

MAINE STATE LEGISLATURE

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125TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

MEETING OF LEGISLATIVE COUNCIL
APRIL 24, 2012
3:00 PM
REVISED AGENDA

<u>Page</u>	<u>Item</u>	<u>Action</u>
	CALL TO ORDER	
	ROLL CALL	
1	SUMMARY OF THE MARCH 22, 2012 MEETING OF THE LEGISLATIVE COUNCIL	Acceptance
	REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS	
10	▪ Executive Director's Report (Mr. Boulter)	Information
11	▪ Fiscal Report (Mr. Pennoyer)	Information
	▪ Status Report on Bills Presented to Governor (Ms. Gresser)	Information
	REPORTS FROM COUNCIL COMMITTEES	
	• Personnel Committee	
	• State House Facilities Committee Multi-Year Plan for Maintenance & Improvements, Maine State House and Grounds, 2012	Decision
	OLD BUSINESS	
12	Item #1: Council Actions Taken By Ballot (No Action Required)	Information

NEW BUSINESS

- | | | | |
|-----------|----------|---|-----------------------|
| 13 | Item #1: | Consideration of After Deadline Bill Requests | Roll Call Vote |
| 15 | Item #2: | Proposed Policy on Security Screening Protocols for Maine State House (Revised) (Mr. Boulter) | Decision |
| 22 | Item #3: | Request to Display Fenway Park Banner on State House (John Delahanty, Red Sox ownership group) | Decision |
| | Item #4: | Suggested Protocol for Considering Proposed Legislative Studies (under separate cover) | Decision |
| | Item #5: | Consideration of Proposed Legislative Studies and Study Table (Ms. Hylan Barr) (under separate cover) | Roll Call Vote |
| | Item #6: | Executive Session (if needed) | |

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

SEN. KEVIN L. RAYE
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REP. ROBERT W. NUTTING
VICE-CHAIR

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125TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

MEETING SUMMARY
March 22, 2012

CALL TO ORDER

Legislative Council Chair, Senate President Raye called the March 22, 2012 Legislative Council meeting to order at 2:00 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Raye, Senator Courtney, and Senator Plowman

Senators Hobbins and Alfond arrived shortly after the start of the meeting.

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

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

Senate President Raye convened the meeting at 2:00 p.m. with a quorum of members present.

SUMMARY OF FEBRUARY 23, 2012 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of February 23, 2012 be accepted and placed on file. Motion by Senator Courtney. Second by Representative Andre Cushing. **Motion passed (7-0-1-2, with Representative Hayes abstaining, and Senators Hobbins and Alfond absent).**

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

NEW BUSINESS

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

The Legislative Council then proceeded to consider and vote on the bill requests in accordance with the previously established protocol. Of the 17 bill requests, the council authorized 2 requests for introduction in the 2nd Regular Session of the 125th Legislature, 1 failed to be authorized, 2 were withdrawn, 8 had no action taken, and 4 were tabled until a future Legislative Council meeting. Of the 5 joint resolutions, the council authorized 1 request for introduction in the 2nd Regular Session of the 125th Legislature, 2 failed to be authorized, and 2 were tabled until a future Legislative Council meeting. The Legislative Council's actions on the requests are included on the attached list.

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

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

David Boulter, Executive Director, reported on the following:

1. Energy Use Report by Efficiency Maine Trust

Efficiency Maine Trust completed its walkthrough audit of the Maine State House, that was begun earlier this year, conducted pursuant to Resolves 2011, c. 40: *Resolve, To Evaluate the Energy Use of the State House and the Burton M. Cross State Office Building*. The assessment identified several areas that provide opportunities for energy savings, including increased use of LED lighting, use of occupancy sensors for certain lighting, reducing air infiltration around doors and windows, increasing roof insulation and utilizing a water side economizer to eliminate the need to operate a "chiller" year-round as well as other HVAC efficiencies. The Efficiency Maine review focused on measures that would result in a simple payback of 7 years or less. Additional discussions with Efficiency Maine will be held to develop implementation strategies for the most cost-effective energy saving measures.

Fiscal Report

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

Revenue Update

Total General Fund Revenue - FY 2012 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
February	\$132.4	\$137.8	\$5.3	4.0%	\$131.1	5.1%
FYTD	\$1,717.0	\$1,692.4	(\$24.5)	-1.4%	\$1,680.7	0.7%

General Fund revenue was \$5.3 million (4.0%) over budget in February, but remained \$24.5 (1.4%) below budget for the fiscal year-to-date (FYTD), prior to adjusting for the Revenue

Forecasting Committee's (RFC) March revenue forecast that revised General Fund revenue downward in FY 2012 by \$4.9 million. January's General Fund collections were 9.1% below collections of January 2011. All of the major taxes with the exception of Individual Income Tax recovered from poor performances in January. Corporate Income Tax was buoyed in February by 2 major audits. Processing of Individual Income Tax returns has been well ahead of prior years due to the increase in the percentage of returns filed electronically. These earlier than projected refunds are the primary reason for the \$30.5 million negative variance through February in this category.

Fines, Forfeits and Penalties revenue was ahead of budget in February by \$1.0 million. Although this positive variance is good news given the recent performance of this category, a delay in the processing of the February distributions of Judicial Department revenue until March overstates this positive variance by \$0.5 million.

Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2012 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
February	\$25.6	\$25.8	\$0.1	0.4%	\$25.1	2.4%
FYTD	\$193.0	\$194.7	\$1.7	0.9%	\$190.9	2.0%

Highway Fund revenue was \$0.1 million (0.4%) over budget in February and \$1.7 million (0.9%) for the FYTD. This positive variance was in spite of continuing negative variances for Gasoline Tax collections, which were under budget by almost \$1 million in February. The RFC adjusted this category downward, but the off-model adjustment did not anticipate monthly variances of the magnitude experienced recently. Fortunately, the performance of other fuel tax categories and other Highway Fund revenue categories has been sufficient to maintain a positive variance for total Highway Fund revenue and produce 2.0% growth for the FYTD.

Cash Update

General Fund cash balances continue to decline with February's average General Fund internal borrowing being \$65.3 million higher than last February. Despite this decline, the State still may be able to avoid external cash flow borrowing this fiscal year absent major surprises and assuming individual income tax refunds decline as expected.

MaineCare Spending Update

The last 3 MaineCare weekly cycle payments have been lower than prior payments this fiscal year. At this point, it is uncertain how much of this reduction in weekly spending might be related to the recent corrections of eligibility status in the MaineCare system.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

No report

2. State House Facilities Committee

No report

OLD BUSINESS

Item #1: Legislative Council Actions Taken by Ballot

- A. **LR 2818** **An Act to Establish a Presidential Primary in the State**
Submitted by: Senator Kevin Raye
Approved: February 28, 2012 Vote: 10 - 0 in favor

- B. **LR 2825** **An Act to Improve Environmental Oversight and Streamline Permitting for Mining in Maine**
Submitted by: Representative John Martin
Approved: March 1, 2012 Vote: 10 - 0 in favor

- C. **LR 2834** **An Act to Enhance Opportunities for the Sale of Lottery Tickets**
Submitted by: Senator Debra Plowman
Approved: March 7, 2012 Vote: 10 - 0 in favor

- D. **LR 2839** **An Act to Clarify the Regulation of Private Natural Gas Pipelines**
Submitted by: Senator Kevin Raye
Approved: March 9, 2012 Vote: 10 - 0 in favor

- E. **LR 2813** **An Act to Clarify Authorized Associations of Veterinary Practice**
Submitted by: Senator Seth Goodall
Approved: March 9, 2012 Vote: 9 - 0 - 1 - 0 in favor

- F. **LR 2829** **An Act Requiring Communication of Mammographic Breast Density Information to Patients**
Submitted by: Representative Terry Hayes
Approved: March 13, 2012 Vote: 10 - 0 in favor

- G. **LR 2845** **An Act to Establish a Competitive Bid Process for Future Casinos and Slot Machine Facilities**
Submitted by: Representative Michael Beaulieu
Approved: March 15, 2012 Vote: 9 - 0 - 1 - 0 in favor

- H. **LR 2819** **JOINT RESOLUTION Memorializing the President of the United States and the Congress of the United States to Improve the Process Used to Negotiate and Approve International Trade Agreements**
Submitted by: Representative Joyce Maker
Approved: March 6, 2012 Vote: 10 - 0 in favor

- I. **LR 2744** **JOINT RESOLUTION Memorializing the President of the United States and the United States Congress to Repeal Portions of the National Defense Authorization Act Concerning the Indefinite Detention of United States Citizens**
Submitted by: Representative Richard Cebra
Approved: March 14, 2012 Vote: 6 - 1 - 3 - 0 in favor

No further action by the Legislative Council was required.

Item #2: Production of New Legislator Orientation Video Proposals

Mr. Boulter reported that, as requested by the Legislative Council, he explored the potential of working with the New England School of Communications or other Maine colleges having media programs to produce a new Legislator orientation video. He contacted seven Maine schools. At this time, none of the schools has either the capability or the time to do this type of project. Mr. Boulter recommended that the Legislative Council not pursue a firm from one of the 5 bidding firms or a school to produce a video at this time due to the lateness of the session – committees will have finished their work before filming could begin – and perhaps revisit the project in the fall in anticipation of the 126th Legislature. The Legislative Council members agreed. No action by the Legislative Council was required.

NEW BUSINESS**Item #2: Acceptance of the *Measures of Growth in Focus 2012* by the Maine Economic Growth Council**

The Maine Economic Growth Council submitted its *Measures of Growth in Focus 2012* for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the *Measures of Growth in Focus 2012* by the Maine Economic Growth Council and place it on file. Motion by Representative Hayes. Second by Representative Cushing. **Motion passed (8-0-0-2, with Senators Courtney and Alfond absent).**

Item #3: Acceptance of the ACF Committee's Review of Seed Potato Board (Joint Standing Committee on Agriculture, Conservation and Forestry)

The Joint Standing Committee on Agriculture, Conservation and Forestry submitted its report of the Seed Potato Board for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the report by the Joint Standing Committee on Agriculture, Conservation and Forestry on its review of the Seed Potato Board and place it on file. Motion by Representative Curtis. Second by Representative Cain. **Motion passed (8-0-0-2, with Senators Courtney and Alfond absent).**

Item #4: Placement of Robert Indiana painting on permanent display in Cross Building, Legislative Floor

Mr. Boulter briefed the Legislative Council members on the history of how the oil-on-canvas painting, *First State*, by artist Robert Indiana came to be in the possession of the State (gifted to the State of Maine in 2007) and relevant conditions described in the deed of gift. He explained that the painting has been exhibited in the West Wing of the State House in several locations in accordance with the artist's request. As explained by Mr. Boulter and Ms. Donna McNeil, Director of the Maine Arts Commission, those locations have proven to be problematic, are generally unsuited for proper exhibit of the painting, and lack adequate security and UV light protection measures. After considering various alternative locations where the painting might be displayed safely and in a suitable setting, they recommended that the painting be exhibited for

permanent display to the public above (and immediately to the north of) the east entrance to the Cross Building on the Legislative Floor (2nd floor). The art work, painted in the style of Pop Art, would be in keeping with the architecture of the Cross Building, would be in a prominent location, would be afforded UV protection, and would be in a secure location within range of security cameras.

