

# MAINE STATE LEGISLATURE

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Changing the Dispositon of the  
Maine Legislature?

by

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## Changing the Disposition of the Maine Legislature?

### Introduction

American state legislatures, particularly in the decades following the Second World War were maligned for being unrepresentative, malapportioned, dominated by rural interests. (Rosenthal a. 1987) Additionally there was a general perception that the legislature as an institution was inept in dealing with a whole host of complex, increasingly technical, problems besetting the states and their changing populations. At one period the viability of the legislative institution as well as State government in general became a question of serious debate.

While there is less contention regarding the necessity of a strengthened state government and especially the legislative branch there remains a considerable emphasis on improving the public's perception as well as enhancing their performance of legislative duties. This analysis considers as a component of that emphasis several issues surrounding the structure of the Maine Legislature. Key consideration will be given to numerical size and composition of this body. Specifically addressed will be possible ramifications of maintaining the Legislature at its current size versus a cut in membership. Alternatively, analysis will be presented regarding the merits of a unicameral legislative body for the State of Maine as well as study of the effects of 'professionalization' of the membership of the Legislature.

This analysis is potentially important both all the people of the State of Maine and to those individuals who choose to more actively participate in the state's political and legislative processes. The character of the Legislature will be impacted whether there is a change or whether a decision is reached to continue on with 'business as usual.' The makeup of the Legislature may change the way people view their government, it certainly has the potential to affect the society in which we live.

The state legislature has been characterized as being "the repository of the residual power of the people." (Horan 1975) The Maine Legislature in exercising its constitutional powers, either directly or indirectly, impacts the lives of every citizen of our State. It uniquely possesses the power to enact the laws that govern many of the personal and corporate activities of our society. Additionally, this body potentially impacts the welfare of each of us through its ability to decide upon the level and manner of response to our common needs (policy), levy taxes, and appropriate the public funds necessary to meet those needs.

The sentiments expressed in this statement: "No man's life, Liberty. or property are safe while the legislature is in session,"(Rosenthal 1981) speaks to the concern many have regarding the institution. It may be that the Legislature's mission is so broad and perhaps not fully understood combined with its great influence, that many citizens become concerned when this body does not appear to be working in concert with other arms of government to resolve our common problems. Our "citizen" legislature has at times seemed overwhelmed by the problems besetting the State of Maine. Examples of the difficult issues wrestled with by the members of the Legislature are easily enumerated. Among the more memorable recent issues were those related to the budget, passage of a 'temporary' tax increase, inability to reach a quick consensus regarding reform of the workmen's compensation system, failure to pass a budget before the beginning of a new fiscal year, etc.

The level of discontent with our legislatures which is directly attributable to its composition is not within the scope of this study. Those issues contributing to what has been perceived as a growing dissatisfaction with government are numerous. Certainly the expansion of government in absolute and relative terms has led to higher expectations regarding the ability of government to meet citizen needs. In recent years citizens of the State of Maine have acted as witnesses as all three branches of our government struggled to resolve increasingly complex issues in a sometimes rancorous and highly partisan manner. Whatever the cause, disenchantment with government and particularly with our legislative bodies which are designed to represent the interests of all citizens, may

have repercussions both immediate and future. The extent to which distrust of government discourages participation by individuals or groups of citizens may be considered as exerting a negative impact upon our representative system itself.

Unease with government in general has not translated into a heated debate among the citizens of Maine regarding the composition of our Legislature. A sense that all is not well in Maine or in government in particular has reinvigorated interest in governmental reform. A component of proposed reform has been a renewed call to "downsize" the Legislature. In light of the potentially expensive consequences of misdirecting scarce societal resources, enacting policy detrimental to the welfare of the citizens of Maine, or of simply not being truly representative of the interests of the people; it is appropriate to address questions regarding the merits of changing the numerical size and/or a change to a unicameral and more professional body."

## **Background**

A quick review of Maine's legislative history reveals that a change in numerical size of this body is not unprecedented. However the last significant change in the size of the House of Representatives occurred previous to the American Civil War. Thus the size of this chamber has remained static for roughly one hundred and fifty years. One cannot infer from this , however, that attempts have not been forthcoming to alter the Legislature during these years. Quite the reverse is true. As early as 1935: the 87th Legislature, an attempt to alter its disposition was made. Consideration was given to L.D. 580 which would have made the Legislature a unicameral entity.

It was at the height of the nationwide legislative reform movement that legislation attempting to deal with the issue became a persistent feature in the Legislature. Beginning with the 104th Legislature in 1969 this type of legislation appeared before the Legislature during each biennium until the 113th Legislature. Subsequently, similarly constructed legislation appeared during the 115th Legislature. (Maine State Law and Legislative Reference Library a. Jan. 1992)

The controversy over how a society should best organize itself for governance is ages old. In a sense the issues being considered in this paper could be said to have originated from such an early date. However, it is more appropriate to note that in Maine as in other American states, the modern movement toward legislative reform gained impetus during the later years of the 1960s and continued at least into the following decade. As the influence and capabilities of the state governments relative to the National Government declined it became very evident to some that change would be necessary. If the state legislature as an institution were to return to its intended position as a coequal branch of government it would have to be strengthened. One of the more telling reports, which brought the issue of legislative reform to the fore, was prepared by a group called the Citizen's Conference on State Legislatures. (Citizens Conf. 1971) With publication of this groups comparative research, the stage was set to initiate an era of debate if not wholesale adoption of the reforms advocated. Additionally, the Supreme Court decisions of Baker vs. Carr and Reynolds vs. Sims in the early 1960s which reaffirmed national commitment to the concept of equal representation had helped spur increased nationwide interest in reforming state legislatures.

