

# 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. HOBBINS  
SEN. DEBRA D. PLOWMAN  
SEN. JUSTIN L. ALFOND  
REP. PHILIP A. CURTIS  
REP. EMILY ANN CAIN  
REP. ANDRE E. CUSHING III  
REP. TERRY HAYES

125<sup>TH</sup> MAINE STATE LEGISLATURE  
LEGISLATIVE COUNCIL

**MEETING OF LEGISLATIVE COUNCIL  
JANUARY 26, 2012  
1:30 PM  
REVISED AGENDA**

<u>Page</u>	<u>Item</u>	<u>Action</u>
	<b>CALL TO ORDER</b>	
	<b>ROLL CALL</b>	
<b>1</b>	<b>SUMMARY OF THE NOVEMBER 17, 2011 MEETING OF THE LEGISLATIVE COUNCIL</b>	<b>Acceptance</b>
	<b>REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS</b>	
<b>14</b>	▪ Executive Director's Report (Mr. Boulter)	<b>Information</b>
<b>16</b>	▪ Fiscal Report (Mr. Pennoyer)	<b>Information</b>
<b>20</b>	▪ Status of Legislative Studies (Ms. Hylan Barr)	<b>Information</b>
	<b>REPORTS FROM COUNCIL COMMITTEES</b>	
	• Personnel Committee	<b>Information</b>
	• State House Facilities Committee (No Report)	
	<b>OLD BUSINESS</b>	
	None	

## **NEW BUSINESS**

- |           |           |  |                       |
|-----------|-----------|--|-----------------------|
| <b>21</b> | Item #1:  | Consideration of After Deadline Bill Requests  | <b>Roll Call Vote</b> |
| <b>27</b> | Item #2:  | 2012 Youth in Government Program<br>(Request by State YMCA for Program Dates of<br>November 16, 17 and 18, 2012)   | <b>Decision</b>       |
|           | Item #3:  | Production of New Legislator Orientation Video – Status Report<br>(Mr. Boulter)  | <b>Information</b>    |
| <b>28</b> | Item #4:  | Submission of the Seventh Annual Report of the Citizen Trade Policy<br>Commission (December 2011)  | <b>Acceptance</b>     |
| <b>31</b> | Item #5:  | Submission of the Final Report of the Committee to Review Issues<br>Dealing with Regulatory Takings (December 2011)  | <b>Acceptance</b>     |
| <b>34</b> | Item #6:  | Submission of the Final Report of Commission to Study Allocations<br>of the Fund for a Healthy Maine (December 2011)   | <b>Acceptance</b>     |
| <b>38</b> | Item #7:  | Submission of the Final Report of the Commission to Study Priorities<br>and Timing of Judicial Proceedings in State Courts (December 2011)   | <b>Acceptance</b>     |
| <b>41</b> | Item #8:  | Submission of the Sixth Annual Report of the Right to Know<br>Advisory Committee (January 2012)  | <b>Acceptance</b>     |
| <b>44</b> | Item #9:  | Submission of the Final Report of the Legislative Youth Advisory<br>Council (January 2012)   | <b>Acceptance</b>     |
| <b>46</b> | Item #10: | Submission of Reports by State Planning Office <ul style="list-style-type: none"><li>• 2011 Report Regarding the Land Use Mediation Program</li><li>• 2012 Report on Poverty</li></ul> | <b>Acceptance</b>     |
|           | Item #11: | Collective Bargaining Matters (Executive Session)  |                       |

## **ANNOUNCEMENTS AND REMARKS**

## **ADJOURNMENT**

SEN. KEVIN L. RAYE  
CHAIR

REP. ROBERT W. NUTTING  
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125<sup>TH</sup> MAINE STATE LEGISLATURE  
LEGISLATIVE COUNCIL

**MEETING SUMMARY**  
**November 17, 2011**

**CALL TO ORDER**

Legislative Council Chair, Senate President Raye called the November 17, 2011 Legislative Council meeting to order at 10:25 a.m. in the Legislative Council Chamber.

**ROLL CALL**

Senators: President Raye, Senator Courtney, and Senator Alfond  
  
Senator Hobbins and Senator Plowman arrived after the start of the meeting.

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

Legislative Officers: Joseph Carleton, Secretary of the Senate  
Shawn Roderick, Assistant Clerk of the House  
David Boulter, Executive Director  
Jon Clark, Deputy Director, Office of Policy and Legal Analysis  
Suzanne Gresser, Revisor of Statutes  
Scott Clark, Director, Legislative Information Technology  
John Barden, Director, Law and Legislative Reference Library

Senate President Raye convened the meeting at 10:25 a.m. with a quorum of members present.

**SUMMARY OF OCTOBER 31, 2011 MEETING OF LEGISLATIVE COUNCIL**

**Motion:** That the Meeting Summary of October 31, 2011 be accepted and placed on file. Motion by Senator Alfond. Second by Senator Courtney. **Motion passed (8-0-0-2, with Senators Plowman and Hobbins absent).**

**REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES**

## Executive Director's Report

David Boulter, Executive Director, submitted the following written report in the revised agenda packet. No oral report was given.

### 1. YMCA Youth in Government Program

As a reminder, the State YMCA of Maine will be holding its annual Youth in Government Program in the State House on Friday, November 18<sup>th</sup> through Sunday, November 20<sup>th</sup>. Over 160 students from high schools throughout the state will participate in this civic education program. This is one of the highest participation rates in recent years.

### 2. Sprinkler System Inspection & Repair

A 5-year inspection of the sprinkler system in the State House under the direction of the Bureau of General Services has revealed a buildup of material in some of the piping. In order for the sprinkler system to remain certified, the piping needs to be flushed and drained. Work began on Monday, November 16<sup>th</sup>. Some piping repairs will be made at the same time. The project is expected to take 6 weeks. Work will be done at night so as not to disrupt legislative operations.

## Fiscal Report

Grant Pennoyer, Director, Office of Fiscal and Program Review, submitted the following written report in the revised agenda packet. No oral report was given.

### Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
October	\$243.2	\$230.6	(\$12.6)	-5.2%	\$241.9	-4.7%
FYTD	\$847.0	\$840.2	(\$6.7)	-0.8%	\$828.7	1.4%

General Fund revenue was under budget by \$12.6 million (5.2%) for October, which resulted in a negative variance of \$6.7 million (0.8%) for the 4 months of FY 2012. The revenue growth through one-third of FY 2012 was 1.4% compared to the same period in the last fiscal year. The two major contributors to the October negative variance were Corporate Income Tax and Transfers to Tax Relief programs, \$7.9 million and \$5.1 million, respectively. Corporate Income Tax remained \$4.6 million over budget for the fiscal year. However, the tax relief programs, BETR and Circuitbreaker, were \$11.0 million under budget through October. Absent these tax relief program negative variances, General Fund revenue would have remained over budget through October.

### Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
October	\$26.9	\$29.0	\$2.1	7.9%	\$26.8	8.3%
FYTD	\$90.2	\$89.9	(\$0.3)	-0.3%	\$89.9	0.0%

Highway Fund revenue was over budget by \$2.1 million (7.9%) for October, reducing the negative variance for the fiscal year to 0.3 million (0.3%). October's positive performance was related to a significant reduction in the Bureau of Motor Vehicle processing backlog. Gasoline tax collections fell further below budget in October, but special fuel taxes rebounded in October. Gasoline taxes and fines remain the larger concerns for Highway Fund revenue.

### **Revenue Forecasting Schedule**

The Revenue Forecasting Committee will meet on Friday afternoon, November 18<sup>th</sup> to review staff recommendations and update the revenue forecasts for the General Fund, Highway Fund, Fund for a Healthy Maine and MaineCare Dedicated Revenue Taxes.

### **Cash Balances**

The average total cash pool balance for October was \$489.3 million, \$29.4 million less than one year ago. However, General Fund internal cash flow borrowing was still less than a year ago. Reserve balances have offset overall reductions in General Fund cash. Highway Fund cash balances have declined recently.

### **MaineCare Spending**

DHHS Commissioner Mayhew recently announced significant FY 2012 shortfalls for MaineCare and General Assistance. The weekly tracking of MaineCare cycle payments through Week 18 has increased to an average of \$42.9 million (state and federal dollars), which is greater than the weekly average for FY 2011 of \$40.4 million.

### **Status of Legislative Studies**

Jon Clark, Deputy Director of the Office of Policy and Legal Analysis, submitted a written report on the status of legislative studies. No oral report was given.

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: Suggested Procedures for Deciding Appeals of Legislative Bill Requests**

Legislative Council Chair President Raye summarized the suggested procedures for deciding bill appeals. See attached procedures.

**Motion:** That the Legislative Council approve the suggested procedures for deciding Legislative bill appeals. Motion by Representative Nutting. Second by Representative Cain.  
**Motion passed unanimous (10-0).**

#### **Item #2: Consideration of Legislators' Appeals of Council Action on Bill Requests**

The Council proceeded to consider and vote on sixty-four (64) bill requests in accordance with the adopted protocol, and using an electronic voting system. The Legislative Council authorized

fifteen (15) bills for introduction in the Second Regular Session. Of the 64 requests, 5 bill requests were withdrawn by the sponsor. The Legislative Council's action on the bill requests is attached.

## REPORTS FROM COUNCIL COMMITTEES

### 2. State House Facilities Committee

No report

## OLD BUSINESS

None

## NEW BUSINESS

### Item #3: Acceptance of Loring Development Authority of Maine's Annual Report

The Loring Development Authority of Maine submitted its 2011 Annual Report for acceptance by the Legislative Council.

**Motion:** That the Legislative Council accept the 2011 Annual Report of the Loring Development Authority of Maine. Motion by Senator Hobbins. Second by Senator Plowman. **Motion passed unanimous (10-0).**

### Item #4: Acceptance of Washington County Development Authority's Annual Report

The Washington County Development Authority submitted its 2011 Annual Report for acceptance by the Legislative Council.

**Motion:** That the Legislative Council accept the 2011 Annual Report submitted by the Washington County Development Authority. Motion by Representative Cushing. Second by Senator Plowman. **Motion passed unanimous (10-0).**

### Item #5: Consideration of Producing New Legislator Orientation Video to Replace *Person-to-Person Legislating Maine* © 1994

President Raye remarked that the last orientation video for Legislators was produced in 1994. He and other Legislative Council Members felt that the video is outdated and a new one should be developed. Mr. Boulter explained that some filming would need to be done during the legislative session of the Second Regular Session. Mr. Boulter further stated that he would take the next steps to investigate options for producing a new video and report back to the council.

## Collective Bargaining Matters and Personnel 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 personnel matters as well as collective bargaining negotiations between the employee representative for the

Administrative Unit of Legislative Employees and the Legislative Council. Motion by Representative Cushing. Second by Representative Curtis. **Motion passed unanimous. (10-0)**

The council entered into an executive session at approximately 12:25 p.m. At the conclusion of the executive session, on a motion by Representative Curtis, seconded by Senator Hobbins, with Senator Courtney absent, the Legislative Council voted unanimously to end its executive session at approximately 12:56 p.m.

## REPORTS FROM COUNCIL COMMITTEES

### 1. Personnel Committee

President Raye, Chair of the Personnel Committee, reported that the Personnel Committee began a search process in late summer to recruit for the position of Director of the Office of Policy and Legal Analysis following the retirement of OPLA Director Patrick Norton. The Personnel Committee established an Interview Panel that conducted an extensive recruitment process, advertising online and in Maine newspapers. The panel met several times over a period of months, establishing position qualifications, reviewing applications, interviewing candidates and reviewing references.

