

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



REP. MICHAEL V. SAXL
CHAIR

SEN. MICHAEL H. MICHAUD
VICE-CHAIR

SEN. BEVERLY C. DAGGETT
SEN. MARY E. SMALL
SEN. PAUL T. DAVIS, SR.
SEN. SHARON ANGLIN TREAT
REP. PATRICK COLWELL
REP. JOSEPH BRUNO
REP. WILLIAM S. NORBERT
REP. WILLIAM J. SCHNEIDER

120th MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

DAVID E. BOULTER
EXECUTIVE DIRECTOR

**MEETING SUMMARY
DECEMBER 19, 2001
APPROVED JANUARY 29, 2002**

CALL TO ORDER

The Chair, Speaker Michael V. Saxl, called the Legislative Council meeting to order at 1:21 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	Sen. Michaud, Sen. Daggett, Sen. Small, Sen. Davis, Sen. Treat
Representatives:	Speaker Saxl, Rep. Colwell, Rep. Bruno, Rep. Norbert, Rep. Schneider
Legislative Officers:	Pamela Cahill, Secretary of the Senate Millicent MacFarland, Clerk of the House David Shiah, Assistant Clerk of the House David Boulter, Executive Director, Legislative Council Grant Pennoyer, Director, Office of Fiscal and Program Review David Elliott, Interim Director, Office of Policy and Legal Analysis Margaret Matheson, Revisor of Statutes Lynn Randall, State Law Librarian Paul Mayotte, Director, Legislative Information Services

On behalf of the entire Legislative Council, Speaker Saxl welcomed President Pro Tempore Michael H. Michaud as a new member of the Council, replacing Senator Bennett who assumed his duties as President of the Senate as of December 6, 2001.

SUMMARY OF NOVEMBER 13, 2001, COUNCIL MEETING

Motion: That the Summary of November 13, 2001, meeting be accepted and placed on file. (Motion by Sen. Small, second by Sen. Michaud, unanimous).

The Chair moved that the Council take an item out of order, unless there was objection. Hearing none, the Chair moved to Item 7 under New Business.

NEW BUSINESS

Item #7: Consideration of After Deadline Bill Requests

After deadline requests were considered by the Legislative Council. The Council's action on these requests are included on the attached list.

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

- **Executive Director's Report**

Executive Director Boulter presented five items as information updates and two items for which he sought policy guidance from the Council.

1. **Staff Positions**

The following newly appointed and promoted Legislative Council staff were introduced to the Council.

Office of Policy and Legal Analysis

Lisa Baldwin, Legislative Analyst. She will be co-staffing the Health and Human Resources and Education committees this session.

Karen Nadeau Drillen, Legislative Researcher. She is assigned to several policy areas in her research capacity, including transportation, utilities, labor, and legal and veterans' affairs.

Office of Fiscal and Program Review

Jim Dionne, newly promoted Principal Analyst.

Marc Cyr, Principal Analyst, was the second member of the legislative staff appointed to the Revenue Forecasting Committee. Mr. Cyr coordinates the fiscal note process.

Christopher Nolan, Legislative Analyst, will be joining the office December 31, 2001. (not present for introductions)

Office of Legislative Information Services

Michael Thompson, Desktop Support Administrator.

2. Renovations of State House

Executive Director Boulter presented a brief status report on the State House renovations and schedule. He had received personal assurances from Bruce Hilfrank, Project Manager for Granger Northern and Stan Fairservice, Owner's Representative, that renovations work on the 3rd and 4th floors, the stairwells and Hall of Flags would be completed in time for the start of the Second Regular Session on January 2, 2002. The 3rd and 4th floors are completed and furnishings are now being re-installed. Mr. Boulter also reported that the costs for the renovations work remained within the budget that had been established for the North Wing.

