

**Agenda**  
**Health and Human Services Committee**  
**Committee Orientation Meeting, January 8, 2013**

Welcome and introductions from Committee Chairs  
Senator Margaret Craven and Representative Richard Farnsworth

Introductions of committee members

Committee procedures

- Meeting days and schedule
- Process for hearing and working bills
- Process for hearing and working budget bills
- Briefings and committee working sessions

Orientation schedule and topics

Roles of committee staff

- Benjamin Frech, committee clerk
- Christopher Nolan, OFPR analyst
- Anna Broome and Jane Orbeton, OPLA analysts

Review of committee handbook

- List of joint standing committees
- OPLA materials
- 2012-13 federal poverty guidelines
- Joint rules
- Model committee rules
- OPLA memoranda
- Acronyms

## **Joint Standing Committee on Health and Human Services Committee Handbook, January 2013**

- Joint Standing Committees – 126<sup>th</sup> Maine Legislature (Yellow)
- Materials from Office of Policy and Legal Analysis (Blue)
  - ✓ OPLA Organizational Chart
  - ✓ Overview of OPLA
  - ✓ Your Committee Staff – Who Are They?
  - ✓ Maine’s Freedom of Access Law
  - ✓ Agency Rulemaking and Legislative Review of Agency Rules
  - ✓ Government Evaluation Act
  - ✓ Policy Committee Role in Budget Matters
  - ✓ Carryover Bills
  - ✓ Legislative Studies
  - ✓ Legislative Confidentiality
- 2012 Federal Poverty Guidelines (Green)
- Joint Rules (Pink)
- Model Committee Rules (Buff)
- OPLA Memoranda (Salmon)
  - Medicaid and MaineCare, Medicare, Maine Health Data Organization, HealthInfoNet, Maine Quality Forum and Maine Quality Forum Advisory Council, Supplemental Nutrition Assistance Program, Long-term Care System Redesign, Children’s Services, Adult Mental Health Services, Prescription Monitoring Program, Medical Use of Marijuana, Elderly Low-Cost Drug Program, Wild Mushroom Harvesting Certification, Public Health Infrastructure and Healthy Maine Partnerships, General Assistance, Durational Residency Requirements for GA, TANF and MaineCare, Access to Vital Records, Sentinel Events Reporting
- Acronyms (From DHHS handbook 2011) (White)

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Benjamin Frech, Committee Clerk, phone 287-1317

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Office of Policy and Legal Analysis

Jane Orbeton, Senior Analyst

[Jane.Orbeton@legislature.maine.gov](mailto:Jane.Orbeton@legislature.maine.gov)

287-1670

Anna Broome, Legislative Analyst

[Anna.Broome@legislature.maine.gov](mailto:Anna.Broome@legislature.maine.gov)

287-1670

Office of Fiscal and Program and Review

Christopher W. Nolan, Legislative Analyst

[Christopher.Nolan@legislature.maine.gov](mailto:Christopher.Nolan@legislature.maine.gov)

287-1635

## Joint Standing Committees - 126th

### Agriculture, Conservation and Forestry

**Senate:** Troy Dale Jackson, Chair (D-Aroostook)  
James A. Boyle (D-Cumberland)  
Roger L. Sherman (R-Aroostook)

**House:** James F. Dill, Chair (D-Old Town)  
Peter S. Kent (D-Woolwich)  
Craig V. Hickman (D-Winthrop)  
Brian L. Jones (D-Freedom)  
William F. Noon (D-Sanford)  
Robert J. Saucier (D-Presque Isle)  
Dean A. Cray (R-Palmyra)†  
Donald G. Marean (R-Hollis)  
Russell J. Black (R-Wilton)  
Jeffrey L. Timberlake (R-Turner)

### Appropriations and Financial Affairs

**Senate:** Dawn Hill, Chair (D-York)  
Emily Ann Cain (D-Penobscot)  
Patrick S. A. Flood (R-Kennebec)

**House:** Margaret R. Rotundo, Chair (D-Lewiston)  
Michael E. Carey (D-Lewiston)  
Linda F. Sanborn (D-Gorham)  
Megan M. Rochelo (D-Biddeford)  
Aaron M. Frey (D-Bangor)  
Erik C. Jorgensen (D-Portland)  
Kathleen D. Chase (R-Wells)†  
Tom J. Winsor (R-Norway)  
Tyler Clark (R-Easton)  
Dennis L. Keschl (R-Belgrade)

### Criminal Justice and Public Safety

**Senate:** Stan Gerzofsky, Chair (D-Cumberland)  
David E. Dutremble (D-York)  
Gary E. Plummer (R-Cumberland)

**House:** Mark N. Dion, Chair (D-Portland)  
Michel A. Lajoie (D-Lewiston)  
Bryan T. Kaenrath (D-South Portland)  
Alan M. Casavant (D-Biddeford)  
Timothy I. Marks (D-Pittston)  
Joshua R. Plante (D-Berwick)  
Ricky D. Long (R-Sherman)†  
Thomas M. Tyler (R-Windham)  
Jethro D. Pease (R-Morrill)  
Corey S. Wilson (R-Augusta)

### Education and Cultural Affairs

**Senate:** Rebecca J. Millett, Chair (D-Cumberland)  
Christopher K. Johnson (D-Lincoln)  
Brian D. Langley (R-Hancock)

**House:** W. Bruce MacDonald, Chair (D-Boothbay)  
Mary Pennell Nelson (D-Falmouth)  
Helen Rankin (D-Hiram)  
Matthea Elisabeth Larsen Daughtry (D-Brunswick)  
Brian L. Hubbell (D-Bar Harbor)  
Victoria P. Kornfield (D-Bangor)  
Peter B. Johnson (R-Greenville)†  
Joyce A. Maker (R-Calais)  
Michael D. McClellan (R-Raymond)  
Matthew G. Pouliot (R-Augusta)  
Madonna M. Soctomah (Passamaquoddy Tribe)

### Energy, Utilities and Technology

**Senate:** John J. Cleveland, Chair (D-Androscoggin)  
Troy Dale Jackson (D-Aroostook)  
Edward M. Youngblood (R-Penobscot)

**House:** Barry J. Hobbins, Chair (D-Saco)  
Roberta B. Beavers (D-South Berwick)  
Diane Russell (D-Portland)  
Sara Gideon (D-Freeport)  
Deane Rykerson (D-Kittery)  
Ryan D. Tipping-Spitz (D-Orono)

Larry C. Dunphy (R-Emden)†  
Aaron F. Libby (R-Waterboro)  
Lance Evans Harvell (R-Farmington)  
Melvin Newendyke (R-Litchfield)

## Environment and Natural Resources

**Senate:** James A. Boyle, Chair (D-Cumberland)  
Geoffrey M. Gratwick (D-Penobscot)  
Thomas B. Saviello (R-Franklin)

**House:** Joan W. Welsh, Chair (D-Rockport)  
Denise Patricia Harlow (D-Portland)  
Janice E. Cooper (D-Yarmouth)  
Gay M. Grant (D-Gardiner)  
Paul D. McGowan (D-York)  
Bernard L. A. Ayotte (R-Caswell)†  
Ricky D. Long (R-Sherman)  
Richard H. Campbell (R-Orrington)  
Roger E. Reed (R-Carmel)  
Benjamin M. Chipman (I-Portland)

## Health and Human Services

**Senate:** Margaret M. Craven, Chair (D-Androscoggin)  
Colleen M. Lachowicz (D-Kennebec)  
James M. Hamper (R-Oxford)

**House:** Richard R. Farnsworth, Chair (D-Portland)  
Matthew J. Peterson (D-Rumford)  
Peter C. Stuckey (D-Portland)  
Katherine W. Cassidy (D-Lubec)  
Ann E. Dorney (D-Norridgewock)  
Drew M. Gattine (D-Westbrook)  
Deborah J. Sanderson (R-Chelsea)†  
Richard S. Malaby (R-Hancock)  
Heather W. Sirocki (R-Scarborough)  
Carol A. McElwee (R-Caribou)

## Inland Fisheries and Wildlife

**Senate:** David E. Dutremble, Chair (D-York)  
Anne M. Haskell (D-Cumberland)  
David C. Burns (R-Washington)

**House:** Michael A. Shaw, Chair (D-Standish)  
Sheryl J. Briggs (D-Mexico)  
Karen Kusiak (D-Fairfield)  
Timothy I. Marks (D-Pittston)  
Stanley Byron Short, Jr. (D-Pittsfield)  
Paul T. Davis, Sr. (R-Sangerville)†  
Dale J. Crafts (R-Lisbon)  
Eleanor M. Espling (R-New Gloucester)  
Stephen J. Wood (R-Sabattus)  
Jeffrey Evangelos (U-Friendship)

## Insurance and Financial Services

**Senate:** Geoffrey M. Gratwick, Chair (D-Penobscot)  
Richard G. Woodbury (U-Cumberland)  
Rodney L. Whitemore (R-Somerset)

**House:** Sharon Anglin Treat, Chair (D-Hallowell)  
Paulette G. Beaudoin (D-Biddeford)  
Henry E. M. Beck (D-Waterville)  
Terry K. Morrison (D-South Portland)  
Janice E. Cooper (D-Yarmouth)  
Jane P. Pringle (D-Windham)  
Joyce A. Fitzpatrick (R-Houlton)†  
Lance Evans Harvell (R-Farmington)  
Raymond A. Wallace (R-Dexter)  
Peter Doak (R-Columbia Falls)

## Judiciary

**Senate:** Linda M. Valentino, Chair (D-York)  
John L. Tuttle, Jr. (D-York)  
David C. Burns (R-Washington)

**House:** Charles R. Priest, Chair (D-Brunswick)  
Kimberly J. Monaghan-Derrig (D-Cape Elizabeth)  
Jennifer DeChant (D-Bath)  
Matthew W. Moonen (D-Portland)  
Stephen W. Moriarty (D-Cumberland)  
Lisa Renee Villa (D-Harrison)  
Jarrod S. Crockett (R-Bethel)†

Michael G. Beaulieu (R-Auburn)  
Anita Peavey Haskell (R-Milford)  
Stacey K. Guerin (R-Glenburn)  
Wayne T. Mitchell (Penobscot Nation)

## Labor, Commerce, Research and Economic Development

**Senate:** John L. Patrick, Chair (D-Oxford)  
John J. Cleveland (D-Androscoggin)  
Andre E. Cushing III (R-Penobscot)

**House:** Erin D. Herbig, Chair (D-Belfast)  
Paul E. Gilbert (D-Jay)  
Scott M. Hamann (D-South Portland)  
Andrew T. Mason (D-Topsham)  
Anne-Marie Mastraccio (D-Sanford)  
Amy Fern Volk (R-Scarborough)†  
Brian M. Duprey (R-Hampden)  
Lawrence E. Lockman (R-Amherst)  
Ellen A. Winchenbach (R-Waldoboro)  
James J. Campbell, Sr. (I-Newfield)

## Marine Resources

**Senate:** Christopher K. Johnson, Chair (D-Lincoln)  
Edward J. Mazurek (D-Knox)  
Richard G. Woodbury (U-Cumberland)

**House:** Walter A. Kumięga III, Chair (D-Deer Isle)  
Chuck Kruger (D-Thomaston)  
Ralph Chapman (D-Brooksville)  
Michael Gilbert Devin (D-Newcastle)  
Elizabeth E. Dickerson (D-Rockland)  
Jeremy G. Saxton (D-Harpswell)  
Windol C. Weaver (R-York)†  
Wayne R. Parry (R-Arundel)  
Peter Doak (R-Columbia Falls)  
Ellen A. Winchenbach (R-Waldoboro)

