

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SEN. MICHAEL D. THIBODEAU
CHAIR

REP. MARK W. EVES
VICE-CHAIR

EXECUTIVE DIRECTOR
GRANT T. PENNOYER



127TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. GARRETT P. MASON
SEN. ANDRE E. CUSHING
SEN. JUSTIN L. ALFOND
SEN. DAWN HILL
REP. JEFFREY M. MCCABE
REP. SARA GIDEON
REP. KENNETH W. FREDETTE
REP. ELEANOR M. ESPLING

**127th Legislature
Legislative Council**

**January 8, 2015
12:00 PM**

REVISED AGENDA

<u>Page</u>	<u>Item</u>	<u>Action</u>
	CALL TO ORDER	
	ROLL CALL	
1	SUMMARIES OF THE NOVEMBER 25, 2014 AND DECEMBER 3, 2014 MEETINGS OF THE LEGISLATIVE COUNCIL	Acceptance
	REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS	
❖ 16	<ul style="list-style-type: none">Executive Director's Report (Mr. Pennoyer)	Information
17	<ul style="list-style-type: none">Fiscal Report (Mr. Nolan)	Information
22	<ul style="list-style-type: none">Interim Studies Report (Ms. Hylan Barr)	Information
	REPORTS FROM COUNCIL COMMITTEES	
	<ul style="list-style-type: none">Personnel Committee<ul style="list-style-type: none">Appointment of LIT Director	Decision
	<ul style="list-style-type: none">State House Facilities Committee No report	
	OLD BUSINESS	
25	Item #1: Council Actions Taken By Ballot (No Action Required)	Information
	NEW BUSINESS	
26	Item #1: Request for a display of the Living Memorial from the Summit Project to be held in the Hall of Flags (Rep. Golden)	Decision

29	Item #2:	2015 Youth in Government Program (Request by State YMCA of Maine for Program Dates of November 13, 14 and 15, 2015)	Decision
30	Item #3:	Submission of the Final Report of the Commission to Study College Affordability and Completion	Acceptance
37	Item #4:	Submission of the First Annual Report of the State Education and Employment Outcomes Task Force	Acceptance
40	Item #5:	Submission of the Final Report of the Commission on Independent Living and Disability	Acceptance
❖ 47	Item #6:	Submission of the Ninth Annual Report of the Right to Know Advisory Committee	Acceptance

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

SEN. MICHAEL D. THIBODEAU
CHAIR

REP. MARK W. EVES
VICE-CHAIR

EXECUTIVE DIRECTOR
GRANT T. PENNOYER



127TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. GARRETT P. MASON
SEN. ANDRE E. CUSHING
SEN. JUSTIN L. ALFOND
SEN. DAWN HILL
REP. JEFFREY M. MCCABE
REP. SARA GIDEON
REP. KENNETH W. FREDETTE
REP. ELEANOR M. ESPLING

**LEGISLATIVE COUNCIL
MEETING SUMMARY
November 25, 2014**

CALL TO ORDER

Legislative Council Chair Mark Eves called the November 25, 2014 Legislative Council meeting to order at 1:51 p.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, and Representative McCabe
Absent:	Representative Fredette
Legislative Officers:	Robert Hunt, Clerk of the House pro tem Grant Pennoyer, Executive Director Dawna Lopatosky, Legislative Finance Director Jackie Little, Human Resources Director Maureen Dawson, Acting Director, Office of Fiscal and Program Review Marion Hylan Barr, Director, Office of Policy and Legal Analysis Suzanne Gresser, Revisor of Statutes John Barden, Director, Law and Legislative Reference Library Nik Rende, Acting Director, Legislative Information Technology Beth Ashcroft, Director, OPEGA

Speaker Eves convened the meeting at 1:51 p.m. with a quorum of members present.

SUMMARY OF OCTOBER 23, 2014 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary for October 23, 2014 be accepted and placed on file. Motion by President Alfond. Second by Representative Berry. **Motion passed unanimous (8-0-0-1, with Representative Fredette absent).**

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

Grant Pennoyer, Executive Director, reported on the following:

1. Dome Project Completed

Final work on the State House Dome has concluded. The final portions of the staging, namely the stair tower, will be taken down this week. Some minor repairs to the roof from the dome work and staging are required. Next year's major project includes replacing the EPDM (rubber) roof on the State House now that the dome project is complete.

2. YMCA Youth in Government Program

The State YMCA of Maine held its annual civic education program on legislating for high school youth in the State House on Friday through Sunday, November 14-16, 2014. According to the program director, this year's program was its most successful.

3. West Wing Plumbing Issues

Work has concluded on fixing several leaking pipes and fittings in the West Wing of the State House. These plumbing projects and related cosmetic fixes are finishing up this week. The areas affected included the Legislative Conference, the Welcome Center, the State House Café, the Governor's Office (staff offices above the welcome center and conference room) and the Governor's Cabinet room. Heating to those areas has been restored. We are currently investigating another potential leak coming from above the 4th floor of the West Wing that may affect the Criminal Justice and Public Safety Committee Room, the House Republican Office and the portion of the Governor's Office below the House Republican Office.

4. Installation of Backup Cooling System for Computer Server Room

Work to connect a backup cooling system for the Computer Server Room on the 1st floor of the State House is in progress. The most disruptive work affecting the 1st floor ladies room and the hallway outside the ladies room is nearly complete. The remainder of the work will be in the computer server room, when the unit arrives.

5. Fire Sprinkler System Leak on Second Floor of State House

During a charging of the fire system this morning when the fire alarm system went off, the fire sprinkler system released a significant amount of water into the ceiling of Room 221 of the State House, which houses the Governor's Office staff. There is significant water damage from this leak and it is affecting the Legislative Information Office, which is immediately below Room 221. We are still assessing the cause of the leak and the resulting damage and will keep you and the Governor's Office informed.

Representative Berry announced that on November 19, 2014, the Legislative Council received the 2014 Honor Award for Restoration from Maine Preservation for its work on the State House Dome.

Senator Katz asked about a photographic record of the dome project. Mr. Pennoyer reported that the Maine State Archives has a record and is planning a display.

Fiscal Report

Maureen Dawson, Acting Director, Office of Fiscal and Program Review, reported on the following:

General Fund Revenue Update

Total General Fund Revenue - FY 2015 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
October	\$266.0	\$283.8	\$17.7	6.7%	\$258.4	9.8%
FYTD	\$941.1	\$968.7	\$27.6	2.9%	\$880.5	10.0%

General Fund revenue was over budget by \$17.7 million (6.7%) for October which added to the fiscal year to date positive variance. This positive variance is largely due to a \$13.5 million positive variance in the individual income tax category driven by lower than expected refunds and higher payments than expected payments from those who had filed for extensions back in April submitted their final returns. Withholding is still slightly under budget but the Maine Revenue Service said that this is still likely still due to a timing issue related to the monthly distribution of the total budget and not indicative of an underlying weakness in the forecast. The estate tax category came in significantly over budget again in October. This is a relatively volatile category which had shown some weakness in the recent past - so the performance over the past two months is likely to be a case of rebounding toward the mean.

Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2015 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
October	\$27.6	\$27.8	\$0.2	0.8%	\$27.9	-0.4%
FYTD	\$89.2	\$91.8	\$2.6	2.9%	\$90.7	1.2%

Highway Fund revenue was over budget by \$0.2 million (0.8%) in October and which improves the picture for the fiscal year to date from what it was a month ago. The motor fuel excise taxes show a positive variance year-to-date but are about even with one year ago. This indicates that even with falling gas prices, usage is fairly flat. According to most other state and federal estimates, usage is likely to stay flat or grow very slightly for the near term which would be an improvement over the slight decline assumed in prior Maine revenue forecasts.

Cash Balances Update

Cash balances continue to improve by every measure. Total average cash pool balance in October was higher than the previous month; higher than in October of 2012 and 2013; and higher than the average October balance for the past ten years. General Fund internal borrowing was lower in October than it was last month and in the prior two Octobers. The average Highway Fund balance in October also improved over the prior month and over the past two Octobers.

Ms. Dawson also gave an update on the December Revenue Forecasting as follows:

Revenue Update

PRELIMINARY General Fund Summary (Millions of \$'s)

	FY14 Actual	FY15	FY16	FY17	FY18	FY19
Current Forecast	\$3,113.5	\$3,247.3	\$3,146.3	\$3,261.6		
Annual % Growth	0.6%	4.3%	-3.1%	3.7%		
Net Increase (Decrease)		\$45.3	\$28.1	\$38.9	\$3,408.9	\$3,523.7
Revised Forecast	\$3,113.5	\$3,292.6	\$3,174.4	\$3,300.5	\$3,408.9	\$3,523.7
Annual % Growth	0.6%	5.8%	-3.6%	4.0%	3.3%	3.4%

General fund revenue estimates were revised upward by \$45.2 million in the current fiscal year, by \$28.1 million in FY16 and \$38.9 million in FY17 (\$67.0 million over the 2016-2017 biennium). The Consensus Economic Forecasting Commission (CEFC) assumes the economy will grow at a slightly higher pace relative to previous forecasts. This, coupled with a stronger than expected revenue picture in FY14, resulted in an increase in forecasted revenue in FY15 and in the next biennium.

Highway Fund Revenue Update

PRELIMINARY Highway Fund Summary (Millions of \$'s)

	FY14 Actual	FY15	FY16	FY17	FY18	FY19
Current Forecast	\$317.1	\$308.6	\$308.2	\$307.8		
Annual % Growth	-0.5%	-2.7%	-0.1%	-0.1%		
Net Increase (Decrease)		\$7.4	\$10.8	\$14.7	\$325.7	\$328.7
Revised Forecast	\$317.1	\$316.0	\$319.0	\$322.6	\$325.7	\$328.7
Annual % Growth	-0.5%	-0.3%	1.0%	1.1%	1.0%	1.0%

Highway fund revenue estimates were revised upward by \$7.4 million in the current fiscal year, by \$10.8 million in FY16 and by \$14.7 million in FY17 (\$25.5 million over the 2016-2017 biennium). The changes are largely driven by total motor fuel tax revenue being over budget in FY14 combined with an increased growth projection.

Fund for a Healthy Maine

PRELIMINARY Fund for a Healthy Maine Summary (Millions of \$'s)

	FY14 Actual	FY15	FY16	FY17	FY18	FY19
Current Forecast	\$60.6	\$60.7	\$54.7	\$54.3		
Annual % Growth	18.8%	0.2%	-9.9%	-0.8%		
Net Increase (Decrease)		(\$7.6)	(\$1.0)	(\$1.6)	\$48.3	\$47.4
Revised Forecast	\$60.6	\$53.1	\$53.7	\$52.7	\$48.3	\$47.4
Annual % Growth	18.8%	-12.4%	1.2%	-1.8%	-8.3%	-1.8%

Fund for a Healthy Maine revenues are predicted to go up in FY16 then begin to decline. The FY15 drop is mainly due to adjustments for receipt of a payment in FY14 instead of FY15 and an apparent over payment to be refunded in FY15.

MaineCare

PRELIMINARY Medicaid/MaineCare Dedicated Revenue Taxes Summary (Millions of \$'s)

	FY14 Actual	FY15	FY16	FY17	FY18	FY19
Current Forecast	\$168.6	\$169.4	\$169.4	\$169.4		
Annual % Growth	10.0%	0.5%	0.0%	0.0%		
Net Increase (Decrease)		\$2.1	\$2.5	\$2.5	\$171.9	\$171.9
Revised Forecast	\$168.6	\$171.5	\$171.9	\$171.9	\$171.9	\$171.9
Annual % Growth	10.0%	1.7%	0.2%	0.0%	0.0%	0.0%

Medicaid/MaineCare dedicated revenue is expected to increase in FY 15 and FY16 before leveling off mainly due to an assumed increase in MaineCare Nursing Facility payments and trends in Service Provider tax payments to reflect recent payment trends.

Interim Legislative Studies Report

Marion Hylan Barr, Director, Office of Policy and Legal Analysis, reported as to the current status of the interim legislative studies and commissions. (Refer to status report in the agenda materials.) Ms. Hylan Barr reported that most commissions are either meeting or finishing up their work, with reports being prepared. She also brought Members attentions to the requests from two commissions that will be considered under new business.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Legislative Council Chair Eves reported that the Personnel Committee met on November 17, 2014 to consider the following matters:

1. Reappointment of Marion Hylan Barr as Director of the Office of Policy and Legal Analysis to a new 3 year term.

The committee considered the reappointment of Marion Hylan Barr as Director. The committee met with Marion and discussed her accomplishments and challenges during the past 3 years and goals for the upcoming years. The Personnel Committee voted unanimously to recommend that the Legislative Council reappoint Ms. Hylan Barr to a new 3-year term.

Motion: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council appoint Marion Hylan Barr to a new 3-year term as Director of the Office of Policy and Legal Analysis, the date of her reappointment being retroactive to November 21, 2014; and further to approve a step increase in salary from step 6 to step 7 retroactive to the Monday following November 21, 2014. Motion by Speaker Eves. Second by Representative Berry. **Motion passed unanimous (8-0-0-1, with Representative Fredette absent).**

2. Update on Recruitment of Director, LIT

The committee received an update on the recruitment of the Director, Legislative Information Technology position.

3. Personnel Policies for the Legislative Council Employees

The committee reviewed and approved changes to the *Personnel Policies and Guidelines for Legislative Council Employees*. These changes primarily impact the areas of: general employment, disciplinary actions, general standards of employee conduct and performance evaluation.

Motion: That, upon the recommendation of the Personnel Committee, the Legislative Council adopt revisions to the *Personnel Policies and Guidelines for Legislative Council Employees* in the areas of general employment, disciplinary actions, general standards of employee conduct and performance evaluation; and subject to a review by legal counsel. Technical changes required by that review may be implemented by the Executive Director; and further to direct the Executive Director to take all necessary steps to implement these provisions. Motion by Speaker Eves. Second by Senator Katz. **Motion passed unanimous (8-0-0-1, with Representative Fredette absent).**

4. Request to change Compensatory Time/Overtime policy

The committee received a request from Clerk of the House pro tempore Robert Hunt to make changes to the Compensatory Time/Overtime policy. No action on this item was taken by the committee.

