

MAINE STATE LEGISLATURE

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**LEGISLATIVE COUNCIL
Thursday, March 7
REVISED AGENDA**

CALL TO ORDER

ROLL CALL

SUMMARY OF FEBRUARY 6 COUNCIL MEETING

EXECUTIVE DIRECTOR'S REPORT

- Item #1: Study to Increase Access to the Legislature and Government Services for Persons Who are Deaf or Hard-of-Hearing and to Make Progress Towards Compliance with the Americans with Disabilities Act: Report submitted pursuant to P.L. 1995, Chapter 426.
- Item #2: Productivity Bill: Analysis of Proposed Deappropriation from Legislative Accounts

REPORTS FROM COUNCIL COMMITTEES

OLD BUSINESS

NEW BUSINESS

- Item #1: After Deadline Requests
- Item #2: Submission of Study Reports:
- Enabling Legislation to Establish Water District Charter
(Staff Study authorized by the Legislative Council on the recommendation of the Joint Standing Committee on Utilities & Energy).
 - Commission on Higher Education Governance: Interim Report
 - Assisted Living Task Force (pursuant to P.L. 1995, Ch. 362)

Item #3: Legislative Review of Agency Rules: Implementation of New Statutory Requirements Pursuant to Chapter 463, P.L. 1995. (Memo from David Boulter and Report)

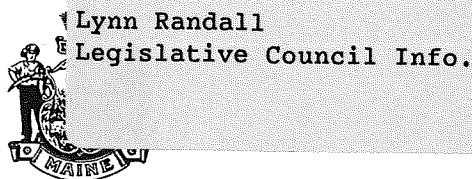
Item #4: Request for Authorization for a Subcommittee to meet during the Interim to Review the Budget for the Bureau of Motor Vehicles. (Memo from Sen. Stevens and Rep. Strout, Chairs, Joint Standing Committee on Transportation).

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

SEN. JANE A. AMERO
CHAIR

REP. ELIZABETH H. MITCHELL
VICE-CHAIR



JEFFREY H. BUTLAND
LEO KIEFFER
MARK W. LAWRENCE
SEN. BEVERLY MINER BUSTIN
REP. DAN A. GWADOSKY
REP. PAUL F. JACQUES
REP. WALTER E. WHITCOMB
REP. JOSEPH G. CARLETON, JR.

SARAH C. TUBBESING
EXECUTIVE DIRECTOR

117th MAINE STATE LEGISLATURE

LEGISLATIVE COUNCIL

MEETING SUMMARY

February 6, 1996

Approve March 7, 1996

CALL TO ORDER

The Chair, Senator Amero, called the Council to order at 4:18 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	President Butland, Sen. Lawrence, Sen. Kieffer, Sen. Bustin, Sen. Amero
Representatives:	Speaker Gwadosky, Rep. Jacques, Rep. Whitcomb, Rep. Mitchell, Absent: Rep. Carleton
Legislative Officers:	Sally Tubbesing, Executive Director, Legislative Council Lynn Randall, State Law Librarian John Wakefield, Director, Office of Fiscal and Program Review David Boulter, Director, Office of Policy and Legal Analysis Margaret Matheson, Revisor of Statutes May Ross, Secretary of the Senate Joseph Mayo, Clerk of the House

SUMMARIES OF JANUARY 17 COUNCIL MEETING AND JANUARY 24 WORK SESSION

Motion: That the Summaries be accepted and placed on file.
(Motion by Rep. Whitcomb; second by Rep. Jacques, unanimous).

EXECUTIVE DIRECTOR'S REPORT

Item #1: Retirement of Theresa Coughlin, Senior Secretary, Office of Fiscal and Program Review

Sally Tubbesing reported that Theresa Coughlin had submitted formal notification of her intention to retire effective March 31. Ms. Tubbesing further noted that Ms. Coughlin, who had served the Legislature well for more than 10 years, had fixed her retirement date in order to take advantage of a special Retirement Incentive Program that the Legislature had enacted during the Special Session last November.

No Council action was required on this item.

REPORTS FROM COUNCIL COMMITTEES

Committee on Total Quality Management in the Legislature and Subcommittee on Rules

• Proposed Recodification of Joint Rules: Review of Revised Language

The Chair, Senator Amero, noted that the primary focus of the Council meeting was to review proposed changes in the draft originally presented to the Council at its previous meeting. She recognized the Chairs of both the TQM Committee -- Sen. Harriman and Rep. Kontos -- and the TQM Subcommittee on Rules -- Sen. Carey and Rep. Reed. Rep. Reed then asked David Elliott, Principal Analyst in OPLA and a member of the Subcommittee, to walk Council members through the changes.

Mr. Elliott reported that the Subcommittee had met to review language in three of the proposed rules as the Council had requested. These included Rule 209 (Revisor's role in assigning bill titles); Rule 304 (Procedures for committee members to testify before their own committee); and Rule 310 (Unanimous Ought Not to Pass report and 48 Hour rule). He then went over each of the changes in detail and concluded his presentation by pointing out that, in addition to making the specific changes, the Subcommittee had decided to expand the list of substantive changes that appears in the introduction to the proposed recodification.

Senator Amero thanked Mr. Elliott and the four Chairs and opened the floor for discussion. Speaker Gwadosky stated that the revisions appeared to address the concerns the Council had raised previously, and he applauded the two committees for the outstanding job they had done. Senator Amero added her thanks for the excellent work and noted that the "real work" now begins.

Motion: That the Council adopt the proposed Recodification of the Joint Rules. (Motion by Speaker Gwadosky; second by Rep. Whitcomb; unanimous).

- **Letter from Senator Harriman and Representative Kontos, Chairs, Committee on Total Quality Management in the Legislature**

Senator Amero again recognized Senator Harriman and Representative Kontos, who drew Council members' attention to a letter that presented two recommendations regarding changes in current procedures related to fiscal notes. Sen. Harriman reported that the TQM Committee had ranked Fiscal Notes a high priority, and that a presentation by John Wakefield and Grant Pennoyer, Offices of Fiscal and Program Review, had been very useful in providing committee members with a better understanding of the process. Members of the Subcommittee on Rules also participated in this presentation. Sen. Harriman noted that the two recommendations had emerged from the Committee's discussion following the presentation and that the Committee had decided to bring them to the Council at this time because both promised to speed the process and achieve cost savings for the balance of the Second Regular Session. The two recommendations are:

1. **Make the statutory requirements for Correctional Impact Statements consistent with the current requirements for Judicial Impact Statements.**

Currently, Judicial Impact Statements are prepared by the Judicial Department for the Office of Fiscal and Program Review's consideration for inclusion in the fiscal note. This avoids both confusion and duplication in the information provided on the bill. The Correctional Impact Statement, in contrast, is currently written by the Department of Corrections, submitted directly to the Committee, and must be included in the Committee's report. The fiscal note is entirely separate; it may duplicate information that appears in the Correctional Impact Statement; and it may, in fact, conflict with that statement.

Sen. Harriman reported that members of the TQM Committee are confident that implementing the recommended change will eliminate some duplicative information, without diminishing the quality of information available to legislators, and result in reduction in printing costs for some amendments.

