

**Rules Reform Task Force (RRTF)
December 14, 2000, Meeting Minutes**

Members Present:

Katie DeBoer, Citizen Member
John Knapp, Esq., Winthrop & Weinstine, P.A.
Laura Offerdahl, Governor's Office
Dave Orren, Minnesota Department of Health (MDH)

Senator Don Betzold
Representative Gene Pelowski
Representative Marty Seifert

Member Absent:

Senator Dan Stevens

Also Present:

Adrienne Buske, Legislative Assistant to Rep. Seifert Wendy Willson Legge, MDH

Call to Order. Representative Pelowski called the meeting to order at 9:38 a.m. Representative Pelowski noted that Senator Stevens would not be able to attend. Ms. Buske said that she had spoken to him; he is out of the country and trusts the judgment of the task force members.

Approval of 12/1/00 Minutes. Mr. Orren made a motion to approve minutes as written. Seconded by Ms. Offerdahl. Motion passed unanimously. (Thank you to Wendy Legge for her assistance in taking notes and preparing the minutes for the 12/1/00 and 12/14/00 meetings.)

Presentation on Methods of Repealing Obsolete Rules. George McCormick from Senate Counsel and Research, Paul Marinac, Deputy Revisor of Statutes, and Mark Shepard, House Research, distributed a memorandum. Mr. Shepard gave a presentation. Mr. Shepard said that, at the last RRTF meeting, there was some concern about legislators who brought obsolete rules for repeal at a point late in legislative session. The RRFT had asked him, Mr. McCormick and Mr. Marinac to come up with ideas on how to approach this situation. Their memorandum presents the following ideas:

- Joint legislative rules could permit the Revisor to attach to a bill the text of the rules proposed for repeal.
- The Legislature could develop a practice of having one bill to repeal obsolete rules. This bill would be introduced early in the session. The current statute gives the Revisor authority to prepare bills. It could be amended to allow the Revisor to prepare a memo to explain why rules are obsolete. If there is an obsolete rules bill, it might be useful to have a sign-off procedure.
- Each policy committee, as a general practice, would hold hearings in January on obsolete rules to allow for more public input.
- Require a legislative note when rules are to be repealed. Under current law, the chair of standing committee to which a bill delegating rulemaking authority has been referred can require a rulemaking note. A similar law could be enacted for bills proposing repeal of rules.

- Amend existing joint legislative rules to require that all bills repealing rules be referred to Government Operations. Certain rulemaking actions currently must be referred to Government Operations.
- If an agency lists a rule as obsolete in the agency's annual report of obsolete rules, the agency could automatically use the expedited rulemaking process to repeal the rule, unless enough people objected to this method. This option would not involve the legislative process.
- The memo expresses some concern about prohibiting the repeal of obsolete rules late in the session. It is possible that rules might become obsolete as a result of a statute being repealed late in session.

Discussion Following Presentation on Methods of Repealing Obsolete Rules.

- Mr. Knapp asked if it is not possible now for the Revisor to attach to a bill the text of the rules proposed for repeal. Mr. Marinac said that it is not. Programming is needed to accomplish it. This would absolutely be part of the Revisor's current redesign package. Until then, the Revisor's office would do it on each bill. Joint rule 2.01 needs to be amended to give the Revisor this authority.
- Mr. McCormick commented on a sign-off procedure if the Legislature had one bill to repeal obsolete rules. He was thinking of something like the Revisor's procedure; the chairs of the policy committees and Government Operations could sign off that this was a repealer of noncontroversial obsolete rules. Mr. Orren asked why the chair of Government Operations. Mr. McCormick replied that there was no particular reason. Mr. Orren said that the chair of the policy committee should certainly sign off, and Government Operations chairs should be consulted to see if they want to sign off.

Public Testimony

Testimony by Marcus Marsh, Minnesota Association of Farm Mutual Insurance Companies.