## State and Local Government

**Senate:** Colleen M. Lachowicz, Chair (D-Kennebec)  
Stan Gerzofsky (D-Cumberland)  
Ronald F. Collins (R-York)

**House:** Anne P. Graham, Chair (D-North Yarmouth)  
Andrea M. Boland (D-Sanford)  
Teresea M. Hayes (D-Buckfield)  
Brian D. Bolduc (D-Auburn)  
Justin Mark Chenette (D-Saco)  
Catherine M. Nadeau (D-Winslow)  
H. David Cotta (R-China)†  
Sharri K. MacDonald (R-Old Orchard Beach)  
Allen Michael Nadeau (R-Fort Kent)  
Jethro D. Pease (R-Morrill)

## Taxation

**Senate:** Anne M. Haskell, Chair (D-Cumberland)  
Rebecca J. Millett (D-Cumberland)  
Douglas A. Thomas (R-Somerset)

**House:** Adam A. Goode, Chair (D-Bangor)  
Stephen S. Stanley (D-Medway)  
Nathan L. Libby (D-Lewiston)  
Matthew W. Moonen (D-Portland)  
Ryan D. Tipping-Spitz (D-Orono)  
L. Gary Knight (R-Livermore Falls)†  
Paul Edward Bennett (R-Kennebunk)  
Donald G. Marean (R-Hollis)  
Roger A. Jackson (R-Oxford)  
Joseph E. Brooks (U-Winterport)

## Transportation

**Senate:** Edward J. Mazurek, Chair (D-Knox)  
Linda M. Valentino (D-York)  
Ronald F. Collins (R-York)

**House:** Charles Kenneth Theriault, Chair (D-Madawaska)  
Ann E. Peoples (D-Westbrook)  
Andrew J. McLean (D-Gorham)  
Christine B. Powers (D-Naples)  
Arthur C. Verow (D-Brewer)  
R. Wayne Werts (D-Auburn)  
Wayne R. Parry (R-Arundel)†

James S. Gillway (R-Searsport)  
Robert W. Nutting (R-Oakland)  
Beth P. Turner (R-Burlington)

### **Veterans and Legal Affairs**

**Senate:** John L. Tuttle, Jr., Chair (D-York)  
John L. Patrick (D-Oxford)  
Garrett Paul Mason (R-Androscoggin)

**House:** Louis J. Luchini, Chair (D-Ellsworth)  
Diane Russell (D-Portland)  
Thomas R. W. Longstaff (D-Waterville)  
Lori Fowle (D-Vassalboro)  
Robert J. Saucier (D-Presque Isle)  
John C. Schneck (D-Bangor)  
Michael G. Beaulieu (R-Auburn)†  
David D. Johnson (R-Eddington)  
Jeffery Allen Gifford (R-Lincoln)  
Jonathan L. Kinney (R-Limington)  
Wayne T. Mitchell (Penobscot Nation)

### **Government Oversight Committee**

**Senate:** Emily Ann Cain, Chair (D-Penobscot)  
Margaret M. Craven (D-Androscoggin)  
Christopher K. Johnson (D-Lincoln)  
Roger Katz (R-Kennebec)  
David C. Burns (R-Washington)  
Edward M. Youngblood (R-Penobscot)

**House:** Chuck Kruger, Chair (D-Thomaston)  
Andrea M. Boland (D-Sanford)  
Matthew J. Peterson (D-Rumford)  
Paul T. Davis, Sr. (R-Sangerville)†  
H. David Cotta (R-China)  
Lance Evans Harvell (R-Farmington)

†Ranking Republican Member

From Millicent M. MacFarland  
Clerk of the House  
2 State House Station  
Augusta, Maine 04333-0002

Darek M. Grant  
Secretary of the Senate  
3 State House Station  
Augusta, Maine 04333-0003

Mailing Addresses and Telephone Numbers  
for Representatives:

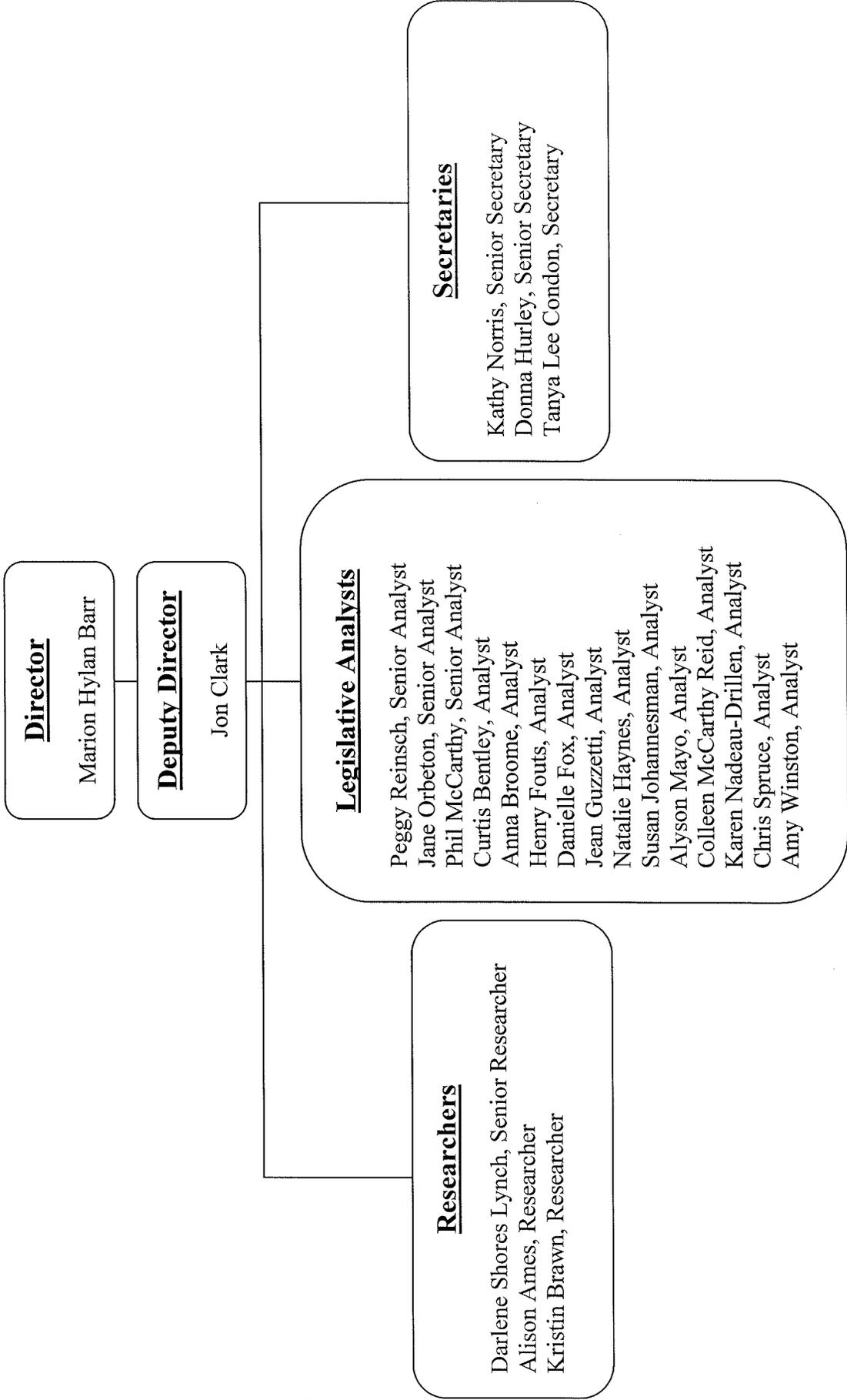
2 State House Station, Augusta, ME  
04333  
(207) 287-1400 or 1-800-423-2900

Mailing Addresses and Telephone Numbers  
for Senators:

3 State House Station, Augusta, ME  
04333  
(207) 287-1540 or 1-800-423-6900

# Office of Policy and Legal Analysis

Maine State Legislature  
215 Cross Building, 13 State House Station  
Augusta, ME 04333-0013  
Phone: (207) 287-1670  
Fax: (207) 287-1275



**OFFICE OF POLICY AND LEGAL ANALYSIS  
MAINE STATE LEGISLATURE  
NOVEMBER 2012**

The Office of Policy and Legal Analysis (OPLA) is one of seven nonpartisan staff offices of the Maine State Legislature. It operates under the auspices of the Legislative Council and serves legislators and legislative committees by providing nonpartisan policy and legal analysis services to 14 of the Legislature's 16 Joint Standing Committees, to Select Committees and to a variety of interim and on-going legislative study commissions.

**Principal office functions**

- Providing professional staff services to joint standing and select committees of the Legislature (except committees with jurisdiction over appropriations and financial affairs and taxation issues). Services to committees include:
  - ➔ Conducting relevant policy and legal research and analysis;
  - ➔ Drafting all amendments, bills or other legislative reports or proposals of the committee;
  - ➔ Assisting in committee scheduling; and
  - ➔ Assisting in: committee reviews of agencies under the Government Evaluation Act (GEA), reviews of agency budgets and reviews of major substantive rules.
  
- Providing professional staff services to approved interim committee meetings, legislative studies and on-going study commissions by:
  - ➔ Conducting relevant policy and legal research and analysis;
  - ➔ Assisting in scheduling and organizing meetings; and
  - ➔ Preparing reports and any associated legislative proposals of the committee, legislative study or legislative commission.
  
- Conducting approved interim staff studies, which often include:
  - ➔ Conducting policy and legal research and analysis; and
  - ➔ Preparing a report outlining options for addressing issues.
  
- Preparing general legal and policy background materials and assisting legislators with information requests.
  
- Assisting the Revisor of Statutes in drafting bills.
  
- Preparing annual and biennial publications, including:
  - ➔ Reports of interim and on-going study commissions;
  - ➔ Legislative Digest of Bill Summaries and Enacted Laws (annual summary of all legislation proposed and laws enacted in the prior session); and
  - ➔ Legislators' Handbook (produced biennially).
  
- Preparing and presenting reports to the Executive Director, the Presiding Officers and the Legislative Council regarding:
  - ➔ The status of bill and amendment workloads in committees (at least weekly during the session); and
  - ➔ The status of interim study commissions (usually monthly during the interim).

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# **Your Committee's Staff ... *Who Are They?***

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## **Committee Clerk**

### **Background**

- Clerks are "session" employees of the Legislature.
- Clerks are hired jointly by the Chairs of a Committee but serve at the pleasure of the presiding officers.
- Clerks are represented by the Maine State Employees Association, are members of the Administrative Unit of Legislative Employees and are covered by a collective bargaining agreement.
- Clerks typically have a wide range of backgrounds and work experience.

### **Responsibilities**

Clerks perform secretarial and administrative duties, including:

- Answering the phone in the Committee room;
- Completing a "daily work report" for the Committee;
- Distributing testimony and other written materials during public hearings and work sessions;
- Recording votes in the Committee;
- Maintaining bill files, including bill files for individual Committee members and the Committee's "Master File" on each bill;
- Picking up Committee amendments and delivering amendments to the House or Senate; and
- Assisting the Committee during confirmation hearings.

### **Supervision**

Committee Clerks are supervised by:

**Teen Ellen Griffin, Manager  
Legislative Information Office  
State House, Room 121  
287-1692**

## **Legislative Analyst**

### **Background**

- Analysts are full-time, non-partisan employees of the Legislative Council
- Analysts are hired by and serve at the pleasure of the Legislative Council
- Analysts are lawyers or hold advanced degrees in relevant policy areas.

### **Responsibilities**

Analysts are assigned to specific committees by the office director and provide various professional staff services, including:

- Research and analysis of legal, policy and fiscal issues related to legislation and other matters that come before the Committee (other than gubernatorial nominations);
- Drafting of all Committee bills, amendments and reports;
- Assisting the Committee in its review of agencies under the Governmental Evaluation Act and its review of major substantive rules submitted by agencies; and
- Working with Chairs in managing Committee workload and scheduling Committee business (other than confirmation hearings).

