

SEN. KEVIN L. RAYE  
CHAIR

REP. ROBERT W. NUTTING  
VICE-CHAIR

EXECUTIVE DIRECTOR  
DAVID E. BOULTER



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

SEN. JONATHAN T. E. COURTNEY  
SEN. BARRY J. HOBBS  
SEN. DEBRA D. PLOWMAN  
SEN. JUSTIN L. ALFOND  
REP. PHILIP A. CURTIS  
REP. EMILY ANN CAIN  
REP. ANDRE E. CUSHING III  
REP. TERRY HAYES

MEETING SUMMARY  
January 26, 2012  
Approved February 7, 2012

**CALL TO ORDER**

Legislative Council Chair, Senate President Raye called the January 26, 2012 Legislative Council meeting to order at 1:40 p.m. in the Legislative Council Chamber.

**ROLL CALL**

Senators: President Raye, Senator Courtney, Senator Plowman, Senator Hobbs, and Senator Alfond

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

Representative Cushing arrived after the start of the meeting.

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

Senate President Raye convened the meeting at 1:40 p.m. with a quorum of members present.

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

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

The Legislative Council then proceeded to consider and vote on the bill requests in accordance with the previously established protocol. Of the 36 bill requests, the council authorized 16 requests for introduction in the 2<sup>nd</sup> Regular Session of the 125th Legislature, 8 failed to be authorized, 3 were withdrawn, 5 had no action taken, and 4 were tabled until a future Legislative Council meeting. Of

the 6 joint resolutions, the council authorized 2 requests for introduction in the 2<sup>nd</sup> Regular Session of the 125th Legislature, 2 failed to be authorized, 1 was withdrawn, and 1 was tabled until a future Legislative Council meeting. The Legislative Council's actions on the requests are included on the attached list.

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

## **SUMMARY OF NOVEMBER 17, 2011 MEETING OF LEGISLATIVE COUNCIL**

**Motion:** That the Meeting Summary of November 17, 2011 be accepted and placed on file. Motion by Senator Courtney. Second by Representative Cain. **Motion passed (9-0-0-1**, with Representative Hayes absent).

## **REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES**

### **Executive Director's Report**

David Boulter, Executive Director, reported on the following:

1. State House Sprinkler Project Completion

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

2. Status of Council-requested IT enhancements

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

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

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

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

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

3. MDF Economic Development Bus Tour

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

## Fiscal Report

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

### Revenue Update

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

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

2012, this category has fallen \$1.0 million (17.2%) below budget despite the \$1.7 million FY 2012 downward adjustment for this category in the December 2011 revenue forecast.

### Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$23.7	\$23.1	(\$0.6)	-2.7%	\$22.7	1.7%
FYTD	\$141.2	\$142.2	\$1.0	0.7%	\$140.0	1.6%

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

### Revenue Forecasting Schedule

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

### Cash Balances

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

### Status of Legislative Studies

Marion Hylan Barr, Director of the Office of Policy and Legal Analysis, reported on the following to supplement her written status report:

Three of the legislative study commissions have submitted their final reports. They are: Commission to Study Allocation of the Fund for a Healthy Maine, Commission to Study Priorities and Timing of Judicial Proceedings in State Courts, and Committee to Review Issues Dealing with Regulatory Takings. The Blue Ribbon Commission on Affordable Housing has finished its work and its report is currently in production. Three other study committees have also submitted their annual reports. They are: Citizen Trade Policy Commission, Legislative Youth Advisory Council and Right to Know Advisory Committee.

## REPORTS FROM COUNCIL COMMITTEES

### 1. Personnel Committee

President Raye, Chair of the Personnel Committee, offered the following report.

The Personnel Committee met on January 26, 2012 and considered a request by a member of the Legislature's nonpartisan staff for temporary disability income benefits. The request was consistent with the provisions for temporary disability income benefits under the Legislative Council's personnel policies and guidelines. Upon the recommendation of the Executive Director, the committee voted unanimously to approve the request. No Legislative Council action is required.

### 2. State House Facilities Committee

No report

## OLD BUSINESS

None

## NEW BUSINESS

### Item #2: 2012 Youth in Government Program (Request by State YMCA for Program Dates of November 16, 17, and 18, 2012)

Mr. Lonney Steeves, Program Director of the Youth in Government Program for the State YMCA of Maine requested the use of the State House for the program for the dates of November 16, 17 and 18, 2012.

