

SEN. KEVIN L. RAYE
CHAIR

REP. ROBERT W. NUTTING
VICE-CHAIR

EXECUTIVE DIRECTOR
DAVID E. BOULTER



125TH 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
March 22, 2012
Approved April 24, 2012

CALL TO ORDER

Legislative Council Chair, Senate President Raye called the March 22, 2012 Legislative Council meeting to order at 2:00 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Raye, Senator Courtney, and Senator Plowman

Senators Hobbins and Alfond arrived shortly after the start of the meeting.

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

Legislative Officers: Joseph Carleton Jr, 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

Senate President Raye convened the meeting at 2:00 p.m. with a quorum of members present.

SUMMARY OF FEBRUARY 23, 2012 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of February 23, 2012 be accepted and placed on file. Motion by Senator Courtney. Second by Representative Andre Cushing. **Motion passed (7-0-1-2,** with Representative Hayes abstaining, and Senators Hobbins and Alfond absent).

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 17 bill requests, the council authorized 2 requests for introduction in the 2nd Regular Session of the 125th Legislature, 1 failed to be authorized, 2 were withdrawn, 8 had no action taken, and 4 were tabled until a future Legislative Council meeting. Of the 5 joint resolutions, the council authorized 1 request for introduction in the 2nd Regular Session of the 125th Legislature, 2 failed to be authorized, and 2 were 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.

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

David Boulter, Executive Director, reported on the following:

1. Energy Use Report by Efficiency Maine Trust

Efficiency Maine Trust completed its walkthrough audit of the Maine State House, that was begun earlier this year, conducted pursuant to Resolves 2011, c. 40: *Resolve, To Evaluate the Energy Use of the State House and the Burton M. Cross State Office Building*. The assessment identified several areas that provide opportunities for energy savings, including increased use of LED lighting, use of occupancy sensors for certain lighting, reducing air infiltration around doors and windows, increasing roof insulation and utilizing a water side economizer to eliminate the need to operate a "chiller" year-round as well as other HVAC efficiencies. The Efficiency Maine review focused on measures that would result in a simple payback of 7 years or less. Additional discussions with Efficiency Maine will be held to develop implementation strategies for the most cost-effective energy saving measures.

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
February	\$132.4	\$137.8	\$5.3	4.0%	\$131.1	5.1%
FYTD	\$1,717.0	\$1,692.4	(\$24.5)	-1.4%	\$1,680.7	0.7%

General Fund revenue was \$5.3 million (4.0%) over budget in February, but remained \$24.5 (1.4%) below budget for the fiscal year-to-date (FYTD), prior to adjusting for the Revenue Forecasting Committee's (RFC) March revenue forecast that revised General Fund revenue downward in FY 2012 by \$4.9 million. January's General Fund collections were 9.1% below collections of January 2011. All of the major taxes with the exception of Individual Income Tax recovered from poor performances in January. Corporate Income Tax was buoyed in February by 2 major audits. Processing of Individual Income Tax returns has been well ahead of prior years due to the increase in the percentage of returns filed electronically. These earlier than projected refunds are the primary reason for the \$30.5 million negative variance through February in this category.

Fines, Forfeits and Penalties revenue was ahead of budget in February by \$1.0 million. Although this positive variance is good news given the recent performance of this category, a delay in the processing of the February distributions of Judicial Department revenue until March overstates this positive variance by \$0.5 million.

Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2012 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
February	\$25.6	\$25.8	\$0.1	0.4%	\$25.1	2.4%
FYTD	\$193.0	\$194.7	\$1.7	0.9%	\$190.9	2.0%

Highway Fund revenue was \$0.1 million (0.4%) over budget in February and \$1.7 million (0.9%) for the FYTD. This positive variance was in spite of continuing negative variances for Gasoline Tax collections, which were under budget by almost \$1 million in February. The RFC adjusted this category downward, but the off-model adjustment did not anticipate monthly variances of the magnitude experienced recently. 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 2.0% growth for the FYTD.

