of any of these groups. The commission shall make the report easily accessible to the public by way of a publicly accessible site on the Internet maintained by the State. The report must contain

information acquired pursuant to activities under paragraphs B and C;

E. Shall maintain active communications with any entity the commission determines appropriate regarding ongoing developments in international trade agreements and policy;

F. May recommend or submit legislation to the Legislature;

G. May recommend that the State support, or withhold its support from, future trade negotiations or agreements; and

H. May examine any aspects of international trade, international economic integration and trade agreements that the members of the commission consider appropriate.

10. Outside funding. The commission may seek and accept outside funding to fulfill commission duties. 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 of the Legislative Council, along with an accounting that includes the amount received, the date that amount was received, from whom that amount was received, the purpose of the donation and any limitation on use of the funds. The executive director administers any funds received.

11. Evaluation. By December 31, 2009, the commission shall conduct an evaluation of its activities and recommend to the Legislature whether to continue, alter or cease the commission's activities.

Sec. 3. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 10, section 11, subsection 5, the appointing authorities for the original appointments of public members of the Citizen Trade Policy Commission shall designate their first appointment for a one-year term, their 2nd appointment for a 2-year term and any other appointments for a 3-year term. An initial term of one or 2 years may not be considered a full term for purposes of limiting the number of terms for which a member may serve.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

LEGISLATURE

Legislature

Initiative: Provides funds for the per diem and expenses for members of the Citizen Trade Policy Commission as well as public

hearing and general operation expenses. A base allocation in the amount of \$500 is included below in the event outside sources of funding are received for this purpose.

General Fund	2003-04	2004-05
Personal Services	\$0	\$1,320
All Other	0	11,050
General Fund Total	<hr/> \$0	<hr/> \$12,370
 Other Special Revenue Funds	 2003-04	 2004-05
All Other	\$0	\$500
Other Special Revenue Funds Total	<hr/> \$0	<hr/> \$500

LD 1930

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOUR

S.P. 767 - L.D. 1930

An Act To Promote Intergovernmental Cooperation, Cost
Savings and Efficiencies

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

Sec. 1. 5 MRSA §12004-I, sub-§75-C is enacted to read:

<u>75-C.</u>	<u>Intergovern-</u>	<u>Legislative</u>	<u>30-A MRSA</u>
<u>State</u>	<u>mental</u>	<u>Per Diem</u>	<u>§2181</u>
<u>Government</u>	<u>Advisory</u>	<u>and Expenses</u>	
	<u>Group</u>	<u>for Legis-</u>	
		<u>lators and</u>	
		<u>expenses only</u>	
		<u>for certain</u>	
		<u>members</u>	

Sec. 2. 30-A MRSA §2, sub-§1-A, as enacted by PL 1991, c. 541, §2, is repealed.

Sec. 3. 30-A MRSA §2, sub-§1-B, as amended by PL 2001, c. 161, §1 and affected by §2, is repealed.

Sec. 4. 30-A MRSA §71, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 5. 30-A MRSA §401, sub-§3, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 6. 30-A MRSA §701, sub-§3, as amended by PL 1989, c. 6; c. 9, §2; c. 23; and c. 104, Pt. C, §§8 and 10, is further amended to read:

3. Public hearing. The county ~~commissioner~~ commissioners shall hold a public hearing in the county on these estimates before December 31st. They shall publish a notice of the hearing at least 10 days before the hearing in a newspaper of general circulation within the county. Written notice and a copy of the estimates ~~shall~~ must be sent by mail or delivered in person to the clerk of each municipality in the county ~~and to each member of the county legislative delegation~~ at least 10 days before the hearing. The municipal clerk shall notify the municipal officers of the receipt of the estimates.

Sec. 7. 30-A MRSA §701, sub-§4, as amended by PL 1989, c. 6; c. 9, §2; c. 23; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 8. 30-A MRSA §702, as repealed and replaced by PL 2003, c. 105, §2 and amended by c. 178, §1, is repealed and the following enacted in its place:

§702. Estimates recorded and sent to State Auditor

The county clerk shall record the estimates made under section 701. A copy of the estimates must be signed by the chair of the county commissioners and attested to by the county commissioners' clerk. On or before the first day of each January, the clerk shall transmit that copy to the State Auditor, who shall retain the copy for 3 years. These records are a public record at the office of the county commissioners in the county that submitted those records.

