

MAINE STATE LEGISLATURE

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SEN. JANE A. AMERO
CHAIR

REP. ELIZABETH H. MITCHELL
VICE-CHAIR



Lynn Randall
Legislative Council Info.

JEFFREY H. BUTLAND
R. 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 October 28, 1996 Approved November 26, 1996

CALL TO ORDER

The Council Chair, Senator Amero, called the Council meeting to order at 2:45 p.m. in the Legislative Council Chambers.

ROLL CALL

Senators:	Sen. Kieffer, Sen. Amero, Senator Bustin Absent: President Butland, Sen. Lawrence
Representatives:	Speaker Gwadosky, Rep. Jacques, Rep. Whitcomb, Rep. Carleton, Absent: Rep. Mitchell
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 Rose Marie Breton, Assistant for Administrative Services David Elliott, Principal Analyst, Office of Policy and Legal Analysis

SUMMARIES OF AUGUST 21 AND SEPTEMBER 30, 1996 COUNCIL MEETINGS

Motion: That the Summaries of both meetings be accepted and placed on file. (Motion by Rep. Jacques; second by Sen. Bustin; unanimous)

EXECUTIVE DIRECTOR'S REPORT

Sally Tubbesing presented the following items for the Council's consideration:

Item #1: Award of Legislative Printing Contracts for the 118th Biennium.

Ms. Tubbesing reported that the bids for printing various publications for the 118th Legislature had been opened the previous week and that the Bureau of Purchases had now had an opportunity both to examine the completeness of each bid and identify the low bidders for each contract. They are:

Document	Bid	Amount
Register	Pen Mor	\$41,236
Roster	Atkins	\$ 7,421
Legislative District Directory	J.S. McCarthy	\$ 1,788
LD's	Letter Systems	(15-16% decrease)
Amendments	Copy Center	(no price change)
Calendars	Letter Systems	(no price change)
Engrossers	Central Printing	(40% + decrease)
Legislative Record/ "Horseblanket"	Quality Copy	(4% increase)
News Summary	Quality Copy	(not previously bid)

Motion: That the Executive Director be authorized to enter contracts with the identified low bidders on each of the publications. (Motion by Rep. Jacques; second by Sen. Kieffer; unanimous).

Item #2: Personnel Activity

Ms. Tubbesing reported several developments related to staffing and requested Council authorization to take appropriate steps to address particular situations.

a. Completion of search to fill vacant Analyst position in OPLA.

Ms. Tubbesing reported that she had accepted David Boulter's recommendation to hire Phillip McCarthy to fill the vacant position and that Mr. McCarthy had already begun work.

No Council action was required.

b. Retirement: John Knox, Office of Policy and Legal Analysis

Ms. Tubbesing reported that Mr. Knox had decided to retire effective December 31, 1996, and recommended that the Council authorize filling the vacancy up to one month prior to his retirement in order to ensure that the Business & Economic Development Committee to which Mr. Knox had been assigned could undertake its work as soon as members were appointed.

Motion: That the Executive Director be authorized to hire Mr. Knox's successor up to one month prior to his date of retirement. (Motion by Sen. Bustin; second by Rep. Jacques, unanimous).

c. Request for Income Protection

Motion: That the Legislative Council award income protection in accordance with Council policy. (Motion by Rep. Jacques; second by Sen. Bustin; unanimous).

d. Vacant Secretarial Position in the Office of Fiscal & Program Review

Ms. Tubbesing reported that John Wakefield, Director of the Office, had recommended that the position be filled as a session-only position.

Motion: That John Wakefield be authorized to work with the Executive Director to fill the vacant secretarial position in his Office for the session. (Motion by Sen. Bustin; second by Rep. Jacques; unanimous).

e. Reappointments of John Wakefield and Margaret Matheson to new 3-year terms

Ms. Tubbesing reported that Mr. Wakefield and Ms. Matheson had completed their current 3-year appointment as Office Directors (Ms. Matheson's anniversary date would actually be in mid-November) and recommended that both individuals be appointed to new 3-year terms. She noted that the Personnel Committee had reviewed both individuals earlier in the summer.