3. Bill Signing Day

The Presiding Officers established Friday, December 14, 2001, as bill signing day, the day by when bills that were out for review by sponsors, had to be signed and returned to the Revisor's office. The purpose was to encourage bills to be drafted, signed and printed by the time committees reconvened on January 2, 2002 in order to allow committees as much time as possible in January to hear and work bills. Over 213 bills were returned, and over 50 had already been referred to committees.

4. State House and Capitol Park Commission

Executive Director Boulter reported that the State House and Capitol Park Commission met to consider a variety of issues. The Commission voted unanimously to recommend to the Legislative Council to expend up to \$775,000 from the Reserve Fund for State House Preservation and Maintenance for renovations-related activities. Mr. Boulter emphasized that the vote supports an earlier Council decision regarding funding of the North Wing renovations. It is not a request for additional funds, but rather it ratifies the decision made by the Council when accepting the guaranteed maximum price for the North Wing that money would be used from the Reserve Fund, but did require a recommendation by the Commission. The Commission unanimously made that recommendation at the meeting.

5. Commission on Governmental Ethics

William Hain, Director, Ethics Commission, requested that Mr. Boulter bring to the Council's attention his memo indicating that the Commission will be developing and holding informational sessions on the opportunity for electronic filing of reports by legislators. The Commission is in the process of developing the training program and is seeking input from legislators before proceeding in order to make the training as useful as possible to Legislators. If Council members have suggestions about the training, they should contact Mr. Hain directly at the Ethics Commission.

For the following two items Mr. Boulter requested Council advice.

1. Executive Branch Request for Proposed Reductions Targets to Legislative Accounts.

As part of the Executive's search for ways to make reductions to the FY 02/03 General Fund budget in light of recent revenue rejections, the Budget Office has asked agencies to explore various levels of reductions and their impacts. We participated in the requested curtailment of 2% of allotments for FY 02, totaling approximately \$71,000. The Budget Office (Governor's Office) is looking for further reductions and has asked that

the Legislature work with them to arrive at a target figure. This would be included as a proposed budget reduction for the Legislature in the Governor's emergency budget submission.

Mr. Boulter asked if the Council would like Rose Breton and him to review all legislative accounts to identify savings that might be made without seriously impacting current operations. Anything above the 2% curtailment would require the guidance from the Legislative Council. Mr. Boulter sought Council advice on how to respond to the request. Speaker Saxl recommended reconvening the earlier budget subcommittee to review potential budget cuts.

Motion: Direct the Executive Director's Office to review all legislative accounts to look for potential savings that might be made without serious impacts on legislative operations or process and present, as non-binding, those savings to the Council's Budget Subcommittee of the Legislative Council for consideration relative to the emergency budget submission. Further, that the Budget Subcommittee make its recommendations promptly to the Council for submission to the Governor's Office for consideration relative to the emergency budget. (Motion by Speaker Saxl, second by Rep. Colwell, 9-1, Rep. Bruno opposed).

Mr. Boulter asked if the Budget Subcommittee members would need to be reappointed. Speaker Saxl suggested that the previous subcommittee would continue if the members still wished to serve. The members were Rep. Bruno, Rep. Colwell, Sen. Small and Sen. Daggett. The Speaker asked if those members would be willing to serve on the Subcommittee. Sen. Small, Sen. Daggett and Rep. Colwell agreed to serve. Rep. Bruno asked to take the matter under advisement. Speaker Saxl indicated that Rep. Schneider was invited to serve on the subcommittee if Rep. Bruno chose not to participate.

2. Additional Security Measures for the State House and Grounds

Mr. Boulter referred Council members to a letter from Major General Tinkham dated December 18, 2001 regarding additional security measures for the State House and grounds. Following the terrorist attacks of September 11th, General Tinkham formed a team of experts to assess potential target sites, including the State House complex. An assessment was made and a plan was developed to better coordinate response and to enhance site security. The General has made a request to discuss additional security measures that may be appropriate for the State House. Some measures would be relatively simple and inexpensive to accomplish; others would have a more significant cost or policy implications. The General suggested, and Mr. Boulter agreed, that some consideration be given to forming a small advisory group, including one or two legislators, to assist in evaluating recommendations for enhanced security.