**Motion:** That the Legislative Council authorize the State YMCA of Maine to hold its Youth in Government program in the State House on November 16, 17 and 18, 2012. Motion by Representative Cain. Second by Senator Alford. **Motion passed unanimous (10-0).**

### Item #3: Production of New Legislator Orientation Video – Status Report

Mr. Boulter reported that based upon an earlier request by the Legislative Council, to explore the feasibility of producing a new video to replace the outdated legislator orientation video, entitled "Person-to-Person Legislating Maine", he issued a Request for Proposals earlier this week to solicit video production proposals. The cost for the video production will not be known until bids are received in February. Once the bids are received and evaluated, Mr. Boulter will present the information to the Legislative Council for its consideration. It is hoped that filming of House and Senate sessions and joint committee meetings can occur before the end of March.

**Item #4: Acceptance of Seventh Annual Report of the Citizen Trade Policy Commission (December 2011)**

The Citizen Trade Policy Commission submitted its 2011 Seventh Annual Report for acceptance by the Legislative Council.

**Motion:** That the Legislative Council accept the 2011 Seventh Annual Report of the Citizen Trade Policy Commission and place it on file. Motion by Senator Courtney. Second by Representative Curtis. **Motion passed unanimous (10-0).**

**Items #5 -10: Acceptance of the following reports:**

- **Final Report of the Committee to Review Issues Dealing with Regulatory Takings (December 2011)**
- **Final Report of the Commission to Study Allocations of the Fund for a Healthy Maine (December 2011)**
- **Final Report of the Commission to Study Priorities and Timing of Judicial Proceedings in State Courts (December 2011)**
- **Sixth Annual Report of the Right to Know Advisory Committee (January 2012)**
- **Final Report of the Legislative Youth Advisory Council (January 2012)**
- **2011 Report Regarding the Land Use Mediation Program (State Planning Office)**
- **2012 Report on Poverty (State Planning Office)**

**Motion:** That the Legislative Council accept the above listed reports and place them on file. Motion by Representative Cain. Second by Representative Curtis. **Motion passed unanimous (10-0).**

**Collective Bargaining Matters [Executive Session]**

**Motion:** That, in accordance with 1 MRSA section 405, subsection 6, the Legislative Council enter into an executive session for the purposes of discussing collective bargaining negotiations between the employee representative for the Administrative Unit of Legislative Employees and the Legislative Council. Motion by Senator Courtney. Second by Representative Cushing. **Motion passed unanimous (10-0).**

The council entered into an executive session at approximately 2:37 p.m. At the conclusion of the executive session, on a motion by Representative Curtis, seconded by Senator Hobbins, with Senator Courtney absent, the Legislative Council voted unanimously to end its executive session at approximately 3:03p.m.

**Note:** Immediately prior to entering into the above noted executive session, the Legislative Council voted to enter into an Executive Session for a purpose other than that stated in the above motion. The Legislative Council immediately realized the error and voted to end the Executive Session without discussion of any matter. It then entered into an executive session in accordance with the above stated motion.

**ANNOUNCEMENTS AND REMARKS**

The Legislative Council meeting was adjourned at 3:04 p.m. on a motion by Senator Alfond, seconded by Senator Plowman. **Motion passed unanimous (10-0).**