Sec. 9. 30-A MRSA §1321, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2 and c. 104, Pt. C, §§8 and 10, is further amended by inserting a new first paragraph to read:

A charter commission may be initiated by the county commissioners or by petition by voters according to the methods established in subsections 1 and 2.

Sec. 10. 30-A MRSA §1321, sub-§5, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 11. 30-A MRSA §1352, sub-§1, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

1. Application. ~~In--these--counties--that--adopt--county charters~~ If a county adopts a charter, the following general laws and laws related to that county do not apply if the charter provides for that function:

- A. Sections 2, 52 and 53;
- B. Chapter 1, subchapter ~~##~~ 2, sections 61 to 82;
- C. Chapter 1, subchapter ~~###~~ 3, sections 151 to 162;
- D. Section 201; and
- D-1. Chapter 3, subchapter 1, sections 701 to 900-E; and
- E. Title 33, sections 601 to 608.

Sec. 12. 30-A MRSA c. 114 is enacted to read:

CHAPTER 114

INTERGOVERNMENTAL COOPERATION

§2181. Intergovernmental Advisory Group

The Intergovernmental Advisory Group, established by Title 5, section 12004-I, subsection 75-C and referred to in this chapter as "the advisory group," shall work on ways to improve communication, cooperation and efficiencies within all 3 branches of government and provide state assistance to encourage regionalization and cost-effective service delivery.

1. Advisory group membership. The advisory group consists of the following 17 members:

- A. One member of the Senate appointed by the President of the Senate;
- B. One member of the House of Representatives who is not a member of the same political party as the Senator appointed under paragraph A, appointed by the Speaker of the House;
- C. Three members who must be state agency or department heads or their designees, appointed by the Governor. The Governor may appoint the fiscal administrator of the unorganized territory in lieu of an agency or department head;

D. Five members appointed by the Governor who represent regional governments, 3 of whom must be county officials recommended by a statewide association of county commissioners and 2 of whom must represent regional planning agencies, councils of government or other regional bodies;

E. Five members appointed by the Governor who represent local government, 3 of whom must be municipal officials recommended by a statewide municipal association and 2 of whom must represent school administrative units or other special-purpose districts that represent 2 or more municipalities; and

F. Two members appointed by the Governor who represent nongovernmental entities with experience in regionalization, consolidation and customer service, one from the not-for-profit sector and one from the for-profit sector.

The Governor shall appoint at least 3 members from each of 3 regions defined as follows: Region 1: Aroostook, Hancock, Penobscot, Piscataquis and Washington counties; Region 2: Androscoggin, Franklin, Kennebec, Knox, Lincoln, Oxford, Sagadahoc, Somerset and Waldo counties; and Region 3: Cumberland and York counties. The Governor shall make every effort to ensure a geographic diversity of membership from each region.

2. Chairs. The 2 legislative members of the advisory group are the cochairs.

3. Terms of appointment. The terms of appointment are as follows.

A. Of the initial gubernatorial appointments, 5 must be for terms of 3 years, 5 must be for terms of 2 years and 5 must be for terms of one year.

B. Subsequent gubernatorial appointments must be for terms of 3 years, except that, if a member is unable to complete the term, the Governor shall appoint a person to serve out the remainder of the unexpired term.

C. The term for an elected official must be for the term of office of the person appointed.

D. A member may not serve for more than 6 years. A member may continue to serve until a replacement is designated.

4. Duties. The advisory group shall:

A. Study ways to reduce duplication and improve efficiency among all 3 branches of State Government as well as within each branch;

B. Promote communication, cooperation and efficient delivery of services, including collecting data on current efforts to regionalize service delivery statewide;

C. Design and implement processes by which the State may offer guidance, technical support and incentives to encourage regionalization and efficiency of service delivery by all 3 branches of government;

D. Work with local and regional entities to design and implement pilot programs that result in cost savings or improved services through regionalization or other efficiency efforts;

E. Identify best management practices and make this information available to the public;

F. Prepare legislation for submission to the Legislature to implement any recommendations of the advisory group on or before December 1st annually; and

G. Report to the joint standing committee of the Legislature having jurisdiction over state and local government matters annually in January on the activities and effectiveness of the group and recommend changes to the group's organizational structure.