2. **Eliminate the practice of printing fiscal notes as separate amendments for bills reported out by committee with no other amendments, provided that there is only a minor cost or savings. This would include fiscal notes that indicate "costs absorbed".**

Currently, every bill reported favorably out of Committee contains a fiscal note, which is printed as an amendment even if there are no other amendments. This not only represents a cost, but it slows the movement of these bills from committee to the floor.

Sen. Harriman noted that the TQM Committee had endeavored to balance issues related to the quality of information available with issues of cost and timeliness. He assured Council members that the Statement of Fiscal Impact would still be distributed to all members of the Committee of jurisdiction, the bill sponsor, and the presiding officers, as is current practice, to assure the availability of information both at the committee level and on the floor of the two legislative chambers.

Motion: That both recommendations be approved. (Motion by Rep. Whitcomb; second by Rep. Mitchell; unanimous).

OLD BUSINESS

Item #1: Commission on Higher Education Governance: Progress Report

Ms. Tubbesing reported that the Council had unanimously approved an extension in the Commission's reporting deadline by ballot as follows: the final reporting deadline is June 30, 1996, provided that the Commission submits an Interim Report to the Council and the Joint Standing Committee on Education and Cultural Affairs no later than March 1, 1996. That report must present the Commission's findings and conclusions on the three issues outlined by the Commission in its January 23 letter. Finally, the Commission is to present a work plan and budget to cover the remainder of its work to the Council at its February meeting.

No further Council action was required on this item.

NEW BUSINESS

Item #1: After Deadline Requests

The Council considered after deadline requests. A summary of the Council's action on these requests is attached to this meeting summary.

Item #2: Northern New England Passenger Rail Authority: Submission of First Annual Report

Motion: That the Report be accepted and placed on file. (Motion by Rep. Jacques; second by Sen. Kieffer; unanimous).

Item #3: A Review of State Dam Abandonment and Registration Laws and Federal Dam Licensing Laws: Final Report. Staff Study Conducted for the Natural Resources Committee under the auspices of the Legislative Council.

Motion: That the Report be accepted and placed on file. (Motion by Rep. Jacques; second by Sen. Kieffer; unanimous).

Item #4: Final Report from Study Committee on Commercial Driver Training (pursuant to P.L. 1995, Chapter 376)

Motion: That the Report be accepted and placed on file.
(Motion by Rep. Jacques; second by Sen. Kieffer; unanimous).

Item #5: Requests for Extension of Reporting Deadlines

- **Judicial Compensation Commission**

The Commission, which had its first meeting on February 5, has requested that the statutory reporting date be changed from December 1 of each odd-numbered year to December 1 of each even-numbered year.

- **Home School Study Committee**

The Chair, Senator Amero, reported that she had just received a letter requesting an extension from December 1, 1995 to February 23, 1996.

- **State Planning Office Report of Identify Statutory References to Maine Waste Management Agency**

Requested extension from December 1, 1995, to March 1, 1996 to submit legislation.

Motion: That the requests be approved. (Motion by Rep. Jacques; second by Sen. Kieffer; unanimous).

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

The Council meeting was adjourned at 5:30 p.m. (Motion by Rep. Jacques; second by Sen. Kieffer).

**LEGISLATIVE COUNCIL
ACTION ON REQUESTS TO INTRODUCE LEGISLATION
SECOND REGULAR SESSION
February 6, 1996**

	Action
SPONSOR: Rep. Bisulca, Paul J.	ACCEPTED
LR 3039 An Act to Place Penobscot Land in Trust	
SPONSOR: Rep. Carr, Ralph T.	ACCEPTED
LR 3070 An Act to Increase the Reimbursement Levels for Forest Fire Suppression Costs	
SPONSOR: Sen. Cassidy, Vinton E.	ACCEPTED
LR 3058 An Act Concerning the Number of Washington County Commissioners	
SPONSOR: Sen. Hanley, Dana C.	ACCEPTED
LR 2987 An Act to Clarify the Definition of Commercial Whitewater Outfitter	
SPONSOR: Rep. Hatch, Pamela H.	FAILED
LR 3051 An Act to Authorize Actions under the Unfair Trade Practices Act Regarding Habitability of Dwelling Units	
SPONSOR: Rep. Labrecque, Janice E.	FAILED
LR 3087 An Act Concerning the Degree Granting Authority of Casco Bay College	
SPONSOR: Rep. Lemke, William	ACCEPTED
LR 3050 An Act Requiring Qualified Investigation of all Truck and Bus-related Fatalities	
SPONSOR: Rep. Lemke, William	ACCEPTED
LR 3078 An Act to Prevent the State from Discharging People from State Institutions without Adequate Provision for Alternate Services	

SPONSOR: Rep. Mitchell, Elizabeth **WITHDRAWN**

LR 2993 An Act to Create the Viatical Settlement Act

SPONSOR: Sen. O'Dea, John J. **ACCEPTED**

LR 2964 An Act to Allow a Change in the Speed Limit on Certain
Highways

SPONSOR: Sen. Ruhlin, Richard P. **WITHDRAWN**

LR 2916 An Act to Amend Certain Provisions of the Act Creating
the Atlantic Salmon Authority

SPONSOR: Sen. Small, Mary E. **ACCEPTED**

LR 3084 An Act Regarding Survivor Benefits in the Event of
Divorce and Remarriage

SPONSOR: Rep. Tuttle, John **ACCEPTED**

LR 3064 An Act Concerning Notice in Foreclosure Proceedings

JOINT RESOLUTION

SPONSOR: Rep. Kilkelly, Marjorie L. **FAILED**

LR 3090 JOINT RESOLUTION MEMORIALIZING THE CONGRESS AND THE
DEPARTMENT OF ENERGY TO COMPLETE PLANS TO STORE AND
MONITOR HIGH LEVEL NUCLEAR WASTE

TABLED BY THE LEGISLATIVE COUNCIL

SPONSOR:

TABLED
02/06/96

LR 3069 An Act to Amend the Authority's Budget for Calendar
Year 1996
(Department Bill from the Maine Turnpike Authority)

SPONSOR: Rep. Fitzpatrick, Michael J.

TABLED
10/22/95

LR 2917 An Act to Promote Hunting in the State by Persons With
Mobility Impairment or Dexterity Impairment
(Similar to LR 2786 - Sp. Ault/rejected)

SPONSOR: Rep. Gates, Gordon P.

TABLED
11/09/95

LR 2929 An Act to Remove Megunticook Lake as a Source of Water
Supply

SPONSOR: Rep. Gerry, Belinda A.

TABLED
12/05/95

LR 2963 An Act Regarding Low-Income Home Energy Assistance and
Food Stamps

SPONSOR: Rep. Townsend, Elizabeth

TABLED
10/22/95

LR 2926 An Act to Protect the Well Being of Maine's Elderly

SPONSOR: Rep. Wheeler, Edgar M.

TABLED
01/17/96

LR 3023 An Act to Repeal the 24-Hour Limit on Holding Juveniles
(Similar to LR 3017-Governor's)

JOINT RESOLUTION

SPONSOR: Rep. Fitzpatrick, Michael J.

