

MAINE STATE LEGISLATURE

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MAINE STATE LEGISLATURE

Augusta, Maine 04333

**LEGISLATIVE COUNCIL
of the 123rd Legislature**

December 7, 2006

9:00 A.M.

REVISED AGENDA

<u>Page</u>	<u>Item</u>	<u>Action</u>
	CALL TO ORDER	
	ROLL CALL	
	ELECTION OF OFFICERS FOR THE 123rd LEGISLATIVE COUNCIL	Election
1	ADOPTION OF LEGISLATIVE COUNCIL RULES OF PROCEDURE	Decision
4	SUMMARY OF NOVEMBER 16, 2006 MEETING OF LEGISLATIVE COUNCIL	Acceptance
	REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL STAFF OFFICES	
	OLD BUSINESS	
9	Item # 1: Review of Current Study Committee Process and Recommendation that a Subcommittee of the Legislative Council be Convened to Review the Study Committee Process (referred by 122nd Legislative Council)	Decision

NEW BUSINESS

- | | | |
|-----------|--|--------------------|
| 42 | Item #1: Establishment of Initial Salaries/Step Increases for Constitutional Officers & State Auditor | Information |
| 43 | Item # 2: Council Policy on Processing Duplicate Bill Requests by Legislators (Revisor of Statutes) | Decision |
| 45 | Item #3: Final Report of the Task Force to Study Cervical Cancer Prevention, Detection and Education | Acceptance |
| 46 | Item #4: Final Report of the Commission to Arrange for a Monument Honoring Women Veterans of Maine | Acceptance |

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

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*Suggested Rules of Procedures
(modeled after the rules of the Legislative Council for the 122nd Legislature)*

**MAINE LEGISLATIVE COUNCIL
123rd LEGISLATURE**

**RULES OF PROCEDURE
Adopted by the Legislative Council
[Date]**

1. **Organizational Meeting:** The President of the Senate shall call the biennial organizational meeting of the Legislative Council into session in December following the convening of the new Legislature and shall preside until the election of the chair of the Legislative Council.
2. **Chair:** At its organizational meeting, the Legislative Council shall elect a chair, who shall preside at all meetings of the council when he or she is present. The position of Legislative Council chair must alternate in succeeding biennial sessions between a member from the Senate and a member from the House of Representatives. Therefore, for the 123rd Legislature, the chair must be a Senator.
3. **Vice Chair:** The Legislative Council shall elect a vice-chair who shall serve as chair in the absence of the chair. The vice-chair may not be a member of the same chamber of the Legislature as that of the chair.
4. **Quorum:** The Legislative Council may conduct business only when a quorum of members is present, which consists of six (6) members. Any action of the council requires the affirmative votes of not less than 6 members.
5. **Meetings:** The meeting schedule for the Legislative Council is determined by the call of the chair for the 123rd Legislature or by a majority vote of the council. The council shall meet at least once per month, on a regularized schedule.
6. **Meeting Location:** The official meeting location of the Legislative Council is the Legislative Council Chamber, Room 334, in the State House, and the chair shall convene all meetings there unless an alternative location is specified in the call of the meeting.
7. **Meeting Notice:** The chair shall issue written calls for all regular and special meetings of the Legislative Council. The call must give the date, time, and place of the meeting and such other information as the chair directs.
8. **Public Meetings:** All meetings of the Legislative Council are public meetings except for executive sessions; the council may not take any final action in an executive session.
9. **Council Committees:** The chair shall make all appointments to committees established by the Legislative Council. Each committee must include at least three

council members and must have representation from each of the two major political parties. At a minimum, the council shall establish Personnel and State House Facilities committees.

10. **Approval of Step Increases:** All step increases that require a vote of the Legislative Council during the 123rd Legislature are approved for the term of this council if, after review, a majority of the Personnel Committee approves the step increases.
11. **Council Agenda and Records:** The Executive Director of the Legislative Council shall prepare, in consultation with the chair, meeting notices and a council agenda in advance of each meeting. The executive director shall also maintain an accurate, permanent public record of all meetings, proceedings and votes of the Legislative Council.
12. **Order of Business:** The regular order of business of the Legislative Council is:
 1. Call to Order
 2. Roll Call
 3. Summary of Previous Council Meeting
 4. Executive Director's Report
 5. Reports from Council Committees
 6. Old Business
 7. New Business
 8. Announcements and Remarks
 9. Adjournment

Items not on the Council agenda may be considered only by leave of the council's presiding officer or by a majority vote of the Legislative Council.
13. **Circulation of Ballots:** The chair and the vice-chair, jointly, may authorize a Legislative Council member to circulate a ballot for Legislative Council action when they determine that the matter to be voted on must be decided before the next regular meeting of the council. The executive director shall prepare all ballots authorized for circulation among council members. A reasonable effort shall be made to provide each member an opportunity to vote on the ballot. Actions taken by Legislative Council ballot must be reported at the next or following regular meeting of the council.
14. **Roll Call Votes:** Votes requiring a roll-call shall be made by the executive director calling the roll, by a showing of hands or by electronic tabulation as long as the matter being voted on, how each member voted and the results of the vote are accurately determined and recorded. The executive director shall announce the vote following a roll-call. All decisions of the Legislative Council regarding the introduction of bills or other measures must be by a roll-call vote.
15. **Statements to News Organizations:** Only the chair of the Legislative Council, executive director or persons specifically authorized by the chair may make official statements to news organizations or to the public on behalf of or representing the Legislative Council.

16. **Rules of Order:** The Legislative Council's presiding officer shall conduct the proceedings of the council in accordance with Robert's Rules of Order except as otherwise specified in the council's own rules or by law.
17. **Amendments to Rules:** The Legislative Council may amend these rules, with the exception of Rules 2 and 4, upon a two-thirds vote of the Council members present and voting, provided that a vote to amend is by at least six affirmative votes. Rules 2 and 4 may not be amended during the term of the 123rd Legislative Council.
18. **Decisions Affecting Capitol Park:** Any action affecting Capitol Park, be it a temporary or permanent alteration or change in use, must be approved by a majority of the Council, consistent with these rules and 3 MRSA §162 (17). Prior to a final decision on any proposal affecting Capitol Park, the Council or its executive director shall consult with the State House and Capitol Park Commission.

Adopted by the Legislative Council of the 123rd Maine Legislature on December 7, 2006 at Augusta, Maine.

Attested: _____

David E. Boulter, Executive Director of the Legislative Council

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REP. JOHN RICHARDSON
CHAIR

SEN. BETH EDMONDS
VICE-CHAIR



SEN. MICHAEL F. BRENNAN
SEN. PAUL T. DAVIS, SR.
SEN. KENNETH T. GAGNON
SEN. CAROL WESTON
REP. GLENN A. CUMMINGS
REP. DAVID E. BOWLES
REP. ROBERT W. DUPLESSIE
REP. JOSHUA A. TARDY

DAVID E. BOULTER
EXECUTIVE DIRECTOR

122ND MAINE STATE LEGISLATURE

LEGISLATIVE COUNCIL

MEETING SUMMARY

November 16, 2006

CALL TO ORDER

The Chair, Speaker Richardson, called the Legislative Council meeting to order at 2:12 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Edmonds, Sen. Davis, Sen. Weston
Absent: Sen. Brennan, Sen. Gagnon

Representatives: Speaker Richardson, Rep. Cummings, Rep. Duplessie, Rep. Bowles, Rep. Tardy

Legislative Officers: Rose Breton, Legislative Finance Director
Grant Pennoyer, Director, Office of Fiscal and Program Review
Jon Clark, Deputy Director, Office of Policy and Legal Analysis
Paul Mayotte, Director, Legislative Information Services
Michael Cote, Assistant Clerk of the House

Speaker Richardson convened the meeting at 2:12 p.m.

SUMMARY OF THE OCTOBER 26, 2006 COUNCIL MEETING

Motion: That the Meeting Summary of October 26, 2006 be accepted and placed on file.
(Motion by Rep. Tardy, second by Sen. Davis, motion approved unanimous (6-0)).

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

- Executive Director's Report**

Rose Breton reported that Mr. Boulter was participating in the New Member Orientation program so she was making the report on his behalf.

1. State House Renovation Projects 2006

The parking lot and south access to the State House has re-opened for general use. With the exception of some signage and installation of 2 emergency call boxes, the work is fully completed.

2. Legislative Workshop for Agency Liaisons

On November 14, 2006 staff held a legislative workshop for agency liaisons to discuss key legislative processes as they relate to state agencies, such as filing agency bills, review of agency rules, fiscal note process and submitting information to committees. The workshop was attended by over 50 people and was well received.

3. Thank you

Mr. Boulter wished to express his appreciation to the Legislative Council members for their support and guidance to the nonpartisan offices over the past 2 years. He looks forward to working with returning Legislative Council members and for those who are not returning he gives his best wishes in their future endeavors.

• **Fiscal Report**

Grant Pennoyer, Director, Office of Fiscal and Program Review reported the following:

1. Revenue Update

General Fund revenue was over budget by \$5.9 million in October, increasing the positive variance for the Fiscal Year-to-date (FYTD) to \$27.2 million (+3.4%). October's positive variance was driven by a \$16.5 million positive variance in the Individual Income Tax, which was caused by a \$17.3 million positive variance in BETR and Circuitbreaker payments. Excluding BETR and Circuitbreaker payments, Individual Income Tax was ahead of budget for the FYTD by \$8.1 million. Corporate Income Tax, although under budget in October, remained \$3.3 million ahead of budget for the FYTD. Estate Tax increased its positive FYTD variance to \$11.2 million through the end of October.

Highway Fund revenue was once again under budget in October. October's monthly negative variance of \$0.9 million increased the FYTD negative variance to \$5.2 million (-5.2%). Fuel Taxes continue to be the major source of this negative variance.

2. Revenue Forecasting Schedule

Revenue Forecasting Committee will meet on November 28th at 9:30AM in Room 228 of the State House to conclude the forecast with a review of the major tax lines driven by the economic forecast and some other miscellaneous loose ends.

3. Cash Pool and Cash Balance Trends

- A. Average Cash Pool balance dropped from \$632.6 million in September to \$594.9 million in October. However, October's balance was \$32.9 million higher than last October's average balance, which included \$123.6 million of Tax Anticipation Note (TAN) borrowing.
- B. The General Fund increased its internal borrowing from Other Special Revenue Funds to \$80 million toward the end of October. The expectation still is that no TAN borrowing will be required in this fiscal year. The trend line factoring out TAN borrowing continues to show improvement.
- C. Highway Fund average cash balance trends continued their downward slide in October. October's average balance of \$17.1 million was substantially below last October's average balance of \$42.6 million. The early implementation of ~~the \$15~~ million transfer from the General Fund to the Highway Fund has helped avoid a negative cash position in the short-term.

- **Information Technology Report**

Legislative Information Services Director Paul Mayotte reported the following:

The MELD bill drafting system database is being updated to reflect newly elected legislators; a phrase search function has been installed for use by the Revisor's office; and an automated data feed system from MELD system to the tracking system has been developed that eliminates duplicate data entry. Mr. Mayotte also reported that the MELD system is ready for bill drafting. Mr. Mayotte noted that data backups are current and are being performed in accordance with established protocol. He also provided a report on the status of installations to prepare for Senate and House Internet video broadcasting this coming session. Lastly, Mr. Mayotte reported that the Maine statutes are now updated through the Second Regular Session of the 122nd Legislature.

- **Status of Legislative Studies**

Mr. Clark, Deputy Director of Policy and Legal Analysis, reported on the status of current legislative studies. He noted that there were no study extensions or additional meetings requested. Mr. Clark drew Legislative Council members' attention to the written status report in the council packet.

PERSONNEL COMMITTEE

No report.

STATE HOUSE FACILITIES COMMITTEE

No report.

OLD BUSINESS

None.

NEW BUSINESS

Item #1: Citizen Trade Policy Commission Annual report made pursuant to Public Law 2003, c. 699

Motion to accept the annual report and place it on file, seconded. Motion approved, unanimous (8-0).

Item #2: Clarification of Legislative Budget Administration

Ms. Breton, Legislative Finance Director, outlined for the Legislative Council the policy issue regarding the Legislative Council's authority over administration of all legislative budgets and appropriations. She drew members' attention to relevant sections of current law reinforcing legislative branch independence as well as an excerpt from the NCSL Study of Legislative Operations relating to Financial Orders and Separation of Powers. The issue raised by NCSL is whether the Legislative Council's authority with respect to budget administration and financial orders requires review and approval of the State Budget Officer in the Executive Branch and further approval of the Chief Executive. In its report, NCSL recommended that to maintain the independence of the Legislative Branch, the Maine Legislature should discontinue its current practice of submitting financial orders to the governor for approval.

The members then discussed the matter about the appropriateness of changing the current process and the independence of the legislative branch with respect to making adjustments within its budget appropriation without first seeking permission from the Governor.

The members considered the suggested motion contained in Ms. Breton's written materials. Speaker Richardson commented that he thought it would be most appropriate to amend the suggested motion to state that the Legislative Council would authorize the Executive Director's Office to make appropriate adjustments since the council is responsible for the budget. Ms. Breton noted that the Legislative through prior decision has already authorized certain adjustments to the legislative account, including the Legislative Youth Advisory Council, CSG-agriculture component, legislative studies and the work plan for State House renovations and improvements in order to pay outstanding expenses relating to these items. Senator Weston asked if waiting for council approval at its monthly meeting would cause significant delays. Ms. Breton stated that it should not be problematic since financial orders usually take 45 to 60 days.

Motion (reflecting the amendment) by Speaker Richardson that in accordance with the provisions of Title 3, section 162, subsection 8 and Title 5, section 1521, and consistent with the Legislative Council's authority over the legislative budget, if and when adjustments to legislative accounts are needed, the Legislative Council shall direct the Office of the Executive Director to notify and direct the State Controller to make such adjustments to the legislative accounts, in lieu of submission of financial orders for review or approval, providing the adjustments do not result in any increase in the total amount of funds available to the Legislature. Motion was seconded by Rep. Bowles. Motion approved unanimous (8-0).

Item #3: Letter from legislative members of the Tribal-State Work Group regarding legislative orientation program

The work group's letter stressed the importance of encouraging all Legislators to attend the upcoming legislative orientation program addressing the Wabanaki, Maine Indian Claims Settlement Act, Maine Implementing Act and current tribal-state relations. The first opportunity for the new legislature to learn about the Wabanaki and current tribal-state relations will take place on January 9, 2007 from 11:00 to 1:00PM in the State House.

No action by the Legislative Council was required.

ANNOUNCEMENTS AND REMARKS

A group picture of the members of the 122nd Legislative Council is scheduled for Tuesday, December 5th at 2:30PM in the Legislative Council Chamber.

ADJOURNMENT

The Legislative Council meeting was adjourned at 2:40PM. Motion by Rep. Bowles to adjourn, second by Rep. Duplessie. Motion was approved unanimous (8-0).

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Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS

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

Date: October 24, 2006

Memo to: Representative John Richardson, Chair, Legislative Council
Senator Beth Edmonds, Vice-Chair, Legislative Council

From: Patrick Norton, Director *PN*

Re: Study process recommendation

As you recall, several questions about legislative studies have come up in earlier Council meetings this year, and as a result the Council has asked that I look at these issues and report back with some recommendations. The questions that have come up have touched on issues such as the type of instruments used to create studies, study appointments, reporting deadlines for interim studies and the effect of interim study extensions on session-related staffing responsibilities and commitments of staff to "permanent" studies or commissions during the session.

After reviewing study legislation over the past several years, and the history of the legislative study process in general, it is clear that concerns about the legislative study process are not new. It also appears that many of the questions asked by this Council relate to recurring issues involving the study process. These types of issues were most recently addressed in a comprehensive manner in 1997-98, when former Speaker of the House Elizabeth Mitchell convened a special committee to review the study commission process.¹ Many of the recommendations made in that report were subsequently adopted and implemented, either through changes to the Joint Rules or to the study guidelines adopted by each Council. A copy of that report is attached for you review.

Although the recommendations in the 1998 report improved the study process in a number of ways, it is clear that some of the old issues have re-emerged and that some new issues have arisen in the nine years since this report was produced.

Recommendation. Since the current interim study season is beginning to wrap-up, and I see no staffing issues with the current limited extension requests, I am not recommending any immediate changes to the study process. I do think it would be very useful, however,

¹ Final Report of the Special Committee to Review the Study Commission Process. (January 16, 1998). Committee members included the Clerk of the House, Joe Mayo, the Secretary of the Senate, Joy O'Brien, the Senate President's Chief of Staff, Peter Chandler, the Special Assistant to the Speaker of the House, Peggy Schaffer, and the Director of OPLA, David Boulter.

if this Council considered recommending that the next Council appoint a subcommittee in December to review and update the 1998 special study committee report and make any recommendations necessary for changes to the study process prior to the adoption of the Council study guidelines for the 123rd Legislature. Some important goals of this subcommittee would be to identify and remove any existing barriers to conducting effective and timely legislative studies and to ensure that the Council is in a position to direct the course of interim studies and the use of its committee staff during the legislative sessions.

Should the Council proceed along these lines, I would happy to participate in this process in any way that would be helpful.

Thank you. I would be happy to respond to any questions you may have about this recommendation.

C: Council members;
David Boulter, Executive Director



**SPECIAL COMMITTEE TO
REVIEW THE STUDY COMMISSION PROCESS**

FINAL REPORT

JANUARY 16, 1998

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**Special Committee to
Review the Study Commission Process**

Final Report

January 16, 1998

Special Committee Members

Joseph W. Mayo, Clerk of the House

Joy J. O'Brien, Secretary of the Senate

Peter Chandler, Chief of Staff, Senate President's Office

Peggy Schaffer, Special Assistant, Speaker's Office

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

Executive Summary

Introduction

Each session the Maine Legislature considers numerous bills that would make 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 same session in which it is introduced, some legislation warrants further deliberation or study before a final decision is made. When additional time or information is needed to fully evaluate issues, the Legislature often establishes a special committee or commission to: study the matter during the interim between legislative sessions; evaluate options; and make recommendations to the full legislature for consideration.