Ms. McNeil mentioned the appraised value of the painting, emphasizing that finding a suitable, safe area for long-term display is essential. Mr. Boulter concluded that if the Legislative Council voted to authorize placement of the painting in the recommended location, the relocation would be subject to approval by the artist's representative, pursuant to the agreement.

Motion: That the Legislative Council authorize and direct the relocation of the oil-on-canvas painting *First State* by artist Robert Indiana from the West Wing of the State House to the Cross Building, Legislative Floor, to be placed on permanent exhibit to the public at the building's east entrance. The relocation is subject to and shall occur upon the approval by the artist's representative in accordance with the terms of deed of gift between the artist and the State of Maine. Motion by Senator Plowman. Second by Representative Cain. **Motion passed (9-0-0-1, with Senator Alfond absent).**

ANNOUNCEMENTS AND REMARKS

None

The Legislative Council meeting was adjourned at 2:55 p.m. on a motion by Representative Nutting, seconded by Representative Curtis. **Motion passed (9-0-0-1, with Senator Alfond absent).**

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

As of: March 22, 2012

		Action
SPONSOR: LR 2860	Rep. Beaulieu, Michael G. An Act To Amend the Charter of the Lewiston-Auburn Water Pollution Control Authority	PASSED
SPONSOR: LR 2866	Sen. Brannigan, Joseph C. Resolve, To Require the Office of Program Evaluation and Government Accountability To Conduct an Independent and Internal Audit of the Operations of the Department of Health and Human Services	TABLED
SPONSOR: LR 2836	Rep. Clark, Herbert E. An Act To Allow the Town of Millinocket To Sue the State To Recover the Full Amount Due to Millinocket Due to a Sudden and Severe Disruption of Valuation	TABLED
SPONSOR: LR 2868	Rep. Cushing, III, Andre E. An Act To Support Members of Law Enforcement Community as a Result of Medical Need or Unusual Hardship	PASSED
SPONSOR: LR 2858	Rep. Harmon, R. Ryan An Act To Protect Clean Water by Prohibiting Hydraulic Fracturing	WITHDRAWN BY SPONSOR
SPONSOR: LR 2867	Rep. Harmon, R. Ryan An Act To Include in the Fuel Tax Refund Fuel Used for Agriculture or Forestry Purposes	WITHDRAWN BY SPONSOR
SPONSOR: LR 2846	Sen. Patrick, John L. An Act To Protect the Integrity of the Voting Process	FAILED
SPONSOR: LR 2817	Rep. Prescott, Kerri L. An Act To Allow the Use of Tax Increment Financing Revenue To Fund School Costs in Brunswick and Topsham	TABLED

JOINT RESOLUTION

SPONSOR:	Rep. Berry, Seth A.	FAILED
LR 2869	JOINT RESOLUTION MEMORIALIZING CONGRESS TO ADOPT THE MAIN STREET FAIRNESS ACT	

JOINT RESOLUTION

SPONSOR:	Rep. Boland, Andrea M.	FAILED
LR 2838	JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO IMPLEMENT THE RECOMMENDATIONS OF THE FEDERAL COMMISSION TO ASSESS THE THREAT TO THE UNITED STATES FROM ELECTROMAGNETIC PULSE ATTACK AND THE RECOMMENDATIONS OF THE NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS TO PROTECT THE ELECTRIC TRANSMISSION AND DISTRIBUTION INFRASTRUCTURE	

JOINT RESOLUTION

SPONSOR:	Rep. Knight, L. Gary	TABLED
LR 2871	JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ADOPT THE MARKETPLACE FAIRNESS ACT	

JOINT RESOLUTION

SPONSOR:	Sen. Raye, Kevin L.	PASSED
LR 2870	JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO REFORM THE FEDERAL TOXIC SUBSTANCES CONTROL ACT OF 1976	

JOINT RESOLUTION

SPONSOR:	Sen. Sherman, Roger L.	TABLED
LR 2843	JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO ADDRESS THE ISSUE OF SALE AND DISTRIBUTION OF MEAT AND POULTRY	

ACTION ON REQUESTS PREVIOUSLY TABLED BY THE LEGISLATIVE COUNCIL

		Action
SPONSOR:	Rep. Cebra, Richard M.	TABLED 02/23/12
LR 2747	An Act To Enact the Liberty Preservation Act	

