

LEGISLATIVE STUDIES

Occasionally the Legislature determines that a particular issue or policy matter merits closer scrutiny than a committee is able to provide during the legislative session. When additional time or information is needed to evaluate issues, the Legislature may establish a special committee or commission, or direct a joint standing committee to study the matter.

Form and Authority of Study Groups

Studies can take many forms and can be tailored to meet the needs of the Legislature. Studies generally are advisory only, and decisions of study committees are recommendations, not binding on the Legislature.

What is the Purpose of the Study?

The first step a committee should take in proposing a study is to determine the ultimate purpose of the study. Does the committee need to:

- Gather additional information and perform policy, legal or fiscal analysis?
- Educate members on a particular issue?
- Evaluate appropriate options?
- Provide a forum for public comment?
- Consider stakeholders' concerns and proposals?
- Recommend legislative or administrative action?

Who Should Conduct the Study?

The committee should then consider whether legislators should conduct the study, or whether others should be involved.

- *Department or staff study*

If the study is of a technical nature and does not require legislative guidance or decisions during the course of the study, a state department or agency may be able to carry out the study, or a legislative staff study may be appropriate.

- *Legislative study*

If the matter to be studied involves recommending state policy, suggesting legislation, or if the study needs direct guidance or decisions by legislators, legislators should constitute a significant part, if not all, of the membership of the study group.

What Type of Study Should be Created and What Legislative Vehicle is Used to Create It?

Study standards adopted by the Legislative Council describe the types of studies and set forth guidelines for creating the various types of studies.

- *Studies created by joint order.*

In the study standards, the Council strongly encourages the use of joint study orders for all legislative studies, except when: (1) the study group includes substantial membership by non-legislators; or (2) the study extends beyond the current legislative biennium.

Joint orders to create a study group 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.

Studies created by joint study order consist entirely or almost entirely of legislators. Members, including chairs, are appointed by the Presiding Officers. The joint order may provide that the study committee has the authority to submit legislation to the Legislature, although that power cannot be extended into the next legislative biennium.

Because a joint order applies to only the Legislature, this is an appropriate structure for a study that does not require voting members representing the Executive Branch (although members from outside the Legislature may be invited to participate). Nonpartisan staff typically provide staffing assistance.

- *Study commissions created by law or resolve.*
Studies can also be established by legislation enacted as Public Laws, Private and Special Laws or Resolves. A long-term study commission, such as an advisory commission with continuing oversight duties, should be created by Public Law and allocated to a particular title of the Maine Revised Statutes. Shorter term study committees may be enacted as unallocated language in a Public Law when related to statutory language in a bill, although a more appropriate method for creating a temporary commission is through a resolve.

A study commission created by any of these methods may include members appointed by the President of the Senate and the Speaker of the House, as well by other authorities, including the Governor. This form of study may best be reserved for unique situations that require special emphasis and public recognition, such as a “Blue Ribbon Commission,” or studies that require a term longer than the legislative biennium. Legislators may make up all, part or none of the membership. Nonpartisan staff usually provide staffing assistance when the study commission is chaired by legislators or a majority of the members are legislators.

Unless passed as an emergency measure, a law or resolve does not take effect until 90 days after adjournment.

- *Staff studies.*
If the committee simply needs more information about a particular subject matter, and some research and analysis with a written report would meet that need, a staff study may be appropriate. 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, but may involve periodic consultation with committee chairs. The studies may be authorized by the Legislative Council or the staff office directors.

- *Council-approved studies.*
If a committee not only needs more information, but obtaining and reviewing that information requires the direct involvement by legislators, the Legislative Council may approve a study by a small group of legislators -- usually a subcommittee of an existing joint standing committee.

Committee chairs request authorization for the study by letter, outlining the scope of the study. The report of the subcommittee to the requesting committee usually is in the form of a written report. Nonpartisan staff provide staffing assistance. This type of study is often useful to delve deeper into a particular aspect of an issue relating specifically to a matter within jurisdiction of a particular committee, or to gather public comment on a relevant issue or a proposal.

- *Special committees established by the presiding officer(s).*
This vehicle is reserved for use by 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 presiding officer orders.

Key Provisions of the Legislative Study Guidelines

1. Joint orders (study orders), resolves or law may be used to establish legislative studies. It is the Legislative Council's policy that study orders be the legislative instrument for all legislative studies except when studies will: (a) be conducted by a blue ribbon commission or other group created by the Legislature that needs to include substantial membership by non-legislators; or (b) extend beyond the current legislative biennium.
2. Proposed study orders will be referred to joint standing committees for consideration and reported out in the same manner as legislation. Committees also may initiate and report out study orders on their own initiative consistent with Joint Rule 353, section 1.
3. The presiding officers appoint the members of a study committee, including its chair or co-chairs. In most cases, chairs should be legislators. Also, in most cases, the presiding officers are not directed to make their appointments jointly.
4. The size of a study committee is between 3 and 15 members and should consist entirely or mostly of legislators.
5. Legislative members who are not otherwise compensated for their time serving on the study committee are entitled to receive a per diem and reimbursement of necessary expenses, as authorized by their respective presiding officers. Non-legislative members are entitled to receive compensation for expenses if they are not otherwise compensated.
6. Study committees are required to complete their work before the start of a legislative session or to curtail their work during the session if it spans two or more sessions.
7. The Legislative Council may grant limited extensions to the report date for a study committee.

8. All study orders or legislation proposing legislative studies must be placed on a special study table in the Senate or in the House and reviewed by the Legislative Council for coordination with legislative priorities and allocation of staffing and budgetary resources to support the study request.
9. Studies will ordinarily be funded from a study line in the legislative budget.
10. Provisions must be made in the study instrument for staff support. Non-partisan staff of the Legislature provide staffing services for legislative studies. Staff and other professional services to the committee or commission are under the direction of the director of the office that provides the primary staffing. Ordinarily, non-partisan staff are not assigned to non-legislative studies or on-going boards and commissions.

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