Over the last decade, the manner in which study commissions have been established and members appointed has changed dramatically, creating a study commission process that increasingly results in late convening study commissions and a cumbersome appointment process. As a result, study commissions often work under nearly impossible schedules to complete their work and legislators often find that they represent a minority of members on study commissions and have little ability to direct the course of legislative studies.

On November 12, 1997, Speaker of the House Elizabeth H. Mitchell convened a special committee to review the study commission process and develop recommendations by January 1998 for improving the process.

Summary of findings

From 1940 until the 1980's, virtually all legislative studies were authorized through the use of a form of joint order called a study order. Study orders were directed to joint standing or joint select committees. Most of the members of the study committees were legislators. In the 1980's study orders continued to be used although most studies by joint standing committees were authorized by the Legislative Council. On rare occasions, a resolve, private and special law or unallocated public law was enacted to establish a study. From approximately 1987 on, the number of studies established by legislation, rather than by study order or Legislative Council authorization, increased steadily. This year, over 35 studies were authorized and only 2 were pursuant to joint order.

The committee finds that there are significant procedural barriers to conducting effective and timely legislative studies. These barriers have developed over a period of a decade or so and have resulted in a decrease in the ability of the Legislature to direct the course of its own studies, efficiently appoint members and convene study commissions, study and report on matters in a timely fashion, and compensate members equitably. These barriers produce an environment that is not conducive to careful evaluation of important policy issues and options, and ultimately lead to a decline in the overall quality and relevance of legislative studies.

The committee finds that virtually all of the problems associated with the current study commission process may be grouped into four broad categories: lack of legislative control over legislative studies; cumbersome procedures for establishing study commissions; inconsistencies in funding studies and compensation for members; and inconsistencies among study commissions due to a lack of drafting guidelines for creating study commissions and establishing uniform study procedures.

The committee also finds that making relatively few, but important, changes to the current study commission process will dramatically improve the effectiveness of legislative study commissions, allow for efficient convening and conduct of study commissions and bring the process more in line with the process historically used by the Legislature to conduct studies. Foremost among the changes is the use of study orders as the primary legislative instrument to establish study committees and greater legislative influence in the selection of study commission members.

Recommendations for improvement

1. Reaffirm legislative policy on legislative studies. The committee recommends that the Legislature reaffirm in its joint rules that the primary purpose of legislative studies is to assist legislators in the policy decisions they must make and for that reason the Legislature should establish and fully direct the course and scope of studies in ways that will assure the studies will best meet legislative needs.

2. Return to use of joint standing and joint select committees as principal study committees. The committee recommends that the Legislature return to the use of joint standing and joint select committees as the principal groups to conduct legislative studies. Legislators should constitute the membership of these legislative study commissions. Use of commissions that include broad representation of non-legislators should be reserved for high profile or other special occasions when participation by prestigious outside dignitaries or direct representation of another branch of government or interest groups on a study commission is essential to the success of the study.

3. Use study orders as principal legislative instrument for establishing studies. The committee recommends that study orders be the principal legislative instrument for establishing legislative studies and that joint standing committees consider and report out study orders in the same manner as legislation. Joint standing committees should have authority to report out joint orders requesting that a study be conducted. It is further recommended that if legislation is to be used to establish a legislative study, it first be approved for introduction by the Legislative Council.

4. Presiding officers appoint members. The committee recommends that the members of a legislative study commission be appointed by the presiding officers. Study language should not require that joint appointments be made and should not narrowly prescribe membership slots to be filled for a study.

5. Presiding officers appoint chairs. Except in the case where a study commission is very small (e.g., 3 to 5 members), each study commission should have joint chairs, one appointed by the President and one appointed by the Speaker. The chairs should be appointed at the time of appointment of the other members. In the case of a small study commission, the chair should be appointed by the presiding officer of the body of the originating order or legislation.

6. Keep size of study commissions manageable. The committee recommends that the size of study commissions be at least 3 but not more than 13 members, a size consistent with that of joint standing committees.

7. Compensate members of study commissions equitably. The committee recommends that as a matter of policy all members of study commissions, including public members unless otherwise compensated by their employers, be entitled to receive the legislative per diem and reimbursement of necessary expenses for their attendance at authorized meetings of a study commission.

8. Conclude studies prior to start of legislative sessions. The committee recommends that all reports of study commissions which are to be submitted to the first regular session of the next or subsequent legislature be submitted not later than the first Wednesday in November preceding the convening of the first regular session of the next legislature, and all reports of study commissions which are to be submitted to the second regular session be submitted not later than the first Wednesday in December preceding the convening of the second regular session.

9. Fund studies through legislative appropriations. The committee recommends that all legislative studies be funded through an appropriation from the General Fund, and the legislative account include a study line to which studies should be budgeted and study expenses charged. If funding from other sources is determined to be necessary, the Legislative Council rather than study commission members should make the requests for funds.

10. Establish formal study table. The committee recommends that the Legislature establish a study table in the Senate on which all legislative study requests, regardless of their funding source, be placed. It further recommends that the Legislative Council review the proposed studies and set priorities for allocation of budgetary and staffing resources. In setting priorities for studies, the Council should consult with the joint standing committees.

11. Staff only legislative studies using Legislative Council staff. The committee recommends that legislative studies be staffed by non-partisan staff assigned by the Legislative Council, and that the Legislature provide staffing only for studies that are either chaired by legislators or in which legislators constitute the majority of members.

12. Place responsibility in offices to coordinate the convening of study commissions. The committee recommends that responsibility for the timely and orderly convening of legislative study commissions be placed in each office that is responsible for staffing the committees. The coordinating office or offices should provide the presiding officers with periodic reports on the progress being made to convene study commissions.

13. Actively manage study expenses. The committee recommends that study commissions and study staff be charged with primary responsibility for managing study budgets and be accountable to the Legislative Council for operating within budgeted resources.

14. Provide formal guidance for drafting study orders and legislation. The committee recommends that proposed drafting guidelines for study orders and legislation be prepared by non-partisan staff and submitted at the beginning of each first regular session for review and approval by the Legislative Council. The guidelines should provide for model orders and legislation that include all necessary elements to properly convene and carry out a study, including language for extensions of reporting dates for studies that whenever possible permit extensions to be granted without having to file legislation for that extension.

15. Specify study commission process in joint rules and Legislative Council policies. The committee recommends the Legislature incorporate appropriate changes to its joint rules so the rules establish the major provisions of the legislative process and policies relating to legislative studies. The committee also recommends that prior to the convening of the first regular session of the 119th Legislature, the Legislative Council adopt administrative policies necessary to implement the changes to the study commission process recommended in this report.

Special Committee to Review the Study Commission Process

Introduction

Each session the Maine Legislature considers numerous bills that would make 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 same session in which it is introduced, some legislation warrants further deliberation or study before a final decision is made. In addition, there are times when the legislature wishes to seek additional information or comment from others on matters of legislative interest before initiating major changes in public policy, law or governmental operations. When additional time or information is needed to fully evaluate issues, the Legislature often establishes a special committee or commission to: study the matter during the interim between legislative sessions; evaluate options; and make recommendations including proposed legislation to the full legislature for consideration. The Legislature has made extensive use of studies over the years and has coordinated the establishment and conduct of study commissions through a legislative research committee or the Legislative Council.

Over the last decade, the manner in which study commissions have been established and members appointed has changed dramatically. This change and other factors have contributed to a study commission process that increasingly results in late convening study commissions and a cumbersome appointment process. As a result, study commissions often work under nearly impossible schedules to complete their work and frequently have to narrow the scope of their study in spite of their legislative charge in order to present their report in time for the Legislature to consider it. Legislators often find that they represent a minority of members on study commissions and have little ability to direct the course of legislative studies. In addition, the current process results in inequities in funding of studies and in compensation of study commission members.

These factors have led to a sense among legislators and others involved with legislative study commissions that the process can be improved significantly: improvements that will result in both an increased satisfaction with the process by study commission members and a greater sense of contribution to the legislative process through more thorough and timely study reports.

On November 12, 1997, Speaker of the House Elizabeth H. Mitchell convened a special committee to review the study commission process and develop recommendations by January 1998 for improving the process.

Special committee's charge

The committee was charged with examining the current legislative process for establishing interim study commissions and recommending ways to improve the process. Specifically, the committee was to examine:

1. the legislative instrument(s) used to establish study commissions and committees, particularly the use of joint orders and legislation (enactment of a bill);
2. commission membership and appointing authority;
 - ♦ joint appointments
 - ♦ representation of non-legislative groups and organizations and sources of authority for appointment
3. staffing of study commissions;
4. compensation of members; and
5. funding of study commissions.

Special committee meetings

The committee met on November 24, December 2, December 8, December 18 and December 23, 1997 and January 16, 1998. It reviewed various study commission-related materials, current statutes, joint rules of the Legislature and past study orders and bills. The following represents the findings of the special committee and its recommendations for improvement.

Background and historical perspective

In 1940, the Legislature enacted a bill that established the Legislative Research Committee. The research committee consisted of 10 members: 3 senators and 7 representatives. It was charged with providing the legislature with impartial and accurate information and reports. The committee coordinated all studies internal to the legislature and also required agencies to conduct studies. It is of some interest that the bill became law when the Legislature overwhelmingly overrode the Governor's veto of the bill. The research committee existed until 1973 when the Legislative Council was established.