The recruitment process has now been concluded and one candidate is being recommended by the Personnel Committee for appointment.

The interview panel considered 23 applicants for the OPLA Director position and, after preliminary screening, narrowed the list to 6 qualified individuals, representing a spectrum of internal and external, and public and private sector candidates. The panel interviewed the six individuals, and conducted follow-up interviews with 3 of the candidates. After careful consideration, the panel has recommended unanimously that Marion Hylan Barr be appointed as the director of OPLA. The committee felt that Marion exhibits the appropriate combination of education, skills, and experience to successfully lead OPLA. Marion is extremely familiar with the Legislature and its process having worked in OPLA as Analyst and Senior Analyst for 19 years. The Personnel Committee believes that Marion's appointment as director would serve us well as the Legislature continues to improve its capacity for timely and high quality analysis and committee staffing through OPLA.

The challenges and needs of the legislature will continue to evolve as it confronts both new and continuing issues. The Personnel Committee is confident that Marion will be an effective director in leading OPLA with skill and insight.

**Motion:** That upon the unanimous recommendation of the Personnel Committee, the Legislative Council appoint Marion Hylan Barr of Hallowell as director of the Office of Policy and Legal Analysis for a 3-year term, the effective date of appointment being Monday, November 21, 2011, pursuant to 3 MRSA, §162, subsection 6, and that Ms. Hylan Barr's initial salary in the position be established at Salary Grade 14, step 5 of the Legislature's salary schedule; further that the executive director, in consultation with the director, establish performance standards and goals for the director's position and make such operational and organizational improvements as necessary to assure an effective and well run Office of Policy and Legal Analysis. Motion by Senator Hobbins. Second by Representative Cain. **Motion passed (9-0-0-1, with Senator Alfond absent).**



## ANNOUNCEMENTS AND REMARKS

Representative Hayes announced that the Maine Development Foundation will be conducting an economic development bus tour of Southern and Western Maine for Legislators on January 11-13, 2012. This is a continuation of the Legislator orientation program that was established for the 125<sup>th</sup> Legislature.

The Legislative Council meeting was adjourned at 1:05 p.m. on a motion by Representative Cain, seconded by Representative Cushing. **Motion passed unanimous (10-0).**

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**Legislative Council Meeting**  
**November 17, 2011**

**Deciding Appeals of Legislative Bill Requests Turned Down By the Council**  
**Requirements relevant to bills in the Second Regular Session**

1. Under the terms of the Maine Constitution, Section 1 of Article IV, Part Third, Legislative Power, the business of the second regular session **must be limited** to budgetary matters; legislation in the Governor's call; legislation of an emergency nature admitted by the Legislature; legislation referred to committees to study and report by the Legislature in the first regular session; and legislation presented to the Legislature by written petition of the electors (direct citizen initiative).
2. Under the 125<sup>th</sup> Legislative Council's Rules of Procedure, any action of the Council requires the affirmative vote of at least 6 members.
3. Under Rule 203 of the Joint Rules of the 124<sup>th</sup> Legislature, any vote of the Legislative Council to accept or reject a bill or resolve for introduction under the procedures established under the Joint Rules must be taken by the yeas and nays, and that vote must be recorded and made available for public inspection.
4. Under Rule 217 of the Joint Rules, a bill that has been introduced and finally rejected in a regular or special session may not be introduced in a subsequent session of the same Legislature except by a vote of 2/3 of both chambers. Therefore, determinations as to the relevancy of Rule 217 are within the purview of the presiding officers, rather than the Legislative Council.

**Suggested Protocol for deciding appeals**

- A. The Legislative Council will review appeals in alphabetical order by Sponsor.
- B. For procedural consistency, when voting on an appeal of a bill request that was denied, the initial motion on a bill will be presumed to be a motion to accept the bill request for introduction in the second regular session along with a second to that motion. (Yea is to let in a bill; nay is to reject the bill for introduction). Also for procedural consistency, unless otherwise stated, each motion is presumed to have been made by the vice-chair of the Legislative Council, seconded by the chair.
- C. In order to review all legislative appeals in a timely manner, voting will be by electronic vote or a show of hands, with each Council Member's vote on each bill being recorded. The record of each vote will be made available by the Office of the Executive Director for public inspection following the meeting.
- D. Legislators who appeal a decision of the Legislative Council will be given a brief opportunity to make their case to the Council. A time limit of 2 minutes will be observed for Legislators making an appeal. Only by leave of the Chair of the Legislative Council may a person who is not a Legislator address the Council.
- E. Discussion of a bill request will be limited to whether it is appropriate for introduction under Constitutional provisions for second regular session bills, and will not speak to the merits of the bill itself. If a bill was turned down because it is closely related to another legislative request or to a carryover bill, the burden is on the Sponsor to convincingly distinguish his or her bill request from the closely related one.

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Legislative Council Action On Legislative Bill Requests  
November 17, 2011

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		Action
<b>AGRICULTURE, CONSERVATION AND FORESTRY</b>		
LR 2347	<b>Rep. Long, Ricky D.</b> An Act To Provide for Grooming of the Perimeter Road at Baxter State Park	<b>FAILED</b>
<b>APPROPRIATIONS AND FINANCIAL AFFAIRS</b>		
LR 2524	<b>Rep. Fredette, Kenneth W.</b> An Act To Appropriate Funds To Support the University-Business Information Technology and Computer Science Partnership	<b>FAILED</b>
<b>CRIMINAL JUSTICE AND PUBLIC SAFETY</b>		
LR 2406	<b>Rep. Berry, Seth A.</b> An Act To Prevent Recidivism by High-Risk Drug Users	<b>FAILED</b>
LR 2586	<b>Rep. Webster, David C.</b> An Act To Implement an Integrated and Coordinated Statewide Approach To Addressing the Use of Synthetic Hallucinogenic Drugs and Other Drugs	<b>FAILED</b>
LR 2587	<b>Rep. Webster, David C.</b> Resolve, Establishing a Blue Ribbon Commission To Develop an Integrated and Coordinated Statewide Response to Synthetic Hallucinogenic Drug Abuse	<b>FAILED</b>
LR 2353	<b>Rep. Maker, Joyce A.</b> Resolve, To Create the Task Force on the Prevention of Sexual Abuse of Children	<b>PASSED</b>
LR 2502	<b>Rep. Haskell, Anne M.</b> An Act To Clarify the Court's Authority To Grant Credit toward Payment of Fines Given for Jail Time	<b>PASSED</b>
<b>EDUCATION AND CULTURAL AFFAIRS</b>		
LR 2631	<b>Sen. Patrick, John L.</b> An Act To Establish an Adult Education College and Career Pathways System in Maine	<b>FAILED</b>
LR 2325	<b>Rep. Malaby, Richard S.</b> An Act To Create an Equal Education Funding Model	<b>FAILED</b>
<b>ENVIRONMENT AND NATURAL RESOURCES</b>		
LR 2363	<b>Rep. Sirocki, Heather W.</b> An Act To Withdraw the State from the Regional Greenhouse Gas Initiative	<b>FAILED</b>

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LR 2456	<b>Rep. Hamper, James M.</b>	<b>Action FAILED</b>
	An Act To Reduce Fraud Relating to Returnable Containers	

LR 2476	<b>Rep. Beliveau, Devin M.</b>	<b>FAILED</b>
	An Act To Amend the Definition of "Zoning Ordinance"	

**ENERGY, UTILITIES AND TECHNOLOGY**

LR 2375	<b>Rep. Johnson, Peter B.</b>	<b>PASSED</b>
	An Act To Improve Maine's Capacity To Produce Low-cost Renewable Energy	

LR 2399	<b>Sen. Snowe-Mello, Lois A.</b>	<b>FAILED</b>
	An Act To Expedite Restoration of Utilities after Storm Damage	

LR 2541	<b>Rep. Beavers, Roberta B.</b>	<b>FAILED</b>
	Resolve, Regarding Opt-out Charges for Smart Meters	

LR 2591	<b>Rep. Boland, Andrea M.</b>	<b>FAILED</b>
	An Act To Secure the Safety of Electrical Power Transmission Lines	

LR 2642	<b>Rep. O'Connor, Beth A.</b>	<b>FAILED</b>
	An Act To Protect Maine Children through an Emergency Update of Electric Power Transmission Rules	

**HEALTH AND HUMAN SERVICES**

LR 2474	<b>Sen. Sullivan, Nancy B.</b>	<b>FAILED</b>
	An Act To Prohibit Soda and Candy from the Supplemental Nutrition Assistance Program	

LR 2343	<b>Sen. Craven, Margaret M.</b>	<b>FAILED</b>
	An Act Requiring the Department of Health and Human Services To Specify Duration of Service When Setting Rates by Rule	

LR 2450	<b>Rep. Strang Burgess, Meredith N.</b>	<b>PASSED</b>
	Resolve, Authorizing the Department of Health and Human Services To Develop an Alternative Method of Calculating Minimum Staffing Levels in Nursing Homes	

LR 2351	<b>Rep. Berry, Seth A.</b>	<b>FAILED</b>
	An Act To Improve Care Options for Sufferers of Serious Illness	

LR 2315	<b>Rep. Beck, Henry E. M.</b>	<b>FAILED</b>
	An Act To Require Birthing Facilities To Screen Newborns for Congenital Heart Disease	

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	<b>Action</b>
LR 2600 <b>Rep. Eves, Mark W.</b>	<b>PASSED</b>
An Act To Ensure the Continuation of Federal Matching Funds for Certain MaineCare Services	

**INSURANCE AND FINANCIAL SERVICES**

LR 2419 <b>Sen. Katz, Roger J.</b>	<b>PASSED</b>
An Act To Guarantee Basic Preventive Dental Health Services for Children in Maine	

LR 2529 <b>Sen. Rector, Christopher W.</b>	<b>PASSED</b>
An Act To Allow Employees of the Small Enterprise Growth Fund To Participate in the State's Group Health Plan	

LR 2669 <b>Rep. Graham, Anne P.</b>	<b>FAILED</b>
An Act To Enhance Affordable Quality Health Care in Maine	

LR 2451 <b>Rep. O'Connor, Beth A.</b>	<b>FAILED</b>
An Act To Amend the Insurance Law as It Pertains to Notification of Cancellation or Nonrenewal	

**INLAND FISHERIES AND WILDLIFE**

LR 2641 <b>Rep. Burns, David C.</b>	<b>FAILED</b>
An Act To Protect Blueberry Lands from Damage from Dog Training	

LR 2472 <b>Rep. Plummer, Gary E.</b>	<b>FAILED</b>
An Act To Increase the Pheasant Hunting Permit Fee	

**JUDICIARY**

LR 2435 <b>Rep. Maloney, Maeghan</b>	<b>PASSED</b>
An Act To Establish a Veterans Court	

LR 2367 <b>Rep. Russell, Diane</b>	<b>FAILED</b>
An Act To Limit the Definition of "Person" to a Human Being	

LR 2355 <b>Rep. Mitchell, Wayne T.</b>	<b>FAILED</b>
An Act To Change the Procedures for Approval of Certain Gaming Facilities within Indian Territory	

LR 2412 <b>Rep. Crockett, Jarrod S.</b>	<b>FAILED</b>
An Act To Simplify the Foreclosure Process on Abandoned Time-share Condominiums	

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LR 2602 <b>Sen. Hill, Dawn</b>	<b>Action PASSED</b>
An Act To Provide Tort Claims Immunity for Non-Maine Regional Transit Organizations That Provide Regular Service in Maine	

**LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT**

LR 2648 <b>Sen. Goodall, Seth A.</b>	<b>FAILED</b>
Resolve, To Create the Small Business Promotion Task Force	

