

MAINE STATE LEGISLATURE

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125TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

MEETING OF LEGISLATIVE COUNCIL
MAY 26, 2011
1:30 PM
AGENDA

<u>Page</u>	<u>Item</u>	<u>Action</u>
	CALL TO ORDER	
	ROLL CALL	
1	SUMMARY OF THE APRIL 28, 2011 MEETING OF THE LEGISLATIVE COUNCIL	Acceptance
	REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS	
12	▪ Executive Director's Report (Mr. Boulter)	Information
13	▪ Fiscal Report (Mr. Pennoyer)	Information
	REPORTS FROM COUNCIL COMMITTEES	
	• Personnel Committee	Information
	• State House Facilities Committee (No Report)	
	• Budget Subcommittee	Information
	OLD BUSINESS	
19	Item #1: Council Actions Taken By Ballot (No Action Required)	
20	Item #2: Maine State House & Grounds Multi-Year Plan for Maintenance & Improvements (Recommendation of State House Facilities Committee)	Decision

NEW BUSINESS

21 Item #1: Consideration of After Deadline Bill Requests

Roll Call Vote

Item #2: Costs of Providing Health Insurance to Legislators and Cost
Saving Options

**Refer to
Council
Committee**

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

SEN. KEVIN L. RAYE
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125TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

MEETING SUMMARY
April 28, 2011

CALL TO ORDER

Legislative Council Chair, Senate President Raye called the April 28, 2011 Legislative Council meeting to order at 1:43 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Raye, Senator Plowman

Absent: Senators Courtney, Hobbins and Alfond (Senators Courtney and Hobbins arrived after start of the meeting)

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

Legislative Officers: Joseph Carlton, Secretary of the Senate
Heather Priest, Clerk of the House
David E. Boulter, Executive Director of the Legislative Council
Grant Pennoyer, Director, Office of Fiscal and Program Review
Suzanne Gresser, Revisor of Statutes
Scott Clark, Director, Legislative Information Technology
John Barden, Director, Law and Legislative Reference Library
Rose Breton, Legislative Finance Director
Debra Olken, Human Resources Director

Senate President Raye convened the meeting at 1:43 P.M. with a quorum of members present.

SUMMARY OF MARCH 24, 2011 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of March 24, 2011 be accepted and placed on file. Motion by Speaker Nutting. Second by Senator Plowman. **Motion passed unanimous. (8-0;** Senators Hobbins and Alfond absent)

Chair Raye asked if there was any objection to taking one item 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 18 bill requests, the council authorized 15 requests for introduction in the 1st Regular Session of the 125th Legislature, 0 failed to be authorized, and 3 were tabled until a future Legislative Council meeting. Of the 4 joint resolutions, the council authorized 2 requests for introduction in the 1st Regular Session of the 125th Legislature, 1 failed to be authorized, 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.

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

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

1. State House Security Update
At its meeting in March, the Legislative Council authorized installation of metal detection and package screening equipment in the West entrance to the State House, as a security measure and to maintain them in a state of readiness. The metal detectors are being assembled and will be ready to be tested and deployed once the package screening equipment is serviceable. Because the package screening equipment utilizes x-ray technology the equipment is required to be recertified and made serviceable before it is deployed. Chief of Capitol Police Gauvin has arranged for the recertification and officer training on the use of the equipment, which is scheduled for next week. Chief Gauvin anticipates all equipment to be in place and officers trained in their use by the end of the week of May 9th. The Budget Subcommittee has, among its various charges, consideration of potential areas of savings to partially fund costs for security/screening personnel.
2. Welcome Back Day
Welcome Back Day for former legislators is scheduled for Thursday, May 12, 2011. The day includes various activities and recognitions, including a luncheon in the Hall of Flags that will be provided by the culinary arts students at Southern Maine Community College in South Portland. Welcome Back Day is organized by the Clerk's Office and an internal host committee.

Fiscal Report

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

Revenue Update

Total General Fund Revenue - FY 2011 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
March	\$204.1	\$203.9	(\$0.2)	-0.1%	\$188.0	8.4%
FYTD	\$1,863.0	\$1,884.6	\$21.7	1.2%	\$1,741.9	8.2%

General Fund revenue was just slightly under budget in March with a negative variance of \$0.2 million (0.1%), but remained over budget by \$21.7 million (1.2%) for the fiscal year-to-date (FYTD). For the first 3 quarters of FY 2011, the General Fund revenue has grown 8.2% compared with the same period last fiscal year.

The growth of Individual Income Tax revenue has been the primary factor in the General Fund's strong growth through 3 quarters with a \$22.2 million positive variance and 9.8% growth. While this category was under budget in March by \$3.2 million, it was due largely to an offset of February's positive variance in refunds. March refunds were \$12.2 million over budget for the month. Refunds were ahead of projections (a negative variance) by \$6.6 million for the FYTD through March. However, strong withholding payments growth continued to fuel the overall positive variance for Individual Income Tax. Withholding payments were \$21.1 million over budget for the FYTD and through 3 quarters of FY 2011 have grown 6.1% over the same period last fiscal year. April's income tax processing indicates that results for the 2010 tax year were very close to projections.

Corporate Income Tax revenue was under budget in March by \$1.8 million and fell below budget for the FYTD by \$1.4 million (-1.0%). Estimated payments have been very volatile relative to budgeted amounts.

Sales and Use Tax revenue was ahead of projections in March, over by \$1.0 million for the month and \$12.9 million for the FYTD. However, Service Provider Tax revenue was below budget by \$0.4 million in March and \$2.6 million for the FYTD. Both of these categories are included in taxable sales data. The combined performance of these categories suggests that consumers have not reacted too negatively to the recent price increases in heating oil and gasoline.

With the strong performance of major taxes producing a combined positive variance of \$31.1 million through March, revenue sharing transfers were \$2.2 million higher than projected. March's negative variance for these major taxes will lower this positive variance to \$2.0 million through April.

Estate Tax revenue rebounded in March with the receipt of a single estate tax payment of roughly \$5.8 million in early March, erasing a negative variance in this category and ending March with a \$4.3 positive variance.

