

MAINE STATE LEGISLATURE

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CHAIR

REP. ROBERT W. NUTTING
VICE-CHAIR

EXECUTIVE DIRECTOR
DAVID E. BOULTER



SEN. JONATHAN T. E. COURTNEY
SEN. BARRY J. HOBBS
SEN. DEBRA D. PLOWMAN
SEN. JUSTIN L. ALFOND
REP. PHILIP A. CURTIS
REP. EMILY ANN CAIN
REP. ANDRE E. CUSHING III
REP. TERRY HAYES

125TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

MEETING SUMMARY
February 23, 2012
Approved March 22, 2012

CALL TO ORDER

Legislative Council Chair, Senate President Raye called the February 23, 2012 Legislative Council meeting to order at 1:36 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Raye, Senator Courtney, Senator Plowman, and Senator Hobbins

Senator Alfond arrived shortly after the start of the meeting.

Representatives: Speaker Nutting, Representative Curtis, Representative Cushing, and Representative Cain

Absent: Representative Hayes

Legislative Officers: David Madore, Assistant Secretary of the Senate
Heather Priest, Clerk of the House
David E. Boulter, Executive Director
Debra Olken, Human Resources Director
Marion Hylan Barr, Director, Office of Policy and Legal Analysis
Grant Pennoyer, Director, Office of Fiscal and Program Review
Suzanne Gresser, Revisor of Statutes
John Barden, Director, Law and Legislative Reference Library
Scott Clark, Director, Legislative Information Technology
Beth Ashcroft, Director, Office of Program Evaluation and Government Accountability

Senate President Raye convened the meeting at 1:36 p.m. with a quorum of members present.

SUMMARY OF FEBRUARY 7, 2012 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of February 7, 2012 be accepted and placed on file. Motion by Representative Cushing. Second by Representative Cain. **Motion passed (8-0-0-2**, with Senator Alfond and Representative Hayes absent).

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

David Boulter, Executive Director, reported on the following:

1. Status of Posting of Public Hearing Testimony Pilot Project

The pilot project to post written testimony received by joint standing committees at public hearings on legislation is underway, having begun during the week of February 6, 2012. Written testimony received during public hearings by the joint standing committees on Insurance and Financial Services, Marine Resources, Transportation, and Veterans and Legal Affairs is posted daily. Since the project began, testimony from 100 persons testifying on 18 different bills has been received and posted on-line. To date, the process has worked smoothly, a joint effort between committee clerks and Law and Legislative Reference Library staff. A software application developed by Legislative Information Technology staff facilitates sorting and categorizing the information and posting it to the appropriate location on the Legislature's website. Testimony is sorted by committee, LD #, date of testimony, and name and affiliation of person who presented the testimony.

Viewers may locate the testimony using several search options. [Mr. Boulter presented samples to Legislative Council members]. The pilot project will continue for the remainder of the session.

2. Front Page news link by Library

The Law and Legislative Reference Library has announced its new legislative service: *Front Page*, a webpage of news links and an RSS feed subscription service. This service provides legislators and others with the electronic version of a daily collection of news articles related to bills and other matters relevant to the Legislature. *Front Page* may be accessed from the legislature's webpage using a computer or alternatively using a mobile device by scanning the QR code that links directly to the applicable webpage.

Fiscal Report

Grant Pennoyer, Director, Office of Fiscal and Program Review, reported on the following:

Revenue Update

Total General Fund Revenue - FY 2012 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$280.7	\$242.0	(\$38.7)	-13.8%	\$266.1	-9.1%
FYTD	\$1,584.5	\$1,554.7	(\$29.8)	-1.9%	\$1,549.6	0.3%

General Fund revenue was \$38.7 million (13.8%) under budget in January and \$29.8 (1.9%) for the fiscal year-to-date (FYTD). January's General Fund collections were 9.1% below collections of January 2011. All of the major taxes performed poorly relative to budget in January. The 4 tax categories affecting revenue sharing transfers were under budget by a combined \$36.5 million in January and \$29.7 for the fiscal year through January. January's Individual Income Tax revenue was \$18.8 million or 14.1% below January 2011. However, roughly \$15 million of the negative variance was due to a large number of refunds that were processed on January 31st. This extra processing day for refunds in January was not factored into the monthly distribution of budgeted revenue. Estimated payments in January for both individual and corporate income taxes were also substantially below budget. Finally, the initial positive performance for holiday sales tax collections in late November appears to have diminished in December.

Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2012 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$26.2	\$26.8	\$0.6	2.1%	\$25.7	4.1%
FYTD	\$167.4	\$168.9	\$1.6	0.9%	\$165.7	2.0%

Highway Fund revenue was \$0.6 million (2.1%) over budget in January and \$1.6 million (0.9%) for the FYTD. Gasoline prices at record highs for this time of year have produced substantial negative variances in gasoline tax collections each month since begin revised in the December 2011 Forecast. Fortunately, the performance of other fuel tax categories and other Highway Fund revenue categories has been sufficient to maintain a positive variance for total Highway Fund revenue and produce 2% growth for the FYTD.

Cash Update

General Fund cash balances continue to decline and have fallen roughly \$25 million below last year's levels for this period, despite a \$52 million improvement in reserve balances. The total cash pool in January was \$77 million below the previous year, but still is relatively strong. The performance of Individual Income Tax refunds over the next few weeks will be the key determinant as to whether external cash flow borrowing may be required this fiscal year.

Revenue Forecasting Schedule

Mr. Pennoyer presented the following preliminary recommendations of the Revenue Forecasting Committee made in preparation for the committee's March 1st reporting deadline. Although the Consensus Economic Forecasting Commission did not recommend any changes in its February update of the economic forecast, the Revenue Forecasting Committee reviewed recent revenue performance and 2011 economic data, which result in recommended net downward General Fund adjustments of \$13.0 million for the 2012-2013 biennium. The sales and income taxes affecting revenue sharing are revised downward in the 2012-2013 biennium by a net amount of \$30.0 million. These downward adjustments are partially offset by other net upward revisions, the largest of which are adjustments in the Estate Tax (\$11.8 million) and incorporating the General Fund share of the recent mortgage settlement (\$5.7 million). The impact of this revenue forecast on other funds is more modest.

Summary of March 2012 Revenue Revisions

Preliminary Recommendations

Millions of \$'s

General Fund Summary

	FY11 Actual	FY12	FY13	FY14	FY15
Current Forecast	\$2,945.0	\$2,956.3	\$3,030.3	\$2,974.1	\$3,094.6
Annual % Growth	6.9%	0.4%	2.5%	-1.9%	4.1%
Net Increase (Decrease)		(\$4.9)	(\$8.1)	(\$15.4)	(\$16.0)
Revised Forecast	\$2,945.0	\$2,951.4	\$3,022.2	\$2,958.7	\$3,078.7
Annual % Growth	6.9%	0.2%	2.4%	-2.1%	4.1%

Highway Fund Summary

	FY11 Actual	FY12	FY13	FY14	FY15
Current Forecast	\$311.4	\$317.9	\$318.9	\$321.1	\$323.2
Annual % Growth	0.1%	2.1%	0.3%	0.7%	0.6%
Net Increase (Decrease)		\$0.3	\$0.9	\$1.7	\$1.9
Revised Forecast	\$311.4	\$318.2	\$319.8	\$322.9	\$325.1
Annual % Growth	0.1%	2.2%	0.5%	1.0%	0.7%

Fund for a Healthy Maine Summary

	FY11 Actual	FY12	FY13	FY14	FY15
Current Forecast	\$54.4	\$54.5	\$54.0	\$54.3	\$53.9
Annual % Growth	-5.5%	0.3%	-1.0%	0.5%	-0.8%
Net Increase (Decrease)		(\$0.0)	(\$0.0)	(\$0.1)	(\$0.1)
Revised Forecast	\$54.4	\$54.5	\$54.0	\$54.2	\$53.8
Annual % Growth	-5.5%	0.3%	-1.0%	0.4%	-0.8%

Medicaid/MaineCare Dedicated Revenue Taxes Summary

	FY11 Actual	FY12	FY13	FY14	FY15
Current Forecast	\$148.0	\$151.8	\$154.4	\$154.4	\$154.4
Annual % Growth	5.7%	2.6%	1.7%	0.0%	0.0%
Net Increase (Decrease)		(\$0.4)	\$0.0	\$0.0	\$0.0
Revised Forecast	\$148.0	\$151.5	\$154.4	\$154.4	\$154.4
Annual % Growth	5.7%	2.3%	1.9%	0.0%	0.0%

Status of Legislative Studies

Marion Hylan Barr, Director of the Office of Policy and Legal Analysis, reported on the status of legislative studies. She reported that all legislative study committees have completed their work and their final reports have been printed. Ms. Hylan Barr stated that this will be her final status report this legislative session.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

President Raye, Chair of the Personnel Committee, offered the following report.

