

REP. MARK W. EVES
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SEN. JUSTIN L. ALFOND
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EXECUTIVE DIRECTOR
DAVID E. BOULTER



SEN. SETH A. GOODALL
SEN. MICHAEL D. THIBODEAU
SEN. TROY D. JACKSON
SEN. ROGER J. KATZ
REP. SETH A. BERRY
REP. KENNETH W. FREDETTE
REP. JEFFREY M. MCCABE
REP. ALEXANDER R. WILLETTE

126TH MAINE STATE LEGISLATURE

LEGISLATIVE COUNCIL

**LEGISLATIVE COUNCIL
MEETING SUMMARY
January 29, 2013**

CALL TO ORDER

Legislative Council Chair Mark Eves called the January 29, 2013 Legislative Council meeting to order at 1:54 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Alfond, Senator Goodall, Senator Jackson, Senator Thibodeau and Senator Katz

Representatives: Speaker Eves, Representative McCabe, Representative Fredette and Representative Willette

Absent: Representative Berry (arrived after start)

Legislative Officers: Darek Grant, Secretary of the Senate
Millicent MacFarland, Clerk of the House
David E. Boulter, Executive Director of the Legislative Council
Dawna Lopatosky, Legislative Finance 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

Speaker Eves convened the meeting at 1:54 p.m. with a quorum of members present.

**SUMMARY OF DECEMBER 6, 2012 AND DECEMBER 12, 2012 MEETINGS OF
LEGISLATIVE COUNCIL**

Motion: That the Meeting Summaries for December 6, 2012 and December 12, 2012 be accepted and placed on file. Motion by President Alfond. Second by Representative Willette.
Motion passed (9-0-0-1, with Representative Berry absent).

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

David Boulter, Executive Director, reported on the following:

1. 2012 Income Tax Information for Legislators

The Office of the Executive Director has prepared 2012 income tax information for legislators of the 125th and 126th Legislatures as it relates to their legislative salaries and expense payments. The information is intended to aid legislators in preparing their income tax returns for calendar year 2012. The packets were distributed to legislators on Thursday, January 31, 2013.

2. Bill Requests

As of January 18, 2013, the cloture date for filing legislator bill requests for the 1st regular session, 1,984 bill requests had been filed, of which 1,774 are legislator requests. This compares to 1,997 bill requests in the 125th Legislature (1st regular session), 1,899 of which were legislator requests and 1,843 for the 124th Legislature (1st regular session), of which 1,669 were legislator requests.

The Revisor's office is reviewing the requests for duplicates and is giving its highest priority to bill drafting.

3. MDF bus tour of interior Maine

The Maine Development Foundation conducted its regional economic bus tour of interior Maine on January 9-11, 2013, as part of the Legislative Council's legislator orientation program for the 126th Legislature. 70 legislators attended and initial feedback was that the tour was extremely informative and helpful.

Fiscal Report

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

Revenue Update

Total General Fund Revenue - FY 2013 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$245.4	\$240.2	(\$5.2)	-2.1%	\$250.7	-4.2%
FYTD	\$1,304.1	\$1,304.7	\$0.6	0.0%	\$1,312.6	-0.6%

General Fund revenue was \$5.2 million (2.1%) below budget projections in December, but remained \$0.6 million above budget projections for the first half of FY 2013. The Sales and Use Tax and Corporate Income Tax categories remain below budget despite recent downward forecast adjustments. Preliminary January revenue data (December taxable sales) indicate that holiday sales were below expectations, resulting in sales tax collections being further below budget; however, January corporate income tax receipts will offset some of December's negative variance.

Individual Income Tax collections were \$6.6 million over budget for December and preliminary data for January indicate a positive variance in excess of \$25 million (primarily from estimated payments). At least in the short-term, the strength of individual income tax receipts, due to largely taxpayer behavior to shift certain income into 2012 to avoid tax increases in 2013, will be sufficient to offset negative variances in the other major taxes.

There are a number of other revenue variances that reflect timing issues in the monthly distribution of budgeted revenue for FY 2013. An example is the Transfers for Tax Relief Programs category, which was under budget by \$4.3 million in December, but was ahead of budget for the first half of FY 2013 by \$4.4 million.

Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2013 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$23.5	\$21.2	(\$2.3)	-9.8%	\$23.1	-8.2%
FYTD	\$146.2	\$145.3	(\$0.9)	-0.6%	\$142.2	2.2%

Highway Fund revenue was \$2.3 million (9.8%) under budget in December and \$0.9 million (0.6%) under for the first half of FY 2013. About half of the December negative variance was related to a transfer budgeted in November rather than December. Gasoline Tax performance continues to be a major concern for the Highway Fund, remaining below projections despite rather significant downward adjustments in the December revenue forecast.

Cash Balance Update

The average balance in the State's cash pool in December was roughly \$75 million less than a year ago. The expected improvement in the General Fund cash position over the course of FY 2013 has been offset by negative revenue variances and spending above projections, particularly in the MaineCare program. General Fund internal cash flow borrowing is \$96.5 million higher than a year ago. The Governor's proposed emergency supplemental budget would reduce the amounts appropriated for external cash flow borrowing, but retain some funding for cash flow borrowing costs. The Governor's emergency supplemental budget proposals would not significantly improve the State's cash position until the end of FY 2013. Approximately 70% of the savings initiatives offsetting the MaineCare shortfall and \$35.5 million downward General Fund revenue revision in the December 2012 revenue forecast are reductions in reserve fund balances or General Purpose Aid for Local School (GPA) savings. The use of reserve fund balance transfers has a negative effect on General Fund cash balance and the GPA will not affect cash flow until the end of the fiscal year.

Status of Legislative Studies and Committees

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

Ms. Hylan Barr reported that all of the legislative studies that were authorized and convened have completed their work. Several committees never convened. Study reports have been finalized and issued with the exception of the Judicial Compensation Commission and the staff study on Model Sewer District law whose reports are now being finalized.

Representative Fredette noted that the ACF Committee was authorized to meet 6 times but has not issued a report. Ms. Hylan Barr responded that no report was required; the purpose of the meetings was to oversee the progress of the departmental merger.

Representative Fredette also noted that the Franco-American Task Force has completed its work and issued a report which is on the Legislative Council's agenda. Representative Fredette also inquired about the status of the Commission to Develop a Competitive Bidding Process for the Operation of Additional Casinos or Slot Machines in the State, noting that not all appointments to the commission have been made. Ms. Hylan Barr responded that the commission is not required to issue its report until February 2014 but that she would check on the status of appointments.

Senator Katz asked about proposed legislation relating to a new retirement benefits plan for state employees. Ms. Gresser indicated that a bill has been filed.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Speaker Eves, Chair of the Personnel Committee, presented the following report.

The Personnel Committee held a meeting earlier today, January 29, 2013 to consider a request for temporary disability income benefits by a nonpartisan staff member. 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

The committee has not met and, therefore, did not present a report. Representative Fredette stated that he would like to have the committee meet to discuss the security screening protocols used in the State House. Mr. Boulter said he would work with the chair of the State House Facilities Committee to set up a meeting.

3. State House Broadcasting Subcommittee

Senator Goodall, chair of the subcommittee, reported on the subcommittee's work to evaluate the proposal by Maine Public Broadcasting Network to establish a 6 month pilot program for a dedicated television channel devoted to covering legislative proceedings. He stated that the subcommittee and a working group led by Representative McCabe worked with MPBN representatives to develop appropriate procedures and protocols for broadcasting and recording legislative proceedings, including House and Senate sessions and public hearings and work sessions held by joint standing and joint select committees. The result is a detailed memorandum of understanding and limited license agreement between the Legislative Council and MPBN that is presented for Legislative Council review and approval. Senator Goodall emphasized that the proposal is a pilot program for the 1st regular session only. After careful review of the proposed agreement by the subcommittee and MPBN, the subcommittee unanimously recommended that the proposal be presented to the Legislative Council for approval.

Mr. Boulter then proceeded to summarize MPBN's proposal for Maine Capitol Connection Channel and the key components of the recommended agreement. The intent is to provide "C-

SPAN” like coverage of legislative proceedings - gavel to gavel coverage in an impartial and fair manner. Mr. Boulter also indicated that the agreement was reviewed by the Attorney General’s office.