TABLED
02/06/96

LR 3062 JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE
UNITED STATES TO AMEND THE FEDERAL FOOD, DRUG AND
COSMETIC ACT AND THE FEDERAL PUBLIC HEALTH SERVICE
ACT TO FACILITATE THE DEVELOPMENT AND APPROVAL OF NEW
DRUGS AND BIOLOGICAL PRODUCTS

SARAH C. TUBBESING
EXECUTIVE DIRECTOR
OF THE LEGISLATIVE COUNCIL



GERALD THIBAUT
INFORMATION SYSTEMS
MANAGER

TEEN ELLEN GRIFFIN
LEGISLATIVE INFORMATION OFFICE
MANAGER

MAINE STATE LEGISLATURE
OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

March 1, 1996

Honorable S. Peter Mills, Senate Chair
Honorable Sharon Treat, House Chair
Joint Standing Committee on Judiciary

Honorable Jane A. Amero, Senate Chair
Honorable Beverly C. Daggett, House Chair
Joint Standing Committee on State and Local Government
117th Maine Legislature
Augusta, Maine 04333

Dear Chairs:

I am pleased to submit the enclosed Report of a Study to Increase Access to the Legislature for Persons who are Deaf or Hard-of-Hearing pursuant to P.L. 1995, Chapter 426. This study included an evaluation of the current accessibility of the physical facilities used by the Legislature and of its programs and services, as well as an analysis of various auxiliary aids and services which are designed to improve access to persons with disabilities. While the law specifically directed a study of accessibility related to the deaf and hard-of-hearing, we have used it as an opportunity to evaluate access of the Legislature's facilities, programs and services to persons with other disabilities as well.

The study documents that the Legislature is in substantial compliance with the requirements of both the Americans with Disabilities Act and the Maine Human Rights Act. This reflects a number of steps that have been taken under the auspices of the Legislative Council in recent years. It also documents areas where measures can be taken to improve access, and these have been formulated as recommendations which will be formally presented to the Legislative Council.

Honorable S. Peter Mils, Senate Chair
Honorable Sharon Treat, House Chair
Joint Standing Committee on Judiciary

Honorable Jane A. Amero, Senate Chair
Honorable Beverly C. Daggett, House Chair
Joint Standing Committee on State and Local Government
March 1, 1996
Page Two

In the course of this study, we worked with representatives from the Division of Deafness, the State Accessibility Office, the deaf and hard-of-hearing community, and their advocates. Their experiences, their insights and their suggestions are reflected in this report and have contributed to our overall understanding of the issues and opportunities related to accessibility.

Sincerely,



Sally Tubbesing
Executive Director

Enclosure

cc: Honorable Jane A. Amero, Chair
Honorable Elizabeth H. Mitchell, Vice-Chair
and Members of the Legislative Council

SARAH C. TUBBESING
EXECUTIVE DIRECTOR
OF THE LEGISLATIVE COUNCIL

GERALD THIBAUT
INFORMATION SYSTEMS
MANAGER

TEEN ELLEN GRIFFIN
LEGISLATIVE INFORMATION OFFICE
MANAGER



MAINE STATE LEGISLATURE
OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

March 5, 1996

Honorable Jane A. Amero, Chair
Honorable Elizabeth H. Mitchell, Vice-Chair
and Members of the Legislative Council
117 Maine Legislature
Augusta, Maine 04333

Dear Senator Amero, Representative Mitchell and Members
of the Legislative Council:

The enclosed Report of a Study to Increase Access to the
Legislature for Persons who are Deaf or Hard-of-Hearing was prepared
in accordance with the requirements of P.L. 1995, Chapter 426.
Copies of the Report have been delivered to the members of both the
Judiciary and State & Local Government Committees as directed by the
law.

This study included an evaluation of the current accessibility
of the physical facilities used by the Legislature and of its
programs and services, as well as an analysis of various auxiliary
aids and services which are designed to improve access to persons
with disabilities. While the law specifically directed a study of
accessibility related to the deaf and hard-of-hearing, we have used
it as an opportunity to evaluate access of the Legislature's
facilities, programs and services to persons with other disabilities
as well.

The report documents that the Legislature is in substantial
compliance with the requirements of both the Americans with
Disabilities Act and the Maine Human Rights Act, a finding that
reflects the steps that have been taken under the auspices of the
Legislative Council in recent years. It also documents areas where
measures can be taken to improve access. These have been formulated
as recommendations in the report and are listed in the Executive
Summary.

Honorable Jane A. Amero, Chair
Honorable Elizabeth H. Mitchell, Vice-Chair
and Members of the Legislative Council
March 5, 1996
Page Two

In the course of this study, we worked with representatives from the Division of Deafness, the State Accessibility Office, the deaf and hard-of-hearing community, and their advocates. Their experiences, their insights and their suggestions are reflected in this report and have contributed to our overall understanding of the issues and opportunities related to accessibility.

Finally, I would like to acknowledge both Dave Boulter's suggestion that this study be assigned staff just as all the other interim studies were at the end of the First Regular Session and his assignment of Colleen McCarthy and Carrie McFadden for this project. The report reflects their high level of professionalism, their genuine interest in the topic, and their thoroughness. They were instrumental in initiating and fostering good working relationships with representatives from the Division of Deafness, the State Accessibility Office, the deaf and hard-of-hearing community and their advocates -- relationships which contributed significantly to our overall understanding of the issues and opportunities related to accessibility of the facilities that the Legislature uses and its programs and services. I would be happy to answer any questions you may have about the Report.

Sincerely,



Sally Tubbesing
Executive Director

Enclosure

cc: David Boulter, Director
Colleen McCarthy, Analyst
Carrie McFadden, Researcher
Office of Policy and Legal Analysis



MAINE STATE LEGISLATURE
Augusta, Maine 04333

March 5, 1996

The Honorable Jeffrey H. Butland
President, Maine Senate

The Honorable Dan A. Gwadosky
Speaker of the House

Dear President Butland and Speaker Gwadosky:

Pursuant to Public Law 1995, chapter 395, as amended by Public Law 1996, chapter 509, I am pleased to submit the interim report and legislation proposed by the Commission on Higher Education Governance. The Commission work plan and budget for the period beginning in January 1996 and ending in June 1996 were earlier submitted to the Legislative Council as required by chapter 509. A final report and any additional legislation will be submitted on June 30, 1996.

Sincerely,

A handwritten signature in cursive script that reads "Meg Weston".

Meg Weston, Chair
Commission on Higher Education Governance

cc: Senator May Small, Chair, Education and Cultural Affairs
Representative Wendy Ault, Chair, Education and Cultural Affairs
Members of Commission on Higher Education Governance
Members, Legislative Council



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LADD G. ALCOTT
FIRE MARSHAL(ACTING)

March 1, 1996

The Honorable Jeffrey H. Butland
President, Maine Senate

The Honorable Dan A. Gwadosky
Speaker of the House

Dear President Butland and Speaker Gwadosky:

Pursuant to Public Law 1995, chapter 362, I am pleased to submit the report of the Assisted Living Task Force which relates to legislation which I forwarded to you under cover of my letter of February 13, 1996.