### **Supervision**

Nonpartisan Legislative Analysts are supervised by:

**Marion Hylan Barr, Director  
Office of Policy and Legal Analysis  
Cross Office Building, Room 215  
287-1670**

Or

**Grant T. Pennoyer, Director  
Office of Fiscal and Program Review  
State House, Room 226  
287-1635**

# MAINE'S FREEDOM OF ACCESS ACT AND THE CONDUCT OF THE BUSINESS OF THE LEGISLATURE

## A Summary of Legislative Issues

Prepared for the Right to Know Advisory Committee  
by the Office of Policy and Legal Analysis and the Department of Attorney General  
November 2012

*The Maine Freedom of Access Act requires governmental entities to conduct public business in the open and to provide access to public records. Legislative meetings and records are subject to the law and must be open to the public, with some limited exceptions set forth in the law.*

### INTENT OF THE FREEDOM OF ACCESS LAW

According to the Maine Freedom of Access Act, it is the intent of the Legislature that "actions [involving the conduct of the people's business] be taken openly and that the records of their actions be open to public inspection and their deliberations be conducted openly." The Freedom of Access Act, found in Title 1 of the Maine Revised Statutes, chapter 13, applies to most governmental entities, including the Legislature.

### PUBLIC PROCEEDINGS

Under state law, all meetings of the Legislature, its joint standing committees and legislative subcommittees are public proceedings. A legislative subcommittee is a group of 3 or more committee members appointed for the purpose of conducting legislative business on behalf of the committee.

The public must be given notice of public proceedings and must be allowed to attend. Notice must be given in ample time to allow the public to attend and in a manner reasonably calculated to notify the general public. The public is also allowed to record the proceedings as long as the activity does not interfere with the orderly conduct of the proceedings.

Party caucuses are not committees or subcommittees of the Legislature, so their meetings do not appear to be public proceedings. Similarly, informal meetings of the members of a committee who are affiliated with the same party are not public proceedings as these members are not designated by the committee as a whole to conduct business of the committee. However, committee members should be careful when they caucus not to make decisions or otherwise use the caucus to circumvent the public proceeding requirements.

### LIMITED EXCEPTION TO PUBLIC PROCEEDINGS (EXECUTIVE SESSIONS)

In very limited situations, joint standing committees may hold executive sessions to discuss certain matters. State law is quite specific as to those matters that may be deliberated in executive sessions. The executive session must not be used to defeat the purpose of the Act, which is to conduct the people's business in the open.

The permitted reasons for executive session are set forth in the law, Title 1, section 405 and Title 3, section 156. The reasons most relevant to legislative work are discussion of confidential records and pre-hearing conferences on confirmations.

An executive session may be called only by a public, recorded vote of 3/5 of the members, present and voting, of the committee. The **motion** to go into executive session must indicate the precise nature of the business to be discussed and no other matters may be discussed. A committee may not take any **votes** or other official action in executive sessions.

If a committee wants to hold an executive session, the committee should discuss the circumstances with a lawyer from the Office of Policy and Legal Analysis who can provide the committee with guidance about whether an executive session is permitted and, if so, how to proceed.

## **PUBLIC RECORDS**

The Freedom of Access - Act defines "public records" broadly, to include all material in possession of public agencies, staff and officials if the materials were received or prepared for use in, or relate to, the transaction of public or governmental business. The scope of the definition means that most, if not all, papers and electronic records relating to legislative business are public records. This includes records that may be stored on an individual legislator's personal computer if they relate to or were prepared for use in the transaction of public business, *e.g.*, constituent inquiries, correspondence about legislative matters that is sent from a legislator's home computer. Information contained in a communication between a constituent and a legislator may be confidential if it meets certain narrow requirements.

## **TIME-LIMITED EXCEPTION FROM PUBLIC DISCLOSURE FOR CERTAIN LEGISLATIVE RECORDS**

The Freedom of Access Act contains exceptions to the general rule that public records must be made available for public inspection and copying. One exception that is relevant to legislative work allows certain legislative papers to be withheld from public disclosure until the end of the legislative session in which they are being used. The exceptions are as follows:

- Legislative papers and reports (e.g. bill drafts, committee amendments and the like) are not public records until signed and publicly distributed; and
- Working papers, drafts, records, and memoranda used to prepare proposed legislative papers or reports are not public records until the end of the legislative session in which the papers or reports are prepared or considered or to which they are carried over.

The Legislative Council's Confidentiality Policy and the Joint Rules provide guidance to legislative staff about how such records are to be treated before they become public records.

## **CONFIDENTIAL RECORDS IN THE POSSESSION OF COMMITTEES**

Committees may also need to be prepared to deal with other types of non-public records, such as individual medical or financial records that are classified as confidential under state or federal law.

If the committee comes into possession of records that are declared confidential by law, the Freedom of Access Act allows the committee to withhold those records from the public and to go into executive session to consider them (see discussion above for the proper process).

In addition, the committee should also find out whether there are laws that set specific limitations on, and penalties for, dissemination of those records. The Office of the Attorney General or an attorney from OPLA can help the committee with these records.

Joint Rule 313 also sets forth procedures to be followed by a committee that possesses confidential records.

## **LEGISLATIVE REVIEW OF PUBLIC RECORD EXCEPTIONS**

All exceptions to the public records law are subject to a review process. A legislative committee that considers a legislative measure proposing a new statutory exception must refer the measure to the Judiciary Committee, which will review and evaluate the proposal according to statutory standards, then report findings and recommendations to the committee of jurisdiction.

The Right to Know Advisory Committee reviews exceptions that are already established in statute, and will report findings and recommendations to the Judiciary Committee for consideration during the legislative session. In the 126<sup>th</sup> Legislature, statutory exceptions to the public records law in Titles 26 through 39-A will be reviewed.

## **PUBLIC ACCESS OMBUDSMAN**

The Public Access Ombudsman, an attorney located in the Department of the Attorney General, is available to provide information about public meetings and public records, to help resolve complaints about accessing proceedings and records and to help educate the public as well as public agencies and officials. Contact the Ombudsman: Brenda Kielty, [Brenda.Kielty@maine.gov](mailto:Brenda.Kielty@maine.gov), (207) 626-8577.

# AGENCY RULEMAKING & LEGISLATIVE REVIEW OF AGENCY RULES

A Summary of Legislative Issues

Prepared by the  
Office of Policy & Legal Analysis, Maine State Legislature  
November 2012

## WHAT IS A RULE?<sup>1</sup>

A rule is a judicially enforceable standard, requirement or statement adopted by a state agency. Rules implement, interpret or make specific law administered by the agency or describe procedures or practices of the agency.

## WHAT IS THE LEGISLATIVE ROLE IN RULEMAKING?

Before an agency may adopt a rule on a matter, the Legislature must have enacted a law granting the agency such rulemaking authority. Rules must be consistent with the law under which they are adopted.

In some cases, the Legislature is involved in formally reviewing proposed rules before the agency finally adopts them. Whether the Legislature is involved in the formal review of a rule depends on how the rule is categorized.<sup>2</sup> Rules categorized as “**routine technical rules**” are not subject to formal legislative review. Rules categorized as “**major substantive rules**” are subject to formal legislative review.

## WHEN ARE RULES CATEGORIZED AS “ROUTINE TECHNICAL” OR “MAJOR SUBSTANTIVE”?

Before 1996 all rules were adopted in the manner that routine technical rules are now adopted. In 1996, the law governing the rulemaking process (the Administrative Procedures Act or “APA”) was changed to establish the two categories of rule. Since 1996, whenever the Legislature enacts a law granting a state agency rulemaking authority that law must categorize the rules as either “routine technical” or “major substantive.”<sup>3</sup> Rules adopted under laws enacted prior to January 1, 1996, continue to be subject to the pre-1996 adoption process (they are not subject to formal legislative review).

## HOW DOES THE LEGISLATURE CATEGORIZE RULES?

The categorization of rules as routine technical or major substantive is a matter of legislative discretion. The key consideration is whether the Legislature wishes to review the rule before it is finally adopted by the agency. The APA provides certain categorization guidelines, but these are not binding on the Legislature: *Routine Technical Rules are generally* rules that are not expected to be controversial or to have a significant public impact; *Major Substantive Rules are generally* rules that, *in the judgment of the Legislature* require the exercise of significant agency discretion or interpretation or will cause a significant public impact.

<sup>1</sup> Rules are sometimes referred to as “regulations,” however that term should be used to refer only to federal regulations. In Maine, the proper term is “rules.”

<sup>2</sup> The rulemaking process is governed by the Maine Administrative Procedures Act, Title 5, chapter 375, subchapters II and II-A.

<sup>3</sup> The APA does not specify how a rule is to be treated if the authorizing law fails to categorize it; it probably would be treated as routine technical.

### HOW IS A RULE ADOPTED?

All rules must be adopted in accordance with a public process defined in the APA, which ensures public notice and opportunity for comment. The public process is the same for both major substantive rules and routine technical rules, except that major substantive rules are subject to an additional step – formal legislative review.

An agency must draft the rule in accordance with the law granting the rulemaking authority. Prior to adopting the rule, the agency must give public notice. The agency must accept and respond to public comments on the proposed rule. The agency may choose to hold a public hearing on the proposed rule, and is required to do so if at least 5 interested persons request a hearing. Rules must also be reviewed and approved for legality by the Office of the Attorney General. Once this process has been completed, a routine technical rule may be finally adopted; a major substantive rule may be *provisionally* adopted.

To finally adopt a major substantive rule, the agency must then submit the provisional rule to the Legislature for formal review.<sup>4</sup> The process for legislative review of major substantive rules is as follows:

1. The agency submits the provisional rule to the Legislature.<sup>5</sup>
2. The rule and a Resolve proposing to allow the agency to adopt the rule are referred to the committee with jurisdiction over the rule's subject matter.
3. The Committee generally holds a public hearing and work session on the Resolve in the same manner as it does for other bills.
4. The Committee reviews the proposed rule and makes its recommendation as to whether and how the rule should be allowed to go forward. The Resolve is the vehicle through which the committee to makes its recommendations on the rule.
5. The Resolve with the committee's report(s) is reported to the House or Senate and acted upon in the same manner as any other bill or resolve. The agency's ability to finally adopt the rule depends on the final disposition and content of the finally enacted Resolve.

### HOW DOES A COMMITTEE REVIEW A MAJOR SUBSTANTIVE RULE?

The APA requires the committee to review the rule in a public meeting. As noted above, the public meeting usually occurs as a public hearing on the Resolve authorizing final adoption of the rule. The committee must notify the agency of the meeting. The APA sets forth certain criteria to be considered by the committee in its evaluation:

- Has the agency exceeded the scope of its authority?

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<sup>4</sup> Under the APA, major substantive rules that are required to comply with federal law or to qualify for federal funds are not required to be submitted for legislative review, provided the rules impose no requirements or conditions that exceed the federal requirements.

<sup>5</sup> Under the APA, the *legislative rule acceptance period* begins on July 1 prior to a regular session and ends at 5 p.m. of the 2nd Friday in January in that regular session. If a rule is properly submitted *during that period* and the Legislature fails to act on the proposal, the agency can proceed to finally adopt the rule. However, if the rule is submitted *outside of that period*, the provisionally adopted rule may not be finally adopted by an agency unless legislation authorizing adoption of the rule is enacted into law.

- Does the rule conform to the legislative intent of the statute it implements?
- Does the rule conflict with other rules or laws?
- Is the rule necessary to accomplish the objectives of the law?
- Is the rule reasonable?
- Could the rule be made less complex or easier to understand?
- Have the proper procedures been followed in adopting the rule?
- If the rule significantly reduces property value, is the reduction necessary or appropriate and does the rule avoid an unconstitutional taking?