There are several areas of concern that will likely be revised downward in the pending revenue forecast update. These include: Targeted Case Management revenue administered by the Department of Health and Human Services (\$4.9 million or 27.5% under budget through March); fine revenue (\$2.8 million or 10.7% under budget), lottery transfers (\$2.1 million or 5.4% under budget) and STA-CAP transfers (\$1.6 million or 12.9% under budget).

Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2011 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
March	\$22.5	\$23.4	\$0.8	3.8%	\$22.6	3.4%
FYTD	\$211.2	\$214.2	\$3.1	1.4%	\$212.1	1.0%

Highway Fund revenue was over budget by \$0.8 million (3.8%) in March, which increased the positive variance through 3 quarters of FY 2011 to \$3.1 million (1.4%). Through March, Highway Fund revenue continued to reflect modest growth of 1.0% over the same period last fiscal year.

Fuel Tax revenues were below budget by \$0.7 million in March. However, this negative variance was not driven by the gasoline tax as was the case in January and February but by the performance of Special Fuel and Road Use Taxes, which was under budget by \$0.9 million. For the FYTD, the Fuel Tax category remained modestly over budget by \$0.1 million (0.1%), due to positive variances that had accumulated through December.

The Motor Vehicle Registration and Fee revenue category was over budget by \$1.9 million in March due solely to the early receipt of Long-term Trailer Registration Fees. Some element of this variance is a timing issue, but it is likely that this category will be revised upward in the next revenue forecast.

Cash Balances

The average total cash pool balance for March was \$411.0 million, \$117.6 million higher than one year ago. The recent historical average for March's cash balances is \$450.8 million (March 2002 to 2010). Cash balances have shown improvement across the fund groups broken out below. Particularly important is the reduction in General Fund internal cash flow borrowing, more than \$125 million less than a year ago.

Summary of Treasurer's Cash Pool		
March Average Daily Balances (Millions of \$'s)		
	2010	2011
General Fund (GF) Total	\$20.9	\$5.1
General Fund (GF) Detail:		
Budget Stabilization Fund	\$0.2	\$25.4
Reserve for Operating Capital	\$0.0	\$11.2
Tax Anticipation Notes	\$0.0	\$0.0
Internal Borrowing	\$380.8	\$255.6
Other General Fund Cash	(\$360.1)	(\$287.2)
Other Spec. Rev. - Interest to GF	(\$2.1)	\$16.5
Other State Funds - Interest to GF	\$9.0	\$17.4
Highway Fund	\$32.0	\$64.6
Other Spec. Rev. - Retaining Interest	\$29.9	\$31.4
Other State Funds	\$104.4	\$160.3
Independent Agency Funds	\$99.2	\$115.7
Total Cash Pool	\$293.4	\$411.0

Revenue Forecast Update

Summary of May 2011 Revenue Revisions

Millions of \$'s

General Fund Summary

	FY10 Actual	FY11	FY12	FY13	FY14	FY15
Current Forecast	\$2,755.7	\$2,884.0	\$2,945.3	\$3,096.0	\$3,289.7	\$3,426.0
Annual % Growth	-2.0%	2.6%	6.9%	7.4%	11.7%	10.7%
Net Increase (Decrease)		\$12.1	(\$4.8)	(\$42.2)	(\$85.7)	(\$84.1)
Revised Forecast	\$2,755.7	\$2,896.1	\$2,940.6	\$3,053.8	\$3,203.9	\$3,341.9
Annual % Growth	-2.0%	5.1%	1.5%	3.9%	4.9%	4.3%

Highway Fund Summary

	FY10 Actual	FY11	FY12	FY13	FY14	FY15
Current Forecast	\$311.2	\$307.7	\$315.0	\$320.4	\$326.9	\$333.0
Annual % Growth	-4.0%	-5.1%	1.2%	4.1%	3.8%	4.0%
Net Increase (Decrease)		\$0.6	\$1.3	\$3.3	\$2.3	\$0.8
Revised Forecast	\$311.2	\$308.3	\$316.4	\$323.6	\$329.2	\$333.9
Annual % Growth	-4.0%	-0.9%	2.6%	2.3%	1.7%	1.4%

Fund for a Healthy Maine Summary

	FY10 Actual	FY11	FY12	FY13	FY14	FY15
Current Forecast	\$57.6	\$52.8	\$53.5	\$54.6	\$60.5	\$60.1
Annual % Growth	-15.9%	-8.3%	1.3%	2.1%	10.8%	-0.5%
Net Increase (Decrease)		\$1.6	\$0.0	(\$0.2)	(\$0.3)	(\$0.3)
Revised Forecast	\$57.6	\$54.4	\$53.5	\$54.4	\$60.2	\$59.9
Annual % Growth	-15.9%	-5.5%	-1.7%	1.7%	10.8%	-0.6%

Medicaid/MaineCare Dedicated Revenue Taxes Summary

	FY10 Actual	FY11	FY12	FY13	FY14	FY15
Current Forecast	\$140.0	\$151.3	\$151.3	\$151.3	\$151.3	\$151.3
Annual % Growth	1.4%	8.0%	0.0%	0.0%	0.0%	0.0%
Net Increase (Decrease)		(\$3.4)	\$0.0	\$0.0	\$0.0	\$0.0
Revised Forecast	\$140.0	\$147.9	\$151.3	\$151.3	\$151.3	\$151.3
Annual % Growth	1.4%	5.6%	2.3%	0.0%	0.0%	0.0%

The General Fund revenue forecast, with a new underlying economic forecast that assumes a slower recovery than previously projected, reduces budgeted resources available for the 2012-2013 Biennial Budget by just under \$35 million. This amount reflects the increase of the FY 2011 balance forward by \$12.1 million. In addition to the effects of the economic forecast, the following revenue sources were major factors and reduced budgeted General Fund revenue over the 3-year current budget period by:

- Targeted Case Management revenue - \$25.8 million;
- Fines, Forfeits and Penalties revenue - \$7.1 million; and
- Lottery Revenue - \$6.4 million.

