

MAINE STATE LEGISLATURE

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REP. MICHAEL V. SAXL
CHAIR

SEN. MICHAEL H. MICHAUD
VICE-CHAIR



120th MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

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

DAVID E. BOULTER
EXECUTIVE DIRECTOR

**MEETING SUMMARY
JANUARY 29, 2002
APPROVED FEBRUARY 27, 2002**

CALL TO ORDER

The Chair, Speaker Michael V. Saxl, called the Legislative Council meeting to order at 1:47 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 Mercier, Director, Office of Policy and Legal Analysis
Margaret Matheson, Revisor of Statutes
Lynn Randall, State Law Librarian
Paul Mayotte, Director, Legislative Information Services

SUMMARY OF DECEMBER 19, 2001, COUNCIL MEETING

Motion: That the Summary of December 19, 2001 be accepted and placed on file. (Motion by Sen. Michaud, second by Rep. Bruno, unanimous).

The Chair moved that the Council take an item out of order, unless there was objection. Hearing none, the Chair moved to Item 1 under New Business.

NEW BUSINESS

Item #1: Consideration of After Deadline Bill Requests

Fourteen 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 three items as informational updates.

1. **Staff Position**

Mr. Boulter introduced David Mercier, the newly appointed director for the Office of Policy and Legal Analysis. Mr. Mercier started his position in late December. The Legislative Council welcomed Mr. Mercier and wished him well in his new position.

2. **Public Hearing**

Mr. Boulter reminded members of the Legislative Council that the Appropriations Committee's public hearing for the Legislature's portion of the emergency budget bill, LD 2080, was scheduled for Wednesday, January 30th, at 3:30 p.m.

3. **Renovations of State House**

Mr. Boulter reported that the State House renovations are nearly completed. The 1st floor is completed; the Revisor's Office and the Document Room have reopened in their new spaces, and the Executive Director's Office will be moving into its new space on Thursday, January 31st. The Law Library space will be completed by Friday, February 1st and the Library will re-open for business on Tuesday, February 5th.

- **Renovations: Status Report**

Stanley Fairservice, the Owner's Representative, reported there are still outstanding items that need to be done: the South Entrance repointing work to be done in the spring, granite repair at the West Entry, and need to balance the heating/cooling system. The system can not be balanced until all systems are in place mechanically and he plans to wait until after the session to complete the system balancing. Mr. Fairservice expects Granger Northern to work very aggressively to complete the punch list.

- **Status of Interim Studies**

David Mercier, Director, OPLA reported that most study commissions have completed their work. The several remaining studies should be completed by Friday, February 1, 2002.

- **Fiscal Report**

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

1. **December 2001 Revenue Variances**

General Fund revenues were up \$7.5 million, which is \$9.3 million above projections for the fiscal year to date. This represents less than a 1% variance, close to budgeted revenue.

The Highway Fund revenue was down this month but overall the fund remains ahead of budget by \$2.2 million.

Mr. Pennoyer said that he had checked with Maine Revenue Services specifically on the status of income tax and sales tax receipts. Sales tax reflects a fairly good December, ahead of budget. He also reported that although Council members may have heard of the potential for a major reprojection, he cautioned about too much optimism. January is a critical month, particularly for the individual income tax. Twenty-six percent (26%) of the downward revenue reprojection was for January. Only \$23 million was reprojected down for the first half the year, the remainder of the \$108 million or 70% of the reprojection relates to the 2nd half of the year and 26% in January. Individual income tax may be just under budget for January. This is not encouraging news for any significant change in the revenue forecast.

2. **Revenue Projection Schedule**

Mr. Pennoyer reported that on Thursday, January 31st, the Consensus Economic Forecasting Commission will meet in the Governor's Cabinet Room at 9:30 a.m. This meeting should determine whether a change in the underlying economic forecast will translate into any significant change in the revenue forecast.

The Revenue Forecasting Committee is scheduled to meet on February 25, at 9:30 a.m. in the Appropriations Committee Room.

REPORTS FROM COUNCIL COMMITTEES

- **Subcommittee to Consider Additional Security Measures**

Sen. Treat reported that the subcommittee had met 3 times. Subcommittee members have had extensive discussions regarding a number of items and have received recommendations from the State Police. Speaker Saxl inquired as to whether part of the Subcommittee's charge was to review LD 2079 and Sen. Treat said no, it was her understanding that may be part of the responsibilities that the committee may be given, but it was not part of the current charge to the subcommittee.