Motion: That John Wakefield and Margaret E. Matheson be reappointed to new 3-year terms as Director of the Office of Fiscal & Program Review and Revisor of Statutes respectively. (Motion by Sen. Bustin; second by Rep. Carleton; unanimous).

f. Request to fill 2 vacant positions in Information Systems Office

Ms. Tubbesing stated that as the convening of the 118th Legislature nears, the "embargo" on filling the two vacant positions in the Information Systems Office has made it increasingly difficult to meet the expectations of both the Council and the various staff offices. She requested Council authorization to fill the two vacant positions noting, at the same time, that in her view, the staffing needs of this office exceed filling the two vacancies.

Rep. Carleton, who chairs the Committee on the Future of Technology in the Legislature, which was appointed by the Council in mid-summer, noted that the Committee is "just wading in at this point" and that he felt it would be a mistake to hire people before the Committee has a clearer sense of its direction.

Sen. Amero inquired when the Committee planned to have a report, and Rep. Carleton responded that he was sure it would require several additional meetings. Sen. Bustin then asked if it would be feasible to fill both positions on an "acting" basis -- for a period up to 1,000 hours.

In continued discussion, Council members offered the following points:

- Reiteration that it is not desirable to hire anyone on a permanent basis at this time. (Rep. Carleton)
- Observation that consultant fees, or payments to temporary employees can add up quickly and that the Council needs to be aware of being "penny-wise and pound foolish". (Rep. Jacques)
- Agreement that remaining Information Systems staff are overworked and need supplementation, but conviction that there are qualified people who are available to fill this need on a temporary basis. (Rep. Carleton)

Motion: That the Executive Director be directed to obtain consulting assistance or other temporary services to provide the support necessary to supplement the Information Systems staff. (Motion by Sen. Bustin; second by Rep. Jacques; unanimous)

Discussion: Sen. Kieffer clarified the intent of the motion, stating that these temporary arrangements should have a 90-day "sunset", pending completion of the work of Rep. Carleton's committee and the Council's review of its recommendations.

REPORTS FROM COUNCIL COMMITTEES

Strategic Planning Working Group

At Senator Amero's request, David Boulter briefly reported on the status of the Working Group's work. The Working Group had met the previous week to review further proposed revisions to the draft plan, and Mr. Boulter indicated that the Working Group would present its product to the Council after some additional review.

No Council action was required on this item.

Committee on Information & Technology in the Legislature

Rep. Carleton, Committee Chair, reported that the Committee had met twice and had completed a general review of the current uses of technology by legislative offices, as well as their needs, and had had a presentation by Robert Mayer, Chief Information Officer for the Executive Branch. The Committee's next steps will be to conduct a survey of legislators and to continue its exploration of ways to reduce paper in the legislative process.

No Council action was required on this item.

NEW BUSINESS

(This section of the agenda was taken up before Old Business with the assent of all members present).

Item #1: Proposed Schedule for Legislative Orientation for New Members

Ms. Tubbesing drew Council members' attention to materials in their packets which included proposed agendas and schedules for both the regional orientation meetings and the programs during the Pre-Legislative Conference the week of December 2.

Senator Kieffer asked why none of the regional meetings was scheduled for a northern Maine site. Ms. Tubbesing responded that a meeting had been slated for Houlton in 1994, but that it had been cancelled after both of the newly-elected members from the County had chosen to go to the Bangor meeting. She indicated that the proposed locations would be re-evaluated once the election results are available, and that the schedule could be reworked if necessary.

No Council action was required on this item.

Item #2: Request for Earmarking of Funds to Support Development of an Implementation Plan for Essential School Programs and Services (Letter from J. Duke Albanese, Commissioner of Education)

The Chair, Sen. Amero, recognized Commissioner of Education J. Duke Albanese, who was accompanied by Wes Bonney, a member of the State Board of Education. Commissioner Albanese described to Council members a major effort that the Department had launched to define "essential programs and services", a study which would ultimately tie state funds to the provision of "essential" programs. He noted that the Legislature had directed that the study be done, but that there had been no appropriation for the study and stated that it would be difficult to complete a credible study without funds. He questioned whether the remaining balance in the account that had been set up to fund the Commission on Higher Education Governance (balance of approximately \$29,000) could be redirected to this present purpose. Mr. Bonney added that the group conducting the study is at the point where it needs to have some research done, but that funds would be required to do this.

