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Joint Order To Amend the Joint Rules To Add Joint Rule 301-A

ORDERED, the House concurring, that the Joint Rules be amended by adding Joint Rule 301-A to read:

Rule 301-A. Procedure for Committee To Issue Subpoenas.

In addition to, and distinct from, their powers as investigating committees under the Maine Revised Statutes, Title 3, section 165, legislative committees have the following additional powers. The Legislature has the inherent power and right to compel from governmental officials the production of information that the Legislature needs to conduct its business, including the business of reviewing pending and proposed legislation and the preparation of budget and tax policies. A joint standing committee or joint select committee, or a subcommittee of a joint standing committee or joint select committee, is granted the power to administer oaths, issue subpoenas and compel the testimony of witnesses and the production of any papers, books, documents and testimony pursuant to the following procedure. The exercise by a joint standing committee of powers in accordance with this rule is not governed by Title 3, section 165.

1. Request to Presiding Officers. When the duties assigned to a joint standing committee or joint select committee or any subcommittee thereof so require, the Senate chair of the committee or subcommittee may submit to the presiding officers a request for that committee or subcommittee to administer oaths, issue subpoenas for the attendance of Maine state government officials and compel the testimony of witnesses and the production of papers, books, documents and testimony. Any request from the Senate chair must clearly state, and thereby limit, the subject matter and scope of the study or inquiry.

2. Presiding Officers May Authorize. Upon receipt of a request submitted in accordance with subsection 1, the presiding officers may jointly authorize the Senate chair of the committee or subcommittee, in the sole discretion of the chair, to issue such subpoenas on behalf of the committee or subcommittee.

3. Requirements of Subpoena. The subpoena must specify the subject matter on which information is being sought, the type of information requested, the date and place for which the initial appearance is requested and the amount of time estimated for the testimony requested. The subpoena must provide a reasonable amount of time for a person to locate relevant documents and to prepare information and testimony sought.

In the alternative, the subpoena may be directed to the head of a particular department or agency and may direct the person to designate a person with knowledge of the indicated subject matter to respond and comply with the subpoena and provide all appropriate documents.

The subpoena continues to be in effect if a hearing is recessed, but not for a period to exceed 30 days.

4. Testimony. Testimony by subpoenaed officials may not be taken under oath unless there is a 3/4 vote of committee or subcommittee members present to do so. An oath must be administered by the Senate chair of the committee or subcommittee.

5. Appeal. If a person who has been subpoenaed asserts that the subpoena is frivolous, unreasonable or unrelated to the legitimate work of the committee or subcommittee or seeks information that is privileged or otherwise protected from public disclosure, the person may appeal the issuance of the subpoena to the Legislative Council and the Legislative Council may quash the subpoena upon the affirmative vote of 6 members.

6. Protective Order. If a person who has been subpoenaed asserts that information sought is privileged or otherwise protected from public disclosure in the committee, the subcommittee or the Legislature and the Legislative Council does not afford the person the relief the person requests, that person may petition for a protective order from the Superior Court for Kennebec County in the same manner as provided in Rule 26(c) of the Maine Rules of Civil Procedure.

7. Enforcement. The presiding officers may seek to enforce a subpoena by application to the Superior Court for Kennebec County pursuant to the procedures set out in the Maine Revised Statutes, Title 3, section 162, subsection 4 and Title 3, section 165, subsection 7.