Motion: Convene an advisory group consisting of the Secretary of the Senate, Clerk of the House, the Executive Director, two members of the Legislative Council, one from each body and one from each party, for the purposes of discussing recommendations for increased security measures for the State House and grounds and direct the advisory group to report its recommendations to the Legislative Council at its January meeting. (Motion by Speaker Saxl, second by Sen. Daggett, unanimous).

The Speaker asked for volunteers to serve on the advisory group. Rep. Schneider and Sen. Treat volunteered and were appointed by the Speaker.

- **Renovations: Status Report**

Stanley Fairservice reported that the underground connector and the new West Wing front entrance were open for public use. Rep. Norbert inquired if Mr. Fairservice and Mr. Hilfrank were confident that all deadlines will be met before the start of session. Mr. Fairservice said they were, that the 3rd and 4th floors will be completed, the Hall of Flags will be ready for painting by the end of the day on December 20th along with the stairwell in the North end.

Sen. Treat noted that the temporary automatic door opener at the South entrance had been removed and that some people find it difficult to open those doors without the power assist. She asked if the plans called for the opener to be re-installed. Mr. Fairservice responded that the approved drawings did not call for a power assist at that entrance drawings, but if the Council directs a change, one would be re-installed. Speaker Saxl asked Mr. Fairservice to price out the costs for such a modification to see if it could be accommodated within the current renovations budget. If it could not, it should be included in future budget proposals. Mr. Fairservice agreed to cost out the change.

Rep. Bruno made reference to an earlier communication from Mr. Boulter regarding the architect's request for payment of professional liability insurance and asked if the Council's contract with the architect allowed him to pass along any increase in insurance to the renovation project. Mr. Boulter said it was a professional liability insurance policy, which covers the architect's firm and contractors. Under the terms of the contract the Legislative Council was obligated to pay for the coverage. The premium is based on the final project costs, so cost overruns increase the final premium payment. Mr. Boulter negotiated the premium payment, and through an arrangement with Architects Weinrich + Burt, the architects will pay the costs to maintain the policy deductible at \$10,000 rather than \$25,000, a value of \$5,600. Mr. Boulter also explained that under the contract, the Legislative Council must compensate the architect at 10.8% of the project costs, including all cost overruns.

Speaker Saxl thanked both Mr. Fairservice and Mr. Hilfrank for their work on the renovation project.

- **Status of Interim Studies**

David Elliott, Interim Director, OPLA, reported that the studies were continuing and beginning to conclude. The staff was finalizing reports, drafting legislation, and several reports have been sent to print already.

- **Fiscal Report**

Grant Pennoyer, Director, OFPR, presented a report on the following matters.

1. **November 2001 Revenue Variances**

General Fund revenues were down for the month of November by \$3.1 million but up year-to-date by \$1.8 million. The budget figures reflect recent revenue rejections, and absent the rejections, revenues have been \$22.9 million under projects through the first 5 months of the fiscal year.

The Highway Fund continues to perform very well, up \$0.6 million for the month of November and \$5 million over projections for the year-to-date.

2. November 2001 Revenue Reprojection

The above figures reflect the recent revenue rejections; the reprojection for the current biennium is now \$248.6 million. To ensure that there is a balanced budget each fiscal year, approximately \$86 million is needed, through budget savings or revenue enhancements.

The Revenue Forecasting Committee made no change in the Highway Fund revenue projections.

Tobacco Settlement revenues were re-projected downward by \$2.2 million over the biennium. There was a balance projected at the end the biennium of approximately \$9 million. With the reprojection, there will be an estimated balance of approximately \$7.3 million in the Fund for a Healthy Maine.

