

SEN. KEVIN L. RAYE  
CHAIR

REP. ROBERT W. NUTTING  
VICE-CHAIR

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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  
February 23, 2012  
Approved March 22, 2012**

**CALL TO ORDER**

Legislative Council Chair, Senate President Raye called the February 23, 2012 Legislative Council meeting to order at 1:36 p.m. in the Legislative Council Chamber.

**ROLL CALL**

Senators: President Raye, Senator Courtney, Senator Plowman, and Senator Hobbins  
  
Senator Alfond arrived shortly after the start of the meeting.

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

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

Senate President Raye convened the meeting at 1:36 p.m. with a quorum of members present.

## SUMMARY OF FEBRUARY 7, 2012 MEETING OF LEGISLATIVE COUNCIL

**Motion:** That the Meeting Summary of February 7, 2012 be accepted and placed on file. Motion by Representative Cushing. Second by Representative Cain. **Motion passed (8-0-0-2**, with Senator Alford and Representative Hayes absent).

### REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

#### Executive Director's Report

David Boulter, Executive Director, reported on the following:

1. Status of Posting of Public Hearing Testimony Pilot Project

The pilot project to post written testimony received by joint standing committees at public hearings on legislation is underway, having begun during the week of February 6, 2012. Written testimony received during public hearings by the joint standing committees on Insurance and Financial Services, Marine Resources, Transportation, and Veterans and Legal Affairs is posted daily. Since the project began, testimony from 100 persons testifying on 18 different bills has been received and posted on-line. To date, the process has worked smoothly, a joint effort between committee clerks and Law and Legislative Reference Library staff. A software application developed by Legislative Information Technology staff facilitates sorting and categorizing the information and posting it to the appropriate location on the Legislature's website. Testimony is sorted by committee, LD #, date of testimony, and name and affiliation of person who presented the testimony.

Viewers may locate the testimony using several search options. [Mr. Boulter presented samples to Legislative Council members]. The pilot project will continue for the remainder of the session.

2. Front Page news link by Library

The Law and Legislative Reference Library has announced its new legislative service: *Front Page*, a webpage of news links and an RSS feed subscription service. This service provides legislators and others with the electronic version of a daily collection of news articles related to bills and other matters relevant to the Legislature. *Front Page* may be accessed from the legislature's webpage using a computer or alternatively using a mobile device by scanning the QR code that links directly to the applicable webpage.

#### Fiscal Report

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

##### Revenue Update

Total General Fund Revenue - FY 2012 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$280.7	\$242.0	(\$38.7)	-13.8%	\$266.1	-9.1%
FYTD	\$1,584.5	\$1,554.7	(\$29.8)	-1.9%	\$1,549.6	0.3%

General Fund revenue was \$38.7 million (13.8%) under budget in January and \$29.8 (1.9%) for the fiscal year-to-date (FYTD). January's General Fund collections were 9.1% below collections of January 2011. All of the major taxes performed poorly relative to budget in January. The 4 tax categories affecting revenue sharing transfers were under budget by a combined \$36.5 million in January and \$29.7 for the fiscal year through January. January's Individual Income Tax revenue was \$18.8 million or 14.1% below January 2011. However, roughly \$15 million of the negative variance was due to a large number of refunds that were processed on January 31<sup>st</sup>. This extra processing day for refunds in January was not factored into the monthly distribution of budgeted revenue. Estimated payments in January for both individual and corporate income taxes were also substantially below budget. Finally, the initial positive performance for holiday sales tax collections in late November appears to have diminished in December.

### Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$26.2	\$26.8	\$0.6	2.1%	\$25.7	4.1%
FYTD	\$167.4	\$168.9	\$1.6	0.9%	\$165.7	2.0%

Highway Fund revenue was \$0.6 million (2.1%) over budget in January and \$1.6 million (0.9%) for the FYTD. Gasoline prices at record highs for this time of year have produced substantial negative variances in gasoline tax collections each month since begin revised in the December 2011 Forecast. Fortunately, the performance of other fuel tax categories and other Highway Fund revenue categories has been sufficient to maintain a positive variance for total Highway Fund revenue and produce 2% growth for the FYTD.