After reviewing the rule, the committee may vote to recommend that the Legislature:

- Pass the Resolve without amendment (this authorizes the agency to adopt the rule as drafted);
- Pass the Resolve as amended to authorize the agency to finally adopt the rule if certain changes are made, or to finally adopt only a part of the rule; or
- Pass the Resolve as amended to specify that the agency may not adopt the rule.

The APA provides that a committee must make its report to the Legislature not less than 30 days before the statutory adjournment date.

#### **WHAT HAPPENS AFTER THE RESOLVE IS PASSED?**

If the Resolve specifies that final adoption of the rule is not authorized, the agency may not adopt the proposed rule (the agency may develop and submit a new proposed rule, if the law permits). If the Resolve authorizes the agency to adopt the rule in some form (e.g., as submitted or in some modified form), the agency has 60 days after the effective date of the Resolve to finally adopt the rule, unless the Resolve specifies a different deadline. If the Resolve requires the agency to modify the rule, the agency must make the required modifications before finally adopting the rule.

#### **WHAT HAPPENS IF THE LEGISLATURE FAILS TO ACT ON THE RESOLVE?**

If the Legislature fails to act on a rule properly submitted during the statutorily defined *legislative rule acceptance period*, the agency may finally adopt the rule. The legislative rule acceptance period begins on July 1st preceding the convening of the regular session and ends at 5:00 p.m. on the 2nd Friday in January after the convening of that regular session. Consequently, if the Legislature wishes to prohibit adoption of such a rule, it should enact a Resolve, or legislation of some sort, that specifically provides that adoption of the rule is *not* authorized.

This only applies to rules submitted in the defined period. If a rule is submitted *outside* the legislative rule acceptance period, the agency may not finally adopt the rule without specific legislative authorization (failure to act on such a rule does not allow the agency to adopt the rule).

# THE GOVERNMENT EVALUATION ACT

## A Summary of Legislative Issues

Prepared by the Office of Policy & Legal Analysis, Maine State Legislature  
November 2012

The Government Evaluation Act (GEA) provides for periodic legislative review of the efficacy and performance of state government agencies. The Act (3 MRSA chapter 35) applies to all agencies and governmental entities that receive General Fund money or that are established by statute.

GEA review is conducted by the joint standing committee of jurisdiction. The Act specifies a schedule for the review of agencies, but the reviewing committee may, by 2/3 vote, modify the schedule.

Once a GEA review is initiated by a committee and the committee notifies the agency it intends to go forward with the review (see timeline below), the agency must compile and submit a "program evaluation report," which must include the following (the committee may direct that other information be provided):

- Enabling or authorizing law, including any federal mandates;
- Comparison of agency-relevant federal laws/rules and state laws/agency rules;
- A detailed performance assessment of each program administered by the agency;
- Organizational structure, position count, job classes, organizational flow chart;
- Compliance with federal and state health and safety laws;
- 10-year financial summary;
- Regulatory agenda and summary of rules adopted;
- Efforts to coordinate with other state and federal agencies in achieving program objectives;
- Identification of constituencies served, noting any changes or projected changes;
- Use of alternative delivery systems, including privatization, in meeting goals and objectives;
- Identification of emerging issues;
- Policies on managing personal information, implementation of information technology, and adherence to the fair information practice principles; and
- Detailed information on paperwork required to be filed with the agency by the public and paperwork-reduction efforts.

### Review Timeline: First Regular Session (\*See reverse side for waiving the review process)

**By April 1st**  
Committee of jurisdiction reviews list of agencies scheduled for review in 2nd session

**By May 1st**  
Committee notifies agency of intent to review during the 2nd Regular Session.

**By Nov. 1st**  
Agency must submit the Program Evaluation Report to the committee of jurisdiction.

### Review Timeline: Second Regular Session

**By Feb. 1st**  
Committee of jurisdiction must begin its review of agencies scheduled.

**By March 15th**  
Committee must submit to the full Legislature its findings, recommendations and any legislation required to implement recommendations.

**Follow-up**  
**Note:** The Committee may establish a follow-up review procedure for the agency.

## Review Schedule\* in Current Law for the 126th Legislature by Committee Jurisdiction

### **Agriculture, Conservation and Forestry**

No reviews scheduled in law

### **Business Research and Economic Development**

Maine Development Foundation

Department of Economic and Community Development

### **Criminal Justice**

No reviews scheduled in law

### **Education and Cultural Affairs**

Department of Education

State Board of Education

### **Health and Human Services**

No reviews scheduled in law

### **Inland Fisheries and Wildlife**

No reviews scheduled in law

### **Insurance and Financial Services**

No reviews scheduled in law

### **Judiciary**

No reviews scheduled in law

### **Labor**

Maine Public Employees Retirement System

### **Legal and Veterans' Affairs**

No reviews scheduled in law

### **Marine Resources**

Atlantic States Marine Fisheries Commission

Department of Marine Resources

### **Natural Resources**

Saco River Corridor Commission

### **State and Local Government**

Maine Governmental Facilities Authority

State Civil Service Appeals Board

State Claims Commission

### **Taxation**

No reviews scheduled in law

### **Transportation**

Maine Turnpike Authority

### **Utilities and Energy**

Public Advocate

Telecommunications Relay Services Advisory Council

#### **\*Waiver from established review**

On or before April 1<sup>st</sup> of any first regular session, the committee of jurisdiction shall review the list of agencies scheduled for review in §959. However a committee may, with a 2/3 vote of all committee members, do one of the following with regard to an agency review:

- Exempt an agency or independent agency from review and establish a new review date;
- Establish a modified review process in which an agency or independent agency may be asked to provide more or less information than required by the law; or
- Add an agency or independent agency for review, except that an agency that has been reviewed in accordance with this chapter in the legislative session immediately preceding the current legislative session may not be added for review

# THE POLICY COMMITTEE ROLE IN BUDGET MATTERS

## A Summary of Joint Rule 314

Prepared by the Office of Policy & Legal Analysis, Maine State Legislature  
November 2012

Joint Rule 314 defines certain roles for policy committees<sup>1</sup> to play in conjunction with the Joint Standing Committee Appropriations and Financial Affairs Committee (“Appropriations Committee”) in budget matters. These are:

1. Advising the Appropriations Committee on those portions of the State budget bill that affect subject matter within the jurisdiction of the policy committee; and
2. Advising the Appropriations Committee on the policy committee’s priorities for bills having a fiscal impact that were favorably reported out of the policy committee.

### ADVISING ON THE BUDGET BILL

After the Governor submits a budget proposal (budget bill) to the Legislature, the Appropriations Committee schedules a series of joint public hearings with policy committees on the budget bill according to the subject matter jurisdiction of each committee. Each policy committee or a subcommittee of the policy committee (unless the policy committee elects not to participate<sup>2</sup>) sits with the Appropriations Committee at the hearing on the relevant portions of the budget bill. Generally, the policy committee sits at tables in front of the Appropriations committee and the Appropriations Committee chair presides. Joint hearings allow both committees to hear the same information and to ask questions of presenters about the proposed budget.

After the joint public hearing, policy committees generally hold their own work sessions to consider the portion of the budget bill relevant to their subject area. The chairs of the Appropriations Committee, after consultation with the chairs of the policy committees, establish a schedule for the policy committees to report their recommendations on the budget bill to the Appropriations Committee. The recommendations must be made within the budgetary constraints set by the Appropriations Committee. However, the policy committee is also permitted to recommend additional funds for program priorities that exceed the original budgetary constraints, provided the committee explains its rationale for such recommendations. Policy committee recommendations are advisory and are not binding on the Appropriations Committee.

Each policy committee is required to appoint a budget subcommittee to serve as liaison to the Appropriations Committee. Subcommittees consist of between 3 and 5 committee members. Joint Rule 314 sets forth guidance on how the members are appointed and requires that the policy committee report the membership to the Appropriations Committee. The Appropriations Committee must notify the policy committee chairs and the subcommittee chair when the Appropriations Committee will be considering parts of the budget relevant to that policy committee; the budget subcommittee may participate in any such deliberations of Appropriations Committee.

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<sup>1</sup> Under Joint Rule 314, “policy committee” means a joint standing or joint select committee other than the Appropriations Committee.

<sup>2</sup> Under Joint Rule 314, a committee can elect not to participate by notifying the chairs of the Appropriations Committee in writing.

## **PRIORITIZING BILLS WITH FISCAL IMPACT**

Bills reported out of committee that have received initial approval in both Houses and that have a fiscal impact are tabled before final enactment on the Senate's Appropriations Table. At the end of session, the Appropriations Committee reviews these bills and makes recommendations to the full Legislature on their final passage. Each policy committee is required to advise the Appropriations Committee on the policy committee's priorities among bills reported out by the committee that are on or likely to go to the Appropriations Table.

Under Joint Rule 314 each policy committee is required to report its priorities to the Appropriations Committee within 5 days after receiving a list from the Office of Fiscal and Program Review of all bills reported out of the committee that involve appropriations or revenues. A policy committee's priorities help the Appropriations Committee determine which bills to recommend funding in the final budgeting process. The policy committee's list of its priorities must be accompanied by a form signed by all committee members indicating how they voted on the priority recommendations.

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## CARRY OVER BILLS

### A Summary

Prepared by the Office of Policy & Legal Analysis, Maine State Legislature  
November 2012

#### Background

Under Joint Rule 310 *as adopted by the 125<sup>th</sup> Legislature*, all bills must be reported out of committee in accordance with deadlines established by the presiding officers. Generally all bills must be reported out during the session in which they are introduced. However, under certain circumstances, committees may be authorized to hold specific, identified bills in committee beyond the end of a legislative session. Such bills are said to be “carried over” to the subsequent session. A bill may be carried over only if there is another scheduled session of the same legislature (i.e., bills may be carried over from the First Regular Session to the Second Regular Session).

There are various reasons why a committee may wish to carry a bill over to the subsequent session. For instance, the subject matter may be exceptionally complex, important additional information may be needed or the committee may be awaiting the outcome of certain events.

#### Procedure

If a committee wishes to carry over one or more bills, it must submit a written request to the presiding officers for permission to carry them over. The request must identify the bills by LD number and title and briefly explain for each bill the reason why the committee is requesting it be carried over. The committee’s analyst prepares the committee’s written request for signature of the chairs. The presiding officers jointly review the requests. LDs approved for carry over are then included in a single Joint Order authorizing the LDs to be carried over to a subsequent session. This order is introduced near the end of the session. Following passage of the order by the full Legislature, the named bills are carried over to the subsequent session of that Legislature.

The fact that a bill is carried over does not in itself authorize a committee to meet to consider the bill during the interim between legislative sessions. A committee must receive express authorization from the presiding officers to meet to discuss carryover bills during the interim. Additional authorization is required if a committee wishes to hold a public hearing on a carryover bill during the interim.

Carryover bills are subject to committee reporting deadlines for the subsequent session, as established by the presiding officers under Joint Rule 310.

# LEGISLATIVE STUDIES

## A Summary

Prepared by the Office of Policy and Legal Analysis, Maine State Legislature  
October 2012

Occasionally particular legislative issues or policy matters merit examination or consideration beyond what is possible during a legislative session. When this occurs, a legislative study may be appropriate.

Studies can take many forms (both legislative and non-legislative) and can be tailored to meet the needs of the Legislature. Generally, though not always, studies result in a report of findings and recommendations for legislative consideration in a subsequent legislative session. The Legislature is not bound by the results of a study.

If a committee believes a study may be appropriate, its first step should be to define the study's purpose. Is it to gather additional information? Perform policy, legal or fiscal analysis? Evaluate options? Develop recommendations for legislative or administrative action? Reach a workable political compromise?

The committee should then consider whether a legislative study is the most appropriate form of study to achieve that purpose.

