

# MAINE STATE LEGISLATURE

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LAWS  
OF THE  
STATE OF MAINE  
AS PASSED BY THE  
One Hundred and Sixth Legislature  
1ST SPECIAL SESSION  
JANUARY 2, 1974 TO MARCH 29, 1974  
AND BY THE  
One Hundred and Seventh Legislature  
REGULAR SESSION  
JANUARY 1, 1975 TO JULY 2, 1975

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN  
ACCORDANCE WITH THE REVISED STATUTES OF 1964, TITLE 3,  
SECTION 164, SUBSECTION 6.

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THE KNOWLTON AND MCLEARY COMPANY  
FARMINGTON, MAINE  
1975

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PUBLIC LAWS  
OF THE  
STATE OF MAINE

AS PASSED BY THE  
One Hundred and Seventh Legislature

1975

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sons employed in the Governor's Office, who receives or solicits funds to be used to influence the outcome of an election within this State from a person, association, firm, group or corporation which such officer or employee deals with or regulates in fulfilling the duties of his or her job. Nothing in this subsection shall be construed to prohibit any employee of this State, whether or not in the classified service, from donating his or her own funds, or time, or services to a political cause provided such donation of time or services is not made during such employee's state working hours or upon the property or premises of the State or by using the facilities or services of the State.

Effective October 1, 1975

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## CHAPTER 593

### AN ACT to Establish Rules for Legislative Investigating Committees.

*Be it enacted by the People of the State of Maine, as follows:*

Sec. 1. 3 MRSA § 165, sub-§ 7, first sentence, as enacted by PL 1973, c. 590, § 8, is amended to read:

When the duties assigned to a committee so require, the Legislature may grant to it the power to administer oaths, issue subpoenas, **compel the attendance of witnesses and the production of any** books, accounts, documents and testimony, and to cause the deposition of witnesses, whether residing within or without the State to be taken in the manner prescribed by law for taking depositions in civil actions in the Superior Court.

Sec. 2. 3 MRSA § 165, sub-§ 7, as enacted by PL 1973, c. 590, § 8, is amended by adding a new sentence to follow the first sentence, to read:

When the Legislature grants this power to a joint standing committee on joint select committee, such committee shall function as an investigating committee and shall be subject to the provisions of chapter 21.

Sec. 3. 3 MRSA c. 21 is enacted to read:

## CHAPTER 21

### LEGISLATIVE INVESTIGATING COMMITTEES

#### SUBCHAPTER I

#### GENERAL PROVISIONS

§ 401. Short title

This Act may be called "Rules for Legislative Investigations."

§ 402. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Chairman. The "chairman" is the presiding officer of the investigating committee. He may be the permanent chairman or another member designated as temporary chairman in the absence of the chairman.

2. Executive session. An "executive session" is a session at which only members of the investigating committee, staff of the committee, counsel to the committee, the witness and his counsel shall be present.

3. Interested party. An "interested party" is any person who learns that he has been specifically identified in testimony taken before an investigating committee and who reasonably believes that he has been adversely affected by such testimony.

4. Investigating committee. An "investigating committee" is any committee of the Legislature which has been granted by the Legislature the power to administer oaths, issue subpoenas and take depositions, as authorized by section 165, subsection 7. "Investigating committee" shall include the Legislative Council when it exercises the authority granted under section 162, subsection 4, but shall not include the Committee on Legislative Ethics when it exercises the authority granted under section 381-A, subsection 2, paragraph D.

5. Investigating committee action. An "investigating committee action" is any decision arrived at formally by an investigating committee.

6. Members. The "members" of an investigating committee are the legislators appointed by the Legislature to serve on the committee.

7. Quorum. A "quorum" is a majority of the members of a legislative investigating committee.

8. Testimony. "Testimony" is any form of evidence received by an investigating committee.

9. Witness. A "witness" is any person who testifies before an investigating committee or who gives a deposition. "Witness" shall include an interested party who requests permission to testify.

## SUBCHAPTER II

### LEGISLATIVE INVESTIGATING COMMITTEES

#### § 411. Creation

Whenever the Legislature delegates to a committee the power to administer oaths, issue subpoenas and take depositions in connection with any study or investigation, such committee shall automatically become an investigating committee for the purpose of such study or investigation and shall be subject to the provisions of this chapter, whether or not such power is utilized by the committee in the course of such study or investigation.

#### § 412. Scope of study or investigation

The authorization creating an investigating committee shall clearly state, and thereby limit, the subject matter and scope of the study or investigation.

No investigating committee shall exceed the limits set forth in such authorization.

§ 413. Number of members

No investigating committee shall consist of fewer than 3 members.

SUBCHAPTER III

RULES OF PROCEDURE FOR LEGISLATIVE INVESTIGATING  
COMMITTEES

§ 421. Investigating committee action

Any investigating committee action shall require the affirmative votes of a majority of the committee members.

§ 422. Order of procedure

The decision as to the order of procedure in making a study or an investigation shall be an investigating committee action.

§ 423. Issuance of a subpoena

The decision to issue a subpoena shall be an investigating committee action.

§ 424. Notice to witnesses

A reasonable time before they are to testify, all prospective witnesses shall be notified of the subject matter of the investigation and shall be provided with a copy of this chapter. When a subpoena is served, the information required by this section shall be presented at the time of service.

§ 425. Notice to members

Notice of the date and time of any meeting of the committee and of any hearing to be held by the committee shall be given to all members of the investigating committee at least 3 days in advance.

§ 426. Oaths

All testimony of subpoenaed witnesses shall be under oath. A voluntary witness may be required to testify under oath by legislative committee action. Oaths shall be administered by the chairman.