### Cash Update

General Fund cash balances continue to decline and have fallen roughly \$25 million below last year's levels for this period, despite a \$52 million improvement in reserve balances. The total cash pool in January was \$77 million below the previous year, but still is relatively strong. The performance of Individual Income Tax refunds over the next few weeks will be the key determinant as to whether external cash flow borrowing may be required this fiscal year.

### Revenue Forecasting Schedule

Mr. Pennoyer presented the following preliminary recommendations of the Revenue Forecasting Committee made in preparation for the committee's March 1<sup>st</sup> reporting deadline. Although the Consensus Economic Forecasting Commission did not recommend any changes in its February update of the economic forecast, the Revenue Forecasting Committee reviewed recent revenue performance and 2011 economic data, which result in recommended net downward General Fund adjustments of \$13.0 million for the 2012-2013 biennium. The sales and income taxes affecting revenue sharing are revised downward in the 2012-2013 biennium by a net amount of \$30.0 million. These downward adjustments are partially offset by other net upward revisions, the largest of which are adjustments in the Estate Tax (\$11.8 million) and incorporating the General Fund share of the recent mortgage settlement (\$5.7 million). The impact of this revenue forecast on other funds is more modest.

## Summary of March 2012 Revenue Revisions

### Preliminary Recommendations

Millions of \$'s

#### General Fund Summary

	<b>FY11 Actual</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>
Current Forecast	\$2,945.0	\$2,956.3	\$3,030.3	\$2,974.1	\$3,094.6
Annual % Growth	6.9%	0.4%	2.5%	-1.9%	4.1%
Net Increase (Decrease)		(\$4.9)	(\$8.1)	(\$15.4)	(\$16.0)
Revised Forecast	\$2,945.0	\$2,951.4	\$3,022.2	\$2,958.7	\$3,078.7
Annual % Growth	6.9%	0.2%	2.4%	-2.1%	4.1%

#### Highway Fund Summary

	<b>FY11 Actual</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>
Current Forecast	\$311.4	\$317.9	\$318.9	\$321.1	\$323.2
Annual % Growth	0.1%	2.1%	0.3%	0.7%	0.6%
Net Increase (Decrease)		\$0.3	\$0.9	\$1.7	\$1.9
Revised Forecast	\$311.4	\$318.2	\$319.8	\$322.9	\$325.1
Annual % Growth	0.1%	2.2%	0.5%	1.0%	0.7%

#### Fund for a Healthy Maine Summary

	<b>FY11 Actual</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>
Current Forecast	\$54.4	\$54.5	\$54.0	\$54.3	\$53.9
Annual % Growth	-5.5%	0.3%	-1.0%	0.5%	-0.8%
Net Increase (Decrease)		(\$0.0)	(\$0.0)	(\$0.1)	(\$0.1)
Revised Forecast	\$54.4	\$54.5	\$54.0	\$54.2	\$53.8
Annual % Growth	-5.5%	0.3%	-1.0%	0.4%	-0.8%

#### Medicaid/MaineCare Dedicated Revenue Taxes Summary

	<b>FY11 Actual</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>
Current Forecast	\$148.0	\$151.8	\$154.4	\$154.4	\$154.4
Annual % Growth	5.7%	2.6%	1.7%	0.0%	0.0%
Net Increase (Decrease)		(\$0.4)	\$0.0	\$0.0	\$0.0
Revised Forecast	\$148.0	\$151.5	\$154.4	\$154.4	\$154.4
Annual % Growth	5.7%	2.3%	1.9%	0.0%	0.0%

### Status of Legislative Studies

Marion Hylan Barr, Director of the Office of Policy and Legal Analysis, reported on the status of legislative studies. She reported that all legislative study committees have completed their work and their final reports have been printed. Ms. Hylan Barr stated that this will be her final status report this legislative session.