5. Recruitment of Director, OFPR

The committee conducted interviews for the position of Director, Office of Fiscal and Program Review. After careful consideration, the committee voted unanimously to recommend that the Legislative Council appoint Christopher Nolan as the director of OFPR. The committee felt that Mr. Nolan exhibits the appropriate combination of education, skills, and experience to successfully lead OFPR. Chris is extremely familiar with the Legislature and its process having worked in OFPR as Analyst for over 13 years. The Personnel Committee believes that Chris'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 OFPR. 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 Mr. Nolan will be an effective director in leading OFPR with skill and insight.

Motion: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council appoint Christopher Nolan of Cumberland as director of the Office of Fiscal and Program Review for a 3-year term, the effective date of his appointment being Monday, December 1, 2014, pursuant to 3 MRSA §162, sub-§6, and that Mr. Nolan's initial salary in the position be established at Salary Grade 14, step 3 of the Legislature's salary schedule; and 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 Fiscal and Program Review. Motion by Speaker Eves. Second by President Alfond. **Motion passed unanimous (8-0-0-1, with Representative Fredette absent).**

2. State House Facilities Committee

No Report

OLD BUSINESS

None

NEW BUSINESS**Item #1: Request for Extension of the November Reporting Deadline**

Mr. Pennoyer reviewed the request from the Commission on Independent Living and Disability to hold a meeting after its current report deadline and to extend its final reporting deadline to December 3, 2014.

Motion: That the Legislative Council approve the request from the Commission on Independent Living and Disability to hold a meeting after its current report deadline and to extend its final reporting deadline to December 3, 2014. Motion by Representative Berry. Second by President Alfond. **Motion passed unanimous (8-0-0-1, with Representative Fredette absent).**

Item #2: Request for Approval of an Additional Meeting

Mr. Pennoyer reviewed the request from the Commission to Study the Effects of Coastal and Ocean Acidification and Its Existing Potential Effects on Species that are Commercially Harvested and Grown along the Maine Coast to hold an additional meeting prior to its final reporting deadline to December 5, 2014.

Motion: That the Legislative Council approve the request from the Commission to Study the Effects of Coastal and Ocean Acidification and Its Existing Potential Effects on Species that are Commercially Harvested and Grown along the Maine Coast to hold an additional meeting Motion by Representative Berry. Second by Senator Katz. **Motion passed unanimous (8-0-0-1, with Representative Fredette absent).**

Item #3: Proposed Document Service Fee Schedule for 127th Legislature, First Regular Session

Mr. Pennoyer reviewed the proposed fee schedule for the Document Service of the Clerk of the House.

Motion: That the Legislative Council approve the Document Service fee schedule for the 127th Legislature, First Regular Session as proposed by the Clerk of the House. Motion by Representative Berry. Second by President Alfond. **Motion passed unanimous (8-0-0-1, with Representative Fredette absent).**

Item #4: Submission of Loring Development Authority of Maine's Annual Report for Fiscal Year 2014

Loring Development Authority of Maine has submitted for acceptance by the Legislative Council its Annual Report for Fiscal Year 2014.

Motion: That the Legislative Council accept the Loring Development Authority of Maine's Annual Report for Fiscal Year 2014 and place it on file. Motion by President Alfond. Second

by Representative Berry. **Motion passed unanimous (8-0-0-1**, with Representative Fredette absent).

Item #5: Submission of the Final Report of the Commission to Continue the Study of Long-term Care Facilities

The Commission to Continue the Study of Long-term Care Facilities has submitted its final report for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the final report of the Commission to Continue the Study of Long-term Care Facilities and place it on file. Motion by Senator Haskell. Second by President Alfond. **Motion passed unanimous (8-0-0-1**, with Representative Fredette absent).

Item #6: Submission of the Final Report of the Maine Health Exchange Advisory Committee

The Maine Health Exchange Advisory Committee has submitted its final report for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the final report of the Maine Health Exchange Advisory Committee and place it on file. Motion by Representative Berry. Second by President Alfond. **Motion passed unanimous (8-0-0-1**, with Representative Fredette absent).

ANNOUNCEMENTS AND REMARKS

Mr. Pennoyer presented its photograph to each of the Members of 126th Legislative Council in recognition of its achievements. Speaker Eves thanked the Members for their good work during his tenure as Chair of the Council. Senator Katz thanked the Speaker for his work as Chair and also expressed his thanks to the staff of the Legislature for their service. Representative Berry shared his good wishes to the Legislature and future Council as he steps down from legislative service

Mr. Pennoyer thanked Maureen Dawson for her tenure as Acting Director, OFPR.

With no other business to consider or announcements, the Legislative Council meeting was adjourned at 2:25 p.m.

SEN. MICHAEL D. THIBODEAU
CHAIR

REP. MARK W. EVES
VICE-CHAIR

EXECUTIVE DIRECTOR
GRANT T. PENNOYER



127TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. GARRETT P. MASON
SEN. ANDRE E. CUSHING
SEN. JUSTIN L. ALFOND
SEN. DAWN HILL
REP. JEFFREY M. MCCABE
REP. SARA GIDEON
REP. KENNETH W. FREDETTE
REP. ELEANOR M. ESPLING

**LEGISLATIVE COUNCIL
MEETING SUMMARY
December 3, 2014**

CALL TO ORDER

Speaker Eves called the December 3, 2014 organizational meeting of the Legislative Council to order at 9:37 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Thibodeau, Senator Mason, Senator Cushing, Senator Alfond and Senator Hill

Representatives: Speaker Eves, Representative McCabe, Representative Gideon, Representative Fredette and Representative Espling

Legislative Officers: Heather Priest, Secretary of the Senate
Robert Hunt, Clerk of the House
Jennifer McGowan, Assistant Clerk of the House
Grant T. Pennoyer, Executive Director of the Legislative Council
Dawna Lopatosky, Legislative Finance Director
Marion Hylan Barr, Director, Office of Policy and Legal Analysis
Chris Nolan, Director, Office of Fiscal and Program Review
Suzanne Gresser, Revisor of Statutes
John Barden, Director, Law and Legislative Reference Library

Speaker Eves convened the meeting at 9:37 p.m. with a quorum of members present.

Speaker Eves, declaring that a quorum was present and pursuant to the Rules of Procedure adopted by the 126th Legislative Council and the Joint Rules adopted by the 127th Maine Legislature, called the first meeting of the 127th Legislative Council to order for the purposes of electing a Chair and a Vice-chair of the Legislative Council, adoption of rules of procedures and such other matters of the Legislative Council.

The Legislative Council's Rules of Procedure prescribe the following with regard to the election of Legislative Council Officers:

Rule #2 provides that the position of Chair alternate in succeeding biennial sessions between a member from the Senate and a member from the House of Representatives. Thus, pursuant to

these Rules, the Chair for this new Legislative Council should be a Legislative Council member who serves in the Maine Senate.

Rule #3 provides that the Vice-chair not be a member of the same body of the Legislature as the Chair. Thus, the Vice-chair for the 127th Legislative Council should be a member who serves in the House of Representatives.

Speaker Eves stated that unless there was objection, the Legislative Council would continue its long-standing practice of conducting the vote by a showing of hands. Upon the election of a chair, the chair will preside over the remainder of this meeting.

Hearing no objection, Speaker Eves opened the floor for nominations for Chair of the Legislative Council.

Nomination: That Senate President Michael Thibodeau of Winterport serve as Chair of the Legislative Council for the 127th Legislature. (Nominated by Senator Mason, seconded by Representative McCabe).

Speaker Eves asked if there were further nominations. Hearing none, Speaker Eves closed the nominations. The vote for Legislative Council Chair was taken. Senate President Thibodeau was elected to serve as Chair of the Legislative Council for the 127th Legislature. Unanimous (9-0-1-0, with Senator Thibodeau abstaining).

President Thibodeau then presided for the remainder of the meeting. President Thibodeau proceeded to open the floor for nominations for Vice-chair of the Legislative Council.

Nomination: That House Speaker Mark Eves of North Berwick serve as Vice-chair of the Legislative Council for the 127th Legislature. (Nominated by Senator Alfond, seconded by Senator Mason).

President Thibodeau asked if there were further nominations. Hearing none, President Thibodeau closed the nominations. The vote for Legislative Council Vice-chair was taken. Speaker Eves was elected to serve as Vice-chair of the Legislative Council for the 127th Legislature. Unanimous (10-0).

ADOPTION OF RULES OF PROCEDURE

Proposed Rules of Procedure for Legislative Council Adoption

Executive Director Pennoyer briefly explained each provision of the suggested *Rules of Procedure* for the Legislative Council of the 127th Legislature, which is based on the rules for the Legislative Council of the 126th Legislature.

Motion: That the Legislative Council adopt the proposed Rules of Procedure for the Legislative Council of the 127th Legislature. Motion by Senator Cushing. Second by Senator Alfond. **Motion passed unanimously (10-0).**

[Note: A copy of the Rules of Procedure as adopted by the Legislative Council is attached.]

OLD BUSINESS

None

NEW BUSINESS

Item #1: Summary of Legislative Council Authority and Duties

Mr. Pennoyer gave an overview of the authority and duties of the Legislative Council as set forth in Maine law. No action by the Legislative Council was required.

Item #2: Establishment of Salaries for Constitutional Officers and the State Auditor

One of the initial decisions required of the Legislative Council once a new Legislature is convened is the assignment of the salary for newly elected Constitutional Officers and a newly elected State Auditor. State law prescribes the salary grade and the initial salary step for each official.

Motion: That the Legislative Council establish the initial salary for the State Treasurer at Step 3 of Salary Grade 88; and authorize a one-step step increase from Step 4 to Step 5 for the Secretary of State, and a one-step step increase from Step 6 to Step 7 for the Attorney General as well as the State Auditor. Motion by Speaker Eves. Second by Senator Alfond. **Motion passed unanimously (10-0).**

Item #3: Establishment of Initial Salaries for Secretary of the Senate and Clerk of the House

Another initial decision required of the Legislative Council once a new Legislature is convened is establishing the initial salary for a newly elected Secretary of the Senate and a newly elected Clerk of the House. State law also prescribes the salary grade and the initial salary options for each of the Legislative officials. Both the Secretary of the Senate and the Clerk of the House were newly elected at the convening of the 127th Legislature, and as such, the Legislative Council must establish their initial salaries.

Motion: That the Legislative Council establish the initial salaries for the Secretary of the Senate and the Clerk of the House at Step 2 of Salary Grade 14 of the Legislature's salary schedule, in accordance with State law. Motion by Senator Mason. Second by Senator Alfond. **Motion passed unanimously (10-0).**

Item #4: Legislative Council Policy on Processing Closely-Related Legislator Bill Requests

Revisor Suzanne Gresser explained that in past sessions, the Legislative Council has established a policy whereby the Office of the Revisor of Statutes was directed to combine legislator bill requests for duplicate or closely related bills (Joint Rule 206). This provision of Joint Rule 206 has existed since the 118th Legislature.

Joint Rule 206, Section 2 provides that:

For duplicate or closely related bills or resolves, the Legislative Council may establish a policy for combination of requests and the number of cosponsors permitted on combined requests.

Before the above language was adopted by the 118th and subsequent legislatures, every bill was simply processed and printed without regard to whether it was closely related to another. Since the advent of the rule, however, each Legislative Council has used its authority to direct that the Revisor's Office in some manner combine closely related bills in order to facilitate the efficient processing of bills.

When the 124th Legislature adopted a cloture deadline of mid-January, the process was modified slightly in order to allow the printing of some bills in advance of the later cloture deadline. The Legislative Council of the 124th Legislature directed the Revisor's Office to make reasonable efforts to identify duplicate bills as the office processed them before cloture and to notify sponsors as in the past, setting up primary and "mandatory" cosponsors. The Council recognized that by printing bills prior to cloture, a number of potential duplicates would not be identified and combined; however, the Council did not want to suspend the printing of bills until after the cloture date because it would not further the Legislature's goal of expeditious processing and printing of bills.

Because the cloture deadline of the 127th Legislature is January 2, 2015, in order to facilitate the expeditious processing of bills in the same manner as was done in the first regular sessions of the 124th, 125th and 126th legislatures, Ms. Gresser recommended that the Legislative Council adopt the process that was established by the 124th, 125th and 126th legislatures.

Motion: That the Legislative Council adopt the Policy on Processing of Closely-Related Legislator Bill Requests recommended by the Revisor for the 127th Legislature. Motion by Senator Cushing. Second by Speaker Eves. **Motion passed unanimously (10-0).**

Item #5: Legislative Council meeting schedule for 2015

Mr. Pennoyer reviewed the proposed Legislative Council meeting schedule for 2015.

Motion: That the Legislative Council adopt the proposed Legislative Council meeting schedule for 2015. Motion by Speaker Eves. Second by Senator Mason. **Motion passed unanimously (10-0).**

ANNOUNCEMENTS AND REMARKS

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 9:53 p.m.



127TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

MAINE LEGISLATIVE COUNCIL
127th LEGISLATURE

RULES OF PROCEDURE

Approved December 3, 2014

1. **Organizational Meeting:** The Speaker of the House shall call the biennial organizational meeting of the Legislative Council into session in December following the convening of the new Legislature and shall preside until the election of the chair of the Legislative Council.
2. **Chair:** At its organizational meeting, the Legislative Council shall elect a chair, who shall preside at all meetings of the council when he or she is present. The position of Legislative Council chair must alternate in succeeding biennial sessions between a member from the Senate and a member from the House of Representatives. Therefore, for the 127th Legislature, the chair must be a Senator.
3. **Vice Chair:** The Legislative Council shall elect a vice-chair who shall serve as chair in the absence of the chair. The vice-chair may not be a member of the same chamber of the Legislature as that of the chair.
4. **Quorum:** The Legislative Council may conduct business only when a quorum of members is present, which consists of six (6) members. Any action of the council requires the affirmative votes of not less than 6 members.
5. **Meetings:** The meeting schedule for the Legislative Council is determined by the call of the chair for the 127th Legislature or by a majority vote of the council. The council shall meet at least once per month, on a regular schedule.
6. **Meeting Room and Location:** The official meeting location of the Legislative Council is the Legislative Council Chamber, Room 334, in the State House, and the chair shall convene all meetings there unless an alternative location is specified in the call of the meeting. Meetings of the Legislative Council or its committees take precedence over all other functions in the Legislative Council Chamber.