A member asked about use of broadcast material for political or other purposes. Mr. Boulter responded that under the agreement, the material may not be used for partisan, political campaigns or other related purposes. MPBN is copyrighting the Maine Capitol Connection Channel, which limits secondary use of the material as well. Senator Goodall noted that under the “fair use provision” of the U. S. copyright laws, certain limited use of copyrighted materials is allowed without violating the copyright. Under the proposed agreement, MPBN is permitted to allow other news organizations to rebroadcast content, at MPBN’s discretion.

Senator Goodall then suggested the proposed agreement be modified in the following manner:

- Page 4 of the agreement: amend the heading of paragraph 12 to note inclusion of contact information and clarify MPBN’s official contact person, and modifying paragraph 12 to specify that the authorized representative of the Legislative Council is responsible for administering the agreement in accordance with its terms and conditions.
- Page 4 of the agreement: adding a new paragraph 14 to clarify that nothing in the agreement is intended to supersede any federal or state law or legislative rule.

Senator Katz inquired about opportunities for the broadcasts to be carried over cable television. Senator Goodall reported that under the agreement MPBN will be working with Time Warner Cable and other Maine providers of cable television to broadcast the proceedings over cable TV.

Motion: That the Legislative Council approve the proposal by MPBN for a pilot program for the over-the-air channel dedicated to broadcasting legislative proceedings of the 1st regular session; further that the Legislative Council authorize its Executive director to enter into the memorandum of understanding, as amended to include Senator Goodall’s modifications, on behalf of the Legislative Council and that this approval is contingent upon the execution of the memorandum of understanding by the parties. Motion by Senator Goodall. Second by Representative Berry. **Motion passed (9-0-1-0, with Representative Fredette abstaining).**

The vote was reconsidered by the Legislative Council later in the meeting, as follows.

Motion: That the Legislative Council reconsider its action whereby it approved the proposal by MPBN. Motion by Senator Katz. Second by Senator Goodall. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

Motion: That the Legislative Council approve the proposal by MPBN for a pilot program for the over-the-air channel dedicated to broadcasting legislative proceedings of the 1st regular session; further that the Legislative Council authorize its Executive director to enter into the memorandum of understanding, as amended to include Senator Goodall’s modifications, on behalf of the Legislative Council and that this approval is contingent upon the execution of the memorandum of understanding by the parties. Motion by Senator Goodall. Second by Representative Willette. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

OLD BUSINESS

None

NEW BUSINESS

On a request from Representative Fredette, Legislative Council Chair Eves asked if there was any objection to taking one item out of order. There was no objection. The Chair then moved to **New Business, Item 6.**

Item #6: Submission of the Final Report of the Task Force on Franco-Americans (December 2012)

The Task Force on Franco-Americans submitted its Final Report for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the Final Report of the Task Force on Franco-Americans and place it on file. Motion by Representative Fredette. Second by Senator Alfond. **Motion passed unanimous (10-0).**

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

Item #1: Request to Allow Filing of Bill Requests by Newly Elected Constitutional Officers and State Auditor after Bill Cloture Date (Speaker Eves)

Speaker Eves explained to Legislative Council members that the reason for the request is that the Legislature's cloture date for agencies to file bills was on December 5, 2012, well before January 7, 2013, the date when the Constitutional Officers and the State Auditor were sworn into office. Without some accommodation, the newly elected Constitutional Officers and the State Auditor would not have an opportunity to submit legislation on behalf of their agency except by requesting after deadline bill approval on a case-by-case basis.

In response to a question from a Legislative Council member, Mr. Boulter explained that the cloture date was established by Joint Rule and cannot be amended by a vote of the Legislative Council. The option available to the Legislative Council is to modify its procedure for considering after deadline bill requests. He further explained that there is precedence for such a modification such as when a legislator was sworn into office well after the convening of the new legislature. That legislator was allowed to file bill requests up to a date certain without having to obtain further Legislative Council approval.

Senator Jackson made a motion that was subsequently withdrawn. Representative McCabe then made the motion noted below. Following the motion and second by President Alfond, the Legislative Council recessed briefly.

