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State of Maine
One Hundred and Nineteenth Legislature
Joint Select Committee
on Joint Rules

Final Report
of the

**JOINT SELECT COMMITTEE
ON
JOINT RULES**

November, 2000

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ON
JOINT RULES**

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Appendix

- A. Enabling Joint Rule

JOINT SELECT COMMITTEE ON JOINT RULES FINAL REPORT

The Joint Rules of the 119th Legislature establish the Joint Select Committee on Joint Rules. A copy of this Joint Rule is attached. (See Appendix A) The committee is ordered to meet at least once annually and at other times agreed upon by the President of the Senate and the Speaker of the House to review the Joint Rules and recommend changes the committee determines necessary. The committee is to invite the participation of the Secretary of the Senate, the Clerk of the House, the Executive Director of the Legislative Council, the Director of the Office of Fiscal and Program Review, the Director of the Office of Policy and Legal Analysis and the Director of the Office of the Revisor of Statutes. The Secretary of the Senate and the Clerk of the House are to provide necessary staffing services to the committee. The committee is ordered to report annually by October 15th with any suggested changes to the Joint Rules.

The membership of the Joint Select Committee on Joint Rules consists of five Senators, appointed by the President of the Senate, and five members of the House of Representatives, appointed by the Speaker of the House. The first-named Senate member is the Senate Chair and the first-named House member is the House Chair.

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The Joint Select Committee met six times on September 7th, September 19th, September 28th, October 3rd, October 11th and October 20th to carry out its duties.

COMMITTEE OBJECTIVES

1. Review the final report of the Legislative Council Subcommittee to Study the Structure and Operation of the Maine Legislature, which contained the following seven recommendations:
 - Control the workload of the Legislature by placing reasonable limits on the number of bills requested by legislators.
 - Reduce the amount of floor time devoted to routine matters.
 - Require a minimum threshold showing of support for bills reported by committees to reduce the likelihood that floor time will be devoted to unnecessary debate.
 - Allow committees to make better use of the interim period to prepare for the session and to free up session time for consideration of legislative policy matters.
 - The presiding officers should more fully consider the needs of committee members when devising the session schedule.
 - Consider ways to reduce legislator scheduling conflicts.
 - Implement changes to improve the budget and Special Appropriations Table processes.

2. Review the final report of the Committee to Address the Recognition of the Tribal Government Representatives of Maine's Sovereign Nations in the Legislature, which contained the following two recommendations:
 - Authorizing Tribal Representatives to sponsor legislation on any subject.
 - Providing that Tribal Representatives be appointed to serve as members of the joint standing committees and granting the authority to vote in committee on any matter except gubernatorial nominations and to make any appropriate motions in committee, except with respect to gubernatorial nominations.

3. Review the Joint Rules and make any recommendations for changes they deemed necessary.

4. Submit only recommendations that received their unanimous support.

NECESSARY CHANGES TO THE JOINT RULES

Following its review and evaluation, the Joint Select Committee on Joint Rules makes the following recommendations regarding the Joint Rules. Unless indicated otherwise, the recommendations summarized below represent the unanimous position of those members of the committee present and voting.

1. The Joint Rules should be amended to allow the Indian Representatives to present floor amendments on any bill they sponsor. This is part of a unanimous recommendation of the Committee to Address the Recognition of the Tribal Government Representatives of Maine's Sovereign Nations in the Legislature.

Rule 206. Sponsorship.

3. Indian Representatives. The member of the Penobscot Nation and the member of the Passamaquoddy Tribe elected to represent their people at each biennial Legislature may sponsor legislation specifically relating to Indians and Indian land claims, may offer floor amendments to this legislation, may cosponsor any other legislation and may sponsor and cosponsor expressions of legislative sentiment in the same manner as other members of the House.

The Joint Select Committee on Joint Rules voted 9 in the affirmative and 0 in the negative.

2. A Preamble to the Joint Rules should be added to include the hierarchy of governing authorities. This is a recommendation of the Clerk of the House.

