

MAINE STATE LEGISLATURE

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SEN. JUSTIN L. ALFOND
VICE-CHAIR

EXECUTIVE DIRECTOR
DAVID E. BOULTER



SEN. TROY D. JACKSON
SEN. MICHAEL D. THIBODEAU
SEN. ANNE M. HASKELL
SEN. ROGER J. KATZ
REP. SETH A. BERRY
REP. KENNETH W. FREDETTE
REP. JEFFREY M. MCCABE
REP. ALEXANDER R. WILLETTE

126TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

**LEGISLATIVE COUNCIL
MEETING SUMMARY
October 30, 2013**

CALL TO ORDER

Legislative Council Chair Mark Eves called the October 30, 2013 Legislative Council meeting to order at 10:33 a.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Alfond, Senator Jackson, Senator Haskell, Senator Thibodeau and Senator Katz

Representatives: Speaker Eves, Representative Berry, Representative McCabe, Representative Fredette and Representative Willette

Legislative Officers: David E. Boulter, Executive Director of the Legislative Council
Dawna Lopatosky, Legislative Finance Director
Millicent MacFarland, Clerk of the House
Marion Hylan Barr, Director, Office of Policy and Legal Analysis
Grant Pennoyer, Director, Office of Fiscal and Program Review
Suzanne Gresser, Revisor of Statutes
John Barden, Director, Law and Legislative Reference Library
Scott Clark, Director, Legislative Information Technology
Beth Ashcroft, Director, Office of Program Evaluation and Government Accountability

Speaker Eves convened the meeting at 10:33 a.m. with a quorum of members present.

SUMMARY OF AUGUST 28, 2013 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary for August 28, 2013 be accepted and placed on file. Motion by Representative Berry. Second by Senator Willette. **Motion passed unanimous (10-0).**

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

David Boulter, Executive Director, provided a written report as follows:

1. Filming in State House

Numerous scenes for the movie, *Catatonk Blues*, were filmed in the State House on October 3 and 4, 2013 in accordance with Legislative Council approval. The cast and crew of the film were very appreciative of their use of the State House and, overall, everything went smoothly and professionally. The film is expected to be released early next summer.

2. Water leaks in State House

Numerous leaks in the heating system in the State House have been discovered over the past several months. A preliminary review indicates that the leaks may be the result of corrosion and subsequent leaking at piping joints, the cause of which is unknown at this time. An engineering firm is currently investigating the extent and cause of the piping failures.

3. YMCA Youth in Government Program

The State YMCA of Maine will hold its annual civic education program on legislating for high school youth in the State House on Friday through Sunday, November 15-17, 2013. Planning for the program is underway.

Fiscal Report

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

Revenue Update

Total General Fund Revenue - FY 2014 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
September	\$298.8	\$318.8	\$20.0	6.7%	\$281.2	13.4%
FYTD	\$608.8	\$622.0	\$13.3	2.2%	\$584.9	6.3%

General Fund revenue was above budget projections by \$20.0 million (6.7%) in September and \$13.3 million (2.2%) for the first quarter of FY 2014. The 6.3% growth rate for the first quarter of FY 2014 revenue differs significantly from a projected decline that was budgeted for FY 2014.

Individual Income Tax was \$19.1 million above budget projections in September, about a third of which reflected a timing issue between August and September relating to withholding payments. \$10 million of this positive variance was due to the strong performance of September's estimated tax payments.

Sales and Use Tax revenue was \$4.0 million above budget projections in September and \$7.6 million through the first quarter. Taxable sales growth in the Building Supply and

Automobile/Transportation sectors has been the major factor contributing to this positive variance.

Corporate Income Tax collections have fallen \$2.9 million (6.8%) below budget for the first quarter of FY 2014. Preliminary data for October indicate that this negative variance will likely remain roughly the same after October.

Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2014 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
September	\$24.9	\$26.0	\$1.1	4.4%	\$26.4	-1.7%
FYTD	\$61.5	\$62.8	\$1.4	2.2%	\$63.6	-1.2%

Highway Fund revenue was above budget by \$1.1 million in September and \$1.4 for the first quarter of FY 2014. Monthly revenue in the Fuel Taxes category continues to fluctuate relative to budget, but through the first quarter this category was \$1.3 million above budget.

Fall Revenue Forecast Update

The Consensus Economic Forecasting Commission (CEFC) began its fall revenue forecast update with 2 meetings in October. Friday, October 18th, was an information gathering session followed a week later by a meeting to update the economic forecast that is used in the tax models to forecast the major tax revenue sources. At that meeting, the CEFC revised the economic forecast for job growth and income growth downward. These changes will have a negative effect on the tax model forecasts of the major tax lines. However, some of this negative effect may be offset when the models are targeted based on recent higher than anticipated revenue.

The Revenue Forecasting Committee (RFC) will meet on Thursday, November 21st, to finalize the fall revenue forecast prior to its statutory reporting date of December 1st.

In response to an inquiry from Representative Fredette, Mr. Pennoyer gave a very brief summary on the fiscal status of state accounts. He explained that General Fund revenue for September was very good and the Highway Fund also had a better than expected month. Revenues for October appear to be on track. The CEFC, in its preliminary assessment, did lower the forecast for employment and personal income which would usually have the effect of lowering the economic forecast. But there may be some offsetting effect from the recent positive revenue variance particularly in the individual income tax.

Interim Legislative Studies Report

Marion Hylan Barr, Director, Office of Policy and Legal Analysis, provided a written report as to the current status of the interim legislative studies and commissions. (Refer to status report in preliminary agenda materials.)

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Speaker Eves, Chair of the Personnel Committee, gave the following report.

The Personnel Committee held a meeting earlier today, October 30, 2013 to consider the following matters:

1. Request for Part-time Limited Period Position in OPEGA through FY2015

The committee considered Director Ashcroft's request to establish a part-time limited period Legislative Analyst position in the Office of Program Evaluation and Government Accountability through FY15 to assist in completing assigned projects in OPEGA. After discussion, the committee voted to recommend that the Legislative Council authorize OPEGA to establish a part-time position through fiscal year 2014, after which time the Legislative Council will evaluate the need to extend the position.

Motion: That the Legislative Council authorize OPEGA to establish a part-time, limited period legislative analyst position through FY14 using unspent balances to pay the costs of the position, after which time the Legislative Council will evaluate the need to extend the position. Motion by Speaker Eves. Second by President Alfond. **Motion passed unanimous (10-0).**

2. Request for Temporary Disability Income Benefits for a Partisan Staff Member

The committee considered a request by an employee in a Legislative Leadership office for temporary disability income benefits. The request is consistent with the provisions for temporary disability income benefits under the Legislative Council's personnel policies and guidelines. Upon the recommendation of the Executive Director, the committee voted unanimously to approve the request. No Legislative Council action is required.

3. Reappointment of David E. Boulter as Executive Director of the Legislative Council to a new 3 year term.

The committee noted that Executive Director Boulter is seeking reappointment as Executive Director and scheduled a time next month to discuss his reappointment.

2. State House Facilities Committee

Representative Berry, Chair of the State House Facilities Committee, presented the following report.

The State House Facilities Committee met on Wednesday, August 7th to consider the following matters:

1. Renewed MOU with Maine Public Broadcasting Network

The committee reviewed a draft renewal memorandum of understanding (MOU) that has been negotiated with Maine Public Broadcasting Network (MPBN) for televising legislative proceedings during the 2nd regular session of the Legislature. The committee was comfortable with the agreement but added a provision that would allow other news media to

have reasonable use of the state-owned room to be used by MPBN as a broadcast studio and press room on a schedule established by MPBN. MPBN supports the memorandum of understanding as drafted, including the added provision. At its meeting, the committee voted unanimously to recommend that the Legislative Council approve the MOU. That item is on the Legislative Council agenda for later today.

