

# MAINE STATE LEGISLATURE

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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

120<sup>th</sup> MAINE STATE LEGISLATURE  
LEGISLATIVE COUNCIL

DAVID E. BOULTER  
EXECUTIVE DIRECTOR

**MEETING SUMMARY**  
**August 21, 2002**  
**Approved September 24, 2002**

**CALL TO ORDER**

The Chair, Michael V. Saxl, called the Legislative Council meeting to order at 1:20 p.m. in the Legislative Council Chamber.

**ROLL CALL**

Senators:	Sen. Small, Sen. Treat Not present at roll call Sen. Daggett; arrived 1:52 p.m. Absent: Sen. Davis, Sen. Michaud,
Representatives:	Speaker Saxl, Rep. Colwell, Rep. Norbert, Rep. Schneider Absent: Rep. Bruno
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, Director, Office of Policy and Legal Analysis Margaret Matheson, Revisor of Statutes Stephanie Ralph, Principal Law Librarian Paul Mayotte, Director, Legislative Information Services

**SUMMARY OF THE JULY 31, 2002 COUNCIL MEETING**

**Motion:** That the Meeting Summary of July 31, 2002 be accepted and placed on file. (Motion by Rep. Norbert, second by Rep. Schneider, unanimous).

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

## NEW BUSINESS

### **Item #1: Percent for Art Committee recommendations for funding of State House artwork pursuant to the Percent for Art program**

Speaker Saxl welcomed Representative Elizabeth Watson and Senator Betty Lou Mitchell, Percent for Art Committee Co-chairs to the Council meeting. Rep. Watson turned the presentation over to Sen. Mitchell. Sen. Mitchell introduced other members of the Committee present at the meeting: David Boulter, Executive Director of the Legislative Council; Alden Wilson, Director, Maine Arts Commission; Earle Shettleworth, Director, Maine Historic Preservation Commission; and Christopher Crosman, Director, Farnsworth Library and Art Museum who is the Advisor for the Committee. All are non-voting members. Sen. Mitchell then introduced Alden Wilson.

Mr. Wilson gave the background information of the Percent for Art Committee's Legal charge: to carry out an open competition for artwork to engender the widest possible participation among the artistic community. The law was created by an act of the Legislature in 1979 and was amended approximately 10 years later. The committee sought to select works to represent the geographic and cultural diversity of the State of Maine. The total budget was \$240,000. The State House project had 2 phases, with the first phase being the completion of the rostrum. The rostrum was 1% of the construction portion of the allocation. The first artwork approval of the Council for phase 2 was the selection of Evan Haynes' "Communiqué", the granite inscribed piece in the connector. The cost of the granite engraving was \$50,000.

Mr. Wilson said the proposals being presented to the Legislative Council for its consideration are:

1. Diana Cherbuliez is a sculptor. She has proposed for the entrance to the State House two large contemporary figurehead pieces in wood which would emerge from the corner walls, depictions of the fishing and farming industry. The cost of the carved sculptures is \$66,250.
2. Valdermar Skov is a craftsman of furniture and is known to members for his work crafting the House rostrum. His current proposal includes 4 carved benches on granite bases, 2 for the outer lobby area and 2 for the inner lobby area. The cost of the benches is \$29,050.
3. Robert Indiana is an artist of international reputation. He has proposed a painting for the first floor inner lobby east wall. The cost is \$75,000.

Mr. Wilson introduced Mr. Christopher Crosman who spoke to the Council regarding Robert Indiana's proposed work for the State House and why he believes his design for the State House is especially appropriate.

Earl Shettleworth then spoke on behalf of the State House and Capitol Park Commission. He believes when the Percent for Art Committee looked for art to be placed in the new entry to the State House, they looked at art that would express the future, not merely just the past. Mr. Shettleworth recommended the above artwork to the Council for its consideration.

Discussion followed regarding the importance of having all members of the Legislative Council being present to vote on the artwork that would be in the State House. There was an initial suggestion to vote by ballot, since not all Legislative Council members were present, but it was generally decided the matter should be discussed among themselves prior to any vote.

Speaker Saxl thanked the Percent For Art Committee members for their hard work and was appreciative of all they had done. He said the Council would try to have a collective answer as soon as possible.

**Motion:** Sen. Treat moved to table a decision on the recommended artists and artwork until a future Legislative Council meeting, when all members were present, seconded by Rep. Colwell; unanimous.

## REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

- **Executive Director's Report**

David Boulter, Executive Director of the Legislative Council, reported on the status of renovations at the State House. Progress is being made on the East and South entrances, with an anticipated completion date of October 15<sup>th</sup> for the East entrance and approximately September 15<sup>th</sup> for the south entrance.

One major punch list item that is still outstanding is the correction of the marble tiling problem on the third floor. He continues to work with Granger Northern to find an acceptable solution to the tile breakage.

Mr. Boulter reminded Leaders that appointments to the Legislative Curriculum Committee should be made as soon as possible. Pursuant to earlier Council action the Committee is to develop new legislator orientation and policy forum programs for the incoming legislature. The Committee should meet within the next month. Mr. Boulter asked members to submit the names of appointees to the Speaker or him.

Mr. Boulter and Rose Breton, Assistant for Administrative Services, are in the process of preparing the FY 04/05 Part I budget based upon currently authorized positions and existing levels of current services, and are working closely with each office to develop the initial budget for the Legislature. Pursuant to law, the Executive Director is authorized to submit a tentative consolidated legislative budget request to the Budget office by September 1. Mr. Boulter suggested that the Executive Director's Office develop the summary information at the program and line categories. It would then be distributed to Council members prior to the September 24 Council meeting and following the meeting, if acceptable to members, will be submitted to the Budget Office by October 1<sup>st</sup>. Following that procedure, the Council may want to consider creating a budget subcommittee to look at either Part II requests or budget adjustments that may be necessary in light of the budget revisions for the next biennium.

The last item in Mr. Boulter's report related to fire alarms in the State House. There have been a number of alarms and he has since learned that the design of the fire alarms is a one-stage rather than a two-stage system. In most public buildings two events must happen before an external alarm is activated. Mr. Boulter is working with Granger Northern and Bureau of General Services to evaluate an alternative system that will not trigger as many false alarms.

No Council action required.

- **Fiscal Report**

Grant Pennoyer, Director, Office of Fiscal and Program Review, presented the following fiscal report:

**1. General Fund and Highway Fund Revenue Variances for July 2002 (FY 03)**

- The General Fund was above projections by \$5.9 million. The only negative variance was "Income from Investments" due to an error in the monthly distribution.
- The Highway Fund Revenue was up by \$1.6 million for July 2002 (FY 03)

Despite the positive revenue in July, Mr. Pennoyer cautioned looking solely at one month. Preliminary figures for August are not as encouraging; Sales Tax revenues will be close, but will be under budget. Withholding of Individual Income Tax revenues appear to have dropped off and Estate Tax revenues has been under performing.

**2. Economic and Revenue Forecasting Schedule**

The Economic Forecasting Commission met on Friday, July 26, 2002 and recommended an economic forecast which was run through the tax models and presented to the Revenue Forecasting Committee August 14<sup>th</sup>. As a result, the tax models made major adjustments in the recommendations for the major tax lines. Instead of a \$90 million problem, the original projection for FY 03, the current downward revision of revenue as suggested by the tax models was over \$140 million. The \$140 million is on top of the \$92.5 million already known as the negative variance in FY 02.

**3. Preliminary Data Presented to the Revenue Forecasting Committee**

Mr. Pennoyer cautioned that the estimates are preliminary. The Revenue Forecasting Committee is hoping to reach a final decision on Wednesday, August 28, 2002. The Economic Forecasting Commission is having a conference call August 22<sup>nd</sup> to discuss again the personal income component distribution. That distribution, is believed to have caused a great portion of the under projection of revenue in FY 02.

The Revenue Forecasting Committee had several tax practitioners appear before the Committee on August 14<sup>th</sup>. They were informed of the amount being assumed for the capital gains for tax year 2002 and they believed the amount was too optimistic. The Committee was assuming a 5% decline from an already significant decline in tax year 2001. A change in that assumption may have a further impact on the Revenue Forecast; as much as \$13 million less going given a reduced assumption of 25% decline.

**4. Budget Shortfall for FY 03 Based on Preliminary Revenue Forecasting Committee**

After accounting for the savings proposed by the Governor for FY 02 and accounting for the shifting of transfer from the Rainy Day Fund to a year earlier, the current budget shortfall for FY 03 is in excess of \$220 million. The Governor has proposed \$147.5 million in savings, leaving the un-addressed shortfall in excess of \$72.5 million.