Highlights of Mr. Marsh's testimony include:

- Mr. Marsh works for the Minnesota Association of Farm Mutual Insurance Companies, which is a statewide insurance association. It consists of 98 small companies and 6 statewide members. The members are property and casualty carriers.
- When Mr. Marsh was a legislator, he heard a fair amount of complaints on rulemaking. Constituents called him, concerned about the rulemaking process in the insurance, DNR and PCA areas. A year ago Mr. Marsh was appointed to the PCA board. He is still happy to be available for constituent concerns that might come up.
- The Association has had good relationships with the Department of Commerce, which governs the Association. Mr. Marsh has not seen the amount of problems from years past, partly because he tries to keep open a good line of communication with the Department. The Association has continuing education meetings in the spring and fall when rules are discussed. The Association is trying harder to educate its members about what's happening in statutes and rules.
- However, adversarial situations have developed from time to time.
- The legislative committee from the Association suggests that there be a statutory change so that no rule could become effective until the next legislative session would end. There would be an exception for emergency situations. That way, if there are rules that seem onerous, at least the industry could make its concerns known to legislators.

Discussion Following Mr. Marsh's Testimony

- Senator Betzold asked Mr. Marsh why he couldn't go to the respective policy committees now if he sees a rule that he has some concern about. Why should the Legislature hold up all those rules? Isn't there a better way to approach this? Mr. Marsh said that there is now an improved relationship between the Association and the Department, but there used to be concerns about onerous requirements. Historically, there have been more activist people in various agencies. There just needs to be legislative oversight or review. Senator Betzold said he agrees that Legislature should be more involved in oversight, but delaying all rules seems like overkill.
- Mr. Marsh said there could be modifications to the proposal. If there is no concern over rules, they could go into effect, but if there are rules that become controversial or someone objects to, there would need to be a legislative session to allow those rules to go into effect. Senator Betzold asked, if one person objects is that enough to trigger delaying a rule? Should it be a group of people? Senator Betzold said that Mr. Marsh needs more specificity as to what he would like the task force to look at. Mr. Marsh said that he certainly will do this. The quick answer would be that if an industry entity affected by that rule objects, that would trigger a delay, but if one or two people in the general public objected, that would not trigger a delay. He'll take this back to the Association's legislative committee and see if he can get more detail.
- Mr. Knapp said that the task force has heard a concern that agencies are doing by bulletin or another mechanism things that they should be doing by rule. Mr. Knapp asked Mr. Marsh if he sees any cause for concern in that area. Mr. Marsh said that the Association recently had a problem with a far-reaching bulletin issued by Commerce. The bulletin concerned the need for other liability coverage where there was an exemption from workers compensation. The bulletin was far-reaching to the point that the Association's members couldn't provide coverage, or the coverage was so expensive that farmers couldn't afford it. Mr. Marsh called the commissioner, scheduled a meeting, and was able to work it out. The bulletin was re-issued. If they hadn't been able to work it out, there would have been serious consequences.
- Mr. Orren asked Mr. Marsh if he finds there is value to the public participation in rulemaking? Mr. Marsh said certainly. Mr. Orren then asked if there are any times where the Association and the agency agree that changes need to be made fairly quickly. Mr. Marsh said that they haven't had a lot of problems recently. In the case of the bulletin, it was a far-reaching issue but it was resolved. The comments and concerns of the Association's legislative committee are more a result of historic problems. Mr. Orren said that the value in public participation is great, and that public participation has increased greatly since 1995, when the Administrative Procedure Act (APA) began requiring greater notice. If the APA required waiting for the Legislature, the agency would just write up what it wanted, give it to the Legislature as a bill, and not obtain public participation. Mr. Orren agrees that there are problems with bulletins. He has a proposal today that would allow interpretive notices like those issued by the Department of Revenue, but that would have safeguards (publication in the State Register and notice to committee chairs). Mr. Orren said that he doesn't know if there should be veto power by the committee chairs. At least his proposal would allow the agency to work quickly where the agency and the industry agree. We aren't going to get anything that's perfect. Even if there is legislative approval, you'll still get that one bad rule.

- Ms. Offerdahl offered one other alternative. If the Legislature knew that a set of rules might be controversial, they could specify in statute that they want the agency to bring the rules back to the Legislature before they are adopted.
- Mr. Marsh said that the biggest concern of the Association's legislative committee is rules going into effect without additional oversight. If there is additional review, this gives an additional safeguard.

Testimony by Kathleen Davis, Supervising Attorney at the Legal Aid Society of Minneapolis

Ms. Davis gave testimony and then distributed a copy of her testimony. Highlights of her testimony include:

- Legal Aid attorneys represent low-income people who have serious problems with public assistance programs. They rely on government programs to meet their basic assistance needs. They contact Legal Aid because they have been denied or been terminated from a public assistance program.
- Public assistance is very important to the lives of these low-income families. Two rulemaking issues affecting public assistance recipients: (1) the need to make the Minnesota Administrative Procedure Act (MAPA) processes as open as possible; and (2) the need for agencies to promulgate rules through MAPA rather than using manuals.
- Citizens benefit from an open process. Notices published in the State Register do not reach low-income persons. Agencies should give notices in newspapers. Notices and SONARs should be on the agency's website. For public benefit recipients, notices should be posted in public assistance lobbies and in the lobby of the agency. The notice should always include an address and phone number. Since many Legal Aid clients don't speak English, the notice should be translated. At a minimum, a block should be included in the notice, in eight different languages, which would inform people where they can get more information about the notice from someone who speaks their language.
- An agency, such as the Department of Human Services (DHS), does much of its policy implementation through manuals, bulletins, and unwritten policies. The public has little or no ability to comment. This can cause significant harm to low-income persons. DHS will on occasion implement an unwritten policy. For example, an unwritten policy for the Minnesota Family Investment Program (MFIP) prevented some students from participating in a University of Minnesota program. These requirements were not communicated to the public. A judge found that DHS has created a rule without following MAPA procedures. While MAPA requirements are lengthy, they are intended to prevent arbitrary agency actions. Legal Aid advocates that more policies be promulgated by regulation, and less by manual.

Discussion Following Ms. Davis' Testimony

- Mr. Orren said that he understands the problems of unpromulgated rules, but he is trying to get a balance. He asked Ms. Davis if there are times when there's a need for quick corrections in the agency's process, when the 18 months to 2 years it can take to promulgate a rule is too long. Ms. Davis said yes. She said that the option of interpretive notices would help. It would give low-income people some ability to comment. Mr. Orren said that interpretive notices would allow fairly quick corrections. So would notice and comment rulemaking for noncontroversial rules. Mr. Orren asked Ms. Davis if the major things that she wants are notice and the opportunity to be heard. Ms. Davis said yes; then people have the ability to challenge or comment on proposed policies.

- Mr. Orren asked Ms. Davis if she knows the cost of translating into the 8 languages. Ms. Davis said that that was involved in the Yang lawsuit recently settled with DHS. There are two critical documents that DHS will be translating. In January of last year, the cost of translating a 4-page form was \$5000. If a language block is placed on a document with a message in several languages that will say where to obtain more information in each language, that's a beginning.
- Mr. Knapp said that he has seen the DHS manual and it is huge. He doesn't know how realistic it is to have all that information in rule. Mr. Knapp asked Ms. Davis what if the manual conflicts with state or federal law? What are the remedies to address that? Has Ms. Davis experienced this? Ms. Davis agreed that there is a lot of paper and regulation. Legal Aid discovers a problem when a client comes in and Legal Aid researches it. One way to attempt to work things out is to contact the agency; if this doesn't work, then under the DHS appeals system, Legal Aid can make legal arguments to the referee. Sometimes the referees say the manual prevails. Referees are hired by DHS. They have the ability to go beyond saying the policy is what's in the manual. Another option is to challenge the policy as it affects the individual.
- Mr. Knapp said that he has a proposal that a regulated party could ask an administrative law judge for a determination of whether an agency is exceeding its authority or acting beyond the statute. Mr. Knapp asked Ms. Davis whether that would be workable. Ms. Davis said that it has some real possibilities. The Office of Administrative Hearings is quite good, and Legal Aid attorneys feel comfortable making arguments before it.

Testimony by Ron Elwood, Legal Service Advocacy Project

Highlights of Mr. Elwood's testimony include:

- The Legal Service Advocacy Project provides legal assistance by representing low-income Minnesotans statewide.
- Problems can arise for consumers when there are no rules. Mr. Elwood spent 15 years as a utility regulator in New York. An example of a problem would be for a utility customer who gets behind on bills. There are currently no rules providing for installment or deferred payments in this situation. Since there are no rules, consumer assistance organizations really can't intercede to work it out. It is important to have rules to enable agencies to provide consumer protection.

Discussion Following Mr. Elwood's Testimony

- Mr. Orren said that, in a situation like the utility customer who gets behind on bills, something needs to be in place quickly. Mr. Orren asked Mr. Elwood how that would work in our rulemaking process. Mr. Elwood said that the immediacy of this circumstance would call for some faster action, but this is an ongoing problem that could recur. Another option would be to institute a process where a temporary rule could be enacted under certain emergency conditions, and then could be reviewed for long-term necessity.

Suggestions by Task Force Members

Recommendations by Mr. Orren

Mr. Orren distributed 4 memos with suggestions for RRTF recommendations, and presented each recommendation orally. There was discussion of each memo.

First Memo (labeled DEO #1) Related to Notice to Legislature Under MS14.116.

- This memo recommends improving the notice to the Legislature in Minnesota Statutes, section 14.116. The proposed revision adds notice to ranking minority members, and limits notice to legislative authors to those bills passed during the last 2 years. Notifying authors of the law is the biggest problem because it requires research. Last year, while Representative Munger was still a legislator, the research had to be done back to 1955. Mr. Orren made a motion to adopt the first memo, but Representative Pelowski said that everyone could make recommendations and draft them for the next meeting.
- Senator Betzold said that, often with Omnibus bills, many items are rolled into big bills. He wants to make sure that the agency is getting the authors of the bill. Senator Betzold asked if the author specified in the statute is the person who carries the omnibus bills, who really doesn't care. Mr. Orren said that the notice would go to the author of the omnibus bill. He doesn't know how to get notice to the author of a piece that went into the omnibus bill. Senator Betzold said that usually could be traced, if you're only going back two years. That person is usually someone who cares a lot about the bill, and may be following bills. Mr. Orren asked Senator Betzold if he would leave it up to agency discretion, such as by giving notice to any Legislator the agency knows to be involved in the bill. Senator Betzold said yes, think about something along those lines. Representative Pelowski said that this language could be in draft form at the next meeting.

Second Memo (labeled DEO #2) Related to Legislative Review of Rules Under MS14.3691

- This memo makes recommendations on legislative review of state agency rules. Minnesota Statutes, section 14.3691, requires cabinet-level agencies over the next 4 years to offer up their rules for review. Each agency would do a report, and each rule chapter would require a paragraph or two unless the program or issues had taken a recent controversial or problematic turn. The bottom of the first page of the memo says that the agency should estimate the cost under section 3.197 of producing this report to the Legislature. The second page of the memo states how Legislators would use that report. Legislative committees would select one main topic area per committee. The committee would have discretion to choose more. (We changed this from one chapter because topic areas can go across agencies.) Legislative committees would hold hearings - this would possibly be delegated to a subcommittee. (Representative Seifert suggested this at the last meeting.) Mr. Orren's estimate for the time required for this review is 10 to 100 hours of agency time and 10 to 20 hours, plus hearing time, of legislative time
- Representative Seifert said that this looks wonderful, but asked Mr. Orren to delete "in the rush" in last sentence on the second page.
- Representative Seifert asked Representative Pelowski if the task force report is going to be drafted for the next meeting. Representative Seifert said that, to have a draft for the next meeting, we'll have to work out the details of who assembles the draft report. Are we going to start assembling these items by motion, or just order that they be put into the draft that

we'll officially approve at that meeting? Representative Pelowski said that, unless there's an objection, everything a task force member brings up would be put in the report. Ms. DeBoer asked if one of the things we're doing is to draft legislation as well as a report.

Representative Pelowski said that his preference was that, where we can have the legislative language, let's include it.

Third Memo (labeled DEO #3) Related to Interpretive Notices

- This memo recommends that the House and Senate Government Operations Committees study the idea of interpretive notices. The draft language is taken from the revenue notice language of DOR. This is limited in that they can only interpret existing law. Notice would be published in the State Register, and notice would be given to policy committees (chairs and ranking minority members). Mr. Orren said that he doesn't know if it would be a good idea to allow this for just certain agencies, or to include a sunset provision, to ensure that the law is reviewed within a year or two.
- Senator Betzold said that, before we recommend adopting this, we need to think it through clearly. DOR is dealing with complicated tax language. It's important that someone be able to say, "Here's what is needed." Senator Betzold said that he can imagine an agency using this as an end-run to get around rulemaking. This works well for DOR, but it may or may not be what we want other agencies to do. Mr. Orren agrees; we can recommend that House and Senate committees study these. Mr. Orren said that a pilot project with a sunset is as far as he would want to go, if that

Fourth Memo (labeled DEO #4) Related to Notice and Comment Rulemaking Process

- In this memo, Mr. Orren recommends a notice and comment rulemaking process for noncontroversial rules. The protection here would be that a certain number of requests could kick it into the full rulemaking process. The Minnesota process for adopting rules is the most complicated in the country. SONARs are lots of work. If there are controversial issues, that's appropriate; but there are times when the issues are noncontroversial and everyone agrees, but the agency won't do rulemaking because it's too much time, expense, and work. A notice and comment rulemaking process is a compromise that would allow the agency to go forward, but those outside the agency would be doing a check and balance. If the proposed rule goes 30 days without the specified number of requests, no SONAR would be required. The recommendation includes the ability to get back to the regular rulemaking process; if enough people request that the regular rulemaking process be followed, the agency would have to go back to the SONAR process.
- Representative Seifert likes the ideas on the first page of the memo. Regarding notice provisions, Representative Seifert wondered if the chair and ranking committee members would be notified. Representative Pelowski asked if there was a way to get notice to affected persons. Mr. Orren said yes.
- Representative Seifert asked if this is making every rule an expedited rule. Mr. Orren said that, on first reading, yes, this makes it the default. But the expedited process would not be the most common because with lots of rules there are controversies.
- Representative Seifert said that there are problems with bad rules getting through the rulemaking process. He is concerned about the definition of noncontroversial. The proposal puts the onus on the public to pay attention. He realizes that this process would be wonderful for noncontroversial rules.

- Senator Betzold said that the proposal allows 30 days for comment. Maybe there should be a delay for rules to become effective. Mr. Orren asked if he wanted a longer notice period, such as 60 days. Senator Betzold said perhaps. Thirty days might not be enough.
- Mr. Knapp said that this is potentially a very significant initiative. If we have two rulemaking processes, this could be very confusing for regulators and regulated parties. He is also concerned that it would be too easy to adopt rules. 80% or 90% of adopted rules are noncontroversial. If we did adopt this recommendation, it would have the potential of being very widely used.
- Mr. Orren asked if the committee would be opposed to allowing this process as automatic if the agency has identified a rule as obsolete. Representative Pelowski said that's a horse of a different color. That could be a possible suggestion for inclusion, but there are concerns to be addressed.

Recommendations by Ms. Offerdahl

Ms. Offerdahl distributed a handout ("Rein in Rulemaking and Excessive Regulation") with 10 recommendations by the Governor, and presented the recommendations orally. Highlights of the presentation include:

- The first problem is the lengthy and bureaucratic nature of the process. The Governor would deal with this by implementing an expedited rules process. This helps address the problems of the agency circumventing Minnesota's APA by issuing bulletins (for noncontroversial rules).
- The Governor's preference is to extend the Governor's veto authority. This provides a check on the agencies. The Governor has proposed a 3-week deadline for reviewing rules after an agency has drafted rules and before the agency can propose the rules. Additionally, the Legislature could extend the veto period (which is currently 14 days) to allow the Governor's Office an adequate amount of time to review the rules.
- The Governor supports Mr. Orren's second proposal to focus legislative review on one rule chapter or main topic area.
- With respect to dedicated oversight, the Governor would assign someone in the Governor's Office or Minnesota Planning as responsible for oversight. The Governor wants to be careful to avoid adding another level of bureaucracy.
- The second problem is how to clean up obsolete and outdated rules. Ms. Offerdahl said that good ideas were presented by Mr. McCormick and Mr. Shepard. The Governor suggests that a review of rule repeals would occur early in the session.
- The third problem is public access to information about rules. One solution is to increase web access to agency notices and SONARs, and the agency's public rulemaking docket. This docket should also be synchronized with a centralized state docket maintained by the Governor's Office or Minnesota Planning. Another solution is to obtain more citizen feedback. There would be training opportunities to assist agencies that aren't doing such a good job. The Governor's office or the interagency rules committee could coordinate training and technical assistance.
- Another solution is the one-stop shopping idea. As a pilot project, a highly regulated industry could be targeted for better regulatory coordination. If the pilot project works, we could see if it is something that we want to use more broadly.
- It's important that we study alternatives to rulemaking used elsewhere.

- Implementing a general variance law may be an option. This would give agencies more flexibility to vary rules as long as the statutory purpose is met.

Discussion of the Governor's Recommendations

- Representative Seifert asked if there is a stakeholder mailing list for rulemaking kept by state agencies. Mr. Orren said yes, each agency must maintain a mailing list. Representative Pelowski asked if the mailing list was snail mail or e-mail. Mr. Orren said it was currently snail mail. Representative Pelowski asked whether, on the MDH website, someone can click and be added to the list. Mr. Orren said that this was probably possible on the PCA website but not the MDH website. Representative Pelowski said that he assumes that will be standard on those websites at some point.
- Mr. Knapp said that the Governor's list of recommendations is a great list. Mr. Knapp is particularly interested in a general variance law, and wants to work with Ms. Offerdahl to come up with specific language. Representative Pelowski agrees that this would be a good idea. He asked if this would be part of the Governor's state of the state. Ms. Offerdahl was not sure.

Recommendations by Mr. Knapp

Mr. Knapp presented three recommendations:

1. Regarding a bill repealing rules: The second recommendation in Mr. Marinac's memo is to develop a Revisor's rule repealer bill. Does that make it easier for agencies to repeal by legislation, and is that good? It would be good to get rules cleaned up. On balance, it makes sense to have a bill that the Revisor could prepare early in the session. Also, Mr. Knapp agrees with the first recommendation in Mr. Marinac's memo -- to amend internal legislative rules to permit the Revisor to attach the text of rules proposed for repeal.
2. Regarding an ALJ procedure for challenging unadopted rules: A common theme is that agencies are doing things by bulletin or manual that they should be doing by rule. On the other hand, agencies need some flexibility. We don't want to discourage agencies from having written procedures, so Mr. Knapp has come up with a middle ground that gives a remedy to someone who thinks something should be a rule. Mr. Knapp recommends that the person be able to file a petition with OAH and make a case that the agency is exceeding its authority. Then the ALJ would make a determination of whether the bulletin or manual was within the agency's proper authority.
3. Regarding discrepancies between state rules and federal law: The Legislature needs to more carefully scrutinize administrative rules. An area that causes some concern is where state rules are at variance with federal law. In this situation, the regulated entity has two sets of rules to comply with: state and federal law. The Legislature addressed this in the APA by requiring agencies (beginning in 1995) to identify in the SONAR any discrepancies between the proposed rules and federal law. Mr. Knapp proposes that the Legislature give agencies one year to identify all rules that conflict with federal law and repeal them unless the agency justifies the conflict.

- Mr. Orren said that it would be good to look at the rules where there's a variance with federal law, but it would be a huge amount of work. He's not sure there's sufficient value to warrant this. He thinks there may be a forest-for-the-trees problem. How would the agency narrow it down where there's a problem; is the rule really in conflict with federal law? We'd be looking at everything and lose the important ones because we're looking at everything. Mr. Knapp said that this is a good issue. Maybe there's a trigger mechanism we can build into this so that the agencies only address rules where there is a problem.

Recommendations by Representative Seifert

Representative Seifert distributed a handout on Committee Authority (proposed statutory language): This is a stopgap measure. The question is how could the Legislature slow down the rulemaking process in a constitutional manner. Mr. Shepard found a constitutional way. Representative Seifert expects this would be used rarely. It would allow a standing committee to give an objection to a proposed rule. The Speaker would determine which committee has jurisdiction. The committee could vote any time before publication of the notice of adoption. If the committee objected, the agency couldn't adopt the rule until the Legislature next adjourns an annual legislative session. This is a slow-down mechanism. If a rule would go into effect July 1 and a committee sees a problem, they can convene and get jurisdiction.

- Senator Betzold asked if a committee of either the House or the Senate could invoke this. Representative Seifert said yes.
- Senator Betzold commented on timelines. If a committee meets in December, this would give them until May; but if they meet in January, they could put off the rule until the next legislative session.
- Mr. Shepard commented as the drafter of the language that it refers to the next adjournment of a session, not the adjournment of the next session. This may need to be clarified. That was the intent.
- Mr. Orren asked what in this language would make sure that it would not be a gang of one (as in the Profile of Learning example). Mr. Orren's biggest concern is that there could be one legislator with a lot of authority doing it. Mr. Orren also knows that a single committee chair could cause a lot of problems for an agency.
- Representative Seifert said that this would not be a unilateral decision. It must be a decision by the majority of the committee. In the House, there will be close to parity on committees.
- Mr. Shepard said the language could be clarified to require a vote of the majority of committee members. It doesn't say that now.
- Representative Seifert asked Mr. Shepard to clarify the language with respect to the concerns of Mr. Orren and Senator Betzold.
- Mr. Knapp said that he shares Mr. Orren's concerns. Mr. Knapp asked Representative Seifert if he has considered having both the House and Senate committee act on it. Representative Seifert said we could do that, but we could have a situation where the House committee is unanimous and the Senate chair won't even call the committee together.

Reacting to Recommendations by Task Force Members

Representative Pelowski asked if anyone wanted to comment today. No one wanted to comment today, but a question was raised about when to submit comments. Representative Pelowski said before the next meeting, and as soon as possible.

Compilation of Report

- Representative Pelowski asked if it is the intent of the task force that what we'll look at next week will have the suggestions we've discussed here, comments and concerns, and proposed language
- Mr. Knapp said that some of us may want to revise our suggestions based on comments.
- Representative Pelowski said that those revisions would come in and be part of the packet.
- Senator Betzold said that if there are any problems or concerns, get those to the authors or raise them at the next meeting. Senator Betzold wants to hear any problems now.
- Representative Seifert said that all of these suggestions will be put into print and put in a draft report. He asked if we will be voting on items individually.
- Representative Pelowski said that we could do that, or we could look at the whole report and pull out objectionable things.
- Ms. DeBoer asked who's taking oversight responsibility for compiling the report. Representative Pelowski asked for a volunteer. Ms. Offerdahl said that she will, with the understanding that she will delegate a lot of pieces to other folks. Representative Seifert asked that a draft be put on the website.

Scheduling Next Meeting

After some discussion, the next meeting was scheduled for January 9, 2001, at 4:00.

Adjournment

The meeting adjourned at 11:30 a.m.

Handouts:

- 1) Meeting agenda.
- 2) Draft minutes from the 12/01/00 Rules Task Force meeting.
- 3) 12/12/00 Memo, DEO #1: "Suggestion for RRTF Recommendation on Rulemaking Notice to the Legislature" to the Rule Reform Task Force from Dave Orren.
- 4) 12/12/00 Memo, DEO #2: "Suggestions for Task Force Recommendations on Legislative Review of State Agency Rules and Related Laws and Programs" to the Rule Reform Task Force from Dave Orren.
- 5) 12/12/00 Memo, DEO #3: "Suggestions for Task Force Recommendations on Agency Interpretive Notices as an Alternative to Rulemaking" to the Rule Reform Task Force from Dave Orren.
- 6) 12/12/00 Memo, DEO #4: "Suggestion for Task Force Recommendation to Expedite the Rulemaking Process by Using the Notice and Comment Process for Noncontroversial Rules" to the Rule Reform Task Force from Dave Orren.
- 7) Minnesota Pesticide Management Plan, Managing Pests and Protecting Water Resources. (Written materials submitted by Jerry Spetzman, Minnesota Department of Agriculture.)

- 8) "Methods of Repealing Obsolete Rules" memo by Paul Marinac, Deputy Revisor of Statutes, George McCormick, Senate Counsel and Research, and Mark Shepard, House Research.
- 9) "Testimony of Kathleen Davis, Legal Aid Society of Minneapolis, before the Rules Reform Task Force," December 14, 2000.
- 10) Proposed Minnesota Statutes sections 14.165 and 14.265 on Committee Authority.