In Maine and the United States we pay homage through our governmental institutions to the concept of representative democracy. Yet our State Legislature, like many of the others in the nation, had become somewhat unrepresentative. Multi-member urban districts were present. Representation was tied to counties and deference was given to those numerically smaller when resolving districting issues. Caps were placed on the total number of representatives any individual municipality could elect. Each of these practices helped determine the character of the Legislature. It is possible discern historical similarities with the English experience of 'rotten boroughs'. These laws and customs which permitted representative inequalities have been characterized as discrimination by design (McKay a. 1965) and led to the great variation in numbers of electors per legislative member. Although by demonstrating relatively high standing among the states in this category, we see that Maine's smallest electoral district in the Senate during the 1963/64 session numbered

16,146 while its largest in terms of voters was 45,687. In the House the smallest district totaled 2,394 and the largest 13,102. At this time it would have been possible to elect a majority of House members with votes from only slightly less than 40 percent of the population. (McKay b. 1965)

Calls to uphold traditional values have been prominent in the deliberations regarding the modification of the Legislature. The relatively more equal representation which was evident in Maine before what became known as a 'reapportionment revolution' in America demonstrates an early and perhaps higher level of commitment to this value. The relatively higher number of legislators which is noted in all of New England represents the continuation of the traditional 'town meeting,' participatory government concept of government which in many ways has become an idealized concept. Partisan philosophic differences concerning the appropriate role of government have undoubtedly played a role in swaying votes. A strong independent (self-reliant) tradition has also characterized politics in Maine. One representative in 1969 stated the following: "It is my belief that any person that can't manage their own personal affairs so that they can afford to come and serve in the legislature, then they would be a very poor choice to bring them down here and subsidize them with state money by giving increases." (Osborn 1974) Commitment to these values have reinforced the belief in the 'citizen legislature.' The 'two Maine' has been a relatively unspoken component of the debate. Those who would uphold the interests of the more rural and perhaps less affluent areas of the State have generally approached the matter with a different perspective than their urban colleagues. Much of the controversy for those who represent rural interests has centered upon the difficulty they perceive of representing the interests districts of great geographic size.

In Maine the status quo has reigned for roughly one hundred and fifty years. It is noteworthy that other states have chosen to significantly alter their legislative bodies. Nebraska became the nations only unicameral legislature in 1931 and functioned with 43 Senators until increased to 49 in the early 1960s. During the 1960s three states increased the size of theirs Houses significantly. These states were Iowa, Maryland, and New



Jersey. Also, in Maryland and New Jersey the number of senators were increased substantially during that decade. During the biennium 1965-66 Connecticut and Vermont in New England. reduced House membership substantially: from 294 to 177 in Connecticut and from 242 to 150 in Vermont. During the same biennium Arizona's lower House was reduced from 80 to 60 members while Ohio's House membership was lowered from 137 to 99. Further extensive reductions in House membership occurred during the 1977-78 Biennium in Massachusetts which reduced from 240 to 160 and in Illinois which decreased to 118 after numbering 177. These examples point to the possibility of change in Maine if conditions merit.

Consequential changes in the relationship of the National Government to the State governments altered expectations regarding what government at the State level was expected and in instances required to accomplish. Broadly categorized as 'The New Federalism' this altered relationship placed burdens upon the States which increasingly meant stressful change. During this period State government urged by reformers and by necessity began rethinking their role. In Maine, rapid change in population, and economic characteristics accelerated the rate at which government expanded and further complicated the issues coming to the attention of the Legislature. These factors have indirectly contributed ammunition to those who believe that a change in the Legislature of the nature being considered has become necessary.

### **Key Conflicts and concerns**

The review of the more immediate attempts to modify the disposition of the Maine Legislature reveals the submission of L.D. 1647 during the first regular session of the 115th Legislature. This attempt to amend the Constitution if it had been enacted would have reduced the membership of the House from 151 to 99 members. The Senate would have been reduced to number not less than 31 and not more than 33 members. A key feature of this proposal was to blend three House districts as much as practicable with a single Senatorial district. It received an "ought not to pass" recommendation from the majority of the Committee on State and

Local Government. Three members of the committee who, interestingly, each represented what might be considered more rural districts issued a minority report of "ought to pass." (Maine State Law and Legislative Reference Library b. Jan. 1992)

During the second regular session of the 115th Legislature L.D. 2337 was submitted by the Special Commission on Governmental Restructuring pursuant to Public Law 1991 chapter 139. This was submitted to the Committee on State and Local Government as well. Initially it proposed a reduction to total not more than 123 and not less than 123 members. Later proposals to amend included change to a unicameral House of Representatives numbering 149 members as well as the retention of a bicameral Legislature whose House would total 125 with the Legislature convening in the year 2005. (L.D. 2337 1992) The fate of resolution 2337 was to die between houses: "the House and the Senate were not able to reach agreement on an amended version of the bill." (OPLA April 1992)

Given the history of proposals to change the disposition of the Legislature, prospects for change of the nature being considered are uncertain at best. In light of Maine's recent economic downturn and public concern about governmental capabilities it is conceivable that the issue may capture the public's attention.

Although not exclusive of other factors, there are several which appear key in contributing to maintaining the status quo. First, the issues involve deeply held convictions regarding the nature of representative government and particularly the manner in which it should be practiced in Maine. Second, the quality of information available upon which to base a members decision could be termed suspect to vagaries of interpretation. Third, the Legislature, in which debate has been concentrated is the entity whose membership will be most directly impacted by any change. Fourth, there appears to be an inherent conservatism toward initiating significant change in State government. An example is provided by noting the results of the Legislation proposed as a consequence of the Special Commission on Governmental Restructuring. As of April 14, 1992, review demonstrates that three of twenty four Acts or Resolutions considered were signed into law. At least one other was the target of an executive order as of May 1992. (OPLA April 1992)

It seems that upcoming legislative battles will focus primarily on the greater issue of governmental reform. The disposition of the Legislature along the lines being discussed will likely remain a component of this larger effort. The recent studies by the Special Commission on Governmental Restructuring and by KPMG Peat Marwick in conjunction with the Advisory Committee on Legislative Structure and Operation are representative of increasing willingness to seek answers to the questions concerning governmental operations and possible reforms. (KPMG PEAT MARWICK March 31, 1990; The Special Comm. Dec. 15, 1991

The current focus for those who would modify the Legislature is an attempt to petition the membership to act to in accordance with what is viewed as the popular will. A reduction in the size of the Legislature as proposed in 1991 to 99 seats in the House and 33 in the Senate is proposed. A Committee for (99/33) has been organized to seek public support for this change. Circulation of petitions, and media exposure are among tools being employed to enlist support. The proposed change 'apparently' must be accomplished through a two-thirds affirmative vote by both chambers as provided by Article X, Section 4 of the State Constitution. Article IV, part third, section 18 describes the citizen initiative process but 'apparently' forbids the use of this device as a means to alter the Constitution. <sup>1</sup>

The use of inexact terms, the inability to apply purely objective measures, philosophic and political differences, and unique geographic perspectives, along with inability to focus public interest; despite, or perhaps due to the significant social change which has occurred, continue as barriers to resolving the issue. In fact there is no agreed upon optimal solution. The aim of each participant may be an ideal that may prove less so to his fellows. If change results, existing relationships are likely to be altered. Many, citizens as well as Legislators, prefer stability over uncertainty.

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<sup>1</sup> According to conversations with the personnel of the Office of Secretary of State the Judiciary is expected to rule upon the legality of an initiative proposing term limits for members of the Maine Legislature. Whatever the outcome, the ruling can be expected to affect the direction of future attempts to change the disposition of the Legislature.