LR 2471 <b>Sen. Dill, Cynthia A.</b>	<b>FAILED</b>
An Act To Facilitate the Growth of Small Business through Economic Gardening	

LR 2423 <b>Rep. Bennett, Paul E.</b>	<b>FAILED</b>
An Act Regarding Successor Tax Rates under the Unemployment Laws	

LR 2340 <b>Rep. O'Connor, Beth A.</b>	<b>FAILED</b>
An Act To Delay Implementation of the Maine Uniform Building and Energy Code	

LR 2385 <b>Sen. Saviello, Thomas B.</b>	<b>PASSED</b>
An Act To Resolve Conflicts in the Implementation of the Maine Uniform Building and Energy Code	

LR 2532 <b>Rep. Goode, Adam A.</b>	<b>FAILED</b>
An Act To Permit Hair Braiding without a Cosmetology License	

LR 2362 <b>Rep. Sirocki, Heather W.</b>	<b>FAILED</b>
An Act To Establish a Board of Dental Hygienists	

LR 2653 <b>Rep. Picchiotti, John J.</b>	<b>FAILED</b>
An Act To Provide for Licensing of Recreational Therapists	

LR 2510 <b>Sen. Saviello, Thomas B.</b>	<b>FAILED</b>
An Act To Allow the Administration of Nitrous Oxide for Analgesic Purposes by Licensed Respiratory Care Practitioners under the Direction of a Physician	

**STATE AND LOCAL GOVERNMENT**

LR 2307 <b>Rep. Soctomah, Madonna M.</b>	<b>FAILED</b>
An Act To Require That Federally Recognized Indian Tribes in Maine Be Included in a Single Legislative District	

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LR 2599	<b>Sen. Mason, Garrett P.</b>	<b>Action PASSED</b>
	An Act To Address Research and Teaching in Maine's Institutions of Higher Education	
LR 2413	<b>Rep. Crockett, Jarrod S.</b>	<b>FAILED</b>
	An Act To Designate April as the Month of the Military Child	

**TAXATION**

LR 2657	<b>Rep. Hinck, Jon</b>	<b>FAILED</b>
	An Act To Provide for Economic Development with Offshore Wind Power	
LR 2356	<b>Rep. Mitchell, Wayne T.</b>	<b>FAILED</b>
	An Act To Provide a Tax Exemption for Tobacco Sold to Federally Recognized Tribes for Religious Ceremonial Purposes	
LR 2571	<b>Sen. Gerzofsky, Stanley J.</b>	<b>FAILED</b>
	An Act To Require Notification to Opposing Parties Regarding Appeals to the State Board of Property Tax Review	
LR 2573	<b>Rep. Shaw, Michael A.</b>	<b>PASSED</b>
	An Act To Prohibit Municipalities from Imposing Fees on Ice Fishing Shacks	
LR 2374	<b>Rep. Plummer, Gary E.</b>	<b>FAILED</b>
	An Act To Exempt Documentation Fees for Motor Vehicles and Personal Watercraft from Sales Tax	
LR 2364	<b>Rep. Berry, Seth A.</b>	<b>PASSED</b>
	An Act To Prohibit the Sale of Computer Programs for the Purpose of Evading Sales Tax	
LR 2396	<b>Rep. Soctomah, Madonna M.</b>	<b>FAILED</b>
	An Act To Return to the Passamaquoddy Tribe the Tax on Sales Occurring on Land Held in Trust by the Passamaquoddy Tribe	

**TRANSPORTATION**

LR 2414	<b>Rep. Crockett, Jarrod S.</b>	<b>FAILED</b>
	An Act Regarding the Use of Antique Automobiles	
LR 2536	<b>Rep. Martin, John L.</b>	<b>PASSED</b>
	An Act To Create a License Plate To Recognize the 2014 World Acadian Congress	

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LR 2306	<b>Rep. Crockett, Jarrod S.</b>	<b>Action FAILED</b>
	Resolve, Directing the Maine Turnpike Authority To Place Signs Directing Motorists to Gould Academy at the Interstate Exits Closest to Gould Academy in Bethel	
LR 2358	<b>Sen. Thomas, Douglas A.</b>	<b>PASSED</b>
	An Act To Provide Funding to the Department of Transportation for a Feasibility Study for an East-west Highway	
<b>VETERANS AND LEGAL AFFAIRS</b>		
LR 2616	<b>Rep. Chipman, Benjamin M.</b>	<b>FAILED</b>
	An Act To Improve Municipal Campaign Reporting Requirements	
LR 2365	<b>Rep. Mitchell, Wayne T.</b>	<b>FAILED</b>
	An Act To Amend the Laws Governing High-stakes Beano Games	

Total number of bills accepted: 15

Total number of bills tabled: 0

Total number of bills screened: 59



SEN. KEVIN L. RAYE  
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

125<sup>TH</sup> MAINE STATE LEGISLATURE  
LEGISLATIVE COUNCIL

**Legislative Council**

**Executive Director's Report  
January 26, 2012**

1. State House Sprinkler Project Completion

The project to inspect, clean and correct deficiencies in the sprinkler system installed in the State House in 1999-2001 has now been completed. The cleaning and corrective work allows the system to be certified as compliant, and testing indicates that the system will function as designed if needed in the event of a fire in the building. Later this year alternative fire sensing devices will be installed in sensitive areas of the building to help prevent fire alarms triggered by burned popcorn in microwave ovens and other similar items.

2. Status of Council-requested IT enhancements

Last fall, the Legislative Council requested that its staff pursue information technology improvements in three areas designed to increase access to and usability of information by the public or Legislators and legislative employees. The three areas and their status are:

A. Improved access to legislative email and document databases. IT staff upgraded the Legislature's existing firewall so that it now allows substantially improved remote (VPN) access by staff to their desktop computer applications including email and documents. This project is completed. A second component, installation of Windows Server 2010 and an upgrade to Outlook Web Access, is on-going this week, and will give Legislators and employees increased functionality with their Outlook email, address lists and calendars. The upgraded service will be operational by the second week in February.

B. Legislative Activities Calendar. The Legislature's website relating to legislative schedules and events was redesigned. Background programming modifications have resulted in the consolidation of most legislative schedules and events into a single area on the website, with the removal of redundant or conflicting scheduling information. A "Legislative Activities Calendar" link is readily apparent on the Legislature's homepage. Legislative events and scheduling, including

committee public hearings, work sessions and confirmation hearings, press conferences, and Hall of Flags and Welcome Center activities are prominently and logically placed on the activities page. The result is an easy-to-find, easy-to-use calendar of most scheduled legislative activities. Viewers may select monthly, weekly or daily views of the activities calendar, with strategically-placed hyperlinks to detailed information about those activities, notably bill status and text. The calendar is now fully operational.

- C. Posting of Written Public Hearing Testimony. Necessary programming and protocols have been developed to allow written testimony received by legislative committees during public hearings to be posted to the Legislature's website on a pilot basis beginning within the next week. Testimony from selected committees will be scanned and posted during the remainder of the session. The pilot project will allow for a full assessment of the protocols and staffing resources needed to post testimony on an on-going basis for all committees in the future. The goal is to post written testimony received at a committee public hearing within one to two work days following the close of the hearing. Public access to the posted testimony will be readily available through a hyperlink on the Legislature's website. For ease of reference, testimony will be categorized by committee, LD number, public hearing date and testifier.

3. MDF Economic Development Bus Tour

The Maine Development Foundation held its economic bus tour of southern Maine for Legislators on January 11-13, 2012. Over fifty Legislators attended touring more than 12 locations in southern Maine and listening to numerous presenters. Initial feedback on the content of the information and opportunities for discussion has been very positive. The success of this event was due in large measure to the extensive planning and smooth implementation by the staff of MDF and its president, Laurie LaChance, as well as the time and contributions made by Maine businesses and institutions to support this orientation program.

# Fiscal Briefing

## Legislative Council Meeting

### January 26, 2012

*Prepared by the Office of Fiscal & Program Review*

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

Total General Fund Revenue - FY 2012 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$244.4	\$250.7	\$6.3	2.6%	\$237.3	5.6%
FYTD	\$1,303.8	\$1,312.6	\$8.9	0.7%	\$1,283.5	2.3%

General Fund revenue was over budget by \$6.3 million (2.6%) for December and \$8.9 million (0.7%) over budget for the fiscal year-to-date (FYTD). The December revenue report now incorporates the December 2011 revenue forecast, which increased budgeted revenue by \$10.6 million in FY 2012. The major contributors to the positive through the first half of FY 2012 are the Corporate Income Tax (over by \$5.6 million) and the Insurance Companies Tax (over by \$2.3 million). Cigarette and Tobacco Tax revenue was under budget by \$1.9 million due to some month-end tax receivable adjustments, however most of this variance is expected to be offset in future months. The other major negative variance through December was fine revenue. For the first half of FY 2012, this category has fallen \$1.0 million (17.2%) below budget despite the \$1.7 million FY 2012 downward adjustment for this category in the December 2011 revenue forecast.

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

Total Highway Fund Revenue - FY 2012 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$23.7	\$23.1	(\$0.6)	-2.7%	\$22.7	1.7%
FYTD	\$141.2	\$142.2	\$1.0	0.7%	\$140.0	1.6%

Highway Fund revenue was under budget by \$0.6 million (2.7%) for December, but remained over budget for the FYTD by \$1.0 (0.7%). Fuel Taxes revenue performed poorly relative to budget in December and has fallen \$0.7 million under budget for the FYTD. Within this category, the Gasoline Tax was adjusted upward in FY 2012 by almost \$2.0 million assuming gasoline prices would decline. Recent gasoline price increases have obviously been contrary to that assumption. Fortunately, Bureau of Motor Vehicles revenue has been performing very well and has been more than sufficient to offset the negative variances in Fuel Taxes, at least through the first half of FY 2012.

#### 3. Revenue Forecasting Update

The Consensus Economic Forecasting Commission (CEFC) will meet on Thursday, January 26<sup>th</sup>, at 8:00AM in the Taxation Committee room to begin the mid-session revenue forecast update. The CEFC's updated economic forecast, which is due by February 1<sup>st</sup>, will be used to update the forecast of the major taxes for the March 1<sup>st</sup> Revenue Forecast. The Revenue Forecasting Committee (RFC) will be meeting in late February to update the revenue forecast; no date has been set for the next RFC meeting.

#### 4. Cash Balances

The average total cash pool balance for December was \$453.8 million, \$59.2 million less than one year ago. For the General Fund, December internal cash flow borrowing was only \$13.5 million higher than a year ago, despite the effects of the \$43 million one-day borrowing from Other Special Revenue Funds and the MaineCare shortfall. This is largely due to \$52.0 million more in reserve balances than last year. For the Highway Fund, cash balances have been declining precipitously during the construction season. The average balance in December fell \$25.7 million below last December to \$29.8 million.