SPONSOR: LR 2709	Rep. Cushing, III, Andre E. An Act To Improve the Accountability of Government Officials	TABLED 01/26/12
SPONSOR: LR 2665	Sen. Goodall, Seth A. An Act To Update the Laws Concerning Defects in Real Estate Transfers	TABLED 01/26/12
SPONSOR: LR 2772	Sen. Jackson, Troy D. An Act To Make the Forest Management and Harvest Plan Public Record	TABLED 02/23/12
SPONSOR: LR 2808	Rep. Knight, L. Gary An Act To Completely Exempt the Property of Houses of Religious Worship from Taxation	TABLED
SPONSOR: LR 2319	Sen. Courtney, Jonathan T. E. An Act To Change Certain Effective Dates Regarding Guaranteed Access and the Purchase of Health Insurance from outside Maine	TABLED 11/01/11
SPONSOR: LR 2339	Rep. Maloney, Maeghan An Act To Limit Taxes on Pensions	TABLED 11/01/11
SPONSOR: LR 2535	Rep. Martin, John L. An Act To Repeal the Authority for an Insurer To Vary the Premium Rate Based on Geographic Area	TABLED 11/01/11
SPONSOR: LR 2618	Sen. Raye, Kevin L. An Act To Clarify Municipal Budget Requirements within an Alternative Organizational Structure	TABLED 11/01/11

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125TH MAINE STATE LEGISLATURE
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Legislative Council

Executive Director's Report April 24, 2012

1. Robert Indiana Painting, *First State*

The painting, *First State*, now hangs in the 2nd floor entrance atrium to the Cross Building consistent with the earlier decision by the Legislative Council. Numerous positive comments have been received on this new location for the painting. I am awaiting formal approval from the artist's representative for the placement. Steps are being taken to provide appropriate security for the painting.

2. State House Fire Detection System

Earlier this month, 39 smoke detectors were replaced with heat detectors in key areas of the building, notably where kitchenettes or food preparation equipment are located. The change in equipment should reduce or eliminate false fire alarms triggered by burned food (such as popcorn) and was recommended by the sprinkler system consultants who tested and repaired the State House fire suppression system earlier this year.

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Fiscal Briefing

Legislative Council Meeting

April 24, 2012

Prepared by the Office of Fiscal & Program Review

1. General Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
March	\$199.3	\$226.5	\$27.3	13.7%	\$203.9	11.1%
FYTD	\$1,883.9	\$1,918.9	\$35.0	1.9%	\$1,884.6	1.8%

General Fund revenue was \$27.3 million (13.7%) over budget in March and was \$35.0 million over budget through 3 quarters of FY 2012. The variances are against the Revenue Forecasting Committee's (RFC) March revenue forecast and new monthly distribution. March revenue also includes \$13.8 million of General Fund revenue that was received in January, but not recorded as revenue in the State's accounting system. The related revenue sharing transfers from January's revenue recorded in March will increase by \$0.7 million in April decreasing the net effect of this revenue issue to \$13.1 million.

The 2 most significant positive variances were in the Sales and Use Tax and the Corporate Income Tax, which were over budget in March by \$9.1 million and \$13.7 million, respectively. These 2 categories included the largest increases from January's revenue adjustment (\$6.6 million and \$5.2 million, respectively). Lottery revenue also had a very good month in March (\$0.7 million over) due to the record Mega Millions jackpot in the last week of March.

2. Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
March	\$24.3	\$23.2	(\$1.1)	-4.5%	\$23.4	-0.8%
FYTD	\$218.3	\$217.9	(\$0.4)	-0.2%	\$214.2	1.7%

Highway Fund revenue was \$1.1 million (4.5%) under budget in March and \$0.4 million (0.2%) for the first 3 quarters of FY 2012. Substantial Gasoline Tax negative revenue variances are the primary source of overall Highway Fund negative variance. With gasoline prices at roughly \$4 per gallon, consumers are adjusting their behavior. The RFC will likely have to make another downward adjustment to Gasoline Tax estimates when it meets at the end of April.

3. Revenue Forecasting Committee (RFC)

The RFC will be meeting on April 30th to discuss the effect of January revenue adjustment. The timing was set so that the RFC could react to preliminary data on April's Individual Income Tax processing.

4. MaineCare Spending Update

MaineCare weekly cycle payments remain very volatile. The latest week reported, week #40, was the lowest in FY 2012 at \$28.5 million. That was substantially below the average and lowered the weekly average for FY 2012 to \$43.9 million down from \$44.5 million through week #39. A report on the dollar impact of the eligibility status issues will be presented to the Appropriations Committee on April 26th.

**Legislative Council Actions
Taken by Ballot Since the
March 22, 2012 Council Meeting**

Request for Introduction of Legislation

- A. LR 2880 **RESOLVE, Authorizing the Executive Department to Facilitate the Closure of the Maine Energy Recovery Facility in Biddeford by Negotiating the Transfer of the Juniper Ridge Landfill and Requiring Other Actions to Improve Recycling**

Submitted by: Senator Barry Hobbins

Approved: April 3, 2012 Vote: 6 - 4 in favor

- B. LR 2881 **An Act to Allow the Town of Fort Kent to Adopt the Definition of Original Assessment Value for a Downtown Tax Increment Financing District**

Submitted by: Representative John Martin

Approved: April 4, 2012 Vote: 8 - 2 in favor

- C. LR 2882 **An Act to Encourage Responsible Teen Driving**

Submitted by: Senator William Diamond

Approved: April 4, 2012 Vote: 8 - 2 in favor

LEGISLATIVE COUNCIL
AFTER DEADLINE REQUESTS TO INTRODUCE LEGISLATION
SECOND REGULAR SESSION 125th LEGISLATURE
As of: April 17, 2012