Preamble. These Joint Rules are adopted pursuant to the Constitution of Maine to assist in carrying out the responsibilities of the legislature. These rules take precedence over statutes, enacted by a prior legislature relating to the proceedings of the legislature. A higher precedence is given to the individual chamber rules, followed by past practices and customs of the chamber.

Rule 101. Scope.

~~These Joint Rules are adopted pursuant to the Constitution of Maine to assist in carrying out the responsibilities of the Legislative Branch.~~ The rules govern the transaction of business by both chambers, between the chambers and by members of both chambers, including many of the activities of joint legislative committees. The business of the separate chambers and most actions of members are governed by chamber rules.

The Joint Select Committee on Joint Rules voted 9 in the affirmative and 0 in the negative.

3. The Joint Select Committee on Research and Development should be merged with the Joint Standing Committee on Business and Economic Development creating the Joint Standing Committee on Business, Research and Economic Development. This is a recommendation of the Joint Select Committee on Joint Rules.

Rule 301. Joint Standing Committee Responsibilities and Jurisdiction.

5. Other Tasks. Performing other tasks assigned to them, including, but not limited to, reviewing specific provisions of law, conducting studies on assigned topics, issuing reports on policy and legal issues of interest to the Legislature, reporting out specific legislation pursuant to joint order and authorizing the annual budgets of certain counties.

There are 17 joint standing committees, which must be appointed at the commencement of the first regular session and which exercise jurisdiction in the following areas:

- Agriculture, conservation and forestry
- Appropriations and financial affairs
- Banking and insurance
- Business, research and economic development
- Criminal justice
- Education and cultural affairs
- Health and human services
- Inland fisheries and wildlife
- Judiciary
- Labor
- Legal and veterans affairs
- Marine resources
- Natural resources
- State and local government
- Taxation
- Transportation
- Utilities and energy

The Joint Select Committee on Joint Rules voted 9 in the affirmative and 0 in the negative.

4. Joint Rule 213 should be amended to require that all expressions of legislative sentiment include the residency of the recipient. This was a recommendation from the Clerk of the House.

Rule 213. Expressions of Legislative Sentiment.

All expressions of legislative sentiment must conform to guidelines issued by the President of the Senate and the Speaker of the House and must be presented in a manner standardized by the Revisor of Statutes.

Each expression of legislative sentiment must contain the residency of the recipient and must, at a minimum, be cosponsored by the Senator and Representative who represent the recipient unless the Senator or Representative affirmatively declines.

The expressions of legislative sentiment may not be part of the permanent journal or the legislative record but must appear on the Advance Calendar and Journal of each body. The Secretary of the Senate and the Clerk of the House shall print the expressions in an appendix to the legislative record. When the Legislature is not in session, the President of the Senate and the Speaker of the House may authorize expressions of legislative sentiment at the request of legislative members.

The Joint Select Committee on Joint Rules voted 7 in the affirmative and 0 in the negative.

5. Joint Rule 308, Sections 1 and 2 should be amended to allow the Clerk and Secretary to refer Bills directly to committees. Members would have no less than two full business days to inform the Clerk or Secretary of any objection causing the bill to be placed on the calendar. The Speaker or President can take a bill out of committee and place it on the calendar within five days of the bill's reference. This was a unanimous recommendation of the Legislative Council Subcommittee to Study the Structure and Operation of the Maine Legislature.

Rule 308. Reference of Bills to Committee.

All bills and resolves must be referred to committee, except that this provision may be suspended by a majority vote in each chamber.