It is interesting that the factual information available has been relatively non controversial. Sources providing census information or agency statistics are generally reliable. Difficulty arises over the proper interpretation, and applicability of this type of information in a highly emotional, values laden, debate such has surrounded this issue. This analysis will demonstrate the utility of this type of information while recognizing its incomplete ability to, alone, represent the salient characteristics of the proposed changes.

## **Review of Alternatives**

As previously identified, alternatives are respectively: Retention of the numerical status quo, numerical reduction of membership, transforming the Legislature from its present bicameral structure to that of a unicameral body, shaping a more 'professional' assembly. Review of attempts to modify the Legislature reveal the common threads of: concern for maintaining the level of representation, cost, and efficiency. Not only are these aspects of the debate of historical interest but they continue to be the central points of contention. Each of these factors are keys to Legislative performance. A decision either to retain the current status or to authorize change should be based as nearly as possible upon relevant knowledge regarding the impact of each of them.

## **Costs**

Expenditures by State Government ballooned during the decade of the 1980s. In 1980 expenditures totaled marginally over \$500,000,000. In 1990 they peaked at about one and one half billion. (Bureau of the Budget Sept. 1992) There are a number of ways to represent the costs of operating the Maine Legislature. Like any organization there are fixed monetary costs associated with the operations of the Legislature which are easily estimated. Among the more important fixed costs those directly related the support of the membership:

The monetary cost of supporting a member of the Maine Senate during the a biennium, including: Salary, Benefits, Expenses, and Constituent Allowance has been estimated at \$39,915. The estimate for each member of the Maine House of Representatives is placed at \$39,415.<sup>2</sup> Thus it is possible to project a cost of \$1,397,025 to sustain the thirty-five members of the Senate and \$5,951,665 for the current House. It is apparent that a reduction in the membership of either body would reduce these estimates proportionally. If implemented the proposed 99/33 reduction would result in a \$2,129,410 savings over the next biennium assuming no change in the rate of compensation. Using a base number of 125, a number which has been suggested in past proposals to create a unicameral legislature, and utilizing the higher compensation estimated for Maine's Senators it is possible to project a cost of \$4,989,375. Savings of \$2,359,315 would be realized during the biennium. Nebraska's forty-nine Senators receive salaries of \$12,000 per year plus a per diem compensation. At this rate, legislative salaries in Nebraska would account for expenses of \$1,176,000 over the biennium while Maine will spend \$3,255.000 in salaries.

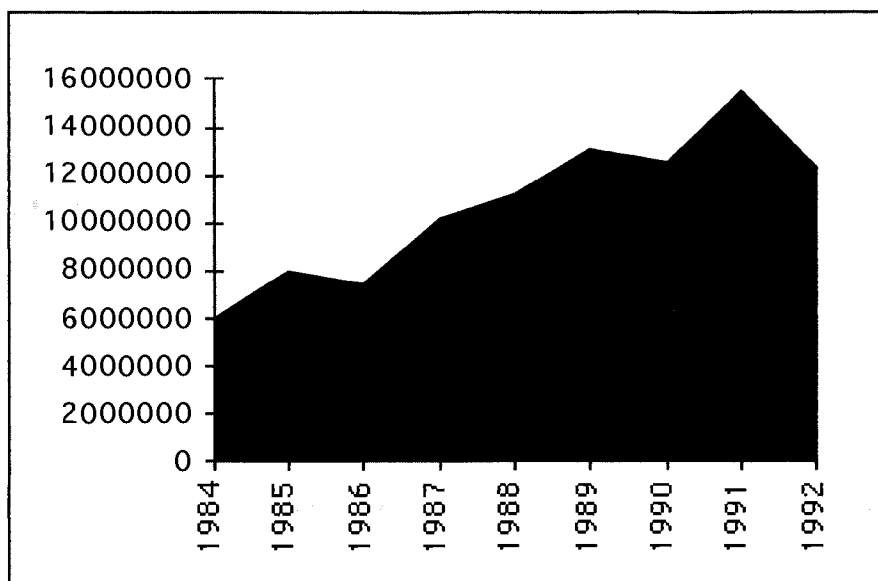
A revealing comparison may be made with those states which are considered to currently possess a full-time, professional legislature. In each instance the 'yearly' base salary minus other forms of compensation in 1992 ranged from \$30,000 in Massachusetts to a high of \$57,500 in New York. (The Council of State Governments 1992-93) An Illinois Issues Special Report (Everson and Parker Sept. 2 1982) discussing the cutback measure which took place in Illinois concluded that in most cases there was little evidence positive relationship exists between the number of legislators and their cost. The level of professionalism of the body as evidenced by such items as annual sessions, staff levels, time commitment by members to their work in legislature, etc. was viewed as a key to understanding higher monetary cost.

These estimates are only one way viewing cost, however. Another way is to demonstrate developing trends. The following chart demonstrates the

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<sup>2</sup> This information appeared in a fact sheet prepared by the Office of Fiscal and Program Review dated February 6, 1992 (it appeared before cuts in legislative pay took effect)

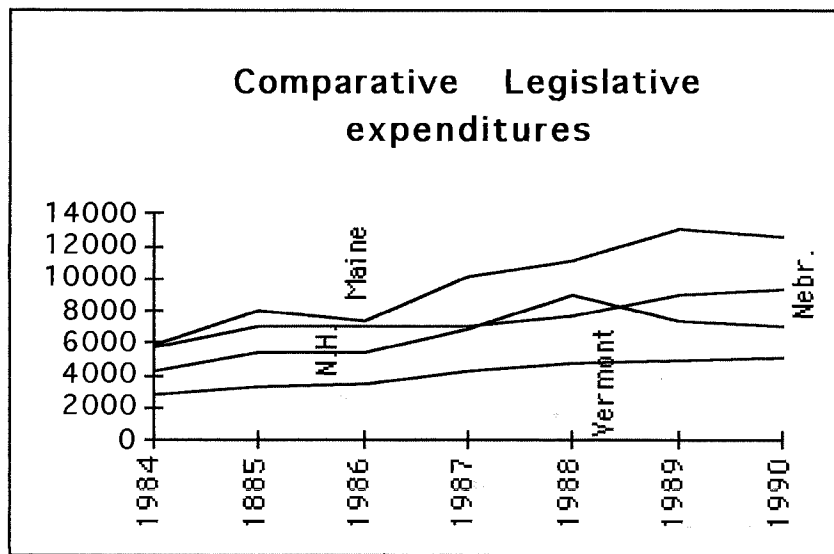
level of expenditures which were directed to operating the Maine Legislature from 1984 to 1992.



