

SEN. MICHAEL D. THIBODEAU
CHAIR

REP. MARK W. EVES
VICE-CHAIR

EXECUTIVE DIRECTOR
GRANT T. PENNOYER



127TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

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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
November 25, 2014
Approved January 8, 2015**

CALL TO ORDER

Legislative Council Chair Mark Eves called the November 25, 2014 Legislative Council meeting to order at 1:51 p.m. in the Legislative Council Chamber.

ROLL CALL

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

Representatives: Speaker Eves, Representative Berry, and Representative McCabe

Absent: Representative Fredette

Legislative Officers: Robert Hunt, Clerk of the House pro tem
Grant Pennoyer, Executive Director
Dawna Lopatosky, Legislative Finance Director
Jackie Little, Human Resources Director
Maureen Dawson, Acting Director, Office of Fiscal and Program Review
Marion Hylan Barr, Director, Office of Policy and Legal Analysis
Suzanne Gresser, Revisor of Statutes
John Barden, Director, Law and Legislative Reference Library
Nik Rende, Acting Director, Legislative Information Technology
Beth Ashcroft, Director, OPEGA

Speaker Eves convened the meeting at 1:51 p.m. with a quorum of members present.

SUMMARY OF OCTOBER 23, 2014 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary for October 23, 2014 be accepted and placed on file. Motion by President Alfond. Second by Representative Berry. **Motion passed unanimous (8-0-0-1, with Representative Fredette absent).**

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

Grant Pennoyer, Executive Director, reported on the following:

1. Dome Project Completed

Final work on the State House Dome has concluded. The final portions of the staging, namely the stair tower, will be taken down this week. Some minor repairs to the roof from the dome work and staging are required. Next year's major project includes replacing the EPDM (rubber) roof on the State House now that the dome project is complete.

2. YMCA Youth in Government Program

The State YMCA of Maine held its annual civic education program on legislating for high school youth in the State House on Friday through Sunday, November 14-16, 2014. According to the program director, this year's program was its most successful.

3. West Wing Plumbing Issues

Work has concluded on fixing several leaking pipes and fittings in the West Wing of the State House. These plumbing projects and related cosmetic fixes are finishing up this week. The areas affected included the Legislative Conference, the Welcome Center, the State House Café, the Governor's Office (staff offices above the welcome center and conference room) and the Governor's Cabinet room. Heating to those areas has been restored. We are currently investigating another potential leak coming from above the 4th floor of the West Wing that may affect the Criminal Justice and Public Safety Committee Room, the House Republican Office and the portion of the Governor's Office below the House Republican Office.

4. Installation of Backup Cooling System for Computer Server Room

Work to connect a backup cooling system for the Computer Server Room on the 1st floor of the State House is in progress. The most disruptive work affecting the 1st floor ladies room and the hallway outside the ladies room is nearly complete. The remainder of the work will be in the computer server room, when the unit arrives.

5. Fire Sprinkler System Leak on Second Floor of State House

During a charging of the fire system this morning when the fire alarm system went off, the fire sprinkler system released a significant amount of water into the ceiling of Room 221 of the State House, which houses the Governor's Office staff. There is significant water damage from this leak and it is affecting the Legislative Information Office, which is immediately below Room 221. We are still assessing the cause of the leak and the resulting damage and will keep you and the Governor's Office informed.

Representative Berry announced that on November 19, 2014, the Legislative Council received the 2014 Honor Award for Restoration from Maine Preservation for its work on the State House Dome.

Senator Katz asked about a photographic record of the dome project. Mr. Pennoyer reported that the Maine State Archives has a record and is planning a display.

Fiscal Report

Maureen Dawson, Acting 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
October	\$266.0	\$283.8	\$17.7	6.7%	\$258.4	9.8%
FYTD	\$941.1	\$968.7	\$27.6	2.9%	\$880.5	10.0%

General Fund revenue was over budget by \$17.7 million (6.7%) for October which added to the fiscal year to date positive variance. This positive variance is largely due to a \$13.5 million positive variance in the individual income tax category driven by lower than expected refunds and higher payments than expected payments from those who had filed for extensions back in April submitted their final returns. Withholding is still slightly under budget but the Maine Revenue Service said that this is still likely still due to a timing issue related to the monthly distribution of the total budget and not indicative of an underlying weakness in the forecast. The estate tax category came in significantly over budget again in October. This is a relatively volatile category which had shown some weakness in the recent past - so the performance over the past two months is likely to be a case of rebounding toward the mean.

Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
October	\$27.6	\$27.8	\$0.2	0.8%	\$27.9	-0.4%
FYTD	\$89.2	\$91.8	\$2.6	2.9%	\$90.7	1.2%

Highway Fund revenue was over budget by \$0.2 million (0.8%) in October and which improves the picture for the fiscal year to date from what it was a month ago. The motor fuel excise taxes show a positive variance year-to-date but are about even with one year ago. This indicates that even with falling gas prices, usage is fairly flat. According to most other state and federal estimates, usage is likely to stay flat or grow very slightly for the near term which would be an improvement over the slight decline assumed in prior Maine revenue forecasts.

Cash Balances Update

Cash balances continue to improve by every measure. Total average cash pool balance in October was higher than the previous month; higher than in October of 2012 and 2013; and higher than the average October balance for the past ten years. General Fund internal borrowing was lower in October than it was last month and in the prior two Octobers. The average Highway Fund balance in October also improved over the prior month and over the past two Octobers.

Ms. Dawson also gave an update on the December Revenue Forecasting as follows:

Revenue Update

PRELIMINARY General Fund Summary (Millions of \$'s)

	FY14 Actual	FY15	FY16	FY17	FY18	FY19
Current Forecast	\$3,113.5	\$3,247.3	\$3,146.3	\$3,261.6		
Annual % Growth	0.6%	4.3%	-3.1%	3.7%		
Net Increase (Decrease)		\$45.3	\$28.1	\$38.9	\$3,408.9	\$3,523.7
Revised Forecast	\$3,113.5	\$3,292.6	\$3,174.4	\$3,300.5	\$3,408.9	\$3,523.7
Annual % Growth	0.6%	5.8%	-3.6%	4.0%	3.3%	3.4%

General fund revenue estimates were revised upward by \$45.2 million in the current fiscal year, by \$28.1 million in FY16 and \$38.9 million in FY17 (\$67.0 million over the 2016-2017 biennium). The Consensus Economic Forecasting Commission (CEFC) assumes the economy will grow at a slightly higher pace relative to previous forecasts. This, coupled with a stronger than expected revenue picture in FY14, resulted in an increase in forecasted revenue in FY15 and in the next biennium.

Highway Fund Revenue Update

PRELIMINARY Highway Fund Summary (Millions of \$'s)

	FY14 Actual	FY15	FY16	FY17	FY18	FY19
Current Forecast	\$317.1	\$308.6	\$308.2	\$307.8		
Annual % Growth	-0.5%	-2.7%	-0.1%	-0.1%		
Net Increase (Decrease)		\$7.4	\$10.8	\$14.7	\$325.7	\$328.7
Revised Forecast	\$317.1	\$316.0	\$319.0	\$322.6	\$325.7	\$328.7
Annual % Growth	-0.5%	-0.3%	1.0%	1.1%	1.0%	1.0%

Highway fund revenue estimates were revised upward by \$7.4 million in the current fiscal year, by \$10.8 million in FY16 and by \$14.7 million in FY17 (\$25.5 million over the 2016-2017 biennium). The changes are largely driven by total motor fuel tax revenue being over budget in FY14 combined with an increased growth projection.

Fund for a Healthy Maine

PRELIMINARY Fund for a Healthy Maine Summary (Millions of \$'s)

	FY14 Actual	FY15	FY16	FY17	FY18	FY19
Current Forecast	\$60.6	\$60.7	\$54.7	\$54.3		
Annual % Growth	18.8%	0.2%	-9.9%	-0.8%		
Net Increase (Decrease)		(\$7.6)	(\$1.0)	(\$1.6)	\$48.3	\$47.4
Revised Forecast	\$60.6	\$53.1	\$53.7	\$52.7	\$48.3	\$47.4
Annual % Growth	18.8%	-12.4%	1.2%	-1.8%	-8.3%	-1.8%

Fund for a Healthy Maine revenues are predicted to go up in FY16 then begin to decline. The FY15 drop is mainly due to adjustments for receipt of a payment in FY14 instead of FY15 and an apparent over payment to be refunded in FY15.