~~1. **Legislature in Session.** When the Legislature is in session, the Secretary of the Senate and the Clerk of the House shall jointly suggest an appropriate committee reference for every bill, resolve and petition offered. The suggested reference must be placed upon the Advance Journal and Calendar of each chamber. If they are unable to agree, the question of reference must be referred to a conference of the President of the Senate and the Speaker of the House. Upon their agreement, the suggested reference must be placed upon the Advance Journal and Calendar of each chamber. If they are unable to agree, the question of suggested reference must be referred to the Legislative Council for resolution. Upon the decision of the Legislative Council, the suggested reference must be placed upon the Advance Journal and Calendar of each chamber.~~

~~Each suggested reference appearing upon the Advance Journal and Calendar of each chamber must contain a recommendation for the printing of the document being referred and may contain a recommendation on the number of copies of that document to be printed.~~

~~Any member may move for reconsideration of a committee reference on the floor. Notwithstanding Joint Rule 103, a majority vote is necessary to overturn the original committee of reference.~~

1. **Bills Referred Directly to Committee.** The Secretary of the Senate and the Clerk of the House shall jointly refer every petition, bill or resolve offered to an appropriate committee or committees. If they are unable to agree, the question of reference must be referred to a conference of the President of the Senate and the Speaker of the House. Upon their agreement, the bill will be directly referred to the agreed upon committee. The Speaker of the House and the President of the Senate may order the bill to appear upon the Advance Journal and Calendar of each chamber with a suggested reference. The committee reference must be publicly posted and distributed to all members of the legislature by mail, e-mail, and an electronic posting on the House and Senate Bill Status web page.

~~2. Legislature Not in Session. When the Legislature is not in session or is in recess for more than 4 days, the Secretary of the Senate and Clerk of the House may refer the bills to the appropriate joint standing committee for public hearing and order printing, subject to the approval of the President of the Senate and the Speaker of the House.~~

2. Members May Appeal a Direct Reference of a Bill. Members have no less than two full business days to inform the Clerk of the House or the Secretary of the Senate of any objection to a committee reference. Notification must be given no later than 4:00 p.m. on the second business day. The Clerk of the House or the Secretary of the Senate, depending on the Chamber of origination, will immediately notify their counterpart of any objection and place the bill (s) on the next Advance Journal and Calendar. Upon receipt of a bill by a committee, a member has no more than three business days to appeal to the presiding officers if they do not agree with a committee reference. By mutual agreement the presiding officers may order a bill or resolve out of committee to be placed on the Advance Journal and Calendar for joint reference by the House and Senate members. Once the full House and Senate make a reference, no appeal is in order.

3. Reference to More Than One Committee. When a bill or resolve has a subject matter that falls within the jurisdiction of more than one committee, ~~suggested references may be made and the full Legislature may vote to refer a bill or resolve~~ the bill may be referred to more than one committee. When references are made to more than one committee, the first named committee is responsible for the scheduling and conduct of all public hearings, subject to approval of the chairs of the other committee or committees. Committees to whom a bill or resolve is referred pursuant to this rule shall participate equally in all public hearings and work sessions and shall make a joint report or joint reports. The public hearing or hearings must be conducted jointly by both committees. The chairs of the committees involved shall establish the process for conduct of the work session or work sessions on the bill. If the chairs are unable to agree, the presiding officers shall establish the process. The work session process must provide for balanced representation for each committee. The report or reports on a jointly referred bill is as voted by the full membership of each committee, except that if a member serves on more than one committee to whom a bill or resolve is referred, that member may cast only one vote.

The Joint Select Committee on Joint Rules voted 8 in the affirmative and 0 in the negative.

6. Joint Rule 207, section 1 should be amended to require that all bill titles become public at filing unless the members specifically requests the title remain confidential until the bill is printed. This was a recommendation of the subcommittee of the Joint Select Committee on Joint Rules.

Rule 207. Disclosure of Titles of Bills and Resolves.

1. Legislator and Department Bills. ~~The names of sponsors and the titles of requests for bills and resolves submitted by legislators or by departments, agencies or commissions are~~ considered public information upon filing. The legislator, department, agency or commission may direct that the title of a particular bill or resolve remain confidential until that bill or resolve is printed. The names of sponsors become public information on the cloture date, and a list of titles and sponsors must be published as soon as practicable after cloture. The names of sponsors and the titles of requests for bills and resolves submitted after cloture are public information when transmitted to the Legislative Council pursuant to Joint Rule 205. The names of sponsors

and the titles of requests for bills and resolves submitted for a special session are public information when transmitted to the Legislative Council.