§ 427. Testimony

Taking of testimony shall be by the investigating committee's counsel, or other staff personnel or the members of the committee. A quorum shall be present. Unless otherwise decided by investigating committee action, all testimony shall be taken in open session. However, if any witness so requests, his testimony shall be taken in executive session, unless otherwise decided by investigating committee action.

## § 428. Records

A complete record shall be kept of all investigating committee action, including a transcript of all testimony taken.

## § 429. Release of testimony

1. Release. The decision to release testimony and the decision as to the form and manner in which testimony shall be released shall be investigating committee action. However, no testimony shall be released without first affording the witness who gave such testimony, or his counsel, an opportunity to object to the proposed release.

A. The witness or his counsel may, by such objection, require that testimony given in open session, if it is released at all, be released in the form of a full, consecutive transcript.

B. The witness or his counsel may, by such objection, require that testimony given in executive session not be released in any form or manner whatsoever.

2. Transcript. The witness or his counsel, upon payment of the cost of preparation, shall be given a transcript of any testimony taken. However, the witness or his counsel shall not be entitled to obtain a transcript of the executive session testimony of other witnesses. The release of a transcript under this subsection is not the release of testimony within the meaning of subsection 1.

## § 430. Request for court to compel obedience

The decision to apply to the Superior Court to compel obedience to a subpoena issued by the committee shall be by investigating committee action.

#### SUBCHAPTER IV

#### RULES GOVERNING WITNESSES

## § 451. Counsel

The witness may have counsel present to advise him at all times. The witness or his counsel may, during the time the witness is giving testimony, object to any investigating committee action detrimental to the witness' interests and is entitled to have a ruling by the chairman on any such objection.

## § 452. Questioning of adverse witnesses

The witness or his counsel may question adverse witnesses whose testimony is being taken in open session. However, the chairman of the investigating committee may reasonably limit the right to so question. The chairman's ruling is final, unless otherwise decided by investigating committee action.

## § 453. Pertinency of requested testimony

The witness or his counsel may challenge any request for his testimony as not pertinent to the subject matter and scope of the investigation, in which

case the relation believed to exist between the request and the subject matter and scope of the investigation shall be explained.

§ 454. Who can compel testimony

The committee chairman may direct compliance with any request for testimony to which objection has been made. However, the chairman's direction may be overruled by investigating committee action.

§ 455. Television, films, radio

Any decision to televise, film or broadcast testimony shall be investigating committee action. If the witness or his counsel objects to a decision to televise, film or broadcast his testimony, his testimony shall not be televised, filmed or broadcast.

§ 456. Statements and form of answers

The witness or his counsel may insert in the record sworn, written statements of reasonable length relevant to the subject matter and scope of the investigation. In giving testimony, the witness may explain his answers briefly.

§ 457. Privileges

The witness shall be given the benefit of any privilege which he could have claimed in court as a party to a civil action, provided that the committee chairman may direct compliance with any request for testimony to which claim of privilege has been made. However, the chairman's direction may be overruled by investigating committee action.

§ 458. Rights of interested parties

Any interested party may request an opportunity to appear before the investigating committee. The decision on this request shall be investigating committee action. If such request is granted, the interested party shall appear before the committee as a witness.

## SUBCHAPTER V

### SANCTIONS FOR ENFORCEMENT OF RULES

§ 471. Legislative responsibility

The Legislature has primary responsibility for insuring adherence to these rules.

§ 472. Erroneously compelled testimony

Testimony compelled to be given over a proper claim of privilege, or testimony released in violation of section 429, or any evidence obtained as a result of such improper procedure is not admissible in any subsequent criminal proceeding.

§ 473. Contempt

No witness shall be punished for contempt of an investigating committee unless the court finds:



1. Conduct. That the conduct of the witness amounted to contempt;
2. Certain requirements. That the requirements of sections 424, 430, 453 and 454 have been complied with; and
3. That in the case of:
  - A. A citation for failure to comply with a subpoena, the requirements of section 423 have been complied with;
  - B. A citation for failure to testify in response to a request for his testimony challenged as not pertinent to the subject matter and scope of the investigation, the requirements of sections 412 and 453 have been complied with and the request was pertinent as explained;
  - C. A citation for failure to testify in response to a request for his testimony on grounds of privilege, the requirements of section 457 have been complied with.

§ 474. Saving clause

A decision by a witness to avail himself of any protection or remedy afforded by any provision of these rules shall not constitute a waiver by him of the right to avail himself of any other protection or remedy.

Effective October 1, 1975

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## CHAPTER 594

### AN ACT Relating to Compensation and Benefits under the State Classified Service.

*Be it enacted by the People of the State of Maine, as follows:*

Sec. 1. 5 MRSA § 634, 2nd ¶, 2nd sentence, as last amended by PL 1965, c. 382, is further amended to read:

No position shall be assigned a salary greater than the maximum or less than the minimum rates fixed in the compensation plan ~~except that the Personnel Board may authorize rates above the established maximum compensation in specific advanced technical and professional classifications for employees whose technical or professional education, training or credentials exceed the established qualification requirements for those classifications.~~

Sec. 2. 5 MRSA § 634, 3rd, 4th, 5th and 6th sentences of 2nd ¶, as enacted by PL 1969, c. 549, are repealed.

Sec. 3. 5 MRSA § 634, 3rd ¶, 4th, 5th and 6th sentences, as enacted by PL 1971, c. 331, are repealed.

Sec. 4. 5 MRSA § 680, as last amended by PL 1973, c. 788, § 16, is repealed.

Sec. 5. 12 MRSA § 2001, 1st ¶, 2nd sentence, as last amended by PL 1965, c. 448, § 1-D, is amended to read: