

MAINE STATE LEGISLATURE

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CHAIR

REP. ELIZABETH H. MITCHELL
VICE-CHAIR

Lynn Randall
Legislative Council Info.

SEN. JEFFREY H. BUTLAND
SEN. R. LEO KIEFFER
SEN. 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

AUGUST 22, 1995

Approved September 25, 1995

CALL TO ORDER

The Chair, Senator Amero, called the Legislative Council meeting to order at 10:17 a.m. in the Council Chamber.

ROLL CALL

Senators:	President Butland, Sen. Bustin, Sen. Amero Absent: Sen. Kieffer Sen. Lawrence
Representatives:	Speaker Gwadosky, Rep. Jacques, Rep. Whitcomb, Rep. Mitchell, Rep. Carleton
Legislative Officers:	Sally Tubbesing, Executive Director, Legislative Council Lynn Randall, State Law Librarian Grant Pennoyer, Principal Analyst, 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 Millicent MacFarland, Assistant Clerk of the House

SUMMARY OF JULY 31 COUNCIL MEETING

The Summary of the July 31 Council meeting was approved and placed on file. (Motion by Speaker Gwadosky; second by Rep. Mitchell; unanimous).

EXECUTIVE DIRECTOR'S REPORT

None.

REPORTS FROM COUNCIL COMMITTEES

Personnel Committee

Senator Amero, who chairs the Committee, reported that the Personnel Committee had met the past Wednesday to discuss several items. She presented the following recommendations in the form of motions for the Council's action.

Motion: That the Legislative Council authorize coverage under the Income Protection Plan to eligible employees as recommended. (Motion by Sen. Amero; second by Rep. Jacques; unanimous).

Discussion:

After the vote was taken, Sen. Bustin asked who paid the premium for the Council's Income Protection Program. Ms. Tubbesing responded that there was no "premium" per se, but that the Council policy simply authorized payment of 2/3 salary to the employee during the period covered by Income Protection. Sen. Bustin stated that this created an unfunded liability. Rep. Mitchell agreed and asked the Personnel Committee to re-examine this issue to determine whether there should be a reserve fund set up for this purpose. Sen. Amero concurred that the Committee would look at the history of the use of Income Protection in recent years so that this could be reflected in the next budget cycle.

Finally, Speaker Gwadosky noted that the Committee should also pursue implementation of the Sick Leave Bank that the Council adopted more than a year ago.

Sen. Amero then recalled that the Council had set aside some funds in its review of the budget last spring to reclassify certain positions on the non-partisan staff. Because the amount of funds available was sufficient to implement only a portion of the recommendations presented by NCSL, the Committee had asked Ms. Tubbesing and the Office Directors to identify those positions that they felt were most critical to reclassify. Senator Amero reported that the Committee had met with the Directors the previous week to review those priorities and that the resulting recommendations were summarized on the sheet which had been distributed to Council members.

Rep. Jacques asked for clarification that the recommendations as summarized had received the unanimous support of the Committee, and Senator Amero responded affirmatively.

Motion: That the recommendations be accepted. (Motion by Sen. Amero; second by Speaker Gwadosky; unanimous).

OLD BUSINESS

None.

NEW BUSINESS

Item #1: Review of Policies Governing Payment of Per Diem During the Interim

Senator Amero noted that this item was on the agenda because several legislators had asked for classification of when they were eligible for per diem during the interim. She offered examples of the variation in policy, noting that the statute does not give clear direction about payment in some cases. Rep. Jacques stated that while the presiding officers are authorized to approve payment of expenses to legislators, the authority has not extended to per diem.

After further discussion, Senate President Butland and Speaker Gwadosky agreed to meet to discuss the issue and report to the Council at its next meeting. Senator Bustin suggested that Senator Lawrence be invited to participate in these discussions.

The Council took no formal action on this item.

Item #2: Concept Drafting and Related Efforts to Streamline the Legislative Process: Discussion

Sen. Amero observed that this Council and its predecessor Councils have talked about the need to explore ways to streamline the legislative process at various times. She noted that "Concept Drafting" is one approach that has been mentioned, having first been brought to Maine's attention in the Peat Marwick study several years ago.

Noting that the cloture dates for the 2nd Regular Session had already been set, Sen. Amero reported that she, Speaker Gwadosky, and Representatives Mitchell and Carleton had met with Sally, Margaret Matheson, David Boulter, and John Wakefield the previous week to discuss how to launch a thorough study of both concept drafting and other opportunities for "streamlining". She stated that this group had asked the staff to develop a proposal to implement concept drafting to aid the Council's discussion. She then turned to Ms. Matheson and Mr. Boulter, expressing her appreciation for the tremendous effort they had expended over the past few days in response to the Committee's request.

Mr. Boulter and Ms. Matheson "walked" members through the materials in the packet, noting that they had attempted to develop not a single "model", but a range of options for including concept drafting in the process. Mr. Boulter stated that the materials incorporated conversations that he and Ms. Matheson had with staff in the Connecticut Legislature, which has employed concept drafting since the late 1960's and is the only state that presently uses this particular approach. Summarizing Connecticut's experience with concept drafting, Mr. Boulter noted the following:

- If used properly, the process can cull out the bills that do not have a high prospect of passage.
- The actual full drafting of bills is the responsibility of committees; thus, drafting occurs at a later point in the session. As a result, concept drafting creates a very intensive schedule for both committees and staff during the session. In Connecticut 2-3 staff members are assigned to each committee.
- The approach has produced a very high number of floor amendments in Connecticut.

Discussion:

Council members engaged in a wide-ranging discussion about concept drafting and the specific elements of the presentation. Key points included:

- The importance of defining the problem we (the Legislature) are seeking to address before we select a solution. (Rep. Mitchell).

Rep. Mitchell, drawing on her prior experience as a Committee Chair, noted that committee members need information to organize and establish priorities for their work. She stated that having fully drafted bills helped both committee members think about the issues and members of the public participate fully in the legislative process, and suggested that this might be even more important as the rate of turnover in the Legislature increases.

- One critical problem that needs to be solved is finding a mechanism to help committees group their bills by subject and thus use their time more effectively and efficiently. (Speaker Gwadosky). The Speaker pointed to the multiple hearings on the same subject as an example of the inefficiency that the current process represents. Rep. Carleton agreed.

In discussion of a mechanism for defining which bills are "closely-related" and predicting which of a group of closely-related bills should be drafted, Rep. Carleton opted for having committees "broker" these decisions rather than the Council.

Later in the discussion, members came back to the question of when bills should be drafted, with Speaker Gwadosky advocating study of a "radical departure" from the current process as long as there was a built-in safeguard for any citizen of Maine to get a concern addressed by the Legislature. One such departure might involve having committees initiate the process with "concept hearings", rather than simply react to those bills that are filed and drafted.

Rep. Mitchell expressed concern that neither legislators nor the public had sufficient background to effectively participate in concept hearings, and she advocated for having substantive bills available to both the committee and the general public. Rep. Jacques concurred, speculating that concept drafting could have the effect of eliminating members' ability to help individual constituents. Senate President Butland expanded on this point, noting that it takes time for newly-elected members to "get up to speed on issues" and that concept drafting would give even more power to "veteran" legislators.

- The "solution" needs to recognize that committees want to generate their own bills in some cases. (Rep. Mitchell; Rep. Carleton; Rep. Jacques).
- We need to find a way to winnow out the number of bills even before they are drafted. (Rep. Carleton).
- Adoption of a concept drafting approach raises questions about how referencing of bills would be done, and whether referencing should be eliminated. (Sen. Bustin)

The Chair, Senator Amero, summarized the discussion by identifying those items on which Council members were in agreement. They are:

1. The need to eliminate confidentiality (of bill titles) from the cloture date forward. (Council members agreed that it is important to preserve confidentiality prior to cloture, while legislators are still formulating and refining their ideas.)
2. Legislators need to assume greater responsibility for providing information to support the drafting process. Council members directed Margaret Matheson to require all legislators to file a completed Bill Request Worksheet, a draft of which had been included in the packet.

3. All Committees will receive a list of bill titles accepted by the Council for the Second Regular Session, as well as copies of the Request Sheets filed by legislators, and they will be asked to prioritize the bills that are likely to be referred to their committees. This will provide clear direction to the Revisor's Office and other offices involved in drafting and allow committees to plan their time effectively in the early weeks of the Second Regular Session. Ms. Matheson stressed that the preliminary indexing of bills would be used to produce the lists and that bills would still be formally referenced once they are drafting.

Speaker Gwadosky stated that the discussion had been very valuable and expressed his appreciation for all the work staff had done to prepare the materials that helped illuminate the issues. Noting that the Second Regular Session does not have the same "logjams" as the First, due to the Council's screening process, he expressed his hope that the Council would continue to think "long term."

Sen. Amero suggested that the Council refer the materials that staff had prepared to the Legislature's TQM Committee, with a request that the Committee pursue the issues related to concept drafting and return to the Council with recommendations. She closed the discussion by recognizing the entire Council's interest in improving the way issues come before the Legislature but, at the same time, maintaining the Legislature's role as a coequal branch of government.

Item #3: Schedule for Council Review of Bill Requests for Second Regular Session: Review

After discussion, Council members agreed to change the second screening date from Saturday, November 4, to the following Thursday, November 9.

ANNOUNCEMENTS AND REMARKS

September Council Meeting: Monday, September 25, 1:30 p.m.

ADJOURNMENT

The Council meeting was adjourned at 12:15 p.m. on the motion of Rep. Jacques (second by Speaker Gwadosky).