The Personnel Committee met on February 23, 2012 and considered a request by a member of the Legislature's nonpartisan staff for temporary disability income benefits. The request was consistent with the provisions for temporary disability income benefits under the

Legislative Council's personnel policies and guidelines. Upon the recommendation of the Executive Director, the committee voted unanimously to approve the request. No Legislative Council action is required.

2. State House Facilities Committee

No report

Legislative Council Chair Raye asked if there was any objection to taking items out of order. There was no objection. The Chair then moved to **New Business, Item 1.**

NEW BUSINESS

Item #1: Consideration of After Deadline Bill Requests / Addendum

The Legislative Council then proceeded to consider and vote on the bill requests in accordance with the previously established protocol. Of the 33 bill requests, the council authorized 13 requests for introduction in the 2nd Regular Session of the 125th Legislature, 6 failed to be authorized, 3 were withdrawn, 6 had no action taken, and 3 were tabled until a future Legislative Council meeting. Of the 3 joint resolutions, the council authorized 1 request for introduction in the 2nd Regular Session of the 125th Legislature, 1 had no action taken, and 1 was tabled until a future Legislative Council meeting. The Legislative Council's actions on the requests are included on the attached list.

The Legislative Council then returned to the other items on its agenda.

OLD BUSINESS

Item #1: Legislative Council Actions Taken by Ballot

- A. LR 2745 **An Act to Require Forfeiture of Public Retirement System Benefits for Persons Convicted of Certain Crimes**

Submitted by: Representative Leslie Fossel
Approved: February 8, 2012 Vote: 6 - 4 in favor

- B. LR 2777 **An Act to Require Notification of All Affected Facilities When Amending a Certificate of Need**

Submitted by: Senator Kevin Raye
Approved: February 14, 2012 Vote: 10 - 0 in favor

- C. LR 2762 **An Act to Establish the Dairy Improvement Fund**

Submitted by: Senator Debra Plowman
Approved: February 14, 2012 Vote: 10 - 0 in favor

D. LR 2754 **JOINT RESOLUTION Memorializing the President of the United State and the United States Congress to Adequately Fund the Low-Income Home Energy Assistance Program**

Submitted by: Senator Kevin Raye
Approved: February 8, 2012 Vote: 9 - 0 - 0 - 1 in favor

No further action by the Legislative Council was required.

Item #2: Production of New Legislator Orientation Video Proposals

Mr. Boulter reported that 5 proposals have been received in response to the request for proposals issued by the Office of the Executive Director for a firm to produce a new Legislator orientation video to replace the current outdated version. Mr. Boulter convened an internal team to evaluate the proposals. The review team has met several times to review the proposals and develop a recommendation. The Legislative Council asked Mr. Boulter to explore the potential of working with the New England School of Communications and other Maine colleges having media programs to produce the video. Mr. Boulter will present his findings and recommendation at the next Legislative Council meeting.

NEW BUSINESS

Item #2: Acceptance of Final Report of the Blue Ribbon Commission on Affordable Housing (February 2012)

The Blue Ribbon Commission on Affordable Housing submitted its 2012 Final Report for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the 2012 Final Report of the Blue Ribbon Commission on Affordable Housing and place it on file. Motion by Senator Courtney. Second by Senator Plowman. **Motion passed (8-0-0-2**, with Representatives Cushing and Hayes absent).