From 1940-1973, virtually all legislative studies were authorized through the use of a form of joint order called a study order. Study orders directed joint standing committees or the Legislative Research Committee to study and report on certain matters, and established joint select committees. Members of these committees were legislators. Some study orders requested or directed the participation of others, notably executive branch agencies.

From 1973 to approximately 1987, virtually all legislative studies were conducted through joint standing or joint select committees, again the members being legislators. Study orders were the principal means of establishing the studies although in the 1980's, studies by joint standing committees were authorized by the Legislative Council. On rare occasions, a resolve, private and special law or unallocated public law was enacted to establish a study. For example, according to records in the Law and Legislative Reference Library, 52 studies were authorized in 1977: 51 were established by study order and 1 by a P&S law. Studies authorized by legislation were usually associated with some longer term study commission (for example Low Level Radioactive Waste Commission).

From 1987 on, the number of studies established by legislation (rather than by joint order or Legislative Council authorization) steadily increased. This year, over 35 studies were authorized and only 2 were pursuant to joint order. It is unclear exactly why there has been such a shift from study orders to legislation as the vehicle to establish studies. An increased opportunity for interest groups to have a voting member on a study committee is one explanation that has been offered.

The Legislative Council has served as a priority-setting and coordinating entity for the Legislature with respect to legislative studies since the elimination of the Legislative Research Committee.

General observations:

- For nearly 50 years until the late 1980's and the 1990's, the primary vehicle used by the legislature for establishment of legislative studies appears to have been study orders (and more recently Legislative Council approval for studies by joint standing committees); extensive use of legislation to establish study commissions appears to be a recent development.
- The Legislature has a long history of authorizing a research committee or the Legislative Council to coordinate and set priorities for legislative studies.

Authority for studies

The general authority to establish legislative study commissions or joint committees rests with the full legislature through enactment of legislation or adoption of an order, except that the presiding officers at their discretion have authority to establish House select and Senate select committees.

Study legislation is binding on all branches of state government to which it is directed. On the other hand, study orders are binding on the legislative branch and can invite, but not compel, participation or action by another branch of state government. Even though study orders are more limited in their application, study orders may still create studies that allow participation of other branches of government or members of the

general public. For example, a study order can direct a study committee to invite the participation of certain agencies or groups in a study, including testifying before it or presenting information. Alternatively, it can direct the appointing authorities to invite a representative of an agency or group to be a member of the study committee. As with legislatively authorized studies, most if not all invited persons would likely accept the opportunity to join a study committee.

Pursuant to 3 MRSA §162(3), when the Legislature is not in session the Legislature Council is authorized to assign bills, resolves and studies to existing joint standing committees and joint select committees for consideration, request reports, studies and legislation from joint standing committees and convene meetings of joint standing committees and joint select committees.

Pursuant to 3 MRSA § 162(8), all appropriations or allocations by the Legislature for specific studies to be carried out by joint standing or joint select committees do not lapse, but are carried forward. Account balances not fully expended are refunded to the Legislature. Certain other budget requirements are specified in 3 MRSA § 165(7).

Summary of findings

The committee finds that there are significant procedural barriers to conducting effective and timely legislative studies. These barriers have developed over a period of a decade or so and have resulted in a decrease in the ability of the Legislature to direct the course of its own studies, efficiently appoint members and convene study commissions, provide adequate staff support, study and report on matters in a timely fashion, and compensate members equitably. These barriers produce an environment that is not conducive to careful evaluation of important policy issues and options, and ultimately lead to a decline in the overall quality and relevance of legislative studies.

The committee also finds that making relatively few, but important, changes to the current study commission process will dramatically improve the effectiveness of legislative study commissions, allow for efficient convening and conduct of study commissions and bring the process more in line with the process historically used by the Legislature to conduct studies. Foremost among the changes is the use of study orders as the primary legislative instrument to establish study committees and greater legislative influence in the selection of study commission members.

General observations and findings

1. Purposes and goals of legislative studies

The primary purpose of legislative studies, unlike studies conducted by executive branch agencies or non-governmental organizations, is to assist legislators directly with policy decisions they must make. Legislatively conducted studies:

- ♦ provide legislators with information to fully understand complex issues and make informed decisions on matters of public policy and operations of state government;
- ♦ present excellent opportunities to bring outside subject area experts to the legislature to share their knowledge;
- ♦ provide an important forum to educate the public on legislative issues and other matters of public policy; and
- ♦ allow the legislature to direct the areas of study to meet its own information needs and appropriately shape policy recommendations from a legislative perspective.

2. Major problems identified

The committee finds that virtually all of the problems associated with the current study commission process may be grouped into four broad categories: lack of legislative control over legislative studies; cumbersome procedures for establishing study commissions; inconsistencies in funding studies and compensation for members; and inconsistencies among study commissions due to a lack of drafting guidelines for creating study commissions and establishing uniform study procedures.

A. Legislators are not in charge of legislative studies

- ♦ Legislators constitute a minority of membership on most study commissions.
- ♦ The current study process does not allow legislators to be in charge of legislative studies; it merely provides a legislative seat at the table. Therefore, legislators cannot direct studies to meet legislative needs.
- ♦ The executive branch and special interests exert a great influence in determining the structure and makeup of study commissions, and the scope and manner of study.
- ♦ The process for selection of a chair is often undefined or the selection is made after the commission is convened. The presiding officers or other legislators have little direct influence in selection of the study commission chair.
- ♦ Presiding officers have limited discretion to appoint study commission members due to required joint appointments, including joint appointments with the executive branch, or through selection criteria that allow little legislative discretion.
- ♦ When legislators do not constitute a majority of membership or chair a study, the role of legislative staff who staff the studies becomes confused.
- ♦ Fiscal note concerns lead to minimizing legislative membership on studies.

- ♦ Use of legislation to establish legislative studies requires the Governor's approval.

Discussion. As was discussed above, the principal legislative instrument for establishing legislative study commissions over the last decade has become legislation. For example, of the 38 legislative studies authorized this session, 30 (79%) were through enactment of legislation, 5 by Legislative Council approval (including 3 staff studies), 1 by authority of the presiding officers and only 2 (5%) by joint order. As with any other law, study legislation is subject to all of the Constitutional requirements for passage, including opportunity for gubernatorial or a people's veto, and may not become effective (unless passed as emergency legislation) until 90 days after the end of the legislative session. By definition, this means that: 1) the Governor must agree that the Legislature ought to study a particular issue; and 2) studies cannot get underway until well after the end of the legislative session.

Many recent study commissions have had a membership of 15 or more individuals, with legislators comprising a minority of the membership even though they are legislative studies. It is not unusual for legislators to represent 25 % or less of a commission's membership. In some cases, there have been no legislators. Whereas in the past, departmental officials, special interest groups and members of the general public participated in legislative studies by appearing before and offering information to the study commission, in recent years they have been sitting directly on the commissions as fully participating, voting members. In some cases, they even chair study commissions. In order to minimize the fiscal impact of studies, joint standing committees and legislators sponsoring study legislation often will minimize the number of legislators on study commissions, further exacerbating the minority status of legislators on legislative studies. It is difficult for legislators to exert control over studies or final recommendations when they constitute a minority of the study commission.

Furthermore, legislative committee staff who provide staffing support to the study commissions find themselves taking primary direction from non-legislators, including executive branch officials, when legislators do not chair or constitute a majority of the commission membership. This represents an awkward role for legislative staff and limits the support staff can give to those legislators who do serve on the commissions.

Study legislation typically provides the President and the Speaker with the authority to make the legislative appointments, though study legislation often limits their appointments to either appointing the members jointly (sometimes jointly with the Governor) or appointing individuals to fill certain narrowly prescribed "slots" representing particular special interest groups. Legislation typically provides that the Governor or interest groups make the other appointments.

Selection of the chair of a study commission often is not specified in the enabling legislation. When chair selection is not specified, it is left to the study commission members to select a chair from among themselves. While other members sometimes will

defer to appointed legislators to serve as chairs, not all members will do so. In some cases, departmental officials as well as private sector individuals will chair legislative studies. By not specifying the chair or directing that the presiding officers appoint the chair of the study commission, the Legislature foregoes its opportunity to decide who should head the study to assure that legislative procedures, protocols and purposes are met.

B. Process for establishing study commissions is cumbersome and causes delay

- ♦ Use of legislation to create study commissions means a significant delay (90 days or more) in the startup of the studies unless the legislation is enacted as an emergency measure. For example, the Legislature adjourned sine die on June 20, 1997, but non-emergency study legislation (enacted much earlier than June 20) could not take effect until September 19, 1997 at the earliest. Delays in the actual convening of study commissions are often significantly longer than 90 days.
- ♦ Joint appointments slow appointment selection.
- ♦ The administrative process for appointing and convening study commissions is fragmented among numerous legislative offices. While those legislative offices have some involvement in the study commission process, no individual or office has overall accountability to assure that each aspect is completed in a timely manner.
- ♦ Without an early selection of a chair to provide direction, commission schedules and background information cannot be prepared to allow for an efficient start of the study process.
- ♦ The size of most study commissions is unwieldy and often too large to be effective.
- ♦ There is no formal mechanism such as a study table for setting legislative priorities and allocating resources to studies.