Cash Update

General Fund cash balances continue to decline with February's average General Fund internal borrowing being \$65.3 million higher than last February. Despite this decline, the State still may be able to avoid external cash flow borrowing this fiscal year absent major surprises and assuming individual income tax refunds decline as expected.

MaineCare Spending Update

The last 3 MaineCare weekly cycle payments have been lower than prior payments this fiscal year. At this point, it is uncertain how much of this reduction in weekly spending might be related to the recent corrections of eligibility status in the MaineCare system.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

No report

2. State House Facilities Committee

No report

OLD BUSINESS

Item #1: Legislative Council Actions Taken by Ballot

- A. **LR 2818** **An Act to Establish a Presidential Primary in the State**
 Submitted by: Senator Kevin Raye
 Approved: February 28, 2012 Vote: 10 - 0 in favor
- B. **LR 2825** **An Act to Improve Environmental Oversight and Streamline Permitting for Mining in Maine**
 Submitted by: Representative John Martin
 Approved: March 1, 2012 Vote: 10 - 0 in favor
- C. **LR 2834** **An Act to Enhance Opportunities for the Sale of Lottery Tickets**
 Submitted by: Senator Debra Plowman
 Approved: March 7, 2012 Vote: 10 - 0 in favor
- D. **LR 2839** **An Act to Clarify the Regulation of Private Natural Gas Pipelines**
 Submitted by: Senator Kevin Raye
 Approved: March 9, 2012 Vote: 10 - 0 in favor
- E. **LR 2813** **An Act to Clarify Authorized Associations of Veterinary Practice**
 Submitted by: Senator Seth Goodall
 Approved: March 9, 2012 Vote: 9 – 0 – 1 – 0 in favor
- F. **LR 2829** **An Act Requiring Communication of Mammographic Breast Density Information to Patients**
 Submitted by: Representative Terry Hayes
 Approved: March 13, 2012 Vote: 10 - 0 in favor
- G. **LR 2845** **An Act to Establish a Competitive Bid Process for Future Casinos and Slot Machine Facilities**
 Submitted by: Representative Michael Beaulieu
 Approved: March 15, 2012 Vote: 9 – 0 – 1 – 0 in favor
- H. **LR 2819** **JOINT RESOLUTION Memorializing the President of the United States and the Congress of the United States to Improve the Process Used to Negotiate and Approve International Trade Agreements**
 Submitted by: Representative Joyce Maker
 Approved: March 6, 2012 Vote: 10 - 0 in favor
- I. **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**
 Submitted by: Representative Richard Cebra
 Approved: March 14, 2012 Vote: 6 – 1 – 3 – 0 in favor

No further action by the Legislative Council was required.

Item #2: Production of New Legislator Orientation Video Proposals

Mr. Boulter reported that, as requested by the Legislative Council, he explored the potential of working with the New England School of Communications or other Maine colleges having media programs to produce a new Legislator orientation video. He contacted seven Maine schools. At this time, none of the schools has either the capability or the time to do this type of project. Mr. Boulter recommended that the Legislative Council not pursue a firm from one of the 5 bidding firms or a school to produce a video at this time due to the lateness of the session – committees will have finished their work before filming could begin – and perhaps revisit the project in the fall in anticipation of the 126th Legislature. The Legislative Council members agreed. No action by the Legislative Council was required.

NEW BUSINESS**Item #2: Acceptance of the *Measures of Growth in Focus 2012* by the Maine Economic Growth Council**

The Maine Economic Growth Council submitted its *Measures of Growth in Focus 2012* for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the *Measures of Growth in Focus 2012* by the Maine Economic Growth Council and place it on file. Motion by Representative Hayes. Second by Representative Cushing. **Motion passed (8-0-0-2**, with Senators Courtney and Alford absent).

