

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
January 29, 2015
Approved February 26, 2015**

CALL TO ORDER

President Thibodeau called the January 29, 2015 meeting of the Legislative Council to order at 2:23 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, and Representative Espling

Arrived after start of meeting: Representative Fredette

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
Jackie Little, Human Resources 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
Kevin Dieterich, Director, Legislative Information Technology
Beth Ashcroft, Director, Office of Program Evaluation and Government
Accountability

President Thibodeau convened the meeting at 2:23 p.m. with a quorum of members present.

SUMMARY OF JANUARY 8, 2015 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary for January 8, 2015 be accepted and placed on file. Motion by Speaker Eves. Second by Senator Mason. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

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

NEW BUSINESS

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

Revisor of Statutes Suzanne Gresser reviewed the criteria and general procedures to be used for considering after deadline bill requests, the criteria being: why the bill request is late (filed after the cloture deadline), why it is an emergency, necessary to be considered this session, and whether there is a related bill that has been or will be introduced that could be used as the vehicle to address the issue without the necessity of introducing an after deadline bill. Legislative sponsors may speak briefly to their bill request to explain how it meets the criteria for introduction.

The Legislative Council then considered and voted on the bill requests in accordance with the established protocol. Of the 5 bill requests, the council authorized 4 requests for introduction in the 1st Regular Session of the 127th Legislature, 1 failed to be authorized. Of the 5 joint resolutions, the council authorized 2, and 3 were tabled. Of the 4 Late-filed Major Substantive Rule requests, the council authorized 2, and 2 were tabled. 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.

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

Grant Pennoyer, Executive Director, reported on the following:

1. Paint Adhesion Issue on Balustrade at the base of the State House Dome

Recently, some of the white paint of the newly painted sections at the base of the State House Dome lost adhesion and now appear as bare copper. The problem is limited to the base of some of the posts of the balustrade. As soon as it is warm enough, we will have representatives from Sherwin Williams back to research the issue in these limited locations and remedy the problem. No staging is required to access and fix the affected areas.

2. Heating and Plumbing Issues

We have completed work on all of the immediately known leaking heating pipes with exception of one heating line that serves 2 heating units, one in the Legislative Conference Room and the other immediately above in the a staff office within the Office of the Governor.

3. Installation of Backup Cooling System for Computer Server Room

The backup cooling system for the Computer Server Room is now available for installation. We had initially planned to install it tomorrow, but now weather may delay the installation. We continue to be fortunate that we have not experienced an issue with existing cooling units that can fail when we have extremely cold weather.

4. Orientation Session for New Legislative Employees

On Friday, January 16th, we held an orientation session for new legislative employees. This year's attendance was quite large with 42 attendees. Topics covered included: payroll and benefits, sexual harassment, violence in the workplace, building and computer security, basic computer and email tips, and ergonomics.

Fiscal Report

Chris Nolan, 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 |
|----------|-----------|-----------|--------|--------|------------|----------|
| December | \$251.8 | \$265.8 | \$14.0 | 5.6% | \$248.6 | 6.9% |
| FYTD | \$1,454.8 | \$1,473.7 | \$18.9 | 1.3% | \$1,356.3 | 8.7% |

General Fund revenue was over budget by \$14.0 million (5.6%) for December, increasing the positive variance of the fiscal year through December to \$18.9 million (1.3%). These positive variances do now reflect the December revenue forecast, which increased budgeted revenue for FY 2015 by \$45.5 million.

Individual income tax revenue was \$13.2 million over budget for the month of December driven largely by estimated payments being over budget by \$8.1 million, and by withholding exceeding budget by \$3.6 million. The estimated payment line will be looked at closely when January revenues are posted. Historically, strong December and January estimated payments have been an indicator that April receipts may be higher than forecasted. The sales and use tax category came in on budget for the month and for the fiscal year to date. Total taxable sales for the month of November (December revenue) were 1.8% higher than November 2013. Reduced energy prices have contributed to this increase. These positive variances were partially offset by a negative variance of \$3.4 million (-4.2%) in corporate income tax receipts largely caused by estimated payments being lower than expected. This negative variance is expected to even out over the coming months, as estimated payments are difficult to forecast on a monthly basis.

There are a number of other revenue variances that reflect purely timing issues in the monthly distribution of budgeted revenue for FY 2015. An example is the Transfers for Tax Relief Programs category, which was over budget by \$7.0 million for the first half of FY 2015.

Highway Fund Revenue Update

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

| | Budget | Actual | Var. | % Var. | Prior Year | % Growth |
|----------|---------|---------|-------|--------|------------|----------|
| December | \$22.7 | \$24.6 | \$2.0 | 8.6% | \$22.4 | 9.8% |
| FYTD | \$143.0 | \$145.5 | \$2.5 | 1.7% | \$142.9 | 1.8% |

Highway Fund revenue was over budget by \$2.0 million (8.6%) in December and by \$2.5 million (1.7%) for the fiscal year through December. These positive variances reflect the December revenue forecast, which increased budgeted Highway Fund revenue for FY 15 by \$7.5 million.

Motor fuel excise taxes through the first six months of the FY 15 are \$0.7 million (0.8%) over budget. Compared to the first six months of FY 14, motor fuel excise tax receipts have increased by 0.7%. Continued decreased fuel prices compared to last fiscal year are contributing to higher revenues in this category. In addition, motor vehicle registration and fees revenues are \$2.2 million (5.6%) over budget through December. The majority of this variance relates to long-term trailer revenue which continued to perform well in December. 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.