## **5. Structural Gap Estimate for FY 2004-2005**

Looking ahead to the next biennium, the “structural gap” estimates as a result of the preliminary forecast of revenues would be in excess of \$900 million.

No Council action required.

- **Office of Information Services’ Report**

Paul Mayotte, Director, Legislative Information Services reported to the Council on the following items.

### **1. Bill Drafting System**

Heward Packett (formerly Compaq) has installed the updated software with the added functions and problem log corrections called for in Contract Amendment 4. The Revisor’s office has started testing. Problems are being found, but Heward Packett has been correcting the problems and remains within the testing schedule window. Mr. Mayotte does not anticipate any problems with the added functions and problem log correction; however, as part of the testing process they are finding that the application itself is performing in an unacceptably slow manner. The Legislature is using new and faster PCs so the issues are not on the user’s desktop. They have also confirmed that the local area network has been running with no problems and with plenty of capacity. The problem has been isolated to the application itself.

Mr. Mayotte said Heward Packett has been very straightforward and has stepped up to the problem. The Legislature’s acceptance criteria is very clear on performance; performance has to be acceptable to the Legislature, and per Contract Amendment 4, Heward Packett has until October 11, 2002 to deliver an acceptable system. Mr. Mayotte said at this time he is merely advising the Council of the problems, and that Heward Packett is addressing the problems and he believes they will be fixed.

Speaker Saxl questioned if the Legislature would be fully migrated off the Wang for the next legislative session. Mr. Mayotte said he was not 100% confident of that, and is making sure that the Wang, if needed, will be capable of supporting the next legislative session. Council members were concerned that the system would not be ready for the next legislature. Mr. Mayotte believes that Heward Packett will deliver a functioning system. What has been found in the test process is an application performance issue, is serious, but can be fixed. Speaker Saxl reiterated the Council’s expectation that a functioning system will be in place by the 201<sup>st</sup> Legislature.

### **2. Internet Access**

Mr. Mayotte said, as reported at the July Council meeting, the Legislature and the Bureau of Information Services reached an agreement that the Legislature’s email address would be “Legislature.Maine.gov”. Since that time, Harry Lanphear, the State’s CIO, has requested that the Legislature defer its use until everyone understands the implications of using “Legislature.Maine.gov” and has requested a meeting with Commissioner Waldron and Mr. Boulter. Mr. Mayotte does not see any adverse implications for the Legislature using the address.

Council members had concerns whether the new email address be available for the next Legislature. It was suggested a letter be written from the Technology and Migration Committee to Mr. Lanphear requesting any written concerns by a certain date, and the Legislature's intention to move forward to implementation. After discussion, Mr. Boulter requested that the meeting with Commissioner Waldron be held before a letter is sent. The Legislative Council agreed that Mr. Boulter would schedule a meeting with the Commissioner and if issues could not be resolved, another meeting with Council members could be held or a letter from the Technology and Migration Committee could be sent.

No Council action is required.

- **Update on Interim Studies**

David Elliott, Director, Office of Policy and Legal Analysis, gave a progress report on interim studies. Changes that have occurred since the distribution of the August 13, 2002 progress report are:

- The appointments for the Casino on the Economy, Transportation Infrastructure, State Revenue and Job Market study is now complete.
- Meetings scheduled but not listed on the Progress Report
  - Family and Medical Leave for Maine Families Study
  - Rail Transportation Task Force

Mr. Elliott also reported on the progress of the Health Care System and Health Security Board. The Board reported a successful fund raising effort. They received a \$200,000 grant from the Maine Health Access Foundation, Inc. and raised an additional \$34,000 in private donations. A contractor has been hired to construct a micro-simulation model that will estimate the costs and economic impact of a single-payer plan on Maine citizens. The Board is anticipated another 3 - 5 meetings. The board has used its general fund allotment but the money raised will be sufficient to cover their additional expenses to complete their study.

Attached is the Progress Report on Legislative Studies as of August 13, 2002.

No Council action is required.

## **REPORTS FROM COUNCIL COMMITTEES**

- **Personnel Committee**

The Personnel Committee met earlier in the day. Please refer to Item 1 under Old Business and New Business.

- **Technology and Migration Committee**

No report. The Technology and Migration Committee did not meet this month.