Subcommittee members ranked various security measures in terms of high priority, medium priority and those not recommended at this time. The subcommittee made the following recommendations to the Legislative Council.

1. With Respect to Access to the State House:

- A. Confine access to the State House by the public to the new west entrance and underground connector. Allow Legislators, legislative employees and employees of the Governor's Office access to the State House via the north and south entrances using security access cards.
- B. Require vendors and delivery personnel to pickup and deliver materials only through the loading dock at the Cross Building and underground connector or if the materials are easily transportable through the west entrance.
- C. Limit after hours access to the State House by vendors, non-legislator employees and the public. Allow Legislators, and legislative employees as authorized by their appointing authority, access to State House outside regular business hours.

2. With Respect to State House and Chamber Security:

- A. Prohibit unattended packages, briefcases, bags and other similar articles, and charge the Bureau of Capitol Security with enforcing this requirement, including relocating or removing unattended articles to a safe location.

3. With Respect to Surveillance and Security:

- A. Install CCTV surveillance cameras at all entrances to the State House and such cameras as necessary to monitor the entrance steps, walks and plazas immediately outside the west and east entrances to the State House. The Department of Administrative and Financial Services has agreed to pay for the costs of procuring and installing the cameras.
- B. Install additional lighting to enhance building security and provide additional safety for pedestrians.

The proposed 19 locations appears excessive. All lighting placed should be shielded and of a design in keeping with the State House, and that the number and placement of lights should be reviewed and approved by the Legislative Council or State House and Capitol Park Commission. The Executive Branch should pay for or at least share in the costs of providing additional lighting since the benefits of the lighting would extend beyond legislature operations.

- C. Relocate as many handicap parking spaces as is feasible from the area between the State House and the Cross Building to the parking area immediately adjacent and to the north of the State House. In doing so care must be given to assuring adequate and convenient parking, in compliance with ADA requirements, for individuals with disabilities who want to access either the Cross Building or the State House.
- D. Reaffirm, by posting or other appropriate notice, that firearms or other weapons are prohibited in the State House and in legislative areas of the Cross Building, except by law enforcement officers specifically authorized to carry such weapons in the performance of their capitol security duties.

- E. Improve pedestrian walkways from area parking lots to the State House. Work with the Bureau of General Services to develop and implement plans for improved existing or new walkways that are properly lighted and maintained to increase pedestrian safety.
- F. Provide a security presence by having Capitol Security to perform regular security patrols on the 2nd floor of the Cross Building and in the State House. It should also institute regular foot patrols in parking lots and in State House grounds.
- G. Maintain a security and Legislative Information Office presence at the information kiosks at all times when the Legislature is in session and the State House is open to the public.
- H. Provide secure and designated, but unmarked, parking spaces in close proximity to a State House entrance for the Governor and the presiding officers.
- I. Install CCTV security cameras in the State parking garage to be monitored by Building Control.
- J. Place emergency call boxes in parking lots in the State House complex and in the State parking garage. The Bureau of General Services should develop and implement a plan for the installation of call boxes.
- K. Install a "hot line" between the Governor and the presiding officers to assure the ability for an immediate and secure means of communication in the event of an emergency. In addition, provide for telecommunications, not reliant on electric power, between the Commissioner of Administrative and Financial Services, Maine Emergency Management Agency and the Executive Director's Office in the event of an emergency.
- L. Perform regular fire and building emergency evacuation drills at the State House. Drills should be in coordination with the Bureau of Capitol Security and Building Control. Information about emergency evacuation procedures should be distributed to Legislators as well as legislative employees.
- M. Until such time as a comprehensive parking system for the State House complex is developed and implemented by the Bureau of General Services and Capitol Security, the subcommittee feels that it is infeasible to institute an effective employee parking system to identify state employee vehicles. The subcommittee recommends that the Bureau of General Services and Capitol Security develop a comprehensive parking system that would allow implementation of such a system.

4. With Respect to People Management

- A. Establish a written protocol with the Bureau of Capitol Security, Maine State Police and the Legislature for the protection of the Senate President and the Speaker of the House in the event of threats of harm or other emergencies.