**General Fund Revenue**  
**Fiscal Year Ending June 30, 2012 (FY 2012)**  
**December 2011 Revenue Variance Report**

Revenue Category				Fiscal Year-To-Date					FY 2012 Budgeted Totals
	December '11 Budget	December '11 Actual	December '11 Variance	Budget	Actual	Variance	Variance %	% Change from Prior Year	
Sales and Use Tax	72,084,258	72,847,656	763,398	435,268,265	436,031,663	763,398	0.2%	5.8%	962,086,370
Service Provider Tax	4,283,149	4,382,858	99,709	19,959,513	20,059,222	99,709	0.5%	-5.7%	53,877,680
Individual Income Tax	130,737,575	131,017,425	279,850	681,595,311	681,875,161	279,850	0.0%	4.1%	1,451,207,209
Corporate Income Tax	39,395,953	45,009,365	5,613,412	103,837,483	109,441,574	5,604,091	5.4%	10.3%	200,628,491
Cigarette and Tobacco Tax	11,793,559	9,802,431	(1,991,128)	74,832,200	72,918,194	(1,914,006)	-2.6%	-2.7%	142,123,350
Insurance Companies Tax	37,281	9,989	(27,292)	12,159,482	14,479,696	2,320,214	19.1%	22.8%	76,215,000
Estate Tax	2,555,612	2,916,665	361,053	12,204,352	12,565,287	360,935	3.0%	-32.1%	33,163,673
Other Taxes and Fees *	4,304,683	4,546,498	241,815	55,340,210	55,334,977	(5,233)	0.0%	-16.2%	129,106,975
Fines, Forfeits and Penalties	2,043,633	1,772,880	(270,753)	12,605,454	11,647,202	(958,252)	-7.6%	-17.2%	26,665,321
Income from Investments	(1,183)	38,111	39,294	122,602	184,510	61,908	50.5%	37.8%	47,206
Transfer from Lottery Commission	4,783,038	5,155,723	372,685	25,828,404	26,689,130	860,726	3.3%	8.2%	50,700,000
Transfers to Tax Relief Programs *	(22,476,794)	(23,055,637)	(578,843)	(90,001,527)	(90,580,328)	(578,801)	-0.6%	-18.4%	(113,068,263)
Transfers for Municipal Revenue Sharing	(7,336,709)	(7,336,709)	0	(48,714,253)	(48,714,252)	1	0.0%	-2.2%	(96,205,719)
Other Revenue *	2,169,545	3,568,126	1,398,581	8,748,819	10,713,680	1,964,861	22.5%	10.1%	39,726,812
<b>Totals</b>	<b>244,373,600</b>	<b>250,675,382</b>	<b>6,301,782</b>	<b>1,303,786,315</b>	<b>1,312,645,714</b>	<b>8,859,399</b>	<b>0.7%</b>	<b>2.3%</b>	<b>2,956,274,105</b>

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

**General Fund Revenue**  
**Fiscal Year Ending June 30, 2012 (FY 2012)**  
**December 2011 Revenue Variance Report**

Revenue Category	December '11 Budget	December '11 Actual	December '11 Variance	Fiscal Year-To-Date					FY 2012 Budgeted Totals
				Budget	Actual	Variance	Variance %	% Change from Prior Year	
<b>Detail of Other Taxes and Fees:</b>									
- Property Tax - Unorganized Territory	0	0	0	12,414,698	12,043,355	(371,343)	-3.0%	1.2%	13,261,016
- Real Estate Transfer Tax	727,053	484,600	(242,453)	3,857,054	3,845,837	(11,217)	-0.3%	-50.3%	9,767,309
- Liquor Taxes and Fees	1,436,022	1,509,630	73,608	10,503,280	10,881,157	377,877	3.6%	-0.3%	20,467,530
- Corporation Fees and Licenses	142,375	166,724	24,349	1,335,995	1,249,894	(86,101)	-6.4%	-8.4%	7,697,099
- Telecommunication Personal Prop. Tax	(2,646,902)	(2,644,174)	2,728	(2,646,902)	(2,543,388)	103,514	3.9%	-10134.1%	9,641,734
- Finance Industry Fees	1,904,581	2,193,050	288,469	11,427,486	11,542,450	114,964	1.0%	-0.7%	23,265,980
- Milk Handling Fee	96,945	96,945	0	560,458	560,459	1	0.0%	-77.6%	1,504,426
- Racino Revenue	740,341	740,341	0	5,204,166	5,154,164	(50,002)	-1.0%	4.8%	10,553,603
- Boat, ATV and Snowmobile Fees	145,756	145,755	(1)	1,879,195	1,879,194	(1)	0.0%	2.0%	4,763,561
- Hunting and Fishing License Fees	941,069	941,069	0	7,213,640	7,213,642	2	0.0%	0.4%	16,161,752
- Other Miscellaneous Taxes and Fees	817,443	912,559	95,116	3,591,140	3,508,214	(82,926)	-2.3%	-42.4%	12,022,965
<b>Subtotal - Other Taxes and Fees</b>	<b>4,304,683</b>	<b>4,546,498</b>	<b>241,815</b>	<b>55,340,210</b>	<b>55,334,977</b>	<b>(5,233)</b>	<b>0.0%</b>	<b>-16.2%</b>	<b>129,106,975</b>
<b>Detail of Other Revenue:</b>									
- Liquor Sales and Operations	1,593	3,000	1,407	13,458	15,700	2,242	16.7%	12.6%	7,596,943
- Targeted Case Management (DHHS)	295,841	295,841	0	3,012,606	3,022,540	9,934	0.3%	-54.3%	4,868,524
- State Cost Allocation Program	224,006	957,474	733,468	5,771,170	6,208,430	437,260	7.6%	-12.5%	14,101,011
- Unclaimed Property Transfer	0	0	0	0	0	0	N/A	N/A	2,333,420
- Toursim Transfer	0	0	0	(9,419,745)	(9,419,745)	0	0.0%	-4.1%	(9,419,745)
- Transfer to Maine Milk Pool	(50,983)	(14,977)	36,006	(630,031)	(24,117)	605,914	96.2%	99.3%	(980,670)
- Transfer to STAR Transportation Fund	0	0	0	(3,196,872)	(3,196,872)	0	0.0%	-3.1%	(3,196,872)
- Other Miscellaneous Revenue	1,699,088	2,326,788	627,700	13,198,233	14,107,743	909,510	6.9%	21.2%	24,424,201
<b>Subtotal - Other Revenue</b>	<b>2,169,545</b>	<b>3,568,126</b>	<b>1,398,581</b>	<b>8,748,819</b>	<b>10,713,680</b>	<b>1,964,861</b>	<b>22.5%</b>	<b>10.1%</b>	<b>39,726,812</b>
<b>Detail of Transfers to Tax Relief Programs:</b>									
- Me. Resident Prop. Tax Program (Circuitbreaker)	(2,000,000)	(2,470,496)	(470,496)	(35,211,226)	(35,683,026)	(471,800)	-1.3%	-10.0%	(42,083,286)
- BETR - Business Equipment Tax Reimb.	(7,153,222)	(6,360,566)	792,656	(37,261,790)	(36,467,788)	794,002	2.1%	-20.2%	(51,552,995)
- BETE - Municipal Bus. Equip. Tax Reimb.	(13,323,572)	(14,224,575)	(901,003)	(17,528,511)	(18,429,514)	(901,003)	-5.1%	-34.1%	(19,431,982)
<b>Subtotal - Tax Relief Transfers</b>	<b>(22,476,794)</b>	<b>(23,055,637)</b>	<b>(578,843)</b>	<b>(90,001,527)</b>	<b>(90,580,328)</b>	<b>(578,801)</b>	<b>-0.6%</b>	<b>-18.4%</b>	<b>(113,068,263)</b>
<b>Inland Fisheries and Wildlife Revenue - Total</b>	<b>1,163,132</b>	<b>1,199,463</b>	<b>36,331</b>	<b>9,569,020</b>	<b>9,633,746</b>	<b>64,726</b>	<b>0.7%</b>	<b>1.1%</b>	<b>21,916,376</b>

**Highway Fund Revenue**  
**Fiscal Year Ending June 30, 2012 (FY 2012)**  
**December 2011 Revenue Variance Report**

Revenue Category				Fiscal Year-To-Date					FY 2012 Budgeted Totals
	December '11 Budget	December '11 Actual	December '11 Variance	Budget	Actual	Variance	% Variance	% Change from Prior Year	
Fuel Taxes:									
- Gasoline Tax	16,477,534	15,747,007	(730,527)	88,823,726	88,206,880	(616,846)	-0.7%	-0.7%	200,580,000
- Special Fuel and Road Use Taxes	4,684,631	4,033,876	(650,755)	19,322,721	19,199,494	(123,227)	-0.6%	0.2%	44,200,000
- Transcap Transfers - Fuel Taxes	(1,556,258)	(1,437,534)	118,724	(9,436,882)	(9,420,389)	16,493	0.2%	0.1%	(17,974,807)
- Other Fund Gasoline Tax Distributions	(412,059)	(388,145)	23,914	(2,724,322)	(2,727,157)	(2,835)	-0.1%	-0.2%	(5,115,905)
Subtotal - Fuel Taxes	19,193,848	17,955,204	(1,238,644)	95,985,243	95,258,828	(726,415)	-0.8%	-0.6%	221,689,288
Motor Vehicle Registration and Fees:									
- Motor Vehicle Registration Fees	4,467,684	5,073,465	605,781	31,066,192	31,567,964	501,772	1.6%	1.1%	64,805,936
- License Plate Fees	242,431	287,292	44,861	1,662,327	1,800,479	138,152	8.3%	4.8%	3,345,309
- Long-term Trailer Registration Fees	779,593	856,932	77,339	2,681,711	3,301,144	619,433	23.1%	16.0%	8,884,523
- Title Fees	774,954	914,274	139,320	5,388,858	5,761,888	373,030	6.9%	7.1%	11,044,291
- Motor Vehicle Operator License Fees	628,519	632,931	4,412	4,429,826	4,073,174	(356,653)	-8.1%	38.9%	9,124,826
- Transcap Transfers - Motor Vehicle Fees	(3,405,128)	(3,675,443)	(270,315)	(7,622,416)	(7,553,821)	68,595	0.9%	-2.4%	(14,844,300)
Subtotal - Motor Vehicle Reg. & Fees	3,488,053	4,089,450	601,397	37,606,498	38,950,827	1,344,329	3.6%	6.1%	82,360,585
Motor Vehicle Inspection Fees	425,200	350,375	(74,826)	1,536,700	1,476,599	(60,102)	-3.9%	9.3%	2,982,500
Other Highway Fund Taxes and Fees	97,346	105,292	7,946	690,051	681,321	(8,730)	-1.3%	-1.2%	1,313,165
Fines, Forfeits and Penalties	87,106	85,164	(1,942)	507,243	487,438	(19,805)	-3.9%	-25.2%	1,103,049
Interest Earnings	7,950	15,726	7,776	44,750	49,181	4,431	9.9%	-25.0%	97,701
Other Highway Fund Revenue	441,774	492,475	50,701	4,796,732	5,269,896	473,164	9.9%	13.5%	8,388,443
<b>Totals</b>	<b>23,741,277</b>	<b>23,093,686</b>	<b>(647,591)</b>	<b>141,167,217</b>	<b>142,174,089</b>	<b>1,006,872</b>	<b>0.7%</b>	<b>1.6%</b>	<b>317,934,731</b>

