

MAINE STATE LEGISLATURE

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REP. JOHN RICHARDSON
CHAIR

SEN. BETH EDMONDS
VICE-CHAIR



122ND MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. MICHAEL F. BRENNAN
SEN. PAUL T. DAVIS, SR.
SEN. KENNETH T. GAGNON
SEN. CAROL WESTON
REP. GLENN A. CUMMINGS
REP. DAVID E. BOWLES
REP. ROBERT W. DUPLESSIE
REP. JOSHUA A. TARDY

DAVID E. BOULTER
EXECUTIVE DIRECTOR

122nd LEGISLATIVE COUNCIL
December 22, 2004
3:00 p.m.
Preliminary Agenda

Page

CALL TO ORDER

ROLL CALL

1, 7

**SUMMARIES OF THE NOVEMBER 9, AND
DECEMBER 2, 2004 COUNCIL MEETINGS**

Decision

**REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL
STAFF OFFICES**

None

REPORTS FROM COUNCIL COMMITTEES

- Personnel Committee

OLD BUSINESS

None

NEW BUSINESS

Item #1: Appointment of the OPEGA Director (under separate cover)

Decision

11

Item #2: Submission of Study Report

Acceptance

Committee to Study Compliance With Maine's Freedom of
Access Laws (report and letter from Sen. Margaret Rotundo, Senate Chair
and Rep. Theodore Koffman, House Chair)

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

SEN. BEVERLY C. DAGGETT
CHAIR

REP. PATRICK COLWELL
VICE-CHAIR



121st MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. SHARON ANGLIN TREAT
SEN. PAUL T. DAVIS, SR.
SEN. KENNETH T. GAGNON
SEN. CHANDLER E. WOODCOCK
REP. JOHN RICHARDSON
REP. JOSEPH BRUNO
REP. ROBERT W. DUPLESSIE
REP. DAVID E. BOWLES

DAVID E. BOULTER
EXECUTIVE DIRECTOR

MEETING SUMMARY
November 9, 2004

CALL TO ORDER

The Chair, Senate President Daggett, called the Legislative Council meeting to order at 2:29 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Daggett, Sen. Treat, Sen. Davis, Sen. Gagnon
Absent: Sen. Woodcock

Representatives: Speaker Colwell, Rep. Richardson, Rep. Bruno, Rep. Duplessie
Absent: Rep. Bowles

Legislative Officers: Joy O'Brien, Secretary of the Senate
Millicent MacFarland, Clerk of the House
David E. 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
Lynn Randall, State Law Librarian
Paul Mayotte, Director, Legislative Information Services

SUMMARY OF THE OCTOBER 12, 2004 COUNCIL MEETING

Motion: That the Meeting Summary of October 12, 2004 be accepted and placed on file.
(Motion by Speaker Colwell, second by Senator Davis, unanimous).

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

- **Executive Director's Report**

David Boulter, Executive Director of the Legislative Council, reported on the following items:

1. Mr. Boulter reported that the building-wide cleaning is underway and should be completed by the first part of December.
2. The Security Kiosk is due to be installed in the first floor lobby. The Legislative Council Facilities Committee will need to determine what the level of security and deployment of detection and monitoring devices are appropriate.
3. The North parking lot is re-opened.
4. Mr. Boulter reminded Legislative Council members of upcoming Legislative orientation programs. The first is the New Member Orientation, a one-day program on November 17, 2004. On November 29, 30, and December 1, 2004, the Pre-Legislative Conference will be held. The Legislative Banquet at the Civic Center on Tuesday, November 30th is an opportunity to recognize and honor those members of the Legislative Council who will not be returning to the 122nd Council.
5. Several requests have been received to hold legislator policy forums in early January. Mr. Boulter asked those who have an interest to send a letter describing their proposal, to be presented to the Legislative Council.

No Council Action required.

- **Fiscal Report**

Grant Pennoyer, Director, Office of Fiscal and Program Review, presented his report to the Council.

1. General Fund & Highway Fund Revenue - October 2004

In October 2004 the General Fund revenue was under budget by \$0.9 million. However, absent the negative variance of \$5.2 million in individual income tax, which was expected to be a timing issue, October revenue would have been \$4.3 million over budget for the month. For the first 4 months of FY 05, the General Fund revenue was over budget by \$38.2 million.