5. Meetings. The advisory group must meet 4 times a year and may not meet more than 8 times a year.

6. Attendance. If a member of the advisory group fails to notify the chairs about an absence from a meeting more than one time, the original appointing authority may appoint a replacement.

7. Staff assistance. The advisory group shall establish a method for determining the funding for and provision of staff and support services.

8. Funding. The advisory group is authorized to seek, accept and expend funding to carry out the advisory group's program activities, subject to approval by the joint standing committee of the Legislature having jurisdiction over state and local government matters. All funds accepted must be forwarded to the Executive Director of the Legislative Council, who shall administer any funds received by the advisory group.

9. Compensation. Legislative members of the commission are entitled to receive the legislative per diem as defined in Title 3, section 2 and reimbursement for expenses according to Title 5, section 12004-I, subsection 75-C. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses incurred for their attendance at authorized meetings of the advisory group.

10. Quorum; actions. A quorum is a majority of the members of the committee. An affirmative vote of the majority of the members present at a meeting is required for any action.

Sec. 13. 30-A MRSA §2201, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

§2201. Purpose

It is the purpose of this chapter to permit ~~municipalities~~ public agencies, as defined in section 2202, including, but not limited to, municipalities, counties, school administrative units and state agencies, to make the most efficient use of their powers by enabling them to cooperate with ~~other municipalities~~ on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of ~~local~~ communities.

Sec. 14. 30-A MRSA §2202, sub-§1, ¶A, as amended by PL 1993, c. 279, §1, is further amended to read:

A. Any political subdivision of the State, as defined in section 2252, or any adjoining state; or

Sec. 15. 30-A MRSA §2202, sub-§1, ¶B, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2 and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 16. 30-A MRSA §7209, sub-§4, as enacted by PL 2003, c. 297, §6, is amended to read:

4. Limitation. If the voters of a municipality reject deorganization in ~~an advisory referendum~~ a vote held pursuant to this section, the municipality may not submit a deorganization plan to the Legislature for a period of 3 years from the date of that ~~advisory referendum~~ vote.

Sec. 17. Appropriations and allocations. The following appropriations and allocations are made.

LEGISLATURE

Legislature

Initiative: Provides funds for the per diem and expenses of the legislative members of the Intergovernmental Advisory Group.

General Fund	2003-04	2004-05
Personal Services	\$0	\$880
All Other	0	2,350
General Fund Total	<hr/> \$0	<hr/> \$3,230

Legislature

Initiative: Allocates funds in the event that additional dedicated revenue is received to carry out the advisory group's program activities.

Other Special Revenue Funds	2003-04	2004-05
Personal Services	\$0	\$500
Other Special Revenue Funds Total	<hr/> \$0	<hr/> \$500

LEGISLATURE

DEPARTMENT TOTALS

	2003-04	2004-05
GENERAL FUND	\$0	\$3,230
OTHER SPECIAL REVENUE FUNDS	0	500
DEPARTMENT TOTAL - ALL FUNDS	<hr/> \$0	<hr/> \$3,730

LD 746

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOUR

H.P. 552 - L.D. 746

**Resolve, Directing the Joint Standing Committee on Taxation
To Study the State's Participation in the National
Streamlined Sales and Use Tax Agreement and Report
Legislation Necessary To Bring the State into Conformity
with That Agreement**

Sec. 1. Study; report. Resolved: That the Joint Standing Committee on Taxation shall study the State's participation in the national Streamlined Sales and Use Tax Agreement. The study must include determining what changes in the State's sales and use tax laws are necessary to conform to the agreement and must analyze the advantages and disadvantages of conformity. The committee shall conduct this study during regularly authorized interim meetings of the committee and may request from the Legislative Council permission for additional meetings, if necessary. The committee shall submit a report to the First Regular Session of the 122nd Legislature by December 1, 2004 recommending whether the State should adopt conforming legislation. If the committee recommends conformity, it shall include in its report legislation necessary to make conforming changes in the State's sales and use tax laws; and be it further

Sec. 2. Staff assistance; technical assistance. Resolved: That, upon approval by the Legislative Council, the Office of Fiscal and Program Review shall provide necessary staffing services to the Joint Standing Committee on Taxation. The Department of Administrative and Financial Services, Bureau of Revenue Services shall provide technical assistance to the committee.