Discussion: Speaker Saxl thanked the members for serving on the subcommittee and for their excellent work. The Speaker brought to the Council's attention that the Appropriation's Committee has been meeting after regular business hours and the Legislative Information

Office and Capitol Security were not seen in the building. Apparently the building is locked at 5:00 p.m., but he believes it is the Council's intention that whenever there is a public hearing in process, the public should be allowed to enter and leave the State House through the appropriate entrances and that the information kiosks should be staffed by Capitol Security and the Legislative Information Office. Sen. Treat believes the implementation of the after hours access has to be very thoughtful, and need to have a system that does not prevent access to public proceedings by the public.

Members agreed that the current outside lighting, especially in parking areas is poor, and the safety of everyone, especially, in the evening, is a high priority. Sen. Michaud asked the cost of the recommended security measures. Sen. Treat believed most items were in the Governor's budget or could be absorbed by the Executive branch. Mr. Boulter informed the Council that not all items have yet been costed out. The cost for the purchase and installation of the surveillance cameras has been agreed to by the Department of Administration and Financial Services, and he believes that the costs for the additional lighting could be worked out as well. Many security measures represent modest costs. Mr. Boulter pointed out that the subcommittee recommends that Council staff work with Bureau of General Services and bring information back to the full Council before expending any significant amount of money for security measures.

Motion: That the Legislative Council institute the additional security measures as recommended by the Subcommittee to Consider Additional Security Measures, Recommendations 1 A-C, 2A, 3 A - M and 4 A as described in the Subcommittee's meeting summary dated January 25, 2002, and further that the Legislative Council or its designee work in consultation with the Department of Administrative and Financial Services and the Bureau of Capitol Security to develop a plan and schedule for prompt implementation of the recommended security measures. Further that security measures having a significant cost would be discussed with the Legislative Council before implementation and that there be an appropriate allocation of the costs between the different branches of State government. (Motion by Sen. Treat, second by Rep. Schneider, unanimously).

The Chair, Speaker Saxl then moved that the Council taken another item out of order, unless there was objection. Hearing none, the Chair moved to Item 1 under Old Business and Items 5 and 7 under New Business.

OLD BUSINESS

Item #1: An Act to Clarify the Law Enforcement Authority of Capitol Security Personnel LD 2079

The Chair, Speaker Saxl reminded members that the Legislature enacted emergency legislation last week that temporarily exempts certain training requirements for Capitol Security officers. The exemption is repealed on December 31, 2002. The legislation, an outgrowth of LD 2079, also reaffirms the Legislative Council's role in deciding levels of security and security measures at the State House. The Chair stated that he believes the Legislative Council, in addition to relevant policy committees, should review proposals for various training levels for Capitol Security personnel and make a recommendation to the Legislature before the exemption is repealed. The Chair recommended that the existing security subcommittee, with 3 additional Council members added, review the information and ask for input from the Criminal Justice Committee, which has been dealing with the training issues.

Motion: That the Subcommittee to Consider Additional Security Measures, expanded to include an additional 3 members of the Council, review issues related LD 2079: An Act to Clarify the Law Enforcement Authority of Capitol Security Personnel and make a recommendation to the Legislative Council as to the advisability of legislation as it relates to legislative operations and security. In reviewing the issues, the subcommittee must seek comments and recommendations from the Joint Standing Committee on Criminal Justice, or subcommittee thereof, the Bureau of Capitol Security and the Maine State Police, Special Services unit. (Motion by Speaker Saxl, second by Sen. Michaud, unanimous).

Speaker Saxl then asked for volunteers from the Council of individuals interested in participating. He asked that anyone interested in serving on the committee contact the Executive Director's Office or his office. [Rep. Colwell and Sen. Davis volunteered to participate.]

Item #5: Request for Staffing from Health Care System and Health Security Board
(Memo from Co-Chairs Rep. Paul Volenik, House Chair and Sen. John Martin, Senate Chair)

Rep. Volenik, Co-Chair of the Health Care System and Health Security Board, informed the Council that the Board planned to hold 2 additional meetings during the session and additional meetings following the session. The Board is at the point in its study where note taking cannot be done effectively without staffing.

The Speaker asked Director Mercier if OPLA could provide the staffing for the Board. Mr. Mercier said that he had spoken with Rep. Volenik and that OPLA could provide staffing to take notes for the 2 meetings during the session.

Motion: That the request for OPLA staffing services to the Health Care System and Health Security Board for 2 meetings during the 2nd Regular Session be approved. (Motion by Sen. Treat, second by Rep. Colwell, the motion passed 6-3, Sen. Davis, Rep. Bruno, Rep. Schneider opposed).