The Joint Select Committee on Joint Rules voted 8 in the affirmative and 0 in the negative.

7. Joint Rule 208 should be amended to include language that would require that the Revisor of Statutes give written notice of inadequate information to a legislator when filing a bill. The Revisor will advise the member that five days from the notice the bill request is denied. This was a recommendation of the subcommittee of the Joint Select Committee on Joint Rules.

Rule 208. Requirements for Drafting.

A request for a bill or resolve filed with the Revisor of Statutes is considered complete when the request is properly titled and accompanied by sufficient instructions, information and data required for its preparation. When a request is not accompanied by sufficient instructions, information and data, the Revisor of Statutes is directed to give written notice of inadequate information to the legislator. Upon receipt of said written notice, the legislator has five business days to file adequate information with the Revisor of Statutes, or the request for the bill or resolve will be denied. Drafts prepared by an outside source must be filed in final form by the appropriate cloture date.

When directed by the sponsor, the Revisor of Statutes shall prepare a bill or resolve in concept form. The bill or resolve shall contain only an enacting clause and a summary of the proposed legislation and shall not be fully drafted by the Revisor of Statutes. The bill or resolve prepared in this form shall be printed and referred to a committee in the same manner as other legislation and may be reported in fully drafted form by that committee in the same manner as other legislation. Notwithstanding the Maine Revised Statutes, Title 1, section 402, members of legislative leadership and committee chairs have access to the contents of a file for a bill or resolve that is prepared in concept form. This method of drafting legislation is not allowed for legislation submitted by the Governor, by agencies or departments of state government, by study commissions, or pursuant to statute. Any request for a bill or resolve submitted after cloture must state if it is a request for a concept draft. Any committee amendment must be germane to the detailed summary of the concept draft.

The Joint Select Committee on Joint Rules voted 8 in the affirmative and 0 in the negative.

8. Joint Rule 354 be amended to require that the Joint Select Committee on Joint Rules reports suggested rule changes in the even numbered years. This was a recommendation from the Clerk of the House and the Assistant Clerk of the House.

Rule 354. Joint Select Committee on Joint Rules.

~~Beginning with the Second Regular Session of the 119th Legislature,~~ There is established the Joint Select Committee on Joint Rules. Notwithstanding Joint Rule 351, the committee consists of 5 Senators, appointed by the President of the Senate, and 5 members of the House of Representatives, appointed by the Speaker of the House. The first-named Senate member is the Senate chair; the first-named House member is the House chair.

The committee shall meet at least once annually and at other times agreed upon by the President of the Senate and the Speaker of the House to review the joint rules and recommend changes the committee determines necessary.

The committee shall invite the participation of the Secretary of the Senate, the Clerk of the House, the Executive Director of the Legislative Council, the Director of the Office of Fiscal and Program Review, the Director of the Office of Policy and Legal Analysis and the Director of the Office of the Revisor of Statutes. The Secretary of the Senate and the Clerk of the House shall provide necessary staffing services to the committee.

The committee shall report ~~annually~~ by October 15th, in the even numbered years with any suggested changes to the Joint Rules.

The Joint Select Committee on Joint Rules unanimously agreed with this recommendation.

9. Joint Rule 310 should be amended to require that an "Ought to Pass" report must have the support of a minimum of two members of the committee to go on to the floor of the House or Senate as a divided report. This was a recommendation of the subcommittee to the Joint Standing Committee on Joint Rules.

Rule 310. Reports of Bills from Committee.

1. Deadline for Reports. The joint standing committees shall report out every bill that has been referred to them in the manner prescribed in these rules and in accordance with deadlines established by the presiding officers.