LD 1813

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOUR

H.P. 1335 - L.D. 1813

An Act To Make Minor Substantive Changes to the Tax Laws

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

Sec. 1. 36 MRSA §177, sub-§4, as amended by PL 1999, c. 790, Pt. A, §41, is further amended to read:

4. **Revocation for nonsegregation.** If any person who is a ~~"retailer"~~ retailer under Part 3 or a fuel supplier, retailer, distributor or importer subject to Part 5 fails to make the required payments on account to the State Tax Assessor, the assessor may revoke any registration certificate that has been issued to that person. The revocation is reviewable in accordance with section 151.

Sec. 2. 36 MRSA §191, sub-§2, ¶F, as amended by PL 2001, c. 23, §1, is further amended to read:

F. The transmission of information among employees of the Bureau of Revenue Services for the purposes of enforcing the tax laws of this State and the delivery by a register of deeds to the State Tax Assessor or delivery by the State Tax Assessor to the appropriate municipal assessor or to the Maine Land Use Regulation Commission or the Department of Human Services of "declarations of value" in accordance with section 4641-D. The State Tax Assessor may require entities requesting information pursuant to this paragraph other than municipal assessors to provide resources sufficient to cover the cost of providing the forms;

Sec. 3. 36 MRSA §1760, sub-§16, as amended by PL 1999, c. 708, §25, is further amended to read:

16. Hospitals, research centers, churches and schools. Sales to incorporated hospitals, incorporated nonprofit nursing homes licensed by the Department of Human Services, incorporated nonprofit residential care facilities and incorporated nonprofit assisted housing programs for the elderly licensed by the Department of Human Services, incorporated nonprofit home health agencies certified under the United States Social Security Act of 1965, Title XVIII, as amended, incorporated nonprofit rural community health centers engaged in, or providing facilities for, the delivery of comprehensive primary health care, incorporated nonprofit dental health centers, institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research or for the purpose of establishing and maintaining laboratories for scientific study and investigation in the field of biology or ecology or operating educational television or radio stations, schools, incorporated nonprofit organizations or their affiliates whose purpose is to provide literacy assistance or free clinical assistance to children with dyslexia and regularly organized churches or houses of religious worship, excepting sales, storage or use in activities that are mainly commercial enterprises. "Schools" means incorporated nonstock educational institutions, including institutions empowered to confer educational, literary or academic degrees, that have a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year and that keep and furnish to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank, no part of the net earnings of which inures to the benefit of any individual.

Sec. 4. 36 MRSA §4305, as amended by PL 1997, c. 511, §14, is further amended to read:

§4305. Certification

Every processor or shipper of wild blueberries shall obtain certification from the State Tax Assessor ~~annually~~ before processing or shipping wild blueberries. The assessor shall provide the applications for the certification, which must contain the name under which the processor or shipper is transacting business in the State, the place or places of business, the names and addresses of the persons constituting a firm or partnership and, if a corporation, the corporate name and names and addresses of its principal officers and agents in the State. A processor or shipper may not process or ship wild blueberries until the certification has been issued.

Certification may be suspended or revoked by the assessor for failure to pay the tax imposed by section 4303 or for the filing of false or fraudulent reports or returns. ~~All certification expires each year on June 30th.~~ A certificate issued by the assessor pursuant to this section is not a license within the meaning of that term in the Maine Administrative Procedure Act.

Sec. 5. 36 MRSA §4365, as amended by PL 2001, c. 439, Pt. SSSS, §1 and affected by §4, is further amended to read:

§4365. Rate of tax

A tax is imposed on all cigarettes imported into this State or held in this State by any person for sale at the rate of 47 mills for each cigarette. Payment of the tax is evidenced by the affixing of stamps to the packages containing the cigarettes. ~~If an individual purchases in any one month unstamped packages containing cigarettes in a quantity greater than 2 cartons from a person other than a licensed distributor or dealer, the tax may be assessed directly against the purchaser by the State Tax Assessor within 3 years from the date of the purchase.~~

Sec. 6. 36 MRSA §4384 is enacted to read:

§4384. Reporting and payment of tax

A person who is not a licensed distributor or dealer who imports, receives or otherwise acquires unstamped cigarettes for use or consumption in the State in a quantity greater than 2 cartons in any one month from a person other than a licensed distributor or dealer shall file, on or before the last day of the month following each month in which unstamped cigarettes were acquired, a return on a form prescribed by the State Tax Assessor together with payment of the tax imposed by this chapter at the rate provided in section 4365. The return must report the number of unstamped cigarettes imported, received or otherwise acquired during the previous calendar month and additional information the assessor may require.