The Legislative Council Chamber may not be used for press conferences or other media events; however, the chair of the Legislative Council or the Executive Director, if delegated by the chair, may authorize an exception when the chair determines that such use is appropriate and will not interfere with legislative activities.

7. **Meeting Notice:** The chair or designee shall issue written calls for all regular and special meetings of the Legislative Council. The call must give the date, time, and place of the meeting and such other information as the chair directs.
8. **Public Meetings:** All meetings of the Legislative Council are public meetings except for executive sessions; the council may not take any final action in an executive session.
9. **Council Committees:** The chair shall make all appointments to committees established by the Legislative Council. Each committee must include at least three council members and must have representation from each of the two major political parties. At a minimum, the council shall establish the committees of Personnel, State House Facilities and the Legislative Budget Subcommittee.
10. **Approval of Step Increases:** All step increases that require a vote of the Legislative Council during the 127th Legislature are approved for the term of this council if, after review, a majority of the Personnel Committee approves the step increases.
11. **Council Agenda and Records:** The Executive Director of the Legislative Council shall prepare, in consultation with the chair, meeting notices and a council agenda in advance of each meeting. The executive director shall also maintain an accurate, permanent public record of all meetings, proceedings and votes of the Legislative Council.
12. **Order of Business:** The regular order of business of the Legislative Council is:
 1. Call to Order
 2. Roll Call
 3. Summary of Previous Council Meeting
 4. Reports from the Executive Director and Staff Office Directors
 5. Reports from Council Committees
 6. Old Business
 7. New Business
 8. Announcements and Remarks
 9. Adjournment

Items not on the Legislative Council's agenda may be considered only by leave of the council's presiding officer or by a majority vote of the Legislative Council.

13. **Circulation of Ballots:** The chair and the vice-chair, jointly, may authorize a Legislative Council member to circulate a ballot for Legislative Council action when they determine that the matter to be voted on must be decided before the next regular meeting of the council. The executive director shall prepare all ballots authorized for circulation among council members and shall certify votes taken by ballot. Each member of the Legislative Council must be presented with the ballot and given an opportunity to vote on the ballot.

If a member is unable to vote on a ballot by virtue of his or her absence from the State House, the member may authorize the Executive Director to record and attest to his or her vote. Upon certification of the votes on a ballot, the executive director will report the results of the voting to the members of the Legislative Council. In addition, actions taken by Legislative Council ballot must be reported at the next or following regular meeting of the council.

14. **Roll Call Votes:** Votes requiring a roll-call shall be made by the executive director calling the roll, a showing of hands or by electronic tabulation as long as the matter being voted on, how each member voted and the results of the vote are accurately determined and recorded. The executive director shall announce the vote following a roll-call. All decisions of the Legislative Council regarding the introduction of bills or other measures must be by a roll-call vote.
15. **Statements to News Organizations:** Only the chair of the Legislative Council, executive director or persons specifically authorized by the chair may make official statements to news organizations or to the public on behalf of or representing the Legislative Council.
16. **Rules of Order:** The Legislative Council's presiding officer shall conduct the proceedings of the council in accordance with Robert's Rules of Order except as otherwise specified in the council's own rules or by law.
17. **Amendments to Rules:** The Legislative Council may amend these rules, with the exception of Rules 2 and 4, upon a two-thirds vote of the Council members present and voting, provided that a vote to amend is by at least six affirmative votes. Rules 2 and 4 may not be amended during the term of the 127th Legislative Council unless otherwise changed by law.
18. **Decisions Affecting Capitol Park:** Any action affecting Capitol Park, be it a temporary or permanent alteration or change in use, must be approved by a majority of the Council, consistent with these rules and 3 MRSA §162(17). Prior to a final decision on any proposal affecting Capitol Park, the Council or its executive director shall consult with the State House and Capitol Park Commission.

Adopted by the Legislative Council of the 127th Maine Legislature on December 3, 2014 at Augusta, Maine.

By:


Grant T. Pennoyer, Executive Director of the Legislative Council

SEN. MICHAEL D. THIBODEAU
CHAIR

REP. MARK W. EVES
VICE-CHAIR

EXECUTIVE DIRECTOR
GRANT T. PENNOYER



127TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. GARRETT P. MASON
SEN. ANDRE E. CUSHING
SEN. JUSTIN L. ALFOND
SEN. DAWN HILL
REP. JEFFREY M. MCCABE
REP. SARA GIDEON
REP. KENNETH W. FREDETTE
REP. ELEANOR M. ESPLING

Legislative Council

Executive Director's Report January 8, 2015

1. Heating and Plumbing Issues

Work is nearing completion on addressing a few remaining leaks in the heating system in the West Wing of the State House and in the Office of Legislative Information Technology. The areas of the West Wing that are affected include the Assistant Republican Leader's Office and one heating unit in the Legislative Conference Room. The hot water supply valves to those areas have been turned off. With these valves turned off, there has been a significant improvement in the pressure in the State House heating system, indicating that these leaks were the most significant of the current plumbing problems.

2. Installation of Backup Cooling System for Computer Server Room

We are still waiting for the backup cooling system for the Computer Server Room to arrive. Electrical work and additional plumbing have been completed and made ready for the unit to arrive. Fortunately, we have not experienced an issue with existing cooling units that ironically can happen when we have extremely cold weather.

3. Status of Bills Filed for the First Regular Session

Of the nearly 1700 bills filed by Legislators by the cloture deadline, approximately 150 have been voided or withdrawn, leaving approximately 1540 legislator bills. There are approximately 140 other bills in the mix, which include about 120 bills filed by departments and agencies and about 20 others that are filed pursuant to statute or law. The current total (still subject to change) is slightly below the 126th Legislature's numbers. The Office of the Revisor of Statutes (ROS) has concluded work on indexing all of these bills (in record time). Before they post the official list on the Legislative Information Office's website, Legislators have received lists of their bills to confirm that they indeed are planning to sponsor the bills. ROS will notify the Council and their Chiefs of Staff that the posting of the list is imminent. This posting is projected to be sometime early next week.

4. Orientation/Training Sessions for Committee Chairs/Leads and New Members

Next Tuesday afternoon, January 13th, the National Conference of State Legislatures (NCSL) has put together two concurrent orientation/training sessions, one for new members and one for Committee Chairs and Minority Leads. Agendas for both these events were released today.

Fiscal Briefing

Legislative Council Meeting – January 8, 2015

Prepared by the Office of Fiscal & Program Review

1. General Fund Revenue Update (see attached)

Total General Fund Revenue - FY 2015 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
November	\$235.1	\$239.2	\$4.1	1.7%	\$227.2	5.3%
FYTD	\$1,176.3	\$1,208.0	\$31.7	2.7%	\$1,107.6	9.1%

General Fund revenue was over budget by \$4.1 million (1.7%) for November, increasing the positive variance of the fiscal year through November to \$31.7 million (2.7%). These positive variances do not reflect the December revenue forecast, which increased budgeted revenue for FY 2015 by \$45.5 million.

Individual income tax revenue was \$4.1 million over budget for the month of November driven largely by lower than expected refunds. The sales and use tax category came in \$3.2 million over budget. Total taxable sales for the month of October (November revenue) were 6.6% higher than October 2013. The decreased energy prices are fueling consumer confidence and helping this category. These positive variances were partially offset by a negative variance of \$4.1 million in corporate income tax receipts caused by higher than expected refunds and lower than expected final payments from audits. This negative variance is expected to even out over the coming months, as final payments from audits are difficult to forecast on a monthly basis.

Preliminary December 2014 revenue (even when compared to the December 2014 forecast) continues to be strong. Preliminary sales tax collections are on target with the new forecast. December sales tax collections are based upon November sales, so it remains to be seen how the low energy prices affected holiday sales.

2. Highway Fund Revenue Update (see attached)

Total Highway Fund Revenue - FY 2015 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
November	\$28.5	\$29.1	\$0.6	2.1%	\$29.7	-2.2%
FYTD	\$117.7	\$120.9	\$3.2	2.7%	\$120.5	0.3%

Highway Fund revenue was over budget by \$0.6 million (2.1%) in November and by \$3.2 million (2.7%) for the fiscal year through November. The FY 2015 \$7.5 million increase in Highway Fund budgeted revenue in the December revenue forecast is not yet reflected.

Motor fuel excise taxes continue to exceed budget. Through the first five months of the fiscal year motor fuel excise taxes are \$1.9 million over budget. Compared to the first five months of Fiscal Year 2014, motor fuel excise tax receipts have increased by .4%. Continued decreased fuel prices compared to last fiscal year are contributing to higher revenues in this category.

Preliminary December 2014 motor fuel tax revenue collections (even when compared to the December 2014 forecast) continue their strong performance. Long-term trailer revenue continues to perform well. This category, although over budget, was not adjusted in the last forecast. Trailer renewals are due in January, so it remains to be seen whether or not companies will opt to renew all trailers or decide to scale back. This line will be reevaluated during the next revenue forecast.

3. Cash Balances Update

November cash balances while down somewhat from October continue to remain strong. November's total cash balance of \$623.3 million is well above both last year's balance through November of \$440.4 million and the ten-year average through November of \$482.9 million. General Fund internal borrowing was higher in November than it was last month but was still significantly lower than the prior two Novembers. The average Highway Fund balance in November improved over the prior month and over the past two Novembers.

4. MaineCare

Total MaineCare weekly cycle spending (state and federal dollars) had been tracking closely to spending for a comparable period last fiscal year but in recent weeks has started to trend up. Even with this step up in overall spending, General Fund MaineCare spending through five months appears to be remaining below FY 2014 levels. MaineCare caseloads continue to trend downward driven largely by individuals who lost coverage over the last year or so, now losing the transitional coverage they had maintained for up to one year after first losing eligibility. Moving forward, the negative trend in MaineCare General Funding spending through five months will need to be maintained in order to stay within budgeted resources for the MaineCare program for the current fiscal year.

General Fund Revenue
Fiscal Year Ending June 30, 2015 (FY 2015)
November 2014 Revenue Variance Report

Revenue Category	November '14			Fiscal Year-To-Date			FY 2015 Budgeted Totals
	Budget	Actual	Variance	Budget	Actual	Variance	
Sales and Use Tax	93,406,163	96,557,998	3,151,835	452,121,560	451,267,328	(854,232)	1,187,737,653
Service Provider Tax	4,178,671	4,079,001	(99,670)	16,359,573	16,794,183	434,610	50,303,776
Individual Income Tax	112,033,333	116,100,502	4,067,169	532,501,666	543,189,916	10,688,250	1,455,836,200
Corporate Income Tax	3,500,000	(573,489)	(4,073,489)	49,500,000	49,868,219	368,219	177,651,225
Cigarette and Tobacco Tax	11,933,940	11,186,139	(747,801)	60,074,019	61,292,965	1,218,946	133,590,000
Insurance Companies Tax	4,933,063	4,209,049	(724,014)	13,000,763	13,337,789	337,026	80,715,000
Estate Tax	2,255,000	616,802	(1,638,198)	6,660,000	18,150,042	11,490,042	26,957,040
Other Taxes and Fees *	7,819,122	7,361,206	(457,916)	51,476,597	54,953,690	3,477,093	132,978,084
Fines, Forfeits and Penalties	1,687,835	1,210,031	(477,804)	9,919,216	9,268,140	(651,076)	23,421,666
Income from Investments	77	35,846	35,769	67,237	139,489	72,252	93,858
Transfer from Lottery Commission	4,442,343	4,916,442	474,099	23,222,304	22,762,409	(459,895)	57,350,462
Transfers to Tax Relief Programs *	(9,933,368)	(3,096,147)	6,837,221	(20,659,421)	(15,876,786)	4,782,635	(58,183,362)
Transfers for Municipal Revenue Sharing	(5,355,295)	(5,857,912)	(502,617)	(21,879,232)	(23,039,863)	(1,160,631)	(61,066,238)
Other Revenue *	4,221,560	2,478,595	(1,742,965)	3,907,836	5,844,444	1,936,608	39,939,411
Totals	235,122,444	239,224,064	4,101,620	1,176,272,118	1,207,951,966	31,679,848	3,247,324,775

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

General Fund Revenue
Fiscal Year Ending June 30, 2015 (FY 2015)
November 2014 Revenue Variance Report