Sales Tax (including Service Provider Tax) was \$4.4 million over budget in October and \$5.7 million over budget for Fiscal Year-to-Date; Individual Income Tax had a \$5.2 million negative variance in October due to shift of withholding receipts from October to September, but remained over budget by \$17.8 million for Fiscal Year-to-Date; Corporate Inc Tax was over budget \$0.3 million in October and over budget \$11.5 million for Fiscal Year-to-Date; Cigarette Tax was under budget \$2.0 million in October and under budget \$0.1 million for Fiscal Year-to-Date; Insurance Tax was over budget \$1.5 million in October and \$1.6 million for Fiscal Year-to-Date; Estate Tax was on

budget in October, but remained under budget by \$0.9 million for Fiscal Year-to-Date; and Lottery Revenue were under budget by \$0.6 million in October and \$0.3 million for Fiscal Year-to-Date.

- **Highway Fund**

The Highway Fund revenue also continues to perform very well and was \$1.4 million ahead of budget in October and \$5.8 million ahead for first 4 months of FY05.

2. Revenue Forecasting Schedule

- The Consensus Economic Forecasting Commission report for November 2004 was released and is available on OFPR's web page (see [Revenue Forecasting](#)).
- The Revenue Forecasting Committee is scheduled to meet Friday, November 19th in the Appropriations Committee Room beginning at 9:30AM.

3. Cash Pool Status

- The General Fund and Highway Fund cash trends show improvement.

- **Office of Information Services' Report**

Paul Mayotte, Director, Legislative Information Services presented his report to the Legislative Council. He reported that on October 27, 2004 David Boulter, Margaret Matheson and he met with HP to reach agreement on the remaining issues of the implementation of bill drafting system. HP is proceeding with carrying out the agreement and plan to complete the necessary work by the end of 2004. Specifically, HP will be providing to the Legislature, at its cost an upgraded server and 8 PC's to be installed in the Revisor's office. The computers are to address the performance issue. HP will correct 7 of the items at its cost and the Legislature is to address 4 items. The Legislature agreed to pay HP an additional \$15,000. From acceptance of the MELD system the Legislature will have a 12-month warranty.

Discussion: Sen. Gagnon asked the cost of the 4 items that the Legislature will correct. Mr. Mayotte said the cost was staff time only and would not require asking for more money from the Legislature.

President Daggett asked if there was a backup plan in the event the new bill drafting system was not available at the end of 2004. Mr. Mayotte said that for the first session of the 122nd Legislature, the Wang system will be used for bill drafting. HP is working with the Revisor's Office to test the system during the session, but not for actual production purposes. Bill drafts will be converted from the Wang to the new bill drafting system the summer of 2005.

- **Update on Interim Studies**

David Elliott, Director, Office of Policy and Legal Analysis, reported on the interim studies. A copy of the Progress Report on the Legislative Studies is attached.

REPORTS FROM COUNCIL COMMITTEES

- **Personnel Committee**

Rep. Richardson, Chair of the Personnel Committee, reported that the Committee met on October 19, 2004 to review the annual performance of Margaret Matheson, Revisor of Statutes and Paul Mayotte, Director of Legislative Information Services.

The Personnel Committee also met on November 9, 2004 to review the annual performance of David Elliott, Director of the Office of Policy and Legal Analysis.

No Council action required.

- **State House Facilities Committee**

Sen. Gagnon, Chair, State House Facilities Committee reported that he had toured the potential office spaces for OPEGA offices that had been identified by the Commissioner of DAFS. He asked Mr. Boulter to summarize relevant law regarding OPEGA office space. Mr. Boulter said the law requires the Commissioner of the Department of Administration and Financial Services to provide office space for the OPEGA offices in the Cross Building at no charge. Sen. Gagnon said he visited the first floor of the Cross Building and looked at the Media Room (next to the Press area) that had originally been allocated to the Legislature but was taken over by the Administration as a general use conference room. He also looked at the space formerly used as the Nurse's station and the adjacent BGS break room, as well as space on the 4th floor. Sen. Gagnon did not believe that 4th floor office was suitable for reasons of lack of privacy. He also toured the office area in the Nash Building. Sen. Gagnon reminded Council members that the legislation specifies that the office be located in the Cross Building and after considering the options he stated that he believed the 1st floor conference room would be the best space for the OPEGA Office.

