MAINE STATE LEGISLATURE

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Sally Tubbesing
Legislative Council Info.

REP. ELIZABETH H. MITCHELL
CHAIR

SEN. MARK W. LAWRENCE
VICE-CHAIR

SEN. CHELLIE PINGREE
SEN. JANE A. AMERO
SEN. ANNE M. RAND
SEN. R. LEO KIEFFER
REP. CAROL A. KONTOS
REP. JAMES O. DONNELLY
REP. MICHAEL V. SAXL
REP. RICHARD H. CAMPBELL

SARAH C. TUBBESING
EXECUTIVE DIRECTOR

118th MAINE STATE LEGISLATURE

LEGISLATIVE COUNCIL

MEETING SUMMARY

May 8, 1997

Approved June 16, 1997

CALL TO ORDER

The Chair, Speaker Mitchell, called the Council meeting to order at 2:42 p.m. in Room 124, State House.

ROLL CALL

Senators:	Senate President Lawrence, Sen. Pingree, Sen. Amero, Sen. Rand, Sen. Harriman Note: Sen. Harriman was elected by his caucus as Assistant Minority Leader in Sen. Kieffer's absence.
Representatives:	Speaker Mitchell, Rep. Kontos, Rep. Donnelly, Rep. Saxl, Rep. Campbell
Legislative Officers:	Sally Tubbesing, Executive Director, Legislative Council John Wakefield, Director, Office of Fiscal and Program Review David Boulter, Director, Office of Policy and Legal Analysis Margaret Matheson, Revisor of Statutes Paul Mayotte, Director, Office of Information Services Joy O'Brien, Secretary of the Senate Joseph Mayo, Clerk of the House Millicent MacFarland, Assistant Clerk of the House

SUMMARY OF APRIL 14, 1997 COUNCIL MEETING

Motion: That the Meeting Summary be accepted and placed on file. (Motion by Sen. President Lawrence; second by Sen. Rand; unanimous).

EXECUTIVE DIRECTOR'S REPORT

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

Item #1: Proposed Capital Improvements Plan for 1997 Interim

Ms. Tubbesing drew members' attention to material in their packets which presented recommended Capital improvements projects for the coming interim. She stated that the architect and engineers who comprise the Master Plan team had worked carefully to develop a scope of work which emphasizes correction of the life safety issues which have been identified in the course of the development of the Master Plan and, at the same time, begin to address some of the cosmetic issues which reflect long-deferred maintenance.

Ms. Tubbesing noted that the planning team proposes to prequalify both the general contractor and key subcontractors, consistent with past practice, and emphasized that it was critical to initiate the prequalification process as soon as possible.

Motion: That the Legislative Council authorize the Executive Director to proceed with initiating the process for prequalifying principal contractors and subcontractors for work on the State House during the 1997 interim; and, further, that the Council give provisional approval to the proposed projects, with the understanding that the final scope of work, including estimated costs, will be approved at a subsequent Council meeting. (Motion by Sen. Rand; second by Sen. Harriman; unanimous).

Item #2: Personnel Activity

Ms. Tubbesing reported that two members of the Revisor's staff have submitted their resignations: Robin Switser, Engrossing Proofreader, who will assume a full-time position in the Clerk's Office immediately; and Margaret Allen, a Proofreader, who has accepted a position outside of state government. Rep. Donnelly asked if the rate of turnover in the Revisor's Office is normal and mused whether the pressure placed on the Revisor's Office had been a factor in the resignations. Margaret Matheson, the Revisor of Statutes, responded that the employees were, in both cases, leaving to take better positions and that she had no indication that pressure of work had been a significant factor in either of these resignations.

No Council action was required on this item.

REPORTS FROM COUNCIL COMMITTEES

Speaker Mitchell, who chairs the Committee, reported that the Committee had met prior to the Council meeting for the primary purpose of reviewing a series of recommendations from Paul Mayotte related to staffing in the Information Services Office. She recalled that this Council had extended the "freeze" on both filling vacancies and reclassifications in the Information Systems Office that the 117th Council had originally instituted -- pending the selection of a new Director. Since he undertook his responsibilities as Information Services Director in mid-March, Mr. Mayotte has focussed on reviewing the Legislature's current use of technology, the opportunities for extending our use of technology and the staffing implications. She stated the recommendations that he has presented to the Personnel Committee -- and that the Committee was now presenting to the Council -- are designed to address some immediate needs - and, in some cases, some long-pending situations.

Motion: That Kevin Crandall be hired as a full-time permanent employee for the position of Client Desktop Support Administrator, Salary Range 8, Step 5, effective immediately. (Motion by Sen. President Lawrence; second by Sen. Rand).

Speaker Mitchell noted that this is an existing position and is currently budgeted in Range 7. The motion was approved unanimously.

Motion: That the existing position of Computer Support Technician be reclassified, assigned to Range 7, and retitled Network Administrator; and that Casey Begin be assigned to this position retroactive to January 1, 1997. (Motion by Senate President Lawrence; second by Sen. Rand; unanimous).

Motion: That the position of Computer Programmer be transferred from the Office of the Revisor of Statutes to the Information Services Office and reclassified from Range 8 to Range 9, consistent with the responsibilities assigned to this position; and that Elizabeth Gosselin be assigned to this position effective immediately. (Motion by Senate President Lawrence; second by Rep. Donnelly).