Revenue Category	November '14			Fiscal Year-To-Date			FY 2015 Budgeted Totals
	Budget	Actual	Variance	Budget	Actual	Variance %	
Detail of Other Taxes and Fees:							
- Property Tax - Unorganized Territory	0	0	0	10,571,602	11,203,639	632,037 6.0%	13,949,984
- Real Estate Transfer Tax	1,282,389	1,389,934	107,545	5,494,839	5,408,873	(85,966) -1.6%	13,042,455
- Liquor Taxes and Fees	1,751,304	1,583,825	(167,479)	8,756,520	10,185,187	1,428,667 16.3%	21,015,690
- Corporation Fees and Licenses	155,400	152,956	(2,445)	1,165,250	1,376,009	210,759 18.1%	8,313,649
- Telecommunication Excise Tax	0	0	0	0	52,290	N/A	9,200,000
- Finance Industry Fees	1,987,667	1,501,690	(485,977)	9,938,335	10,548,590	610,255 6.1%	24,351,990
- Milk Handling Fee	92,164	93,651	1,487	460,820	453,359	(7,461) -1.6%	1,105,968
- Racino Revenue	680,374	476,458	(203,916)	4,190,844	3,766,089	(424,755) -10.1%	9,256,406
- Boat, ATV and Snowmobile Fees	162,230	134,385	(27,845)	1,563,326	1,494,072	(69,254) -4.4%	4,523,561
- Hunting and Fishing License Fees	846,974	980,265	133,291	6,377,108	7,096,848	719,740 11.3%	16,038,274
- Other Miscellaneous Taxes and Fees	860,620	1,048,043	187,423	2,957,953	3,368,734	410,781 13.9%	12,180,107
Subtotal - Other Taxes and Fees	7,819,122	7,361,206	(457,916)	51,476,597	54,953,690	3,477,093 6.8%	132,978,084
Detail of Other Revenue:							
- Liquor Sales and Operations	811,945	(798,480)	(1,610,425)	4,059,725	3,808,072	(251,653) -6.2%	9,743,384
- Targeted Case Management (DHHS)	190,571	382,972	192,401	935,840	1,180,377	244,537 26.1%	2,103,916
- State Cost Allocation Program	1,185,903	1,499,443	313,540	6,485,955	9,153,549	2,667,594 41.1%	15,000,000
- Unclaimed Property Transfer	0	0	0	0	0	N/A	6,015,000
- Tourism Transfer	0	0	0	(11,659,067)	(11,624,127)	34,940 0.3%	(11,659,067)
- Transfer to Maine Milk Pool	0	0	0	(187,155)	0	187,155 100.0%	(563,777)
- Transfer to STAR Transportation Fund	0	0	0	(6,187,481)	(7,066,534)	(879,053) -14.2%	(6,187,481)
- Other Miscellaneous Revenue	2,033,141	1,394,560	(638,481)	10,460,019	10,393,108	(66,911) -0.6%	25,487,436
Subtotal - Other Revenue	4,221,560	2,478,595	(1,742,965)	3,907,836	5,844,444	1,936,608 49.6%	39,939,411
Detail of Transfers to Tax Relief Programs:							
- Me. Resident Prop. Tax Program (Circuitbreaker)	0	265	265	0	2,885	2,885 N/A	0
- BETR - Business Equipment Tax Reimb.	(5,881,894)	(3,096,412)	2,785,482	(16,573,882)	(15,849,998)	723,884 4.4%	(31,080,000)
- BETE - Municipal Bus. Equip. Tax Reimb.	(4,051,474)	0	4,051,474	(4,085,539)	(29,673)	4,055,866 99.3%	(27,103,362)
Subtotal - Tax Relief Transfers	(9,933,368)	(3,096,147)	6,837,221	(20,659,421)	(15,876,786)	4,782,635 23.1%	(58,183,362)
Inland Fisheries and Wildlife Revenue - Total	1,072,799	1,189,816	117,017	8,301,727	9,016,609	714,882 8.6%	21,470,489

Highway Fund Revenue

Fiscal Year Ending June 30, 2015 (FY 2015)

November 2014 Revenue Variance Report

Revenue Category	November '14			Fiscal Year-To-Date				FY 2015 Budgeted Totals
	November '14 Budget	November '14 Actual	November '14 Variance	Budget	Actual	Variance	% Variance	
Fuel Taxes:								
- Gasoline Tax	16,523,647	17,112,911	589,264	70,091,242	71,683,064	1,591,822	2.3%	189,910,000
- Special Fuel and Road Use Taxes	3,902,899	3,916,671	13,772	15,292,364	15,863,675	571,311	3.7%	42,610,000
- Transcap Transfers - Fuel Taxes	(1,501,000)	(1,539,059)	(38,059)	(7,834,460)	(7,987,644)	(153,184)	-2.0%	(17,082,820)
- Other Fund Gasoline Tax Distributions	(413,207)	(425,869)	(12,662)	(2,174,140)	(2,211,845)	(37,705)	-1.7%	(4,749,079)
Subtotal - Fuel Taxes	18,512,339	19,064,654	552,315	75,375,006	77,347,250	1,972,244	2.6%	210,688,101
Motor Vehicle Registration and Fees:								
- Motor Vehicle Registration Fees	4,141,268	3,650,865	(490,403)	27,027,097	26,699,927	(327,171)	-1.2%	65,659,536
- License Plate Fees	250,044	255,069	5,025	1,458,983	1,586,356	127,373	8.7%	3,351,681
- Long-term Trailer Registration Fees	514,340	707,052	192,712	2,025,280	3,030,406	1,005,126	49.6%	9,384,523
- Title Fees	942,871	795,558	(147,313)	5,261,961	5,362,415	100,454	1.9%	13,129,254
- Motor Vehicle Operator License Fees	545,995	493,188	(52,807)	3,082,841	3,126,562	43,721	1.4%	7,425,882
- Transcap Transfers - Motor Vehicle Fees	0	10	10	(4,231,172)	(4,265,770)	(34,598)	-0.8%	(15,483,404)
Subtotal - Motor Vehicle Reg. & Fees	6,394,518	5,901,742	(492,776)	34,624,990	35,539,896	914,906	2.6%	83,467,472
Motor Vehicle Inspection Fees	287,365	(198)	(287,563)	1,455,033	938,414	(516,620)	-35.5%	2,982,500
Other Highway Fund Taxes and Fees	108,732	94,559	(14,173)	552,904	551,495	(1,409)	-0.3%	1,285,229
Fines, Forfeits and Penalties	100,877	79,425	(21,452)	465,791	451,961	(13,830)	-3.0%	1,007,998
Interest Earnings	9,419	7,969	(1,450)	47,095	33,653	(13,442)	-28.5%	113,022
Other Highway Fund Revenue	3,055,354	3,907,937	852,583	5,142,301	5,996,891	854,590	16.6%	9,032,418
Totals	28,468,604	29,056,088	587,484	117,663,120	120,859,558	3,196,438	2.7%	308,576,740

2014 Interim Legislative Studies and Committee Meetings

Updated December 31, 2014

Study/Committee	Citation	2014 Meetings Authorized	2014 Meetings Held	Scheduled Next Meeting Date(s)	Report Date	Chair(s)	Status Notes
NEW STUDIES							
Task Force To End Student Hunger in Maine	Resolve 107	5	7/7/14 8/11/14 9/9/14 10/6/14 12/8/14 12/22/14		12/9/2014	Pres. Alfond Rep. Kornfield	Work completed; report in progress; additional meeting and report extension previously granted
Commission To Study College Affordability and College Completion	Resolve 109	4	8/5/14 8/26/14 9/18/14 10/8/14 10/22/14 11/12/14		12/9/2014	Sen. Millett Rep. Daughtry	Work completed and report printed; contract staff; OPLA provided legislative drafting assistance; prior request for additional meetings approved
Commission To Strengthen the Adequacy and Equity of Certain Cost Components of the School Funding Formula	Resolve 114	6	7/25/14 10/20/14 11/6/14 11/14/14 11/25/14 12/4/14		12/9/2014	Sen. Millett Rep. Hubbell	Work completed; DOE and Ed. Rsch. Inst. staff; OPLA provided legislative drafting assistance
Commission to Continue the Study of Long-term Care Facilities	PL 594	4	9/2/14 9/23/14 10/14/14 10/28/14		10/15/2014 extended to 11/14/2014	Sen. Craven Rep. Stuckey	Work completed; report printed
Commission on Independent Living and Disability	HP 1361	4	10/8/14 10/24/14 11/7/14 11/20/14		11/5/2014 extended to 12/3/2014	Sen. Craven Rep. Peterson	Work completed; report printed
Commission To Improve Protections for Injured Workers Whose Employers Have Wrongfully Not Secured Workers' Compensation Insurance	SP 759	4					Appointments not complete; per LCRED chairs, did not meet, as work was conducted by Workers' Comp. Bd.
Commission To Study the Effects of Coastal and Ocean Acidification and Its Existing and Potential Effects on Species That Are Commercially Harvested and Grown along the Maine Coast	Resolve 110	at least 4	8/1/14 9/4/14 9/18/14 10/10/14 10/21/14 11/12/14 12/1/14		12/5/2014	Sen. Johnson Rep. Devin	Work completed; report in progress; prior requests for additional meetings approved
Maine Health Exchange Advisory Committee	HP 1136	at least 4	6/3/14 8/26/14 9/22/14 10/16/14		12/4/2013 (prelim.) 11/5/2014 (final)	Sen. Craven Rep. Treat	Work completed; report printed

2014 Interim Legislative Studies and Committee Meetings

Updated December 31, 2014

Study/Committee	Citation	2014 Meetings Authorized	2014 Meetings Held	Scheduled Next Meeting Date(s)	Report Date	Chair(s)	Status Notes
ON-GOING LEGISLATIVE STUDIES							
State Education and Employment Outcomes Task Force	PL 593	may hold 4 per year	8/11/14 9/29/14 10/20/14 11/17/14		11/1 annually extended to 12/1/2014	Sen. Patrick Rep. Berry	Work completed; report printed; prior request for extension of reporting deadline approved
Legislative Youth Advisory Council	3 MRSA 168-B	may hold 2 per year			2nd Friday in February in even numbered years		Appointments not complete; did not convene
Right to Know Advisory Committee	1 MRSA 411	at least 4 per year	8/19/14 9/17/14 11/06/14 11/17/14		1/15 annually	Sen. Valentino	Work completed; report printed
Citizen Trade Policy Commission	10 MRSA 11	at least 2 per year	6/26/14 10/7/14 11/20/14		annually	Sen. Jackson Rep. Treat	Conducting work; contract staff
Judicial Compensation Commission	4 MRSA 1701	N/A; funded from court system			12/15 biennially (due this year)		Appointments not complete; did not convene

2014 Interim Legislative Studies and Committee Meetings

Updated December 31, 2014

Study/Committee	Citation	2014 Meetings Authorized	2014 Meetings Held	Scheduled Next Meeting Date(s)	Report Date	Chair(s)	Status Notes
-----------------	----------	--------------------------	--------------------	--------------------------------	-------------	----------	--------------

AUTHORIZED COMMITTEE MEETINGS (other than AFA)

JUD Committee Study of Social Media Privacy in School and in the Workplace	Resolve 112	4			11/5/2014	Sen. Valentino Rep. Priest	Outside funding was not received; requests for interim committee meetings for this purpose were not approved
VLA meetings to consider casino market analysis of contractor	Resolve 111	up to 4	9/10/14 11/24/14 12/1/14		12/3/2014	Sen. Tuttle Rep. Luchini	Contract awarded for analysis of potential market for casinos; report to VLA anticipated by 9/1/14
ENR meeting for DEP and Maine Water Environment briefings		1	8/28/14		N/A	Sen. Boyle Rep. Welsh	Meeting approved 7/17/14
HHS meeting for DHHS updates/briefings		1	10/15/14		N/A	Sen. Craven Rep. Farnsworth	Meeting approved 6/25/14
LCRED meeting for Workers' Comp. Board briefing		1			N/A	Sen. Patrick Rep. Herbig	Meeting approved 6/25/14; meeting date TBD
ACF meeting regarding outcome-based forestry (off-site); meeting for CTPC presentation		2	9/3/14 9/24/14 11/20/14		N/A	Sen. Vitelli Rep. Dill	Meetings approved; request to POs to approve 3rd meeting to attend joint PH on 11/20/14 at invitation of CTPC approved
CJPS meeting for presentations from DPS and DOC			9/23/14				Meeting approved

**Legislative Council Actions
Taken by Ballot Since the
December 3, 2014 Council Meeting**

Legislative Council Decision:

That the Legislative Council approve the request from the Task Force to End Student Hunger to extend its reporting deadline from December 9, 2014 to December 30, 2014; and further to authorize one additional meeting of the Task Force to take place on Monday, December 22, 2014.

Motion by: President Thibodeau

Second by: Speaker Eves

Approved: January 2, 2015

Vote: 10-0 in favor

GRANT T. PENNOYER

EXECUTIVE DIRECTOR
THE LEGISLATIVE COUNCIL



MAINE STATE LEGISLATURE

OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

Memo

To: Members of the 127th Legislative Council

From: Grant T. Pennoyer, Executive Director

Date: January 8, 2015

Re: The Summit Project

Representative Golden has inquired whether it would be possible to have a display from The Summit Project (<http://mainememorial.org/>), honoring Maine service members who have perished in the line of duty, in the Hall of Flags. A photo of the display is attached.

The display is currently at the VA hospital, and it will be making its way to its permanent home in Portland. It was felt that the Hall of Flags would be an appropriate stop on its journey.