Item #3: Acceptance of the Annual Report on Activities and Performance of the Office of Program Evaluation and Government Accountability (December 2011)

The Office of Program Evaluation and Government Accountability submitted its 2011 Annual Report on Activities and Performance for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the 2011 Annual Report on Activities and Performance of the Office of Program Evaluation and Government Accountability and place it on file. Motion by Senator Courtney. Second by Representative Cain. **Motion passed (8-0-0-2**, with Representatives Cushing and Hayes absent).

Item #4: Request to Authorize Study and Remove from Study Table (Request by Rep. Fredette, Chair, Task Force on Franco-Americans)

The Legislative Council received a request by Representative Fredette, Co-Chair of the Task Force on Franco-Americans to authorize the study and remove it from the Study Table. Funding to fully support the task force must be from non-state funds.

Motion: That the Legislative Council authorize the study as proposed and remove it from the Study Table for final action by the Legislature, and further that all funds necessary to support the task force study be submitted to the Executive Director for approval prior to convening the task force. Motion by Speaker Nutting. Second by Senator Plowman. **Motion passed (8-0-0-2, with Representatives Cushing and Hayes absent).**

ANNOUNCEMENTS AND REMARKS

None

The Legislative Council meeting was adjourned at 2:29 p.m. on a motion by Representative Curtis, seconded by Senator Alford. **Motion passed (9-0-0-1, with Representative Hayes absent).**

**LEGISLATIVE COUNCIL ACTION ON
AFTER DEADLINE REQUESTS TO INTRODUCE LEGISLATION
SECOND REGULAR SESSION, 125th LEGISLATURE**

As of: February 23, 2012

		Action
SPONSOR: LR 2770	Sen. Bartlett, II, Philip L. An Act To Expand the Authorized Use of Emergency Preemptive Traffic Light Devices To Include Plow Trucks	FAILED
SPONSOR: LR 2809	Rep. Beavers, Roberta B. An Act To Ban the Sale and Use of Synthetic Drugs	PASSED
SPONSOR: LR 2747	Rep. Cebra, Richard M. An Act To Enact the Liberty Preservation Act	TABLED
SPONSOR: LR 2769	Rep. Cornell du Houx, Alexander M. An Act To Protect School Funding for Municipalities That Experience a Sudden and Severe Loss of Student Population	FAILED
SPONSOR: LR 2802	Rep. Curtis, Philip A. An Act Regarding the Regulation of Consumer Finance Companies	FAILED
SPONSOR: LR 2779	Rep. Dunphy, Larry C. An Act To Amend the Bingham Water District	PASSED
SPONSOR: LR 2803	Rep. Espling, Eleanor M. An Act To Strengthen the Procedures Regarding Parental Consent to Adoption	FAILED
SPONSOR: LR 2746	Rep. Fossel, Leslie T. An Act To Treat Party Formation Committees the Same as Ballot Question Committees for Purposes of the Campaign Finance Laws	PASSED
SPONSOR: LR 2750 TITLE CHANGE	Rep. Graham, Anne P. An Act To Allow a Property Tax Abatement When a Primary Residence on That Property Is Destroyed by Fire	PASSED
SPONSOR: LR 2772	Sen. Jackson, Troy D. An Act To Make the Forest Management and Harvest Plan Public Record	TABLED

SPONSOR: LR 2751	Sen. Katz, Roger J. An Act To Establish a Mechanism for the Forfeiture of a Person's Public Pension Benefits When that Person Is Convicted of a Felony Arising out of a Violation of the Public Trust	WITHDRAWN
SPONSOR: LR 2804	Sen. Katz, Roger J. Resolve, Authorizing the Lease of the Guy P. Gannett House in Augusta to a Nonprofit Organization for Use as a Museum	PASSED
SPONSOR: LR 2760	Rep. Keschl, Dennis L. Resolve, Establishing Surface Use Restrictions on Great Meadow Stream and the Northern Portion of North Bay on Great Pond	PASSED
SPONSOR: LR 2808	Rep. Knight, L. Gary An Act To Completely Exempt the Property of Houses of Religious Worship from Taxation	TABLED
SPONSOR: LR 2743	Rep. Russell, Diane An Act To Clarify the Voting Rights of People Who Are Not Natural-born	FAILED
SPONSOR: LR 2806	Sen. Saviello, Thomas B. An Act Regarding Eligibility for General Assistance	PASSED
SPONSOR: LR 2807	Sen. Saviello, Thomas B. Resolve, Directing the Department of Environmental Protection To Adopt Rules Pertaining to Petroleum Storage and Gravel Pits	PASSED
SPONSOR: LR 2782	Rep. Shaw, Michael A. An Act To Protect Firearm Ownership during Times of Emergency	PASSED
SPONSOR: LR 2788	Rep. Soctomah, Madonna M. An Act To Ensure the Genuineness of Products Reported To Be Crafted by Native Americans	WITHDRAWN
SPONSOR: LR 2789	Rep. Strang Burgess, Meredith N. An Act To Amend the Laws Concerning Municipal Inspections of Establishments	PASSED
SPONSOR: LR 2780	Sen. Thomas, Douglas A. An Act To Protect Native Landlocked Salmon Fisheries from Invasive Fish Species	PASSED