It was the consensus of the Legislative Council that the OPEGA Office be located in the Cross Office Building and that Mr. Boulter prepare a memo to the Commissioner of the Department of Administrative and Financial Service so stating the Council's position.

No further Council action required.

OLD BUSINESS

Item #1: Percent for Art Project for the State House

President Daggett asked that Mr. Boulter review the pending matter regarding the Percent for Art Program. Mr. Boulter said Percent for Art Program requires an allocation of 1% of the capital construction costs to be allocated to art. As part of the renovation in the State House in 1998 the Legislative Council established a Percent for Art Committee that was responsible for reviewing a series of proposals for art to be purchased for the State House and making recommendations to the Council. It recommended that three pieces of artwork be purchased for the State House. Its recommendations were presented in August, 2002 and also in September, 2002. At that time they were reviewed but the Council did not make a final decision because of budget constraints. Mr. Boulter listed the artwork recommended in 2002 for purchase:

- Two large contemporary figurehead pieces in wood which emerge from the corner walls in the lobby of the State House at a cost of \$66,250.
- Carved wooden benches to be crafted and placed on the first floor lobby area at a cost of \$29,050 but later revised to \$33,000.
- An oil on canvas painting to be displayed on the first floor of the east wall at a cost of \$75,000.

Mr. Boulter reported that there is approximately \$190,000 remaining in the Percent for Art budget.

Motion: That the Legislative Council accept the recommendation made by the State House Percent for Art Committee in 2002 to commission Mr. Valdemar Skov of Waldoboro to construct four carved benches made of cherry on granite bases for the State House, the cost of which may not exceed \$33,000 and upon their completion, arrange for their installation in appropriate locations in the State House. The costs for the benches are to be paid from legislative funds set aside for Percent for Art projects for the State House. Further, that the Legislative Council not accept the recommendations made by the committee for purchase of artwork by 2 other artists. (Motion by Speaker Colwell, second by Rep. Bruno, unanimous).

Motion: That the Legislative Council authorize the commissioning of benches for placement in and about the Living Memorial Garden in Capitol Park, the design and construction of which must be in keeping with the Garden and the parameters of the Percent for Art Program. The Executive Director shall work with the Maine Arts Commission to invite proposals for the benches and make a selection, and shall authorize payment for the benches in an amount not to exceed \$5,000. The costs for the benches are to be paid from legislative funds set aside for Percent for Art projects for the State House. (Motion by Sen. Treat, second by Rep. Bruno, unanimous).

Discussion: Discussion followed regarding the appointment of a new Percent for Art Committee. It was recommended that the 122nd Legislative Council consider establishing a new Percent for Art Committee or expanding the State House Facilities Committee membership for the purposes of reviewing art purchases under the Percent for Art program.

Motion: That in recognition of the important contributions that Robert Indiana of Vinalhaven has made nationally and internationally over the past 50 years as a leading figure in the Pop Art movement and his continuing artistic influence as a major American artist, the Legislative Council urges the Maine Arts Commission, in conjunction with the Maine State Museum, to arrange for the purchase of the Indiana oil on canvas painting *First Maine* through private contribution of funds for public display in the State museum. In support of this effort, the Legislative Council authorizes a one-time contribution in the amount of \$5,000 from existing legislative funds to a capital campaign for the State purchase of the painting. (Motion by Speaker Colwell, second by Sen. Treat, motion passes 6-2. Opposed: Sen. Davis and Rep. Bruno).

NEW BUSINESS

Item #1: Legislative Document Service: Fee Schedule for 122nd Legislature

Motion: That the Legislative Council approve the legislative document service fee schedule for the 122nd Legislature, as presented by Clerk of the House Millie MacFarland. (Motion by Sen. Treat, second by Rep. Duplessie, unanimous).

Item #2: Submission of Annual Reports:

- **Loring Development Authority of Maine**
- **Washington County Development Authority**

Motion: That the Legislative Council accept and place on file the annual reports of the Loring Development Authority of Maine and the Washington County Development Authority. (Motion by Sen. Treat, second by Speaker Colwell, unanimous).

Item #3: Final Report of the Health Care Workforce Leadership Council

Mr. Boulter reported that no action was required on the final report of the Health Care Workforce Leadership Council.