Sec. 7. 36 MRSA §5122, sub-§2, ¶B, as amended by PL 2003, c. 390, §31, is further amended to read:

B. An amount equal to the taxpayer's federal work opportunity credit as determined under the Code, Section 51 or empowerment zone employment credit as determined under the laws of the United States Code, Section 1396;

Sec. 8. 36 MRSA §5122, sub-§2, ¶L, as repealed and replaced by PL 2001, c. 358, Pt. CC, §1, is amended to read:

L. For income tax years beginning on or after January 1, 2000 and before January 1, 2004, an amount equal to the total premiums spent for qualified long-term care insurance contracts as defined in the Code, Section 7702B(b), as long as the amount subtracted is reduced by the long-term care premiums claimed as an itemized deduction pursuant to section 5125. For income tax years beginning on or after January 1, 2004, an amount equal to the total premiums spent for qualified long-term care insurance contracts as defined in the Code, Section 7702B(b), as long as the amount subtracted is reduced by any amount claimed as a deduction for federal income tax purposes in accordance with the Code, Section 162(l) and by the long-term care premiums claimed as an itemized deduction pursuant to section 5125;

Sec. 9. 36 MRSA §5122, sub-§2, ¶T, as reallocated by RR 2003, c. 1, §37, is amended to read:

T. For income tax years beginning on or after January 1, 2002 and before January 1, 2004, an amount equal to the total premiums spent for long-term care insurance policies certified under Title 24-A, section 5075-A as long as the amount subtracted is reduced by the long-term care premiums claimed as an itemized deduction pursuant to section 5125.

For income tax years beginning on or after January 1, 2004, an amount equal to the total premiums spent for qualified long-term care insurance contracts certified under Title 24-A, section 5075-A, as long as the amount subtracted is reduced by any amount claimed as a deduction for federal income tax purposes in accordance with the Code, Section 162(l) and by the long-term care premiums claimed as an itemized deduction pursuant to section 5125.

Sec. 10. 36 MRSA §5200-A, sub-§2, ¶C, as amended by PL 2003, c. 390, §42, is further amended to read:

C. An amount equal to the taxpayer's federal work opportunity credit as determined under the Code, Section 51 or empowerment zone employment credit as determined under the laws-of-the-United-States Code, Section 1396;

Sec. 11. Review. The joint standing committee of the Legislature having jurisdiction over taxation matters, during regularly authorized interim committee meetings, shall review the sales tax exemption for truck bodies and trailers manufactured in the State that is provided in the Maine Revised Statutes, Title 36, section 1760, subsection 23-C, paragraph D and may report by December 1, 2004 a bill to amend or repeal the exemption for

consideration by the First Regular Session of the 122nd Legislature.

Sec. 12. Application. Those sections of this Act that amend the Maine Revised Statutes, Title 36, section 5122, subsection 2, paragraphs B, L and T and section 5200-A, subsection 2, paragraph C apply to tax years beginning on or after January 1, 2004. That section of this Act that amends Title 36, section 1760, subsection 16 applies to sales occurring on or after August 1, 2004.

LD 20

APPROVED	CHAPTER
JUN 24 '03	492
BY GOVERNOR	PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND THREE

H.P. 27 - L.D. 20

An Act to Extend the Authority of the Health Care
System and Health Security Board

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

Sec. 1. PL 2001, c. 439, Pt. ZZZ, §1, sub-§1, first ¶ is amended to read:

1. **Board established.** The Health Care System and Health Security Board, referred to in this section as the "board," consists of ~~19~~ 20 members as follows:

Sec. 2. PL 2001, c. 439, Pt. ZZZ, §1, sub-§1, ¶¶D and E are amended to read:

D. Two members ~~of the House of Representatives~~ appointed by the Speaker of the House of Representatives who are serving in the House of Representatives at the time of their appointment with preference to members of the joint standing committee of the Legislature having jurisdiction over health and human services matters, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over banking and insurance matters;

E. Two members ~~of the Senate~~ appointed by the President of the Senate who are serving in the Senate at the time of their appointment with preference to members of the joint standing committee of the Legislature having jurisdiction over health and human services matters, the joint standing committee of the Legislature having jurisdiction over

appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over banking and insurance matters;

Sec. 3. PL 2001, c. 439, Part ZZZ, §1, sub-§1, ¶G is amended to read:

G. A representative of each of the following, appointed by the Speaker of the House:

- (1) A statewide organization that represents Maine senior citizens;
- (2) A statewide labor organization;
- (3) A statewide organization of nurses;
- (4) Large hospitals in the State;
- (5) The business community; and
- (6) An organization representing the self-employed; and
- (7) The public.

Sec. 4. PL 2001, c. 439, Pt. ZZZ, §1, sub-§§2 and 3 are amended to read:

2. **Chairs.** The first-named Senate member is the Senate chair and the first-named House member is the House chair of the board. The Senate and House chairs may continue to serve until successors are appointed.

3. **Appointments; convening board.** All appointments must be made no later than 30 days following the effective date of this Part. Appointed members may continue to serve until their successors are appointed. The chairs shall call and convene the first meeting of the board within 30 days of completion of all appointments. The board may hold up to 4 meetings after June 30, 2003, all of which must be in the Augusta area.

Sec. 5. PL 2001, c. 439, Pt. ZZZ, §1, sub-§§6 to 9 are amended to read:

6. **Staff assistance.** The board may contract with and retain staffing and technical assistance from a health policy organization. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis may provide necessary staffing services to the board.

7. **Funding.** The board may seek and accept outside funding through the public or private sector to advance its work and support its activities. Funds may not be appropriated from the General Fund to support any activity of the board, nor may expenses exceed available funding.

8. **Compensation.** Those members of the board who are Legislators are entitled to receive the legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel and other necessary expenses related to their attendance at meetings of the board. Public members not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses and, upon demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at meetings of the board.

9. **Report.** Based on its review, the board shall develop recommendations regarding the implementation of a single-payor plan to provide health care coverage to all citizens of this State and shall submit its final report, together with any necessary implementing legislation, to the Second Regular Session of the 120th Legislature by March 1, 2002 for presentation to the First Regular Session of the 122nd Legislature by November 1, 2004. ~~If the board requires an extension of time to make its report, it may apply to the Legislative Council, which may grant the extension.~~ The board shall submit an interim report, together with any implementing legislation, to the First Regular Session of the 121st Legislature by January 15, 2003. Upon submission of the final report, the board may not take further action unless further action is authorized by law.

Sec. 6. Appropriations and Allocations. The following appropriations and allocations are made.

LEGISLATURE

Health Care System and Health Security Board

Initiative: Provides an allocation of Other Special Revenue funds for expenses of the board.

Other Special Revenue Funds	2003-04	2004-05
Personal Services	\$1,100	\$0
All Other	5,202	0
Other Special Revenue Funds Total	<u>\$6,302</u>	<u>\$0</u>

Sec. 7. Retroactivity. This Act is retroactive to September 21,
2001.

LD 1343

DAVID E. BOULTER
EXECUTIVE DIRECTOR
OF THE LEGISLATIVE COUNCIL



MAINE STATE LEGISLATURE

OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

To: The Honorable Betheda Edmonds, Senate Chair
The Honorable Robert Duplessie, House Chair
Task Force to Study Parity and Portability of Retirement Benefits for State Law
Enforcement Officers; Municipal and County Law Enforcement Officers and Firefighters

From: *Dave* David E. Boulter, Executive Director of the Legislative Council

Date: February 12, 2004

Re: Task Force's Request for Extension of Report Date

On February 10, 2004 the Legislative Council approved the task force's request to extend the reporting deadline for the Task Force to Study Parity and Portability of Retirement Benefits for State Law Enforcement Officers, Municipal and County Law Enforcement Officers and Firefighters to November 3, 2004.

If you have any questions about the Legislative Council's decision, please consult your committee analyst or contact me at 287-1615.