**\*Expenditure totals for FY 1991/1992 provided by Richard Sawyer of the Legislature's Office of Administrative Services**

These figures represent a fairly consistent rising trend in the cost of operating the Legislature during the period charted. The deviation from this pattern which is apparent in later years represents the attempts made to deal with the budget crises which developed during that period. Ramifications of a continuing budget crisis for the level of Legislative expenditures are difficult to predict. It is unclear whether Legislative expenditure levels will continue to rise in absolute terms if no modification of the type this paper is considering occurs.

Comparative information can be informative and assist in assessing Maine's strengths and, or weaknesses relative to states whose legislatures demonstrate characteristics similar to those being considered. The chart which follows traces legislative expenditures through a recent seven year period.



(in \$1000s)

**the nation's lone unicameral state: Nebraska.**

\* compiled from tables of State Finance

**It is clear that in terms of dollars spent Maine has consistently supported its Legislature at levels higher either than its northern New England neighbors, or**

In 1990 these states expenditures to support the legislature on a per member basis were as follows: New Hampshire with 424 members - \$16,441.03, Vermont with 180 members - \$28,027.78, Maine with 186 members - \$67,327.96, Nebraska with 49 members - \$191,877.55. Similar figures for the nine states considered as having professional legislatures<sup>3</sup> reveal that together their expenditures in this category totaled \$735,455,000, or \$492,602.14 per member during the same year.

It is straight forward mathematics to determine legislative expenditures on a per capita basis. Never the less, is instructive to note that in 1990 Maine supported its Legislature on a per capita basis above the level of all but four other states. In 1985 Maine was ranked number six in the nation in this category. Although a majority of them were close on Maine's heels none of those states recognized as supporting a 'professional' legislature supported their Legislature more lavishly on a per capita basis. Nebraska placed 23rd in this category.

Examination of a State's legislative expenditures in relation to the per capita income of its citizens offers a unique measure of comparison. The

<sup>3</sup> These States include California, Illinois, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Wisconsin

following table demonstrates that as of 1984 Maine was not far out of line in this category nationally. As we have seen Maine's Legislative expenditures have increased substantially since 1984.

<b>State</b>	<b>per capita income</b>	<b>rank</b>	<b>Legislative Expenditures</b>	<b>rank</b>
Maine	10,813	37th	5,969,000	38th
California	14,487	5th	119,283,000	1st
Illinois	13,802	9th	34,529,000	9th
Mass.	14,784	4th	36,120,00	22nd
Mich.	12,607	20th	52,345,000	4th
New Jersey	15,440	3rd	24,452,000	12th
New York	14,318	7th	101,414,000	12th
Ohio	12,355	24th	16,683,00	16th
Penn.	12,314	26th	61,569,00	3rd
Wisc.	12,474	22nd	19,013,000	15th
N.H.	13,192	15th	4,315,00	43rd
Vermont	10,802	39th	2,765,000	46th
Nebraska	12,430	23rd	5,677,000	39th

**Information from the 1990 Census placed Maine's per capita income at \$12,957.00. Legislative expenditures for the same year totaled approximately \$12,523,000.**

In addition to direct and easily comparable monetary costs there are opportunity costs which should be considered. The recommendation of at least one member of the Special Commission on Government Restructuring<sup>4</sup> was to place any savings realized not into the General Fund but rather direct these to support of the Legislature. A projected savings of \$2,129,410.00 could support a full-time clerical staff of roughly 100 members, Another option might be to increase the number of legislative administrative personnel, or possibly increase the rate of reimbursement for members expenses, including constituent allowance. A possible alternative is to locate convenient office space for members. During this period of recession it is possible a prudent decision might be to return any savings realized to the General fund. What is clear from this perspective is that retaining the Legislature's current size means foregoing the possibility of applying these monetary resources elsewhere.

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<sup>4</sup>Conversation with Donald E. Nicholls, 11/16/92



There are some short term costs which have to be considered if change does not occur at an opportune time. One stems from the necessity of undergoing a reapportionment. In 1993 Maine will be required to accomplish a legislative reapportionment based on data compiled by the latest federal census. Cost incurred by the last reapportionment accomplished was placed at \$112,745.56.(Commission on Governmental Ethics) While cost of the new reapportionment is likely to be reduced it is possible that additional expense would result if any of the changes proposed were not coordinated with the work of those completing the new reapportionment.

One of the more important indirect costs of the Legislature, a cost that is borne by those who seek membership, is the cost of winning election. The cost of winning Legislative election in Maine has increased substantially. Data provided by the Maine Ethics Commission shows that winning Senatorial candidates in 1984 spent on average roughly \$5,500. In 1990 this figure had risen to approximately \$15,500. Similar figures for successful House candidates were \$3,268 and \$3,717.(Commission on governmental Ethics)

These costs can be divided by the population of each district to arrive at an cost of approximately .44 cents spent per winning candidate per citizen in each district for successful Senatorial candidates and .445 cents per winning candidate per citizen in each district for successful Representatives. Though other factors such as: character of the individual district and level of competition offered, would affect spending levels in individual races, expenses for legislative contests on average would likely rise if size is significantly modified. However, this information suggests that the cost per citizen, or voter may not radically change.

A change in the disposition of the Legislature which results in substantially higher election costs would put potential candidates at greater risk. They risk not only money, but personal reputation, and possibly missed business opportunities. An oft quoted study by the National Council of State Legislatures completed in 1988 demonstrates a significant reduction in the number of legislators nationwide who identify themselves as attorneys and businessmen. (Bazar Mar. 1987 a.) One possible explanation offered was that these individuals were increasingly identifying themselves as professional legislators. It is likely that one cost

of a 'substantial' change in the Legislature would be a change in the characteristics of the members and hence the character of the institution itself.

A final point is that similar rises in the cost of election to a legislative seat are recorded elsewhere. In Vermont the median cost of a Senate campaign increased 52% between 1984 and 1988. California which has been generally rated as one of the nation's best legislatures campaign costs seemed to have peaked in 1988. During that year campaign spending reached \$40.2 million dollars. In 1990 \$23.9 million was spent. In either case the considerable change in campaign spending cannot be due to any modification in size. New Hampshire has pioneered a voluntary cap on election expenditures which permits them to levy fines when candidates for their House of Representatives exceed .25 cents spent per voter. A change in size need not result in, or indeed, be the cause of increased campaign costs. (Neal May 1992)

Just as there are several methods of viewing the costs of supporting the Maine Legislature there are differing means of assessing the value of each of the alternatives as they impact that cost. From the technical standpoint of moderating cost, **the unicameral option** is the clearly superior alternative. Anticipated savings would represent a substantial portion of total legislative expenditures. Additionally, using Nebraska's experience as a guideline, the rate of increase in these expenditures should be anticipated to be moderate. A bonus of sorts would be any increased support levels on a per member basis. The one clear drawback identified is likely increase in the cost of election. Economically this option appears the most likely as well. With comparatively few identifiable expenses virtually all saving may be applied to other areas of opportunity.