Speaker Mitchell noted that this action had the full support of the Revisor. The motion was approved unanimously.

Motion: That the currently vacant position of Administrative Coordinator be reclassified from Range 7 to Range 8 and retitled Internet/Intranet Administrator; and that the Director of Information Services be authorized to fill this position in consultation with the Executive Director. (Motion by Sen. President Lawrence; second by Rep. Donnelly; unanimous).

The Chair, Speaker Mitchell, reported that the Committee had also reviewed two requests for income protection pursuant to the Council's personnel policies.

Motion: That the Legislative Council award income protection in accordance with Council policy. (Motion by Senate President Lawrence; second by Rep. Donnelly; unanimous).

OLD BUSINESS

None.

NEW BUSINESS

Item #1: Proposal from Business & Economic Development Committee to Review Agencies, pursuant to Government Evaluation Act

At the Chairs' request, David Boulter provided Council members with a brief overview of the Government Evaluation Act (GEA), a process created by the 117th Legislature to replace the Audit and Program Review process. The GEA sets out a schedule for review of all state agencies, but it transfers the responsibility for initial data collection from the Legislature to the individual agency and gives legislative committees the option of simply reviewing the data or conducting a comprehensive review. He concluded that the Legislative Council's role is to determine the resources required to support the level of review that the Committee recommends.

The Chair, Speaker Mitchell, then recognized Rep. Vigue, House Chair of the Business & Economic Development Committee. Rep. Vigue noted that his Committee is scheduled to review 47 agencies, unlike most committees who have only 2-3 agencies to review; and that his Committee wants to start now.

Discussion: Senate President Lawrence asked why the Maine Development Foundation is considered to be a government agency. Mr. Boulter replied that he did not know, noting that, while at one time half of the Foundation's funding had been a general fund appropriation, this is no longer the case. He agreed to pursue the answer to this question.

The Senate President then asked the estimated cost of the reviews to be conducted under GEA. Mr. Boulter responded that he felt that his office could absorb the staffing demands with existing staff, and that the costs would be attributable to the per diem and expenses for committee members. He noted that when the bill had originally been discussed in Committee last spring (State & Local Government), the committee had anticipated that most of the reviews could happen during the regular session. Ms. Tubbesing added that the average cost for a meeting of a full committee during the interim is $1,500. Mr. Boulter then stated that he thought most committees would come forward with requests for only 1 meeting. Speaker Mitchell stated that she would like to have "the full picture" of the proposed level of activity for all committees and the associated costs before she voted on a single request, and she asked Mr. Boulter to work with his staff and the chairs of the policy committees to assemble this information. Rep. Saxl asked that this "survey" also inquire whether the reviews of agency data could be done

by a subcommittee rather than the full committee. Rep. Kontos then indicated her particular interest in tracking the costs of this new process -- especially since one of the factors underlying the elimination of the Audit & Program Review Committee had been cost.

Motion: That the request be tabled pending receipt of information regarding the review plans of all committees. (Motion by Sen. Rand; second by Rep. Saxl; unanimous).

Item #2: Procedures for Handling Major Substantive Rules During a Special Session

The Chair, Speaker Mitchell, asked David Boulter to provide Council members with background on this item. Mr. Boulter reported that the major substantive rules which the Board of Nursing had filed the previous day, pointed out that the Administrative Procedures act specifies filing requirements for rules submitted during a regular session, but not a special session. Because the APA is silent on rule filing requirements for a special session, Mr. Boulter recommended that the Council define a process to assure standard treatment in the future. He outlined three primary options:

1. Reject the filing at this time because the rules were not filed within 45 days of the end of the Regular Session and direct the agency to resubmit them to a subsequent regular session. This option would delay implementation of the rules about one year.

2. Accept the rules for review and print a rules review resolve, refer it to committee and handle the resolve this session. This option would permit implementation of the rules later this year if approved, but would require an expedited review by the committee.

3. Accept the rules for review, making clear in the acceptance letter to the agency that the Legislature is under no obligation to do so and is not bound to act on them this session due to the limited time for review. In that case, a rules review resolve could be printed, referred to committee, and either be dealt with by the committee within the next few weeks if it has time or be carried over to the next session. If the resolve is carried over it may delay implementation of the rule by up to a year.

He concluded by noting that the third option appears to offer the most flexibility to the Legislature for the following reasons: **1)** it gives the Legislature the opportunity to review the rules as time permits anytime between now and the Second Regular Session; and **2)** because the Legislature would retain possession of the rules, this

option would remove any confusion on the part of agencies as to whether they are authorized to proceed with implementation of the rule.

Motion: That the Council adopt option #3 and accept the rules submitted by the Board of Nursing for Review, making clear in the acceptance letter to the Board that the Legislature is under no obligation to review the rules or act on them during the current session and that, if the resolve is carried over, it may delay implementation of the rule by up to a year (Option #3). (Motion by Sen. President Lawrence; second by Sen. Rand; unanimous).

Item #3: After Deadline Requests

Requests to introduce legislation to the First Special Session were considered by the Legislative Council. A summary of the Council's action on these requests is attached to this meeting summary.

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

The Council meeting was adjourned at 3:50 p.m., on the motion of the Chair.