Cash Balances Update

December cash balances while down from November continue to remain strong. December's total cash balance of \$585.2 million is well above both last year's balance for December of \$432.7 million and the ten-year average for December of \$474.0 million. General Fund internal borrowing decreased in December and is still significantly lower than the prior two Decembers. The average Highway Fund balance of \$28.6 million in December decreased from November's average of \$36.3 million with the drop-off reflecting the early December annual payment for the Local Road Assistance program.

Interim Legislative Studies Report

Marion Hylan Barr, Director, Office of Policy and Legal Analysis, reported that all interim legislative studies and commissions have completed their work and all reports are either done or being printed. (Refer to status report in the agenda materials.) Ms. Hylan Barr also drew Members attention to the websites listed for the studies that were staffed by other agencies.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Personnel Committee Chair Eves reported the Personnel Committee held a meeting on January 29, 2015 to consider the following matters:

1. Policy Request, Clerk of the House

The committee reviewed and denied the request for policy change from the Clerk of the House.

2. Request for Temporary Disability Benefit for a Partisan Staff Employee

The committee considered a request by the legislative employee 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 was required.

3. Step Increase for John Barden

The committee considered a step increase for Mr. Barden and voted unanimously to approve this step increase.

4. Reappointment of Beth Ashcroft

The committee considered the reappointment of Beth Ashcroft as Director. The committee met with Beth and discussed her accomplishments and challenges during the past 5 years and goals for the upcoming years. The Personnel Committee voted unanimously to recommend that the Legislative Council reappoint Ms. Ashcroft to a new 5-year term.

Motion: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council appoint Beth Ashcroft to a new 5-year term as Director of the Office of Program Evaluation and Government Accountability, the date of her reappointment being retroactive to January 18, 2015. Motion by Speaker Eves. Second by Senator Mason. **Motion passed unanimous (8-0-0-2**, with Senator Cushing and Representative Fredette absent).

5. Proposed legislation affecting nonpartisan directors

The committee reviewed proposed legislation. No action was required.

2. State House Facilities Committee

No Report

OLD BUSINESS

None

NEW BUSINESS

Item #2: Submission of the 2014 Annual Report on Activities and Performance (OPEGA)

OPEGA Director Ashcroft presented OPEGA's Annual Report for 2014. She noted that the report is required by law to be submitted to the Legislature. She then proceeded to summarize key aspects of the report.

Ms. Ashcroft reminded members that OPEGA goals are to provide timely, relevant and useful information and recommendations, conduct all work with objectivity and accuracy, communicate regularly on OPEGA activities, results and impacts, and to utilize resources effectively, efficiently and economically. She briefly discussed OPEGA accomplishments and the percentage of recommendations that have been partially or fully implemented by agencies.

Motion: That the Legislative Council accept the 2014 Annual Report on Activities and Performance (OPEGA) and place it on file. Motion by Speaker Eves. Second by Senator Mason. **Motion passed unanimous (7-0-0-3**, with Senator Cushing and Representatives McCabe and Fredette absent).

Item #3: Submission of the Report of the Task Force to End Student Hunger in Maine

The Task Force to End Student Hunger in Maine has submitted its report for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the report of the Task Force to End Student Hunger in Maine and place it on file. Motion by Senator Alfond. Second by Senator Mason. **Motion passed unanimous (7-0-0-3**, with Senator Cushing and Representatives McCabe and Fredette absent).

Item #4: Submission of the Report of the Commission to Study the Effects of Coastal and Ocean Acidification and its Existing and Potential Effects on Species that are Commercially Grown along the Maine Coast

The Commission to Study the Effects of Coastal Ocean Acidification and its Existing and Potential Effects on Species that are Commercially Grown along the Maine Coast has submitted its report for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the report of the Commission to Study the Effects of Coastal Ocean Acidification and its Existing and Potential Effects on Species that are Commercially Grown along the Maine Coast and place it on file. Motion by Senator Mason. Second by Senator Alfond. **Motion passed unanimous (7-0-0-3**, with Senator Cushing and Representatives McCabe and Fredette absent).

ANNOUNCEMENTS AND REMARKS

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 3:13 p.m.

**Legislative Council Action on
Requests to Introduce Legislation
First Regular Session**

January 29, 2015

SPONSOR: Sen. Catherine Breen

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 1848 | Resolve, To Establish a Study Group To Determine a Method for Assessing Natural Gas Infrastructure | FAILED |

SPONSOR: Sen. James F. Dill

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|---|---------------|
| 1850 | An Act To Require Snow and Ice To Be Removed from Vehicles before Operation | PASSED |

SPONSOR: Rep. Jeffrey Evangelos

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 1891 | An Act To Provide Funding to Municipalities To Assist with the Maintenance of Veterans' Graves | PASSED |

SPONSOR: Rep. Catherine M. Nadeau

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|---|---------------|
| 1877 | An Act To Facilitate the Completion of Training by Certain Students | PASSED |

SPONSOR: Sen. John L. Patrick

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 1883 | An Act To Amend the Charter of the Canton Water District | PASSED |

JOINT RESOLUTION

SPONSOR: Rep. Henry John Bear

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|---|---------------|
| 242 | JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO PROVIDE EQUITABLE INDIAN LAND CLAIM COMPENSATION TO THE MALISEET TRIBE COMPARABLE TO THAT PROVIDED TO THE PENOBSCOT NATION AND THE PASSAMAQUODDY TRIBE | TABLED |

1890

Resolve, Regarding Legislative Review of Portions of Chapter 61: Rules for Major Capital School Construction Projects, a Late-filed Major Substantive Rule of the Department of Education, State Board of Education

Action
PASSED