In descending order of preference on the basis of the criteria utilized above the other options would be rated: **1. Retention of the Bicameral Legislature - with a reduced size** **2. Retention of the Status Quo** **3. Becoming a substantially more 'Professional' legislative body.**

## **Efficiency**

Peter Drucker defined the concepts of efficiency and effectiveness in a succinct manner. He is quoted as follows: "efficiency means doing things right, while effectiveness means doing the right thing." It was his belief that efficiency should follow after effectiveness reasoning that an organization (and its members) need to define what it was they should be doing before searching for 'right' ways of accomplishing that purpose. (McLaren 1992) As a consequence of the political nature of the legislative process it is often a painstaking task to reach agreement on what State government is, or should be, about. Lack of this type of agreement complicates any discussion of legislative efficiency. However certain functions, including: providing a forum for debate, administrative oversight, conflict resolution, policy making, and representing the varying interests, etc. are identified as key. The level of efficiency in economic terms is determined by the relationship between scarce resources put into the process and a resulting desired output. From the foregoing: it is concluded that **Legislative efficiency** means discovery of a 'right' combining of scarce legislative resources to produce a desired output of debate, oversight, policy making, etc.

Among the crucial resources available to the Maine legislature are revenues placed at its disposal, human resources, available technology, and time. A clear example of improved efficiency would be a reduction in the amount of input, such as a reduced number of legislators, with maintenance of the previous level of output. The appended table provides comparative data for the period 1990/91 which when simple mathematics is applied demonstrates the following:

10 states with numerically smallest legislatures:

**average # of Bills and Resolutions introduced per legislator 36.24**

**average # of Bills and Resolutions enacted per legislator 9.72**

**average # of Bills and Resolutions intro. per Cal./Leg. Day 16.72**

**average # of Bills and Resolutions enacted per Cal./Leg. Day 4.48**

10 states with numerically largest legislatures:

**average # of Bills and Resolutions introduced per legislator 42.84**

**average # of Bills and Resolutions enacted per legislator 9.51**

**average # of Bills and Resolutions intro. per Cal./Leg. Day 32.93**

**average # of Bills and Resolutions enacted per Cal./Leg. Day 7.30**

9 state Legislatures considered professional:

State Comparison 90/91

10 Smallest Legislatures	Introduced Bills	Introduced Resolutions	Enacted Bills	Enacted Resolutions	Calen./Leg.Day Length of Sess.	special sess.
Alaska (60)	1128	302	321	14	244c	1
Arizona (90)	2230	126	734	40	332c	7
Colo. (99)	1071	208	666	149	240c	2
Del. (62)	1165	490	30	23	107l	2
Hawaii (76)	7263	2542	684	1004	127c	1
Nev. (60) 1sess.	1493	267	729	204	115	0
N.M. (112)	2651	80	490	8	90c	2
Ore. (90) 1sess.	2959	111	967	24	168c	2
Utah (104)	1446	342	623	172	90c	2
Wyo. (94)	1078	71	390	12	59l	0

10 Largest

Conn. (213)	4999	421	1377	1694	240c	5
Georgia (251)	3689	2092	1377	1694	80l	1
Iowa (185)	2727	28	554	4	210c	0
Md. (185)	4545	133	1488	14	180	0
Mass. (200)	12887	9	1087	7	728c	0
Minn. (202)	5066	0	612	0	76l	0
Missouri (197)	2628	91	352	9	290c	0
N.H. (424)	1500	127	670	88	54l	1
N.Y. (207)	36941	7550	1680	6318	233c ave.	1
Penn. (253)	5016	588	276	399	70l ave.	0

Professional

Cal. (120)	6546	426	2924	273	274l	2
Ill. (177)	6386	4793	1309	1753	178l	1
Mass. (200)	12887	9	1087	7	728c	0
Mich. (148)	3454	62	561	0	708c	0
N.J. (120)	9139	928	662	148	116l	0
N.Y. (207)	36941	7550	1680	6318	233c ave.	1
Ohio (132)	1225	145	311	48	110l ave.	0
Penn. (253)	5016	588	276	399	70l ave.	0
Wisc. (133)	2804	479	468	224	61l ave	0
Maine (186)	2672	62	1166	56	122l	2
Nebr. (49) uni.	1287	28	276	1	150l	2

Data taken from the Book of the States -1992-93



average of Bills and Resolutions introduced per legislator 66.67  
 average # of Bills and Resolutions enacted per legislator 12.38  
 average # of Bills and Resolutions intro. per Cal./Leg. Day 40.14  
 average # of Bills and Resolutions enacted per Cal./Leg. Day 7.45

Additionally, 19 special sessions were held during the two year period in those states with the ten smallest Legislatures, 8 in the ten largest, and 4 in those states with 'professional' legislatures.<sup>5</sup>

While this information is helpful it cannot account for differences in the political culture of a state, variations in legislative rules and procedures, or the nature of the issues brought before the individual bodies.

Utilizing these as measures of efficiency does not and cannot take into account the quality of legislative output. In fact Attempting to measure the quality output may prove futile. Every legislature, every citizen, every voter potentially views legislative output from his own perspective. Thus it is more appropriate to discuss those features of a legislature, relating to its disposition, which are likely to impact the legislative process itself.

In a legislative setting members must obtain, sort through and make decisions regarding increasingly technical issues. In the Maine Legislature instruction regarding the issues which reach it may come from the membership, citizens, special interests including governmental agencies, or from research conducted by staff, etc. Because of their abilities and loyalties legislative staff are perhaps in the best position to supply both high quality and objective information along with other assistance to make the process more efficient.

Maine's legislative staff has increased from 28 in the Senate and 39 in the House in 1981, to number 34 and 50 respectively as of 2/2/91. Additional, staff brought totals in those years to 143 full and part-time staffers. This conforms to a national trend which saw overall legislative staffing increase by 26 percent between 1979 and 1988. (OPLA 2/2/91) As

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<sup>5</sup>Calculations based on information obtained from the Book of the States 1992-93 ed.

part of the legislative reform movement increased staff was viewed as increasing capability.