TABLED BY THE LEGISLATIVE COUNCIL

		Action
SPONSOR: LR 2866	Sen. Brannigan, Joseph C. Resolve, To Require the Office of Program Evaluation and Government Accountability To Conduct an Independent and Internal Audit of the Operations of the Department of Health and Human Services	TABLED 03/22/12
SPONSOR: LR 2747	Rep. Cebra, Richard M. An Act To Enact the Liberty Preservation Act	TABLED 02/23/12
SPONSOR: LR 2836	Rep. Clark, Herbert E. An Act To Allow the Town of Millinocket To Sue the State To Recover the Full Amount Due to Millinocket Due to a Sudden and Severe Disruption of Valuation	TABLED 03/22/12
SPONSOR: LR 2709	Rep. Cushing, III, Andre E. An Act To Improve the Accountability of Government Officials	TABLED 01/26/12
SPONSOR: LR 2665	Sen. Goodall, Seth A. An Act To Update the Laws Concerning Defects in Real Estate Transfers	TABLED 01/26/12
SPONSOR: LR 2772	Sen. Jackson, Troy D. An Act To Make the Forest Management and Harvest Plan Public Record	TABLED 02/23/12
SPONSOR: LR 2808	Rep. Knight, L. Gary An Act To Completely Exempt the Property of Houses of Religious Worship from Taxation	TABLED 03/22/12
SPONSOR: LR 2817	Rep. Prescott, Kerri L. An Act To Allow the Use of Tax Increment Financing Revenue To Fund School Costs in Brunswick and Topsham	TABLED 03/22/12

SPONSOR: LR 2319	Sen. Courtney, Jonathan T. E. An Act To Change Certain Effective Dates Regarding Guaranteed Access and the Purchase of Health Insurance from outside Maine	TABLED 11/01/11
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SPONSOR: LR 2339	Rep. Maloney, Maeghan An Act To Limit Taxes on Pensions	TABLED 11/01/11
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SPONSOR: LR 2535	Rep. Martin, John L. An Act To Repeal the Authority for an Insurer To Vary the Premium Rate Based on Geographic Area	TABLED 11/01/11
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SPONSOR: LR 2618	Sen. Raye, Kevin L. An Act To Clarify Municipal Budget Requirements within an Alternative Organizational Structure	TABLED 11/01/11
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JOINT RESOLUTION

SPONSOR: LR 2871	Rep. Knight, L. Gary JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ADOPT THE MARKETPLACE FAIRNESS ACT	TABLED 03/22/12
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JOINT RESOLUTION

SPONSOR: LR 2843	Sen. Sherman, Roger L. JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO ADDRESS THE ISSUE OF SALE AND DISTRIBUTION OF MEAT AND POULTRY	TABLED 03/22/12
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125TH MAINE STATE LEGISLATURE

LEGISLATIVE COUNCIL

MEMO

To: Legislative Council Members
125th Legislature

From: D.B.
David E. Boulter, Executive Director
Legislative Council

Date: April 17, 2012

RE: Proposed Legislative Council policy on security screening protocols

Please find attached, for your consideration, a proposed Legislative Council policy on security screening protocols for security measures in the State House. The proposed policy would establish standards for security screening and provide guidance to security screening personnel that should result in appropriate and consistent application of security screening measures. Under law, the Legislative Council is charged with oversight of the State House, including maintenance and improvement of the physical facilities and legislative operations. Within this charge is responsibility for establishing appropriate protocols for building access and security to ensure the health and safety of persons working in the building and others who have occasion to enter the building, and ensure the physical integrity of the State House itself.

The Bureau of Capitol Police began its security screening operations on January 18th, about three months ago. Since that time, the screening procedures have gone remarkable well, especially in light of the culture change and acknowledgement that additional security measures are a necessary feature in the State House in today's environment. The screening has not been without some problems and challenges, however, and adjustments have been made as new situations arose. In addition, the security screening personnel have been on a steep learning curve, not only to become proficient in operating the screening equipment but also to understand the dynamic nature of legislative operations and the need for understanding and flexibility in unique situations. I have observed that over the past three months the daily operations have continued to improve, resulting in relatively smooth screening procedures with little delay or inconvenience most of the time.

Notwithstanding the reasonably smooth operations to date, I believe there are 2 notable areas that need some improvement or adjustment.

1. The first area relates to the physical layout of the screening area in the entrance foyer. The entrance foyer was not modified in any significant way as screening operations began, the thinking being that we would gain a better sense of what changes would be appropriate once we developed some actual experience with screening procedures during the short second regular session of the Legislature. Changes to the physical layout can be addressed in large measure with some redesign of the lobby to better accommodate pedestrian flow, allow for great efficiency in screening operations and improve the aesthetic aspects of integrating screening operations into the building entrance foyer this summer when time and design considerations allow.
2. The second area relates to establishing protocols for security screening operations. At this time, I believe some policy guidance from the Legislative Council to security screening personnel is necessary and appropriate, and based on my initial discussions from Capitol Police Chief Gauvin they would be welcomed. The security screening operation would benefit from the guidance by establishing a policy that governs the scope of screening operations, authorizes certain procedures that would protect public health and safety in the building while sometimes differing in some aspects from standard Transportation Security Administration protocols used in other higher risk environments, and promote clear, consistent application of procedures. The security screening operations would benefit long-term, as well as immediately, from policy guidance from the Legislative Council. Although the Bureau of Capitol Police is a bureau of the Department of Public Safety, and therefore, does not formally report to the Legislature, the Legislative Council is the entity charged with establishing the policies, standards and protocols for carrying out the security screening measures in the State House. Adoption of a policy would also give the Legislative Council a greater and appropriate degree of oversight over the screening operations occurring in the State House.