### REPORTS FROM COUNCIL COMMITTEES

#### 1. Personnel Committee

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

The Personnel Committee met on February 23, 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

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

### NEW BUSINESS

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

The Legislative Council then proceeded to consider and vote on the bill requests in accordance with the previously established protocol. Of the 33 bill requests, the council authorized 13 requests for introduction in the 2<sup>nd</sup> Regular Session of the 125th Legislature, 6 failed to be authorized, 3 were withdrawn, 6 had no action taken, and 3 were tabled until a future Legislative Council meeting. Of the 3 joint resolutions, the council authorized 1 request for introduction in the 2<sup>nd</sup> Regular Session of the 125th Legislature, 1 had no action taken, 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.

### OLD BUSINESS

#### Item #1: Legislative Council Actions Taken by Ballot

A. LR 2745      **An Act to Require Forfeiture of Public Retirement System Benefits for Persons Convicted of Certain Crimes**

Submitted by:      Representative Leslie Fossel  
Approved:      February 8, 2012      Vote: 6 - 4 in favor

B. LR 2777      **An Act to Require Notification of All Affected Facilities When Amending a Certificate of Need**

Submitted by:      Senator Kevin Raye  
Approved:      February 14, 2012      Vote: 10 - 0 in favor

C. LR 2762      **An Act to Establish the Dairy Improvement Fund**

Submitted by:      Senator Debra Plowman  
Approved:      February 14, 2012      Vote: 10 - 0 in favor

D. LR 2754      **JOINT RESOLUTION Memorializing the President of the United State and the United States Congress to Adequately Fund the Low-Income Home Energy Assistance Program**

Submitted by:      Senator Kevin Raye  
Approved:      February 8, 2012      Vote: 9 - 0 - 0 - 1 in favor

No further action by the Legislative Council was required.

**Item #2:      Production of New Legislator Orientation Video Proposals**

Mr. Boulter reported that 5 proposals have been received in response to the request for proposals issued by the Office of the Executive Director for a firm to produce a new Legislator orientation video to replace the current outdated version. Mr. Boulter convened an internal team to evaluate the proposals. The review team has met several times to review the proposals and develop a recommendation. The Legislative Council asked Mr. Boulter to explore the potential of working with the New England School of Communications and other Maine colleges having media programs to produce the video. Mr. Boulter will present his findings and recommendation at the next Legislative Council meeting.

**NEW BUSINESS**

**Item #2:      Acceptance of Final Report of the Blue Ribbon Commission on Affordable Housing (February 2012)**

The Blue Ribbon Commission on Affordable Housing submitted its 2012 Final Report for acceptance by the Legislative Council.

**Motion:** That the Legislative Council accept the 2012 Final Report of the Blue Ribbon Commission on Affordable Housing and place it on file. Motion by Senator Courtney. Second by Senator Plowman. **Motion passed (8-0-0-2**, with Representatives Cushing and Hayes absent).

**Item #3:      Acceptance of the Annual Report on Activities and Performance of the Office of Program Evaluation and Government Accountability (December 2011)**

The Office of Program Evaluation and Government Accountability submitted its 2011 Annual Report on Activities and Performance for acceptance by the Legislative Council.

**Motion:** That the Legislative Council accept the 2011 Annual Report on Activities and Performance of the Office of Program Evaluation and Government Accountability and place it on file. Motion by Senator Courtney. Second by Representative Cain. **Motion passed (8-0-0-2**, with Representatives Cushing and Hayes absent).

**Item #4: Request to Authorize Study and Remove from Study Table (Request by Rep. Fredette, Chair, Task Force on Franco-Americans)**

The Legislative Council received a request by Representative Fredette, Co-Chair of the Task Force on Franco-Americans to authorize the study and remove it from the Study Table. Funding to fully support the task force must be from non-state funds.