Following the recess, the Legislative Council briefly discussed the importance of members having as much notice as possible of items to be discussed at Legislative Council meetings, and fostering good communication among the members. Mr. Boulter commented that the matter was not on the preliminary agenda but was placed on the revised agenda at Speaker Eves's request, he believed, because the next scheduled meeting of the Legislative Council is February 28th, late in the bill drafting period.

Motion: That all after deadline bill requests filed by the newly elected Attorney General, Secretary of State, State Treasurer and State Auditor until Thursday, February 28, 2013 at 4:00 PM, be deemed to have been authorized by the Legislative Council for introduction in the First Regular Session of the 126th Legislature without further Legislative Council action. After that date, bill requests filed by the Constitutional Officers and the State Auditor are subject to review and approval by the Legislative Council in accordance with its customary procedures for considering after deadline bill requests. Motion by Representative McCabe. Second by Senator Alford. **Motion passed unanimous (9-0-0-1**, with Representative Fredette absent).

Item #2: 2013 Youth in Government Program (Request by State YMCA of Maine for Program Dates of November 15, 16 and 17, 2013)

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 15, 16 and 17, 2013.

Motion: That the Legislative Council authorize the State YMCA of Maine to hold its Youth in Government program in the State House on November 15, 16 and 17, 2013. Motion by Representative Berry. Second by Senator Goodall. **Motion passed unanimous (8-0-0-2**, with Representatives Fredette and Willette absent).

Item #3: Request to serve bagged lunch to students in the Hall of Flags on April 11, 2013 (Request by National Association of Social Workers)

The National Association of Social Workers requested approval to serve a bagged lunch to students in the Hall of Flags at its event scheduled on April 11, 2013. Mr. Boulter explained that the Legislative Council policy for the Hall of Flags limits the use of serving food in the Hall of Flags but does not prohibit a limited use of the nature requested. Mr. Boulter recommended approval of the request as since would not be inconsistent with the long standing policy of the Legislative Council.

Motion: That the Legislative Council authorize the National Association of Social Workers to serve a bagged lunch to students in the Hall of Flags on April 11, 2013. Motion by Representative Berry. Second by Senator Alford. **Motion passed unanimous (9-0-0-1**, with Representative Fredette absent).

Item #4: Submission of the Seventh Annual Report of the Right to Know Advisory Committee (January 2013)

The Right to Know Advisory Committee submitted its Seventh Annual Report for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the Seventh Annual Report of the Right to Know Advisory Committee and place it on file. Motion by Senator Goodall. Second by Representative McCabe. **Motion passed unanimous (9-0-0-1**, with Representative Fredette absent).

Item #5: Submission of the Annual Progress Report on Public Law 2005, Chapter 2 (Governor's Office of Policy and Management)

The Office of Policy and Management submitted its Annual Progress Report on Public Law 2005, Chapter 2 for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the Annual Progress Report on Public Law 2005, Chapter 2 of the Office of Policy and Management and place it on file. Motion by Senator Goodall. Second by Senator Alford. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

Item #7: Submission of 2012 Annual Report of the Midcoast Regional Redevelopment Authority

The Midcoast Regional Redevelopment Authority submitted its 2012 Annual Report for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the 2012 Annual Report of the Midcoast Regional Redevelopment Authority and place it on file. Motion by Senator Goodall. Second by Senator Alford. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

Item #8: Submission of the Seventh Annual Report of the Citizen Trade Policy Commission (December 2012)

The Citizen Trade Policy Commission submitted its 2012 Seventh Annual Report for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the 2012 Seventh Annual Report of the Citizen Trade Policy Commission and place it on file. Motion by Senator Goodall. Second by Representative Berry. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

ANNOUNCEMENTS AND REMARKS

Representative McCabe inquired about a request by the Maine Credit Union League to use the Hall of Flags to serve a meal to credit union representatives for their Maine Credit Union Day in March. Mr. Boulter acknowledged receipt of the request (received after the Legislative Council packet had been distributed), but indicated it was not placed on the revised agenda because it was not deemed to be an emergency. An intervening Legislative Council meeting is scheduled before the event in March.

Representative Berry expressed his appreciation to all those who worked so hard to reach an acceptable agreement with MPBN for the pilot program covering legislative proceedings.

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 2:59 p.m.