Budgeted revenue estimates for the Highway Fund and the Fund for a Healthy Maine were increased modestly, but the dedicated revenue taxes used to support the MaineCare program were revised downward on a one-time basis in the current fiscal year.

The most substantial risks to this forecast relate to the assumptions about oil prices. The underlying economic forecast assumes that oil prices, and subsequently energy prices, will recede from their current peaks. In addition, the Tobacco Settlement Payments may be significantly reduced next fiscal year depending on the outcome of legal proceedings on disputed payments related to the Non-participating Manufacturers Adjustment.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

President Raye, Chair of the Personnel Committee, reported that the Personnel Committee held a meeting earlier today, April 28, 2011 to consider requests by two legislative employees for temporary disability income benefits. Both requests were consistent with the provisions for temporary disability income benefits under the Legislative Council's personnel policies and guidelines and the applicable provisions of the collective bargaining agreement. Upon the recommendation of the employees' directors and the Executive Director, the committee voted unanimously to approve the requests. No Legislative Council action is required.

2. State House Facilities Committee

In the absence of Senator Courtney, Committee Chair, Senator Plowman reported on the committee meeting held on April 26, 2011.

The State House Facilities Committee met on April 26, 2011 to review the State House Facilities and Grounds improvement plan for 2011. After reviewing the proposed projects, the committee concluded the projects were appropriate and constitute health and safety improvements or will prevent more costly repairs to facility infrastructure in the future. Key projects include: interior plaster repair and paint; roofing and safety equipment inspections; repairs to the west wing entry stairs; north parking lot, sidewalk and crosswalk improvements; pedestrian path and grounds restoration in Capitol Park; and installation of an additional member desk in the House Chamber. The committee felt that further review should occur before authorizing installation of video broadcast cameras in the Appropriations committee room and recommended deferring action on that project until 2012. The committee also asked the Executive Director to explore potential options for an illuminated crosswalk to and from the state parking garage with MDOT or city officials. The committee voted unanimously to recommend approval of the plan with the two noted adjustments.

The council discussed the committee's recommendations, noting that two of the projects have already received approval by a previous Legislative Council. Several members asked for an explanation of costs relating to professional architectural, engineering and code compliance services. Mr. Boulter explained that the general conditions budget is comparable to anticipated costs for similar projects having similar scopes of work and costs for architectural services are significantly less than which would be experienced for other comparable state projects using the standard BGS cost formula. Representative Hayes commented that most of the projects constituted maintenance needs and improvements related to health and safety, with the exception of installation of video broadcasting capability in the committee rooms (recommended to be postponed until 2012), and not doing the projects may result in increased project costs in the future. Senator Raye commented that it may be appropriate that the committee share its recommendation with the council's budget subcommittee. The discussion concluded with several members commenting that more time is needed to review the plan and the facilities committee recommendation. Mr. Boulter indicated that lead time is needed to prepare technical drawings and construction-related work, but a short postponement to May should not be problematic.

The Legislative Council postponed action on the matter.

3. Budget Subcommittee

Speaker Nutting, Chair of the Budget Subcommittee, reported on the meeting held on April 12, 2011.

The Budget Subcommittee met on April 12th to review the proposed budget for the Legislature for the 2012-2013 biennium. At the meeting, members discussed the tentative budget submitted by the Legislative Council of the 124th Legislature and the Governor's budget proposal for the Legislature. The subcommittee will be meeting again on Monday, May 2nd to hear from the National Conference of State Legislatures (NCSL) representatives regarding the advantages of membership to NCSL and the services they provide to member states.

At a future meeting, the subcommittee will continue its budget discussions and vote on specific budget provisions affecting the Legislature. The Legislative Council members were reminded that the Council is charged with the responsibility for the Legislative budget, and once the subcommittee makes its recommendations to the full Legislative Council, the Legislative Council will convey its budget decisions to the Appropriations Committee so those budget adjustments will be incorporated into the Appropriations Committee budget amendment.

OLD BUSINESS

ITEM 1: Legislative Council Actions Taken by Ballot

The following actions were taken by ballot by the Legislative Council since the last meeting.

A. LR 2125 An Act to Clarify the Scope of Practice of Licensed Alcohol and Drug Counselors Regarding Tobacco Use

Submitted by: Representative Emily Cain
 Approved: April 7, 2011 Vote: 10 – 0 in favor

B. LR 2131 Resolve, Directing the Department of Marine Resources to Contract for an Independent Review of the Limited Entry Lobster Fishing System

Submitted by: Representative Dianne Tilton
 Approved: April 13, 2011 Vote: 10 – 0 in favor

NEW BUSINESS

Item #2: Notice of Audit of State Budget for the year ending June 30, 2011

The Maine Department of Audit sent a letter notifying the Legislative Council that it is performing the Single Audit of the State of Maine for the year ending June 30, 2011. No Legislative Council action is required.

Item #3: Collective Bargaining Matters [Executive Session]

Motion: That, in accordance with 1 MRSA section 405, subsection 6, the Legislative Council enter into an executive session for the purposes of discussing collective bargaining negotiations between the employee representative for the Administrative Unit of Legislative Employees and the Legislative Council. Motion by Speaker Nutting. Second by Representative Cain. **Motion passed. (8-0, with Senators Courtney and Alfond absent)**

The council entered into an executive session at 2:45 PM. At the conclusion of the executive session, on a motion by Representative Cushing, seconded by Senator Hobbins, the Legislative Council voted (7-0, with Senators Courtney, Plowman and Alfond absent) to end its executive session at 2:59 PM.