Of the ten states with the fewest number of legislators, staff ranged (in increments of 25 in 1988) from low of approximately 125 in Wyoming to a high of roughly 775 in Hawaii. Among those states with greatest numbers of legislators New Hampshire is an anomaly with only about 125 staff members. The majority of the ten states with largest legislatures employed between 600 and 800 staff members demonstrating a wide latitude. Those states with a 'professional' Legislature possesses staff in a range of between some 500 in Ohio to over 4100 in New York.(Weberg and Bazar Nov. 1988 a.) These likewise demonstrated a considerable range in staff numbers. A considerable range between full-time and employed as part-time staff was characteristic. Hawaii with one of the largest contingents of legislative staffs (in 1988) among the ten states with small legislatures considered the greatest number of Bills and Resolutions in the two year period for which information was available.

Because of the reduction in numbers of legislators in Illinois it might have been predicted that a significant increase in staff would be forthcoming. However, increases in Illinois legislative staff totaled less than one hundred during this period. During the same period Nebraska's unicameral legislature has not increased staff beyond an additional 25 members. (Weberg and Bazar Nov. 1988 b.) The considerable difference in staffing levels observed within each grouping, along with Illinois' experience indicates that a reduction in legislative size cannot be expected to account for change in legislative staff and therefore is, by itself, unlikely to contribute to significantly altered efficiency in this way.

Among those issues which may relate to efficient organizations are questions regarding the need for differentiation and integration: the need to divide the work to be accomplished and the difficulty of coordinating after division has occurred. In the legislative setting division of work is accomplished largely through the committee system. The work of the legislature is divided (during the 115th Legislature) into 20 joint standing committees. On average two to three members of the Senate and ten to eleven House members sit on each committee. This arrangement means that Senators in particular may sit as members of more than one

committee. (Weiss 1991) Nebraska has organized its unicameral Senate into 14 committees of from eight to nine members each this means either two or three committee assignments per member. (O'Donnell 1992 a.) In a states with large legislatures larger numbers of participants at the committee level could be seen as easing the burden on each member and providing an enhanced resource pool. A more likely possibility is of increased responsibilities assumed by fewer individuals and tightened procedures. Such a situation would mean an under utilization of the talents of the less involved members.

Other potential consequences of high membership upon the Legislature could include the possibility of overlapping duties. In an extreme example, such as: New Hampshire, with 400 members it is more possible that lack of coordination causes resulting inefficiencies. Governmental agencies are highly criticized for their bureaucratic behavior. Bureaucratic behavior often is the result of over reliance upon rules and procedures. Scholars are divided whether size affects the amount and influence of rules in the legislature. A study by the Hubert H. Humphrey Institute of Public Affairs completed in 1985 addressed many of the issues related to legislative size. The necessity of more hierarchical organization in a larger legislature together with more strict rules and procedures was presented as exerting a positive influence on efficiency, (Gray Mar. 1985 a.) through increased coordination, etc.

Internal communication needs to be of high quality in order to increase efficiency. More members necessarily extend the lines of communication in the legislature. Interaction among members is considered a training tool and a means of acculturating new members. To the extent larger numbers extend the lines of communication it is a factor potentially affecting efficiency.

A decision to modify the disposition of the Legislature based upon the likelihood of increasing efficiency would be a difficult undertaking. The difficulty in defining a measurable and desirable level of output makes analysis on the basis of technical feasibility an imprecise exercise. As noted, the level of staffing related to numerical size of the legislature, while it provides potential for improved legislative efficiency is at best an indirect measure. Application of business criteria to public sector



endeavors could result in inappropriate action. Review of available research provides few non controversial insights.

From the point of view of being politically viable. Retention of the **Status Quo** appears on a conservative basis to be the most attractive alternative. It has an advantage in that its practices are familiar to all participants including members, and to a lesser degree citizens. Receptivity of the key players, the members of the Legislature, to altering the Legislature in the past has been tenuous. The question of appropriateness as well as responsiveness are open ended. We have seen a newly elected US. President campaign and win promising: 'change.' Definition needs to be given to key elements which is beyond the scope of this analysis. Using equity as a standard would appear to argue for some form of reduction in size. Since all members enter the Legislature "as equals" it would seem that smaller legislative bodies may empower individual members to act more independently - facilitating debate, and enhancing communications. Because of the larger amounts of resources which may be considered inputs into the legislative system great expectations regarding both the quality and quantity of output need to be realized to realize a high degree of efficiency.

Administratively either of the alternatives appear to have merit. The level of frustration during the 115th Maine Legislature was sufficient to cause members to choose not to seek reelection. Commitment probably would be hard won. The financial and support capability along with willingness, on the part of citizens and members, to making the Legislature an institution in which the title: professional legislator, applies to the majority of members is lacking.

In order of preference: **1. Retention of the Bicameral Legislature - with a reduced size 2. Retention of the Status Quo 3. Becoming a substantially more 'Professional' legislative body.** **1. Retention of the Status Quo 2. Retention of the Bicameral Legislature - with a reduced size 3. The Unicameral Option 4. Becoming a substantially more professional Legislative Body.**

## **Representation**

Representation of constituent interests is among the central functions performed both by the Legislature as an institution and by the individual members. Despite its importance, noted scholar Heinz Eulau, in 1967, described the level of comprehension regarding representative institutions in the following manner: "*We have representative institutions, but like the Greeks we do not know what they are about.*" (Eulau and Wahlke 1978a.) Never the less, commonly shared beliefs pertaining to representation in an institutional setting can be elaborated. Even though a legislator may represent various economic, ideologic, or ethnic interests, etc. , the member's constituency is most readily identified as being comprised of the residents of a geographic district which has selected him through the elective process. District orientation in representation assumes that a locally elected representative is in a better position to assess the needs and wants of his neighbors. (Eulau and Walke 1978 b.) An additional premise is that a geographic district possessing certain unique, economic, cultural, or other characteristics; with residents holding similar interests, ought to be a factor in "influencing the direction of public decisions." (Eulau and Walke 1978 c.) The implication is that the legislator shares concerns, beliefs, and values with those he represents may provide a sense of legitimacy not only for his or her actions but for the acts of the body as well.