2. MPBN request that the Legislature purchase new cameras for House and Senate Chambers

After a brief discussion, the committee members concluded that consideration of new cameras or other broadcasting equipment should not be decided on in 2013 but be deferred until 2014 when the facilities committee could then consider the request in the context of other capital improvement needs for 2014.

3. Capital improvement procurement policy

In light of the absence of a committee member, this matter was tabled to a future meeting.

4. Electric car charging stations

Executive Director Boulter gave the committee an update on the investigation into the feasibility of installing several charging stations on the State House campus, equipment and installation costs, potential for private sector donations and potential locations. The committee will continue its discussion at a future meeting.

OLD BUSINESS

Item #1: Council Actions Taken by Ballot Since the August 28, 2013 Council Meeting

Legislative Council Decisions:

- A. That the Legislative Council exempt the legislative study contained in LD 1515: "An Act to Increase the Availability of Mental Health Services" from the Study Table established under Joint Rule 353 (10).

Motion by: Representative Mark Eves

Second by: Senator Justin Alford

Approved: August 29, 2013

Vote: 10-0 in favor

- B. That the Legislative Council approve the request by the Maine State Police to serve food, buffet-style, to its troopers in the Hall of Flags as part of a formal inspection of its Central Division on or about noon on October 8, 2013.

Motion by: Representative Mark Eves

Second by: Senator Justin Alford

Approved: September 24, 2013

Vote: 10-0 in favor

- C. That pursuant to Joint Rule 353 (6), the Legislative Council authorizes and directs Legislative Council staff to provide sufficient staff resources to the Commission to Develop a Competitive Bidding Process for the Operation of Additional Casinos or Slot Machines in the

State for the remainder of its authorized meetings, in light of the inability of the Department of Administration and Financial Services to provide such staffing.

Motion by: Senator Justin Alford

Second by: Representative Mark Eves

Approved: September 27, 2013

Vote: 10-0 in favor

NEW BUSINESS

Item #1: Suggested Protocols for Deciding Legislator Bill Requests

Executive Director Boulter summarized the suggested procedures for deciding legislator bill requests. He drew Legislative Council members' attention to several key aspects of the proposed protocol, including that the initial motion on each bill request will be presumed to be a motion to accept the bill request for introduction in the Second Regular Session, along with a presumed second to that motion. 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. See the attached procedures.

Motion: That the Legislative Council adopt the suggested procedures for deciding Legislator bill requests. Motion by President Alford. Second by Senator Haskell. **Motion passed unanimous (10-0).**

Item #2: Consideration of Requests to Introduce Legislation in Second Regular Session of the 126th Legislature

The Legislative Council proceeded to consider and vote on three hundred ninety-nine (399) bill requests in accordance with the adopted protocol, and using an electronic voting system. The Legislative Council authorized ninety-nine (99) bills for introduction in the Second Regular Session, tabled four (4) bill requests and declined to authorize two hundred eighty-nine (289) bill requests. Out of the 399 requests, seven (7) bill requests were withdrawn by the sponsor prior to the Legislative Council's vote. The Legislative Council's action on the bill requests is attached.

Item #3: Memorandum of Understanding between Maine Public Broadcasting Network and Maine Legislative Council for Broadcasting Legislative Proceedings

Representative Berry made a motion to table this matter to a future Legislative Council meeting. Motion by Representative Berry. Second by President Alford. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

Item #4: Request to Use State House and Grounds for Critical Incident Response Exercise on Tuesday, November 5, 2013

Capitol Police Chief Gauvin briefed the Legislative Council as to the nature of the request by the Maine National Guard, Maine Emergency Management Agency and law enforcement agencies to use the State House and grounds for a critical incident response training exercise on Tuesday, November 5, 2013 (Operation Vigilant Guard). Chief Gauvin explained that the exercise will

begin late in the day, around closing time, so as to have minimal impact on employees or legislative operations. Signs will be placed to inform people of the exercise. There is no intention to practice tactics; the exercise is more of a command coordination, communication coordination and actual logistics training. Representative Berry then asked Mr. Boulter to make sure that staff are made aware of the training exercise before it begins.