Speaker Nutting offered the following motion:

Motion: That pursuant to its authority under 26 MRSA, Section 979-A, subsection 5, the Legislative Council of the 125th Legislature ratify the collective bargaining agreement for the period October 1, 2009 through September 30, 2011 that was negotiated and tentatively agreed to by the authorized representatives of the Legislative Council and the Maine State Employees Association-SEIU Local 1989 on behalf of the Administrative Unit of Legislative Employees on March 3, 2011, and ratified by its represented members on March 30, 2011;

Further, that the Legislative Council authorize its Executive Director to take all necessary steps to carry out the terms of this Agreement;

Further, that the Legislative Council apply personnel policies and benefit provisions relating to group health insurance, step increases, longevity stipends and political and partisan activity that are comparable to those contained in the collective bargaining agreement ratified by the Legislative Council and the MSEA-SEIU to legislative employees who are not represented by a collective bargaining agent, and direct its Executive Director to incorporate and administer those provisions; and

Further, that the Legislative Council authorize its Executive Director to enter into negotiations with the bargaining agent for the Independent Association of Nonpartisan Legislative Professionals (IANLP) over terms and conditions of employment for legislative employees in the IANLP bargaining unit. **Motion passed. (7-0, with Senators Courtney, Plowman and Alfond absent)**

ANNOUNCEMENTS AND REMARKS

The Legislative Council meeting was adjourned at 3:03 P.M. on a motion Senator Alfond, seconded by Representative Cain. **Motion passed unanimous (7-0, with Senators Courtney, Plowman and Alfond absent).**

Legislative Council Action on After Deadline Bill Requests, April 28, 2011

LEGISLATIVE COUNCIL
AFTER DEADLINE REQUESTS TO INTRODUCE LEGISLATION
FIRST REGULAR SESSION 125th LEGISLATURE
As of: April 28, 2011

		Action
SPONSOR: LR 2027	Rep. Berry, Seth A. An Act To Prohibit the Sale or Possession of Bath Salts Containing Dangerous Synthetic Drugs	PASSED
SPONSOR: LR 2135	Rep. Cain, Emily A. An Act To Clarify the Award of Fees in Domestic Violence Cases	PASSED
SPONSOR: LR 2157	Rep. Celli, Michael An Act To Give Judges Greater Flexibility When Sentencing Defendants Convicted of Murder	PASSED
SPONSOR: LR 2149	Rep. Clark, Herbert E. An Act To Tax Water Used by Hydroelectric Facilities	PASSED
SPONSOR: LR 2150	Rep. Clark, Herbert E. An Act Concerning Certain Privileges Transferred to GNE, LLC by Great Northern Paper, Inc.	PASSED
SPONSOR: LR 2146	Rep. Cornell du Houx, Alexander M. An Act To Allow Retired Dentists To Obtain a License To Practice in Nonprofit Clinics	PASSED
SPONSOR: LR 2161	Rep. Damon, Douglas K. An Act To Require Disclosures by 3rd-party Vendors Contracted To Perform Fund-raising	PASSED
SPONSOR: LR 2141	Rep. Fredette, Kenneth W. Resolve, To Name the Main Street Bridge in Newport after Sergeant Donald Sidney Skidgel	PASSED
SPONSOR: LR 2153	Rep. Haskell, Anne M. An Act To Eliminate the Waiting Period before Insurance Adjusters May Offer Adjustment Services	PASSED

SPONSOR: LR 2151	Rep. Moulton, Bradley S. An Act To Change Document Filing Fees for County Registries of Deeds	PASSED
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SPONSOR: LR 2156	Sen. Raye, Kevin L. An Act To Authorize the Public Utilities Commission To Exercise Jurisdiction over Private Natural Gas Pipelines To Ensure Safe Operation	PASSED
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SPONSOR: LR 2158	Sen. Rector, Christopher W. An Act To Transfer the Guilford Butler School To Regional School Unit 13	PASSED
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SPONSOR: LR 2134	Sen. Sherman, Roger L. An Act To Create the Nickerson Lake Sewer District	PASSED
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SPONSOR: LR 2154	Sen. Snowe-Mello, Lois A. An Act To Allow Certain Wholesale Seafood Dealers To Process Imported Lobsters	PASSED
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SPONSOR: LR 2155	Sen. Trahan, A. David An Act To Ensure the Compensation of Public Employees Who Are Injured Due to Acts of Violence of Patients or Prisoners in Their Custody	TABLED
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SPONSOR: LR 2139	Rep. Turner, Beth P. An Act To Reform the Land Use Regulation Commission	TABLED
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SPONSOR: LR 2138	Sen. Whittemore, Rodney L. An Act To Expand Health Insurance Choices	TABLED
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SPONSOR: LR 2122	Rep. Willette, Alexander R. An Act To Raise the Speed Limit on Interstate 95 between Old Town and Houlton	PASSED
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JOINT RESOLUTION

SPONSOR: LR 2120	Rep. Espling, Eleanor M. JOINT RESOLUTION MEMORIALIZING CONGRESS TO PASS THE PARENTAL RIGHTS AMENDMENT TO THE UNITED STATES CONSTITUTION	TABLED
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JOINT RESOLUTION

SPONSOR:

LR 2077

Sen. Jackson, Troy D.

JOINT RESOLUTION MEMORIALIZING THE
PRESIDENT OF THE UNITED STATES AND THE
UNITED STATES TRADE REPRESENTATIVE
REGARDING STATES' RIGHTS IN FUTURE
INTERNATIONAL TRADE POLICY

FAILED

JOINT RESOLUTION

SPONSOR:

LR 2133

Rep. Maker, Joyce A.

JOINT RESOLUTION MEMORIALIZING THE
PRESIDENT OF THE UNITED STATES, MAINE'S
CONGRESSIONAL DELEGATION AND THE UNITED
STATES TRADE REPRESENTATIVE REGARDING
STATES' RIGHTS IN FUTURE INTERNATIONAL
TRADE POLICY

PASSED

JOINT RESOLUTION

SPONSOR:

LR 2127

Rep. Turner, Beth P.

JOINT RESOLUTION MEMORIALIZING CONGRESS
TO AWARD THE DISTINCTION OF VETERANS OF
THE UNITED STATES AND THE STATE OF MAINE
TO THE PROTECTORS AND DEFENDERS OF THE
NORTHEASTERN BOUNDARY DISPUTE SERVING
BETWEEN FEBRUARY 5, 1839 AND DECEMBER 31,
1842

PASSED

SEN. KEVIN L. RAYE
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REP. ROBERT W. NUTTING
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125TH MAINE STATE LEGISLATURE
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Legislative Council

Executive Director's Report May 26, 2011

1. Online Filing of Rulemaking Notices

After programming and extensive testing, the legislature's computer application for online filing of agency rulemaking notices is operational. With this new system, agencies who propose new or amended rules may file their required notices and fact sheets electronically with the Legislature. Once received and reviewed, the agency notices are sent to legislative committee members via email. In addition to rulemaking notices, agencies can also file their statutorily required regulatory agendas. To date about 12 agencies have received training on the online filing procedures, with more agencies being scheduled for training. This application will result in time efficiencies and reduction in paper use for both the Legislature and rulemaking agencies.