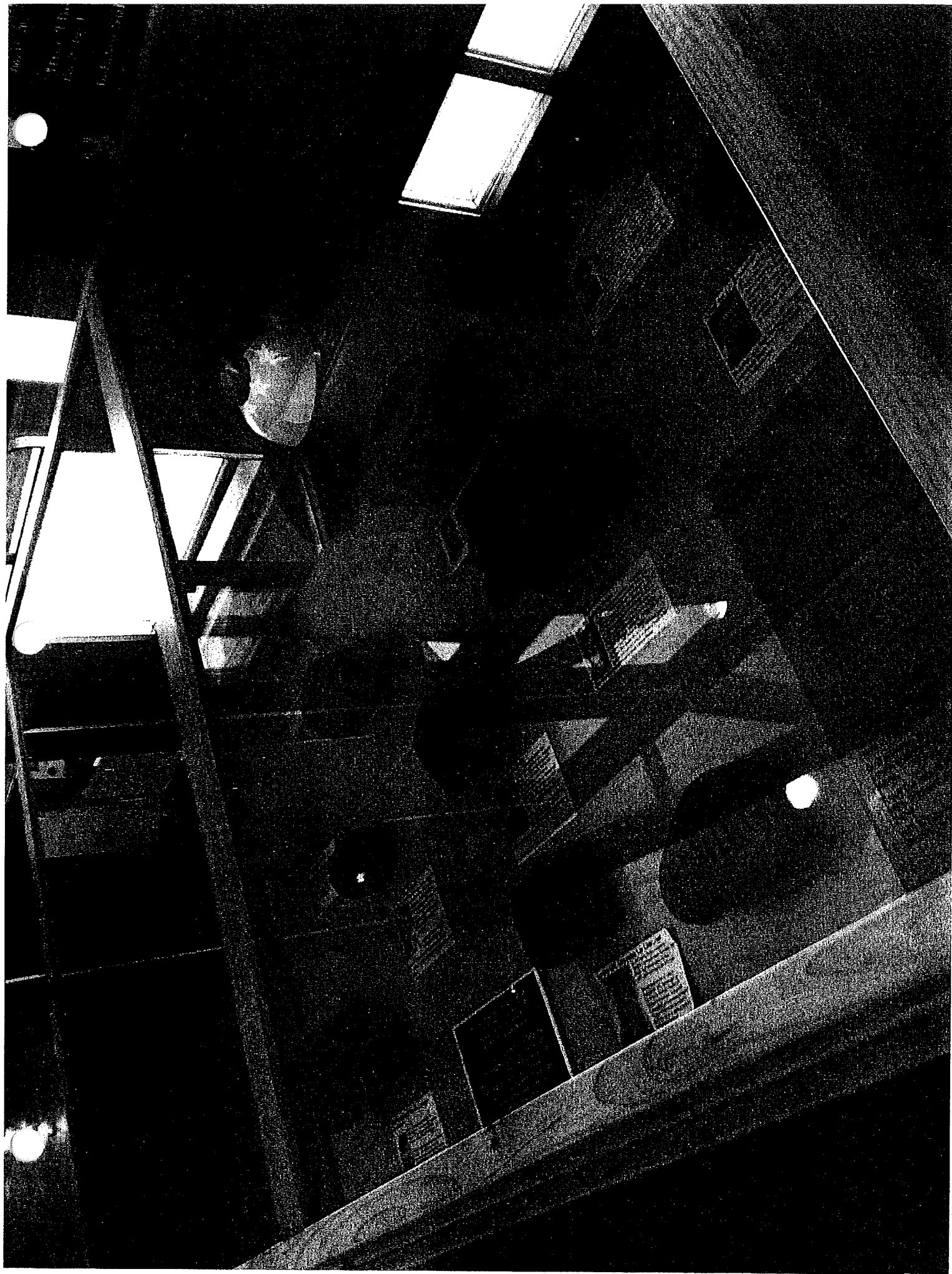
The display would ideally be in the Hall of Flags for 2-3 weeks, but the length of the stay, as well as the dates, are flexible. There would also hopefully be an opportunity for a brief unveiling ceremony.

The Living Memorial

The Summit Project is a Living Memorial, open to the participation of everyone who wants to help ensure that Maine Heroes are NOT Forgotten. Everyone is invited to help TSP build and bolster our greater Maine community. We invite you to be part of this living memorial in any way that you can imagine. Just send us your idea and we can make it happen. It is here that you will see that The Summit Project is truly a Living Memorial!

TSP welcomes groups of any size and any affiliation who want to carry the memorial stones and memories of our fallen in order to honor and sustain their memories. If you represent a group, have an idea for a Team Event, we want to know it. Get involved here. Get involved today. We to invite you to be part of The Summit Project, and we thank you for honoring our heroes through this living memorial.

On this page we congratulate and celebrate those Teams of dedicated individuals who are part of the Living Memorial of The Summit Project. Every event you see on this page proves that TSP is accomplishing our mission and that we are carrying on the unfinished work of our fallen heroes from Maine toward creating a safer, sounder, more just community — here in Maine and all across the world. Thank you for honoring the sacrifice of our fallen Maine heroes and their families and being part of this Living Memorial. MHANF.

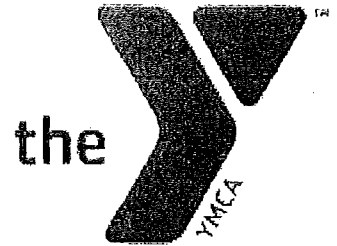




State YMCA of Maine

YOUTH IN GOVERNMENT PROGRAM

29 Town Hall Lane
Winthrop, ME 04364
207-377-9686
winymca@aol.com
www.yiginme.org



Grant Pennoyer,
Executive Director
Legislative Council
State House
Augusta, ME 04330

Dear Grant;

Thank you and Heather for everything, this past weekend was one of the best Youth in Government programs of all time. With 143 students attending and the 19 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 Brady Grotton of Erskine Academy, the House and Senate debated and Governor Grotton signed into law:

- ✔ Instituting single use plastic bag fees
- ✔ Raising the minimum wage in Maine
- ✔ 5 cent deposit on cigarette butts
- ✔ Removal of Candidate party designation from Maine Ballots

ne did not pass

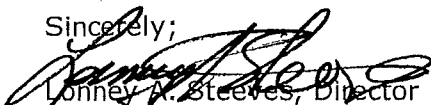
- ✔ Lowering the Drinking age to 18
- ✔ Starting Maine Public Schools at 8:30am
- ✔ Instituting capital punishment.

This year the connector door was open for every meal, that is the first time, thanks for working your magic, it made that part of the weekend very stress free.

As we wrap up from this year's program we begin looking to next year. Our new Youth Governor Patrick Grady of Kennebunk HS will lead our program for 2015. 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 2015 on the weekend of **November 13-14-15, 2015**. Thank I hope that as in the past you will be able to secure our dates early next year so we can get on school calendars and begin the promotion of our program.

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.

Sincerely;


Lonney A. Steeves, Director
Maine YMCA
Youth in Government

DEMOCRACY MUST BE LEARNED BY EACH GENERATION

EXECUTIVE DIRECTOR'S
OFFICE

2014 DEC -9 A 9:05

**Final Report of the Commission to Study College
Affordability and Completion**

December 9, 2014

Recommendations and Findings

1. *The Commission endorses the various goals and objectives pertaining to attainment and completion stated in the Statewide Education and Workforce Development Strategic Plan and requires M CCS, UMS and MMA to report back to the Joint Standing Committee on Education and Cultural Affairs by July 1, 2015 regarding progress in implementing these goals and objectives.*

During its review of the Statewide Education and Workforce Development Strategic Plan, which was supplemented by a panel presentation and discussion on September 18, 2014, the Commission found that the goals and objectives pertaining to college affordability and completion were laudable and deserved appropriate follow up from the three institutions of public higher education in Maine to determine their progress in attaining these goals. Thus, the Commission has recommended that the M CCS, UMS and MMA be required by law to report back to the Joint Standing Committee on Education and Cultural Affairs by July 1, 2015 on the progress made towards in achieving those goals.

2. *Require the Boards of Trustees for the UMS, M CCS and MMA to report back to the Joint Standing Committee of Education and Cultural Affairs by July 1, 2015 regarding their reactions to the Game Changers strategies, what action(s) was agreed upon, what additional resources would be required to implement these strategies, what plan of action has been adopted and identify how the State of Maine could assist in implementation of these strategies.*

Similar to the previous recommendation, the Commission's review of the Game Changers report issued by Complete College America was supplemented by a presentation and panel discussion on October 8, 2014. During that presentation, the Commission ascertained that while aspects of the various Game Changer strategies were being employed by the M CCS, UMS and MMA, none of these institutions had formally considered the possible adoption of these strategies. Understanding that circumstances within each institution may or may not lend themselves to formal and verbatim adoption of these strategies, the Commission did feel that it would be worthwhile for these public colleges and universities to specifically consider adoption of these strategies and thus is recommending that the M CCS, UMS and MMA be required to review these strategies and report back to the Joint Standing Committee on Education and Cultural Affairs by July 1, 2015 on their conclusions.

3. *All institutions of higher education in Maine should publish average class fees by major course of study and that the Joint Standing Committee on Education and Cultural Affairs consider including this requirement in statutory law and work with the Maine Department of Education to determine what requirements currently exist regarding the publication of current class fees.*

The Commission's review of the current non-tuition fees charged by colleges and universities in Maine showed that these fees constitute a significant additional financial burden to students. Just as significantly, the Commission found that most of these fees were not adequately publicized and that many students are unaware ahead of time exactly what fees they would have to pay over the course of their academic career. Accordingly, the Commission recommends that all Maine colleges and universities should publish average class fees by course of study and that the Joint Standing Committee on Education and Cultural Affairs further consider including this requirement in statutory law after consulting with the Maine Department of Education as to what current federal and state requirements might already exist regarding this broad topic.

4. *The Commission encourages higher education institutions in the State of Maine to partner, where possible, with other colleges and institutions in other states to develop open education resources and to secure, when possible, private funding for the further development of open education resources. In addition, the Commission recommends that colleges and universities in Maine work to encourage additional options in securing classroom materials such as open education resources.*

The Commission's review of the cost of required college textbooks confirmed that textbook acquisition is another significant burden to students with an average annual cost of more than \$1,000. While noting that many colleges and universities in Maine are sensitive to this cost and make reasonable efforts to offer used and rented textbooks as well as employing efforts to reduce textbook costs whenever possible, the Commission concluded that more effort needs to be made in providing students with a low cost emerging alternative in the form of open education resources which allow the open and free electronic dissemination of an increasing number of essential textbooks. While recognizing the limitations that public funding has with regards to this topic, the Commission recommends that Maine colleges and universities work to secure private funding and look for additional opportunities to increase the use of open education resources.

5. *The Commission finds and wishes to acknowledge the importance of the K-12 educational process in order to ensure adequate academic readiness of those Maine students entering college for the first time.*

As the Commission proceeded with its review of the topics of college affordability and completion, it frequently was reminded of the importance of the K-12 educational process in adequately preparing Maine students for college. Any attempts to rectify the many issues surrounding higher education, including affordability and completion, are predicated upon a sound and well-designed elementary and secondary educational system which creates an educational environment that stimulates learning and encourages educational advancement. The Commission finds that a properly conceived educational system in its totality is essential for success in a post-secondary college environment and therefore will help students aspire to being in college, deal with affordability issues as they occur and strive to complete college as an important step to a successful career.

6. *Recommend that the Joint Standing Committee on Education and Cultural Affairs consider setting a statutory college attainment goal that is not lower than the 50% by 2025 promoted by Educate Maine with additional consideration to attainment goals established by the Lumina Foundation and the "40-40-20" aspirational goal for all levels of education established by the State of Oregon. In addition, recommend that in light of whatever statutory attainment goal that has been established, that the Joint Standing Committee on Education and Cultural Affairs propose legislation which requires that the Legislature bi-annually monitor education attainment metrics from Educate Maine and/or the Maine Development Foundation's Measures of Growth report.*

During its review of the issues of college affordability and college completion, the Commission considered the issue of what a realistic attainment (proportion of the state's adult population holding an associate or higher degree) goal might be for the state of Maine. After a great deal of consideration and recognition of the additional time that would be needed to properly ascertain and decide upon an appropriate goal, the Commission decided to recommend that the Joint Standing Committee on Education and Cultural Affairs consider establishing an statutory college attainment goal that is not lower than the 50% by 2025 promoted by Educate Maine with additional consideration to attainment goals established by the Lumina Foundation and the "40-40-20" aspirational goal for all levels of education established by the State of Oregon. In addition, the Commission voted to recommend that in light of whatever statutory attainment goal that has been established, that the Joint Standing Committee on Education and Cultural Affairs propose legislation which requires that the Legislature bi-annually monitor education attainment metrics from Educate Maine and/or the Maine Development Foundation's Measures of Growth report.

7. *Recommend that the Maine State Grant Program be reconstituted to provide a tiered grant program starting at annual awards of \$2,500 for families with \$0 EFC with annual increases of \$250 for each year that the student is enrolled. Further recommend that annual awards of \$1,500 be made to families with EFCs that are greater than \$0 with annual increases of \$250 for each year that the student is enrolled. In addition, recommend that these tiered programs be reviewed by the Legislature in light of forth coming studies from the New England Board of Higher Education. Further recommend that the grant award levels be reviewed by the Legislature from an affordability and unmet need perspective every two years.*

The Commission spent a great deal of time considering the annual grants available to many college students from the Maine State Grant Program (MSGP). In considering the issue of college affordability, the Commission reviewed the following facts about the MSGP:

- Annual MSGP grants have gradually declined due to funding limitations from a high of \$1,500 in FY 07 and FY 08, to \$1,250 in FY 09 through FY 12, to \$1,000 in FY 13;
- In that same time period, average tuition and fees for a 4 year college program have increased steadily from approximately \$6,000 in FY 07 to close to \$9,000 in FY 13;
- Average tuition and fees for a 2 year college program have slightly increased from \$3,000 in FY 07 to approximately \$3,250 in FY 13; and
- If the annual grants had been increased to keep pace with inflation since 1992, the annual grants from the MSGP would be \$2,500.

Based on these facts, the Commission had no difficulty in concluding that the MSGP grants have not kept pace with inflation- particularly in relation to tuition charged for a 4 year college program. During its review of this topic, the Commission acknowledged that funding provided for the MSGP by the Legislature since 1992 has been inadequate and that the inadequate funding has significantly contributed to the Affordability Gap identified earlier in this report.