3. 2004-2005 Structural Gap Estimates

On December 14, 2001, the estimate for the General Fund for the 2004-2005 biennium was between \$650 to \$700 million, a large portion of that reflecting the recent revenue rejections. Other contributing factors include Medicaid and increased health insurance costs and the Personal Services collective bargaining costs for state employees that will be fully recognized in 2004-2005.

4. General Fund Cash Balances

According to Mr. Pennoyer, the general total fund cash position has been negative since November, 2001. Had not various reserves: the Rainy Day Fund, Revenue Reserve and the Reserve for Working Capital been available, the General Fund would be negative by over \$200 million.

Mr. Pennoyer drew the Council's attention an error that reduced the amount designated as a set aside in the Revenue Reserve Fund. It had been thought \$20.7 million was available in that Reserve Fund. Due to a double counting, that amount was in error. The correct balance is \$12.6 million.

Without additional changes, the uncommitted balance at the end of the biennium of the Maine Rainy Day Fund is expected to be \$103.2 million.

Rep. Bruno asked at what point would the King Administration need to borrow money. Mr. Pennoyer said he had not heard that the Administration was planning to issue a Tax Anticipation Note. It can continue using balances available in the cash pool (resulting from the reserve funds).

Rep Bruno questioned the Reserve Fund error, asking if that error, once corrected, would increase the structural gap by \$8 million. Mr. Pennoyer said it had already been factored in: the Reserve is not part of unappropriated surplus, therefore, not calculated into the gap or the balances available for General Fund expenditures.

Mr. Pennoyer was also asked if the downward rejections in November took into account new automobile sales in October. Mr. Pennoyer answered that they had been taken into account. He believed the sales had the effect of pulling certain sales forward from later in the year and really would not result in any significant change over the year. It primarily would affect how the revenues are distributed by month.

In answer to a question about the reprojections, Mr. Pennoyer said that he had not had an opportunity to talk with the Bureau of Revenue Services regarding the 2 large sources of negative variance in November, one being corporate income tax, and the other being the estate tax. Part of the estimate assumes some large estates will settle their tax obligations at some point in the current fiscal year. It will vary from month-to-month.

REPORTS FROM COUNCIL COMMITTEES

- **Technology and Migration Committee**

Paul Mayotte reported to the Council on the following:

1. **Network Data Backup System Upgrade**

Mr. Mayotte's office has made a substantial upgrade to the network backup system that doubles the capacity of backup, thereby reducing backup time by half. This upgrade addressed the current problem and also allows for future growth. With this upgrade system backup will be completed before the start of the following production day, even when session runs late. The installation is underway and will be completed no later than mid-January. The cost is \$27,000 and is being funded from the existing FY 02 budget.

2. **Senate and House Audio Broadcasts to the Internet**

President Bennett and Speaker Saxl have authorized the broadcast of House and Senate sessions through the Internet. Mr. Mayotte's office will be using the existing infrastructure and sound systems in the Senate and House Chambers. The goal is to have the system ready at the start of the Session. As part of the process, Mid Maine Communications is to provide the connections to the Internet and the costs are being funded from the current Senate and House budgets.

3. **Legislative Direct Internet Access**

As part of the Legislature's decision to replace the Bureau of Information Services as the Internet service provider, Mid Maine Communications has been selected as the Internet Service Provider. It is the intent to remain with BIS through the Session for technical risk issues during the session, begin testing the system during the session and when the session ends begin using the Mid Maine Communications Internet connection. The project is being funded by budget savings from discontinuing the agreement with BIS.

In response to a question about the recent availability of an ISP when LIS was having difficulty earlier, Mr. Mayotte said one vendor withdrew from the business, another was precluded because of a contractual arrangement they have with BIS, which left 2 companies in the Augusta market capable of providing the service. One is a new company and has few of the type of installation in that the Legislature needed, were more limited than the selected company, and for the level of service the Legislature is looking for, were more expensive on a monthly basis.