**Motion:** That the Legislative Council authorize the study as proposed and remove it from the Study Table for final action by the Legislature, and further that all funds necessary to support the task force study be submitted to the Executive Director for approval prior to convening the task force. Motion by Speaker Nutting. Second by Senator Plowman. **Motion passed (8-0-0-2, with Representatives Cushing and Hayes absent).**

**ANNOUNCEMENTS AND REMARKS**

None

The Legislative Council meeting was adjourned at 2:29 p.m. on a motion by Representative Curtis, seconded by Senator Alford. **Motion passed (9-0-0-1, with Representative Hayes absent).**

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

**As of: February 23, 2012**

		<b>Action</b>
<b>SPONSOR:</b> LR 2770	<b>Sen. Bartlett, II, Philip L.</b> An Act To Expand the Authorized Use of Emergency Preemptive Traffic Light Devices To Include Plow Trucks	<b>FAILED</b>
<b>SPONSOR:</b> LR 2809	<b>Rep. Beavers, Roberta B.</b> An Act To Ban the Sale and Use of Synthetic Drugs	<b>PASSED</b>
<b>SPONSOR:</b> LR 2747	<b>Rep. Cebra, Richard M.</b> An Act To Enact the Liberty Preservation Act	<b>TABLED</b>
<b>SPONSOR:</b> LR 2769	<b>Rep. Cornell du Houx, Alexander M.</b> An Act To Protect School Funding for Municipalities That Experience a Sudden and Severe Loss of Student Population	<b>FAILED</b>
<b>SPONSOR:</b> LR 2802	<b>Rep. Curtis, Philip A.</b> An Act Regarding the Regulation of Consumer Finance Companies	<b>FAILED</b>
<b>SPONSOR:</b> LR 2779	<b>Rep. Dunphy, Larry C.</b> An Act To Amend the Bingham Water District	<b>PASSED</b>
<b>SPONSOR:</b> LR 2803	<b>Rep. Espling, Eleanor M.</b> An Act To Strengthen the Procedures Regarding Parental Consent to Adoption	<b>FAILED</b>
<b>SPONSOR:</b> LR 2746	<b>Rep. Fossel, Leslie T.</b> An Act To Treat Party Formation Committees the Same as Ballot Question Committees for Purposes of the Campaign Finance Laws	<b>PASSED</b>
<b>SPONSOR:</b> LR 2750 <b>TITLE CHANGE</b>	<b>Rep. Graham, Anne P.</b> An Act To Allow a Property Tax Abatement When a Primary Residence on That Property Is Destroyed by Fire	<b>PASSED</b>
<b>SPONSOR:</b> LR 2772	<b>Sen. Jackson, Troy D.</b> An Act To Make the Forest Management and Harvest Plan Public Record	<b>TABLED</b>



<b>SPONSOR:</b> LR 2751	<b>Sen. Katz, Roger J.</b> An Act To Establish a Mechanism for the Forfeiture of a Person's Public Pension Benefits When that Person Is Convicted of a Felony Arising out of a Violation of the Public Trust	<b>WITHDRAWN</b>
<b>SPONSOR:</b> LR 2804	<b>Sen. Katz, Roger J.</b> Resolve, Authorizing the Lease of the Guy P. Gannett House in Augusta to a Nonprofit Organization for Use as a Museum	<b>PASSED</b>
<b>SPONSOR:</b> LR 2760	<b>Rep. Keschl, Dennis L.</b> Resolve, Establishing Surface Use Restrictions on Great Meadow Stream and the Northern Portion of North Bay on Great Pond	<b>PASSED</b>
<b>SPONSOR:</b> LR 2808	<b>Rep. Knight, L. Gary</b> An Act To Completely Exempt the Property of Houses of Religious Worship from Taxation	<b>TABLED</b>
<b>SPONSOR:</b> LR 2743	<b>Rep. Russell, Diane</b> An Act To Clarify the Voting Rights of People Who Are Not Natural-born	<b>FAILED</b>
<b>SPONSOR:</b> LR 2806	<b>Sen. Saviello, Thomas B.</b> An Act Regarding Eligibility for General Assistance	<b>PASSED</b>
<b>SPONSOR:</b> LR 2807	<b>Sen. Saviello, Thomas B.</b> Resolve, Directing the Department of Environmental Protection To Adopt Rules Pertaining to Petroleum Storage and Gravel Pits	<b>PASSED</b>
<b>SPONSOR:</b> LR 2782	<b>Rep. Shaw, Michael A.</b> An Act To Protect Firearm Ownership during Times of Emergency	<b>PASSED</b>
<b>SPONSOR:</b> LR 2788	<b>Rep. Soctomah, Madonna M.</b> An Act To Ensure the Genuineness of Products Reported To Be Crafted by Native Americans	<b>WITHDRAWN</b>
<b>SPONSOR:</b> LR 2789	<b>Rep. Strang Burgess, Meredith N.</b> An Act To Amend the Laws Concerning Municipal Inspections of Establishments	<b>PASSED</b>
<b>SPONSOR:</b> LR 2780	<b>Sen. Thomas, Douglas A.</b> An Act To Protect Native Landlocked Salmon Fisheries from Invasive Fish Species	<b>PASSED</b>