# LEGISLATIVE COUNCIL REPORT: 2011 Interim Legislative Studies and Council-Authorized Committee Meetings

Updated January 19, 2012

Study Name	2011 Meetings Authorized	2011 Meetings Held	Scheduled Next Meeting Date(s)	Report Date	Chairs	Status
<b>AUTHORIZED COMMITTEE MEETINGS</b>						
ACF committee meeting with the Commission on Reform of the Governance of LURC (Resolve 2011, c. 113, eff. date 9/28/11)	1	1	none	n/a	Sen. Sherman Rep. Edgecomb	meeting held
IFS committee meetings with the Advisory Committee on Maine's Health Insurance Exchange (Resolve 2011, c. 105, eff. date 7/6/11)	3	2	none	n/a	Sen. Whittemore Rep. W. Richardson	meetings held
VLA committee meetings to review report on Maine Clean Elections Act (Resolve 2011, c. 103, eff. date 9/28/11)	2	2	none	(auth to rpt bill to 2nd Reg Sess by 12/1/11)	Sen. Farnham and Rep. Beaulieu	meetings held
TAX committee meetings to review the tax code for reform	4	4	none	n/a	Sen. Trahan and Rep. Knight	meetings held
TRA committee funding in the Hwy budget to meet monthly (PL 2011, c. 392 sections A-3, L1, L-2, eff. date 6/21/11)	monthly	1	none	n/a	Sen. Collins and Rep. Cebra	meeting held
<b>NEW STUDY LEGISLATIVE COMMISSIONS/COMMITTEES</b>						
Franco-American Task Force (Resolve 2011, c. 102, eff. date 7/6/11)	4	0	No meetings this interim	interim rpt 12/7/11; final rpt 1/7/12	Sen. Martin and Rep. Fredette	<i>Not authorized: funding not received by 8/5/11 deadline; Rep. Fredette sponsored LD 1601 - amends Study (begin during session w/ Franco American Center staff)</i>
Commission to Study Allocations of the Fund for a Healthy Maine (Resolve 2011, c. 112, eff. date 9/28/11)	6	3	none	12/7/2011	Sen. McCormick Rep. Sanderson	<u>Report printed</u>
Commission to Study Priorities and Timing of Judicial Proceedings in State Courts (Resolve 2011, c. 104, eff. date 9/28/11)	3	2	none	12/15/11	Sen. Hastings and Rep. Waterhouse	<u>Report printed</u>
Committee to Review Issues Dealing with Regulatory Takings (Resolve 2011, c. 111, eff. date 7/8/11)	3	3	none	12/7/2011	Sen. Thibodeau and Rep. Cushing	<u>Report printed</u>
Blue Ribbon Commission on Affordable Housing (Resolve 2011, c. 108, eff. date 9/28/11)	4	3	none	2/15/2012	Sen. Martin and Rep. Cushing	<u>Report in production</u>
<b>ON-GOING LEGISLATIVE STUDIES</b>						
Citizen Trade Policy Commission (10 MRSA section 11)	8 in FY 11-12	2	2/10/2012	annually	Sen. Sherman and Rep. Maker	<u>Report printed</u>
Legislative Youth Advisory Council (3 MRSA, section 168-B)	2 per year	1	none	2nd Fri., Feb., even numbered years	Sen. Mason and Rep. Willette	<u>Report printed</u>
Right to Know Advisory Committee (1 MRSA section 411)	4 budgeted for 2011	4	none	1/15 annually	Sen. Hastings	<u>Report printed</u>

**LEGISLATIVE COUNCIL**  
**AFTER DEADLINE REQUESTS TO INTRODUCE LEGISLATION**  
**SECOND REGULAR SESSION 125th LEGISLATURE**  
**As of: January 26, 2012**

**Action**

<b>SPONSOR:</b> LR 2731	<b>Sen. Alfond, Justin L.</b> An Act To Define Cost Responsibility for Transporting Deaf and Hard-of-hearing Students to the Governor Baxter School for the Deaf
<b>SPONSOR:</b> LR 2702	<b>Rep. Berry, Seth A.</b> An Act To Amend the Laws Governing Financial Disclosure by Legislators and High-level Public Officials
<b>SPONSOR:</b> LR 2706	<b>Rep. Berry, Seth A.</b> An Act To Prohibit Tax Credits and Exemptions for Businesses That Outsource Jobs to Another Country
<b>SPONSOR:</b> LR 2680	<b>Rep. Burns, David C.</b> An Act To Amend the Laws Governing Reimbursement for Certain Services under MaineCare
<b>SPONSOR:</b> LR 2676	<b>Rep. Celli, Michael</b> An Act To Prohibit Human Trafficking
<b>SPONSOR:</b> LR 2712	<b>Sen. Courtney, Jonathan T. E.</b> Resolve, Directing the Maine Turnpike Authority To Place Signs on Interstate 95 Directing Motorists to the Maine Veterans' Memorial Cemetery in Springvale
<b>SPONSOR:</b> LR 2730	<b>Rep. Curtis, Philip A.</b> An Act To Authorize the Taxpayers of the Town of Madison To Obtain a Return on Investment Risk
<b>SPONSOR:</b> LR 2709	<b>Rep. Cushing, III, Andre E.</b> An Act To Improve the Accountability of Government Officials
<b>SPONSOR:</b> LR 2663	<b>Rep. Eves, Mark W.</b> An Act To Enhance the Protection of Social Service Home Visitors

**WITHDRAWN**  
**1/24/12**



<b>SPONSOR:</b> LR 2665	<b>Sen. Goodall, Seth A.</b> An Act To Update the Laws Concerning Defects in Real Estate Transfers
<b>SPONSOR:</b> LR 2711	<b>Rep. Harvell, Lance E.</b> An Act To Require a Person To Show Photographic Identification When Using an Electronic Benefits Card
<b>SPONSOR:</b> LR 2679	<b>Rep. Haskell, Anne M.</b> An Act To Change the Statute of Limitations on Sex Abuse Crimes When the Actor is a Person in a Position of Control
<b>SPONSOR:</b> LR 2728	<b>Rep. Hinck, Jon</b> An Act To Limit to Natural Persons the Right To Contribute to Political Campaigns
<b>SPONSOR:</b> LR 2683	<b>Sen. Katz, Roger J.</b> An Act To Establish the Dirigo March as the State of Maine March
<b>SPONSOR:</b> LR 2704	<b>Rep. Knight, L. Gary</b> An Act To Facilitate Rapid Response by Businesses to State-declared Disasters
<b>SPONSOR:</b> LR 2681	<b>Sen. Langley, Brian D.</b> An Act To Conform Certain Aspects of Maine Law Regarding Child Pornography with Federal Law
<b>SPONSOR:</b> LR 2718	<b>Rep. MacDonald, W. Bruce</b> An Act To Amend the Boothbay Region Water District Charter
<b>SPONSOR:</b> LR 2664	<b>Rep. McKane, Jonathan B.</b> An Act To Prevent Tax Dollars from Being Used in Political Campaigns
<b>SPONSOR:</b> LR 2668 – <b>NOTE</b> <b>Title Change</b>	<b>Rep. Nutting, Robert W.</b> An Act To Specifically Exempt from the Prohibition against Texting while Driving Emergency Personnel Who Are Acting in the Course of Their Duties
<b>SPONSOR:</b> LR 2688	<b>Rep. Pilon, Donald E.</b> An Act To Prohibit Insurance Companies from Using Credit Scores as an Underwriting Criterion for Motor Vehicle Insurance

**SPONSOR:**

LR 2703

**Sen. Raye, Kevin L.**

An Act To Amend the Laws To Ensure Disclosure of Significant Financial Connections between High-level Public Officials and Organizations Receiving Public Funds

**SPONSOR:**

LR 2666

**Rep. Sirocki, Heather W.**

Resolve, To Clarify the Pilot Project Authorizing Independent Practice Dental Hygienists To Process Radiographs

**SPONSOR:**

LR 2667

**Rep. Sirocki, Heather W.**

An Act To Consolidate Certain Food Inspection and Certification Programs within the Department of Health and Human Services

**SPONSOR:**

LR 2727

**Rep. Slagger, David**

An Act To Ensure the Authenticity of Items Reported To Be Crafted by Native Americans

**SPONSOR:**

LR 2677

**Sen. Thomas, Douglas A.**

An Act To Allow the Transfer of a Large Game Shooting Area License

**JOINT RESOLUTION**

**SPONSOR:**

LR 2337

**Sen. Dill, Cynthia A.**

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES, THE UNITED STATES SECRETARY OF THE INTERIOR AND THE UNITED STATES CONGRESS TO SUPPORT THE CREATION OF A NATIONAL PARK IN MAINE'S NORTH WOODS

**JOINT RESOLUTION**

**SPONSOR:**

LR 2672

**Sen. Dill, Cynthia A.**

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS NOT TO CLOSE RURAL POST OFFICES

**JOINT RESOLUTION**

**SPONSOR:**

LR 2371

**Sen. Katz, Roger J.**

JOINT RESOLUTION URGING CONGRESS TO ENACT THE SOCIAL SECURITY FAIRNESS ACT OF 2011

**JOINT RESOLUTION**

**SPONSOR:** **Rep. Keschl, Dennis L.**  
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

**JOINT RESOLUTION**

**SPONSOR:** **Rep. Russell, Diane**  
LR 2699 JOINT RESOLUTION MEMORIALIZING THE  
CONGRESS OF THE UNITED STATES TO PROPOSE  
AN AMENDMENT TO THE UNITED STATES  
CONSTITUTION TO PROVIDE THAT  
CORPORATIONS ARE NOT "PERSONS" UNDER  
THE LAW

**TABLED BY THE LEGISLATIVE COUNCIL**

		<b>Action</b>
<b>SPONSOR:</b> LR 2603	<b>Sen. Alfond, Justin L.</b> An Act To Restore Equity in Revenue Sharing	<b>TABLED 11/01/11</b>
<b>SPONSOR:</b> LR 2479	<b>Rep. Bolduc, Brian D.</b> An Act To Reinstate Same-day Voter Registration	<b>TABLED 11/01/11</b>
<b>SPONSOR:</b> LR 2646	<b>Rep. Cain, Emily A.</b> An Act To Prevent Cost Increases in Health Care for Rural Maine School Districts	<b>TABLED 11/01/11</b>
<b>SPONSOR:</b> LR 2319	<b>Sen. Courtney, Jonathan T. E.</b> An Act To Change Certain Effective Dates Regarding Guaranteed Access and the Purchase of Health Insurance from outside Maine	<b>TABLED 11/01/11</b>
<b>SPONSOR:</b> LR 2339	<b>Rep. Maloney, Maeghan</b> An Act To Limit Taxes on Pensions	<b>TABLED 11/01/11</b>
<b>SPONSOR:</b> LR 2535	<b>Rep. Martin, John L.</b> An Act To Repeal the Authority for an Insurer To Vary the Premium Rate Based on Geographic Area	<b>TABLED 11/01/11</b>
<b>SPONSOR:</b> LR 2618	<b>Sen. Raye, Kevin L.</b> An Act To Clarify Municipal Budget Requirements within an Alternative Organizational Structure	<b>TABLED 11/01/11</b>

**SPONSOR:**  
LR 2441

**Rep. Russell, Diane**  
An Act To Restore Election Day Voter Registration

**TABLED 11/01/11**

**SPONSOR:**  
LR 2357

**Rep. Sirocki, Heather W.**  
An Act To Improve Well Water Testing at Licensed Child  
Care Facilities

**TABLED 11/01/11**

**ADDENDUM**  
**LEGISLATIVE COUNCIL**  
**AFTER DEADLINE REQUEST TO INTRODUCE LEGISLATION**  
**SECOND REGULAR SESSION 125th LEGISLATURE**  
**After: January 20, 2012**

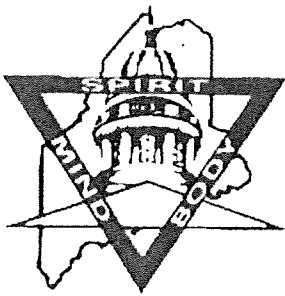
**Action**

**SPONSOR:**                    **Rep. Cushing, III, Andre E.**  
LR 2735                    An Act To Reform Electrical Licensing Laws and  
                                 Encourage Enrollment in High School Electrical  
                                 Education Programs

**SPONSOR:**                    **Rep. Volk, Amy F.**  
LR 2740                    An Act To Clarify the Laws Governing the Applicable  
                                 Use Tax Associated with Certain Campground Rentals

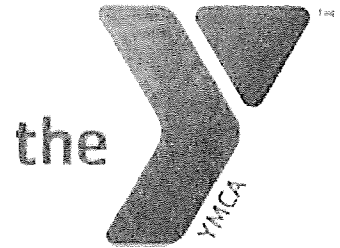
**JOINT RESOLUTION**

**SPONSOR:**                    **Rep. Hayes, Teresea**  
LR 2732                    JOINT RESOLUTION MEMORIALIZING THE  
                                 UNITED STATES CONGRESS TO SECURE CLEAN  
                                 WATER ACT FUNDING FOR THE MAINE  
                                 VOLUNTEER LAKE MONITORING PROGRAM



State YMCA of Maine  
**YOUTH IN GOVERNMENT PROGRAM**

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207-377-9686  
[winymca@aol.com](mailto:winymca@aol.com)  
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David Boulter,  
Executive Director  
Legislative Council  
State House  
Augusta, ME 04330

Dear Dave;

Thank you for everything, this past weekend was one of the best Youth in Government programs of all time. With 158 students attending and the 18 adult advisors completely engaged in the activities of the weekend it was great. I can't thank you enough for all your help and the State House Staff for making us feel so welcome, taking care of every issue and concern, and giving the students an experience they will not forget.