2. Committee Reports. The report of the committee must include a recommendation. Recommendations that may be made are:

- Ought to Pass
- Ought to Pass as Amended
- Ought to Pass in New Draft
- Ought Not to Pass
- Refer to Another Committee

The committee shall vote on all recommendations to be included in reports on a bill during a work session on that bill. When the committee recommendation is not unanimous, a minority report or reports are required. A minimum threshold of two members of the committee are required to report out an "Ought to Pass", "Ought to Pass as amended" or an "Ought to Pass in New Draft" divided report. Except as provided in subsection 5, minority committee reports must be voted on at the same work session as the majority report on that bill. Notwithstanding subsection 5, a committee vote to report a bill out favorably must be taken based on written language before the committee at that time or on a motion describing the content of the report. After a committee vote, no substantive change may be made in the committee report unless motions to reconsider and to amend the report are approved at a committee work session. All reports on any legislative document must be submitted to the Legislature at the same time.

3. Unanimous Ought Not to Pass Report. When a joint standing committee votes unanimously to report a bill "Ought Not to Pass," the committee shall notify the presiding officers, the sponsor and the cosponsors of the bill of their action. This communication must appear on the calendar in each chamber, and the bill, upon notification of both chambers, must be placed in the legislative file and may be recalled only as provided in Rule 404. A bill that has an "Ought to Pass", "Ought to Pass as amended" or "Ought to Pass in New Draft" recommendation and does not meet the minimum threshold of two votes shall be reported as a unanimous "Ought Not to Pass" report. The name of the member who did not vote for the "Ought Not to Pass" recommendation shall be recorded.

4. Ought to Pass in New Draft Report. When the changes voted by the committee are major, the committee may elect to report the bill out "Ought to Pass in New Draft," with authorization of the presiding officers. When a plurality of the committee recommends this report, the chairs shall submit a request for authority to report the bill out in this fashion. New drafts printed pursuant to these rules must include the legislative document number that the new bill replaces and the names of the original sponsor and cosponsors. The Secretary of the Senate and the Clerk of the House shall determine the number of copies that must be printed of each new draft.

5. Committee Voting. The committee clerk shall prepare the committee jacket or jackets following the vote and obtain signatures from committee members as required. If all members are not present for the vote, the bill must be held until the following periods have expired.

A. If any member is absent from the State House and the State Office Building at the time of the vote, that member's vote may be registered with the clerk up until noon on the 2nd business day following the vote.

B. If any member is absent from the committee at the time of the vote but present in the State House or the State Office Building, that member's vote may be registered with the clerk up until 5:00 p.m. on the day of the vote.

A member may abstain from voting only for a conflict of interest under Joint Rule 104.

Except for a motion to adjourn, a question may not be decided and official action may not be taken in the absence of a quorum.

No committee vote on a bill may be taken after 10:30 p.m. or before 7:30 a.m. unless authorized by the presiding officers. If the presiding officers provide this authorization, they shall notify the other members of the Legislative Council concurrently.

The Joint Select Committee on Joint Rules unanimously agreed with this recommendation.

10. Joint Rule 205 should be amended to require that all after-deadline requests go before the committee of jurisdiction to receive a recommendation before it goes before the Legislative Council. This was a recommendation of the subcommittee to the Joint Standing Committee on Joint Rules.

Rule 205. Filing after Cloture.

~~Any request for a bill or resolve submitted to the Revisor of Statutes by a Legislator, a department, agency or commission after the appropriate cloture date must be transmitted to the Legislative Council. The council shall ascertain from the sponsor the facts supporting the request notwithstanding cloture.~~ Any request for a bill or resolve after the appropriate cloture date must be submitted to the Revisor of Statutes at the request of a legislator. Upon receipt of a member's request for an after deadline bill, the Revisor shall fill out a request form with the title of the bill, assign an LR number and return the form to the requesting member. Senate members shall take the form to the Secretary of the Senate and House members shall take the form to the Clerk of the House for referral to a committee. The Secretary of the Senate and the Clerk of the House shall meet and refer the request to a Joint Standing Committee or a Joint Select Committee. The requesting member shall take the form to the Committee Clerk who shall schedule that member to come before the committee. The committee shall ascertain from the sponsor the facts supporting the request notwithstanding cloture. The committee shall make a recommendation and return the request form to the requesting member. The member shall return the form to the Revisor of Statutes who will submit the item to the Executive Director for placement on the Legislative Council's agenda. The council shall consider the recommendation of the committee in determining whether the bill request should be approved. If a majority of the council approves, the legislation is eligible for introduction as other legislation that is in compliance with Rule 202 or 203.