If the Legislative Council decides to adopt a policy on security screening protocols, it may wish to assess the on-going screening operations and review the policy sometime this fall once the security screening measures are fully in place and physical modifications to the entrance foyer have been completed.

If you have any questions, I would be happy to respond to them at the Legislative Council meeting. Thank you.

Attachment

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

125TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

Legislative Council
Policy on Security Screening
Protocols for the Maine State House

The Legislative Council adopts this policy on security screening in the State House to enhance measures to protect the health and safety of persons working in or having occasion to enter the Maine State House, to protect the physical integrity of the State House, and to establish protocols for implementing security screening measures.

- I. State House open to public. The State House is open to the public from 7:30 AM to 5:00 PM Monday through Friday, exclusive of state-observed holidays. The building is also open to the public after regular business hours whenever the Senate or the House of Representatives is in session and whenever a joint standing or select committee of the Legislature is holding a public meeting in the State House. The State House will ordinarily remain open for 30 minutes following the end of an after-hours session or committee meeting. Access to the State House by members of the public is limited to the West entrance and the underground connector from the Cross Building.
- II. Access card nontransferable. A person to whom a card is issued by the Legislature for access to the State House and other legislative areas or for security purposes may not lend or otherwise transfer the access card to another person, and a person who is not the holder of the card may not present the card to security personnel for the purposes of misrepresenting the person's identity, avoiding security screening or accessing an area to which the person is not authorized. A card that is misused may be confiscated by a Capitol Police officer and shall be delivered immediately to the Executive Director of the Legislative Council along with an explanation of the circumstances that gave rise to the confiscation.
- III. Security screening required. All persons entering the State House, except as provided in section VI. below, shall be subject to security screening upon entering the State House. Any person who refuses to submit to screening shall be refused access to the State House. If a person refuses to submit to security screening, the on-duty security screener shall notify the on-duty law enforcement officer of the Bureau of Capitol Police who shall make all decisions to refuse entry to the building.
- IV. Screening measures. Except as provided in section VI. below, the following measures must be employed for all persons entering the State House.
 - A. Persons must pass through a stationary magnetometer used to detect metals. Alternatively, a person may request that a handheld magnetometer be used in lieu of

passing through the stationary magnetometer. If, by reason of disability or medical condition, a person has been advised by a qualified health care provider to not be subjected to magnetometers and provides reasonable demonstration of such condition or medical advice, the person may request a hand and visual inspection ("pat down") from security personnel. Such a request may not be unreasonably denied. When requesting a pat down, the person must be afforded the opportunity for the pat down to be performed by security personnel of the same gender. **[However, when security personnel of the same gender is requested but not available, the on-duty law enforcement officer of the Bureau of Capitol Police may allow screening by means of a visual inspection and interview of the requester in lieu of a hand pat down.]**

B. Persons must allow packages, personal belongings and other items on his or her person to be inspected by passing them through a package screening device. A person may request a visual and hand inspection if use of the package screening device may damage the contents of a package (e.g. high speed film) or if the package is too large to pass through the device.

V. Prohibition on certain items. The following items are prohibited in the State House or other legislative area, regardless of whether a person is required to undergo security screening measures:

- Weapons or ammunition of any kind
- Paint or pellet guns
- Fireworks, firecrackers, sparklers or other explosive or incendiary devices
- Compressed flammable or helium gases
- Flammable liquids
- Alcoholic beverages, unless unopened and in their original container and condition, and not to be consumed on-site
- Illegal drugs or substances

Notwithstanding this prohibition, a bona-fide military or law enforcement honor guard or military personnel in full dress uniform while participating in a formal military ceremony in the State House may be permitted to carry weapons provided all firearms have been disabled and are incapable of being discharged. Furthermore, an on-duty law enforcement officer is permitted to carry a weapon provided that the officer so discloses possession of the weapon and allow its inspection by the on-duty Capitol Police officer who shall keep a written log of all such exceptions to the prohibition.

VI. Persons excepted. The following persons who possess a valid access card allowing access to the State House are not required to undergo the building security measures upon presentation of the access card to the security screening personnel.