SPONSOR: **Rep. Tilton, Dianne C.** **PASSED**
 LR 2792 An Act To Amend the Laws Pertaining to the Maine
 Economic Improvement Fund

JOINT RESOLUTION

SPONSOR: **Rep. Cebra, Richard M.** **TABLED**
 LR 2744 JOINT RESOLUTION MEMORIALIZING THE
 PRESIDENT OF THE UNITED STATES AND THE
 UNITED STATES CONGRESS TO REPEAL
 PORTIONS OF THE NATIONAL DEFENSE
 AUTHORIZATION ACT CONCERNING THE
 INDEFINITE DETENTION OF UNITED STATES
 CITIZENS

JOINT RESOLUTION

SPONSOR: **Sen. Courtney, Jonathan T. E.** **PASSED**
 LR 2810 JOINT RESOLUTION MEMORIALIZING THE
 UNITED STATES CONGRESS TO REQUEST
 APPROVAL OF THE KEYSTONE XL PIPELINE
 PROJECT

ACTION ON REQUESTS PREVIOUSLY TABLED BY THE LEGISLATIVE COUNCIL

SPONSOR: **Sen. Alford, Justin L.** **Action**
 LR 2731 **PASSED**
 An Act To Define Cost Responsibility for Transporting
 Deaf and Hard-of-hearing Students to the Governor
 Baxter School for the Deaf

SPONSOR: **Rep. Berry, Seth A.** **FAILED**
 LR 2706 An Act To Prohibit Tax Credits and Exemptions for
 Businesses That Outsource Jobs to Another Country

SPONSOR: **Rep. Cushing, III, Andre E.** **TABLED 01/26/12**
 LR 2709 An Act To Improve the Accountability of Government
 Officials

SPONSOR: **Sen. Goodall, Seth A.** **TABLED 01/26/12**
 LR 2665 An Act To Update the Laws Concerning Defects in Real
 Estate Transfers

SPONSOR: **Sen. Courtney, Jonathan T. E.** **TABLED 11/01/11**
 LR 2319 An Act To Change Certain Effective Dates Regarding
 Guaranteed Access and the Purchase of Health Insurance
 from outside Maine

SPONSOR: **Rep. Maloney, Maeghan** **TABLED 11/01/11**
LR 2339 An Act To Limit Taxes on Pensions

SPONSOR: **Rep. Martin, John L.** **TABLED 11/01/11**
LR 2535 An Act To Repeal the Authority for an Insurer To Vary
the Premium Rate Based on Geographic Area

SPONSOR: **Sen. Raye, Kevin L.** **TABLED 11/01/11**
LR 2618 An Act To Clarify Municipal Budget Requirements within
an Alternative Organizational Structure

SPONSOR: ~~**Rep. Sirocki, Heather W.**~~ ~~**TABLED 11/01/11**~~
~~LR 2357~~ ~~An Act To Improve Well Water Testing at Licensed Child~~
~~Care Facilities~~ **WITHDRAWN**

JOINT RESOLUTION

SPONSOR: **Rep. Keschl, Dennis L.** **TABLED 01/26/12**
LR 2408 JOINT RESOLUTION, MEMORIALIZING THE
PRESIDENT OF THE UNITED STATES AND THE
UNITED STATES CONGRESS TO TAKE ALL STEPS
NECESSARY TO BECOME ENERGY INDEPENDENT