MaineCare

PRELIMINARY Medicaid/MaineCare Dedicated Revenue Taxes Summary (Millions of \$'s)

	FY14 Actual	FY15	FY16	FY17	FY18	FY19
Current Forecast	\$168.6	\$169.4	\$169.4	\$169.4		
Annual % Growth	10.0%	0.5%	0.0%	0.0%		
Net Increase (Decrease)		\$2.1	\$2.5	\$2.5	\$171.9	\$171.9
Revised Forecast	\$168.6	\$171.5	\$171.9	\$171.9	\$171.9	\$171.9
Annual % Growth	10.0%	1.7%	0.2%	0.0%	0.0%	0.0%

Medicaid/MaineCare dedicated revenue is expected to increase in FY 15 and FY16 before leveling off mainly due to an assumed increase in MaineCare Nursing Facility payments and trends in Service Provider tax payments to reflect recent payment trends.

Interim Legislative Studies Report

Marion Hylan Barr, Director, Office of Policy and Legal Analysis, reported as to the current status of the interim legislative studies and commissions. (Refer to status report in the agenda materials.) Ms. Hylan Barr reported that most commissions are either meeting or finishing up their work, with reports being prepared. She also brought Members attentions to the requests from two commissions that will be considered under new business.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Legislative Council Chair Eves reported that the Personnel Committee met on November 17, 2014 to consider the following matters:

1. Reappointment of Marion Hylan Barr as Director of the Office of Policy and Legal Analysis to a new 3 year term.

The committee considered the reappointment of Marion Hylan Barr as Director. The committee met with Marion and discussed her accomplishments and challenges during the past 3 years and goals for the upcoming years. The Personnel Committee voted unanimously to recommend that the Legislative Council reappoint Ms. Hylan Barr to a new 3-year term.

Motion: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council appoint Marion Hylan Barr to a new 3-year term as Director of the Office of Policy and Legal Analysis, the date of her reappointment being retroactive to November 21, 2014; and further to approve a step increase in salary from step 6 to step 7 retroactive to the Monday following November 21, 2014. Motion by Speaker Eves. Second by Representative Berry. **Motion passed unanimous (8-0-0-1, with Representative Fredette absent).**

2. Update on Recruitment of Director, LIT

The committee received an update on the recruitment of the Director, Legislative Information Technology position.

3. Personnel Policies for the Legislative Council Employees

The committee reviewed and approved changes to the *Personnel Policies and Guidelines for Legislative Council Employees*. These changes primarily impact the areas of: general employment, disciplinary actions, general standards of employee conduct and performance evaluation.

Motion: That, upon the recommendation of the Personnel Committee, the Legislative Council adopt revisions to the *Personnel Policies and Guidelines for Legislative Council Employees* in the areas of general employment, disciplinary actions, general standards of employee conduct and performance evaluation; and subject to a review by legal counsel. Technical changes required by that review may be implemented by the Executive Director; and further to direct the Executive Director to take all necessary steps to implement these provisions. Motion by Speaker Eves. Second by Senator Katz. **Motion passed unanimous (8-0-0-1, with Representative Fredette absent).**

4. Request to change Compensatory Time/Overtime policy

The committee received a request from Clerk of the House pro tempore Robert Hunt to make changes to the Compensatory Time/Overtime policy. No action on this item was taken by the committee.

5. Recruitment of Director, OFPR

The committee conducted interviews for the position of Director, Office of Fiscal and Program Review. After careful consideration, the committee voted unanimously to recommend that the Legislative Council appoint Christopher Nolan as the director of OFPR. The committee felt that Mr. Nolan exhibits the appropriate combination of education, skills, and experience to successfully lead OFPR. Chris is extremely familiar with the Legislature and its process having worked in OFPR as Analyst for over 13 years. The Personnel Committee believes that Chris's appointment as director would serve us well as the Legislature continues to improve its capacity for timely and high quality analysis and committee staffing through OPFR. The challenges and needs of the legislature will continue to evolve as it confronts both new and continuing issues. The Personnel Committee is confident that Mr. Nolan will be an effective director in leading OPFR with skill and insight.