A department, agency or commission shall seek the sponsorship of a member to submit an after deadline request.

The Joint Select Committee on Joint Rules unanimously agreed with this recommendation.

AREAS REVIEWED BUT NOT RECOMMENDED FOR CHANGE

In addition to the aforementioned recommendations for affirmative changes to the Joint Rules, the select committee considered, but recommended no changes in the following areas.

- Realignment of the Joint Standing Committees to create a committee dealing with health and insurance issues.
- Allowing Indian Representatives to sponsor any piece of legislation unrelated to Indian affairs and land claims.
- Appointing Indian Representatives to committees and allowing them to vote in all cases, with the exception of gubernatorial nominations.
- Limiting the number of bills that legislators may request for drafting in the First Regular Session to 12 per member.
- Relaxing the cloture date as follows:
 - By the 3rd Friday in December, each legislator may request drafting of up to 12 bills.
 - Between the 3rd Friday in December and the 3rd Friday in January, each legislator may request 7 bills or the number of additional bills that brings their total drafting request for the session to 12; whichever is less.
 - Between the 3rd Friday in January and the 3rd Friday in February, each legislator may request 2 more bills or the number of bills that brings his or her total drafting requests for the session to 12, whichever is less.
- Requiring a minimum threshold showing support for bills reported by committee to reduce the likelihood that floor time will be devoted to unnecessary debate. Committee reports recommending passage must receive a minimum of three votes from the committee in order to be reported to either chamber. The minimum number of votes must include the vote of at least one member of the other chamber. The committee also discussed reducing the threshold and not requiring one vote to be from the other chamber.
- Improving ROS policy so that members agree to and are notified when they are not included on a sentiment. Pass intake documentation with any sentiment that deviates from the norm to the Clerk and Secretary so they understand why a member has been excluded.
- Amending Joint Rule 312 on Fiscal Notes as follows.
 - **Rule 312. Fiscal Notes.**
 - Every bill or resolve that affects state revenues, appropriations or allocations or that requires a local unit of government to expand or modify that unit's activities so as to necessitate additional expenditures from local revenues and that has a committee recommendation other than "Ought Not to Pass" or "Referral to Another Committee" ~~must include~~ must be accompanied by a fiscal note. This statement must be included as an accompanying paper to ~~incorporated in~~ the bill before it is reported out of committee. Any amendment introduced that would affect the fiscal impact of the original bill must also ~~include~~ be accompanied by a fiscal note. The Office of Fiscal and Program Review has the sole responsibility for preparing all fiscal notes. The fiscal note information must be updated and distributed as often as necessary.

AREAS FOR POSSIBLE FUTURE CONSIDERATION

Finally, the Joint Select Committee identified the following areas for future consideration and possible action.

1. Reviewing the Legislative Council's structure, rules and policies.

APPENDIX A

Enabling Joint Rule

Part 3
Legislative Committees

Subpart A
Joint Standing Committees

Rule 354. Joint Select Committee on Joint Rules.

Beginning with the Second Regular Session of the 119th Legislature, there is established the Joint Select Committee on Joint Rules. Notwithstanding Joint Rule 351, the committee consists of 5 Senators, appointed by the President of the Senate, and 5 members of the House of Representatives, appointed by the Speaker of the House. The first-named Senate member is the Senate chair; the first-named House member is the House chair.

The committee shall meet at least once annually and at other times agreed upon by the President of the Senate and the Speaker of the House to review the joint rules and recommend changes the committee determines necessary.

The committee shall invite the participation of the Secretary of the Senate, the Clerk of the House, the Executive Director of the Legislative Council, the Director of the Office of Fiscal and Program Review, the Director of the Office of Policy and Legal Analysis and the Director of the Office of the Revisor of Statutes. The Secretary of the Senate and the Clerk of the House shall provide necessary staffing services to the committee.

The committee shall report annually by October 15th with any suggested changes to the Joint Rules.