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

		<b>Action</b>
<b>SPONSOR:</b> LR 2731	<b>Sen. Alfond, Justin L.</b> An Act To Define Cost Responsibility for Transporting Deaf and Hard-of-hearing Students to the Governor Baxter School for the Deaf	<b>TABLED</b>
<b>SPONSOR:</b> LR 2702	<b>Rep. Berry, Seth A.</b> An Act To Amend the Laws Governing Financial Disclosure by Legislators and High-level Public Officials	<b>FAILED</b>
<b>SPONSOR:</b> LR 2706	<b>Rep. Berry, Seth A.</b> An Act To Prohibit Tax Credits and Exemptions for Businesses That Outsource Jobs to Another Country	<b>TABLED</b>
<b>SPONSOR:</b> LR 2680	<b>Rep. Burns, David C.</b> An Act To Amend the Laws Governing Reimbursement for Certain Services under MaineCare	<b>PASSED</b>
<b>SPONSOR:</b> LR 2676	<b>Rep. Celli, Michael</b> An Act To Prohibit Human Trafficking	<b>FAILED</b>
<b>SPONSOR:</b> LR 2712	<b>Sen. Courtney, Jonathan T. E.</b> Resolve, Directing the Maine Turnpike Authority To Place Signs on Interstate 95 Directing Motorists to the Maine Veterans' Memorial Cemetery in Springvale	<b>PASSED</b>
<b>SPONSOR:</b> LR 2730	<b>Rep. Curtis, Philip</b> An Act to Authorize the Taxpayers of the Town of Madison to Obtain a Return on Investment Risk	<b>WITHDRAWN</b>
<b>SPONSOR:</b> LR 2709	<b>Rep. Cushing, III, Andre E.</b> An Act To Improve the Accountability of Government Officials	<b>TABLED</b>
<b>SPONSOR:</b> LR 2735	<b>Rep. Cushing, III, Andre E.</b> An Act To Reform Electrical Licensing Laws and Encourage Enrollment in High School Electrical Education Programs	<b>PASSED</b>
<b>SPONSOR:</b>	<b>Rep. Eves, Mark W.</b>	<b>PASSED</b>

LR 2663	An Act To Enhance the Protection of Social Service Home Visitors	
<b>SPONSOR:</b>	<b>Sen. Goodall, Seth A.</b>	<b>TABLED</b>
LR 2665	An Act To Update the Laws Concerning Defects in Real Estate Transfers	
<b>SPONSOR:</b>	<b>Rep. Harvell, Lance E.</b>	<b>PASSED</b>
LR 2711	An Act To Require a Person To Show Photographic Identification When Using an Electronic Benefits Card	
<b>SPONSOR:</b>	<b>Rep. Haskell, Anne M.</b>	<b>PASSED</b>
LR 2679	An Act To Change the Statute of Limitations on Sex Abuse Crimes When the Actor is a Person in a Position of Control	
<b>SPONSOR:</b>	<b>Rep. Hinck, Jon</b>	<b>FAILED</b>
LR 2728	An Act To Limit to Natural Persons the Right To Contribute to Political Campaigns	
<b>SPONSOR:</b>	<b>Sen. Katz, Roger J.</b>	<b>PASSED</b>
LR 2683	An Act To Establish the Dirigo March as the State of Maine March	
<b>SPONSOR:</b>	<b>Rep. Knight, L. Gary</b>	<b>PASSED</b>
LR 2704	An Act To Facilitate Rapid Response by Businesses to State-declared Disasters	
<b>SPONSOR:</b>	<b>Sen. Langley, Brian D.</b>	<b>PASSED</b>
LR 2681	An Act To Conform Certain Aspects of Maine Law Regarding Child Pornography with Federal Law	
<b>SPONSOR:</b>	<b>Rep. MacDonald, W. Bruce</b>	<b>PASSED</b>
LR 2718	An Act To Amend the Boothbay Region Water District Charter	
<b>SPONSOR:</b>	<b>Rep. McKane, Jonathan B.</b>	<b>FAILED</b>
LR 2664	An Act To Prevent Tax Dollars from Being Used in Political Campaigns	
<b>SPONSOR:</b>	<b>Rep. Nutting, Robert W.</b>	<b>PASSED</b>
LR 2668	An Act To Specifically Exempt from the Prohibition against Texting while Driving Emergency Personnel Who Are Acting in the Course of Their Duties	
<b>SPONSOR:</b>	<b>Rep. Pilon, Donald E.</b>	<b>FAILED</b>