**SPONSOR:** **Rep. Tilton, Dianne C.** **PASSED**  
 LR 2792 An Act To Amend the Laws Pertaining to the Maine  
 Economic Improvement Fund

**JOINT RESOLUTION**

**SPONSOR:** **Rep. Cebra, Richard M.** **TABLED**  
 LR 2744 JOINT RESOLUTION MEMORIALIZING THE  
 PRESIDENT OF THE UNITED STATES AND THE  
 UNITED STATES CONGRESS TO REPEAL  
 PORTIONS OF THE NATIONAL DEFENSE  
 AUTHORIZATION ACT CONCERNING THE  
 INDEFINITE DETENTION OF UNITED STATES  
 CITIZENS

**JOINT RESOLUTION**

**SPONSOR:** **Sen. Courtney, Jonathan T. E.** **PASSED**  
 LR 2810 JOINT RESOLUTION MEMORIALIZING THE  
 UNITED STATES CONGRESS TO REQUEST  
 APPROVAL OF THE KEYSTONE XL PIPELINE  
 PROJECT

**ACTION ON REQUESTS PREVIOUSLY TABLED BY THE LEGISLATIVE COUNCIL**

**SPONSOR:** **Sen. Alford, Justin L.** **Action**  
 LR 2731 **PASSED**  
 An Act To Define Cost Responsibility for Transporting  
 Deaf and Hard-of-hearing Students to the Governor  
 Baxter School for the Deaf

**SPONSOR:** **Rep. Berry, Seth A.** **FAILED**  
 LR 2706 An Act To Prohibit Tax Credits and Exemptions for  
 Businesses That Outsource Jobs to Another Country

**SPONSOR:** **Rep. Cushing, III, Andre E.** **TABLED 01/26/12**  
 LR 2709 An Act To Improve the Accountability of Government  
 Officials

**SPONSOR:** **Sen. Goodall, Seth A.** **TABLED 01/26/12**  
 LR 2665 An Act To Update the Laws Concerning Defects in Real  
 Estate Transfers

**SPONSOR:** **Sen. Courtney, Jonathan T. E.** **TABLED 11/01/11**  
 LR 2319 An Act To Change Certain Effective Dates Regarding  
 Guaranteed Access and the Purchase of Health Insurance  
 from outside Maine

**SPONSOR:** **Rep. Maloney, Maeghan** **TABLED 11/01/11**  
LR 2339 An Act To Limit Taxes on Pensions

**SPONSOR:** **Rep. Martin, John L.** **TABLED 11/01/11**  
LR 2535 An Act To Repeal the Authority for an Insurer To Vary  
the Premium Rate Based on Geographic Area

**SPONSOR:** **Sen. Raye, Kevin L.** **TABLED 11/01/11**  
LR 2618 An Act To Clarify Municipal Budget Requirements within  
an Alternative Organizational Structure

**SPONSOR:** ~~**Rep. Sirocki, Heather W.**~~ ~~**TABLED 11/01/11**~~  
~~LR 2357~~ ~~An Act To Improve Well Water Testing at Licensed Child~~  
~~Care Facilities~~ **WITHDRAWN**

**JOINT RESOLUTION**

**SPONSOR:** **Rep. Keschl, Dennis L.** **TABLED 01/26/12**  
LR 2408 JOINT RESOLUTION, MEMORIALIZING THE  
PRESIDENT OF THE UNITED STATES AND THE  
UNITED STATES CONGRESS TO TAKE ALL STEPS  
NECESSARY TO BECOME ENERGY INDEPENDENT