Sen. Amero asked John Wakefield to advise the Council on how a transfer of funds might be accomplished, and Mr. Wakefield responded that such a transfer would require action by the full Legislature. Mr. Wakefield further noted that the study of essential programs and services had been included in legislation that had passed during the Second Regular Session, but that the \$75,000 appropriation for the Study had been stripped. Rep. Jacques recalled that members of leadership had been told at the time that the Department would be able to find the necessary funds. Rep. Whitcomb observed that if all study requests went through the Council, this situation would not have

occurred. After brief discussion of other funding alternatives (e.g. the Governor's Contingency Account; introducing legislation to the 118th Legislature after it organizes), Council members agreed that although there seemed to be general support of the study, there was nothing they could do at this point in terms of funding. Sen. Amero thanked Commissioner Albanese and Mr. Bonney for sharing their ideas with the Council.

Item #3: Proposed Process for Legislative Review and Approval of Major Substantive Rules (Memo from David Boulter)

David Boulter and David Elliott drew Council members' attention to materials in their packet that had been designed to implement amendments to the APA that were adopted by the 117th Legislature. Mr. Boulter noted that the new law effects a significant change in the rules review process and that these materials strive to help committees employ a consistent process and to help departments understand what the Legislature expects in this process. He stated that as staff had worked to develop a plan for implementing the law, they had identified several areas where amendments to the original law appeared necessary in order to clarify legislative intent and avoid confusion.

The discussion that followed touched on both the amendments proposed in the memo and on the rules review process itself. The major points of the discussion focused on the need to codify rules (the official sets of agency rules are maintained by the Secretary of State, whose office has undertaken a project to electronically produce rules); on who determines whether a rule is "major or substantive" (this is a legislative determination); and on the nature of the appeal process in the event of disagreement (the Legislature has the final authority).

Motion: That the process for implementing the legislative review of agency rules outlined in the memo be ratified. (Motion by Rep. Jacques; second by Sen. Bustin; unanimous).

Item #4: Legislative Document Service: Proposed Fee Schedule for 118th/First Regular Session (Letter from Clerk Mayo)

Rep. Jacques offered a motion to adopt the proposed fee schedule; however, Clerk Mayo stated that this was simply a notification to the Council and that Council action was not required.

OLD BUSINESS

Item #1: Budget Request for FY 1998-FY 1999 Biennium for All Legislative Accounts (Item carried over from September Council Meeting)

The Chair, Senator Amero, noting that the deadline for submission of budget requests had been September 15, asked members present if they had questions about the materials that the Executive Director's Office had prepared and originally presented at the September Council meeting. Rep. Jacques questioned the appropriateness of having the outgoing Council take action related to a budget that would not take effect until next July 1. After discussion about taking no action on the budget request, Senator Amero asked John Wakefield to comment on the implications of submitting nothing. Mr. Wakefield responded that because the Governor is required by statute to submit a balanced budget, it is important that figures from both the judicial and legislative departments be available to meet this requirement. He further observed that if the Legislature submits nothing, the Governor has the authority to "plug in a number." Sen. Bustin asked what past Councils had done, and Sally Tubbesing responded that they had all submitted a Part I Budget, recognizing that the new Council would have an opportunity to review -- and rework -- anything that was submitted at this time.

Discussion centered on the issue of separation of powers, and there appeared to be consensus among those present that it was inappropriate for the Governor to set the initial budget for the Legislature, even though the Legislature would have an opportunity to rework this. Sen. Kieffer then expressed concern that the proposed budget request is \$2 million more than the current budget.

(This item was tabled until a quorum could be restored).

Discussion about what to submit as a budget request resumed. Sen. Kieffer advocated submitting a request for an amount equivalent to the Legislature's budget for the Fiscal 1996-1997 biennium. Rep. Carleton expressed concern, again, that it was nothing more than an exercise for an outgoing Council to submit a budget request that it would not have to assume responsibility for. Rep. Jacques concurred, noting that the new Legislature would have many new people with new ideas and that they, like the members of the current Legislature, would not want to have all of the decisions already made.

Motion: That the Council authorize submission of a budget request that is equal to the last biennial budget. (Motion by Sen. Bustin; second by Rep. Jacques; unanimous).

Item #2: Submission of Study Reports (Item carried over from September Council meeting)

- **Select Committee to Study Rate Increases in Nursing Homes**
- **Commission on Higher Education Governance**

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

The Council meeting was adjourned at 4:50 p.m.