2. VoIP Telephone System Proposals – Update

During the past month, 3 firms who submitted proposals to install a VoIP telephone system in the Legislature were invited to make presentations to technical and user groups. Vendors were given a building walk-through and an opportunity to ask and answer questions to clarify and refine their proposals. The Office of Information Technology is currently reviewing client references for the firms which should be concluded by the end of the month. A further presentation will be made by the bidders to narrow the list to 1 or 2 top vendors. Once the information has been fully gathered and assessed, the matter will be presented to the Legislative Council for consideration as to whether to proceed with a VoIP system for the Legislature.

Fiscal Briefing

Legislative Council Meeting

May 26, 2011

Prepared by the Office of Fiscal & Program Review

1. General Fund Revenue Update (also see attached tables)

Total General Fund Revenue - FY 2011 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
April	\$354.8	\$364.5	\$9.7	2.7%	\$344.6	5.8%
FYTD	\$2,217.8	\$2,249.2	\$31.4	1.4%	\$2,086.5	7.8%

General Fund revenue was over budget by \$9.7 million (2.7%) in April, increasing the positive variance for the fiscal year-to-date (FYTD) to \$31.4 million based on the forecast prior to the May 2011 revisions, which increased the revenue forecast by \$12.1 million. General Fund revenue growth through April was 7.8%, which is well ahead of the 5.1% growth assumption of the May 2011 revenue forecast. With just 2 months remaining in the fiscal year and with some preliminary indications of May's performance, it now appears that the General Fund revenue has a sufficient cushion to absorb the increase in the May 2011 revenue forecast and end the year with a revenue surplus.

Individual Income Tax revenue was \$26.5 million over the old forecast through April. This category was increased by \$27.3 million in FY 2011, thus requiring only modest improvements over the old forecast to exceed the new benchmark.

Corporate Income Tax had a very strong month in April offsetting a negative variance and building up a cushion of \$6.1 million based on the old forecast. The May 2011 forecast revises Corporate Income Tax revenue downward by \$7.3 million, largely due to some large refunds to be paid out in the remaining months of FY 2011. Even with the downward revision, this category appears to be in good position to end the year with a positive variance.

Sales and Use Tax and Service Provider Tax revenue fell below budget in April and appears to be feeling the effects of high gasoline prices. Combined these 2 categories were \$8.5 million over budget for the FYTD through April. The May 2011 revenue forecast increases these categories by \$9.3 million.

Revenue sharing transfers based on the performance of the income and sales tax categories have been ahead of projections by \$2.1 million through April, which does yet include the excess transfers above projections from the positive variances of April's tax collections that would add roughly \$0.5 million to the amount above projections. The May 2011 revenue forecast increased the budgeted amounts for these transfers by \$2.0 million.

April's Estate Tax collections, which rebounded strongly in March with the receipt of a single estate tax payment of roughly \$5.8 million, added to this positive variance and has built up a cushion of \$3.5 million after deducting the \$2.1 million May 2011 upward revenue revision for this category.

The April performance of lottery transfers is another positive revenue development. These transfers were very close to budget for the month and are under budget by only \$2.1 million through April. Absent some major negative variances over the last 2 months, this category should exceed the revised amounts in the May 2011 revenue forecast, which reduced this category by \$3.0 million in FY 2011.

Some areas of concern include cigarette and tobacco tax collections, which was under budget by \$1.7 million in April and \$1.9 million for the FYTD, and Inland Fisheries and Wildlife revenue, which was under budget by \$1.2 million in April and for the FYTD. These are hopefully only temporary negative variances related to timing and accounting issues that will mostly correct by year's end.

Fiscal Briefing (continued)

2. Highway Fund Revenue Update (also see attached tables)

Total Highway Fund Revenue - FY 2011 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
April	\$27.0	\$25.7	(\$1.4)	-5.0%	\$27.5	-6.5%
FYTD	\$238.2	\$239.9	\$1.7	0.7%	\$239.6	0.1%

Highway Fund revenue was under budget by \$1.4 million (5.0%) in April, but it remained over the budget for the FYTD through April by \$1.7 million. The May 2011 revenue revision increases Highway Fund budgeted revenue by \$0.6 million in FY 2011, thus leaving a cushion of more than \$1 million with 2 month remaining in FY 2011.

Fuel Taxes were above budget by \$0.3 million in April and was \$0.4 million for the FYTD through April. The May 2011 revenue forecast lowers the projected revenue from this category by \$0.3 million in FY 2011, largely from gasoline tax collections, which will add some additional cushion for the last 2 months of FY 2011.

The Motor Vehicle Registration and Fee category was under budget by \$2.0 million in April, but it remained over budget for the FYTD by \$1.2 million. Much of April's negative variance and the positive FYTD variance were related to Long-term Trailer Registration Fees. The May 2011 revenue forecast increases by \$1.0 million the revenue from these fees.

3. Tobacco Settlement Payments Update

In the May 2011 Revenue Forecasting Committee (RFC) report, the RFC noted a potential significant risk to Maine's April 2012 tobacco settlement payments as a result of a pending legal proceeding under the Master Settlement Agreement (MSA) with tobacco manufacturers. On May 23rd, an Arbitration Panel reached a decision regarding the Non-participating Manufacturer (NPM) adjustment under the MSA for sales year 2003. The Participating Manufacturers (PMs) claimed that the Independent Auditor should have applied the NPM adjustment, which would have reduced their payment liability for that year. The panel's ruling denied that claim. As the Office of the Attorney General noted, this is a significant victory for the states.

