

REP. MARK W. EVES  
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SEN. JUSTIN L. ALFOND  
VICE-CHAIR

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

126<sup>TH</sup> MAINE STATE LEGISLATURE  
LEGISLATIVE COUNCIL

**LEGISLATIVE COUNCIL  
MEETING SUMMARY  
March 28, 2013**

**CALL TO ORDER**

Legislative Council Chair Mark Eves called the March 28, 2013 Legislative Council meeting to order at 2:45 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 Berry, Representative McCabe, Representative Fredette and Representative Willette

Legislative Officers: Darek Grant, Secretary of the Senate  
Robert Hunt, Assistant 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 2:45 p.m. with a quorum of members present.

Legislative Council Chair Eves 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 2.**

**NEW BUSINESS****Item #2: Time Warner Cable Offer to Provide Televisions for Public and Legislator Use in the State House** (Ms. Melinda Poore, Vice President, Government Relations)

Legislative Council Chair Eves invited Ms. Poore to describe the proposal by Time Warner Cable (TWC). Ms. Poore explained that representatives of TWC have been working with Executive Director's office staff to identify several key locations in the State House to place high definition televisions as a public service to provide news, information, and MPBN broadcast of legislative proceedings to the public who are doing business in the State House and to legislators. Three areas were potentially identified: Room 420; State House Café; and the Legislative Conference Room. The proposal would include upgrading cable service to high definition in the identified areas, installing necessary electrical and cable television wiring and installing HD televisions. In addition, the improvements would result in improved signal quality to HD for the television in the Welcome Center. TWC proposes to pay for all costs related to this project.

Representative Berry stated his appreciation for the TWC offer but expressed concern about a proposed sign or logo acknowledging TWC's contribution. Representative Willette commented that he was comfortable with acknowledgement of TWC's contribution.

Ms. Poore also noted that TWC has also offered to install a HD television in the Cross Cafeteria but that offer was turned down by the Bureau of General Services.

There was other general discussion about acknowledgement of TWC's contribution. Ms. Poore stated that she felt some acknowledgement would be appropriate but its absence would not cause TWC to reconsider its offer.

**Motion:** That the Legislative Council accept the offer by Time Warner Cable to install high definition televisions and associated upgraded electrical and high definition television cabling without cost to the Legislature, further that the televisions be installed without accompaniment of a Time Warner Cable corporate logo; and further that the Executive Director seek an appropriate alternative manner of recognition of Time Warner Cable's public service contribution. Motion by Representative Willette. Second by Senator Thibodeau. **Motion passed unanimous (10-0).**

**Item #3: Request for Information Session with Legislators** (Request by Maine Public Broadcasting Network, Mark Vogelzang, President and CEO)

Legislative Council Chair Eves invited Mr. Vogelzang to explain Maine Public Broadcasting Network's proposal. Mr. Vogelzang proposes to hold an information session with legislators to solicit feedback on MPBN's pilot program to televise legislative proceedings this session and suggestions for improvement or expanded programming. He suggested that such an informational session be held on April 9<sup>th</sup> or 10<sup>th</sup>. Senator Goodall suggested that April 10<sup>th</sup> is the better of the two dates and commented that he supported the request. He further suggested that MPBN work with Mr. Boulter to schedule the session.

**Motion:** That the Legislative Council authorize an information session with Legislators and representatives of Maine Public Broadcasting Network for the purpose of soliciting feedback and suggestions on MPBN's pilot program to televise the proceedings of the Legislature; and further that the session be held on or about April 10, 2013. Motion by Senator Goodall. Second by Representative Berry. **Motion passed unanimous (10-0).**

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

The Legislative Council considered and voted on the bill requests in accordance with the established protocol. Of the 25 bill requests, the council authorized 19 requests for introduction in the 1<sup>st</sup> Regular Session of the 126<sup>th</sup> Legislature, 1 failed to be authorized and 5 were tabled until a future Legislative Council meeting. Of the 2 joint resolutions, the council authorized 1 request for introduction in the 1<sup>st</sup> Regular Session of the 126<sup>th</sup> Legislature and 1 was tabled until a future Legislative Council meeting. The Legislative Council's actions on the requests are included on the attached list.

**OLD BUSINESS****Item #1: Council Action Taken by Ballot since February 28, 2013 Meeting****Legislative Council Decision:**

That the Legislative Council authorize the expenditure of up to \$100.00 for providing refreshments at a reception on Thursday, March 21, 2013 for Women's History Month.

Motion by: Representative Seth Berry  
 Second by: Representative Jeffrey McCabe  
 Approved: March 21, 2013  
 Vote: 9-0-0-1 in favor (Representative Alex Willette absent)

No Legislative Council action was required.

**Item #2: Maine Capitol Connection Channel (MPBN response to questions)**

Mr. Boulter drew the Legislative Council members' attention to the letter from Mr. Vogelzang which was in response to several questions posed by the Legislative Council at its February 28, 2013 meeting regarding MPBN's pilot programming to televise legislative proceedings. No Legislative Council action was required.