A measure of the representativeness of a legislature held by some is the way it mirrors the composition of its citizens. This is in ways an invalid measure. A 1986 survey of Legislator's occupations showed that 22% and 42% of the House membership in Maine and New Hampshire were retired individuals. Those who listed their primary occupation as teacher/coach comprised 15% of the membership of the Rhode Island House. In Connecticut Attorneys accounted for 17% of the membership of their House. (Bazar Mar. 1987 b.) This analysis discounts its utility. Much debate has centered on the issue of ability to represent districts with constituencies with increasing numbers. It is instructive to note that without any action to modify the size of House of Representatives the number of constituents per district has expanded from 6,229 in 1972 (Council of State Governments 1972/73) to 8,166 in 1992 (National Conference of State Legislatures July 1992)

Although the level of representation which each member may provide his constituents depends on many variables it useful when discussing this topic to view comparative data. The following page demonstrates several important items. There is a great deal of variation among the states regarding the numbers of constituents each member of the lower chamber in the several states must represent. There appears to be a regional bias based on geographic area, with Eastern and New England states tending toward smaller districts. With regard to population represented by each member it is apparent that a broad range exists in which regional distinction is not easily identified.

If the Maine House were reduced to 99 members each would be asked to represent approximately 12,455 citizens. If a unicameral legislature were adopted numbering 125 each Representative would represent about 9,865 people. Comparatively this does not seem present a significant difficulty.

The study sponsored by the Hubert H. Humphrey Institute of Public Affairs emphasizes the difficulty utilizing averages in describing legislative districts. In the State of Minnesota, the greater Minneapolis-St. Paul area contains approximately one-half the population of that state. (Gray 1987 b.) In Nebraska's unicameral legislature the major urban centers of Lincoln and Omaha together held 21 seats of the 49 nine available. (O'Donnell 1992 b.) This has two large consequences: first, it means that the citizens of much of that states geographic area are served by 28 representatives, second, while this group of urban Legislators potentially represents a strong block of votes, they alone could not force legislation detrimental to more rural interests.

In situations of great geographic disparity among districts it is possible to identify difficulties as well as advantages affecting representation.

Malcolm E. Jewell of the University of Kentucky identified *communication*, along with, *policy, allocation, and service responsiveness* as being among the most important components of representation. (Jewell 1982 a.)

Using communication as an example, it is possible to note examples of some of these difficulties. In Jewell's assessment communication consists of at least three major components: accessibility, active solicitation regarding constituent needs and views, and leadership or education regarding the

State Comparison 1992

10 Smallest Legislatures

	Lower House	Ave. Pop.H.Dis.	Ave. Pop.S.Dis.	Est. Pop.	Av.Sq.mi./H.Dis.	Av.Sq.mi./S.Dis.	sq.miles
Alaska (60)	40	14000	28000	560000	16411	32821	656424
Arizona (90)	60	63000	126000	3780000	1900	3800	114006
Colo. (99)	80	41950	176632	3356000	1301	5479	104100
Del. (62)	41	16561	32333	679000	61	119	2489
Hawaii (76)	51	22216	45320	1133000	214	437	10932
N.M. (112)	70	22214	36905	1550000	1737	2895	121598
Nev. (60)	42	29929	69833	1257000	2633	6143	110567
Ore. (90)	60	48250	96500	2895000	1640	3280	98386
Utah (104)	75	23427	60586	1757000	1132	2928	84904
Wyo. (94)	64	7000	14933	448000	1528	3261	97818
<b>totals</b>	<b>311</b>	<b>28855ave.</b>	<b>68704ave.</b>		<b>2856ave.</b>	<b>6116ave.</b>	

Maine (186)  
35387 sq. mi.  
Pop.  
1252000  
House 151  
Ave. Pop. H.Dis.  
8293  
Ave. Pop. S.Dis.  
35771  
Ave. Sq. mi./H.D.  
234  
Ave. Sq. mi./S.D.  
1013

10 Largest

	Lower House	Ave. Pop.H.Dis.	Ave. Pop.S.Dis.	Est. Pop.	Av.Sq.mi./H.Dis.	Av.Sq.mi./S.Dis.	sq.miles
Conn. (213)	151	22093	53806	3336000	37	89	5544
Georgia (251)	180	36983	93761	6657000	330	837	59441
Iowa (185)	100	28010	32953	2801000	523	662	56276
Md. (185)	141	34716	111250	4895000	88	282	12407
Mass. (200)	160	38169	152675	6107000	66	264	10555
Minn. (202)	134	33276	65574	4459000	649	1279	86943
Missouri (197)	163	31902	152675	5200000	428	2050	69709
N.H. (424)	400	2845	47417	1138000	23	390	9351
N.Y. (207)	150	121733	320351	18260000	363	956	54475
Penn. (253)	203	59320	240842	12042000	227	921	46058
<b>totals</b>	<b>1782</b>	<b>40905ave.</b>	<b>127130ave.</b>		<b>274ave.</b>	<b>773ave.</b>	

Nebraska (49)  
77358 sq. mi.  
Pop.  
1615000  
Unicameral  
Ave. Pop. S.Dis.  
32959  
Ave. Sq. mi./S.D.  
1579

Professional

	Lower House	Ave. Pop.H.Dis.	Ave. Pop.S.Dis.	Est. Pop.	Av.Sq.mi./H.Dis.	Av.Sq.mi./S.Dis.	sq.miles
Cal. (120)	80	383500	767000	30680000	2046	4093	163707
Ill. (177)	118	98093	196186	11575000	491	982	57918
Mass. (200)	160	38169	152675	6107000	66	264	10555
Mich. (148)	110	85664	247974	9423000	880	2548	96810
N.J. (120)	80	98125	196250	7850000	109	218	8722
N.Y. (207)	150	121733	320351	18260000	363	956	54475
Ohio (132)	99	110909	332727	10980000	453	1358	44828
Penn. (253)	203	59320	240842	12042000	227	897	46058
Wisc. (133)	99	50141	146000	4964000	663	1927	65503
<b>totals</b>	<b>1099</b>	<b>116184ave.</b>	<b>288889ave.</b>		<b>589ave.</b>	<b>1471ave.</b>	

Pop. and Sq. Mi.  
obtained from  
Reader's Digest  
Atlas of the World  
c. 1990 8th printing  
  
Other Data from the  
Book of the States  
1992-93



legislators activities. District characteristics including: the level of homogeneity among its residents, socioeconomic, geographic and political nature or culture; all affect the ability of the legislator to effectively communicate with his constituents and they with their legislator. (Jewell 1982 b,) Urban legislators have the advantage of compact geography and ease of transportation along with population density. However, Jewell points out that access to media is not necessarily more readily available to the urban legislator. Nor are organized groups more likely to provide ready forums. A legislator from a rural district may find it easier to make the, potentially, fewer contacts necessary for effective communication. (Jewell 1982 c.)