Discussion. In recent years study commissions have been established through enactment of legislation (bills) which, following passage by the Legislature and approval by the Governor, is not effective until 90 days following the close of the session.

The interim period between legislative sessions is a good time to conduct studies since legislators and committee staff can devote more time to studies. The interim between the first and second regular sessions typically is about 6 months. In most cases, however, studies created by legislation will not begin until at least 90 days following the close of the session. Allowing a little time for appointment of members of the study commission once the law is in effect, a study commission often will not be convened until at least early October, only a couple of months before the Legislature reconvenes.

Study legislation requiring the President and the Speaker to make their appointments to study commissions jointly or jointly with the Governor creates logistical difficulties. It also unduly constrains the authority of the presiding officers to make appointments as they deem appropriate. The sheer logistics of developing multiple lists of names of potential appointees and meeting to negotiate each joint appointment is time consuming and unnecessarily burdensome on the appointment process. Furthermore, requiring the presiding officers to make their appointments jointly with the Governor severely undermines the independence of the legislative branch and allows the executive branch to block appointees to which it does not agree. The Governor's appointments typically are not required to be approved by the presiding officers.

Much study legislation of late has prescribed certain qualifying requirements for study commission appointees, in effect "slots" that also limit the discretion of the presiding officers in making their appointments. Some are less troublesome, such as such as requiring a particular joint standing committee to be represented on a study commission. Others, however, relate to special interest groups or other non-legislative appointees and the criteria for appointment are so specific as to require the presiding officers to appoint an individual from a specific organization.

In at least one study (P&S 1997, c.51) this session, some of the study commission members were appointed by neither the Governor nor the presiding officers. The law called for the chair of the study commission to appoint 6 of the 14 members, once the chair was appointed from among the initial group of 8 appointees. The manner and quality of appointments determine in large measure the quality of the study and the credibility of the study commission. Legislation such as this affords the Legislature little opportunity to assure quality or credibility.

Because in many cases the selection of chair is not made at the outset of the appointment process, there is no legislator or other individual who is authorized to provide direction to staff in preparing useful background materials in advance of the first meeting, developing agendas or work plans for the study, lining up policy area experts or coordinating the scheduling of initial meetings. Without this advance planning, it is difficult for study commissions to organize themselves quickly and effectively to carry out their charge.

Study commissions that have large memberships can become unwieldy. Some recent study commissions have had in excess of 20 members. Most appointees have work, home or other obligations that create demands for their time. As a result, significant logistical difficulties are often encountered with large study commissions that slow the study process, such as trying to schedule meetings when most members can attend. In addition, very large groups may tend to divide into factions, thus creating less opportunity for full participation by all members and less opportunity to develop a strong sense of working together to find common ground on issues.

The offices of the President and the Speaker assist the presiding officers in contacting and appointing study commission members and in sending initial letters of appointment to appointed members. The Secretary of the Senate and the Clerk of the House are notified of the appointments. The Legislative Information Office then contacts members to arrange the initial meeting of study commissions and prepares a notice of the meeting for mailing to the members. The Executive Director's Office convenes study commissions in the absence of the Chair of the Legislative Council and is responsible for commission budgets. Once the appointments are completed and the initial meeting arranged, staff from the Office of Fiscal and Program Review and Office of Policy and Legal Analysis staff the study commissions. This process creates numerous opportunities for misstep, delay and lack of awareness of the status of the process by one or more offices. Each step in the process of convening a study commission needs to be coordinated so the process proceeds smoothly and expeditiously.

There is no study table or other formal mechanism by which the Legislature may set legislative priorities for studies and allocate its limited financial and staffing resources. There have been informal approaches by the Legislative Council to review proposed studies, including some this past session. However, there is no formally established, predictable process for reviewing all studies regardless of funding source to decide legislative priorities for studies.

C. Compensation of members & funding of studies are inconsistent & inequitable

- ♦ Compensation for legislative members has been inconsistent between study commissions, resulting in inequitable treatment of members. Some members receive per diem and expenses, others receive expenses only and some serve without compensation.¹
- ♦ Compensation for public members is inconsistent and often lacking.
- ♦ Study costs are difficult to manage due to the lack of a study line in the legislative budget, and the lack of a clearly defined process for the tracking and timely reporting of costs.
- ♦ Because study costs are not budgeted in advance, sponsors attempt to avoid or minimize fiscal notes on study bills by minimizing or eliminating compensation for members.
- ♦ Studies predicated on non-legislative funding create actual funding and public perception problems.

¹ This past session, the Legislative Council attempted to establish a consistency among studies with regard to legislative compensation for study proposals it reviewed.

Discussion.

The current study commission process creates noticeable inequities in compensation of study commission members, wide variability in funding of studies based on funding sources, and difficulty in planning for and managing study costs. These problems are due principally to the lack of 3 things:

- ♦ uniform legislative policy on compensation of members and funding of studies that would assure consistency between studies. Absence a joint rule or other policy guidance, study proposals vary widely in how studies are to be funded and members compensated due to the preferences of particular joint standing committees to which they are referred or individual sponsors;
- ♦ a formal study table that would allow the Legislature (leadership) to: 1) budget for study costs; and 2) comprehensively review all proposed studies at one time, consult with committees about study needs, and then set priorities for studies based upon availability of budgetary and staffing resources; and
- ♦ a clearly defined process for tracking and reporting study costs that would make study commissions more accountable for their costs and allow the Legislature to actively manage study costs.

As with studies conducted by executive branch agencies or other entities, legislative studies incur costs. Those costs may include payment of a per diem and reimbursement of expenses to some or all members of a study commission to attend meetings, costs of bringing in policy area experts, costs of holding regional hearings, and printing, distribution and other report publication expenses. While costs vary widely depending on the size of study commissions and their specific needs, most legislative studies costs are relatively modest, averaging under \$4,000 per study.² These study costs are either absorbed by existing budgeted resources or more likely paid through a special appropriation associated with each study.

Regardless of the costs of studies, costs should be managed. A study line to which all study expenses are charged would help the legislature plan for study costs and fund studies within available budgeted resources. In addition, regular status reports on study costs as studies are on-going would allow the presiding officers and the Legislative Council to manage study costs, and assist them in understanding the fiscal implications of time extensions or other requests by study commissions. Study commission chairs and commission staff have an obligation to stay within their budgets, but to do that they must have frequent and timely status reports on study budgets and expenses.

² Because most legislative studies are staffed by Legislative Council staff, staffing costs are absorbed by existing legislative personnel budgets.

In order to avoid a fiscal note on a study bill, sponsors or committees sometimes propose that legislative studies be funded through solicitations from the private sector. This sometimes poses funding problems; private sector funding does not always materialize, resulting in unbudgeted expenses that must then be absorbed by the legislative account. In addition, solicitation of private sector funds (particularly from those interests affected by a study) can undermine the credibility of a legislative study due to public perceptions about study bias.

D. Lack of drafting guidelines leads to inconsistency in how study commissions are established and an inefficient process

- ♦ Purposes, goals, and scope of studies often are vague in study legislation.
- ♦ Current study language for study bills and amendments varies considerably depending on the sponsor or committee.
- ♦ Mechanisms for extension of reporting dates are cumbersome and result in after-the-fact submission of additional bills.

Discussion.

Study commission members and staff benefit from clear statements of purpose for studies and the scope of review expected. Current study language is often vague with respect to purpose and does not clearly state the scope of review expected. When study language is being drafted, greater attention needs to be given to clearly stating the questions to be examined and the specific tasks to be undertaken.

Study commissions should be encouraged to complete their work and file their report by the established deadlines. Currently, if a study commission will not meet its reporting deadline, it files a request for extension. Depending on the language of the study bill, extensions may be granted by the Legislative Council or may require additional legislation. The legislation is almost always after-the-fact. Ideally, if an extension becomes necessary, the mechanism for extending the reporting date should not be cumbersome or create additional work for the Legislature (such as bills). Careful attention needs to be given to preparing language in study bills to make clear that commissions do not lose their authority to submit a final report or legislation solely due to a missed reporting deadline. Whenever possible, extension language should be drafted to permit extensions to be granted without having to file additional legislation for that purpose.

The lack of drafting guidelines formally authorized for use by staff creates inconsistencies in drafting study language. In addition, without the guidelines, there is no formal procedure to assure that each study proposal will contain the essential administrative provisions. In the past, proposed drafting guidelines were prepared by non-partisan staff and submitted at the beginning of the first regular session for review and approval. Those guidelines included model language for each element of a study

proposal including sample language for the range of options available. Numerous potential problem areas could be avoided by re-instituting drafting guidelines for studies.

Recommendations for improvement.

1. Reaffirm legislative policy on legislative studies.

The committee recommends that the Legislature reaffirm in its joint rules that the primary purpose of legislative studies is to assist legislators in the policy decisions they must make and for that reason the Legislature should establish and fully direct the course and scope of studies in ways that will assure the studies will best meet legislative needs.

2. Return to use of joint standing and joint select committees as principal study committees.

The committee recommends that the Legislature return to the use of joint standing and joint select committees as the principal groups to conduct legislative studies. Legislators should constitute the membership of these legislative study commissions. Use of task forces or blue ribbon commissions that include broad representation of non-legislators with full, voting memberships should be reserved for high profile or other special occasions when participation by prestigious outside dignitaries or direct representation of another branch of government or interest groups on a study commission is essential to the success of the study.