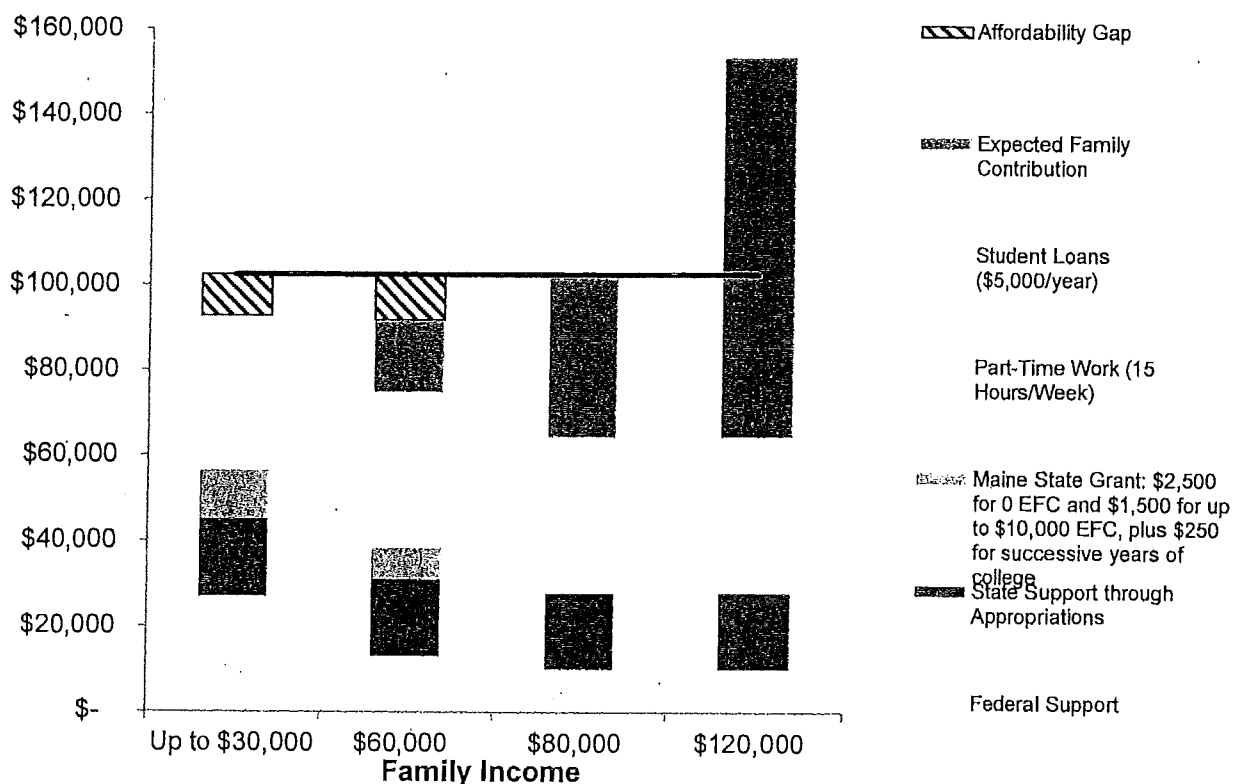
To remedy this significant lack of funding for the MSGP and how to target those families with college students most in need of financial resources to be able to attend college, the Commission considered a large number of alternatives that might be recommended to help mitigate the current Affordability Gap. After considerable discussion of the different alternatives, the Commission decided to recommend the following:

- Reconstitute the MSGP to provide a tiered grant program starting at annual awards of \$2,500 for families with \$0 Estimated Family Contribution (EFC) with annual increases of \$250 for each year that the student is enrolled;
- Provide annual awards of \$1,500 for families with EFCs that are greater than \$0 with annual increases of \$250 for each year that the student is enrolled;
- These tiered programs should be reviewed by the Legislature in light of forth coming studies from the New England Board of Higher Education; and
- These grant award levels should be reviewed by the Legislature from an affordability and unmet need perspective every two years.

The annual cost of funding this series of recommendations will require additional General Fund appropriations of \$27 million to the Finance Authority of Maine which is responsible for administering the MSGP. While the Commission is quite aware of the financial magnitude of this recommendation, it believes that the corresponding issues of college affordability more than justify the additional funding and in fact, is long overdue.

The Commission arrived at this recommendation through further use of the Affordability Model discussed earlier in this report. If the Commission's recommendations for the MSGP are fully funded, the Affordability Gap for many Maine students will be significantly reduced as shown in the following graph:

**College Affordability Commission Recommendation:
Maine State Grant Increase to \$2,500 for 0 EFC and \$1,500 for up to \$5,000 EFC
Plus \$250 for Each Successive Year in College**



In summary, the Commission's funding recommendations for the MSGP will:

- Reduce the Affordability Gap for a 4 year degree program at the UMS from slightly more than \$17,000 to less than \$10,000 for a family with an annual income of up to \$30,000; and
- Reduce the Affordability Gap for a 4 year degree program at the UMS from almost \$15,000 to slightly more than \$10,000 for a family with an annual income of up to \$60,000.

In making this recommendation, the Commission acknowledges that a significant Affordability Gap will still exist for many Maine families but believes that this funding increase for the MSGP will be a significant and essential step towards making college more affordable for many Maine students.

8. *Recommend that the FY 16-17 budget requests for the University of Maine System, the Maine Community College System and the Maine Maritime Academy should be fully funded as a means of achieving greater affordability for Maine students.*

During its review, the Commission received a great deal of testimony which maintained that much of the college affordability issue has been exacerbated by inadequate funding for Maine's institutions of public higher education. It was repeatedly pointed out that as state funding for the public colleges and universities does not keep pace with the normal rate of inflation, these institutions are forced to raise tuition and other fees to maintain the current level of programing and services. The net effect of this

revenue shift is to significantly increase costs to students thereby increasing the aforementioned Affordability Gap.

While the Commission recognizes that funding levels for public education have been adversely affected by declining state revenues and the recessionary economic climate of recent years, the Commission believes that continued levels of appropriate investment in public higher education will help alleviate the Affordability Gap and ultimately result in a highly educated workforce and a more prosperous economy. Therefore, the Commission recommends that the FY 16-17 budget requests for the University of Maine System, the Maine Community College System and the Maine Maritime Academy should be fully funded as a means of achieving greater affordability for Maine students. The Commission also believes that this funding should be viewed as an important investment in the quality of the Maine work force and will ultimately return greater state revenues through a stronger wage based work force.

9. *Recommend that the Legislature appropriate an additional \$1,800,000 to the Maine Community College System for the annual costs of hiring 27 College Navigator positions.*
10. *Recommend that the Legislature appropriate an additional \$2,000,000 to the Maine Community College System for the annual costs of expanding student work study opportunities.*

When the Commission reviewed the "Improving College Affordability & Completion in Maine" Report, it carefully considered the proposals made by the MCCC, UMS and MMA that were intended to help address the dual issues of college affordability and completion. Commission members were asked to prioritize those proposals that they felt could most effectively deal with these dual issues.

Commission members made note of the proven effectiveness of having on-campus counselors that could effectively help students deal with campus life and successfully chart their academic programs- all of which will significantly help students stay in college and complete their degree programs. Commission members were also persuaded that providing more work study opportunities would also address both affordability and college completion issues and they believed that a large number of students would be positively affected by proposals which would provide funding for more College Navigator positions and work study opportunities in the MCCC. Therefore, the Commission voted to recommend that the Legislature appropriate an additional \$1,800,000 to the Maine Community College System for the annual costs of hiring 27 College Navigator positions and that the Legislature appropriate an additional \$2,000,000 to the Maine Community College System for the annual costs of expanding student work study opportunities. (With regards to the former recommendation, the Commission notes that the original request from MCCC was for thirty additional College Navigator positions. During the course of the Commission's review, it was announced that KeyBank has generously made a 3 year grant which will fund 3 additional College Navigator positions at SMCC. Accordingly, the Commission adjusted its recommendation to fund a total of 27 College Navigator positions but the clear intent of its recommendation is that the Legislature will eventually fully fund the cost of the 3 positions after the KeyBank grant expires.)

Conclusion

The Commission entered into its task to study college affordability and completion with an acute awareness that these topics are immense in their scope and will not easily be solved, particularly by a group of dedicated citizens such as the Commission members who met six times over a relatively short amount of time with no recourse other than to make the most meaningful and relevant recommendations possible. The Commission itself does not have the means to solve these important issues but has worked hard to construct a series of recommendations that, if implemented, will work in concert to significantly improve the issue of college affordability and encourage students in Maine to complete college.

Like a great many public policy issues, college affordability and completion inevitably involve questions surrounding matters of funding. In particular, the issue of college affordability is about whether many students in Maine have adequate financial resources to realistically cover the increasingly high cost of college. The Commission placed a priority on trying to quantify whether such an affordability problem actually exists. Through its use of the Affordability Model discussed in this report, the Commission established that many Maine College students experience a significant Affordability Gap in their ability to pay for the complete costs of college- even when a myriad of financial sources are tapped such as family resources, part-time work, federal and state grant programs, and educational loans.

The causes of this Affordability Gap are many and unfortunately, many of the solutions are inevitably expensive. The Commission was cognizant of the significant costs associated with its recommendations- particularly in an era of scarce and sometimes diminishing public resources. Yet there can be little doubt that a decision not to fund these recommendations will simply result in a situation that at best remains static with no other solution in sight and at worst, the Affordability Gap for Maine college students will continue to widen and fewer students will be able afford to attend college and even fewer will be able to complete college.

The Commission sincerely urges the 127th session of the Maine State Legislature to carefully consider these recommendations and to make every effort to fully fund and implement them. In closing, the Commission wishes to emphasize that even if its recommendations are completely adopted, an Affordability Gap, albeit smaller, will still exist and that students will continue to face challenges in accessing and attaining higher education. In addition, the complete adoption of the Commission's recommendations will require an ongoing willingness to revisit the issues of college affordability and completion to ensure that financial resources invested in higher education are keeping pace with costs and the overall effects of inflation. The Commission's recommendations are a necessary first step in a determined effort to make college more affordable for the people of Maine and to encourage college completion.



**STATE OF MAINE
126th LEGISLATURE
SECOND REGULAR SESSION**

**First Annual Report
of the
State Education and Employment Outcomes
Task Force
December 2014**

Staff:

**Henry Fouts, Legislative Analyst
Phillip McCarthy, Senior Analyst
Kristin Brawn, Legislative Researcher
Office of Policy & Legal Analysis
13 State House Station
Room 215 Cross State Office Building
Augusta, ME 04333-0013
Telephone (207) 287-1670
Fax (207) 287-1275
www.maine.gov/legis/opla**

Members:

**Sen. John L. Patrick, Chair
Sen. Brian D. Langley
Rep. Seth A. Berry, Chair
Rep. Joyce A. Maker
Connie Brown
Angela Dostie
Bill Hurwitch
Jeffrey Jordan
Paul Leparulo
Rosa Redonnett
Diane Vickrey**

Executive Summary

This is the first annual report of the State Education and Employment Outcomes Task Force. The Task Force was created by Public Law 2013, chapter 593 to develop procedures to maintain and disseminate information from the Maine Department of Labor's education and employment outcomes database, including information and data on education program completion, graduation, credentials earned and employment and earnings outcomes for graduates of postsecondary educational institutions in the State. The Task Force is comprised of 15 members, including four ex-officio members and 11 members appointed by the President of the Senate, the Speaker of the House and the Governor.

The Task Force held three meetings this year, fulfilling all its statutory duties, and making the following recommendations.

- ❖ Recommend that the content of the Maine education and employment outcomes database and website be expanded to:
 - Add third-year outcomes (wage data);
 - Add data from Adult Education;
 - Add data from Maine Maritime Academy;
 - Add data from private colleges;
 - Add an additional level of hierarchy to enable more detailed reporting of educational credentials;
 - Add data from National Student Clearinghouse (to capture graduates who continue their education rather than enter the workforce);
 - Add data from Career & Technical Education programs;
 - Add data on graduates' licensure status;
 - Add data on the industry of employment (currently in the database, but not posted on the website);
 - Enhance the website to allow additional outcomes to be viewed logically;
 - Add a training component to the website for users; and
 - Clean up source data by the education partners (currently the University of Maine System and the Maine Community Colleges System) to create better standardization of data within the school systems and between the different school systems.
- ❖ Recommend that College Measures be monitored as an option for outsourcing website design and maintenance, in regard to potential cost-savings and as a potential way to enhance the design and content of Maine's interactive website.
- ❖ Recommend legislation to authorize the Department of Labor to seek and accept private funding for the database and website and to create a special fund within the Department where private funds, federal grants and State appropriations for the specific benefit of the project may be held. An example of such legislation is offered in Appendix J, with the expectation that the Legislative Committee process will refine the initiative while keeping the spirit of the recommendation.

- ❖ Recommend that the Department of Education continue to collaborate with the MELMAC Foundation, Educate Maine, FAME, the Maine State Board of Education and other key education stakeholder groups to promote awareness of the website, as well as to provide training for educators (guidance counselors, teachers and administrators) to inform students and parents about the data available on the website that can help them make informed decisions regarding their college and career pathways.
- ❖ Recommend that the Department of Education should consider outreach strategies to promote the education and employment outcomes website to students in middle schools (grades 6-8) as well as students in secondary schools (grades 9-12). The Department of Education should consider posting a link on the department's website to the Department of Labor's website and to other college and career pathway websites that may be advantageous to Maine educators and students.
- ❖ Recommend that the Department of Labor should keep the current minimum number of students in data sets displayed on the website, an "n value of 10."
- ❖ Recommend that the Department of Labor consider moving wage data reporting to a median wage metric instead of the current average wage metric. The Department of Labor should explore the cost of providing range data (dispersion around average) on an ad hoc basis.
- ❖ Recommend legislation to allow all public and private higher educational institutions to access individualized data, including confidential wage data, on all graduates of their respective institutions contained in the database. An example of such legislation is offered in Appendix J, with the expectation that the Legislative Committee process will refine the initiative while keeping the spirit of the recommendation.
- ❖ Recommend legislation to require state agencies to provide the Department of Labor all data requested for use in the database and website. An example of such legislation is offered in Appendix J, with the expectation that the Legislative Committee process will refine the initiative while keeping the spirit of the recommendation.
- ❖ Recommend that the Task Force continue its work and continue to provide advice and feedback to the Department of Labor and the Department of Education for improving the sustainability and enhancement of the education and employment outcome data included in the database and the website. The Task Force also recommends that the composition of the Task Force membership remain the same as designated in the authorizing legislation.



**STATE OF MAINE
126th LEGISLATURE
SECOND REGULAR SESSION**

**FINAL REPORT OF THE
COMMISSION ON INDEPENDENT LIVING
AND DISABILITY**

December 2014

Staff:
Natalie Haynes, Legislative Analyst
Alyson Mayo, Legislative Analyst
Office of Policy & Legal Analysis
13 State House Station
215 Cross Building
Augusta, ME 04333-0013
(207) 287-1670
www.maine.gov/legis/opla

Members:
Sen. Margaret Craven, Chair
Sen. Rodney L. Whittemore
Rep. Matthew J. Peterson, Chair
Rep. Carol A. McElwee
Rep. Michael D. McClellan
James Martin
Janet Mills
Peter Driscoll
Dennis Fitzgibbons
Mary Lou Dyer
Rachel Dyer
Peter Rice
James Phipps

Executive Summary

Nearly 30 years since the Maine Legislature convened a commission to address the independent living needs of individuals with disabilities and issued the *Toward Opportunity* report¹ that helped shape policy and program direction for a generation of Maine citizens with disabilities, the 126th Legislature established the Commission on Independent Living and Disability. The Commission on Independent Living and Disability was created to examine and bolster current efforts to empower people with disabilities to live fully integrated, meaningful lives of substance and influence.