Lead by our Youth Governor Edward Sharood, the House and Senate debated and passed into law:

- ❖ *Deny right of convicted rapist visitation of children*
- ❖ *Allowing Civil Unions in Maine*
- ❖ *Reducing speed on I-95 at Night*
- ❖ *Creation of an East West Highway*
- ❖ *Prohibiting convicted OUI offenders to purchase alcohol in stores*

The did not pass

- *Lowering the Drinking Age*
- *Creating a 4 day school week*
- *Maine seceding from the United States*

As we wrap up from this year's program we begin looking to next year. Our new Youth Governor Olivia Hussey of Kennebunk HS will lead our program for 2012. We hope that this weekend will be available for us for next year, so I would like to officially request that we be able to hold Youth in Government 2012 on the weekend of **November 16-17-18, 2012.**

Again, thank you for everything you and the State House staff do for our program. The most common statements on the participants evaluations is "please keep the program in the State House, it makes it feel so real," or "we feel important being able to be in the same place the real legislature works". If there is anything you hear about from the weekend please let me know so we can address it and make sure we don't have any issues in having the program in the State House next year.

I will be in touch about our National Director's Conference coming to the State House in May.

Sincerely,

  
Lonney A. Steeves, Director  
Maine YMCA  
Youth in Government

**DEMOCRACY MUST BE LEARNED BY EACH GENERATION**



**STATE OF MAINE  
125<sup>th</sup> LEGISLATURE  
FIRST REGULAR SESSION**

**Seventh Annual Report of the  
Citizen Trade Policy Commission**

**December 2011**

**Voting Members:**

**Sen. Roger L. Sherman, Co-Chair  
Sen. Thomas Martin, Jr.  
Sen. John L. Patrick  
Rep. Joyce Maker, Co-Chair  
Rep. Bernard L. Ayotte  
Rep. Margaret Rotundo**

**Stephen Cole  
Michael Hertz  
Michael S. Hiltz  
Connie Jones  
John Palmer  
Linda Pistner  
Harry K. Ricker  
Jay Wadleigh  
Joseph Woodbury**

**Staff:**

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**Advisory Members:**

**Malcolm Burson  
Barbara Van Burgel  
Wade Merritt  
Michael Roland**

## EXECUTIVE SUMMARY

Public Law 2003, Chapter 699, established the Citizen Trade Policy Commission (Commission) during the Second Special Session of the 121st Legislature. The 22-member Commission includes six legislators, an Attorney General designee, five non-voting agency officials representing the Department of Labor, the Maine International Trade Center, the Department of Environmental Protection, the Department of Agriculture, Food and Rural Resources, and the Department of Human Services, and 10 public members representing business, labor, health, government and environmental interests. The Commission provides an ongoing state-level mechanism to assess the impact of international trade policies and agreements on Maine's state and local laws, business environment and working conditions.

Public Law 2003, Chapter 699 as amended by Public Law 2007, Chapter 266, requires the Commission to hold regular meetings, to gather information from the public through public hearings, to conduct a biennial assessment on the impacts of international trade agreements on Maine and to submit a report on its activities annually. This report covers the Commission's activities from July 1, 2010 through June 30, 2011 during which the Commission held 7 meetings.

During this reporting period, the Commission took the following actions.

- The Commission sent a letter to President Obama, Maine's Congressional Delegation and the United States Trade Representative raising the Commission's concerns about state rights and financial and pharmaceutical issues surrounding the South Korean Free Trade Agreement.
- The Commission developed and adopted a policy statement outlining the types of provisions that it would support or reject when considering a free trade agreement.
- The Commission nominated Maine House Representative Sharon Treat to the United States Trade Representative (USTR) to serve on the Intergovernmental Policy Advisory Committee (IGPAC).
- The Commission created a legislative subcommittee to consider possible legislation to submit to the 125<sup>th</sup> legislature. This committee worked with the Commission on two pieces of legislation. One was a joint resolution titled *Joint Resolution Memorializing the President of the United States, The United States Congress and the United States Trade Representative Regarding States' Rights in Future International Trade Policy*. The resolution was unanimously adopted by the Legislature. The other was a draft bill that was developed from a unanimous recommendation from the report: *The Potential Impact of International Trade Agreements on Ground Water Withdrawal Regulations* completed by the Water Resources Planning Committee and the Citizen Trade Policy Commission. The bill is still under consideration by the Commission. It stipulates that a state



contract for the procurement of services, materials or equipment contain a provision requiring the contractor to resolve differences through the Maine court system in the case of a dispute. The contract must also contain a waiver by the contractor of any right it may assert to seek a remedy in a different forum, including, but not limited to, arbitration pursuant to an international trade agreement. The Commission is seeking ways to ensure that conflicts with the State of Maine be resolved within the Maine judicial system rather than through an international tribunal.

- The Commission sent a letter to the United States Trade Representative opposing the inclusion of investor-state provisions in an investment chapter of the Trans-Pacific Partnership Agreement (TPPA) that is currently in negotiations. The Commission further specified that tobacco be carved out of the TPPA and any future trade agreements.
- The Commission spent significant time discussing the impacts of trade agreements on pharmaceutical pricing and continued to provide comments to the United States Trade Representative (USTR) regarding its concerns.
- The Commission continued to track federal legislation related to international trade agreements and submitted a letter to the Maine Congressional Delegation encouraging support of *The Public Health Trade Advisory Committee Act*.
- Multiple Commission members met with Ambassador Kirk (United States Trade Representative), the Director of the Forum on Democracy and Trade, and members of the Maine International Trade Center. During the meeting, Commission members voiced concern regarding the lack of transparency during trade agreement negotiations and lack of state input into trade agreements. Following the meeting, Representative Margaret Rotundo, then co-chair of the Commission, drafted a letter to Ambassador Kirk questioning the current U.S. model for bilateral investment treaties and investment chapters in free trade agreements, procedural rights and investor-state dispute resolution.

As the Commission considered the topics covered in the above actions, it received presentations from experts in international trade as well as regular reports from Maine's Congressional Delegation, including from Jim Catella, Senator Snowe's legislative staff for trade and foreign policy and Nora Todd, Rep. Michaud's legislative staff for trade and foreign policy.

**STATE OF MAINE  
125<sup>th</sup> LEGISLATURE  
FIRST REGULAR SESSION**

**Final Report  
of the  
COMMITTEE TO REVIEW ISSUES  
DEALING WITH REGULATORY TAKINGS**

**December 2011**

**Staff:**

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**Sen. Michael D. Thibodeau, Chair  
Sen. Troy D. Jackson  
Rep. Andre E. Cushing III, Chair  
Rep. Joan M. Nass  
Rep. Charles R. Priest  
Peggy Bensinger  
Catherine R. Connors  
Kenneth Davis Jr.  
Pete Didisheim  
Clark A. Granger  
Donald White**

## **Executive Summary**

The Committee to Review Issues Dealing with Regulatory Takings (herein referred to as “the Regulatory Takings Committee” or the “study committee”) was established by the Legislature to study issues associated with property rights and the public welfare. The study committee was specifically directed to determine if barriers to relief from regulatory takings exist in Maine and to consider 16 legislative elements in determining whether to recommend legislation. The study committee was unable to reach consensus recommendations. This report summarizes information presented and issues discussed at meetings of the study committee and contains the majority and minority recommendations.

Eight members of the study committee conclude that takings provisions in the Maine Constitution and the United States Constitution do not adequately protect private property rights and that legislation is needed to establish a threshold and process for determining when a regulatory taking has occurred. Six of the eight members recommend enacting a cause of action for private property owners when government regulations diminish the market value of a parcel of property by 50% or more. Two of the eight members stated that the threshold for a regulatory takings should be 30% if the current application of the “whole parcel rule” is not modified to allow a court, in determining whether a regulatory takings occurred, to consider only that portion of the property that is most economically impacted by a land use regulation instead of the regulation’s economic impact on the entire parcel.

Those eight members also recommend that the provisions of a regulatory takings law apply prospectively only to state land use regulations enacted after the effective date of legislation enacting a new regulatory takings regime.

Seven study committee members support authorizing an agency to grant a variance to a regulation found to be a regulatory taking as an alternative to paying compensation.

Two members do not support the recommendations of the other eight members and instead recommend a number of measures to enhance landowner participation in the existing land use mediation program established in 5 MRSA §3341 to resolve disputes over land use regulations. These members fully support the findings and recommendations in the Final Report of the Study Commission on Property Rights and the Public Health, Safety and Welfare (December 1995). Both members caution against establishing in statute a threshold percentage in the diminution of property value that constitutes a regulatory taking that is far less than required by the Constitution of Maine or the United States Constitution and creating a cause of action process as proposed in the majority recommendations. These two members assert that implementing the majority’s recommendations will be costly and will create significant legal complexities resulting in increased litigation. They also express concern that enactment of this new regulatory takings standard and process has the potential to undermine laws needed to protect public health, safety, welfare and the environment.

Due to time limitations, the study committee did not draft legislation to implement either the majority or minority recommendations. The study committee trusts that its recommendations are explicit enough for the Joint Standing Committee on Judiciary to develop and report out legislation to the Second Regular Session of the 125th legislature as authorized in Resolve 2001, chapter 111, Sec. 9.

**STATE OF MAINE  
125th LEGISLATURE  
FIRST REGULAR SESSION**

**Final Report  
of the  
COMMISSION TO STUDY ALLOCATIONS  
OF THE FUND FOR A HEALTHY MAINE**

**December 2011**

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Sen. Roger J. Katz  
Sen. Margaret M. Craven  
Rep. Deborah J. Sanderson, Chair  
Rep. Meredith N. Strang Burgess  
Rep. Tyler Clark  
Rep. Mark Eves  
Dr. Joel A. Kase  
Lisa C. Kavanaugh  
Thomas M. Kivler  
Dr. Sheila G. Pinette  
Susan Tidd  
Shawn C. Yardley**

## Executive Summary

The Commission to Study the Allocations of the Fund for a Healthy Maine (herein referred to as “the Commission”) was authorized by Resolve 2011, chapter 112.<sup>1</sup> The resolve that was presented to the Legislature by the Government Oversight Committee was in response to a report from the Office of Program Evaluation and Government Accountability (OPEGA). The OPEGA report stated that ten years had passed since the Fund for a Healthy Maine law had been enacted but that since that time the programs receiving allocations from the fund had remained largely stable without a comprehensive examination of whether the structure of allocations was still appropriate. In Resolve 2011, chapter 112, the Commission was directed to review the alignment of allocations from the Fund for a Healthy Maine and report its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services.