ANNOUNCEMENTS AND REMARKS

President Daggett thanked all Council members for their work and cooperation during the 121st Legislature. Speaker Colwell then thanked President Daggett for her hard work as Chair of the Legislative Council.

ADJOURNMENT

The Legislative Council meeting was adjourned at 3:14 p.m. (Motion by Speaker Colwell, second by Sen. Treat, unanimous).

REP. JOHN RICHARDSON
CHAIR

SEN. BETH EDMONDS
VICE-CHAIR



SEN. MICHAEL F. BRENNAN
SEN. PAUL T. DAVIS, SR.
SEN. KENNETH T. GAGNON
SEN. CAROL WESTON
REP. GLENN A. CUMMINGS
REP. DAVID E. BOWLES
REP. ROBERT W. DUPLESSIE
REP. JOSHUA A. TARDY

DAVID E. BOULTER
EXECUTIVE DIRECTOR

122ND MAINE STATE LEGISLATURE

LEGISLATIVE COUNCIL

MEETING SUMMARY
Organizational Meeting
December 2, 2004

CALL TO ORDER

Pursuant to the Legislative Council's Rules of Procedure, Senate President Edmonds called the first meeting of the 122nd Legislative Council to order at 4:10 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Edmonds, Sen. Brennan, Sen. Davis,
Sen. Gagnon, Sen. Weston

Representatives: Speaker Richardson, Rep. Cummings, Rep. Bowles,
Rep. Duplessie, Rep. Tardy

Legislative Officers: Joy O'Brien, Secretary of the Senate
Millicent MacFarland, Clerk of the House
Michael Cote, 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
Lynn Randall, State Law Librarian
Paul Mayotte, Director, Legislative Information Services

ELECTION OF OFFICERS FOR THE 122ND LEGISLATIVE COUNCIL

Senate President Edmonds, declaring that a quorum was present, called the meeting of the 122nd Legislative Council for the purpose of electing a Council Chair and Vice-Chair, adoption of rules of procedures and such other matters as may be properly before the Legislative Council.

The Council's Rules prescribe the following with regard to the election of Council Officers:

Rule # 2 provides that the position of Chair alternate in succeeding biennial sessions between a member from the Senate and a member from the House of Representatives. Thus, the Chair for the new Council would be a member from the House.

Rule #3 provides that the Vice-Chair not be a member of the same body of the Legislature as the Chair. Thus, the Vice-Chair for the 122nd Council would be a member of the Senate.

President Edmonds stated that unless there was objection, the Council would continue the long-standing practice of conducting the vote by a showing of hands. Upon the election of a chair, the chair will preside over the remainder of this meeting.

Hearing no objection, President Edmonds opened the floor for nominations for Chair of the Legislative Council.

Nomination: That John Richardson, of Brunswick to serve as Chair of the Legislative Council for the 122nd Legislature. (Nominated by Sen. Brennan, second by Rep. Bowles).

President Edmonds asked if there were further nominations. Hearing none, President Edmonds closed the nominations. The vote for Council Chair was taken. Speaker Richardson was elected to serve as Chair of the Legislative Council for the 122nd Legislature by unanimous vote of the Legislative Council.

President Edmonds then proceeded to open the floor for nominations Vice-Chair.

Nomination: That President Beth Edmonds to serve as Vice-Chair of the Legislative Council for the 122nd Legislature. (Nominated by Rep. Duplessie, second by Sen. Davis).

President Edmonds asked if there were further nominations. Hearing none, President Edmonds closed the nominations. The vote for Council Chair was taken. President Edmonds was elected to serve as Vice-Chair of the Legislative Council for the 122nd Legislature by unanimous vote of the Legislative Council.

Chair Richardson then presided for the remainder of the meeting.

ADOPTION OF RULES OF PROCEDURE

Proposed Rules of Procedure for Legislative Council Adoption

That the Legislative Council adopt the proposed Rules of Procedure for the Legislative Council (Motion by Sen. Gagnon, second by Rep. Cummings, unanimous).

Attached is a copy of the Rules of Procedure adopted by the Legislative Council.

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL STAFF OFFICES

Executive Director Boulter congratulated and welcomed members of the 122nd Legislative Council.