Individual characteristics may be key to effectively representing one's district. Personal motivation, background, experience, goals, attitudes along with resources are important. A more professional legislator will possibly have increased incentive in performing his legislative duties in a manner he perceives as enhancing his chances for reelection. Additionally, several states with 'professional' legislatures provide a high level of partisan staff support and perhaps funds for district offices. A 'citizen legislator' will likely make the attempt to rely upon more personal contacts to communicate with constituents.

A large amount of the controversy surrounding the ability to represent the citizens of Maine's rural House Districts. During the 115th Legislature it was possible to identify 55 House Districts which encompassed more than three communities. Some have questioned the quality of representation given the smaller communities within rural districts and have suggested that citizens from the smaller towns within such districts would rarely win election. During the 115th Legislature 20 residents of towns (identified by mailing address) which were not the most populous municipality in the District won election from the previously identified 55. If House seats were reduced the percentages of such individuals might be reduced. However, a glance at membership of Maine's Senate reveals that 14 of 35 members (also identified by mailing address) were elected from communities which were not identified as the most populous communities in their District.

Elections serve as the public's fundamental means of ensuring that the legislator acts responsibly and represents their interests. Review of the elections to the 115th Maine Legislature revealed that thirty-three members of the House were unopposed during the general election. In those Districts of more than three communities, which arbitrarily is used to identify rural districts in this study, eight candidates were unopposed. (Weiss 1991 b.) There are several ways to interpret this level of noncompetitive elections. The relative party strength may have been an intimidating factor in some of these elections. Another possibility is that candidates in those Districts had performed so admirably that they were elected more by acclaim. Whatever the reason, competitive elections play should an important role in our representative system of government. One likely effect of changing the disposition of the Legislature would be to increase the relative importance of winning each seat, for political parties, for individual candidates in a more professional legislature, and perhaps but not necessarily for the voters in each District. This should increase the competitiveness in each election and by the nature of our system improve the quality of representation.

Representation may be achieved through a number of structural alternatives. In the United States our historical path has led to the overwhelming choice of bicameralism at the state level. The bicameral legislature was instituted to provide checks upon hasty or ill-conceived action. Also important was its role in representation of different socio-economic interests. The bicameral legislature of today may in fact represent to some extent differences in society but this is in some ways inappropriate to achieving the goal of equal representation. Therefore on the basis of technical feasibility and effectiveness particularly a bicameral choice is not a clear choice. The unicameral legislature fits this criteria best.

This must be countered somewhat by application of the test of political viability, since acceptance of a unicameral system has failed to be achieved in every state of the United States except one. There is a question of risk to representation involved in eliminating legislative seats. Change of this sort must be acceptable not only to House or Senate members but to the larger community. In order to receive acceptance of this sort change

will have be perceived as continuing Maine's tradition of participatory government. Changes in transportation, in communication facilities, and in Maine's population make such change possible. While change may reduce numbers, if it reduces equity of representation, it should be of lesser consideration. Here retention of the status quo rates high.

Prioritizing these criteria establishes the following order of recommendation.: **1. Retention of the Bicameral Legislature - with a reduced size 2. Retention of the Status Quo 3. Becoming a substantially more 'Professional' legislative body. 1. Retention of the Status Quo 2. Retention of the Bicameral Legislature - with a reduced size 3. The Unicameral Option 4. Becoming a substantially more professional Legislative Body.**

**1. Retention of the Bicameral Legislature - with a reduction in numbers 2. Retention of the Status Quo 2. The Unicameral Option 4. Becoming a substantially more professional Legislative Body.**

## **Recommendations**

Perhaps the nearest approximation to a mission statement for the Maine Legislature is found in the Constitution of the State of Maine, Article IV section 1: "The Legislature ... Shall have full power to make and establish all reasonable laws and regulations for the defense and benefit of the people of this State not repugnant this Constitution, nor to that of the United States." However, it may be more appropriate to consider the legislative mission as a component of the larger mission of State government which was paraphrased from the Maine Constitution by the Special Commission on Governmental Restructuring: "To assure the physical safety of its citizens, provide for those unable to care for themselves, educate its children and others, provide and adequate infrastructure, protect its natural resources, and minimize its intrusion on its citizens." (The Special Commission on Governmental Restructuring Dec. 1991 b.)

The essence of this paper is the attempt to answer the question of how the Maine Legislature will be structured to best achieve these its mission. Efficient, cost effective, and representative government are key



components. Central to keeping the issue unresolved are the various philosophies, values, and perceptions of the participants in representative democracy as practiced in Maine. Change always poses risk to someone. Change of this sort has the potential to alter existing power relationships within the Legislature. It has the potential to change the fabric of Maine's political culture and traditions. Any attempt to describe past inaction as due to government inertia would misstate the case. It is well that decisions with these potential implications be amply considered.

Successful organizations appear to be those that establish their priorities and organize best to achieve them. In measure the issue of the disposition of the Legislature has continued to be raised because there is substantial controversy regarding what priorities for the Legislature should be. It must also be remembered that the structure of the Legislature is but one segment of a larger contention regarding governmental reform. These issues of cost, efficiency, and representativeness are some of the key components in this controversy.

A reexamination of analysis to this point shows the following:

#### *Cost*

1. The Unicameral Option
2. Retention of the Bicameral Legislature - with a reduced size
2. Retention of the Status Quo
3. Becoming a substantially more 'Professional' legislative body.

#### *Efficiency*

1. Retention of the Status Quo
2. Retention of the Bicameral Legislature - with a reduced size
3. The Unicameral Option
4. Becoming a substantially more professional Legislative Body.

#### *Representation*

1. Retention of the Bicameral Legislature - with a reduced size
2. Retention of the Status Quo

## 2. The Unicameral Option

### 4. Becoming a substantially more professional Legislative Body.

In reaching a final recommendation it is necessary to prioritize these three components. By far, representation has the most import in terms of the Legislature's ability to fulfill its mission. It is the people through their legislators who are ultimately responsible for determining what is reasonable and proper. Without high quality representation the needs and wants of citizens may be muted. Efficiency is second with the caveat that it should be directed toward specified goals. Cost is the lesser of these considerations especially since an efficient organization is inclined toward making the best use of all its available resources.

With any choice there are going to be tradeoffs in ability to meet selected criteria. Considering long term, relative ability to accomplish the task of assisting the Legislature achieve its mission; considering the level of acceptability, appropriateness, equity in treatment of participants guide the decision. Likewise judging capability in terms of resources which can be expected to be available in support and weighing potential economies in light of the priorities established has led to the following order of recommendation:

1. Retention of the Bicameral Legislature - with a reduced size.
2. Retention of the Status Quo (this option rates a very close scrutiny).
3. The Unicameral Option
4. Becoming a substantially more professional Legislative body



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