Mr. Mayotte was asked if Verizon was the company that withdrew. Mr. Mayotte said Com-Tel withdrew. Members expressed concern about Verizon's apparently exclusive contract with BIS, that would prevent the Legislature from using Verizon as its ISP. Mr. Mayotte said he was not aware of the contract language, but he could check into it if the Council

wanted him to. He noted however, that the selection had already been made.

4. InforME Web Server Hosting

The Council had previously authorized the transition of the Legislature's Web page hosting from the Bureau of Information Services to InforME. That service level agreement is now in place. There are some issues to work out with InforME, including those relating to making sure that the Web page updates for bill status are timely. The InforME Web hosting service is provided at no cost to the Legislature.

5. Continuing Computer Virus Attacks

There have been some virus attacks over the past month, but the anti-virus software prevented any infections to the legislative computer systems. There have been some mail delays when the servers were overloaded with the virus mail.

Computer Migration Project

Mr. Mayotte reported that Executive Director Boulter had requested and had received a senior level management meeting with Compaq on November 29. Attending were Mr. Clint Cuny, Managing Principal, and Mr. Daley, from Compaq, Mr. Boulter and Mr. Mayotte. Mr. Boulter and Mr. Cuny directed Mr. Daley and Mr. Mayotte to jointly develop a completion plan for the migration project. The goals Mr. Boulter set for Mr. Mayotte included insuring that all of the Legislature's functionality problems and problem log items are resolved to the Legislature's satisfaction; and restarting the warranty period on this contract for a 12 month period after the Legislature accepts the final software package. The Executive Director will determine final acceptance of the system.

Mr. Mayotte wanted Council members to know that he believed that Compaq would be seeking additional financial support.

Mr. Mayotte reported that working with Compaq, over 100 problem items and key functionality issues have been resolved and about 34 remain open.

• Space Committee

The Space Committee met on November 28, 2001 and recommended that the Legislative Council adopt the recommendations made by the Subcommittee to Determine the Use of the Interpretive Center as described below:

- a) The main room be used as a visitors' center. The area would include computer stations for legislative information, a video projection area with bench seating, touch screen kiosks depicting flags and State House information and mobile display stands. The adjacent, smaller room would be used as a citizen's lobby area, and include a workstation for an intern, worktable for temporary use by the public, a telephone, fax, printer and copier services and a storage area for chairs.
- b) The intern be under the general oversight of the Legislative Information Office.
- c) Intern candidates be recruited from Maine institutions of higher education, and their service be uncompensated.

- d) The Executive Director's Office be charged with responsibility to sufficiently furnish and maintain the rooms in accordance with the approved uses, and seek financial assistance for furnishings from the State House and Capitol Park Commission, as appropriate. (The two touch screen kiosks will be provided by the Maine State Museum).
- e) The Space Committee postpone naming the area until the Space Committee has had an opportunity to seek suggestions from others. The Space Committee recommended, however, that the area not be referred to as the Interpretive Center.
- f) The Space Committee decide the appropriate uses and levels of activity outside the visitors' center, after taking into account the artwork to be displayed in the lobby area and the need to maintain safe ingress and egress at all times through the West entry.

Motion: That the Legislative Council approve the Space Committee's Recommendations "a" through "f" as described in the Space Committee Meeting Summary of November 28, 2001 regarding the layout and use of the 2 rooms located adjacent to the information kiosk on the 1st floor of the State House. (Motion by Rep. Colwell, second by Sen. Small, unanimous).

- **Personnel Committee**

Reports of Actions of the Personnel Committee

On Friday, November 16, 2001, the Personnel Committee unanimously approved a step increase for Clerk of the House Millicent M. MacFarland from Salary Grade 14, Step 7 to Step 8, effective December 3, 2001. The Personnel Committee's action was taken pursuant to Section 10 of the 120th Legislative Council's Rules of Procedure.

On Tuesday, November 27, 2001, the Legislative Council by unanimous vote by ballot, appointed David R. Mercier of Vancouver, Washington to a 3-year term as Director of the Office of Policy and Legal Analysis, effective December 31, 2001. He is assigned an initial salary of Step 8 in Salary Grade 14.