- **Subcommittee to Consider Additional Security Measures**

No report. The Subcommittee will be meeting on Wednesday, August 28, 2002.

- **Space Committee**

No report. The Committee will be meeting on Wednesday, August 28, 2002.

## **OLD BUSINESS**

### **Item #1: Recommendation relating to use of furlough days for legislative employees**

Speaker Saxl reminded members that at the July, 2002 Council meeting Executive Director Boulter was asked to survey legislative employees regarding furlough days and to suggest options for the Council to consider. The Speaker asked Mr. Boulter to report on the results of the survey.

Mr. Boulter said the results of the survey were as follows:

- 2/3 of the respondents felt legislative employees should take days off without pay if other state employees were required to do so, rather than finding alternative ways to save money. 1/3 of the respondents felt alternative ways should be found that did not represent pay decreases for legislative employees.
- 77% preferred closing all offices for a day, rather than staggering furlough days among employees to keep offices open. Others wanted to keep offices open so employees could stagger days.
- 34% of the employees would voluntarily take days off without pay and about 2/3 would not take voluntary days off.

Speaker Saxl said the Personnel Committee had discussed the results of the survey and is making the following motion to the Council.

**Motion:** That all legislative offices be closed on October 11, 2002 and legislative employees be placed on leave without pay for the day. (Motion by Speaker Saxl, second by Sen. Small, unanimous).

Following discussion of future furlough days and administrative leave days, the following motion was then made:

**Motion:** That all legislative offices be closed on Thursday, December 26, 2002 and legislative employees be placed on leave without pay for the day, and that the Executive Director's office provide some accommodation for employees for whom the October 11 and December 26 furlough days would constitute an extreme hardship; further, that all legislative offices be closed on Tuesday, December 24, 2002 and that all legislative employees who are in work status as of December 23, 2002 be granted administrative leave with pay for that day. (Motion by Sen. Daggett, second by Rep. Schneider, unanimous).

Note: This action officially applied only to Legislative Council employees. The Senate President and the Speaker subsequently followed suit for Senate and House employees.

## **NEW BUSINESS**

### **Item #2: Personnel Policies Revisions - Recommendation**

Executive Director Boulter reported that the Personnel Committee had met earlier and had concluded its year long work to revise and update the personnel policies relative to Legislative Council employees. With some small administrative changes and only one policy level change, that non-partisan employees who work part-time, year round, 16 or more hours a week on a regularly scheduled basis be provided insurance coverage (to make it consistent throughout the organization), the Committee made the recommendation that the Legislative Council adopt the revised policies. A copy of the proposed revisions had been delivered to Legislative Council members in advance of the meeting.

**Motion:** That the Legislative Council adopt the Personnel Policies and Guidelines for Legislative Council Employees as revised and recommended by the Personnel Committee on August 21, 2002. (Motion by Speaker Saxl, second by Sen. Small, unanimous).

## **ANNOUNCEMENTS AND REMARKS**

Speaker Saxl asked the Leadership Offices who have not nominated members to serve on the Legislative Curriculum Committee/Legislator Orientation to please do so.

The next Legislative Council meeting is scheduled for September 24, 2002 at 1:00 p.m.

## **ADJOURNMENT**

The Legislative Council meeting was adjourned at 2:52 p.m. (Motion by Rep. Colwell, second by Sen. Treat, unanimous).

**Progress Report on Legislative Studies**  
**(Studies authorized or undertaken following the 120<sup>th</sup> Legislature/2<sup>nd</sup> Regular Session)**  
**Status as of 08/13/02 1:41:47 PM**