Members of the Commission met three times in November 2011 to conduct a review of the Fund for a Healthy Maine. The following recommendations were made unanimously by members of the Commission except where it is stated otherwise.

1. **Change the Fund for a Healthy Maine to a separate fund.** Amend the Fund for a Healthy Maine law to change the Fund for a Healthy Maine from a group of programs within Other Special Revenue Funds to a separate fund. Maintain current law on revenues paid into the fund.
2. **Include health promotion and prevention and overweight and obesity to the list of health purposes for the Fund for a Healthy Maine.** Amend the Fund for a Healthy Maine law to broaden “health-related purposes” to “prevention and health promotion purposes.” Also amend the list of prevention and health promotion purposes to include overweight and obesity prevention, education and treatment activities.
3. **Require separate accounts and annual reporting about the use of Fund for a Healthy Maine funds.** Amend the Fund for a Healthy Maine law to require contractors, vendors and state agencies receiving funding from the Fund for a Healthy Maine to maintain money received from the Fund for a Healthy Maine in separate accounts and to provide a description of how Fund for a Healthy Maine funds for the prior state fiscal year were targeted to the prevention and health promotion purposes specified in the law. Require the Commissioner of Administrative and Financial Services to compile reports and forward information to the Legislature annually.
4. **Require Health and Human Services Committee review of Fund for a Healthy Maine legislation.** Amend the Fund for a Healthy Maine law to require review by the joint standing committee having jurisdiction over health and human services matters of all legislative proposals that affect the Fund for a Healthy Maine that have majority

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<sup>1</sup> See Appendix A for Resolve 2011, chapter 112 and Appendix B for the Commission membership.

support in the committee to which the legislation was referred. This mirrors the provision currently in Joint Rule 317. This recommendation was adopted by a majority vote of 9 to 3. The minority supported continuing to impose review requirements under Joint Rule 317.

**5. Require study commission review of Fund for a Healthy Maine allocations every four years.** Amend the Fund for a Healthy Maine statute to require the Legislature to establish a study commission to review allocations of the Fund for a Healthy Maine beginning in 2015 and every four years thereafter. The composition and duties of the commission would mirror the current commission under Resolve 2011, chapter 112.

**6. Recommendations regarding separate program accounts.** Direct the Commissioner of Administrative and Financial Services to review program structure for the programs of the Fund for a Healthy Maine and to recommend a new program structure, including a program for overweight and obesity prevention, education and treatment, beginning in state fiscal year 2014-2015. Funding for the new overweight and obesity program is from funding currently provided for this purpose under existing programs.

**7. Issue a statement of support for funding continued enforcement by the Office of the Attorney General.** Include in the recommendations of the Commission a statement of support for continued funding for the Office of the Attorney General from the Fund for a Healthy Maine to enable the office to continue diligent enforcement of the tobacco master settlement agreement in accordance with the requirements of Title 22, chapter 263, subchapters 3 and 4.

**8. Issue a statement of support for investments in public health and prevention and for the original intent of the funding.** Include in the recommendations of the Commission a statement that the Commission recognizes the importance of investments in public health and prevention and believes that the original intent of the funding should be maintained and efforts should be made to eliminate health disparities. The statement will also include the following: "Access to adequate health coverage and support for building relationships with health care providers and the health care system are critical to the individual's ability to access important prevention, education and treatment resources related to smoking and tobacco, overweight and obesity, prenatal and young children's care, child care, health care, prescription drugs, dental and oral health care, substance abuse, school health and nutrition programs and counseling on ways to improve individual health behaviors."

Two proposals were discussed by the Commission and received support from a minority of members.

**1. Shift Fund for a Healthy Maine funding from family planning services to the child care subsidy program and consider a Medicaid State Plan amendment for family planning services with enhanced federal financial participation.** Deallocate

\$401,430 from FHM-Family Planning for state fiscal year 2012-2013, reallocate that funding to FHM-Purchased Social Services program for the child care subsidy program to enable the program to maximize matching federal block grant funds. In conjunction with the shift of funding, encourage the Appropriations and Financial Affairs Committee to consider a family planning Medicaid State Plan amendment. The family planning Medicaid expansion would expand access to family planning services to females up to 200% of the federal poverty level while taking advantage of the enhanced 9 to 1 federal match rate, which will make up for the lost Fund for a Healthy Maine funding. This proposal was supported by 4 members of the Commission and opposed by 8 members.

**2. Raise tobacco and alcohol taxes and direct the revenues to prevention, education and treatment services.** Raise tobacco and alcohol taxes to help to meet the costs of addiction, directing revenues from the increased taxes to the General Fund to support substance abuse prevention, education and treatment services. This proposal was supported by 4 members of the Commission and opposed by 5 members. Two members abstained from voting.



**STATE OF MAINE  
125th LEGISLATURE  
FIRST REGULAR SESSION**

**Final Report  
of the  
COMMISSION TO STUDY PRIORITIES AND  
TIMING OF JUDICIAL PROCEEDINGS IN  
STATE COURTS**

**December 2011**

**Staff:**

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**Members:**

**Sen. David R. Hastings, III, Chair  
Sen. Cynthia A. Dill  
Rep. G. Paul Waterhouse, Chair  
Rep. Ralph W. Sarty  
Rep. Maeghan Maloney  
Thomas Knowlton  
Judge Robert Mullen  
Justice John Nivison  
Richard Thompson**

## Executive Summary

The Commission to Study Priorities and Timing of Judicial Proceedings in State Courts (herein referred to as "the Commission") was established by Resolve 2011, chapter 104. In Resolve 2011, chapter 104, the Commission was directed to study the priority and timing of judicial proceedings in state courts including, but not limited to, judicial proceedings that require priority treatment pursuant to statute.

Members of the Commission met three times in the fall of 2011 to conduct a review. The following recommendations were made unanimously by members of the Commission except where it is stated otherwise.

1. **Incorporate uniform language in statutory priorities.** The Commission reviewed examples of statutory language requiring the court to hold an expedited hearing. The Commission recommends that the following uniform language be applied to the priorities reviewed by the Commission, unless the priority is eliminated or there is a reason for retaining the non-uniform language: "The action may be advanced on the docket and receive priority over other cases where the court determines that the interests of justice so require."
2. **Amend statutory priorities related to civil appeals to Superior Court, animal welfare, the Labor Relations Board, administrative licenses and miscellaneous civil provisions.** The Commission reviewed 45 statutory priorities related to civil appeals to Superior Court, animal welfare, the Labor Relations Board, administrative licenses and miscellaneous civil provisions. The Commission recommendations are classified into the following categories:
  - Modify the priority with the Commission's selected uniform language;
  - Eliminate the priority; or
  - Retain the current statutory language.

The majority of recommendations were unanimous; two were divided. The two judicial branch members of the Commission abstained from voting. The Commission recommends the Joint Standing Committee on Judiciary report out a bill to implement the Commission's recommendations.

3. **Eliminate a statutory priority regarding a traffic infraction.** The Commission recommends the statutory priority in Title 29-A MRSA §2603, sub-§1, a traffic infraction, be eliminated because it is duplicative.
4. **Considerations for Joint Rule 318 reviews.** The Commission recommends the following factors be considered by the Joint Standing Committee on Judiciary in Joint Rule 318 reviews.
  1. Does a constitutional or federal law require priority?
  2. Has a full hearing already been provided?
  3. Does the proposed statute affect any of the following:
    - Mental health laws affecting personal liberty and medical emergencies?
    - Public health emergencies?

- Elections?
- Interstate uniform laws?
- Domestic violence (protection from abuse)?
- Medical necessity?
- Family matters relating to child custody?
- Evictions?
- Government functioning and enforcement of statutes?
- Actions taken on an ex parte basis?

**5. Amend protection from harassment statute.** The Commission recommends that the following amendments be made to the protection from harassment statutes:

- Add the Commission's proposed uniform language to the provision regarding dissolution or modification of protection from harassment orders in Title 5, §4654, sub-§6;
- Amend the definition of harassment in Title 5, §4651, sub-§2 by limiting damage to property to only "business" property and by repealing the version of harassment described as 3 or more acts that are made with the intent to deter the free exercise or enjoyment of any rights or privilege secured by the Constitution of Maine or the United States;
- Repeal Title 5 §4654, sub-§2, ¶B as unnecessary; and
- Amend the process of seeking a protection from harassment order by requiring that if the alleged harassment does not meet the definition of harassment in Title 5, §4651, sub-§2, ¶C, the plaintiff must seek and file a copy of a notice to stop harassing the plaintiff issued to the defendant pursuant to Title 17-A, §506-A or a statement of good cause why such notice was not sought or obtained.

One member opposed recommending this amendment.



**STATE OF MAINE  
125<sup>TH</sup> LEGISLATURE**

**Sixth Annual Report  
of the  
RIGHT TO KNOW ADVISORY COMMITTEE**

**January 2012**

**Members:**

**Sen. David R. Hastings III  
Rep. Joan M. Nass  
Perry Antone Sr.  
Shenna Bellows  
Percy Brown Jr.  
Michael Cianchette  
Richard Flewelling  
James Glessner  
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Mal Leary  
William Logan  
Judy Meyer  
Kelly Morgan  
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<http://www.maine.gov/legis/opla/righttoknow.htm>**

## EXECUTIVE SUMMARY

This is the sixth annual report of the Right to Know Advisory Committee. The Right to Know Advisory Committee was created by Public Law 2005, chapter 631 as a permanent advisory council with oversight authority and responsibility for a broad range of activities associated with the purposes and principles underlying Maine's freedom of access laws. The 16 members are appointed by the Governor, the Chief Justice, the Attorney General, the President of the Senate and the Speaker of the House of Representatives. More information is available on the Advisory Committee's website: <http://www.maine.gov/legis/opla/righttoknow.htm>. The Office of Policy and Legal Analysis provides staffing to the Advisory Committee while the Legislature is not in session.

By law, the Advisory Committee must meet at least four times per year. During 2011, the Advisory Committee met four times: July 15, September 29, November 17 and December 8. To assist in completion of its work, the Advisory Committee appointed three subcommittees: Legislative, Public Records Exceptions and Bulk Records. All three subcommittees held meetings and made recommendations to the Advisory Committee.

The Advisory Committee was very fortunate to have the services of a Legal Extern of the Maine School of Law. Diane DeJesus, currently a second year student at the Law School, worked with the Advisory Committee during the first semester of the 2011-2012 school year.

As in previous annual reports, this report includes a brief summary of the legislative actions taken in response to the Advisory Committee's January 2011 recommendations and a summary of relevant Maine court decisions from 2011 on the freedom of access laws.