- A. Legislators;
- B. Legislative employees;
- C. Governor and employees of the Office of the Governor whose principal work location is in the State House;
- D. State law enforcement personnel who are assigned to State House detail;

- E. Members of the Governor's Cabinet and their appointed deputy commissioners, Constitutional Officers and the State Auditor, State Court Administrator, chair of the State House and Capitol Park Commission, State Controller, State Budget Officer and the Deputy State Budget Officer;
- F. State House maintenance, property management and state postal service personnel, authorized by the Legislative Council's executive director, who have a regular and necessary need to enter the State House;
- G. State House Press Corps members, authorized by the Legislative Council's executive director, who lease offices in the Legislature's State House Press Corps suite, and other members of the media authorized by the Legislative Council's executive director who possess bona fide State House news media credentials;
- H. Persons who have a medical condition or are disabled in a manner that prevents them from undergoing security screening and who have a regular and necessary need to enter the State House, authorized by the Legislative Council's executive director and for limited duration, upon documentation from a qualified medical provider that the person may not be subjected to magnetometer screening and completion of a satisfactory criminal background check performed periodically;
- I. Vendors and contractors who have a regular and necessary need to enter the State House, authorized by the Legislative Council's executive director, and for limited duration, upon completion of a satisfactory criminal background check performed periodically. Express mail and package delivery personnel and supply vendors are not eligible for exception under this section; and
- J. Persons authorized by the Legislative Council's executive director, for reasons of operational or business necessity, for limited duration.

Notwithstanding the above exceptions, The Bureau of Capitol Police may require security screening of any of the above persons if in the judgment of the Bureau of Capitol Police such screening is essential to protect the immediate health and safety of the public or prevent immediate harm to the building.

- VII. Personal recognizance. Upon their personal recognizance, the following individuals shall be allowed to enter the State House without undergoing the building screening measures: Governor, Chief Justice of the Maine Supreme Judicial Court, members of the Legislative Council and those legislative employees who are elected to office by the Legislature or appointed to office by the Legislative Council. If security personnel are uncertain of the person's identity, they may request photo identification.
- VIII. Personally-escorted persons. Persons who are personally known to and accompanied by the Governor, Chief Justice of the Maine Supreme Judicial Court or a member of the Legislative Council and are so identified to security screening personnel are not required to undergo security screening when entering the State House. In addition, by prior arrangement with the Chief of Capitol Police, a person who is personally escorted by a State or federal law enforcement protection detail is not required to undergo security screening when entering the State House.
- IX. Special considerations for Maine school groups and bands. Security screening personnel are authorized to limit security screening measures to visual inspections of an organized group of youth entering for a tour of the State House or to play musical instruments during a

legislative function if the youth are in a Maine elementary or middle school program, are accompanied by adult chaperones, and building tour or event arrangements were made with the authorizing legislative office at least 48 hours in advance of their arrival. Adult chaperones must undergo security screening measures.

- X. Special considerations for persons in certain age-related categories. Security screening personnel are authorized to limit security screening measures to visual inspections, or modified pat-downs if a pat-down is determined to be necessary, of children 12 years of age or younger and adults 75 years of age or older.
- XI. Legislative Conference Room and Welcome Center. Legislators and legislative employees are authorized to transport equipment, supplies and other materials to and from the Legislative Conference Room and the Welcome Center on the first floor without first undergoing security screening measures for the equipment, supplies and materials.
- XII. News media credentials.

A. Definition

- 1. For the purposes of this section, a “person” means an individual, or an organization with whom a person seeking news media credentials is affiliated by virtue of employment, contractual relationship or other means.

B. Eligibility and application

- 1. In order for a person to be eligible for “news media credentials” in the Legislature, the person must:
 - i. be a bona fide news gatherer or reporter whose principal attention is given to or more than ½ of the person’s earned income is derived from the gathering or reporting of news;
 - ii. not be engaged in the prosecution of judicial or administrative claims or appeals or the promotion or advocacy of legislation pending before the Maine Legislature, State or federal departments or agencies or independent agencies of the federal or State government;
 - iii. not be employed by any legislative or executive department or independent agency of federal or State government, or by any foreign government or representative thereof; and
 - iv. not be engaged in any lobbying activities, advertising, publicity or political advocacy for any individual or organization.
- 2. An application for news media credentials must be accompanied by a signed and dated statement by the senior news director of the news organization with whom the person is affiliated or, if a the person is a freelancer or works for a production company, the news director of the person’s primary news clients, attesting to his or her use of the person’s news services and period during which the services have been used along with satisfactory evidence of such news services.
- 3. Approval of applications may be subject to additional criteria established by the Speaker of the House or the President of the Senate for news gathering or

reporting in the chamber of the House of Representatives or the Senate Chamber.

4. Approval of news media credentials shall be for a fixed period not greater than one year but may be renewed from time to time, and shall be revoked immediately when the person no longer meets the eligibility requirements or fails to comply with any rule, policy or procedure of the legislature.

C. Limited access privileges

1. If a person has been granted news media credentials, the person will be issued a NEWS MEDIA CARD attesting to the person's approval of news media credentialing. The person shall present the card to security personnel upon entry into the State House. Furthermore, the person shall wear and prominently display the card at all times while in the House and Senate chambers. The card must be returned immediately upon a change in affiliation. The card is nontransferable may not be used by any person other than the person to whom the card was issued, and may be confiscated if it is misused.
2. A person who possesses State House news media credentials is not required to undergo security screening measures upon the person's entry into the State House only upon completion of a satisfactory criminal background check performed periodically and subject to terms and limitations established by the Legislative Council's executive director.
3. Only a person possessing State House news media credentials is eligible to occupy an office in the Legislature's State House Press Corps suite of offices.

XIII. Modification. The Legislative Council reserves all rights to modify this policy at any time as it deems necessary or appropriate.

THIS POLICY IS ADOPTED BY THE LEGISLATIVE COUNCIL AT AUGUSTA, MAINE ON APRIL 24, 2012.