<u>Study Commission</u>	<u>Date First Convened</u>	<u>Date, Time &amp; Location of Next Meeting</u>	<u>Report Date</u>	<u>Status/Progress Of Study Commission</u>
<b>Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers, Committee to Study Reimbursement Rates for Maine's</b> (PL 2001, c. 661)			06-Nov-02	Reestablishment of previous committee Staffed by SPO
<b>Casino on the Economy, Transportation Infrastructure, State Revenue and Job Market, Resolve to Study the Impact of a Maine-based</b> (Resolve 2001, c. 124)	9/3/02	Tuesday - 9/3/2002 1:00 p.m. - 5:00 p.m. Room 216 Cross State Office Bldg.	06-Nov-02	17 of 18 appointments made. August 12 <sup>th</sup> : conference call with chairs to plan structure of task force meetings. Memo to be sent to members.
<b>Community Preservation Advisory Committee, An Act to Establish the</b> (PL 2001, c 648; sunsets 6/1/08)			Dec. 01 annually	Permanent entity Staffed by SPO; OPLA drafting assistance Appointments complete
<b>County Jail Population, Cost and Reimbursement by the State, Joint Order to Study</b> (HP 1731)			06-Nov-02	CRJ interim work. Gathering information. No meetings requested or scheduled yet. Likely only one meeting will be requested.
<b>Family and Medical Leave for Maine Families, Resolve to Continue the Study of Benefits and Costs for Increasing Access to</b> (Resolve 2001, c. 115)			06-Nov-02	Appointments complete
<b>Fatherhood Issues Study Commission, Resolve to Establish a</b> (Resolve 2001, c. 121)	8/27/02	Tuesday - 8/27/02 9:30 a.m. Room 214, CSOB	06-Nov-02	Appointments complete
<b>Financing of Long-term Care, Resolve Establishing a Blue Ribbon Commission to Address</b> (Resolve 2001, c. 114)			06-Nov-03	Appointments complete
<b>Health Care System and Health Security Board</b> (PL 2001, c. 439, Part ZZZ)	October 2001 Continuation		01-Dec-02	Mathematica Policy Research (consultant) met with board on 8/5/02 and has begun its work; draft report expected mid-October. First installment of grant funding received from Maine Health Access Foundation.
<b>MCJUSTIS Board, Resolve to Implement the Recommendations of the</b> (Resolve 1997, c. 105, PL 1999, c. 451, PL 1999, c. 790, Resolve 2001, c. 45)	Continuation		15-Dec-02	

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<u>Study Commission</u>	<u>Date First Convened</u>	<u>Date, Time &amp; Location of Next Meeting</u>	<u>Report Date</u>	<u>Status/Progress Of Study Commission</u>
<b>Proposed Revisions to School Finance Laws and Recommendations to Implement the Essential Programs and Services Funding Model, Department of Education and State Board of Education Study (PL 2001, c. 660)</b>			15-Jan-03	Staffed by DOE; OPLA drafting assistance
<b>Public Funds are Used to Acquire Conservation Easements, Resolve to Promote the Interests of the People of Maine when (Resolve 2001, c. 116)</b>	Continuation		15-Jan-03	Staffed by SPO
<b>Rail Transportation, Resolve to Establish and Fund the Task Force on (Resolve 2001, c. 120)</b>	8/9/02		06-Nov-02	Appointments complete
<b>Recodification of Title 12, chapters 701-721 (HP 613)</b>	(Staff study – continuation)		15-Jan-02	Proceeding well
<b>Salmonid Sport Fish in Maine, Commission to Study the Needs and Opportunities Associated with the Production of (PL 2001, c. 462)</b>	Continuation	Friday - 9/13/02 10:30 a.m. – 5:00 p.m. Room 206 Cross Office Building	31-Oct-02	
<b>Stormwater Management in Developed Watersheds, Resolve to Establish the Task Force to Study the Effectiveness of (LD 2186)</b>	May 31, 2002		06-Nov-02	NAT Interim work
<b>Unfunded Liability of the MSRS and the Equity of Retirement Benefits for State Employees and Teachers, An Act to Address the (PL 2001, c 707)</b>			06-Nov-02	1 of 7 members appointed
<b>World War II and the Korean War Veterans in the Hall of Flags, Resolve to Recognize (PL 2001, c. 353)</b>			04-Oct-02 Initial Rep. 01-Nov-02 Final Rep.	4 of 7 appointments made

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**Status as of 08/13/02 1:41:47 PM**

<u>Study Commission</u>	<u>Date First Convened</u>	<u>Date, Time &amp; Location of Next Meeting</u>	<u>Report Date</u>	<u>Status/Progress Of Study Commission</u>
Youth Advisory Council, Legislative (PL 2001, c. 439, Part PPP (on-going beginning July 2002))		Wednesday, August 14 <sup>th</sup> 9:00 a.m. – 8:00 p.m. Criminal Justice Academy Vassalboro, ME  Thursday, August 15 <sup>th</sup> 8:00 a.m. – 5:00 p.m. State House Room 228	Feb. 15th annually	Appointments complete

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