3. Use study orders as principal legislative instrument for establishing studies.

The committee recommends that, in keeping with recommendation #2, study orders, approved jointly by the Senate and the House, be the principal legislative instrument for establishing legislative studies involving joint standing committees and joint select committees. Proposed study orders should be referred to joint standing committees for consideration and reported out in the same manner as proposed study legislation. Furthermore, the committee recommends that the joint standing committees have authority to report out joint orders requesting that a study be conducted. Joint orders should be prepared in accordance with procedures specified in the Joint Rules.

Use of legislation as a vehicle for establishing study commissions should be used only when:

- ♦ a study is to be conducted by a task force or blue ribbon or other commission involving substantial participation by non-legislators; or
- ♦ a study is proposed to extend beyond the current legislative biennium.

It is further recommended that if legislation is to be used to establish a legislative study, it first be approved for introduction by the Legislative Council.

4. Presiding officers appoint members.

The committee recommends that the members of a legislative study commission be appointed by the presiding officers. Study language should not require that joint appointments be made and should not narrowly prescribe membership slots to be filled for a study.

5. Presiding officers appoint chairs.

Except in the case where the size of a study commission is very small (e.g., 3 to 5 members) each study commission should have joint chairs, one appointed by the President and one appointed by the Speaker. The chairs should be appointed at the time of appointment of the other members. The chair of a study commission having 5 or less members should be appointed by the presiding officer of the body of the originating study order or legislation.

6. Keep size of study commissions manageable.

The committee recommends that the size of study commissions be at least 3 but not more than 13 members, a size consistent with that of joint standing committees.

7. Compensate members of study commissions equitably.

The committee recommends the following with respect to compensation of members.

For legislative members: Legislative members should be entitled to receive the legislative per diem and reimbursement of necessary expenses for their attendance at authorized meetings of a study commission.

For public members (when studies require such members): Public members not otherwise compensated by their employers or other entities whom they represent should be eligible to receive reimbursement of necessary expenses and a per diem equal to that of the legislative per diem for their attendance at authorized meetings of a study commission.

8. Conclude studies prior to start of legislative sessions.³

The committee recommends that all reports of study commissions which are to be submitted to the first regular session of the next or subsequent legislature be completed and submitted not later than the first Wednesday in November preceding the convening of the first regular session of the next legislature, and all reports of study commissions which are to be submitted to the second regular session be completed and submitted not later than the first Wednesday in December preceding the convening of the second regular session. Any proposed legislation accompanying such reports should be submitted in final draft form to the Revisor of Statutes by the reporting date. These reporting dates will allow any recommended legislation be drafted and the report distributed in a timely manner. The dates also will minimize workload conflicts with study committee staff who have bill drafting and joint standing committee staffing responsibilities in addition to study responsibilities.

9. Fund studies through legislative appropriations.

The committee recommends that all legislative studies be funded through an appropriation from the General Fund, and the legislative account include a study line to which studies should be budgeted and study expenses charged.

The committee further recommends that, in the event the Legislature determines that other funds should be sought to support a study; requests to provide funding be made to appropriate entities by the Legislative Council rather than by study commission members. A strict accounting should be kept of the receipt and use of such funds.

10. Establish formal study table.

The committee recommends that the Legislature establish a study table in the Senate on which all legislative study requests, regardless of their funding source, be placed. It further recommends that the Legislative Council review the proposed studies and set priorities for allocation of budgetary and staffing resources. In setting priorities for studies, the Council should consult with the joint standing committees.

11. Staff only legislative studies using Legislative Council staff.

The committee recommends that legislative studies be staffed by non-partisan staff assigned by the Legislative Council, and that the Legislature provide staffing only for studies that are either chaired by legislators or in which legislators constitute the majority of members. If, due to resource limitations or for other reasons, existing

³ There is no recommendation regarding how soon studies may be started since that has not been a problem. With the use of study orders, studies could presumably begin prior to the end of a legislative session. The members of the select committee presume that studies would not be started until after the end of a session due to time constraints of an on-going session on legislators and staff.

legislative staff will not be staffing a study commission, the Legislative Council should approve any non-legislative personnel hired to provide the staffing.

12. Place responsibility in offices to coordinate the convening of study commissions.

The committee recommends that responsibility for the timely and orderly convening of legislative study commissions be placed in each office that is responsible for staffing the committees. The coordinating office or offices should provide the presiding officers with periodic reports on the progress being made to convene study commissions.

13. Actively manage study expenses.

The committee recommends that study commissions and study staff be charged with primary responsibility for managing study budgets and be accountable to the Legislative Council for operating within budgeted resources. In order to achieve that accountability:

- ♦ study committee chairs and staff should be provided with frequent status reports on study budgets, expenditures incurred and available funds;
- ♦ while the studies are on-going, the presiding officers and directors of offices that staff the studies should receive weekly status reports of study commission budgets, expenditures incurred and available funds;
- ♦ study orders establishing studies should allow the chairs flexibility in determining the number of meetings to be held for each study based upon the individual needs of the study commission so long as the commission does not exceed its authorized budget; and
- ♦ each study commission should prepare a work plan and proposed budget for the study, consistent with 3 MRSA § 165(7).

14. Provide formal guidance for drafting study orders and legislation.

The committee recommends that proposed drafting guidelines for study orders and legislation be prepared by non-partisan staff and submitted at the beginning of each first regular session for review and approval by the Legislative Council. The guidelines should provide for model orders and legislation that include all necessary elements to properly convene and carry out a study, including but not limited to:

- ♦ study purpose statements stating the questions to be examined and the specific tasks to be undertaken;

- ♦ model language for each element of a study proposal including sample language for the range of options available; and
- ♦ language for extensions of reporting dates for studies that whenever possible permit extensions to be granted without having to file legislation for an extension and that makes clear that commissions do not lose their authority to submit a final report or legislation solely due to a missed reporting deadline.

15. Specify study commission process in joint rules and Legislative Council policies.

The committee recommends the Legislature incorporate appropriate changes to its joint rules so the rules establish the major provisions of the legislative process and policies relating to legislative studies. Recommended joint rule changes reflecting the committee's recommendations are attached as Appendix 2 for consideration. The committee also recommends that prior to the convening of the first regular session of the 119th Legislature, the Legislative Council adopt administrative policies necessary to implement the changes to the study commission process recommended in this report.

Appendices

- Appendix 1** **Summary of legislative studies authorized during the First Regular and First Special Sessions of the 118th Legislature**
- Appendix 2** **Recommended changes to the Joint Rules**
- Appendix 3** **November 12, 1997 letter convening the Special Committee**

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Interim Study Commissions

Authorized by the 118th Legislature

Name of Legislative Study	Legislative Instrument	Authorizing Legislation	Number of Members	Number/Percent of Legislators	Staffing	Convening Date	Selection of Chair	Joint Appointments
Jt. Select Committee on Research and Development	Joint Order	S.P. 669	14	14 (100%)	OPLA	September 24, 1997	among the members	President & Speaker
Jt. Select Committee to Oversee Maine Yankee Atomic Power Company	Joint Order	H.P. 345	13	13 (100%)	OPLA	August 27, 1997	chairs of Utilities & Energy Committee	President & Speaker
Blue Ribbon Commission to Study the Effects of Government Regulation and Health Insurance Costs on Small Businesses in Maine	Legislation	Resolves 1997, c. 85 (LD 1905)	12	3 (25%)	OPLA	December 1, 1997	among the members	no joint appts
Commission to Determine the Adequacy of Services to Persons with Mental Retardation	Legislation	Resolves 1997, c. 79 (LD 581)	17	3 (18%)	OPLA	September 29, 1997	among the members	President & Speaker
Commission to Examine the Rate Setting and the Financing of Long-term Care Facilities	Legislation	Resolves 1997, c. 81 (LD 657)	15	4 (27%)	OPLA	November 3, 1997	appointed by the Governor (NL)	President & Speaker
Commission to Study Certificate of Need Laws	Legislation	Resolves 1997, c. 29 (LD 998)	15	2 (13%)	DHS	October 28, 1997	among the members	President & Speaker
Commission to Study Insurance Fraud	Legislation	Resolves 1997, c. 77 (LD 933)	12	2 (17%)	Bureau of Insurance, OPLA	October 17, 1997	among the members	no joint appts
Commission to Study the Development of Maine's Franco-American Resource	Legislation	Resolves 1997, c. 83 (LD 1603)	27	4 (15%)	University of Maine	October 15, 1997	among its members (NL)	no joint appts
Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities	Legislation	Resolves 1997, c. 72 (LD 944)	13	3 (23%)	OPLA	December 5, 1997	among the members	President & Speaker