Item #3: Acceptance of the ACF Committee’s Review of Seed Potato Board (Joint Standing Committee on Agriculture, Conservation and Forestry)

The Joint Standing Committee on Agriculture, Conservation and Forestry submitted its report of the Seed Potato Board for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the report by the Joint Standing Committee on Agriculture, Conservation and Forestry on its review of the Seed Potato Board and place it on file. Motion by Representative Curtis. Second by Representative Cain. **Motion passed (8-0-0-2**, with Senators Courtney and Alford absent).

Item #4: Placement of Robert Indiana painting on permanent display in Cross Building, Legislative Floor

Mr. Boulter briefed the Legislative Council members on the history of how the oil-on-canvas painting, *First State*, by artist Robert Indiana came to be in the possession of the State (gifted to the State of Maine in 2007) and relevant conditions described in the deed of gift. He explained that the painting has been exhibited in the West Wing of the State House in several locations in accordance with the artist’s request. As explained by Mr. Boulter and Ms. Donna McNeil, Director of the Maine Arts Commission, those locations have proven to be problematic, are generally unsuited for proper exhibit of the painting, and lack adequate security and UV light protection measures. After considering various alternative locations where the painting might be displayed safely and in a suitable setting, they recommended that the painting be exhibited for

permanent display to the public above (and immediately to the north of) the east entrance to the Cross Building on the Legislative Floor (2nd floor). The art work, painted in the style of Pop Art, would be in keeping with the architecture of the Cross Building, would be in a prominent location, would be afforded UV protection, and would be in a secure location within range of security cameras.

Ms. McNeil mentioned the appraised value of the painting, emphasizing that finding a suitable, safe area for long-term display is essential. Mr. Boulter concluded that if the Legislative Council voted to authorize placement of the painting in the recommended location, the relocation would be subject to approval by the artist's representative, pursuant to the agreement.

Motion: That the Legislative Council authorize and direct the relocation of the oil-on-canvas painting *First State* by artist Robert Indiana from the West Wing of the State House to the Cross Building, Legislative Floor, to be placed on permanent exhibit to the public at the building's east entrance. The relocation is subject to and shall occur upon the approval by the artist's representative in accordance with the terms of deed of gift between the artist and the State of Maine. Motion by Senator Plowman. Second by Representative Cain. **Motion passed (9-0-0-1, with Senator Alfond absent).**

ANNOUNCEMENTS AND REMARKS

None

The Legislative Council meeting was adjourned at 2:55 p.m. on a motion by Representative Nutting, seconded by Representative Curtis. **Motion passed (9-0-0-1, with Senator Alfond absent).**

**LEGISLATIVE COUNCIL ACTION ON
AFTER DEADLINE REQUESTS TO INTRODUCE LEGISLATION
SECOND REGULAR SESSION, 125th LEGISLATURE
As of: March 22, 2012**

		Action
SPONSOR: LR 2860	Rep. Beaulieu, Michael G. An Act To Amend the Charter of the Lewiston-Auburn Water Pollution Control Authority	PASSED
SPONSOR: LR 2866	Sen. Brannigan, Joseph C. Resolve, To Require the Office of Program Evaluation and Government Accountability To Conduct an Independent and Internal Audit of the Operations of the Department of Health and Human Services	TABLED
SPONSOR: LR 2836	Rep. Clark, Herbert E. An Act To Allow the Town of Millinocket To Sue the State To Recover the Full Amount Due to Millinocket Due to a Sudden and Severe Disruption of Valuation	TABLED
SPONSOR: LR 2868	Rep. Cushing, III, Andre E. An Act To Support Members of Law Enforcement Community as a Result of Medical Need or Unusual Hardship	PASSED
SPONSOR: LR 2858	Rep. Harmon, R. Ryan An Act To Protect Clean Water by Prohibiting Hydraulic Fracturing	WITHDRAWN BY SPONSOR
SPONSOR: LR 2867	Rep. Harmon, R. Ryan An Act To Include in the Fuel Tax Refund Fuel Used for Agriculture or Forestry Purposes	WITHDRAWN BY SPONSOR
SPONSOR: LR 2846	Sen. Patrick, John L. An Act To Protect the Integrity of the Voting Process	FAILED
SPONSOR: LR 2817	Rep. Prescott, Kerri L. An Act To Allow the Use of Tax Increment Financing Revenue To Fund School Costs in Brunswick and Topsham	TABLED