### **What is a "legislative study" and why is it important to know?**

In general, legislative studies are those that need or would benefit from direct guidance by legislators. Specifically, under Joint Rule 353 adopted by the 125th Legislature, a "legislative study" is a study undertaken by any group of people that uses any legislative resources. Legislative resources include:

1. Expenditures from the legislative account;
2. Legislative Council staff (i.e., the nonpartisan staff);
3. Appointments by the Legislature (i.e., by the Presiding Officers); or
4. Legislators serving as members.

Except for limited exemptions adopted in policies of the Legislative Council, a "legislative study" must conform to Joint Rule 353. This is a key point: under the Joint Rules, a committee may not, except upon the prior approval of the Legislative Council, report to the Legislature any bill, resolve or joint order proposing a legislative study that is inconsistent with this Joint Rule.

### **What are the rules governing legislative studies?**

Joint Rule 353 and Legislative Council Policy establish the following requirements for a legislative study.

- A majority of members must be legislators and the study must include members of the 2 parties holding the largest number of seats in the Legislature;
- The study must have no fewer than 3 and no more than 13 members;
- The chair(s) must be legislators (a single chair if there are 5 or fewer members and co-chairs if there are 6-13 members);
- All members must be appointed by the Presiding Officers (Senate members by the President and House members by the Speaker), except that non-legislative members, if any, may be appointed by someone outside the Legislature (i.e., the Governor);

- Legislative members will be entitled to receive authorized per diem and expense-reimbursement for their attendance at authorized study meetings. Public members not otherwise compensated may receive authorized expense reimbursement and, upon demonstration of financial hardship, a per diem for their attendance at authorized study meetings;
- If the study reports to a first regular session, the report must be submitted no later than the first Wednesday in November preceding the convening of that session; if it reports to a second regular session, the report must be submitted not later than the first Wednesday in December preceding the convening of that session. The Legislative Council may grant limited extensions for study reports; and
- Funding for the study may not be accepted from any party having a pecuniary or other vested interest in the outcome of the study.

### **How is a legislative study established?**

A legislative study may be created by joint study order. Joint orders must be passed by both the House and the Senate and are not subject to action by the Governor. A joint order is effective when passed, allowing the study to convene promptly. Joint standing committees have standing authority to report out joint study orders proposing the creation of legislative studies.

However, since a joint order does not have the force of law and is only effective during the biennium of the Legislature that passes it, if a proposed study will have an existence beyond the biennium or will direct a person or entity outside the legislature to take some action, a resolve or some other legislative instrument is required. Unless passed as an emergency measure, a law or resolve will not take effect until 90 days after adjournment.

All joint study orders or legislation proposing legislative studies are placed on a special study table. The Legislative Council reviews each proposal and determines whether to approve the study and authorize the allocation of budgetary and staffing resources. Unless the Legislative Council directs otherwise, Legislative Council staff are assigned only to legislative studies that conform to Joint Rule 353.

### **What other types of studies can be established?**

Other forms of study include the following.

- Stakeholder group study. When it is important to have stakeholders (not legislators) conducting a study (as opposed to stakeholders providing information to a legislative study), a stakeholder group may be established. This type of study is created through enactment of some form of law (typically a resolve). The entities to be represented in the group are specified in the law along with the appointing authority or authorities. Legislative Council policy does permit stakeholder group studies to include up to 2 members of the Legislature. However, no other legislative resources may be used; if more legislative members or other legislative resources are needed or desired, the study must be modified to conform to Joint Rule 353 governing legislative studies. If legislators (again, no more than 2) are included in the group's membership, the proposal will be referred to the special study table for review by the Legislative Council. If no legislators or legislative resources are included, the proposal proceeds through the legislative process without going to the special study table.
- On-going board or commission. Occasionally there is a need to establish an on-going board or commission to examine topics on a long-term basis. These boards and

commission are codified at Title 5, chapter 379. Typically these entities are composed of stakeholders or experts or representatives of various agencies and are directed to continuously monitor and examine issues and report regularly to the Legislature. Legislative Council policy requires that any proposal that would create a new board or commission or amend law governing an existing board or commission that would result in the use of any legislative resources be placed on the special study table for review by the Legislative Council.

- Agency study. When agency expertise is crucial to a study, an agency study may be appropriate. This type of study is created by some form of law and simply directs the agency, perhaps in consultation with stakeholders or others, to undertake the study and report back to the Legislature.
- Staff study. Nonpartisan legislative staff can collect data, research legal and policy issues and provide an analysis and summary. A staff study does not entail meetings of legislators or stakeholders but may involve periodic consultation with committee chairs. Such studies may be authorized by the Legislative Council or the staff office directors.
- Special committees established by the Presiding Officers. These are committees established solely at the discretion of the presiding officers. The Speaker may establish a House special committee, the President a Senate special committee, or jointly they may establish a special committee to study those matters directed by order of the Presiding Officers.

### **How are study recommendations turned into legislation?**

Under Joint Rule 353, neither legislative nor non-legislative studies may introduce legislation but they may include proposed legislation in their reports to the Legislature. Upon receipt of a report submitted by a study, a joint standing committee may introduce a bill on matters relating to the study (i.e., the legislation proposed by the study).

### **Key Points to Remember**

1. A study proposal that involves the use of any legislative resources (involves legislative appointments, has legislative members, uses funds from the Legislative Account, or uses Legislative Council Staff), must conform to Joint Rule 353 and Legislative Council policy.
2. A study proposal that involves the use of any legislative resources will be placed on the special study table and is subject to Legislative Council review and approval.
3. A non-legislative study may include up to 2 legislative members; a proposal for such a study will go the special study table for review but is not otherwise considered a legislative study under Joint Rule 353. If the proposal includes more than 2 legislative members, it must conform to the requirements for legislative studies under Joint Rule 353.
4. A study proposal that uses no legislative resources will not go to the special study table and may proceed through the process without Legislative Council approval.

# Policy On **LEGISLATIVE CONFIDENTIALITY\***

**BILL AND AMENDMENT DRAFTS**

**COMMITTEE REPORTS**

**REQUESTS FOR ASSISTANCE**

**AND**

**RELATED MATERIALS**

## **ARE STRICTLY CONFIDENTIAL**

1. Until made public, a draft bill or amendment may be released by nonpartisan legislative staff **only with the permission** of the **person or entity requesting** the bill or amendment; committee chairs may give permission on behalf of the committee for release of draft unanimous committee amendments. Requests for assistance, advice or information may be divulged by nonpartisan staff only with the permission of the requestor.

The **title of a bill or resolve** and the **sponsor's name** are public information when the request is filed, unless the sponsor asks that they remain confidential until cloture. In addition, the Governor may specify that a Governor's request for a bill or resolve remain confidential until the bill or resolve is printed.

2. Nonpartisan staff may share confidential information with each other when necessary to perform their responsibilities in accordance with office policies.
3. Nonpartisan staff exercises diligence in protecting confidential documents and information.

*\*Legislative confidentiality is governed by the Freedom of Access Law, 1 MRSA §402(3)(C); Legislative Council policy; and the Joint Rules adopted by each Legislature. This summary is based on policy and Joint Rules of the 125th Legislature.*

# 2012 POVERTY GUIDELINES

ALL STATES (EXCEPT ALASKA AND HAWAII) AND D.C.

## ANNUAL GUIDELINES

FAMILY SIZE	PERCENT OF POVERTY GUIDELINE								
	100%	120%	133%	135%	150%	175%	185%	200%	250%
1	11,170.00	13,404.00	14,856.10	15,079.50	16,755.00	19,547.50	20,664.50	22,340.00	27,925.00
2	15,130.00	18,156.00	20,122.90	20,425.50	22,695.00	26,477.50	27,990.50	30,260.00	37,825.00
3	19,090.00	22,908.00	25,389.70	25,771.50	28,635.00	33,407.50	35,316.50	38,180.00	47,725.00
4	23,050.00	27,660.00	30,656.50	31,117.50	34,575.00	40,337.50	42,642.50	46,100.00	57,625.00
5	27,010.00	32,412.00	35,923.30	36,463.50	40,515.00	47,267.50	49,968.50	54,020.00	67,525.00
6	30,970.00	37,164.00	41,190.10	41,809.50	46,455.00	54,197.50	57,294.50	61,940.00	77,425.00
7	34,930.00	41,916.00	46,456.90	47,155.50	52,395.00	61,127.50	64,620.50	69,860.00	87,325.00
8	38,890.00	46,668.00	51,723.70	52,501.50	58,335.00	68,057.50	71,946.50	77,780.00	97,225.00

For family units of more than 8 members, add \$3,960 for each additional member.

## MONTHLY GUIDELINES

FAMILY SIZE	PERCENT OF POVERTY GUIDELINE								
	100%	120%	133%	135%	150%	175%	185%	200%	250%
1	930.83	1,117.00	1,238.01	1,256.63	1,396.25	1,628.96	1,722.04	1,861.67	2,327.08
2	1,260.83	1,513.00	1,676.91	1,702.13	1,891.25	2,206.46	2,332.54	2,521.67	3,152.08
3	1,590.83	1,909.00	2,115.81	2,147.63	2,386.25	2,783.96	2,943.04	3,181.67	3,977.08
4	1,920.83	2,305.00	2,554.71	2,593.13	2,881.25	3,361.46	3,553.54	3,841.67	4,802.08
5	2,250.83	2,701.00	2,993.61	3,038.63	3,376.25	3,938.96	4,164.04	4,501.67	5,627.08
6	2,580.83	3,097.00	3,432.51	3,484.13	3,871.25	4,516.46	4,774.54	5,161.67	6,452.08
7	2,910.83	3,493.00	3,871.41	3,929.63	4,366.25	5,093.96	5,385.04	5,821.67	7,277.08
8	3,240.83	3,889.00	4,310.31	4,375.13	4,861.25	5,671.46	5,995.54	6,481.67	8,102.08

Produced by: CMCS/CAHPG/DEEO

# 126th Maine Legislature Joint Rules

Adopted December 5, 2012

Preamble

Part 1 - General Provisions

Part 2 - Legislation

Part 3 - Legislative Committees

Part 4 - Floor Action on Legislation

Part 5 - Legislative Confirmations

**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.

# Part 1

## General Provisions

### **Rule 101. Scope.**

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.

### **Rule 102. Amendment of Rules.**

Joint Rules may be amended by a majority vote in each chamber on or before the 3rd Friday in January of the first regular session. After that, a vote of 2/3 of the members present in each chamber is required.

### **Rule 103. Suspension of Rules.**

Except as provided in Joint Rule 308, a joint rule or order may be suspended only with the consent of 2/3 of the members present in each chamber.

### **Rule 104. Conflict of Interest.**

A member may not vote on any question in committee when that question immediately involves that member's private right, as distinct from the public interest.

### **Rule 105. Salary and Benefits of Legislative Employees is Public Information.**

Salary and benefit information regarding employees and officers of the Legislature is public information and when requested must be provided within a reasonable time by the Secretary of the Senate for Senate employees, the Clerk of the House for House employees and the Executive Director of the Legislative Council for other legislative employees.

### **Rule 106. Records of Certain Legislator Expenses.**

Upon request, the presiding officer of each chamber shall provide the monthly total or annual total cost of telephone expenses and of postage expenses for all members in the chamber.

The presiding officers shall also provide monthly total and annual total telephone and postage expenses of individual members upon request.

**Rule 107. Notice of Legislative Council Meetings.**

Meeting times of the Legislative Council must be publicized, at a minimum, by posting notice on the door of the meeting room in a timely fashion. When feasible, other advance notice of Legislative Council meetings must be given.

## Part 2

### Legislation

#### **Rule 201. Prefiling.**

A member-elect may file bills and resolves for introduction with the Revisor of Statutes prior to the convening of each first regular session.