Interim Study Commissions Authorized by the 118th Legislature

Name of Legislative Study	Legislative Instrument	Authorizing Legislation	Number of Members	Number/Percent of Legislators	Staffing	Convening Date	Selection of Chair	Joint Appointments
Commission to Study the Restructuring of the State's Fiscal Policies to Promote the Development of High-technology Industry in Maine	Legislation	P.L. 1997, c. 557 (LD 1897)	20	4 (20%)	contracted	October 17, 1997	among the members (NL)	President & Speaker
Commission to Study the Unemployment Compensation System	Legislation	Resolves 1997, c. 65 (LD 332)	11	4 (36%)	OPLA	September 24, 1997	among the legislative members	no joint appts.
Commission to Study the Use of Pharmaceuticals in Long Term Care Settings	Legislation	Resolves 1997, c. 71 (LD 146)	10	3 (30%)	OPLA	January 5, 1998	among the members (NL)	Governor, Speaker and President
Committee to Study Tax Relief and Tax Reform	Legislation	P.L. 1997, c. 557 (LD 1897)	13	13 (100%)	OFPR	August 28, 1997	chairs of Taxation Committee	no joint appts.
Maine Commission on Children's Health Care	Legislation	P.L. 1997, c. 560 (LD 1904)	16	7 (44%)	SPO, OPLA	October 14, 1997	Jointly by Governor, President & Speaker	President & Speaker
Maine Commission on Outstanding Citizens	Legislation	Resolves 1997, c. 64 (LD 1610)	8	1 (12%)	Legislative Council	January 5, 1998	among the members	President & Speaker
State Compensation Commission	Legislation	P.L. 1997, c. 506 (LD 1391)	5	0 (0%)	OFPR	not yet convened	among the members (NL)	no joint appts.
Study Group to Assess the Needs of the State Fire Marshal	Legislation	Resolves 1997, c. 10 (LD 359)	13	1 (8%)	Dept. of Public Safety	August 1997	among the members (NL)	President & Speaker
Subcommittee on Legislative Review of DEP's Motor Vehicle Inspection and Maintenance Program to Meet the Requirements of the Federal Clean Air Act	Legislation	Resolves 1997, c. 57 (LD 1651)	5	5 (100%)	OPLA	September 26, 1997	n/a	n/a
Subcommittee on Legislative Review of Revisions to the State's Clean Air Strategy	Legislation	P.L. 1997, c. 531 (LD 1058)	5	5 (100%)	OPLA	no meetings	n/a	n/a

Interim Study Commissions
Authorized by the 118th Legislature

Name of Legislative Study	Legislative Instrument	Authorizing Legislation	Number of Members	Number/Percent of Legislators	Staffing	Convening Date	Selection of Chair	Joint Appointments
Subcommittee Progress Meetings with DMHMR/SAS and DHS on Design of Comprehensive Mental Health Services Delivery System for Children	Legislation	Resolves 1997, c. 80 (LD 1744)	3	3 (100%)	OPLA	June 23, 1997	n/a	n/a
Task Force on Improving Access to Prescription Drugs for the Elderly	Legislation	P.L. 1997, c. 560 (LD 1904)	9	4 (44%)	OPLA	December 4, 1997	jointly by President & Speaker	joint appt. of ch only
Task Force on Information Technology in the Public Sector	Legislation	P.L. 1997, c. 554 (LD 1589)	24 minimum	2 (8%)	DAFS, SPO	not convened	a legislator and the Commissioner of DAFS	no joint appts
Task Force on Production and Issuance of Registration Plates	Legislation	P.L. 1997, c. 311 (LD 260)	11	4 (36%)	Sec. of State	September 12, 1997	among the members	no joint appts
Task Force on Regional Service Center Communities	Legislation	Resolves 1997, c. 78	13	3 (23%)	SPO	November 13, 1997	among the members	no joint appts
Task Force on State and Federal Tax Filing	Legislation	Resolves 1997, c. 66 (LD 1368)	11	3 (27%)	Maine Revenue Services	November 24, 1997	among the members	no joint appts
Task Force to Review the Applied Technology Centers and Applied Technology Regions	Legislation	Resolves 1997, c. 74 (LD 1048)	11	2 (18%)	DOE	November 20, 1997	among the members (NL)	President & Speaker
Task Force to Study Equal Economic Opportunity for All Regions of the State	Legislation	P&S 1997, c. 51 (LD 1452)	14	5 (33%)	OPLA	October 30, 1997	among the legislative members	President & Speaker ¹
Task Force to Study Strategies to Support Parents as Children's First Teachers	Legislation	Resolves 1997, c. 68 (LD 1832)	16	2 (13%)	DHS	November 3, 1997	among the members	President & Speaker
Task Force to Study the Cost Effectiveness of the Child Development Services System	Legislation	P.L. 1997, c. 534 (LD 1581)	16	4 (25%)	OPLA	November 21, 1997	among the legislative members	President & Speaker
Task Force to Study the Feasibility of a Single Claims Processing System for 3rd-party Payors of Health Care Benefits	Legislation	Resolves 1997, c. 63 (LD 350)	15	4 (27%)	OPLA	October 28, 1997	one member of House and one member of Senate to serve as co-chairs	no joint appts

Interim Study Commissions Authorized by the 118th Legislature

Name of Legislative Study	Legislative Instrument	Authorizing Legislation	Number of Members	Number/Percent of Legislators	Staffing	Convening Date	Selection of Chair	Joint Appointments
Task Force to Study the Feasibility of Creating a Maine Mobility Fund	Legislation	Resolves 1997, c. 73 (LD 1377)	19	4 (21%)	OPLA	December 19, 1997	among the members (NL)	President & Speaker
Work Group to Examine the Legal Rights of Children Who Testify in cases in which they have been alleged Victims of Sexual Abuse	Legislation	P.L. 1997, c. 548 (LD 803)	9	2 (11%)	DHS, AG	not yet convened	among the members	no joint appts.
Staff Study of Privatization of State Liquor Stores	Legislative Council	n/a	n/a	n/a	OPLA	n/a	n/a	n/a
Staff Study of the Citizen Initiative Process	Legislative Council	n/a	n/a	n/a	OPLA	n/a	n/a	n/a
Staff Study on Worker's Compensation and Occupational Disease Law	Legislative Council	n/a	n/a	n/a	OPLA	n/a	n/a	n/a
Subcommittee on Privacy of Genetic Information	Legislative Council	n/a	5	5 (100%)	OPLA	August 19, 1997	chairs of Banking and Insurance Committee	n/a
Subcommittee on Scope of Juvenile Justice Problems and Services in Maine	Legislative Council	n/a	5	5 (100%)	OPLA	9/24/1997 (full committee met)	n/a	n/a
Task Force to Study the Health Effects of Reformulated Gasoline	Presiding Officers	n/a	5	5 (100%)	OPLA	n/a	n/a	no joint appts

¹ 6 of the 14 members were appointed by the chair of the study commission.

NL indicates a non-legislator was selected as chair of the study commission.

Rule 353. Legislative Study Committees

To assist it in the exercise of its duties, the Legislature may establish joint select committees or commissions consisting of legislators and others members to conduct studies. Alternatively it may refer matters to joint standing committees or subcommittees of joint standing committees for study. The procedure for such legislative studies is as follows.

1. Establishing study committees and commissions. Legislative study committees may be established by joint order only unless otherwise authorized by the Legislative Council. Studies that must be established by law or resolve include those that will:

A. be conducted by a task force, blue ribbon commission or other study group created by the Legislature that includes substantial membership by non-legislators; or

B. extend beyond the current legislative biennium.

Proposed study orders may be referred to joint standing committees for consideration and reported out in the same manner as proposed study legislation. Joint standing committees may report out study orders requesting that a study be conducted.

2. Appointment of members. Unless otherwise specified in legislation creating a study committee, the members of study committees must be appointed by the presiding officers: Senate members by the President; and House members by the Speaker. Membership may include non-legislators but a majority of the members on study committees must be legislators.

3. Appointment of chairs. Study committees must be chaired jointly except for study committees having 5 or less members. Each presiding officer shall appoint a chair at the time of initial appointment of study committee members except the chair of a study commission having 5 or less members must be appointed by the presiding officer of the body of the originating study order or legislation.

4. Committee size. Study committees may consist of not less than 3 and not more than 13 members, unless legislation creating a study committee specifies a greater number.

5. Compensation. Legislative members are entitled to receive the legislative per diem and reimbursement of necessary expenses for their attendance at authorized meetings of a study committee. Public members not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses and a per diem equal to the legislative per diem for their attendance at authorized meetings of a study committee.

6. Reporting dates. All reports of study committees which are to be submitted to the first regular session of the next or subsequent legislature must be completed and submitted not later than the first Wednesday in November preceding the convening of the first regular session of the next legislature. All reports of study committees which are to be submitted to the second regular session must be completed and submitted not later than the first Wednesday in December preceding the convening of the second regular session. Any proposed legislation accompanying such reports must be submitted in final draft form to the Revisor of Statutes by the reporting date.

7. Extension of reporting dates. Any study committee that finds it is unable to comply with its reporting date must submit, in writing, a request for extension of reporting date, the reasons an extension is requested and a proposed new reporting date to the Legislative Council prior to the

reporting date. The Legislative Council shall review the request and promptly notify the committee of its decision.

8. Study table. All joint orders or legislation proposing legislative studies regardless of funding source must be placed on a special study table. The Legislative Council shall review the proposed studies and establish priorities for allocation of budgetary and staffing resources.