Item #7: Request for Extension of Study Reporting Deadline
(no additional funding from the Legislature requested)

- Health Care System and Health Security Board
(from March 1, 2002 to December 1, 2002)

Motion: That the reporting deadline for the Health Care System and Health Security Board be extended from March 1, 2002 to December 1, 2002. (Motion by Sen. Treat, second by Rep. Colwell, unanimous).

REPORTS FROM COUNCIL COMMITTEES

- **Personnel Committee**

Speaker Saxl reported that the Personnel Committee would be meeting following the Council meeting.

- **Technology and Migration Committee**

The Technology Committee did not meet during the past month. Paul Mayotte reported to the Council on the following:

1. **Internet Audio**

Senate and House proceedings are now being broadcast on the Internet, the first broadcast being on January 4, 2002. The Appropriations Committee's hearings and work sessions are also being broadcast on the Internet when the Senate is not in session. The Office of Information Services will be tracking the amount of public use of the broadcasts.

2. **Director Access to the Internet**

The line for direct access to the Internet has been installed, tested and is functioning properly. The firewall hardware and software has been installed and is now being tested. The remaining tasks for the direct Internet access include the global addressing listing, a secondary connection to BIS and finalizing the new legislative address. Mr. Mayotte said the plan is to disconnect from BIS for Internet access and use the direct access.

3. **Backup System Upgrade**

- a. All software and hardware in house.
- b. Installation and testing underway.
- c. An early February completion date is anticipated.

4. **Migration/Bill Drafting System**

- a. A Contract Amendment is being prepared to reflect the agreements in the Completion Plan.
- b. The draft is to be completed no later than 1/31/02 for review by the Technology Committee and Legislative Council in early February.
- c. Assistant Attorney General Laubenstein is supporting this effort.

- **Space Committee**

Rep. Colwell reported that the Space Committee had not met since the last Council meeting and has no report.

- **Budget Subcommittee**

The budget subcommittee met and made its recommendations to the Legislative Council. The Legislative Council subsequently approved its recommendation by ballot. Executive Director David Boulter said no formal action was required by the Council. The material in the packet was what has been provided to Appropriations Committee along with summary of the approved recommendations.

- **Capital Area Advisory Committee**

Following its meeting, the Legislative Council's Capital Area Advisory Committee sent a letter to the Joint Standing Committee on State and Local Government regarding a proposed memorial in Capitol Park. The letter is included in the packet for the Legislative Council's information.

No Council action required.

OLD BUSINESS

Item #2: Rebuilding Fund Request from the Council of State Governments

Speaker Saxl reminded Council members of the request made by the Council of State Governments for a contribution to help CSG rebuild its New York City offices that were destroyed on September 11, 2001. Given the current State and legislative budget, the Chair felt it would be very difficult at this time to meet the rebuilding request (about \$10,000). The Speaker asked Executive Director Boulter to write a letter on behalf of the Council advising CSG that the Legislature is unable to provide additional funds at this time. The other members concurred.

No further action by the Legislative Council is required.

Item #3: Actions taken by Ballot

Executive Director Boulter provided Council members with a list of actions taken by ballot by the Legislative Council since its December 19, 2001 meeting.

No Council action required.

NEW BUSINESS

Item #2: Creation of Legislative Council Subcommittee to Plan for New Legislator Orientation and Other Legislator Education Programs

Speaker Saxl said last year when they began as a new Legislative Council there had been talk regarding implementing training efforts because it was felt by some legislators that they did not believe they had sufficient time to consider or understand the budget or other legislative issues. For that reason the Speaker believed that the Council should institutionalize a curriculum committee of the Legislative Council which would include some members of the Legislature's rank and file, to develop a legislative session training and orientation program in a collaborative, bi-cameral and bi-partisan fashion.

Speaker Saxl's recommended a standing curriculum committee made up of 4 members of Leadership, the Chair of the Council, and 4 rank and file members each representing each caucus, invite groups to participate and offer suggestions, and that the Secretary of the Senate and Clerk of the House be included as ex officio, non-voting members.

Motion: That the Legislative Council establish a curriculum committee of the Legislative Council for legislator orientation and training which includes a Legislative Council member from each caucus, 1 rank and file member from each caucus and the Chair of the Council. (Motion by Speaker Saxl, second by Rep. Colwell with the amendment that the Secretary of the Senate and Clerk of the House be included as ex officio members. A friendly amendment was made that it be an 8 member board, not 9, with the 2 members ex officio and non-voting. It was moved and seconded, unanimous).