BY: _____

Authority: 3 MRSA, §162 and 25 MRSA, §2904

Effective Date: May 4, 2012

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M E M O R A N D U M

TO: David Bolter, Executive Director, Maine Legislative Council
FROM: John D. Delahanty, Esq.
RE: Display of Fenway Park 100 Year Anniversary Banner from State House
DATE: April 19, 2012

Dave,

As we discussed, through a relationship our Managing Partner has with the General Counsel for the Boston Red Sox ownership group, during the past couple of years we've done some legal work for an entity owned by the group. As a result of this relationship, the group's Deputy General Counsel contacted my partner, Jon Block, with whom he had worked on these matters, to see if we might be able to assist with gaining permission to have a specially designed Fenway Park 100th Anniversary banner displayed from the State House.

It is my understanding that the Red Sox organization is seeking to have this banner displayed from each state house in New England, the heart and soul of Red Sox Nation. As shown in the attached picture it is already being displayed at the Massachusetts State House. Requests to display at the other capitals are pending and are expected to be granted. You suggested I forward this request to you so that you could take it to the Legislative Council. I obviously respect the information you provided me with regard to restrictions on what can be displayed from the State House. I hope, however, based on the truly unique circumstances relating to Fenway Park, the Red Sox and Maine's strong connection to both, that you and the members of the Legislative Council would be willing to allow this recognition of Fenway Park, America's most beloved ballpark, to occur. I also hope that the Legislature would unanimously endorse (yes, even those who may be fans of a team to the south of Boston that wears pinstripes) a suitable proclamation recognizing Fenway Park's Anniversary and Maine's connection with both the Park and the Red Sox. Possibly this proclamation could be presented to a Red Sox official during Maine Day at Fenway in August.

Fenway Park opened on April 20, 1912. While neither you nor I nor any member of the Legislative Council were around for that opening day, I have to believe that most, if not all of us, are followers, if not ardent fans, of the Red Sox and have been so for

years. I do not know how many Maine natives have played for the Red Sox but I'm familiar with one who was a player as well as a player-manager who has a very strong Maine connection. This is William "Bill" Carrigan who was born in Lewiston, graduated from Lewiston High School, matriculated at Holy Cross but left to become a catcher with the Red Sox. He played all of his 10 seasons in the major leagues from 1906-1916 with the Red Sox. As such, this Maine native would have been at the opening of Fenway Park on April 20, 1912. Mr. Carrigan, known as "Rough", as a player-manager, led Boston to a 2nd place finish in 1914 and to two consecutive World Championships in 1915 and 1916, a record that has not been duplicated. Following the Red Sox, Mr. Carrigan returned to Lewiston where he became a banker and President of one of the banks that eventually formed People's Bank. He died in Lewiston and was posthumously elected to the Boston Red Sox Hall of Fame.

While Mr. Carrigan actually played at Fenway Park when it opened, countless thousands of Mainers have made the trip to Boston, traipsed through Kenmore Square, down Yawkey Way, and entered Fenway Park to watch hundreds of games in Fenway Park. It is now the oldest Major League baseball stadium in use. As we all know, Fenway Park certainly has its unique and quirky features including its famous Green Monster, "Pesky's Pole" and "The Triangle." Fenway Park also has the longest streak of consecutive sellouts in Major League baseball history. And while Fenway Park is primarily a baseball venue, it also has been the site of many other sporting and cultural events including professional football for the Boston Redskins and the Boston Patriots, concerts, soccer, hockey games, political and religious campaigns. Fenway also was the site where the University of Maine men's hockey team beat their arch rivals from the University of New Hampshire in a thrilling overtime victory this past January 7, 2012.

Maine also is extremely fortunate to have the Sea Dogs, the Red Sox Double A team, playing in Portland at a wonderful venue, with a mini-Green Monster, where many Mainers get to see future Red Sox stars and present players rehab. I'd also be remiss if I didn't mention the close tie to Maine the "Splendid Splinter", Ted Williams, had as he enjoyed fishing in Maine especially with Maine's iconic outdoors reporter Bud Leavitt.

I'm certain there are many other unique and very personal ties between Maine, her citizens, Fenway Park and the Red Sox but when one thinks of Fenway Park, perhaps former Commissioner of Baseball Bart Giamatti said it best, when referring to Fenway Park as a very special place, he stated: "As I grew up, I knew that as a building it was on the level of Mount Olympus, the Pyramid of Giza, the nation's capital, the czar's winter palace, and the Louvre *except*, of course, that it was better than all those inconsequential places."

As Maine's connection with Fenway Park goes back directly to having a native son as a member of the Red Sox when Fenway Park opened, and with certainly thousands of Mainers traveling to Fenway Park each year, I'm hopeful that the request to hang the Fenway Park 100th Anniversary banner from the State House would be honored.

As for timing, although Maine Day at Fenway Park is in August, it is my understanding the Red Sox are hoping to have the banner displayed in the various state capitals between now and the end of June. It would be especially welcomed if it could be displayed for a week but if a shorter period was deemed more appropriate, they would be pleased and honored with whatever time the banner could be displayed.

I also should mention that while we have done legal work for the group in the past, as you know, lawyers at times are asked to do some *pro bono* work. This request clearly is one of my most favorite *pro bono* undertakings and hopefully it will be successful. I'd be glad to try to answer any questions and sincerely appreciate your assistance and cooperation.

Very truly yours,
John

