

# LEGISLATIVE STUDIES

## A Summary

Prepared by the Office of Policy and Legal Analysis, Maine State Legislature  
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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's 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 123<sup>rd</sup> 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 the Joint Rule.

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

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

- A majority of members must be legislators (it must include members of the 2 parties holding the largest number of seats in the Legislature);
- It must have no fewer than 3 and no more than 13 members;
- The chair(s) must be legislators (a single chair if 5 or fewer members; co-chairs if 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 (e.g., 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 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 is generally created by joint study order. Joint orders must be passed by both the House and the Senate, but 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 will be 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 it and authorize the allocation of budgetary and staffing resources. Unless the Legislative Council directs otherwise, Legislative Council staff are only assigned 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 two 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 can proceed 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 any proposal that would create a new board or commission or amend law governing an existing board or commission and that would result in the use of any legislative resources to 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 (they may suggest legislation). Upon receipt of a report submitted by a study, a joint standing committee may introduce a bill on matters relating to the study (e.g., the legislation suggested by the study).

### **Key Points to Remember**

1. Any 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. Any 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.