

# MAINE STATE LEGISLATURE

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REP. MARK W. EVES  
CHAIR

SEN. JUSTIN L. ALFOND  
VICE-CHAIR

EXECUTIVE DIRECTOR  
DAVID E. BOULTER

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

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

**LEGISLATIVE COUNCIL  
MEETING SUMMARY  
November 21, 2013**

**CALL TO ORDER**

Legislative Council Chair Mark Eves called the November 21, 2013 Legislative Council meeting to order at 10:24 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 10:24 a.m. with a quorum of members present.

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

**NEW BUSINESS****Item #1: Suggested Protocols for Deciding Appeals of Legislative Council Action on Bill Requests**

Executive Director Boulter summarized the suggested procedures for deciding appeals of Legislative Action on 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 appeals of Legislative Council decisions on bill requests. Motion by President Alford. Second by Representative Berry. **Motion passed unanimous (10-0).**

**Item #2: Consideration of Legislators' Appeals of Council Action on Bill Requests for the Second Regular Session of the 126<sup>th</sup> Legislature**

The Legislative Council proceeded to consider and vote on one hundred and three (103) appeals of Council action on bill requests in accordance with the adopted protocol, and using an electronic voting system. The Legislative Council authorized twenty-nine (29) appeals, tabled nine (9) appeals and declined to authorize sixty-one (61) appeals. Out of the 103 appeals, four (4) appeals of Council action on bill requests were withdrawn by the sponsor prior to the Legislative Council's vote. The Legislative Council's action on the appeals is attached.

The Legislative Council also considered a previously tabled bill request from the October 30, 2013 meeting. The Council declined to authorize this bill. The Legislative Council's action is attached.

**Item #3: Request for Authority to Convene Task Force on Adult Learners**

Director Boulter requested that the Task Force on Adult Learners, with the majority of its members having been appointed, be authorized to meet and conduct its business, pursuant to Part GGGGG-1 of PL 2013, c.368.

**Motion:** That the Legislative Council authorize the Task Force on Adult Learners to meet and conduct its business, with a majority of task force members having been appointed. Motion by President Alford. Second by Senator Haskell. **Motion passed unanimous (8-0-0-2,** with Representatives Fredette and Willette absent).

**Item #4: Request for Extension of Reporting Deadline Date and Permission to Meet on December 4, 2013 (Commission to Study Long-term Care Facilities)**

The Commission to Study Long-term Care Facilities submitted a request to hold a fifth meeting on December 4, 2013. In addition, the commission requested an extension of its deadline to submit its final report and recommendations on December 12, 2013.

**Motion:** That the Legislative Council approve the request by the Maine Health Exchange Advisory Commission to establish to hold a fifth meeting on December 4, 2013 and to extend

its final report deadline to December 12, 2013. Motion by Senator Jackson. Second by Representative Berry. **Motion passed unanimous (8-0-0-2**, with Representatives Fredette and Willette absent).

**Item #5: Request for Extension of Reporting Date and Permission to Meet on December 9, 2013 (Maine Health Exchange Advisory Commission)**

The Maine Health Exchange Advisory Commission submitted a request to hold an additional meeting on December 9, 2013. In addition, the commission requested an extension of its deadline to submit its final report and recommendations on December 15, 2013.

**Motion:** That the Legislative Council approve the request by the Maine Health Exchange Advisory Commission to hold a fifth meeting on December 9, 2013 and to extend its final report deadline to December 15, 2013. Motion by Senator Haskell. Second by President Alfond. **Motion passed unanimous (8-0-0-2**, with Representatives Fredette and Willette absent).

**Item #6: Request for Extension of Reporting Date (Commission to Study the Board of Corrections and the County Corrections System)**

The Commission to Study the Board of Corrections and the County Corrections System submitted a request for an extension of its deadline to submit its final report and recommendations from December 4<sup>th</sup> to December 15, 2013.

**Motion:** That the Legislative Council approve the request by the Commission to Study the Board of Corrections and the County Corrections System to extend its final report deadline to December 15, 2013. Motion by Representative Berry. Second by Senator Katz. **Motion passed unanimous (8-0-0-2**, with Representatives Fredette and Willette absent).

**Item #7: Proposed Document Service Fee Schedule for 126<sup>th</sup> Legislature, Second Regular Session**

Clerk of the House Millicent MacFarland submitted a proposed fee schedule for Legislative Document Service for the Second Regular Session of the 126<sup>th</sup> Legislature. In her proposal, she noted that all documents offered in the document service are also available directly on the Legislature's website, and the public is being encouraged to use the online information.

**Motion:** That the Legislative Council approve the Document Fee Service for the 126<sup>th</sup> Legislature, 2<sup>nd</sup> Regular Session as proposed by the Clerk of the House. Motion by Representative McCabe. Second by Senator Haskell. **Motion passed unanimous (8-0-0-2**, with Representatives Fredette and Willette absent).

**Item #8: Submission of Loring Development Authority of Maine's Annual Report for Fiscal Year 2013**

The Loring Development Authority of Maine submitted its 2013 Annual Report for acceptance by the Legislative Council.

**Motion:** That the Legislative Council accept the 2013 Annual Report of the Loring Development Authority of Maine and place it on file. Motion by Senator Haskell. Second by Representative Berry. **Motion passed (8-0-0-2**, with Representatives Fredette and Willette absent).

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

## SUMMARY OF OCTOBER 30, 2013 MEETING OF LEGISLATIVE COUNCIL

The Legislative Council took no action on this item.

## REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

### Executive Director's Report

David Boulter, Executive Director, reported on the following:

1. YMCA Youth in Government Program

The YMCA of Maine's Youth in Government program was held in the State House on November 15-17, 2013. About 150 high school students from across the state attended this annual civic education program to learn about the legislative process.

2. Maine Development Foundation

The Maine Development Foundation is continuing its preparation for the Legislator Policy Forums on the topics identified in its letter to the Legislative Council last month (health insurance marketplace, ways to care for Maine's aging population and opportunities, and entrepreneurs and innovation in Maine) and on the days in January established by the council. A schedule will be developed and distributed when one is finalized. The first policy forum is scheduled for Tuesday, January 14, 2014.

### 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
October	\$253.8	\$258.4	\$4.6	1.8%	\$245.0	5.5%
FYTD	\$862.5	\$880.5	\$17.9	2.1%	\$830.0	6.1%

General Fund revenue was over budget by \$4.6 million (1.8%) in October and \$17.9 million (2.1%) for the first four months of FY 2014. The 6.1% growth rate for the first four months remains significantly higher than the decline budgeted for FY 2014.

Sales and Use Tax revenue was \$5.0 million over budget in October and \$12.6 million for the fiscal year-to-date (FYTD). Taxable sales growth for the first quarter of FY 2014 grew 6.9% led by the Building Supply and Automobile/Transportation sectors. This growth rate is significantly above the budgeted rate.

Individual Income Tax was under budget in October by \$8.0 million, but remained \$5.3 million over budget for the FYTD. October's variance may be largely related to timing issues in

withholding and refunds. Refunds were under budget for the month by \$9.4 million with roughly \$7 million paid out on the last day of the month.

Corporate Income Tax was slightly under budget in October and remained \$2.9 million (6.5%) below budget for the FYTD.

The Cigarette and Tobacco Tax and Insurance Companies Tax categories both had sizeable positive variances for October creating solid FYTD positive variances for both categories.

### Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2014 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
October	\$27.0	\$27.9	\$0.9	3.4%	\$32.1	-13.1%
FYTD	\$88.4	\$90.7	\$2.3	2.6%	\$95.7	-5.2%

Highway Fund revenue was over budget by \$0.9 million in October and \$2.3 for the first four months of FY 2014. Stronger Gasoline Tax collections, potentially spurred by lower gasoline prices, have built up a positive variance of \$1.3 million for the fiscal year. Bureau of Motor Vehicle revenue has also been performing well, aided by strong automobile sales growth in the early part of this fiscal year.

### Fall Revenue Forecast Update

Mr. Pennoyer reported that the Revenue Forecasting Committee met on November 21<sup>st</sup> to finalize the fall revenue forecast in time for its statutory reporting date of December 1<sup>st</sup>. The committee revised its revenue forecast upward for all funds for the current biennium. General Fund revenue was increased by \$20.6M over the current biennium. The Highway Fund was increased by \$1.7M over the biennium. The Fund for a Healthy Maine revenue projection was increased by \$2.6M for the biennium and MaineCare dedicated revenue taxes were projected upward over the biennium by \$432,000. There is one modest change pending that would potentially change the distribution of revenue between FY14 and FY15 but the total biennial amount for the General Fund would be unchanged.

Representative Berry asked if the upward revision to the Fund for a Health Maine revenue is due to the conclusion of the recent lawsuit. Mr. Pennoyer answered that there is \$5.6M pending that is not recognized in the forecast. The State prevailed in its suit; however, the unsuccessful states are seeking a stay on the release of those funds. No resolution has been reached yet. Representative Berry then asked if the \$2.6M was due entirely to other reasons. Mr. Pennoyer reported that the forecast is based on the effect of using the more positive past revenue experience above what was previously budgeted, outweighing the generally negative effects from the slower economic growth projected in the economic forecast. This was particularly true for the major tax lines, the sales and income taxes.

Senator Katz asked whether he was correct in understanding that the forecast projects \$12.8M more revenue in the current fiscal year than was budgeted earlier. Mr. Pennoyer concurred.

### Interim Legislative Studies Report

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

agenda materials.) She reported that most study commissions have been meeting and some have completed their meetings. The Commission to Study Transparency Costs and Accountability of Health Care System Finance and the Commission to Develop a Competitive Bidding Process for the Operation of Additional Casinos or Slot Machine Facilities have completed their meetings and are preparing their reports. The Maine's Workforce & Economic Future Committee has concluded its four meetings and the Veterans and Legal Affairs Committee has concluded its work as well.

Senator Katz asked when the reports from the BETR/BETE Committee and the Nonprofit Tax Review Task Force will be released. Ms. Hylan Barr responded that she would check on the status of them.

## REPORTS FROM COUNCIL COMMITTEES

### 1. Personnel Committee

No report

### 2. State House Facilities Committee

No report

## OLD BUSINESS

### Item #1: Memorandum of Understanding between Maine Public Broadcasting Network and Maine Legislative Council for Broadcasting Legislative Proceedings

**Motion:** That the Legislative Council approve the Renewed Memorandum of Understanding between Maine Public Broadcasting Network and Maine Legislative Council for Broadcasting Legislative Proceedings, subject to MPBN's submission of an updated equipment listing as required by Attachment B-1 of the MOU, and authorize the Executive Director to enter into the MOU once that information has been received. Motion by Representative Berry. Second by Senator Haskell. **Motion passed (7-0-0-3, with Senator Thibodeau, Representatives Fredette and Willette absent).**

## ANNOUNCEMENTS AND REMARKS

With no other business to consider or announcements, the Legislative Council meeting was adjourned at 3:01 p.m.