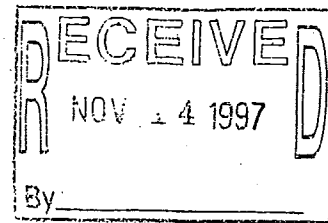
The Legislative Council shall establish a study line in the Legislative Account to which legislative studies are budgeted and study expenses charged. It also shall establish budgets and provide sufficient money from the Legislative Account for studies to be conducted by joint standing committees, joint select committees and other study committees of the Legislature. The Legislative Council shall provide money sufficient to enable the committees to reasonably conduct and complete the requirements of the studies.

The Legislative Council shall adopt guidelines for the drafting of study orders and legislation at the beginning of each legislative biennium. Study orders and legislation must be consistent with the adopted guidelines.



ELIZABETH H. MITCHELL
SPEAKER

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002
(207) 287-1300



November 12, 1997

David Boulter, Director
Office of Policy & Legal Analysis
13 State House Station
Augusta, Maine 04333

Dear David:

Following our brief discussion at the Legislative Council meeting regarding the way we currently establish interim study commissions, I am appointing a special committee to examine our current process and develop recommendations for review by both the presiding officers and the Council and am appointing you to serve on this committee. Specific issues that need to be addressed include:

- The instrument used to establish legislative study committees and commissions.
- Membership and Appointing Authority
 - a. Joint appointments
 - b. Representation by outside groups and organizations and the authority for appointment of these.
- Staffing
- Compensation of Members
- Funding
- Use of order vs. statutes

Please establish an initial report to be presented to the Council during the January meeting.

Sincerely,

Elizabeth H. Mitchell
Speaker of the House

EHM/cp

Title 3, Chapter 7, LEGISLATIVE COUNCIL

[1993, c. 707, Pt. FF, Â§1 (rp).]

3. Range 86.

[1983, c. 862, Â§4 (rp).]

4. Range 88.

[1983, c. 862, Â§4 (rp).]

5. Range 89.

[1983, c. 862, Â§4 (rp).]

PL 1981, Ch. 702, \$X11 (NEW).

PL 1983, Ch. 853, \$3-5 (AMD).

PL 1983, Ch. 862, \$2-4 (AMD).

PL 1987, Ch. 349, \$K1 (RPR).

PL 1987, Ch. 769, \$A2 (AMD).

PL 1993, Ch. 6, \$J1 (AMD).

PL 1993, Ch. 707, \$FF1 (AMD).

→ §162-B. Salaries of constitutional officers

Notwithstanding any other provisions of law, the salaries of the following state officials shall be at the salary ranges indicated in this section. At the time of initial appointment, the salary of the Secretary of State and the Treasurer of State shall be set at the Step C of the official's respective range. At the time of initial appointment, the salaries of the Attorney General and the State Auditor shall be set at Step E of their salary ranges. The Legislative Council may adjust the salary of each official by one step for each year of continuous service after the initial appointment to office. [1989, c. 501, Pt. O, §§7,22 (amd); c. 596, Pt. C, \$8 (amd); c. 600, Pt. B, §§9, 10 (amd); c. 878, Pt. D, §§14, 15 (amd).]

The salary ranges shall be as provided by law for confidential employees who take the salary increase option instead of state payment of retirement contribution. No other state salary may be paid. These officials are not eligible for state payment of employee retirement contributions. [1983, c. 862, §§5, 6 (new).]

1. Range 88. The salary of the following state officials and employees shall be within salary range 88, but shall not be less than Step C in that range:

A. Secretary of State; and [1989, c. 501, Pt. O, §§7,22 (amd); c. 596, Pt. C, \$8 (amd); c. 600, Pt. B, §§9, 10 (amd); c. 878, Pt. D, §§14, 15 (amd).]

B. Treasurer of State. [1989, c. 501, Pt. O, §§7,22 (amd); c. 596, Pt. C, \$8 (amd); c. 600, Pt. B, §§9, 10 (amd); c. 878, Pt. D, §§14, 15 (amd).]
[1989, c. 501, Pt. O, §§7,22 (amd); c. 596, Pt. C, \$8 (amd); c. 600, Pt. B, §§9, 10 (amd); c. 878, Pt. D, §§14, 15 (amd).]

2. Range 89. The salary of the State Auditor shall be within salary range 89, but shall not be less than Step E in that range.
[1989, c. 501, Pt. O, §§7,22 (amd); c. 596, Pt. C, \$8 (amd); c. 600, Pt. B, §§9, 10 (amd); c. 878, Pt. D, §§14, 15 (amd).]

3. Range 91. The salary of the Attorney General shall be within salary range 91, but shall not be less than Step E in that range.
[1989, c. 501, Pt. O, §§7,22 (amd); c. 596, Pt. C, \$8 (amd); c. 600, Pt. B, §§9, 10 (amd); c. 878, Pt. D, §§14, 15 (amd).]

PL 1983, Ch. 862, \$5,6 (NEW).

PL 1989, Ch. 501, \$07,22 (AMD).

PL 1989, Ch. 596, \$C8 (AMD).

PL 1991, Ch. 824, \$B13,14 (AFF).

§163. Executive Director of the Legislative Council; duties

The duties of the Executive Director of the Legislative Council are: [2003, c. 673, Pt. QQQ, \$1 (amd).]

Text current through December 31, 2006, document created 2006-10-31, page 5.



MARGARET E. MATHESON
REVISOR

MAINE STATE LEGISLATURE
OFFICE OF THE REVISOR OF STATUTES
STATE HOUSE STATION 7
AUGUSTA, MAINE 04333-0007
(207) 287-1650
FAX: (207) 287-6468

Date: December 4, 2006

To: Members of the Legislative Council of the 123rd Legislature

From: Margaret E. Matheson, Revisor 

RE: Duplicate Bill Request Filings

The purpose of this memo is to seek guidance from the Legislative Council for combining duplicate bill requests by the Revisor's Office.

Joint Rule 206, section 2 provides that:

For duplicate or closely related bills or resolves, the Legislative Council may establish a policy for combination of requests and the number of cosponsors permitted on combined requests.

Before the above language existed, every bill was simply processed and printed without regard to whether it was closely related to another. Since the advent of the rule, however, each Legislative Council has used its authority to direct that my office in some manner combine closely related bills. While the process of combining like requests can never be exact, the following process has been developed over the past several years, and I offer it as a model for approval by this Council:

- The bill titles are reviewed in an attempt to identify bills that are so closely related that they are alike. If the proposed solutions to the same problem are similar enough, the requests are combined into one measure.
- The sponsor who filed the first complete request is the primary sponsor of the measure. Completeness is determined by the standards set out in

Joint Rule 208, i.e., whether the request has "sufficient instructions, information and data required for its preparation."

- The identified later filers are given the opportunity to sign onto the measure as mandatory cosponsors; the primary sponsor also may collect the full complement of cosponsors authorized by Joint Rule 206.
- If a later filer indicates that the bill request he or she filed is not closely related, then his or her request will be fully drafted according to the sponsor's direction.

While we are currently processing bills before cloture, there is always the risk that similar bill requests will be filed after the first-filed bills have been signed and sent to the chambers and will not, therefore, be combined.

Thank you for your attention.

EXECUTIVE DIRECTOR'S
OFFICE

2006 NOV 20 P 3:41



MAINE STATE LEGISLATURE
Augusta, Maine 04333

**TASK FORCE TO STUDY CERVICAL CANCER
PREVENTION, DETECTION AND EDUCATION**

November 17, 2006

The Honorable John Richardson, Chair
The Honorable Beth Edmonds, Vice-Chair
Legislative Council
122nd Maine Legislature
115 State House Station
Augusta, Maine 04333

Dear Representative Richardson and Senator Edmonds:

This letter is to inform you that the Task Force to Study Cervical Cancer Prevention, Detection and Education has completed its work and submitted its final report including recommended legislation, pursuant to Resolves 2005, Chapter 121.

Sincerely,

Senator Nancy B. Sullivan

Senator Nancy B. Sullivan, Senate Chair

Rep. Lisa T. Marrache

Representative Lisa T. Marrache, House Chair

Enclosure

cc: Members of the Legislative Council (w/enc.)
Task Force Study Members



MAINE STATE LEGISLATURE
Augusta, Maine 04333

**COMMISSION TO ARRANGE FOR A MONUMENT
HONORING WOMEN VETERANS OF MAINE**

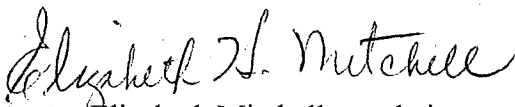
December 5, 2006

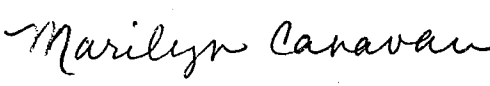
Representative John Richardson, Chair
Senator Beth Edmonds, Vice-chair
Legislative Council
122nd Maine Legislature

Dear Representative Richardson and Senator Edmonds:

This letter is to inform you that the Commission to Arrange for a Monument Honoring Women Veterans of Maine has completed its work and submitted its report pursuant Resolves 2005 Chapter 215.

Sincerely,


Senator Elizabeth Mitchell, co-chair


Representative Marilyn Canavan, co-chair

Attachment

EXECUTIVE DIRECTOR'S
OFFICE
2006 DEC -4 P 4:42