Sincerely,

Stephen B. Dodge, Chair
Assisted Living Task Force

cc: Senator Joan M. Pendexter, Chair, Human Resources Committee
Representative Michael J. Fitzpatrick, Chair, Human Resources Committee
Members of the Human Resources Committee



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Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS

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MEMORANDUM

To: Legislative Council Members
From: *David E. Boulter*
David E. Boulter, Director
Date: February 27, 1996
Subject: Legislative Review of Agency Rules

Last session the Legislature enacted changes to the Administrative Procedure Act that provide for significantly greater legislative oversight of agency rule-making (P.L. 1995, c. 463). Major provisions of the law include:

- legislative determination of all rules authorized after January 1, 1996 as being either routine technical or major substantive; and
- review and approval of all major substantive rules by the full legislature before the rules may be finally adopted and implemented by agencies (provisional rule-making).

While this new process expands the Legislature's review authority over agency rule-making, it also places much greater responsibility upon those committees having jurisdiction over agencies, particularly during legislative sessions when the Legislature is busiest.

The law requires the applicable joint standing committee to meet and review each major substantive rule that has been proposed, and recommend approval, disapproval or modification of the rule. The law also prescribes the review schedule for the legislature (the review period for a committee may be as short as 2 weeks). Under current law, action by the Legislature must be by enactment of a law approving, disapproving or modifying a provisional rule. Failure of the Legislature to enact a law allows a provisional rule to go forward to final adoption and implementation.

Although the law contains language that defines the major provisions to be carried out under the new review process, numerous operational issues are raised that would be helpful to have resolved before the start of the 118th Legislature. Some issues of a statutory nature are being addressed by the Joint Standing Committee on State and Local Government through LD 1735; *An Act to Clarify the Agency Rule-making Process*. Other issues may be readily handled by the development of consistent operational procedures for committees and committee staff. Some involve policy matters, legislative operations or staffing considerations that would benefit from guidance by the Legislative Council.

I have attached for your reference a report prepared by David Elliott of this office regarding this new law. The report:

- outlines the general requirements of the law;
- proposes criteria and a process by which the Legislature will make its initial categorization of a rule;
- offers necessary procedures and a process for reviewing and determining the acceptability of provisionally-adopted major substantive rules;
- examines some of the implications of the law for agencies, legislative committees and legislative staff; and
- raises several questions that must be answered in order to carry out the legislative responsibilities under the law.

I draw your attention, in particular, to pages 10-14 of the report that discuss issues of committee process and codifying legislative decisions.

While there are a number approaches that may be taken for reviewing and addressing these matters, it may be useful to appoint a small subcommittee of council members to work directly with staff. In that way, the subcommittee could provide necessary guidance on the appropriate procedures for developing a consistent process, so implementation of the new law may be smoothly completed. I welcome your suggestions.

If you have any questions, I am happy to elaborate at the next council meeting. I also may be reached at 287-1670.

Attachment

cc: Sally Tubbesing, Executive Director
of the Legislative Council

**REPORT TO THE LEGISLATIVE COUNCIL
ON 1995 AMENDMENTS TO THE
MAINE ADMINISTRATIVE PROCEDURE ACT
REQUIRING LEGISLATIVE APPROVAL OF CERTAIN AGENCY RULES**

I. INTRODUCTION

In 1995 the Maine Administrative Procedure Act (APA) was amended to significantly expand the authority of the Legislature to approve certain new rules prior to final adoption by agencies of state government (Public Law 1995, Chapter 463). All rules authorized by the Legislature after January 1, 1996 must be divided into 2 categories--routine technical rules and major substantive rules. Any rules authorized after that date must be assigned in the authorizing legislation to one of those 2 categories.

New routine technical rules are subject to current rule-making requirements which do not include prior legislative review and approval. The most significant or controversial new rules, major substantive rules, are subject to all the requirements that apply to routine technical rules, plus legislative review prior to adoption. Proposed major substantive rules must be reviewed by the Legislature before they may be finally adopted and implemented by an agency. Following review, the Legislature may enact legislation authorizing final agency adoption of all or part of the rule or disapproving the proposed rule. The agency is bound by that legislation. If the Legislature fails to act, the agency may adopt and implement the rule as proposed.

It is important to note rules authorized by legislation enacted before January 1, 1996 are not subject to the requirements of this law. Those rules may continue to be adopted and amended under the current rule-making requirements of the APA which do not include the legislative review and approval provided in Chapter 463¹.

It is impossible to accurately predict how many new rule-making authorizations will be enacted after January 1, 1996 and how many of those will be characterized as major substantive rules requiring review by the Legislature.

¹Current rulemaking requirements do provide a measurement of legislative oversight. Agencies are required to file a copy of their regulatory agenda with the Legislature each year and to meet with the appropriate joint standing committee to discuss it. Also, notice of all rulemaking proposals must be provided to the Legislature and are sent to each member of the appropriate committee.

Nevertheless, it is necessary for the Legislature and its committees and staff to be prepared to deal with whatever number of major substantive rules is presented to it for review. Although, given the terms of the law, it seems likely that major substantive rules will be submitted to the Legislature for review during the First Regular Session of the 118th Legislature at the earliest, it is possible that rules could be submitted for review late in the 117th biennium if a special session were held. Certainly the part of the new law requiring newly authorized rules to be designated as either major substantive or routine technical will affect bills considered in the Second Regular Session of the 117th Legislature. Furthermore, it seems appropriate for the 117th Legislature to begin to plan to implement legislative review of rules as it is that Legislature that enacted the law requiring review. Implementation plans could be presented by the Legislative Council on behalf of the 117th Legislature to the 118th Legislature for adoption or modification.

The purposes of this report are to outline the requirements of the new law requiring legislative review of certain agency rules, propose criteria and a process by which the Legislature will make the initial determination that a new rule is a major substantive rule and, therefore, subject to legislative review, and suggest necessary procedures and a process by which the Legislature will review and approve any major substantive rules submitted to it by agencies. The report will also examine some implications for agencies, the Legislature, its committees and its staff of the new responsibilities and raise questions which the Legislature must answer in order to implement its responsibilities under the law.

II. REQUIREMENTS OF PUBLIC LAW 1995 CHAPTER 463

A. Agency rules

Chapter 463 amends the existing APA to add an additional layer of procedural rule-making requirements for certain rules. By doing so it, in a sense, incorporates the current definitions of "agency" and "rule" found in the APA (as well as the other provisions of the APA). The definition of those terms is fairly broad. The result is that any new regulation, policy, standard, guideline, etc. of any department, bureau, board, commission, authority, etc. that would have been subject to the APA is also now potentially subject to the requirements of Chapter 463.