LR 2688	An Act To Prohibit Insurance Companies from Using Credit Scores as an Underwriting Criterion for Motor Vehicle Insurance	
<b>SPONSOR:</b> LR 2703	<b>Sen. Raye, Kevin L.</b> An Act To Amend the Laws To Ensure Disclosure of Significant Financial Connections between High-level Public Officials and Organizations Receiving Public Funds	<b>WITHDRAWN</b>
<b>SPONSOR:</b> LR 2666	<b>Rep. Sirocki, Heather W.</b> Resolve, To Clarify the Pilot Project Authorizing Independent Practice Dental Hygienists To Process Radiographs	<b>FAILED</b>
<b>SPONSOR:</b> LR 2667	<b>Rep. Sirocki, Heather W.</b> An Act To Consolidate Certain Food Inspection and Certification Programs within the Department of Health and Human Services	<b>PASSED</b>
<b>SPONSOR:</b> LR 2727	<b>Rep. Slagger, David</b> An Act To Ensure the Authenticity of Items Reported To Be Crafted by Native Americans	<b>PASSED</b>
<b>SPONSOR:</b> LR 2677	<b>Sen. Thomas, Douglas A.</b> An Act To Allow the Transfer of a Large Game Shooting Area License	<b>PASSED</b>
<b>SPONSOR:</b> LR 2740	<b>Rep. Volk, Amy F.</b> An Act To Clarify the Laws Governing the Applicable Use Tax Associated with Certain Campground Rentals	<b>PASSED</b>
<b>JOINT RESOLUTION</b>		
<b>SPONSOR:</b> LR 2337	<b>Sen. Dill, Cynthia A.</b> JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES, THE UNITED STATES SECRETARY OF THE INTERIOR AND THE UNITED STATES CONGRESS TO SUPPORT THE CREATION OF A NATIONAL PARK IN MAINE'S NORTH WOODS	<b>WITHDRAWN</b>
<b>JOINT RESOLUTION</b>		
<b>SPONSOR:</b> LR 2672	<b>Sen. Dill, Cynthia A.</b> JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS NOT TO CLOSE RURAL POST OFFICES	<b>FAILED</b>

**JOINT RESOLUTION**

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

<b>SPONSOR:</b> LR 2371	<b>Sen. Katz, Roger J.</b> JOINT RESOLUTION URGING CONGRESS TO ENACT THE SOCIAL SECURITY FAIRNESS ACT OF 2011	<b>PASSED</b>
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**JOINT RESOLUTION**

<b>SPONSOR:</b> LR 2408	<b>Rep. Keschl, Dennis L.</b> JOINT RESOLUTION, MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO TAKE ALL STEPS NECESSARY TO BECOME ENERGY INDEPENDENT	<b>TABLED</b>
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**JOINT RESOLUTION**

<b>SPONSOR:</b> LR 2699	<b>Rep. Russell, Diane</b> JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO PROPOSE AN AMENDMENT TO THE UNITED STATES CONSTITUTION TO PROVIDE THAT CORPORATIONS ARE NOT "PERSONS" UNDER THE LAW	<b>FAILED</b>
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**ACTION ON REQUESTS PREVIOUSLY TABLED BY THE LEGISLATIVE COUNCIL**

<b>SPONSOR:</b> LR 2603	<b>Sen. Alfond, Justin L.</b> An Act To Restore Equity in Revenue Sharing	<b>Action</b> <b>PASSED</b>
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<b>SPONSOR:</b> LR 2479	<b>Rep. Bolduc, Brian D.</b> An Act To Reinstate Same-day Voter Registration	<b>FAILED</b>
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<b>SPONSOR:</b> LR 2646	<b>Rep. Cain, Emily A.</b> An Act To Prevent Cost Increases in Health Care for Rural Maine School Districts	<b>WITHDRAWN</b>
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<b>SPONSOR:</b> LR 2319	<b>Sen. Courtney, Jonathan T. E.</b> An Act To Change Certain Effective Dates Regarding Guaranteed Access and the Purchase of Health Insurance from outside Maine	<b>TABLED 11/01/11</b>
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<b>SPONSOR:</b> LR 2339	<b>Rep. Maloney, Maeghan</b> An Act To Limit Taxes on Pensions	<b>TABLED 11/01/11</b>
<b>SPONSOR:</b> LR 2535	<b>Rep. Martin, John L.</b> An Act To Repeal the Authority for an Insurer To Vary the Premium Rate Based on Geographic Area	<b>TABLED 11/01/11</b>
<b>SPONSOR:</b> LR 2618	<b>Sen. Raye, Kevin L.</b> An Act To Clarify Municipal Budget Requirements within an Alternative Organizational Structure	<b>TABLED 11/01/11</b>
<b>SPONSOR:</b> LR 2441	<b>Rep. Russell, Diane</b> An Act To Restore Election Day Voter Registration	<b>FAILED</b>
<b>SPONSOR:</b> LR 2357	<b>Rep. Sirocki, Heather W.</b> An Act To Improve Well Water Testing at Licensed Child Care Facilities	<b>TABLED 11/01/11</b>