#### **Rule 202. Cloture for Legislators at the First Regular Session.**

All requests for bills and resolves submitted by Legislators for a first regular session must be submitted in complete form, as provided in Joint Rule 208, to the Revisor of Statutes by 4:00 p.m. on Friday, January 18, 2013.

#### **Rule 203. Cloture for Legislators at the Second Regular Session.**

The Legislative Council shall set a cloture date and establish procedures for submission of legislation by Legislators to the Revisor of Statutes at a second regular session. Procedures established for each second regular session must ensure compliance with the requirements of the Constitution of Maine, Article IV, Part Third, Section 1.

Any vote of the Legislative Council to accept or reject a bill or resolve proposed for introduction under the procedures established under this Joint Rule must be taken by the yeas and nays, and that vote must be recorded and made available for public inspection.

#### **Rule 204. Cloture for State Department, Agency or Commission Bills and Resolves.**

- **1. Deadlines for Requests.** All requests for bills and resolves submitted by a state department, agency or commission must be submitted to the Revisor of Statutes by 4:00 p.m. on the first Wednesday in December.
- **2. Deadline When Governor Newly Elected.** If the Governor is newly elected and the convening of the first regular session coincides with the beginning of the Governor's first term, then any request for a bill or resolve submitted by a state department, agency or commission must be submitted within 30 days after the Governor is administered the oath of office.
- **3. Identification of Agency.** Each request for a bill or resolve submitted under this rule must clearly designate, under the title, the department, agency or commission on whose behalf the bill or resolve is submitted.

#### **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. 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.

### **Rule 206. Sponsorship.**

- **1. Number; Governor's Bills.** A bill, resolve, order, resolution or memorial may have up to 10 sponsors: one primary sponsor, one lead cosponsor from the other chamber and 8 cosponsors from either chamber. By mutual agreement the presiding officers may authorize additional cosponsors on a case-by-case basis. Each bill or resolve requested by the Governor or a department, agency or commission must indicate the requestor below the title.
- **2. Duplicate Requests; Chamber of Origin.** For duplicate or closely related bills or resolves, the Legislative Council may establish a policy for combination of requests and the number of cosponsors permitted on combined requests. A bill, resolve, order, resolution or memorial having cosponsors must originate in the chamber of the primary sponsor.
- **3. Indian Representatives.** The member of the Penobscot Nation, the member of the Passamaquoddy Tribe and, at the beginning of the Second Regular Session of the 125th Legislature, the member of the Houlton Band of Maliseet Indians elected or appointed 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.

### **Rule 207. Disclosure of Titles of Bills and Resolves.**

- **1. Legislator and Department Bills.** The titles and sponsors' names 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 cloture. 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.

- **2. Governor Bills.** The titles of requests for bills and resolves submitted by the Governor are considered public information upon filing. The Governor may direct that the title of a particular bill or resolve remain confidential until that bill or resolve is printed.

### **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 or 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 5 business days, unless an alternative period is set jointly by the presiding officers, 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. 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.

### **Rule 209. Bill Titles and Summaries.**

The Revisor of Statutes has authority to change the title of a bill or resolve to ensure that the title accurately and concisely reflects the content and scope of the bill or resolve. If the primary sponsor objects to the change, the President of the Senate and the Speaker of the House shall jointly decide what the title should be and shall so notify the Revisor of Statutes.

The Revisor of Statutes shall prepare and include a summary of each bill, resolve and amendment. The Revisor of Statutes has authority to ensure that the summary is concise and accurately reflects the intent of the bill or resolve.

### **Rule 210. Form.**

All bills and other instruments, including bills proposed by initiative, must be allocated to the Maine Revised Statutes as appropriate and corrected for form, legislative style and

grammar by the Revisor of Statutes before printing.

### **Rule 211. Signatures on Drafts of Bills, Resolves and Amendments.**

The Revisor of Statutes shall notify the primary sponsor of a bill or resolve when the bill or resolve is ready in final form for signature. The primary sponsor is responsible for obtaining signatures from cosponsors. The primary sponsor shall sign the bill or notify the Revisor of Statutes of any changes that are necessary within deadlines established by the presiding officers. The primary sponsor shall present the signed cosponsor sheet to the Revisor of Statutes. If the primary sponsor does not contact the Office of the Revisor of Statutes within this period, the bill is void.

If changes are requested, the Revisor of Statutes shall notify the primary sponsor when changes have been made and the bill is available for signature; the primary sponsor and cosponsors shall sign the bill within the established deadlines. The sponsor shall propose any further changes to the committee of reference. If the primary sponsor does not sign the bill within this period, the bill is void. If cosponsors do not sign the bill within either period, their names must be removed from the bill.

### **Rule 212. Errors.**

Clerical errors in bills and resolves may be corrected upon suggestion by the Revisor of Statutes without motion to amend.

### **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.

### **Rule 214. Memorials.**

A memorial is not in order for introduction unless approved by a majority of the Legislative Council.

**Rule 215. Actions Relating to the United States Constitution.**

All memorials, resolutions, applications and petitions that relate to the Legislature's functions under the United States Constitution, Article V are in order for introduction without approval from the Legislative Council. Passage of these items must be accomplished as follows:

- **1. Calling of United States Constitutional Convention.** An item requesting the calling of a United States Constitutional Convention requires a 2/3 vote of the members present in each chamber;
- **2. Ratification of Amendment.** An item requesting ratification of an amendment to the United States Constitution requires a majority vote of the members present in each chamber; and
- **3. Any Other Action.** An item requesting any other action under the United States Constitution, Article V requires a majority vote of the members present in each chamber.

**Rule 216. Claims against the State.**

A claim of an amount of \$2,000 or less is in order for introduction only after the claim has been first disapproved or partially approved for payment under the Maine Revised Statutes, Title 5, section 1510-A. A claim of an amount greater than \$2,000 is in order for introduction only in the form of a resolve authorizing a suit against the State.

**Rule 217. Measures Rejected at a Prior Session.**

A bill, resolve, constitutional resolution, resolution, memorial or order that has been introduced and finally rejected in a regular or special session may not be introduced in a subsequent regular or special session of the same Legislature except by vote of 2/3 of both chambers.

**Rule 218. Legislation Filed Pursuant to Law or Resolve.**

Legislation filed pursuant to law or resolve must identify the source of the legislation and must cite the law or resolve that authorizes the filing. The legislation must be introduced in the chamber of the sponsor or the chamber of origin of the authorizing law or resolve.

## Part 3

# Legislative Committees

### Subpart A

### Joint Standing Committees

#### Rule 301. Joint Standing Committee Responsibilities and Jurisdiction.

Joint standing committees are formed to assist the Legislature in the performance of its constitutional duties and are vested with the general authority granted in the Maine Revised Statutes, Title 3, section 165 and certain other specific authority granted from time to time by the Legislature. The responsibilities of joint standing committees include, but are not limited to:

- **1. Pending Legislation.** Considering and reporting to both chambers on legislation pending before the Legislature;
- **2. Budget and Fiscal Policy Issues.** Reviewing and making recommendations on budgeting and fiscal policy issues concerning State Government;
- **3. Actions of Departments and Agencies.** Conducting oversight and review of the actions of departments and agencies of State Government, including, but not limited to, review of agency rules under Title 5, chapter 375, subchapters II and II-A and agency evaluations under the State Government Evaluation Act;
- **4. Gubernatorial Appointments.** Reviewing and making recommendations on gubernatorial appointments that require legislative confirmation under Title 3, chapter 6; and
- **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 established 16 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
- Criminal justice and public safety
- Education and cultural affairs

- Energy, utilities and technology
- Environment and natural resources
- Health and human services
- Inland fisheries and wildlife
- Insurance and financial services
- Judiciary
- Labor, commerce, research and economic development
- Marine resources
- State and local government
- Taxation
- Transportation
- Veterans and legal affairs

### **Rule 302. Membership.**

Each of the joint standing committees consists of 13 members, 3 from the Senate and 10 from the House of Representatives. The first Senate member named is the Senate chair. The first House member named is the House chair. The Senate chair shall preside and in the Senate chair's absence, the House chair shall preside and, thereafter, as the need may arise, the chair shall alternate between the members from each chamber in the sequence of their appointment to the committee. The sequence of appointment for the biennium is as announced by the presiding officers in each chamber. Every member of the Senate and the House of Representatives is entitled to at least one initial committee assignment.

### **Rule 303. Committee Clerks.**

The hiring of all committee clerks must be mutually agreeable to both the Senate and House chairs. If not agreeable to both, the President of the Senate and the Speaker of the House shall decide. Committee clerks serve at the pleasure of the President of the Senate and the Speaker of the House. The salary of each committee clerk is established by the President of the Senate and the Speaker of the House, and the employment of the committee clerks terminates no later than the end of the session. The Office of Fiscal and Program Review shall provide clerical support to the Joint Standing Committee on Appropriations and Financial Affairs.

### **Rule 304. Procedures for Public Hearings and Work Sessions.**

At the beginning of each legislative biennium, the presiding officers shall establish procedures that govern public hearings, work sessions and confirmation hearings. Once established, copies of the procedures must be sent to the committees, the Secretary of the Senate, the Clerk of the House and the Executive Director of the Legislative Council. A committee by majority vote may make exceptions to the rules and notify the presiding officers of exceptions to the rules. Final committee rules must be posted and made available upon request at all public hearings and work sessions.

The rules of procedure in committee are the same as the rules of the Senate and the House of Representatives to the extent applicable. Committee procedures must be consistent with these rules.

The presiding chair shall decide all questions of order, subject to appeal to the committee. The chair's ruling stands unless overruled by a majority vote of the committee membership.

Scheduling of bills to be considered in public hearings and work sessions must be arranged by the Senate chair with the agreement of the House chair; if agreement is not reached, the committee shall decide by majority vote of the membership.

At public hearings, the chair may limit testimony as necessary for the orderly conduct of the hearing. Members may question witnesses to clarify testimony and to elicit helpful and pertinent information. While aggressive and probing questions may sometimes be appropriate, members shall exhibit respect for the witnesses and for one another. Members shall refrain from interrogation that is argumentative, oppressive, repetitive or unnecessarily embarrassing to hearing participants. Advocacy and discussion among members are not appropriate at public hearings. A committee member who is the primary sponsor of a bill and any member who testifies for or against the bill should ordinarily refrain from questioning other witnesses.

### **Rule 305. Scheduling Public Hearings and Work Sessions.**

At the beginning of the regular session, the presiding officers shall jointly establish authorized meeting days for committees to hold their public hearings and work sessions, taking into consideration the availability of assigned staff and hearing rooms. Committees may meet only on authorized meeting days unless the presiding officers authorize an exception in writing. Each committee shall distribute a detailed list of hearings and work sessions that have been scheduled for the following week to all committee members. This schedule must also be posted outside the committee room. Notice of a committee's public hearings and work sessions must be posted each day in the State House and the Cross Building. A committee may not hold a hearing or conduct a work session for which notice has not been posted.

Public hearings must be advertised 2 weekends in advance of the hearing date. All exceptions must be approved by both presiding officers.

The committee shall direct the committee clerk to notify all sponsors of the bill of the public hearing and work session on the bill.

It is the intent of the Legislature that a person not be denied access to committee public hearings and work sessions because of a disability. Committees shall provide reasonable access for disabled persons to their proceedings and allow adequate time for participation

by disabled persons.

### **Rule 306. Quorum.**

A quorum is 7 members, and a quorum must be present to start a meeting or to take a vote. A quorum is not required to continue a meeting. If a quorum is present, but there is not a Senator among those present, the committee may take a vote only with the authorization of the President of the Senate.

### **Rule 307. Testimony.**

Testimony before a joint standing committee is not presented under oath, except that a committee is authorized to administer oaths in the case of legislative confirmation hearings under the Maine Revised Statutes, Title 3, section 157 and may be so authorized by the Legislature when the committee is acting as a special investigating committee under the Maine Revised Statutes, Title 3, section 165, subsection 7.