**Item #3: Request for Legislature's Participation in Maine Employers' Initiative, a Program of the Maine Development Foundation (Representative Hayes)**

This matter had been tabled at the prior Legislative Council meeting. The Legislative Council members reviewed the additional materials about MDF's Maine Employers' Initiative that were included in the Legislative Council's packet of information. Mr. Ryan Neale, representing the Maine Development Foundation, expressed his appreciation that the Legislative Council was considering joining the employers' initiative.

**Motion:** That the Legislative Council participate in the Maine Development Foundation's Maine Employers' Initiative by committing to take "one more step" to promote education and training opportunities for legislative employees; and further, the step to be taken is to initiate an outreach effort to legislative employees that encourages continuing higher education achievement. Motion by Senator Alford. Second by Representative Fredette. **Motion passed (8-0-0-2, with Senator Goodall and Representative Willette absent).**

**NEW BUSINESS****Item #4: Ranking of Legislative Websites by OpenStates.org (Mr. Clark)**

Office of Legislative Information Technology Director Clark spoke to the Legislative Council about a recent “ranking” of legislative websites, including Maine’s, that was developed by OpenStates.org and reported in the media. That ranking placed Maine low among the states. Mr. Clark explained that although the Legislature’s website scored well in several categories including ease of use, areas of low ranking included the ability of public users to capture bulk data of legislative activities (the legislative website currently does not provide for mass downloading of Legislative databases that would facilitate external aggregating, analyzing and reporting information.) Mr. Clark spoke with the organization’s representatives and pointed out several areas that had been ranked low due to a lack of information that in fact are available on the website.

Mr. Clark concluded that overall he would generally not dispute the assessment, albeit a subjective one. He emphasized that the Legislature’s website does need improvement and modernization; in particular the website is difficult to navigate, content and document management need to be integrated and modernized, and duplication needs to be eliminated. His office has begun a project to complete this work.

In response to a question, Mr. Clark indicated that a small amount of consulting money would likely be used to provide technical assistance to the project, approximately \$2,000 from existing budgeted funds. The Council members then discussed increasing \$2,000 to \$3,000 for the consulting assistance.

A member inquired as to whether the website upgrade would facilitate the website use on mobile devices such as tablets and smartphones. Mr. Clark answered that it would.

**Motion:** That the Legislative Council direct the Director of Legislative Information Technology to take such necessary measures to develop an integrated website for the Legislature that focuses on ease of access to key legislative information, minimizes redundancies, and ensures consistency of information and appearance; further that contractual funds not exceed \$3,000 for technical website assistance; further that the director work with appropriate legislative officers and chiefs to solicit their advice; and further that the director report to the Legislative Council at its August meeting on the progress being made on the website improvement and implementation. Motion by Representative McCabe. Second by Senator Alfond. **Motion passed (8-0-0-2**, with Senator Goodall and Representative Willette absent).

**Item #6: Notifications of Committee Hearings and Work Sessions (Representative Berry)**

Representative Berry stated that 2 legislators who sponsored bills and their staff had not been notified of the date and time of the public hearings on those bills, and he sought an explanation as to the problem and confirmation that the notification system is now working properly.

Teen Ellen Griffin, Manager of the Legislative Information Office, provided an overview of the notification system that is provided to bill sponsors. It is an automated process such that when committee clerks enter prescribed information about public hearings into the database, email notices are automatically generated and sent to bill sponsors and their designated staff person(s). Earlier this session, 2 issues emerged, both of which are now corrected: 1- about 80 legislators

did not provide their email address to which notices would be sent (forms were provided to all legislators during the Pre-Legislative Conference) and 2- the automated system did not send notifications properly on bills that had large numbers of co-sponsors. Both issues were resolved. In some cases, legislative email notifications were flagged as spam by their computers. IT staff worked with legislators to adjust their spam filters. Ms. Griffin noted that her office can verify whether email notices have been sent to the email addresses provided by legislators and that it now has been operating properly for some time. Lastly, Ms. Griffin reiterated that notices are sent to legislators as well as their staff so there are 2 opportunities for legislators to be notified of hearings on their bills. Ms. Griffin concluded by saying that she believed the notification was working properly, but if legislators experience any difficulties, they should speak with the committee clerk or the Legislative Information Office.

**Item #5: Legislative Emergency Notification System: Request for Briefing** (Representative Berry)

Mr. Boulter provided an overview of the LENS system that is used to notify legislators and legislative employees of office closures and other emergency circumstances in the legislature through email, text messaging, cellphones and landline phones. Registration is voluntary; participation by legislative employees is nearly 100% and 76 legislators have chosen to participate. In addition to messages to legislators' and legislative employees' electronic devices of choice, public service announcements of office closures are made on local television and radio stations. Mr. Boulter concluded by saying he would gladly assist legislators in registering (free) for LENS.