For its sixth annual report, the Advisory Committee makes the following recommendations, although not all the recommendations are unanimous:

- ☐ **Continue without modification, amend and repeal the existing public records exceptions in Titles 22 through 25;**
- ☐ **Support the revision of the Criminal History Record Information Act proposed by the Criminal Law Advisory Commission;**
- ☐ **Make no distinction under the freedom of access laws for a request for bulk records with regard to the fees for access or the purpose for which the request is made;**
- ☐ **Enact legislation to require an agency or official to provide an estimate of the time within which the agency or official will comply with a public records request (alternative minority recommendation);**
- ☐ **Enact legislation to increase the hourly fee that may be charged for the actual cost of searching for, retrieving and compiling the requested public record from \$10 per hour to \$15 per hour request;**
- ☐ **Enact legislation to clarify that an agency or official shall provide access to an electronically stored record in the available medium of the requester's choice, which is defined as a printed document of the public record or the medium in which the record is stored except that an agency or official is not required to provide access to a**

computer file if the agency or official has no ability to separate or prevent disclosure of any confidential information contained in the file;

- ☐ Enact legislation to require each State agency, county, municipality, school unit, school board and regional or other political subdivision to designate an existing employee as public access officer and require public access officers to complete the same training in the freedom of access laws as elected officials;
- ☐ Enact legislation to increase the maximum penalty to \$5,000 for willful violation of the freedom of access laws (minority recommendation);
- ☐ Support funding for a full-time Ombudsman position within the Department of Attorney General; and
- ☐ Enact legislation concerning the confidentiality of working papers of the Office of Governor to mirror the existing confidentiality exception available for working papers of the Legislature (majority recommendation).

In 2012, the Right to Know Advisory Committee will continue to provide assistance to the Judiciary Committee relating to proposed legislation affecting public access and the recommendations of the Advisory Committee for existing public records exceptions in Titles 22 through 25. The Advisory Committee is scheduled to begin the review and evaluation of existing public records exceptions contained in Titles 26 through 39-A in 2012. The Advisory Committee will continue its review and evaluation of Title 22, section 8754 relating to medical sentinel events and reporting. Also on the agenda are the issues concerning the application of the Freedom of Access laws to the Maine Public Broadcasting Network, the use of remote access for public members of boards and commissions to participate in public proceedings, templates for drafting specific confidentiality statutes and the storage, management and retrieval of public officials' communications, especially email.

The Advisory Committee looks forward to a full year of activities and working with the Governor, the Legislature and the Chief Justice of the Maine Supreme Judicial Court to implement the recommendations contained in its sixth annual report.

**STATE OF MAINE  
125th LEGISLATURE**



**Final Report  
of the  
LEGISLATIVE YOUTH ADVISORY COUNCIL  
JANUARY 2012**

**Members:**

**Sen. Garrett Paul Mason, Co-Chair**

**Sen. Nancy Sullivan**

**Rep. Alexander Willette, Co-Chair**

**Rep. Louis Luchini**

**Tyler Beardsley**

**Rami Blair**

**Stephen Carr**

**Leah Caverly**

**Samuel Duenas**

**Jeff Dyke**

**Scott Espling**

**Morgan Fredette**

**Jennifer Newendyke**

**Dillon Pesce**

**Olivia Plowman**

**Zahra Rikan**

**Jason Seavey**

**Sarah Stanley**

**Sophia Tremblay**

**Mikeckney Ward**

**Staff:**

**Carolyn Russo, Esq., Legislative Analyst**

**Kristin Brawn, Legislative Researcher**

**Office of Policy & Legal Analysis**

**13 State House Station**

**215 Cross Building**

**Augusta, ME 04333-0013**

**(207) 287-1670**

**[www.maine.gov/legis/opla](http://www.maine.gov/legis/opla)**

## Executive Summary

The Legislative Youth Advisory Council (“LYAC” or the “Council”) was originally established by Public Law 2001, Chapter 439, Part PPPP. The purpose of the Council was to advise the Legislature, legislative leadership and legislative committees on issues related to youth and was codified in Maine Revised Statutes, Title 3, section 168-A. The Council consisted of legislative members and youth members whose purview included the following issues: “employment, strategies to increase youth participation in municipal government and State Government, safe environments for youth, substance abuse, emotional and physical health, foster care, poverty, homelessness and youth access to services on municipal and statewide bases.”<sup>1</sup> The law also allowed the Council to submit legislation to the Legislature.

Over the past ten years, the powers, membership and budgetary resources for LYAC have changed. Public Law 2005, Chapter 616, Part A provided funding for two public forums of LYAC “for the purpose of soliciting input, suggestions and ideas for enhanced civic education in the State’s secondary school system;”<sup>2</sup> while Part B changed the reporting and membership criteria. Most recently, Public Law 2009, Chapter 623 repealed Title 3, section 168-A and enacted section 168-B. This legislation transformed LYAC from an advisory council to one in which legislative members would “encourage the participation of youth members in the legislative process by providing opportunities during the legislative session for youth members to shadow legislative members, attend hearings and work sessions of the legislative committees and testify before the committees on legislation of interest to youth.”<sup>3</sup>

Appointments were made to the present Council during the early summer and late fall of 2011. This allowed time for only one meeting in December 2011. The discussion at the meeting was lively and youth members showed a keen interest in a number of bills that will be before the Education and Cultural Committee during the Second Regular Session of the 125<sup>th</sup> Legislature.

Pursuant to the Council’s authority under 3 MRSA, section 168-B, members are establishing contacts through the use of social networking media. Youth members intend to shadow legislative members, attend hearings and work sessions of legislative committees, and share their insight on legislation of interest.

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<sup>1</sup> Laws 2001, c. 439, part PPPP, §2.

<sup>2</sup> Laws 2005, c. 616, part A, §A-3.

<sup>3</sup> Laws 2009, c. 623, §4.



# SPO



## Maine State Planning Office

EXECUTIVE DIRECTOR'S  
OFFICE  
Executive Department

2011 DEC -8 A 11:42

PAUL R. LePAGE  
Governor

RICHARD SWANSON  
Acting Director

December 7, 2011

The Honorable Paul R. LePage  
Office of the Governor  
1 State House Station  
Augusta, ME 04333

RE: 2011 Report Regarding the Land Use Mediation Program

Dear Governor LePage:

This letter constitutes the report pursuant to 5 M.R.S.A. §3331, sub-§5 to the Governor, the Administrative Office of the Courts, the Executive Director of the Legislative Council, and the Director of the Court Alternative Dispute Resolution Service ("CADRES") on the operation and effectiveness on the Land Use Mediation Program ("Program"). 5 M.R.S.A. §3331, sub-§5 specifies that the report "list the number and types of mediation requests received, the number of mediation sessions conducted, the number of signed mediation agreements, a summary of the final disposition of mediation agreements, a narrative discussion of the effectiveness of the program as determined by the council, a summary of deposits and expenditures from the land use mediation fund created in Title 4, section 18-B, subsection 10 and any proposals by the council with respect to the operation, improvement or continuation of the mediation program." *Id.*

The Land and Water Resources Council, of which the State Planning Office ("SPO") is a member and which SPO's director has previously chaired, has not been active in 2011 and has been proposed for elimination in recommendations to the Legislature's Appropriations Committee pursuant to P.L. 2011 ch. 380, Part FF. Accordingly, SPO is providing the factual information called for by the above-noted provision so that is available for your consideration.

This biennial report covers 2010 and 2011 to date and is based on information provided to SPO by Diane Kenty, Director of CADRES, which administers the Program. During this period, the Program received no requests for mediation; no mediation sessions were conducted; and consequently there were no resulting signed mediation agreements. No funds were deposited in or expended from the land use mediation fund created in Title 4, section 18-B, subsection 10.

Ms. Kenty advises that her office periodically receives telephone inquiries regarding the Program and that, given the current, limited level of program activity, its on-going maintenance does not impose any appreciable administrative burden or cost. Ms. Kenty further advises that some land use disputes that are litigated in Superior Court are mediated pursuant to Rule 16B of

OFFICE LOCATED AT: 19 UNION STREET, 38 STATE HOUSE STATION, AUGUSTA MAINE

the Maine Rules of Civil Procedure. CADRES continues to make information about the land use mediation option available at Superior Courts and on the Judicial Branch website at [http://www.courts.state.me.us/maine\\_courts/adr/adrcases.html](http://www.courts.state.me.us/maine_courts/adr/adrcases.html)

Please let me know if you need additional information or would like to discuss this matter further. Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard Swanson", written in a cursive style.

Richard Swanson

cc: Members, LWRC  
David E. Boulter  
James T. Glessner  
Diane E. Kenty, Esq.

# SPO



## Maine State Planning Office Executive Department

PAUL R. LePAGE  
Governor

RICHARD SWANSON  
Acting Director

January 10, 2012

Sen. Kevin L. Raye, Chair  
Rep. Robert W. Nutting, Vice-Chair  
Members, Legislative Council of the 125<sup>th</sup> Legislature  
Maine Legislature  
115 State House Station  
Augusta, Maine 04333-0115

Dear Senator Raye and Representative Nutting,

The State Planning Office is pleased to provide executive summaries of its report, titled *2012 Report on Poverty*, in response to Resolve 1997, Chapter 36 to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to an Annual Report Card on Poverty. The full report is available for download at: <http://www.maine.gov/spo/economics>.

We are most willing to present the report to you and happy to answer any questions that you may have.

Sincerely,

Richard Swanson  
Acting Director

Enc.

# 2012 REPORT ON POVERTY

Prepared by:  
Maine State Planning Office, Economics and Demographics Team  
38 State House Station  
Augusta, Maine 04333  
207-624-7660  
[www.maine.gov/spo/economics/](http://www.maine.gov/spo/economics/)

January 2012

Printed under Appropriation #010-07B-008201-1300

This report is available online: <http://www.maine.gov/spo/economics/>

## Executive Summary

For some Mainers, meeting the needs of daily life is a struggle. According to the U.S. Census Bureau, more than one in ten Maine residents live below the poverty line. Nearly one third of Mainers have a household income that classifies them as poor or near-poor. These households feel the pinch of rising costs for shelter, fuel, food, and medical care.

Poverty is not just a problem for the people who experience it; it is a problem for everyone. Those in poverty are often isolated from community life, are unable to participate fully in the economy, and cannot support local businesses. Hungry children are not able to focus on learning in school and face the likelihood of continuing the cycle of poverty to the next generation.

In this 2012 Report on Poverty, the trends we see show the effects of the December 2007 – June 2009 recession. Most of the data included in this report are the most recently available annual data. Since the data come from a variety of sources, updates are made at different points in time.

- Median income in Maine increased slightly for 2010 after adjusting for inflation. Average earnings per job also increased slightly.
- Using the Census Bureau's preferred two-year averages, Maine's official poverty rate was 12.0% in 2009-2010. That is statistically unchanged from the previous two-year rate of 11.4% in 2007-2008.
- There is great disparity in poverty levels across Maine's regions. In easternmost Washington County, poverty is around twice as prevalent as in Cumberland, York, and Sagadahoc counties.
- For the 2008 tax year, Maine saw a significant increase in Earned Income Tax Credit filings at the federal level. Counties with higher poverty rates tended to see higher rates of EITC filings.
- The rate of very low food security increased in Maine for the 2008-2010 period compared to preceding 3-year averages. Maine's overall food insecurity rate was 15.4% for 2008-2010.
- Both the Food Supplement Program and the National School Lunch Program saw increases in use, continuing an upwards trend since 2001, although rates of increase slowed somewhat in 2011.
- Maine's evolution from a manufacturing-based economy to one more involved in services and information continues to bring regional disparities in job growth and average earnings. Maine also has higher rates of people holding multiple jobs than in the nation as a whole.
- Maine's minimum wage has increased in recent years after accounting for inflation. The 2009 minimum wage had the highest buying power since 1981.
- Maine continues to lag behind the nation in the number of residents with bachelor's degrees. This has important implications for the earning power of Maine's citizens. However, enrollment in the community college system has increased 83% over the past nine years, providing more residents with postsecondary education.
- Housing prices rebounded slightly following the post-housing bubble declines, but the cost of housing has outpaced increases in median income over the course of the decade and affordability remains an issue.
- The costs of heating oil and gasoline continue to creep up following sharp decreases in late 2008. Heating oil has reached a new peak in 2011 and gasoline prices remain near early 2008 highs.