While the panel's ruling only addresses 2003 and does not address subsequent years or limit challenges to individual states that they have not diligently enforced the MSA, it does avoid the immediate risk to our April 2012 payments. If the States had not prevailed in this dispute, Maine's potential loss could have amounted to between \$2.98 million (the credit due back for 2003 only) and \$28.5 million (the credit for all of 2003-2009). Those credits would have been applied in addition to a reduction in payments per the NPM Adjustment amount for all future years as well.

This ruling does not affect budgeted revenue to the Fund for a Healthy Maine from tobacco settlement payments; it just reduces the most significant risk in the current revenue forecast.

Fiscal Briefing (continued)

4. Cash Balances

The average total cash pool balance for April was \$448.4 million, \$105.5 million higher than one year ago. The recent historical average for April's cash balances is \$482.4 million (April 2002 to 2010). Cash balances continue to show improvement across all the fund groups broken out below. Particularly important is the reduction in General Fund internal cash flow borrowing, \$64.5 million less than a year ago.

Summary of Treasurer's Cash Pool		
April Average Daily Balances		
Millions of \$'s		
	2010	2011
General Fund (GF) Total	\$33.7	\$50.5
General Fund (GF) Detail:		
Budget Stabilization Fund	\$0.2	\$25.4
Reserve for Operating Capital	\$0.0	\$11.2
Tax Anticipation Notes	\$0.0	\$0.0
Internal Borrowing	\$341.2	\$276.7
Other General Fund Cash	(\$307.7)	(\$262.8)
Other Spec. Rev. - Interest to GF	(\$3.9)	\$32.0
Other State Funds - Interest to GF	\$8.0	\$17.0
Highway Fund	\$52.4	\$71.8
Other Spec. Rev. - Retaining Interest	\$29.9	\$30.9
Other State Funds	\$126.1	\$130.1
Independent Agency Funds	\$96.5	\$115.9
Total Cash Pool	\$342.8	\$448.4

General Fund Revenue
Fiscal Year Ending June 30, 2011 (FY 2011)
April 2011 Revenue Variance Report

Revenue Category				Fiscal Year-To-Date					FY 2011 Budgeted Totals
	April '11 Budget	April '11 Actual	April '11 Variance	Budget	Actual	Variance	Variance %	% Change from Prior Year	
Sales and Use Tax	70,092,429	68,767,892	(1,324,537)	678,891,039	690,501,570	11,610,531	1.7%	3.5%	904,850,262
Service Provider Tax	4,789,732	4,288,106	(501,626)	43,496,039	40,388,906	(3,107,133)	-7.1%	-1.8%	57,814,486
Individual Income Tax	209,787,779	214,087,062	4,299,283	1,100,896,888	1,127,365,319	26,468,431	2.4%	8.7%	1,365,364,302
Corporate Income Tax	18,937,864	26,491,088	7,553,224	164,522,281	170,629,214	6,106,933	3.7%	23.8%	200,490,112
Cigarette and Tobacco Tax	12,842,541	11,107,392	(1,735,149)	120,614,876	118,684,731	(1,930,145)	-1.6%	-2.9%	146,209,555
Insurance Companies Tax	10,852,764	12,701,999	1,849,235	38,635,087	38,915,429	280,342	0.7%	-5.2%	76,765,000
Estate Tax	3,165,000	4,391,878	1,226,878	30,321,639	35,864,292	5,542,653	18.3%	53.3%	42,978,079
Other Taxes and Fees *	10,766,016	9,614,603	(1,151,413)	107,122,696	109,267,727	2,145,031	2.0%	3.4%	149,281,382
Fines, Forfeits and Penalties	2,209,418	2,236,513	27,095	26,636,105	23,827,599	(2,808,506)	-10.5%	-14.0%	31,133,161
Income from Investments	(86,028)	2,365	88,393	(298,058)	201,070	499,128	167.5%	93.5%	27,332
Transfer from Lottery Commission	5,003,301	4,967,164	(36,137)	44,028,990	41,886,505	(2,142,485)	-4.9%	-1.5%	52,034,250
Transfers to Tax Relief Programs *	(2,144,148)	(1,438,127)	706,021	(110,040,432)	(111,120,722)	(1,080,290)	-1.0%	-0.5%	(112,087,945)
Transfers for Municipal Revenue Sharing	(4,785,882)	(4,684,196)	101,686	(71,980,666)	(74,064,678)	(2,084,012)	-2.9%	7.0%	(89,975,242)
Other Revenue *	13,371,102	11,977,902	(1,393,200)	44,933,258	36,814,314	(8,118,944)	-18.1%	18.9%	59,089,977
Totals	354,801,888	364,511,640	9,709,752	2,217,779,742	2,249,161,274	31,381,532	1.4%	7.8%	2,883,974,711

* Additional detail by subcategory for these categories is presented on the following page.

General Fund Revenue
Fiscal Year Ending June 30, 2011 (FY 2011)
April 2011 Revenue Variance Report