JOINT RESOLUTION

SPONSOR: **Rep. Berry, Seth A.** **FAILED**
 LR 2869 JOINT RESOLUTION MEMORIALIZING CONGRESS
 TO ADOPT THE MAIN STREET FAIRNESS ACT

JOINT RESOLUTION

SPONSOR: **Rep. Boland, Andrea M.** **FAILED**
 LR 2838 JOINT RESOLUTION MEMORIALIZING THE
 UNITED STATES CONGRESS TO IMPLEMENT THE
 RECOMMENDATIONS OF THE FEDERAL
 COMMISSION TO ASSESS THE THREAT TO THE
 UNITED STATES FROM ELECTROMAGNETIC
 PULSE ATTACK AND THE RECOMMENDATIONS
 OF THE NATIONAL ASSOCIATION OF
 REGULATORY UTILITY COMMISSIONERS TO
 PROTECT THE ELECTRIC TRANSMISSION AND
 DISTRIBUTION INFRASTRUCTURE

JOINT RESOLUTION

SPONSOR: **Rep. Knight, L. Gary** **TABLED**
 LR 2871 JOINT RESOLUTION MEMORIALIZING THE
 CONGRESS OF THE UNITED STATES TO ADOPT
 THE MARKETPLACE FAIRNESS ACT

JOINT RESOLUTION

SPONSOR: **Sen. Raye, Kevin L.** **PASSED**
 LR 2870 JOINT RESOLUTION MEMORIALIZING THE
 CONGRESS OF THE UNITED STATES TO REFORM
 THE FEDERAL TOXIC SUBSTANCES CONTROL
 ACT OF 1976

JOINT RESOLUTION

SPONSOR: **Sen. Sherman, Roger L.** **TABLED**
 LR 2843 JOINT RESOLUTION MEMORIALIZING THE
 UNITED STATES CONGRESS TO ADDRESS THE
 ISSUE OF SALE AND DISTRIBUTION OF MEAT
 AND POULTRY

ACTION ON REQUESTS PREVIOUSLY TABLED BY THE LEGISLATIVE COUNCIL

SPONSOR: **Rep. Cebra, Richard M.** **Action**
 LR 2747 An Act To Enact the Liberty Preservation Act **TABLED 02/23/12**

SPONSOR: LR 2709	Rep. Cushing, III, Andre E. An Act To Improve the Accountability of Government Officials	TABLED 01/26/12
SPONSOR: LR 2665	Sen. Goodall, Seth A. An Act To Update the Laws Concerning Defects in Real Estate Transfers	TABLED 01/26/12
SPONSOR: LR 2772	Sen. Jackson, Troy D. An Act To Make the Forest Management and Harvest Plan Public Record	TABLED 02/23/12
SPONSOR: LR 2808	Rep. Knight, L. Gary An Act To Completely Exempt the Property of Houses of Religious Worship from Taxation	TABLED
SPONSOR: LR 2319	Sen. Courtney, Jonathan T. E. An Act To Change Certain Effective Dates Regarding Guaranteed Access and the Purchase of Health Insurance from outside Maine	TABLED 11/01/11
SPONSOR: LR 2339	Rep. Maloney, Maeghan An Act To Limit Taxes on Pensions	TABLED 11/01/11
SPONSOR: LR 2535	Rep. Martin, John L. An Act To Repeal the Authority for an Insurer To Vary the Premium Rate Based on Geographic Area	TABLED 11/01/11
SPONSOR: LR 2618	Sen. Raye, Kevin L. An Act To Clarify Municipal Budget Requirements within an Alternative Organizational Structure	TABLED 11/01/11