Thank you.

cc: */* Deborah Friedman, Legislative Analyst, OPLA

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JUN 17 '03

76

BY GOVERNOR

RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND THREE

H.P. 989 - L.D. 1343

**Resolve, To Create the Task Force To Study Parity and
Portability of Retirement Benefits for State Law Enforcement
Officers, Municipal and County Law Enforcement Officers and
Firefighters**

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

Whereas, this resolve establishes the Task Force to Study Parity and Portability of Retirement Benefits for State Law Enforcement Officers, Municipal and County Law Enforcement Officers and Firefighters; and

Whereas, this resolve is necessary as an emergency measure to afford adequate time for the issues to be appropriately addressed by the task force; and

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

Sec. 1. Task force established. Resolved: That the Task Force to Study Parity and Portability of Retirement Benefits for State Law Enforcement Officers, Municipal and County Law Enforcement Officers and Firefighters, referred to in this resolve as "the task force," is established; and be it further

Sec. 2. Task force membership. Resolved: That the task force consists of 8 members appointed as follows:

1. Two members of the Senate, appointed by the President of the Senate. When making the appointments, the President of the Senate shall give preference to members who serve on the Joint Standing Committee on State and Local Government, the Joint Standing Committee on Criminal Justice and Public Safety or the Joint Standing Committee on Labor;

2. Two members of the House of Representatives, appointed by the Speaker of the House; and

3. Four members appointed as follows:

A. One member representing municipal law enforcement officers, appointed by the President of the Senate;

B. One member representing municipal firefighters, appointed by the Speaker of the House;

C. One member representing county law enforcement officers, appointed by the Speaker of the House; and

D. One member representing state law enforcement officers, including employees of the Office of the State Fire Marshal who have law enforcement powers, appointed by the President of the Senate; and be it further

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair of the task force and the first-named House of Representatives member is the House chair of the task force; and be it further

Sec. 4. Appointments; convening of task force; meetings. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the task force. The task force may hold up to 4 meetings; and be it further

Sec. 5. Duties. Resolved: That the task force shall examine the following issues concerning retirement and health insurance benefits for state, county and municipal law enforcement officers and firefighters:

1. Review the differences in retirement benefits provided to state law enforcement officers, county law enforcement officers and municipal law enforcement officers;

2. Develop options for providing parity in benefits and for increasing portability of benefits for law enforcement officers who move between state, county and municipal employment, including employment in the Office of the State Fire Marshal, or those who change municipal or county employers; and

3. Review the differences among retirement and health insurance benefits provided to municipal law enforcement officers and firefighters in various municipalities and consider the advantages and disadvantages of creating a uniform retirement and health insurance benefit plan for municipal law enforcement officers and firefighters; and be it further

Sec. 6. Staff assistance. Resolved: That, upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the task force. The Maine State Retirement System shall provide technical assistance as requested by the task force; and be it further

Sec. 7. Compensation. Resolved: That the legislative members of the task force are entitled to receive legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at meetings of the task force. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings of the task force and, upon a demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the task force; and be it further

Sec. 8. Report. Resolved: That the task force shall submit its report that includes its findings and recommendations, including suggested legislation, to the Second Regular Session of the 121st Legislature no later than December 3, 2003. The task force is authorized to introduce a bill related to its report to the Second Regular Session of the 121st Legislature at the time of submission of its report; and be it further

Sec. 9. Extension. Resolved: That, if the task force 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; and be it further

Sec. 10. Task force budget. Resolved: That the chairs of the task force, with assistance from the task force staff, shall administer the task force's budget. Within 10 days after its first meeting, the task force shall present a work plan and proposed budget to the Legislative Council for its approval. The

task force may not incur expenses that would result in the task force's exceeding its approved budget.

Upon request from the task force, the Executive Director of the Legislative Council or the executive director's designee shall promptly provide the task force chair and staff with a status report on the study budget, expenditures incurred and paid and available funds.

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

Legislative Studies: Drafting Guidelines

**Adopted by the 121st Legislative Council
Pursuant to Joint Rule 353**

January 28, 2003

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

0000091

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 121st Legislature on December 4, 2002 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.
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 the 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 STUDIESDRAFTING GUIDELINESElement of Study Order or LegislationSample LanguageComments**1. Selection of Legislative Vehicle**

- ♦ Five types of document may be used

A. Joint Study Order

(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.)

“Ordered, the (Senate or House) concurring, that the Joint Select Committee on Substance Abuse is established as follows.”