As stated earlier, the requirements of the new law apply only to rules adopted by agencies pursuant to a legislative delegation of rule-making authority enacted

after January 1, 1996.² That means the following rule-making activities are not subject to the provisions of Chapter 463:

- Amendment or repeal and replacement of current rules
- Adoption of new rules under rule-making authority enacted but not utilized before January 1, 1996

Furthermore, not all rules adopted pursuant to new rule-making authority enacted after January 1, 1996, are subject to legislative review. Only those rules that are identified as major substantive rules in the authorizing legislation are subject to legislative review.³

B. Major substantive rules

After January 1, 1996, chapter 463 requires the Legislature to place new rule-making authorizations in one of 2 categories--major substantive or routine technical. According to the provisions of Chapter 463, major substantive rules are those that in the judgment of the Legislature:

1. Require the exercise of significant agency discretion or interpretation in drafting; or
2. Because of their subject matter or anticipated impact, are reasonably expected to result in a significant increase in the cost of doing business, a significant reduction in property values, the loss or significant reduction of government benefits or services, the imposition

²As enacted, Chapter 463 is less clear on this point than it could be. However, a careful reading of the original draft of Committee Amendment "A" (H-584) and the Statement of Fact to that amendment which was adopted in both Houses support the interpretation stated above. A clarifying amendment may be in order to straighten out the ambiguity.

³Chapter 463 also exempts major substantive rules that are federally mandated from legislative review. Major substantive rules that must be adopted to comply with federal law or regulations or to qualify for federal funds and over the adoption of which the agency exercises no option or discretion are not subject to the legislative review requirement of the law unless they impose requirements or conditions that exceed the federal requirements. An agency must file notice of the adoption of major substantive rules that are required by federal law and that do not exceed federal requirements with the Legislature in the same manner as it files notice of proposed rules.

of state mandates on units of local government as defined in the Constitution of Maine, Article IX, Section 21, or other serious burdens on the public or units of local government.

One subject area where the Legislature is not free to exercise discretion in categorizing rules is in laws authorizing the setting of fees by rule. A fee established by agency rule is a major substantive rule unless it is a fee that is within a cap set in law.

New rule-making authorization that does not result in major substantive rules is considered a routine technical rule and is subject to normal APA rule-making procedures.

Categorization of rules as major substantive means the agency is authorized only to provisionally adopt the rules until the rule has been reviewed by the Legislature.⁴ Provisional adoption follows the normal APA process and includes public notice, opportunity for hearing, comment period, and approval by the Attorney General, until the agency is ready to adopt the final rules. At that point, the agency may provisionally adopt the rules and if it does so, must submit them to the Legislature for review. Final adoption and implementation may occur only after legislative review of the rules described in the next section.

III. Legislative review of major substantive rules

Chapter 463 establishes the procedures for legislative review of major substantive rules. The procedures assign a significant role to the standing committees, including the introduction of legislation approving, changing or disapproving a rule. However, because of onstitutional limits on the delegation of legislative authority, the final decision to approve, amend or reject a provisionally adopted rule cannot be made by the committee alone. It must be by enactment of a law or resolve and presentation to the Governor for approval. Under Chapter 463, failure to enact a law results in the agency being able to finally adopt the rule. The law provides for the possibility that committees would meet off-session and that the

⁴Where circumstances warrant adoption of a major substantive rule by the emergency rule-making process.(5MRSA §8054), prior legislative review is not required. Section 8073 permits a major substantive emergency rule to remain in effect for up to one year or until legislative review is complete, whichever occurs sooner, giving the agency opportunity to readopt the emergency rule by normal procedures, including legislative review.

Legislature could consider legislation to approve, reject or change rules at a special session, but it does not require it. Discussions on the bill in the State and Local Government Committee clearly indicated the expectation that committee review of rules and legislative action on a committee's recommendations will normally take place during the regular session. In order for this to occur, agencies will have to coordinate their rule-making plans with the timing of legislative sessions. Furthermore, the time frames established in the law within which the Legislature must act are extremely short and may present some compliance problems for agencies, committees and the Legislature. See discussion of timing in sections V and VI.

A. Filing rules with the Legislature

Following provisional adoption of a major substantive rule, the adopting agency must submit the rule and supporting information to the Executive Director of the Legislative Council. Agencies must submit 20 copies of:

1. The full text of the rule provisionally adopted by the agency with new language underlined and with language to be deleted from any existing rule stricken through but clearly legible;
2. A concise summary of the context of the rule and a description and a copy of any existing rule the agency proposes to amend or repeal;
3. A statement of the circumstances that require the rule;
4. A statement of the economic impact of the rule on the State and its residents; and
5. Any other information required by law.

B. Assignment to committee of jurisdiction

Following receipt of the required materials, the Executive Director of the Legislative Council determines the appropriate joint standing committee and forwards the materials to each member of the committee.

C. Committee deliberations

The committee must hold a committee meeting to discuss each rule referred to it for review. More than one rule or rules of more than one agency may be discussed at a meeting. The agency or agencies whose rules are being discussed must be notified of the meeting. After the meeting or in lieu of the meeting, the committee may decide to hold a public hearing on a rule or rules being reviewed. The public hearing must be advertised in the

same manner as hearings on bills. Additional committee meetings or worksessions may be held after the public hearing.

The committee's review must include consideration of the following:

- Has the agency exceeded the scope of its authority?
- Does the rule conform to legislative intent as expressed in the authorizing legislation?
- Does the rule conflict with other rules or laws?
- Is the rule necessary to carry out the law?
- Is the rule reasonable?
- Could the rule be less complex or made more easily understandable?
- Have the proper procedures been followed in adopting the rule?

D. Committee report/legislation

Not later than 30 days before statutory adjournment, each joint standing committee must submit a report to each house on all rules which have been referred to it for review. The committee may recommend any of the following actions:

- That the Legislature authorize the final adoption of the rule;
- That the Legislature authorize the final adoption of a specified part of the rule;
- That the Legislature authorize the final adoption of the rule with certain specified amendments; or
- That the final adoption of the rule be disapproved by the Legislature.

The committee must notify the agency of its recommendation. The report must contain an explanation of the reasons if the recommendation is to amend or disapprove a rule. The report must include implementing legislation to approve the rule, to disapprove the rule or to change the rule.

E. Legislative action

The Legislature may accept or reject the committee report on a provisionally adopted rule. Whatever the Legislature as a body decides to do regarding the rule must be accomplished by enactment of legislation for presentation to the Governor. An agency is bound by the legislation. If final adoption of a provisional rule is approved by enactment of legislation, an agency may not adopt a different rule. If legislation disapproving a rule is enacted, an agency may not adopt the rule. If

legislation is not enacted, the agency may finally adopt and implement the rule as proposed.

F. Final adoption/effective date

A provisional rule must be finally adopted by an agency within 60 days after the effective date of legislation approving adoption of all or part of the rule or after the date of adjournment if no legislation is enacted. If the agency fails to finally adopt the rule within that time, it must start the adoption process over.

Finally adopted major substantive rules may take effect no sooner than 30 days after filing with the Secretary of State, a step that is required for all rules under the APA.

IV. INITIAL DETERMINATION OF WHICH RULES ARE MAJOR SUBSTANTIVE

Although Chapter 463 contains language that defines major substantive rules, a careful reading of that language indicates that the Legislature may exercise significant discretion in the decision of how new rules are to be categorized. The decision is as much a political one as it is a legal or technical one.