Motion: That the Legislative Council approve the request to use the State House and grounds as part of a critical incident response training exercise for emergency responders on Tuesday, November 5, 2013. Motion by Representative McCabe. Second by Representative Willette. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

Item #5: Dates for Legislative Policy Forums in January and February 2014

Mr. Boulter reviewed the memo by the Maine Development Foundation describing its plans to hold 4 legislative policy forum breakfasts for legislators in early 2014, and its request that the Legislative Council establish the dates for those forums. After discussion, Speaker Eves suggested the dates of January 14, January 16, January 28, and January 30, 2014.

Motion: That the Legislative Council approve the dates for the Legislative Policy Forums to be conducted by the Maine Development Foundation as follows: January 14, January 16, January 28, and January 30, 2014. Motion by President Alford. Second by Senator Thibodeau. **Motion passed unanimous (8-0-0-2, with Representatives Fredette and Willette absent).**

Item #6: Request for Voluntary Budget Savings from the Legislature

Motion: That the Legislative Council refer the request by the director of the Governor's Office of Policy and Management for the Legislature to voluntarily identify budget savings to the Legislative Budget Subcommittee for its review and recommendation. Motion by President Alford. Second by Senator Haskell. **Motion passed unanimous (8-0-0-2, with Senator Thibodeau and Representative Fredette absent).**

Item #7: Legislative Council Meeting Schedule for 2014

Legislative Council Chair Speaker Eves informed the Legislative Council members of the Legislative Council Meeting Schedule that he has established for calendar year 2014 which is noted below. All meetings will be held in the Legislative Council Chambers and are tentatively scheduled to start at 1:30 p.m.

Thursday, January 23, 2014	Thursday, July 24, 2014
Thursday, February 27, 2014	Thursday, August 28, 2014
Thursday, March 27, 2014	Thursday, September 25, 2014
Thursday, April 24, 2014	Thursday, October 23, 2014
Thursday, May 22, 2014	Thursday, November 20, 2014
Thursday, June 26, 2014	Thursday, December 18, 2014

[Note: The 127th Legislature convenes on Wednesday, December 3, 2014 so the December meeting date is subject to change.]

Item #8: Notice of Single Audit of the State of Maine

The Office of the State Auditor has notified the Legislative Council by letter that it is performing a Single Audit of the State of Maine for the year ending June 30, 2013. No action by the Legislative Council was required.

Item #9: Acceptance of the Annual Report of the Washington County Development Authority

The Washington County Development Authority submitted its 2013 Annual Report for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the 2013 Annual Report of the Washington County Development Authority and place it on file. Motion by Senator Jackson. Second by Senator Alfond. **Motion passed (8-0-0-2**, with Senator Thibodeau and Representative Fredette absent).

Item #10: Executive Session

Motion: That, in accordance with 1 MRSA, Section 405, subsection 6, the Legislative Council enter into an executive session for the purposes of discussing collective bargaining negotiations between the employee representative for the Administrative Unit of Legislative Employees and the Legislative Council and discussing collective bargaining negotiations between the employee representative for the Independent Association of Nonpartisan Legislative Professionals and the Legislative Council. Motion by Senator Alfond. Second by Senator Katz. **Motion passed (8-0-0-2**, with Senator Thibodeau and Representative Fredette absent).

The Legislative Council entered into an executive session at 1:58 p.m. At the conclusion of its executive session, on a motion by Senator Jackson, seconded by President Alfond, the Legislative Council voted unanimously to end its executive session at 2:27 p.m. and reconvene its regular meeting.

ANNOUNCEMENTS AND REMARKS

With no other business to consider or announcements, the Legislative Council meeting was adjourned at 2:28 p.m.