All written materials presented to the committee must bear the name, address and affiliation, if applicable, of the presenter and the date presented.

### **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.

- **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.
- **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 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 and work session or work sessions 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.

#### **Rule 309. Notice to Report.**

The President of the Senate and the Speaker of the House shall jointly establish reporting deadlines for all bills and resolves referred to committee and each committee shall, after receiving notice of the reporting deadlines, report its bills and resolves out of committee to the floor for consideration in accordance with those deadlines.

#### **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
- Leave to Withdraw
- Except for Leave to Withdraw, 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. 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.
- **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 be excused 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.
- **6. Leave to Withdraw.** A sponsor may request leave to withdraw that sponsor's bill or resolve before the bill or resolve is advertised for a public hearing. The request may be granted only by the agreement of both chairs of the joint standing committee to which the bill or resolve was referred. When a request for Leave to Withdraw has been granted by the chairs, the bill or resolve must be reported out as Leave to Withdraw and placed in the legislative files and may be recalled only as provided in Joint Rule 404.

#### **Rule 311. Errors and Inconsistencies Legislation.**

The Revisor of Statutes shall prepare any necessary omnibus bill concerning errors and inconsistencies in the Laws of Maine, and the bill must be referred to the joint standing committee of the Legislature having jurisdiction over judiciary matters. The committee shall, after giving notice and an opportunity to be heard, hear proposed amendments and direct the Revisor of Statutes to prepare those amendments that must be included in the bill reported out. A floor amendment may not be entertained in either chamber unless the amendment is printed and distributed at least 24 hours prior to introduction.

#### **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 "Leave to Withdraw," "Ought Not to Pass" or "Referral to Another Committee" must include a fiscal note prepared by the Office of Fiscal and Program Review. For a bill or resolve not yet reported out and upon request of a majority of the committee, the Office of Fiscal and Program Review shall, after notice by the committee to the sponsor of the bill or resolve, meet with the committee at a work session to present its analysis and provide copies of the written public materials relied upon by the office to prepare that fiscal note. The committee clerk shall provide the Office of Fiscal and Program Review with a copy of all testimony and other materials received by the committee on a bill or resolve whenever the committee recommendation is other than "Leave to Withdraw," unanimous "Ought Not to Pass" or unanimous "Referral to

Another Committee." The fiscal note must accompany the committee report before it is reported out of committee. Any amendment introduced that would affect the fiscal impact of the original bill must also include a fiscal note. The Office of Fiscal and Program Review has the sole responsibility for preparing all fiscal notes.

#### **Rule 312-A. Constitutional Resolutions.**

A committee may submit the question to be voted on under a resolution proposing to amend the Constitution of Maine to the Secretary of State for review prior to reporting the resolution out of committee with a recommendation other than "Ought Not to Pass" or "Referral to Another Committee." The Secretary of State shall apply the same standards of clarity to that question as to questions for the people's veto and initiative referenda under the Maine Revised Statutes, Title 21-A, section 906, subsection 6 and advise the committee and the sponsor of the resolution as to the recommended wording of the question.

#### **Rule 313. Confidentiality.**

The committee shall protect confidential records, including those records excluded from the definition of "public records" under the freedom of access laws, the Maine Revised Statutes, Title 1, section 402, subsection 3, from public disclosure by holding executive sessions to discuss information contained in those records. Executive sessions must be held in accordance with the provisions of the freedom of access laws, the Maine Revised Statutes, Title 1, chapter 13, subchapter I.

Before the committee files leave the custody of the committee, the committee chairs shall direct the custodian of the files to protect the confidentiality of the records in any appropriate manner, including returning the records to the person or department from which they came; destroying the records; or blocking out personally identifying information in the records and retaining them in the files, if the law declaring the records confidential permits disclosure in this manner.

The committee chairs shall also ensure that the files include a notation indicating what type of confidential records were reviewed by the committee.

#### **Rule 314. Participation in Budget Hearings and Work Sessions.**

As used in this Rule, "policy committee" means a joint standing committee or joint select committee of the Legislature having subject matter jurisdiction other than the Joint Standing Committee on Appropriations and Financial Affairs.

In each year of the biennium, any budget bill submitted to the Legislature by the Governor and referred to the Joint Standing Committee on Appropriations and Financial Affairs is subject to the following procedures.

Notwithstanding any provision of subsections 1 to 4 of this Joint Rule, a policy committee may elect not to participate in either the joint budget hearing or the work session, or both, by so notifying the chairs of the Joint Standing Committee on Appropriations and Financial Affairs in writing.

- **1. Budget Recommendations.** Budget recommendations made by the Governor on areas within the jurisdiction of a policy committee must be initially heard jointly by the Joint Standing Committee on Appropriations and Financial Affairs and the policy committee, or a subcommittee of the policy committee, having jurisdiction over the subject matter presented.
- **2. Subcommittee; Appointment.** Each policy committee shall appoint a subcommittee of at least 3 and not more than 5 of its members to serve as liaisons to the Joint Standing Committee on Appropriations and Financial Affairs. At least one member of the subcommittee must be appointed by the Senate chair of the policy committee and at least 2 members must be appointed by the House chair of the policy committee. If more than 3 members are appointed to the subcommittee, the additional member or members must be appointed jointly by the chairs of the policy committee. This subcommittee must include members of the 2 parties holding the largest number of seats in the Legislature. The committee chairs shall name one of the members as subcommittee chair. The Joint Standing Committee on Appropriations and Financial Affairs shall notify the policy committee chairs and the chair of the subcommittee in a timely manner prior to any subsequent deliberations on budget items relative to that policy committee's jurisdiction. Each policy committee through its subcommittee shall advise the Joint Standing Committee on Appropriations and Financial Affairs of its respective policy committee's recommendations regarding budget items relative to that committee's jurisdiction and through its subcommittee may participate in all subsequent deliberations of the Joint Standing Committee on Appropriations and Financial Affairs on these budget items.
- **3. Membership Published.** The membership of each subcommittee must be published in the Advance Journal and Calendar.
- **4. Policy Committee Recommendations.** Each policy committee shall provide the Joint Standing Committee on Appropriations and Financial Affairs with the policy committee's recommendations regarding the relevant part of the Governor's budget. These recommendations must be delivered within a time period set by the chairs of the Joint Standing Committee on Appropriations and Financial Affairs after consultation with the chairs of the policy committee taking into consideration previously scheduled public hearings of the policy committee. The chairs of the Joint Standing Committee on Appropriations and Financial Affairs shall notify the presiding officers of the dates established for reporting policy committees' recommendations. The recommendations must be made within the budgetary

constraints set by the Joint Standing Committee on Appropriations and Financial Affairs and presented in a format specified by the chairs of the Joint Standing Committee on Appropriations and Financial Affairs.

- **5. Additional Funds.** To the extent practicable, at the time of submission of the policy committee's biennial budget recommendations within established budget constraints, each policy committee may recommend additional funds for program priorities that exceed the original budgeting constraints and if recommendations for additional funds are made, the committee shall explain those recommendations.
- **6. Decision-making Authority.** The Joint Standing Committee on Appropriations and Financial Affairs shall consider the policy committees' budget recommendations during the deliberations of the Joint Standing Committee on Appropriations and Financial Affairs but retains sole decision-making authority on budget matters.
- **7. List of Priorities.** Within 5 business days after receiving a list from the Office of Fiscal and Program Review of all bills reported out of a committee that involve appropriations or revenues, the policy committee shall submit to the Joint Standing Committee on Appropriations and Financial Affairs a list indicating that committee's priorities for final passage of these bills. The list must be accompanied by a form signed by all committee members indicating how they voted on the priority recommendations.

#### **Rule 315. Interim Committee Activities.**

The chairs of a joint standing committee may request and upon finding of need the President of the Senate and the Speaker of the House are authorized to jointly grant permission to a committee to meet out of session to conduct work of the committee, including review of agencies' effectiveness under the Government Evaluation Act, review of major substantive rules and agency regulatory agendas under the Administrative Procedure Act and review of agency strategic planning and performance budgeting submissions under Title 5, chapter 151-C.

#### **Rule 316. Penobscot Nation, Passamaquoddy Tribe and Houlton Band of Maliseet Indians.**

The member of the Penobscot Nation, the member of the Passamaquoddy Tribe and, at the beginning of the Second Regular Session of the 125th Legislature, the member of the Houlton Band of Maliseet Indians elected or appointed to represent their people at the biennial session of the Legislature must be granted seats on the floor of the House of Representatives; be granted, by consent of the Speaker, the privilege of speaking on pending legislation; must be appointed to sit with joint standing committees as nonvoting members during the committees' deliberations; and be granted such other rights and

privileges as may from time to time be voted by the House of Representatives. In reports from committees on which a tribal member serves, the position of the member must be noted and included.

**Rule 317. Review of provisions affecting the Fund for a Healthy Maine.**

Whenever a legislative proposal in a resolve or bill, including a budget bill, affects the Fund for a Healthy Maine under the Maine Revised Statutes, Title 22, section 1511, or involves funding from the Fund for a Healthy Maine, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public hearing and determine the level of support for the proposal among members of the committee. If there is support for the proposal among a majority of the members of the committee, the committee shall request the joint standing committee of the Legislature having jurisdiction over health and human services matters to review and evaluate the proposal as it pertains to the Fund for a Healthy Maine. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall conduct the review and report back to the committee of jurisdiction and to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

**Rule 318. Review of judicial proceeding priorities.**

Whenever a legislative measure is proposed that contains a provision to expedite, establish or adjust the priority of judicial proceedings, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public meeting on the proposal and determine the level of support for the proposal among members of the committee. If there is support for the proposal among a majority of the members of the committee, the committee shall request the joint standing committee of the Legislature having jurisdiction over judiciary matters to review and evaluate the proposal as it pertains to the appropriate priority and timing of judicial proceedings in all state courts. Information may be requested from the Judicial Branch. The joint standing committee of the Legislature having jurisdiction over judiciary matters shall conduct the review and report back to the committee of jurisdiction.

**Subpart B**  
**Special Legislative Committees**

**Rule 351. Joint Select Committees.**

A joint select committee consists of 3 Senators and 7 members of the House of Representatives, unless the order creating the committee provides a different number.

When a select committee is appointed by both chambers the Secretary of the Senate and the Clerk of the House shall inform each other of the names of the members so that the names may be entered upon the Advance Journal and Calendar of each chamber.

**Rule 352. Committees of Conference.**

When the chambers do not agree on an action, a committee of conference is in order. A committee of conference consists of 3 members from each chamber who voted on the prevailing side. A committee of conference shall meet and submit a report within 10 legislative days to the chamber asking for the conference. The report must be agreed to by a majority of the members from each chamber. The committee report may be that it is unable to agree. The committee report may be either accepted or rejected, but no other action may be had except through another committee of conference. If necessary, a new committee of conference may be formed.

**Rule 353. Legislative Studies.**

To assist in the exercise of its duties, the Legislature may establish legislative study committees or may alternatively refer matters to joint standing committees or subcommittees of joint standing committees for study. This Joint Rule establishes standards that govern the drafting of legislative study instruments and the authorization of legislative studies. All legislative studies must be consistent with this Joint Rule and with Legislative Council policies adopted under this Joint Rule. A joint standing or joint select committee may not, except upon the prior approval of the Legislative Council, report to the Legislature any bill, resolve or joint order proposing a legislative study that is inconsistent with this Joint Rule.