OLD BUSINESS

None.

NEW BUSINESS

Item #1: Setting the Salary of the Secretary of the Senate Pamela Cahill

On December 6, 2001, Pamela Cahill became Secretary of the Senate. By law, the Legislative Council must establish the salary for Secretary of the Senate Cahill.

Motion: That pursuant to 3 MRSA § 162-A, Secretary Cahill's salary be set at Step 6 in Salary Grade 14 retroactive to December 6, 2001. (Motion by Sen. Michaud, second by Sen. Davis, unanimous).

Item #2: Establishing an Early Deadline for Submission of Major Substantive Rules

Interim OPLA Director David Elliott discussed establishing an early deadline for submission of major substantive rules. Certain proposed rules must be submitted to the Legislature for review and authorization prior to final adoption. The standard deadline for submission of the rules is 45 days before statutory adjournment, for this session the date is March 1. The law also authorizes the Legislative Council to set an earlier deadline up to 30 days for agencies to submit their rules. Mr. Elliott asked if the Legislative Council wants to establish an earlier deadline in light of an anticipated early adjournment of the Second Regular Session. Mr. Elliott has spoken with the Governor's Office and was told that agencies are aware of the issue and would find a mid-February deadline acceptable. Mr. Elliott recommended a February 15, 2002 deadline.

Motion: That the Legislative Council set a deadline of February 15, 2002 for submission of major substantive rules for the Second Regular Session. (Motion by Speaker Saxl, second by Rep. Bruno, unanimous).

Item #3: Requests For Extension of Study Reporting Deadline

The following study commissions have requested the following time extensions for completion of their work and submission of final reports:

- Blue Ribbon Commission on Postsecondary Educational Attainment
(from December 5 to December 19, 2001)
- Gas Tax Equity Study Commission
(from December 5 to December 19, 2001)

Motion: That, the reporting deadlines for the Blue Ribbon Commission on Postsecondary Education Attainment and the Gas Tax Equity Study Commission be extended from December 5, 2001 to December 19, 2001. (Motion by Sen. Michaud, second by Sen. Small, unanimous).

**Item #4: Request for Authorization to Hold an Additional Meeting
(after the fact) (no additional funding needed)**

The following committee's request to hold an additional meeting was withdrawn prior to the Council meeting.

- Committee to Study the Needs of Persons with Mental Illness Who are Incarcerated
(authorized for 6 meetings)

Item #5: Request from Joint Select Committee on Joint Rules that the Name of the Joint Standing Committee on Banking and Insurance be Changed on the Legislative Website to the Joint Select Committee on Financial Institutions (Letter from Lloyd P. LaFountain, III, Senate Chair and Christopher P. O'Neil, House Chair)

The Joint Select Committee on Joint Rules considered recommending a change in the name of the Joint Select Committee on Banking and Insurance to the Joint Select Committee on Financial Institutions in order to conform with the new name of the former Bureau of Insurance. After consideration, the committee declined to recommend a name change at this time, but recommended to the Legislative Council that reference to the committee on legislative websites be using the new name as a way of introducing the new name to the public.

Legislative Council members generally disagreed with the joint select committee's recommendation. They felt that the committee name given it by the Legislature when adopting the Joint Rules be used until the Legislature, not the Legislative Council, sees fit to change the name. If the Joint Rules Committee feels strongly about a name change, it may seek to introduce a joint order to effect such a change.

Speaker Saxl asked that Executive Director Boulter send a letter to the Joint Standing Committee on Joint Rules, on behalf of the Council, explaining the Council's view on this matter.

Item # 6: Submission of Study Report

- Commission to Recognize Vietnam Veterans In the State House Hall of Flags

The Legislative Council accepted the report and placed it on file.

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

The Legislative Council meeting was adjourned at 3:10 p.m. (Motion by Sen. Michaud, second by Rep. Bruno, unanimous).