The Commission was established by Joint Order H.P. 1361 of the 126th Legislature (see Appendix A).² The Commission was composed of two members of the Senate, two members of the House of Representatives and nine public members. A list of the Commission members is included as Appendix B. The Commission's duties are set forth in the Joint Order and include the following:

- Evaluate the needs of Maine citizens with disabilities;
- Review existing available resources and services and recommend priorities for cost-effective changes designed to promote independent living and community inclusion;
- Examine the State's laws governing access to housing, transportation, public accommodation, education and employment; and
- Develop recommendations to improve the lives of and increase overall community participation by Maine citizens with disabilities, including expanding access to:
 - Assistive technology;
 - Appropriate and accessible housing and community-based living opportunities;
 - Appropriate education and training opportunities to promote employment of individuals with disabilities; and
 - Cost-effective transportation.

The Commission held four public meetings in Augusta on October 8, October 24, November 7, and November 20. All meetings were open to the public and were broadcast by audio transmission over the Internet. Although this report contains several appendices, additional resources and background materials (including materials submitted by panelists) are available at: <http://legislature.maine.gov/legis/opla/independentliving.htm>.

Due to the expansive nature of the Commission's duties, the Commission relied upon the guidance and expertise of its members, as well as the representatives of executive branch agencies, independent living organizations, transportation organizations, housing organizations, nonprofit community resource centers and workforce service organizations who participated in

¹ The *Toward Opportunity* report was issued by the Maine Legislature's Commission on the Role of State Government in Providing Independent Living Opportunities and Services to Persons with Disabilities in 1985. The report recommended that the State expand personal assistance, information services and financing for assistive technology and home modifications for individuals with disabilities.

² The proposal to establish the Commission on Independent Living was first introduced in the Second Regular Session of the 126th Legislature as LD 1757, *Resolve, To Establish the Blue Ribbon Commission on Independent Living and Disability*, sponsored by Representative Matthew Peterson.

providing valuable information at the Commission's meetings. The following people made presentations to the Commission:

- Dennis Fitzgibbons, Executive Director, Alpha One, Inc. (overview of independent living philosophy for individuals with disabilities; facilitating mobility with transportation vouchers);
- Dr. Allan "Chip" Teel, Full Circle America (overview of living independently through technology);
- Sara Squires, Public Policy Director, Disability Rights Center (overview of current efforts in the transportation sector to increase access for individuals with disabilities);
- Peter Merrill, Deputy Director, MaineHousing (overview of accessible housing; update on waiting list priority and MaineHousing's online rental housing listing service);
- Kelly Osborn, Executive Director, Workforce Services, Goodwill (overview of employment of individuals with disabilities);
- John Dunleavy, Interim Director, Maine Center on Deafness (independent living presentation);
- John McMahon, Director, Maine Division for the Blind and Visually Impaired (independent living presentation);
- Jim Martin, Director, Office of Aging and Disability Services, Maine Department of Health and Human Services (overview of long term services and supports system and Medicaid waivers);
- Cullen Ryan, Executive Director, Community Housing of Maine (blueprint for effective transition);
- Jan Breton, Director of Special Services, Maine Department of Education (update on special education services for Maine students who are blind or visually impaired and related funding issues);
- Betsy Hopkins, Director, Division of Vocational Rehabilitation (discussion on Employment First and rehabilitation and employment assistance services from the Division of Vocational Rehabilitation);
- Nina Fisher, Manager of Legislative and Constituent Services, Maine Department of Transportation (overview of Complete Streets Program; briefing on Maine transit funding);
- Rick McCarthy, Maine Transit Association (discussion of services provided by regional transportation agencies to people with disabilities and related federal funding sources);
- Jim Wood, Transportation Director, Kennebec Valley Community Action Program (discussion of services provided by regional transportation agencies to people with disabilities and related federal funding sources);
- Ana Hicks, Chief of Staff, Office of the Speaker of the House, State of Maine (overview of the Speaker's bond proposal); and
- Kathy Despres, Program Director, C.A.R.E.S., Inc. (overview of experience from the client/provider standpoint about the length of time for clients to get into Individualized Plans for Employment).

The following are the Commission's final recommendations.

1. Transportation

- A. The Commission recommends the establishment of a new public transit advisory council as drafted in the Joint Standing Committee on Transportation's amendment to the LD 1365, An Act To Promote New Models of Mobility and Access to Transportation during the 126th legislature. [See Appendix C, draft legislation, Recommendation #1, Sections 1-10]
- B. The Commission recommends the establishment of a new working group to develop a multidisciplinary approach to transportation policy to help make transportation accessible to everyone by promoting access to transportation for individuals with disabilities. The Commission recommends that the Department of Health and Human Services, Department of Transportation, Department of Economic and Community Development, Department of Labor, and representatives of independent living programs be required to form a work group that will focus its efforts on advancing a rural transportation voucher system in Maine that will help provide additional independence for customers by allowing them to choose transportation services that meet their needs, from the type of vehicle to the time and day of travel. The work group may consult with organizations with expertise in the field of increasing accessibility in public transportation, including, but not limited to, the University of Montana Research and Training Center on Disability in Rural Communities, for assistance in developing a proposal for a statewide program utilizing vouchers. The work group is charged with identifying any available federal funding programs that could be used to advance a project in Maine, draft any necessary legislation to implement the project, and report back to the joint standing committee of the Legislature having jurisdiction over health and human services matters during the 2nd Regular Session of the 127th Legislature. [See Appendix C, draft legislation, Recommendation #1, Section 11]

2. Education Funding

- A. The Commission supports the Maine Department of Education's ongoing efforts to meet its obligations under the federal law to provide a free and appropriate education for school children in Maine who are blind or visually impaired. The Commission supports the ongoing funding in the Department of Education's 2016 budget for three teachers for the visually impaired and recognizes that filling these vacant positions will likely require additional funding in order to have the salaries to attract and retain such professionals in Maine as neighboring states offer larger compensation packages for these professionals.

- B. The Commission recommends changes in statute to improve the transition to adult services for children with disabilities and recommends the following changes: that transition services should be amended to begin at age 14; that schools engage with community partners for students with Individualized Education Programs; that transition and Section 504 plans include community service providers and independent living assessments; that the Division of Vocational Rehabilitation work with schools that have students receiving services from the Office of Child and Family Services to help prepare students for post-secondary life; and that schools work closely with the Division of Vocational Rehabilitation and Employment First to develop transition plans with student and family. [See Appendix C, draft legislation, Recommendation #2]

3. **Annual Reports to the Legislature**

- A. The Commission recommends that the Department of Labor, Division of Vocational Rehabilitation provide an annual progress report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the State's efforts to improve vocational rehabilitation outcomes and reduce the length of time it takes for individuals to get into an individualized plan of employment (IPE), in accordance with the federal law. [See Appendix C, draft legislation, Recommendation # 3]
- B. The Commission recommends that the Statewide Independent Living Council (SILC) be required to provide an annual progress report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the State's strategic planning efforts in the area of independent living programs, the delivery of services for individuals with disabilities and any recommendations to address hurdles or barriers in these efforts among state entities. [See Appendix C, draft legislation, Recommendation #3]

4. **Building Codes – Maine Human Rights Act & ADA Enforcement**

- A. The Commission recommends strengthening enforcement efforts to improve accessibility in public accommodations for individuals with disabilities in order to ensure that all Maine citizens have equal access to public accommodations. The Commission supports these efforts by providing the Maine Disability Rights Center with standing to enforce the Maine Human Rights Act and to receive attorney fees. [See Appendix C, draft legislation, Recommendation #4, Section 1]
- B. The Commission recommends clarification of the Office of the Maine State Fire Marshal's responsibility to inspect public accommodations to ensure compliance with federal and state accessibility requirements. The Commission recommends that the Office of the Maine State Fire Marshal's statutory responsibility be amended to ensure that this Office is the designated state entity responsible for performing an on-

site inspection of final plans for compliance with the Americans with Disabilities Act (ADA) standards for new construction in public accommodations. In addition, the Commission recommends amending the laws governing the issuance of the certificate of occupancy by code enforcement officers or third party inspectors for new construction to require that building code standards incorporate ADA accessibility standards. [See Appendix C, draft legislation, Recommendation #4, Sections 2 and 3]

5. Public Housing

- A. The Commission recommends enhanced efforts to disseminate information regarding the availability of ADA accessible rental housing in Maine. The Commission recommends requiring public housing authorities and landlords who receive public money for housing units to post vacancies for ADA accessible apartments on MaineHousing's free on-line rental housing listing service website, MaineHousingSearch.org. [See Appendix C, draft legislation, Recommendation #5]

6. Employment

- A. The Commission requests that C.A.R.E.S., Inc. provide to the chairs of the joint standing committee having jurisdiction over health and human services matters a copy of the letter to be sent to the State Rehabilitation Council regarding the Maine Division of Vocational Rehabilitation's efforts to improve vocational rehabilitation outcomes and reduce the length of time it takes for individuals to get into an individualized plan of employment (IPE), in accordance with the federal law (34 Code of Federal Regulations, Part 361 State Vocational Rehabilitation Services Program: Final Rule 361.36: Ability of serve all eligible individuals; order of selection).
- B. The Commission recommends that the Maine Department of Labor, Division of Vocational Rehabilitation furthers its efforts under paragraph A to reduce the time for individuals to get into an IPE by transitioning several of their Rehabilitation Counselor I positions from temporary to permanent positions. This will assist in the Department's efforts to retain and train these councilors. The Commission recommends the Division of Vocational Rehabilitation continue its efforts to fill and maintain current staffing levels.

7. Insurance

- A. The Commission is concerned that there are cases in Maine where the burden of paying for prosthetic devices, rehabilitation coaches, therapists and other charges is

being improperly shifted to the individual when it should be covered by the disability insurance plan. The Commission recommends sending a letter to the Bureau of Insurance requiring the Bureau to review whether the disability insurance regulations should be enhanced or changed to ensure that the burden of paying for these services and devices is not improperly shifted back onto the individual and to report its assessment back to the joint standing committee of the 127th Legislature having jurisdiction over insurance and financial services matters.

8. Telehealth/Assistive Technology

- A. The Commission recognizes the significant advances that have been made to improve accessibility to health care providers and care through the use of telemedicine and telehealth initiatives. The Commission supports these efforts and recognizes the important role that telehealth and telemedicine play in enhancing the independence of individuals with disabilities by removing barriers to health care and allowing for greater flexibility and self-determination in patient health. The Commission recommends amending the federally approved Medicaid State plan to include telemedicine and assistive technology. The Commission also recommends defining “telehealth” in order to support home-based care in Maine and to achieve significant cost savings. In addition, the Commission recommends that coverage be broadened for assistive technology without having the same restrictions required of telehealth. The Commission supports coverage of assistive technology services within all DHHS waivers and supports incorporation of coverage into the state Medicaid plan. [See Appendix C, draft legislation, Recommendation #6]



**STATE OF MAINE
127th LEGISLATURE
FIRST REGULAR SESSION**

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

January 2015

Staff:

**Colleen McCarthy Reid, Legislative Analyst
Margaret J. Reinsch, Senior Analyst
Daniel Tartakoff, Legislative Analyst
Office of Policy & Legal Analysis
13 State House Station
Room 215 Cross State Office Building
Augusta, ME 04333-0013
Telephone (207) 287-1670
Fax (207) 287-1275
www.maine.gov/legis/opla
www.maine.gov/legis/opla/righttoknow.htm**

Members:

**Sen. Linda M. Valentino
Rep. Kimberly Monaghan
Perry Antone Sr.
Percy Brown Jr.
Richard Flewelling
Suzanne Goucher
Frederick Hastings
Mal Leary
William Logan
Mary Ann Lynch
Judy Meyer
Kelly Morgan
Christopher Parr
Linda Pistner
Harry Pringle
Luke Rossignol**

EXECUTIVE SUMMARY

This is the ninth 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 of the Supreme Judicial Court, 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 located at 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 2014, the Advisory Committee met on August 19, September 17, November 6 and November 17.

As in previous annual reports, this report includes a brief summary of the legislative actions taken in response to the Advisory Committee's January 2014 recommendations and a summary of relevant Maine court decisions from 2013 and 2014 on the freedom of access laws.

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

- ☐ Enact legislation adding an IT professional to the Right to Know Advisory Committee
- ☐ Enact legislation to align the annual reporting date for the Public Access Ombudsman with the annual reporting date for the Right to Know Advisory Committee
- ☐ Continue without modification, amend or repeal the existing public records exceptions in Title 26 through 39-A, and repeal the Community Right-to-Know Act
- ☐ Establish a process for continuing the review of public records exceptions
- ☐ Enact legislation to address deadlines and appeals under the Freedom of Access Act
- ☐ Enact legislation to clarify the date of receipt of a request for public records
- ☐ Enact legislation to provide government relief from unduly burdensome or oppressive public records requests
- ☐ Enact legislation clarifying whether and under what circumstances public bodies are authorized to use technology to allow for remote participation in public meetings

In 2015, 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 26 through 39-A.

of Deeds relating to the redaction of Social Security numbers from filed documents	
------------------------------------------------------------------------------------	--

VI. RECOMMENDATIONS

Arising from its activities and discussions in 2014, the Advisory Committee makes the following recommendations in this its Ninth Annual Report.

☐ **Enact legislation adding an IT professional to the Right to Know Advisory Committee**

The Advisory Committee recommends the enactment of legislation to add an Information Technology professional to the membership of the Right to Know Advisory Committee, to be appointed by the Governor. The Advisory Committee made the same recommendation in its Eighth Annual Report, but it did not become law.