Revenue Category				Fiscal Year-To-Date						FY 2011 Budgeted Totals
	April '11 Budget	April '11 Actual	April '11 Variance	Budget	Actual	Variance	Variance %	% Change from Prior Year		
Detail of Other Taxes and Fees:										
- Property Tax - Unorganized Territory	0	0	0	12,080,762	11,896,097	(184,665)	-1.5%	5.0%	13,245,281	
- Real Estate Transfer Tax	759,571	571,040	(188,531)	10,824,021	11,427,419	603,398	5.6%	16.4%	13,298,052	
- Liquor Taxes and Fees	1,689,180	1,957,035	267,855	16,432,846	17,153,583	720,737	4.4%	3.1%	20,413,193	
- Corporation Fees and Licenses	1,498,560	1,315,889	(182,671)	4,942,201	4,953,080	10,879	0.2%	-1.3%	7,697,099	
- Telecommunication Personal Prop. Tax	0	5,484	5,484	0	(19,368)	(19,368)	N/A	-128.7%	16,775,988	
- Finance Industry Fees	2,101,419	2,403,150	301,731	18,663,114	20,884,670	2,221,556	11.9%	6.7%	22,865,980	
- Milk Handling Fee	751,020	100,188	(650,833)	4,447,932	3,674,214	(773,718)	-17.4%	-57.0%	5,949,972	
- Racino Revenue	1,139,530	721,127	(418,403)	8,494,612	7,883,546	(611,066)	-7.2%	-1.9%	11,199,473	
- Boat, ATV and Snowmobile Fees	430,641	245,467	(185,174)	3,423,947	2,867,532	(556,415)	-16.3%	-6.9%	4,500,295	
- Hunting and Fishing License Fees	1,557,788	522,729	(1,035,059)	13,077,276	12,430,376	(646,900)	-4.9%	-0.7%	17,420,998	
- Other Miscellaneous Taxes and Fees	838,307	1,772,493	934,186	14,735,985	16,116,577	1,380,592	9.4%	46.0%	15,915,051	
Subtotal - Other Taxes and Fees	10,766,016	9,614,603	(1,151,413)	107,122,696	109,267,727	2,145,031	2.0%	3.4%	149,281,382	
Detail of Other Revenue:										
- Liquor Sales and Operations	7,366,551	7,283,561	(82,990)	7,387,179	7,306,803	(80,376)	-1.1%	7.8%	7,391,759	
- Targeted Case Management (DHHS)	1,826,890	962,934	(863,956)	19,505,949	13,784,470	(5,721,479)	-29.3%	-16.4%	23,159,729	
- State Cost Allocation Program	1,474,706	1,080,950	(393,756)	14,013,334	12,006,281	(2,007,053)	-14.3%	-10.1%	16,699,059	
- Unclaimed Property Transfer	0	0	0	0	0	0	N/A	N/A	2,333,420	
- Toursim Transfer	0	0	0	(9,048,877)	(9,048,877)	0	0.0%	-0.3%	(9,048,877)	
- Transfer to Maine Milk Pool	0	(13,614)	(13,614)	(4,611,691)	(4,239,140)	372,551	8.1%	63.5%	(4,611,691)	
- Transfer to STAR Transportation Fund	0	0	0	(3,100,352)	(3,100,352)	0	0.0%	1.1%	(3,100,352)	
- Other Miscellaneous Revenue	2,702,955	2,664,070	(38,885)	20,787,716	20,105,130	(682,586)	-3.3%	10.9%	26,266,930	
Subtotal - Other Revenue	13,371,102	11,977,902	(1,393,200)	44,933,258	36,814,314	(8,118,944)	-18.1%	18.9%	59,089,977	
Detail of Transfers to Tax Relief Programs:										
- Me. Resident Prop. Tax Program (Circuitbreaker)	(1,612,339)	(990,188)	622,151	(41,674,074)	(39,212,619)	2,461,455	5.9%	-3.0%	(43,500,000)	
- BETR - Business Equipment Tax Reimb.	(531,809)	(27,327)	504,482	(50,821,553)	(55,180,480)	(4,358,927)	-8.6%	5.0%	(51,043,140)	
- BETE - Municipal Bus. Equip. Tax Reimb.	0	(420,612)	(420,612)	(17,544,805)	(16,727,624)	817,181	4.7%	-15.7%	(17,544,805)	
Subtotal - Tax Relief Transfers	(2,144,148)	(1,438,127)	706,021	(110,040,432)	(111,120,722)	(1,080,290)	-1.0%	-0.5%	(112,087,945)	
Inland Fisheries and Wildlife Revenue - Total	2,081,177	870,999	(1,210,178)	17,458,077	16,241,861	(1,216,216)	-7.0%	-1.4%	23,068,034	

Highway Fund Revenue **Fiscal Year Ending June 30, 2011 (FY 2011)**

April 2011 Revenue Variance Report

Revenue Category				Fiscal Year-To-Date					FY 2011 Budgeted Totals
	April '11 Budget	April '11 Actual	April '11 Variance	Budget	Actual	Variance	% Variance	% Change from Prior Year	
Fuel Taxes:									
- Gasoline Tax	14,758,125	14,791,187	33,062	147,781,003	148,245,958	464,955	0.3%	-0.3%	194,694,000
- Special Fuel and Road Use Taxes	3,451,353	3,716,731	265,378	33,407,711	33,363,700	(44,011)	-0.1%	-1.8%	43,651,789
- Transcap Transfers - Fuel Taxes	(1,338,802)	(1,360,293)	(21,491)	(14,840,335)	(14,854,513)	(14,178)	-0.1%	-1.3%	(17,503,281)
- Other Fund Gasoline Tax Distributions	(369,058)	(369,883)	(825)	(4,195,671)	(4,209,398)	(13,727)	-0.3%	-1.3%	(4,968,712)
Subtotal - Fuel Taxes	16,501,618	16,777,742	276,124	162,152,708	162,545,747	393,039	0.2%	-0.8%	215,873,796
Motor Vehicle Registration and Fees:									
- Motor Vehicle Registration Fees	5,769,989	5,292,712	(477,277)	51,060,849	51,016,176	(44,673)	-0.1%	1.0%	64,718,038
- License Plate Fees	285,235	188,822	(96,413)	2,634,136	2,528,680	(105,456)	-4.2%	-1.7%	3,445,125
- Long-term Trailer Registration Fees	2,070,067	640,716	(1,429,351)	7,630,905	8,984,637	1,353,732	15.1%	21.2%	7,884,523
- Title Fees	1,051,655	1,001,808	(49,847)	9,325,353	9,128,914	(196,439)	-2.2%	2.8%	10,871,056
- Motor Vehicle Operator License Fees	491,987	506,104	14,117	4,986,565	4,958,123	(28,443)	-0.6%	2.9%	5,958,859
- Transcap Transfers - Motor Vehicle Fees	0	0	0	(10,792,777)	(10,547,010)	245,767	2.3%	0.2%	(14,830,531)
Subtotal - Motor Vehicle Reg. & Fees	9,668,933	7,630,162	(2,038,771)	64,845,031	66,069,520	1,224,489	1.9%	3.9%	78,047,070
Motor Vehicle Inspection Fees	223,700	201,926	(21,774)	2,344,000	2,410,120	66,120	2.7%	-0.9%	2,952,500
Other Highway Fund Taxes and Fees	129,161	126,700	(2,461)	1,061,081	1,042,285	(18,796)	-1.8%	-3.1%	1,325,823
Fines, Forfeits and Penalties	106,950	96,630	(10,320)	1,070,698	989,787	(80,911)	-8.2%	-21.8%	1,305,049
Interest Earnings	7,844	6,893	(951)	106,354	97,681	(8,673)	-8.9%	-21.2%	122,038
Other Highway Fund Revenue	399,920	847,742	447,822	6,620,362	6,756,301	135,939	2.0%	-6.2%	8,102,531
Totals	27,038,126	25,687,794	(1,350,332)	238,200,234	239,911,439	1,711,205	0.7%	0.1%	307,728,807