The factors which the Legislature might be expected to consider in deciding how to categorize rules include, the precision or degree of detail of the statutory language authorizing the rulemaking, the impact on the regulated community, likely public reaction to the proposed rule and the history of the agency in implementing legislation. As a result, in most cases the Legislature seems likely to categorize new rules as routine technical where it determines that a new law authorizing rulemaking is sufficiently precise about the subjects and standards of rules to be adopted so as to leave little rule-making discretion to the agency, where the new rules are expected to have only a minor impact on the regulated community or are unlikely to create significant public concern and where the Legislature is comfortable with the agency's understanding of the requirements of the law.

On the other hand, where enactment of detailed language describing the rules to be adopted is not possible, where the rules are likely to have a significant adverse impact on the regulated community and the general public or where the agency has displayed a history of exceeding legislative authorization

A. Committee considerations

In determining whether to recommend to designate rules as major substantive in legislation authorizing new

rule-making, the committees will consider the issues described in the preceeding paragraphs. As the committees are most familiar with the substantive issues to be addressed in new rules under consideration, with their effect on the regulated community and with the history of the agency in adopting and enforcing other rules, it is likely that the Legislature will rely heavily on the recommendation of the committee in initially assigning the designation of major substantive or routine technical to new rules.

As part of their deliberations, the committees must also balance the immediate demand on the time, workload and resources of the committee and the likely success of attempting to spell out in detail the content of rules in the authorizing legislation versus the possibility of adding a formal review of provisionally adopted rules to the workload of the committee and the Legislature in future years. It is often difficult to prescribe in detail in authorizing legislation the content of rules to be adopted because of lack of time, technical information or consensus on the terms of the legislation. Frequently, broad rule-making authority is granted to agencies with the expectation that they will fill in the details later through rule-making. In the future, committees which are tempted to follow that route must keep in mind that doing so will likely result in additional work for the committee and the Legislature in the future when major substantive rules are returned for review. Furthermore, the time frame for review of rules is extremely tight and can be expected to occur normally at the end of the session which is often the busiest time of the session. After considering all relevant factors, the committee recommendation as to whether rules should be characterized as major substantive or routine technical would be incorporated into the committee amendment by committee staff.

B. Drafting considerations

Since Chapter 463 requires all future authorizations of rulemaking to be designated as of one of two types, it is important that legislative staff and other drafters be aware of that requirement. The following steps will address that need:

- Drafters of initial bills in all legislative staff offices should be advised of the new requirements so
- The staff and agency drafting manuals should be updated to reflect the requirements. Staff training sessions should point out the requirements. The bill

drafting intake form should be amended to allow for indication of type of rule desired.

- Proofreaders and Legislative Technicians in the Revisor's office should have the requirements built into their protocols.
- Committee staff in OPLA and OFPR should be advised of the requirements so that the issue is raised when appropriate in drafting committee amendments.
- A Joint Rule could be added to require designation of the type of rulemaking in committee reports when appropriate (like J.R. requiring a Fiscal Note on bills having an effect on revenues or expenditures).
- Standard drafting language for indicating the type of rule should be developed by the non-partisan staff.

Most of these actions will be accomplished by the non-partisan staff as a matter of course and do not require additional consideration. However, if the Joint Rules are to be amended the support of the Legislative Council and the Subcommittee on Legislative Rules would be helpful.

V. PROCESS FOR LEGISLATIVE REVIEW OF MAJOR SUBSTANTIVE RULES

As we have seen, all future major substantive rules must be reviewed by the Legislature and agencies may not implement proposed rules until the Legislature has had an opportunity to do so. That requirement has the potential to very significantly affect the work of the Legislature, its committees and individual legislators. The law describes in some detail the process by which that review is to take place. The joint standing committees play a critical role in that process.

A. Agency Submission of Major Substantive Rules for Review

The law is clear on what agencies must submit to the Legislature as supporting materials for review of major substantive rules (see section III - A above). For a rule to be reviewed during the current legislative session, the materials must be submitted by 45 days before the date established for legislative adjournment in 3 MRSA section 2. Henceforth, agencies must schedule their rule-making proceedings so as to meet the filing deadline. Otherwise, their major substantive rules will not normally be reviewed by the Legislature until the next regular session of the Legislature. Until the Legislature has had an opportunity to review the rules, an agency may not finally adopt and

implement the rule.⁵ In some cases, a wait of a year or more would be required before the agency would be able to adopt a final rule.

When the rules and other required materials have been submitted to the Legislature, they are referred to the appropriate joint standing committee for initial review. Under the law, the Executive Director of the Legislative Council is charged with determining when the required materials have been filed and determining which committee is appropriate to conduct the review. In some cases, these decisions may not be clear or may be highly charged politically. In addition, under some circumstances, it may be more appropriate for the rules to be reviewed by a group other than a joint standing committee, such as a joint select committee, a subcommittee of two or more standing committees, or another special group. The Legislature may want to consider amending the law governing assignment of rules to committees for review in order to have more flexibility and involvement by the chambers as in reference of bills to committees.

B. Timing of Legislative Review

As mentioned above, the time frame established in the law for legislative review of major substantive rules is very tight for rules filed on or near the filing deadline. Agencies must file rules for review not later than 45 days before the end of the session. The rules and supporting materials must be referred to a joint standing committee for initial review. Committees must report their recommendations based on that review to the full Legislature 15 days later. That schedule may present a scheduling and workload impossibility for committees.

Assuming rules are referred to a committee the same day they are filed with the Legislature (which may be an optimistic assumption), a committee has 15 days to meet on the rules, decide whether to hold a public hearing, advertise the public hearing (normally notice of public hearings must be published at least two weekends in advance), hold the hearing and any necessary worksessions, consider legal, policy and fiscal analysis of the rules by non-partisan staff, vote on the rules and draft legislation implementing the committee vote. All of these committee responsibilities must be undertaken in what is for many committees the busiest time of the session.

⁵Currently the APA in §8054 describes the procedure for adoption of emergency rules and specifically precludes the finding of an emergency based on delay caused by the agency.

Agencies could file rules for review before the deadline, but there is no incentive for doing so. In some cases, agencies may be hard pressed just to complete their rule-making activities in time to meet their own filing deadline.

C. Committee Report on Rules Reviewed

The new law provides some details on the procedure for committee review of major substantive rules submitted to it. The committee:

- Must meet to review each rule submitted (more than one rule may be reviewed at a meeting)
- Must notify the agency of the meeting on its rule
- May hold a public hearing to receive public comment on the rule (the public hearing may replace the required meeting)
- Must report to the Legislature not later than 30 days before statutory adjournment.
- Must include in the report one of the following recommendations:
 - Final adoption of the provisionally adopted rule is authorized as submitted;
 - Final adoption of part of the provisional rule is authorized (the authorized part is identified in accompanying legislation; the rest of the rule is not authorized);
 - Final adoption of the provisional rule is authorized with amendments (the amendments are set out in accompanying legislation); or
 - Final adoption of the provisional rule is not authorized in any form at this time.
- Must notify the agency of its recommendation and, if the recommendation is other than approval of the rule as submitted, must include a statement of the reasons in the notification.
- Must include in the report legislation necessary to approve, disapprove or amend the rule.