Item #3: Communications Sent on Behalf of the Legislative Council

A copy of the memo sent to the Joint Select Committee on Joint Rules by Executive Director Boulter on behalf of the Legislative Council regarding the recommendation to change the name of the Joint Standing Committee on Banking and Insurance was included in the packet for informational purposes.

No Council action required.

Item #4: Legislative Budget Reduction Proposals (Emergency Budget)

Executive Director David Boulter said this matter did not require Legislative Council action. The material in the packet was for informational purposes. It was what had been provided to Appropriations Committee.

Item #6: Proposed Policy on Loaned Artwork (Memo from David Boulter, Executive Director of the Legislative Council)

Mr. Boulter presented the proposed policy on loaned artwork for a Council decision. He told the Council the proposed policy will allow the Legislature to secure insurance for pieces of art that are on loan and are exhibited in offices in the Legislature. It is not for permanent pieces of artwork that are the responsibility of the Maine State Museum. The proposed policy is consistent with the requirements of the Division of Risk Management. The proposed policy establishes protocols for how artwork is brought into the building, who is responsible for it, at what times and an assurance that it leaves. There is a proposed maximum market value of \$5,000 for individual work with the aggregate maximum value being \$200,000. Mr. Boulter has been told by the Division of Risk Management that absent adoption of a policy, it is unlikely the Legislature could obtain insurance for the pieces of art.

Speaker Saxl asked Mr. Boulter how it had been handled in the past. It was Mr. Boulter's understanding that while art work was hung in the State House, they were not insured up until two years ago when temporary procedures were implemented that allowed insurance coverage.

Rep. Bruno asked for clarification on the determination of the value for the artwork. It was Mr. Boulter's understanding that for the purposes of the initial filing, the artist will state what he or she believes is the value and in the event of a loss an insurance adjuster would require evidence of the fair market value from the owner of the artwork. The person will fill out a form indicating the price of the artwork with the understanding that if the artwork is worth more than \$5,000 the insurance would only cover up to \$5,000.

Motion: Move that the Legislative Council adopt the proposed policy on loaned artwork. (Motion by Sen. Treat, second by Rep. Schneider, unanimous).

Item #8: Submission of Study Reports

The Legislative Council received the following study reports.

- Committee to Study the Needs of Persons With Mental Illness Who Are Incarcerated (pursuant to H.P. 1383)
- Joint Study Committee to Study Growth Management (pursuant to Joint Order H.P. 1330)
- Committee to Study the Loss of Commercial Fishing Waterfront Access and Other Economic Development Issues Affecting Commercial Fishing (pursuant to Joint Order, H.P. 1384)
- Committee to Review the Child Protective System (pursuant to Joint Order, H.P. 1385)
- Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave (pursuant to Joint Order, H.P. 1386)
- Joint Study Commission to Study Reimbursement Rates for Maine's Bottle Redemption Rates for Maine's Bottle Redemption Businesses and Other issues Related to the Handling and Collection of Returnable Containers (pursuant to Joint Order, H.P. 1389)
- Committee to Study Issues Concerning Changes to the Traditional Uses of Maine Forests and Lands (pursuant to Joint Order, H.P. 1391)
- Commission to Study Assisted Living (pursuant to Private and Special Law 2001, chapter 36)
- Commission to Study the Needs and Opportunities Associated With the Production of Salmonid Sport Fish in Maine (pursuant to Public Law 462, chapter 124)
- Round Table to Study Economic and Labor Issues Relating to the Forest Products Industry (pursuant to Resolve 1991, chapter 124)
- Commission to Study Domestic Violence (pursuant to Resolve 1999, chapter 126)
- Commission to Study the Implementation of a Unified Emergency Response for Emergency Releases and Spills of Toxic or Hazardous Materials (pursuant to Resolves 2001, chapter 65)
- The Blue Ribbon Commission on Postsecondary Educational Attainment (pursuant to Resolve 2001, chapter 66)

- Commission to Study Equity in the Distribution of Gas Tax Revenues Attributable to Snowmobiles, All-Terrain Vehicles and Watercraft (pursuant to Resolves 2001, chapter 68)
- Joint Standing Committee on Health and Human Services Review of the Child Welfare System

The Legislative Council accepted the reports and placed them on file.

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

The Legislative Council meeting was adjourned at 3:00 p.m. (Motion by Sen. Davis, second by Sen. Treat, unanimous).