**Legislative Council Actions
Taken by Ballot Since the
April 28, 2011 Council Meeting**

Request for Introduction of Legislation

- A. LR 2162 **Resolution Proposing an Amendment to the Constitution of Maine, to Provide for the Popular Election of the Secretary of State, Attorney General, Treasurer of State and State Auditor**

Submitted by: Senator Debra Plowman
Approved: April 29, 2011 Vote: 9 - 1 in favor

- B. LR 2163 **An Act to Amend the Laws Governing Workers' Compensation**

Submitted by: Representative Andre E. Cushing III
Approved: May 3, 2011 Vote: 10 - 0 in favor

- C. LR 2165 **An Act Relating to State Valuation of the Town of East Millinocket and the Town of Millinocket**

Submitted by: Representative Herbert Clark
Approved: May 11, 2011 Vote: 10 - 0 in favor

- D. LR 2171 **Joint Resolution Memorializing the Maine Congressional Delegation to Insist on Open and Objective Evaluation by the United States Air Force Concerning Certain Basing Decisions**

Submitted by: Representative Kenneth Fredette
Approved: May 11, 2011 Vote: 10 - 0 in favor

- E. LR 2172 **An Act to Amend the Winthrop Utilities District Charter**

Submitted by: Representative Patrick Flood
Approved: May 13, 2011 Vote: 10 - 0 in favor

- F. LR 2173 **An Act to Further Improve Maine's Health Insurance Law**

Submitted by: Senator Rodney Whittemore
Approved: May 23, 2011 Vote: 8 - 2 in favor

SEN. KEVIN L. RAYE
CHAIR

REP. ROBERT W. NUTTING
VICE-CHAIR

EXECUTIVE DIRECTOR
DAVID E. BOULTER



125TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

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

April 26, 2011
Recommendation of State House Facilities Committee
Relating to the State House Facilities Work Plan for 2011

Motion:

That the State House Facilities Committee recommend that the Legislative Council authorize maintenance and improvements to the State House and Grounds as described in the 2011 revision of the Multi-Year Plan, except that Project 11.4 relating to technology enhancements to a committee room be deferred and reconsidered in 2012, and further authorize the Executive Director to take all necessary measures to implement the plan in accordance with the schedules contained in the plan, and to work with the Maine Department of Transportation and the City of Augusta to evaluate various effective crosswalk illumination devices related to Project 11.5.

Motion by Representative Hayes. Second by Senator Plowman. **Motion passed unanimous.**

LEGISLATIVE COUNCIL
AFTER DEADLINE REQUESTS TO INTRODUCE LEGISLATION
FIRST REGULAR SESSION 125th LEGISLATURE
As of: May 19, 2011

Action

SPONSOR: **Sen. Dill, Cynthia A.**
LR 2175 An Act To Amend the Law Governing the Health
Assessment Imposed by Recently Enacted Legislation

SPONSOR: **Rep. Treat, Sharon A.**
LR 2178 Resolve, To Allow the State To Continue Efforts To Sell or
Lease Certain Property in the City of Hallowell

JOINT RESOLUTION

SPONSOR: **Rep. O'Connor, Beth A.**
LR 2180 JOINT RESOLUTION MEMORIALIZING CONGRESS
TO DISAPPROVE OF CORN ETHANOL AS A FUEL
ADDITIVE

TABLED BY THE LEGISLATIVE COUNCIL

Action

SPONSOR: **Sen. Trahan, A. David**
LR 2155 An Act To Ensure the Compensation of Public Employees
Who Are Injured Due to Acts of Violence of Patients or
Prisoners in Their Custody

TABLED 04/28/11

SPONSOR: **Rep. Turner, Beth P.**
LR 2139 An Act To Reform the Land Use Regulation Commission

TABLED 04/28/11

SPONSOR: **Sen. Whittemore, Rodney L.**
LR 2138 An Act To Expand Health Insurance Choices

TABLED 04/28/11

JOINT RESOLUTION

SPONSOR: **Rep. Espling, Eleanor M.**
LR 2120 JOINT RESOLUTION MEMORIALIZING CONGRESS
TO PASS THE PARENTAL RIGHTS AMENDMENT TO
THE UNITED STATES CONSTITUTION

TABLED 04/28/11

**ADDENDUM
LEGISLATIVE COUNCIL
AFTER DEADLINE REQUEST TO INTRODUCE LEGISLATION
FIRST REGULAR SESSION 125th LEGISLATURE
After: May 20, 2011**

Action

SPONSOR: **Rep. Cebra, Richard M.**
LR 2183 An Act To Protect Maine's Border Businesses

SPONSOR: **Rep. Harmon, R. Ryan**
LR 2185 An Act To Amend the Off-premises Catering at Planned
Events or Gatherings License

SPONSOR: **Rep. Soctomah, Madonna M.**
LR 2184 An Act To Amend the Laws Pertaining to High-stakes
Beano Conducted by the Passamaquoddy Tribe

JOINT RESOLUTION

SPONSOR: **Sen. Schneider, Elizabeth M.**
LR 2190 JOINT RESOLUTION MEMORIALIZING CONGRESS
TO ALLOW STATES TO HAVE ALTERNATIVES TO
CORN ETHANOL AS A FUEL ADDITIVE