In addition to the timing and scheduling issue (and resources issue) discussed above, the requirements of the new law raise several issues for committees. Among them:

- If a committee is reviewing several rules, must it report separately on each or may several rules of one agency or the rules of more than one agency be combined into one report? Does it matter if the report is to approve or to disapprove all the rules as opposed to amending some, approving some and disapproving some?
- Should the Revisor of Statutes be authorized to combine committee reports into an omnibus rules bill, some of the committee reports, which ones?
- If enacted, what kind of "law" do committee reports become--public or private, allocated to statutes or unallocated. If allocated, where do the laws appear in the statutes--scattered throughout as part of the various laws authorizing rulemaking or in a separate portion of the statutes dedicated to rules review authorization legislation?
- What language appears in a bill to approve, disapprove or amend a provisional rule? For example, does the language of the rule appear? If not, how is the rule referenced?
- What is the technical style for drafting the committee report into legislation. For example, if a provisional rule being reviewed is, itself, amending an existing rule, the law requires that the agency show deletions and additions by to the old rule by strike throughs and underlining. If the committee recommends changes to the provisional rule, how are the committee changes distinguished from the agency amendments in the committee's legislation?
- Are rules and committee reports amending them subject to the same drafting standards as bills? If rules that are submitted for review are not up to the standards, are committees responsible for amending them to meet those standards? What if the agency and the committee disagree on whether a technical drafting revision makes a substantive change in the rule?
- To which chamber is the committee report referred first?
- If the committee report is to recommend approval of an agency rule, (as submitted or as amended) must a Fiscal Note be attached as for favorable reports on other committee bills?
- Should the Joint Rules, Legislative Council policies or presiding officer procedures be amended to clarify committee procedures related to rules review, such as:

- Authority of committees to create and report out legislation;
- What committee motions and reports are authorized; and
- Other committee procedures, such as advertising, notice, deadlines, voting, etc.?

D. Review of Major substantive rules

The criteria to be used by committees in reviewing agency rules are discussed in Section III-C. Although it is difficult to predict what type of rules will be designated as major substantive by the Legislature and therefore, subsequently submitted to the Legislature for review, it is safe to assume that the rules will vary in almost every way that can be measured. Some will be short; some long. Some will be straightforward; others complex. Some will be easily understood; others will require a grasp of technical issues. Some will be acceptable to the regulated community; some will be widely opposed.

By their nature, rules identified as major substantive can be expected to tend toward the controversial, complex and complicated side. Under the law, committees will be expected to discharge their review responsibilities within existing timeframes and resources. To the extent those responsibilities demand the time of committee and their staff, there will be less time to devote to other committee responsibilities, such as public hearings and worksessions on LDs, legislative confirmations and committee budgetary analysis.⁶ That, in turn, may affect the ability of the Legislature to discharge its duties, including meeting its adjournment targets.

VII. ISSUES FOR FURTHER CONSIDERATION

A. Statutory changes

As discussed in this report, the Legislature may wish to consider amending the APA in the following areas:

1. Amend §8071, sub-§1 to clarify that the legislative review provisions of the new law

⁶Under PL 1995, chapter 488, the agency audit and program review function has been turned over to joint standing committees. Although the details of how that function will be performed are being determined, it is likely that this new responsibility coupled with the rules review responsibility will add significantly to committees' work loads.

apply only to major substantive rules adopted under new rule-making authorization granted to agencies after January 1, 1996.

2. Amend §8072, sub-§3 to provide more flexibility and control by the Legislature in determining which committee is to review major substantive rules by referring the decision to the chambers rather than to the executive director of the Legislative Council.
3. Amend §8072, sub-§7 to provide more than 15 days for legislative review of major substantive rules which are filed on the agency filing deadline.
4. Amend §8054, sub-§1 dealing with emergency rules to allow agencies which can demonstrate hardship and a good faith effort to meet the agency filing deadline to adopt rules on an emergency basis that would otherwise have to wait a year to receive legislative review before adoption.
5. Amend §8071, sub-§1 to provide that if legislation authorizing rulemaking enacted after January 1, 1996 fails to indicate whether the rules are major substantive or routine technical, the rules will be automatically treated as if they will be treated as if they are either routine technical or major substantive

B. Legislative rules changes

Changes or additions to legislative rules, Council policies or presiding officer procedures may be necessary in the following areas:

1. Add a joint rule requiring legislation that is reported out of committee that authorizes agency rulemaking to indicate whether the rules are major substantive or routine technical.
2. In the joint rules, authorize the Legislative Council to establish earlier filing and reporting out deadlines for rules subject to legislative review in sessions where adjournment is expected to be earlier than the statutory adjournment date
3. Add to the joint rules procedures under which committees consider and report out recommendations on rules submitted to them for review, including format of report, drafting standards, chamber to report to and consideration of fiscal impact of rules.

4. Establish in the joint rules procedures governing the enactment of legislation approving, disapproving or amending provisional rules, including standards for language identifying the rules involved, whether the rule must be enacted into law and placement of the legislation in statute.

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OPLA RULE-MAKING LEGISLATION CHECKLIST

PL 1995, chapter 463 amends the APA to require legislative review of certain new agency rules before they may be finally adopted and enforced by agencies. After 1/1/96, if your committee considers legislation authorizing new, or amending existing, agency rule-making authority, please use this checklist.

1. Does the legislation delegate authority to adopt rules to an agency of state government in any of the following circumstances:

A. New agency created/new authority granted

- General authority--"The Commissioner/Executive Director/etc. of the (New Agency) is authorized to adopt rules necessary to administer this title/part/etc."
- Specific authority--"The (New Agency) shall adopt rules on subjects 1, 2 and 3"

NOTE: It is unlikely that there will be many new departments, etc. created so there will likely be few of this type of rule-making authorization. A government reorganization bill establishing new rule-making authority for the reorganized agencies is one example of this type of legislation.

B. Existing agency/new authority granted--e.g. a new program is created within an existing department/agency/board/etc. which is authorized to adopt rules to implement that program

- General authority
- Specific authority

C. Existing agency/existing authority amended

- General authority--e.g. a new program responsibility is created for an agency which has general rule-making authority to adopt rules to enforce the laws it administers, including the new responsibility being created
- Specific authority--e.g. an agency already has authority to adopt rules on subjects 1 and 2. Pending legislation proposed to expand rulemaking authority to authorize rules on subject 3.

- Authorized vs. required rules--if an agency is authorized to adopt certain rules but, to date, has not and the Legislature directs the agency to adopt those rules by enacting a law after 1/1/96, may those rules be subjected to legislative review? The law is unclear on this point, but arguably they may be. If a committee wishes to designate those rules major substantive and review them in the future, draft the bill to allow them to do so.
2. If the answer to the 1st question is yes, the legislation must designate the new rules as either routine technical or major substantive. (See sample statement to be added to rule-making legislation and notes.) Routine technical rules are not subject to any special rule-making procedures; they follow normal APA procedures. Major substantive rules follow APA procedures up to the point just prior to final adoption. At that point they must be submitted to the legislature for review before they may be finally adopted and enforced by the agency.
 3. If the rule authorizes establishment of a fee by rulemaking, it is a major substantive rule (and subject to legislative review) unless the fee is to be set within a range or under a cap established by law
 4. Committees should understand that designating rule-making authority as major substantive has implications for both the agency and the Legislature. The agency will be unable to implement the rule until the Legislature has had a chance to review it--at least a year in most situations. In some cases, review by the Legislature may involve significant time and resources of the policy committee involved.