Motion: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council appoint Christopher Nolan of Cumberland as director of the Office of Fiscal and Program Review for a 3-year term, the effective date of his appointment being Monday, December 1, 2014, pursuant to 3 MRSA §162, sub-§6, and that Mr. Nolan's initial salary in the position be established at Salary Grade 14, step 3 of the Legislature's salary schedule; and further that the Executive Director, in consultation with the director, establish performance standards and goals for the director's position and make such operational and organizational improvements as necessary to assure an effective and well run Office of Fiscal and Program Review. Motion by Speaker Eves. Second by President Alfond. **Motion passed unanimous (8-0-0-1, with Representative Fredette absent).**

2. **State House Facilities Committee**

No Report

OLD BUSINESS

None

NEW BUSINESS

Item #1: Request for Extension of the November Reporting Deadline

Mr. Pennoyer reviewed the request from the Commission on Independent Living and Disability to hold a meeting after its current report deadline and to extend its final reporting deadline to December 3, 2014.

Motion: That the Legislative Council approve the request from the Commission on Independent Living and Disability to hold a meeting after its current report deadline and to extend its final reporting deadline to December 3, 2014. Motion by Representative Berry. Second by President Alfond. **Motion passed unanimous (8-0-0-1**, with Representative Fredette absent).

Item #2: Request for Approval of an Additional Meeting

Mr. Pennoyer reviewed the request from the Commission to Study the Effects of Coastal and Ocean Acidification and Its Existing Potential Effects on Species that are Commercially Harvested and Grown along the Maine Coast to hold an additional meeting prior to its final reporting deadline to December 5, 2014.

Motion: That the Legislative Council approve the request from the Commission to Study the Effects of Coastal and Ocean Acidification and Its Existing Potential Effects on Species that are Commercially Harvested and Grown along the Maine Coast to hold an additional meeting Motion by Representative Berry. Second by Senator Katz. **Motion passed unanimous (8-0-0-1**, with Representative Fredette absent).

Item #3: Proposed Document Service Fee Schedule for 127th Legislature, First Regular Session

Mr. Pennoyer reviewed the proposed fee schedule for the Document Service of the Clerk of the House.

Motion: That the Legislative Council approve the Document Service fee schedule for the 127th Legislature, First Regular Session as proposed by the Clerk of the House. Motion by Representative Berry. Second by President Alfond. **Motion passed unanimous (8-0-0-1**, with Representative Fredette absent).

Item #4: Submission of Loring Development Authority of Maine's Annual Report for Fiscal Year 2014

Loring Development Authority of Maine has submitted for acceptance by the Legislative Council its Annual Report for Fiscal Year 2014.

Motion: That the Legislative Council accept the Loring Development Authority of Maine's Annual Report for Fiscal Year 2014 and place it on file. Motion by President Alfond. Second

by Representative Berry. **Motion passed unanimous (8-0-0-1**, with Representative Fredette absent).

Item #5: Submission of the Final Report of the Commission to Continue the Study of Long-term Care Facilities

The Commission to Continue the Study of Long-term Care Facilities has submitted its final report for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the final report of the Commission to Continue the Study of Long-term Care Facilities and place it on file. Motion by Senator Haskell. Second by President Alford. **Motion passed unanimous (8-0-0-1**, with Representative Fredette absent).

Item #6: Submission of the Final Report of the Maine Health Exchange Advisory Committee

The Maine Health Exchange Advisory Committee has submitted its final report for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the final report of the Maine Health Exchange Advisory Committee and place it on file. Motion by Representative Berry. Second by President Alford. **Motion passed unanimous (8-0-0-1**, with Representative Fredette absent).

ANNOUNCEMENTS AND REMARKS

Mr. Pennoyer presented its photograph to each of the Members of 126th Legislative Council in recognition of its achievements. Speaker Eves thanked the Members for their good work during his tenure as Chair of the Council. Senator Katz thanked the Speaker for his work as Chair and also expressed his thanks to the staff of the Legislature for their service. Representative Berry shared his good wishes to the Legislature and future Council as he steps down from legislative service

Mr. Pennoyer thanked Maureen Dawson for her tenure as Acting Director, OFPR.

With no other business to consider or announcements, the Legislative Council meeting was adjourned at 2:25 p.m.