See draft legislation in Appendix C.

☐ **Enact legislation to align the annual reporting date for the Public Access Ombudsman with the annual reporting date for the Right to Know Advisory Committee**

The Advisory Committee recommends legislation changing the date of the Public Access Ombudsman annual report to January 15th to align the date with the annual report of the Advisory Committee. The Advisory Committee made the same recommendation in its Eighth Annual Report, but it did not become law.

See draft legislation in Appendix D.

☐ **Continue without modification, amend or repeal the existing public records exceptions in Title 26 through 39-A, and repeal the Community Right-to-Know Act**

As required by law, the Advisory Committee reviewed existing public records exceptions identified in Title 26 through Title 39-A. The Advisory Committee's recommendations are summarized below and are also posted at www.maine.gov/legis/opla/righttoknow.htm. The Advisory Committee made the same recommendations in its Eighth Annual Report, but they did not become law.

The Advisory Committee recommends that the following exceptions in Titles 26 through 39-A be continued without modification.

- ◆ Title 30-A, section 503, subsection 1-A, relating to county personnel records concerning the use of force
- ◆ Title 30-A, section 2702, subsection 1-A, relating to municipal personnel records concerning the use of force

- ◆ Title 32, section 2599, relating to medical staff reviews and hospital reviews — osteopathic physicians
- ◆ Title 32, section 3296, relating to Board of Licensure in Medicine medical review committees
- ◆ Title 32, section 13006, relating to real estate grievance and professional standards committees hearings
- ◆ Title 32, section 16607, subsection 2, relating to records obtained or filed under the Maine Securities Act
- ◆ Title 34-A, section 5210, subsection 4, relating to the State Parole Board report to the Governor
- ◆ Title 35-A, section 1311-B, subsections 1, 2 and 4, relating to public utility technical operations information
- ◆ Title 35-A, section 1316-A, relating to Public Utilities Commission communications concerning utility violations
- ◆ Title 35-A, section 9207, subsection 1, relating to information about communications service providers
- ◆ Title 36, section 575-A, subsection 2, relating to forest management and harvest plan provided to Bureau of Forestry and information collected for compliance assessment for Tree Growth Tax Law
- ◆ Title 36, section 579, relating to the Maine Tree Growth Tax Law concerning forest management plans
- ◆ Title 37-B, section 708, subsection 3, relating to documents collected or produced by the Homeland Security Advisory Council
- ◆ Title 37-B, section 797, subsection 7, relating to Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency reports of hazardous substance transportation routes
- ◆ Title 38, section 470-D, related to individual water withdrawal reports
- ◆ Title 38, section 1310-B, subsection 2, relating to hazardous waste information, information on mercury-added products and electronic devices and mercury reduction plans
- ◆ Title 38, section 1610, subsection 6-A, paragraph F, relating to annual sales data on the number and type of computer monitors and televisions sold by the manufacturer in this State over the previous 5 years
- ◆ Title 38, section 1661-A, subsection 4, relating to information submitted to the DEP concerning mercury-added products
- ◆ Title 38, section 2307-A, relating to information submitted to the DEP concerning toxic use and hazardous waste reduction
- ◆ Title 39-A, section 153, subsection 9, relating to the Workers' Compensation Board audit working papers
- ◆ Title 39-A, section 355-B, subsection 11, relating to records and proceedings of the Workers' Compensation Supplemental Benefits Oversight Committee concerning individual claims
- ◆ Title 39-A, section 403, subsection 3, relating to workers' compensation self-insurers proof of solvency and financial ability to pay
- ◆ Title 39-A, section 403, subsection 15, relating to records of workers' compensation self-insurers

- ◆ Title 39-A, section 409, relating to workers' compensation information filed by insurers concerning the assessment for expenses of administering self-insurers' workers' compensation program

The Advisory Committee recommends that the following public records exceptions be amended.

- ◆ Title 26, section 3, relating to information, reports and records of the Director of Labor Standards within the Department of Labor
- ◆ Title 26, section 934, relating to report of the State Board of Arbitration and Conciliation in labor dispute
- ◆ Title 29-A, section 152, subsection 3, relating to the Secretary of State's data processing information files concerning motor vehicles
- ◆ Title 29-A, section 257, relating to the Secretary of State's motor vehicle information technology system
- ◆ Title 29-A, section 517, subsection 4, relating to motor vehicle records concerning unmarked law enforcement vehicles
- ◆ Title 35-A, section 8703, subsection 5, relating to telecommunications relay service communications
- ◆ Title 38, section 585-B, subsection 6, paragraph C, relating to mercury reduction plans for air emission source emitting mercury
- ◆ Title 38, section 585-C, subsection 2, relating to the hazardous air pollutant emissions inventory

The "Community Right-to-Know Act" was enacted in 1985 to give individuals more control over exposure to hazardous substances in their communities. The confidentiality provisions of the Act are broad and ambiguous about the public's right to access information collected by the Department of Health and Human Services. Trade secrets are completely protected. The Advisory Committee understands that the Community Right-to-Know Act has never been implemented by the Department of Health and Human Services so no records subject to the confidentiality provisions exist. Based on this information, the Advisory Committee recommends repeal of the Act. The Advisory Committee made the same recommendation in its Eighth Annual Report, but it did not become law.

See draft legislation in Appendix E.

☐ **Establish a process for continuing the review of public records exceptions**

The Advisory Committee discussed draft legislation, proposed by the Public Records Exception Subcommittee in the Eighth Annual Report, to require the Advisory Committee to review public records exceptions according to a new schedule, starting in 2015. The Advisory Committee recommends that the Judiciary Committee pass legislation implementing the new public records exceptions review schedule.

See draft legislation in Appendix F.

☐ **Enact legislation to address deadlines and appeals under the Freedom of Access Act**

The Advisory Committee discussed draft legislation proposed in the Eighth Annual Report that addressed sections of the FOAA concerning deadlines and appeals, which did not become law. Ms. Pistner, on behalf of the Attorney General, introduced a new draft proposal to address certain portions of the deadlines and appeals sections pertaining only to records requests denials and appeals. After discussion, the Advisory Committee voted 9-1 to send Ms. Pistner's draft legislation to the Judiciary Committee (In favor: Representative Monaghan, Mr. Antone, Mr. Brown, Mr. Flewelling, Mr. Hastings, Mr. Leary, Ms. Meyer, Ms. Pistner and Mr. Rossignol; Opposed: Mr. Parr).

See draft legislation in Appendix G.

☐ **Enact legislation to clarify the date of receipt of a request for public records**

The Advisory Committee discussed draft legislation proposed in the Eighth Annual Report that addressed sections of the FOAA concerning deadlines and appeals, but which did not become law. After the Committee decided not to pursue reintroduction of the previous draft, Mr. Parr introduced a smaller portion of the previous draft intended to address acknowledgment and response deadlines for public records requests as well as to clarify the date of receipt of a request for public records. After discussion, the Advisory Committee voted 9-1 to send only the portion of Mr. Parr's draft legislation concerning clarification of the date of receipt of a request for public records to the Judiciary Committee (In favor: Representative Monaghan, Mr. Antone, Mr. Brown, Mr. Flewelling, Mr. Hastings, Ms. Meyer, Mr. Parr, Ms. Pistner and Mr. Rossignol; Opposed: Mr. Leary).

See draft legislation in Appendix H.

☐ **Enact legislation to provide government relief from unduly burdensome or oppressive public records requests**

The Advisory Committee discussed draft legislation proposed in the Eighth Annual Report that would allow government agencies to seek judicial relief from abusive public records requests, but upon which the Judiciary Committee took no action. Ms. Pistner, on behalf of the Attorney General, introduced a new proposal to address unduly burdensome or oppressive public records requests by allowing a government entity to seek an order of protection from a court when faced with such a request. After discussion, the Advisory Committee voted 9-1 to send Ms. Pistner's draft legislation to the Judiciary Committee (In favor: Representative Monaghan, Mr. Antone, Mr. Brown, Mr. Flewelling, Mr. Hastings, Mr. Leary, Ms. Meyer, Ms. Pistner and Mr. Rossignol; Opposed: Mr. Parr).

See draft legislation in Appendix I.

❑ Enact legislation clarifying whether and under what circumstances public bodies are authorized to use technology to allow for remote participation in public meetings

The question of whether it is legal for a member of a public body to participate in proceedings when not physically present – through a telephone, video or other communication connection – was put to the Right to Know Advisory Committee several years ago, and the Advisory Committee has since been trying to develop a legislative response that balances the ability of public bodies to do their work efficiently with the public's right to a transparent process and the ability to observe and, when authorized, participate in the action. The Advisory Committee strongly recommends that the Freedom of Access Act be amended to clearly state whether remote participation is permitted and, if so, under what circumstances.

The Attorney General has not supported the use of technology for remote participation by members of public bodies for several reasons, including: the Freedom of Access Act does not specifically authorize remote participation; there are specific requirements for public proceedings contained in the FOAA and participating remotely (without specific statutory authorization) does not guarantee that such requirements will be met; and the Legislature has specifically authorized by statute certain public bodies to conduct their public proceedings, sometimes in very narrow circumstances, using teleconferences or other communications technology when not all the members can be physically present.

The Advisory Committee has wrestled with the issue of remote participation while other states have enacted provisions allowing members of public bodies to participate when not physically present with various restrictions and in a wide range of situations. In 2013, a majority of the Advisory Committee recommended draft legislation to enable any public body interested in allowing non-present members to participate electronically to do so (see LD 258 in Appendix J). The Advisory Committee grappled with issues of whether public bodies made up of elected members should ever allow a member to participate from a location other than the public body's meeting room where the electorate attends and is involved in the proceedings. Questions about the appropriateness of a non-present member voting, whether the materials have been provided or witnesses have been examined by the public body, were discussed and, although no unanimous resolution was found, the Advisory Committee believed the topic needed discussion at the legislative level, and forwarded its divided recommendation: The Judiciary Committee rejected LD 258 as too restrictive and failing to accommodate the needs of entities already engaging in remote participation, and others that would like to do so. Instead, the Judiciary Committee asked the Advisory Committee to try to resolve its concerns regarding the proposed LD 258 during the legislative interim.

During the Second Regular Session of the 126th Legislature, a majority of the Judiciary Committee accepted the Advisory Committee's majority recommendation on remote participation, but made additional changes to narrow the application of the legislation to governing bodies of quasi-municipal corporations, such as sewer and water districts (see LD 1809 in Appendix J). The majority Committee Amendment allowed a pilot project and in the process made clear that a majority of the Judiciary Committee supported the Attorney General's interpretation of the FOAA that remote participation is prohibited unless there are specific provisions authorizing it. Specific statutory authorizations allowing for some form of remote

participation already exist for the following entities: the Finance Authority of Maine, the Commission on Governmental Ethics and Election Practices, the Emergency Medical Services Board and the Workers' Compensation Board. After significant debate in the House and the Senate, the amended bill was enacted by the Legislature, but vetoed by Governor LePage and the veto was sustained. In his veto message, the Governor expressed the opinion that "[i]t is currently legal to conduct a remote meeting as long as it complies with the other requirements of the law" (see veto letter to LD 1809 in Appendix J).

The Advisory Committee believes that, in order for remote participation to be legal, the statutes need to be amended to specifically authorize the use of remote technology by public entities, whether such amendment is to the FOAA to allow any entity to do so, or to the statutes governing each individual entity that seeks to engage in remote participation. Accordingly, the Advisory Committee unanimously recommends that the FOAA be amended to address whether members of public bodies who are not physically present may participate in public proceedings using remote communications technology. The Advisory Committee members unanimously support enabling legislation that applies in at least some situations to most entities.

Should the Legislature decide that remote participation should not be authorized, whether broadly or narrowly, the Advisory Committee strongly recommends that the FOAA be amended to explicitly prohibit remote participation, unless expressly authorized in a public body's governing statute. No matter which policy approach the Legislature chooses to adopt, the Advisory Committee believes it is imperative to definitively resolve these questions about remote participation within the FOAA.

If the Legislature supports the ability of members of public bodies to participate in public proceedings from a remote location, members of the Advisory Committee support two different methods of authorization. At the final meeting of the Advisory Committee, the members present were evenly split as to whether it is more appropriate to adopt a simple authorization statute for remote participation or a more detailed enabling provision.

The first method, supported by five of the ten members present at the final meeting, is to amend the law to allow remote participation simply upon the adoption of a remote participation policy by the public body seeking to engage in remote participation (see summary of November 17th meeting for Mr. Parr's suggested language). Under this approach, the various organizations that provide professional resources and support for local and regional public entities, such as the Maine Municipal Association, the Maine School Management Association and the Maine County Commissioners Association, would most likely be relied upon to develop model policies that meet the requirements of the FOAA.

The second approach, supported by the other five of the ten members present, is to enact a version of LD 258, which spells out the specific elements of remote participation that must be part of a policy adopted by a public body before it can allow remote participation. After receiving many comments from interested and affected parties, Advisory Committee members supporting this approach believe that the proposal contained in LD 258 would need adjustment to clarify both quorum requirements and the emergency exception to make the process useable for individual public bodies, depending on size, geographic location and responsibilities.

It should be noted that the Advisory Committee has not unanimously supported extending authorization for remote participation to all public bodies or in every circumstance. Commissioner Brown has consistently opposed allowing elected public bodies to use remote participation. Ms. Meyer has expressed concerns about allowing members who are not physically present to vote, even though they may participate in deliberations remotely. Notwithstanding these strong objections to particular elements of remote participation, the Advisory Committee unanimously recommends to the Judiciary Committee and the Legislature that legislation be enacted to clearly and definitively address the issue of remote participation.

See additional materials in Appendix J for a copy of LDs 258 and 1809, the Judiciary Committee's majority amendment to LD 1809 and Governor LePage's veto letter for LD 1809.

VII. FUTURE PLANS

In 2015, 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 26 through 39-A. The Advisory Committee looks forward to a full year of activities working with the Public Access Ombudsman, the Judicial Branch and the Legislature to implement the recommendations included in this report.