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MAINE STATE LEGISLATURE
Augusta, Maine 04333

Joint Standing Committee on Transportation

TO: Senator Jane A. Amero, Chair
Representative Elizabeth Mitchell, Vice Chair, and
Members of the Legislative Council

FROM: Senator Albert G. Stevens, Jr., Chair *AGS*
Representative Donald A. Strout, Chair *DAS*

DATE: March 6, 1996

RE: Study Request

We are writing on behalf of the Joint Standing Committee on Transportation to request permission for a subcommittee to meet between April 1, 1996 and November 1, 1996 to review the budget for the Bureau of Motor Vehicles. We propose to review allocations from the Highway Fund to the bureau. Allocations to the bureau have increased significantly in the past decade. The subcommittee would examine program allocations and expenditures historically and attempt to correlate budget increases to legislative directives and changing responsibilities of the bureau.

The Departments of Public Safety and Transportation have been carefully scrutinized during the Productivity Realization Task Force's deliberations and the Legislature's subsequent review of the task force's recommendations. We suggest that perhaps the functions of and allocation of resources to the Bureau of Motor Vehicles have not received the same level of review since the bureau receives no appropriations from the General Fund. We would like the opportunity to review the bureau's budget with a historical perspective and at a level prohibited by time constraints during the 1st session deliberations on the Highway Fund budget bill, LD 785 enacted as P & S 41.

We are proposing a three-member subcommittee to meet no more than six times. Members of the subcommittee would be appointed by the Chairs. We request the assistance of staff from the Office of Fiscal and Program Review. We propose that the subcommittee report its findings in February of 1997 to the joint standing committee of the 118th Legislature having jurisdiction over transportation matters.

Thank you for your consideration.

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The Commission is recommending the following:

1. Less severe penalties for withdrawal from the Farm Tax Law.
2. Elimination of the sales tax on farm electricity.
3. Continuation of the dairy farm appropriation.
4. Passage of the amended version of "An Act to Authorize a General Fund Bond Issue in the Amount of \$3,000,000 to Agricultural Enterprises in Maine."
5. Development of a plan to bring hands on management education to the farmers.
6. A request that the Agricultural Extension Service work on development of better forage.
7. Additional promotion of milk with emphasis on the Maine Quality Seal, supported with money from the defunct Dairy Stabilization Tax Program.
8. That the authority of the Dairy Promotion Board & Dairy & Nutrition Council be transferred to a public instrumentality.
9. A request to the Congressional delegation that they work to have dairy products included in the North American Free Trade Agreement with Canada.

Coincident with this report, six supporting pieces of legislation are being submitted to the Revisor of Statutes.

The Commission appreciates the opportunity to work on this very important issue for the State and hopes that the Legislature will act favorably on its recommendations.

Respectfully Submitted,



Rep. Robert W. Spear, Chairman
Commission to Study Options to Preserve
the Dairy Industry in the State

cc: Sally Tubbesing, Executive Director, Legislative Council
David E. Boulter, Director, Office of Policy & Legal Analysis
Dairy Industry Study Commission

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LEGISLATIVE COUNCIL
REQUESTS TO INTRODUCE LEGISLATION
SECOND REGULAR SESSION
February 26, 1996

Action

SPONSOR: Rep. Ahearne, Douglas J.

LR 3107 An Act to Increase the Debt Limit of the Madawaska
 Water District

SPONSOR: Sen. Begley, Charles M.

LR 3101 Resolve, to Reimburse a Lumber Company in
 Connection with Sales Tax Paid by the Company
 (Similar to LR 3121 - Sp. Kilkelly)

SPONSOR: Rep. Clark, Herbert E.

LR 3100 Resolve, to Name a Portion of Highway in Millinocket
 in Honor of Prisoners of War and Those Designated as
 Missing in Action
 (currently being circulated by ballot)

SPONSOR: Rep. Clark, Herbert E.

LR 3120 An Act to Exempt Registered Maine Guides from
 Unemployment Insurance Requirements

SPONSOR: Rep. Kilkelly, Marjorie L.

LR 3121 An Act Concerning Reimbursement for Overpayment of
 Sales Taxes
 (Similar to LR 3101 - Sp. Begley)

SPONSOR: Sen. Lawrence, Mark W.

LR 3096 An Act to Establish an Appeals Process for Political
 Petitions

SPONSOR: Sen. McCormick, Dale

LR 3124 An Act to Release the State's Interest in Certain
 Property

SPONSOR: Rep. Murphy, Eleanor M.

LR 3123 An Act to Reduce the Notice and Hearing Requirements
 Imposed on Quasi-municipal Corporations and Districts

SPONSOR: Rep. Plowman, Debra D.

LR 3114 An Act to Outlaw Ultimate Fighting in the State of
 Maine

SPONSOR: Rep. Treat, Sharon Anglin

LR 3116 An Act to Clarify the Retirement Status of Certain
 Employees of the Child Development Services System
 (currently being circulated by ballot)

TABLED BY THE LEGISLATIVE COUNCIL

SPONSOR:	Rep. Treat, Sharon Anglin	TABLED 02/06/96
LR 3069	An Act to Amend the Authority's Budget for Calendar Year 1996 (Department Bill from the Maine Turnpike Authority)	
SPONSOR:	Rep. Fitzpatrick, Michael J.	TABLED 10/22/95
LR 2917	An Act to Promote Hunting in the State by Persons With Mobility Impairment or Dexterity Impairment (Similar to LR 2786 - Sp. Ault rejected by Council 11/9/95)	
SPONSOR:	Rep. Fitzpatrick, Michael J.	TABLED 02/06/96
LR 3062	JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO AMEND THE FEDERAL FOOD, DRUG AND COSMETIC ACT AND THE FEDERAL PUBLIC HEALTH SERVICE ACT TO FACILITATE THE DEVELOPMENT AND APPROVAL OF NEW DRUGS AND BIOLOGICAL PRODUCTS	
SPONSOR:	Rep. Gates, Gordon P.	TABLED 11/09/95
LR 2929	An Act to Remove Megunticook Lake as a Source of Water Supply	
SPONSOR:	Rep. Gerry, Belinda A.	TABLED 12/05/95
LR 2963	An Act Regarding Low-Income Home Energy Assistance and Food Stamps	
SPONSOR:	Rep. Townsend, Elizabeth	TABLED 10/22/95
LR 2926	An Act to Protect the Well Being of Maine's Elderly	
SPONSOR:	Rep. Wheeler, Edgar M.	TABLED 01/17/96
LR 3023	An Act to Repeal the 24-Hour Limit on Holding Juveniles (Similar to LD 1796 - Governor's)	

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