Mr. Boulter reported that he has been working to secure a vendor to operate the State House café for the next 2 years. Unless the Legislative Council has objection, he plans to enter into a contract with a local vendor to operate the café. Legislative Council members expressed no objections to proceeding.

No Council action required.

REPORTS FROM COUNCIL COMMITTEES

Item #1: Status Report by Search Committee for OPEGA Director Position

Sen. Gagnon reported that the Legislative Council's Search Committee met several times during the past month to view applicant resumes and select candidates for interview. Six candidates were selected for interview which interviews were held in November. The Search Committee plans to vote to authorize the Executive Director to offer the position of OPEGA director to the top candidate, subject to a successful negotiation of terms and conditions of employment and subject to ratification of appointment by the full Legislative Council. The goal is to present the Search Committee's recommendations at a Legislative Council meeting on December 15th or 22nd.

Legislative Council members will be provided the resume and related information on the Search Committee's recommendation.

No Council action required at this time.

OLD BUSINESS

None.

NEW BUSINESS

Item #1: Establishment of Initial Salary of Constitutional Officers and State Auditor

Motion: That the initial salaries for Secretary of State Matthew Dunlap and State Treasurer David G. Lemoine be set at Salary Grade 88, Step 3, an annual salary of \$64,064; and further, that the initial salary for State Auditor Neria R. Douglass be set at Salary Grade 89, Step 5, an annual salary of \$75,442. Such salaries are to take effect as of December 1, 2004. (Motion by President Edmonds, second by Sen. Gagnon, unanimous).

The Legislative Council then directed the Personnel Committee to undertake a review of the initial salaries prescribed by law for the Constitutional Officers and the State Auditor.

Item #2: Policy on Processing Duplicate Bill Requests by Legislators

Motion: That the Legislative Council adopt the procedures for processing duplicate bill requests by Legislators as described in the Revisor of Statutes' proposal of December 2, 2004. (Motion by President Edmonds, second by Rep. Duplessie, unanimous).

Item #3: Proposals to Conduct Legislative Policy Forums

Motion: That the Legislative Council establish a subcommittee for the purposes of working with the interested groups and Legislative Council staff to organize a policy forum for Legislators to be held in early 2005. Once developed, the policy forum

program and schedule must be presented to the Legislative Council for its review. (Motion by Sen. Edmonds, second by Sen. Davis, motion passed 9 - 0 - 1). Sen. Brennan abstained from the vote.

Item #4: Submission of Study Report

Health Care System and Health Care Security Board (report and letter from Sen. John L. Martin, Senate Chair and Rep. Marilyn E. Canavan, House Chair)

Motion: That the Health Care System and Health Care Security Board Study Report be accepted and placed on file. (Motion by Sen. Edmonds, second by Rep. Tardy, unanimous)

ANNOUNCEMENTS AND REMARKS

Rep. Bowles raised the issues of Council motions being prepared in advance of Council meetings but not distributed to all members of the Legislative Council. General discussion then followed. Chair Richardson indicated that he would take the matter under advisement to see if an appropriate procedure, protective of each member's prerogative, could be developed.

No Legislative Council action was taken.

ADJOURNMENT

The Legislative Council meeting was adjourned at 5:10 p.m. on the motion of Rep. Bowles, seconded by Rep. Tardy, unanimous).



MAINE STATE LEGISLATURE
Augusta, Maine 04333

**COMMITTEE TO STUDY COMPLIANCE WITH
MAINE'S FREEDOM OF ACCESS LAWS**

December 1, 2004

The Honorable Beverly C. Daggett, Chair
The Honorable Patrick Colwell, Vice-Chair
Legislative Council
115 State House Station
Augusta, ME 04333

Dear Chair Daggett and Vice-Chair Colwell

This letter is to inform you that the Committee to Study Compliance With Maine's Freedom of Access Laws has completed its work and submitted its report, including recommended legislation, pursuant to Resolve 2003, c. 83 and Public Law 2003, c. 709.

Sincerely,

A handwritten signature in cursive script, appearing to read 'M. Rotundo'.

Senator Margaret Rotundo, Senate Chair

A handwritten signature in cursive script, appearing to read 'T. Koffman'.

Representative Theodore Koffman, House Chair

Committee to Study Compliance With
Maine's Freedom of Access Laws

Enclosure

DEC - 9 2004