- **1. Definitions.** For the purposes of this Joint Rule, the following terms have the following meanings:
  - A. The term “legislative study” or “legislative study committee” means any group of individuals established in an Act, Resolve or Joint Order or by the Legislative Council, except those exempted under policies adopted by the Legislative Council, whose duties include studying and reporting to the Legislature on any matter or advising the Legislature on any matter and that requires the use of legislative resources;
  - B. The term “legislative resources” means the expenditure of any funds appropriated or allocated to the Legislative Account, the appointment of one or more persons by the Legislature, the inclusion of one or more legislators as members of the legislative study committee or the use of Legislative Council staff; and
  - C. The term “non-legislative study” or “non-legislative study group” means any group of individuals directed by legislation to report back to the Legislature on any issue but that is not otherwise a legislative study.
- **2. Establishing legislative studies.** A legislative study may only be created by joint

study order, unless the instrument directs an agency or a person who is not a legislator to take an action or has an existence that extends beyond the Legislature in which it is introduced. A joint standing committee may report out a joint study order requesting that a study be conducted.

- **3. Appointment of members.** A majority of legislative study members must be legislators and the legislative study committee must be chaired by legislators appointed in a manner consistent with subsection 4. The legislative study committee must include members of the 2 parties holding the largest number of seats in the Legislature. All members of legislative study committees established by joint study order must be appointed by the presiding officers: Senate members by the President and House members by the Speaker. Members of a legislative study created by joint study order who are not legislators must be appointed either by the President or the Speaker. Legislative studies may include a minority of non-legislative members appointed by someone outside the Legislature. Joint appointment of members is not permitted.
- **4. Appointment of chairs.** Legislative studies having more than 5 members must be cochaired by legislators. The first appointed Senate member must be the Senate chair and the first appointed House member must be the House chair. Legislative studies having 5 or fewer members must have a single legislative chair appointed by the presiding officer of the body of the originating study order or legislation. The chair of a legislative study having 5 or fewer members shall appoint a chair pro tem from among the appointed members to serve in the chair's absence.
- **5. Committee size.** Legislative study committees may consist of no fewer than 3 and no more than 13 members.
- **6. Staffing.** Unless the Legislative Council directs otherwise, Legislative Council staff will only be assigned to legislative studies that conform to this Joint Rule.
- **7. Reporting dates.** All reports of legislative study committees that are to be submitted to a first regular session must be completed and submitted not later than the first Wednesday in November preceding the convening of the first regular session of the next legislature. All reports of legislative study committees that are to be submitted to a second regular session must be completed and submitted not later than the first Wednesday in December preceding the convening of the second regular session. Upon request of the study committee, the Legislative Council may extend the reporting date, except that the extension may not go beyond December 15th in odd numbered years or beyond the first Wednesday of December in even numbered years.
- **8. Legislation may not be introduced by legislative studies or non-legislative study groups.** Legislative and non-legislative study committees or groups may

include proposed legislation in their reports to the Legislature, but are not authorized to introduce legislation. Upon receipt of a report submitted by a legislative or non-legislative study committee or group, the joint standing committee to which the report is submitted, or the appropriate joint standing committee of jurisdiction in the event that the report is submitted to the Legislature as a whole, may introduce a bill during the session to which the report is submitted to implement its recommendations on matters relating to the study.

- **9. Compensation.** Legislative members are entitled to receive the legislative per diem and reimbursement of necessary expenses for their attendance at authorized meetings of a study committee. Public members not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses and, upon demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of a study committee.
- **10. Study table.** All joint study orders or legislation proposing legislative studies must be placed on a special study table in the Senate or House. The Legislative Council shall review the proposed studies and authorize the allocation of budgetary and staffing resources for those studies.
- **11. Legislative Council study policies.** The Legislative Council shall adopt policies governing legislative studies at the beginning of each legislative biennium. Those policies may include conditions on the funding of legislative studies, exceptions to this Joint Rule, drafting standards or other provisions necessary to satisfy the requirements of this Joint Rule.

#### **Rule 354. Joint Select Committee on Joint Rules.**

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 Joint Select Committee on Joint Rules shall review and make recommendations concerning the Legislative Council. This review shall include, but not be limited to the structure and operations of the Legislative Council and possible creation of a Joint Committee on Legislative Management to replace the functions of the Legislative Council. This section of the Joint Rules may be approved by a majority vote following the report of the Joint Select Committee on Joint Rules. Any change to the title of the Legislative Council in the Joint Rules may also be changed by majority vote.

### **Subpart C**

## **Legislative Oversight of Government Agencies and Programs**

### **Rule 371. Government Oversight Committee.**

The Government Oversight Committee, referred to in this Rule as "the committee," is established. The committee consists of 6 members of the Senate and 6 members of the House of Representatives and must be evenly divided between the 2 largest political parties represented in each chamber. The President of the Senate shall appoint 6 Senators, 3 from the political party holding the majority of seats in the Senate and 3 from the political party holding the majority of the remainder of the seats in the Senate. The first-named Senator is the Senate chair. The Speaker shall appoint 6 members, 3 from the political party holding the majority of seats in the House and 3 from the political party holding the majority of the remainder of the seats in the House. The first-named member of the House is the House chair.

## Part 4

### Floor Action on Legislation

#### **Rule 401. Printing of Bills.**

Every bill or resolve submitted by a Legislator must be printed unless withdrawn by the sponsor before printing. After it is printed, a bill or resolve is considered to be in the possession of the Legislature and may not be withdrawn by the sponsor. Every bill presented for reference to committee or to be engrossed without reference to committee must be printed before appearing on the Advance Journal and Calendar of either chamber.

Every amendment must be printed and distributed before being taken up in either chamber. Every committee amendment must indicate the committee making the report.

The Secretary of the Senate and the Clerk of the House are responsible for the printing and initial distribution of legislative documents and amendments.

#### **Rule 402. Consideration of Bills.**

When a bill, resolve, order or memorial passes one chamber, if rejected in the other chamber, it must be returned by the Secretary or the Clerk, as the case may be, for further consideration.

#### **Rule 403. Amendment of Bills.**

A floor amendment is not in order on any bill or resolve until a favorable report of the committee to which the bill or resolve has been referred has been accepted and the bill or resolve is before the Senate in the 2nd reading or before the House in the 2nd reading.

#### **Rule 404. Rejection of Bills.**

A bill, resolve, constitutional resolution, resolution, memorial or order that is finally rejected may not be recalled from the legislative files except by joint order approved by a vote of 2/3 of both chambers.

#### **Rule 405. Enactment of Bills.**

Every bill that has passed both chambers to be enacted and all resolutions having the force of law that have finally passed both chambers must be presented by the Secretary of the Senate to the Governor for approval; and the Secretary of the Senate shall enter on the journal of the Senate the day on which those bills or resolutions are presented to the Governor.

**Rule 406. Responsibility for Legislative Papers.**

All endorsements on papers passing between the 2 chambers must be under the signature of the Secretary of the Senate or the Clerk of the House, respectively; but after the final passage of bills and resolves they must be signed by the presiding officer of each chamber.

When one chamber has passed upon a legislative paper and forwarded it to the other, the receiving chamber shall promptly, upon receipt, place that paper on its calendar.

**Rule 407. Joint Conventions.**

Business may be transacted in convention of the 2 chambers only by unanimous consent of the convention, except for such business as may be agreed upon by the 2 chambers before the convention is formed.

**Rule 408. Communications.**

Whenever a message is sent from the Senate to the House, the chair shall appoint a messenger who, after being recognized, shall announce the message respectfully to the chair.

In a like manner, messages from the House must be communicated to the presiding officer of the Senate.

## Part 5

### Legislative Confirmations

#### **Rule 501. Partisan Staff Assistants for Nominations.**

The members of the Legislative Council representing each party shall, within 7 legislative days after the convening of the first regular session, appoint a partisan staff assistant for nominations. Each of these assistants serves at the pleasure of the appointing authority during the biennium for which the assistant is chosen. A vacancy in either of these positions must be filled for the remainder of the biennium in the same manner as the original appointment. Partisan staff assistants for nominations shall provide all necessary assistance to each joint standing committee required by law to recommend action on a gubernatorial nominee.

#### **Rule 502. Notice of Gubernatorial Appointments.**

The procedures for legislative confirmation are established in the Maine Revised Statutes, Title 3, chapter 6. Upon receipt by the President of the Senate, the Speaker of the House and the Legislative Information Office of notification from the Governor of the name of a nominee and of the office to which that person is nominated, the Legislative Information Office shall, without delay, forward that notice and copies of accompanying materials to the chairs of the joint standing committee that is charged by law with reviewing nominations to that office and to the 2 partisan staff assistants for nominations. The Legislative Information Office shall establish an official file for each nominee.

#### **Rule 503. Committee Preconference Hearing.**

The joint standing committee must hold a prehearing conference within 21 days of the notification from the Governor unless the committee decides otherwise. The prehearing conference must be consistent with the Maine Revised Statutes, Title 3, section 156.

#### **Rule 504. Committee Public Hearing.**

The joint standing committee shall hold a public hearing on the nomination in Augusta at a time convenient to the public within 30 days, or 35 days for judicial officers, from the date of the Governor's notice of the nomination to the President of the Senate and the Speaker of the House. At least 7 days before the hearing, the Legislative Information Office shall publish in the state paper and in a newspaper of general circulation in the area where the nominee resides a notice of that hearing, which must contain the time and place of the hearing, the name of the nominee, the office to which that person has been nominated and a general description of the duties of that office. The notice must also contain a statement that written comments relevant to the qualifications of the nominee together with supporting materials may be filed with the Legislative Information Office

by 9 a.m. on the hearing date. At the hearing, the committee shall take written or oral testimony limited to relevant comments and questions regarding the qualifications of the nominee. Notwithstanding the Maine Revised Statutes, Title 3, section 157, for the purposes of reviewing nominations pursuant to this rule, the joint standing committee has the power to administer oaths and to take testimony under oath. All testimony taken at the hearing must be recorded and testimony and other materials received by the committee must be preserved according to the Maine Revised Statutes, Title 3, section 159. The 2 partisan assistants for nominations shall provide the committee with a written report of their investigations before the committee votes to recommend or deny confirmation.

#### **Rule 505. Committee Vote.**

Within 35 days, or 40 days for judicial officers, from the date of the Governor's notice of the nomination to the President of the Senate and the Speaker of the House, the committee shall recommend confirmation or denial by majority vote of the committee members present and voting. The vote of the committee may be taken only upon an affirmative motion to recommend confirmation of the nominee, and a tie vote of the committee is considered a recommendation of denial. A vote may not be taken sooner than 15 minutes after the close of the public hearing unless by agreement of all committee members present. The committee vote must be by the yeas and nays of those present and voting. The chairs of the committee shall send written notices of the committee's recommendation to the President of the Senate.

#### **Rule 506. Senate Vote.**

Within 45 days, or 50 days for judicial officers, from the date of the Governor's notification of the nomination to the President of the Senate and the Speaker of the House, the Senate shall review the recommendation of the committee on the nomination and, after review, shall vote by the yeas and nays on that recommendation.

After vote by the Senate, the committee's recommendation becomes final action of confirmation or denial unless the Senate by a vote of 2/3 of those members present and voting overrides the committee's recommendation. If the committee recommends to deny confirmation and the Senate votes by a vote of 2/3 or greater of those members present and voting to override the committee's recommendation, the nomination is considered confirmed. Following Senate confirmation or denial, notice of the action taken must be given to the Speaker of the House.

#### **Rule 507. Withdrawal of Nomination.**

If the Governor withdraws a nomination at any time prior to the Senate vote by sending a written notice of withdrawal to the President of the Senate, the Legislature may not take any further action on that nomination.

**Rule 508. Nomination Made Within 30 Days of Adjournment.**

If the Governor posts a nomination within 30 days preceding the statutory date of adjournment, a legislative committee to which a nominee is referred for confirmation review may by 2/3 vote request the President of the Senate and the Speaker of the House to delay this review in order to complete the committee's legislative work. If the President of the Senate and the Speaker of the House approve the request, the time periods for legislative action begin on the date the Legislature adjourns.