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.”

or...that the Legislative Study Committee on the Integration of Social Security and Maine State Retirement System Benefits is established as follows.”

- ♦ 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 beyond the end of the biennium.

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.

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Element of Study Order or Legislation

Sample Language

Comments

E. Special Committees established pursuant to the presiding officer(s) order

See sample order.

Note: Joint standing committees may also study an issue during interim committee authorized by Joint Rule 315.

(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.)

2. Establishment of Study Group

A. Order or Resolve

"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 I)

B. Public Law

"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."

Ordinarily study membership must consist of all legislators or a majority of legislators. See Joint Rule 353 (2).

- ◆ Describe the method of appointment or selection of members

A. Joint study order

"The President of the Senate shall appoint (#) members and the Speaker of the House of Representatives shall appoint (#) members to the (study group)."

Unless specific circumstances warrant, the Presiding Officers must be the appointing authority for all members, but must not make appointments jointly.

Element of Study Order or LegislationSample LanguageComments

B. <u>Resolve or bill</u>		
◆ Specify qualifications or affiliations of members	“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).”	
◆ Establish deadline for appointments	(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 terms and provide for filling vacancies	“All appointments must be made no later than 30 days following the (effective date of this resolve or Act/passage of this order).”	
◆ Specify notification of appointments to administering authority	“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
	“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	“The first named Senate member is the Senate chair and the first named House of Representatives member is the House chair.” (Alternatives to preferred approach:) “The (Governor, the President of the Senate, Speaker of the House of Representatives or other authority) shall appoint the chair of the (study group).”	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 and the Speaker the House Chair. See Joint Rule 353 (3). Avoid joint appointment of a chair.
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8600000

Element of Study Order or Legislation

Sample Language

Comments

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 the chairs and staff before the first meeting.

◆ Specify tasks to be performed when studying

“In examining these issues, the (study group)

Listing specific tasks to be performed will

Element of Study Order or Legislation

Sample Language

Comments

the issue

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.”

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.

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

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
- specify who is to provide assistance in drafting study legislation

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

“The (state agency) shall prepare any legislation recommended by 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.

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Element of Study Order or Legislation

Sample Language

Comments

	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, upon a demonstration of financial hardship, 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).
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Element of Study Order or Legislation

Sample Language

Comments

9. Report & Study Group Termination

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

“No later than (date), the (study group) shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the (specify which) Session of the (specify which) Legislature. The (study group) is authorized to submit legislation related to its report for introduction 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

“No later than (date), the (study group) shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Joint Standing Committee on (joint standing committee) and the Legislative Council. 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

“No later than (date), the (study group) shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Joint Standing Committee on (joint standing committee) and the Legislative Council. The (study group) is authorized to submit legislation related to its

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 the 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

report for introduction to the (session) Session of the

<u>Element of Study Order or Legislation</u>	<u>Sample Language</u>	<u>Comments</u>
	(specify) Legislature at the time of submission of its report"	granted to both the study group and the joint standing committee. In addition, it should not be granted to joint standing committees jointly.
◆ Specify date for submission of work products to the Legislature and to whom the report or other work product is to be submitted	(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))."	
◆ 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.

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Element of Study Order or Legislation

Sample Language

Comments

10. Funding & Management of Study Expenses

- | | | |
|---|--|---|
| ♦ Seek appropriation language 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> | <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.</p> |
| ♦ 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> | <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.</p> |

**Proposed Policy on Acceptance of Contributions of Funds
to Support the Work of a Study Group**

(Addendum to Legislative Studies: Drafting Guidelines)

“The chair(s) of the (study group) may seek and accept outside funding subject to the following limitations. Contributions to support the work of a study committee may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied. Any person, other than a state agency, desiring to make a financial or in-kind contribution must certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the study. Such certification must be made in the manner prescribed by the Legislative Council. All contributions are subject to approval by the Legislative Council.

If the Legislative Council authorizes acceptance of funds, the chair(s) shall provide prompt notice of solicitation and acceptance of funds to the executive director of the Legislative Council who will so notify 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 administers all funds received. Unless otherwise specified by the Legislative Council, expenses that have an effect on the General Fund may not be incurred by the (study group).”

[NOTE: Underlined language is substantially new language to be added to existing approved guidelines]