Representative Berry asked that in addition to all the other forms of notification discussed, that he would like announcements of office closures to be sent by email to "Legislature: All." Mr. Boulter agreed to send the notices as requested.

**Item #7: Submission of the *Measures of Growth in Focus 2013*** (Maine Economic Growth Council)

The Maine Economic Growth Council submitted its report, *Measures of Growth in Focus 2013*, for acceptance by the Legislative Council.

**Motion:** That the Legislative Council accept the 2013 *Measures of Growth in Focus*, Maine Economic Growth Council and place it on file. Motion by Senator Jackson. Second by Representative McCabe. **Motion passed (6-0-0-4**, with Senators Goodall and Katz and Representatives Fredette and Willette absent).

The Legislative Council then returned to the other items on its agenda, with President Alford chairing the remainder of the meeting.

**SUMMARY OF FEBRUARY 28, 2013 MEETING OF LEGISLATIVE COUNCIL**

**Motion:** That the Meeting Summary for February 28, 2013 be accepted and placed on file. Motion by Senator Jackson. Second by Representative Berry. **Motion passed (7-0-0-3**, with Speaker Eves, Senator Goodall and Representative Willette absent).

## REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

### Executive Director's Report

David Boulter, Executive Director, reported on the following:

1. EMS Memorial Construction

The Bureau of General Services is working with representatives of a group authorized to construct a memorial to EMS personnel along State Street. Construction will begin this spring. BGS has shared the plans and Mr. Boulter is assisting in limited fashion so that the site development is compatible with legislative areas and future plans for improvements in the vicinity.

2. Legislation Potentially Affecting Legislative Council

A number of bills have been introduced this session that affect in some way the Legislative Council or its jurisdiction. Key ones are identified below.

- A. LD 474: *An Act to Require Edible Landscaping in a Portion of Capitol Park*, which would require development and maintenance of edible landscaping in Capitol Park, was heard by the Joint Standing Committee on State and Local Government and was the subject of several work sessions. The Legislative Council has jurisdiction over Capitol Park.
- B. LD 978: *An Act to Enhance Public Participation in Legislative Committee Proceedings through the Internet* would require all proceedings of joint standing committees to be available to the public through a live video broadcast that allows for remote participation and would require permanent retention of the video proceedings. The bill was heard by the Joint Standing Committee on State and Local Government on Wednesday, March 27, 2013.
- C. LD 339: *An Act to Require Public Hearings by the Legislature to be Recorded and Posted on the Internet*, would require the Legislative Council by January 1, 2014 to arrange to record all joint standing committee public hearings and make those records accessible to the public on the Legislature's website within 72 hours of the hearing. It would prohibit a committee from holding a work session until the hearing record is posted on the website. It would also require permanent retention of the audio, video or written record. The bill status after is an anticipated divided report by the Joint Standing Committee on State and Local Government.
- D. LD 785: *An Act to Ensure the Periodic Review and Revision of Statutory Provisions* would direct the Revisor's office and the Office of Policy and Legal Analysis to jointly review program evaluation reports annually and submit a report that lists statutory provisions that may require legislature review and amendment. The Revisor of Statutes currently has authority to recommend statutory revisions.
- E. LD 821: *An Act to Allocate the Balance of Funds Not Expended by the Task Force on Franco-Americans* would allocate certain unspent funds now held by the Legislative Council to the Franco-American Center at the University of Maine and direct that remaining funds be expended on the Legislature's "Franco-American Day."

Following the Executive Director's report, Representative McCabe commented that LD 474 may be appropriate to be considered by the State House Facilities Committee rather than by the State

and Local Government Committee because of the Legislative Council's jurisdiction over Capitol Park.

## 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
February	\$129.9	\$112.1	(\$17.8)	-13.7%	\$137.8	-18.6%
FYTD	\$1,693.3	\$1,719.4	\$26.1	1.5%	\$1,692.4	1.6%

General Fund revenue was under budget by \$17.8 million (13.7%) for the month of February, but remained over budget for the fiscal year by \$26.1 million (1.5%). Much of February's variance reflects a \$10 million variance from individual income tax refund processing catching up in February after a slow start this year. Individual Income Tax remained \$48.8 million over budget for the fiscal year through February. Indications are that a large portion of this variance will remain steady this year. However, Corporate Income Tax and Sales and Use Tax collections continue to be the major areas of concern for General Fund revenue performance, despite the modest positive variance for Sales and Use Tax in February (January taxable sales). Preliminary data for March show both of these categories roughly \$5 million and \$10 million, respectively, under budget for the month. Lottery revenue was under budget by \$2.4 million in February, but much of this will be offset in March as a result of the timing of the reimbursement for a \$2 million Powerball prize payout.

### Highway Fund Revenue Update

#### Total Highway Fund Revenue - FY 2013 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
February	\$25.8	\$25.3	(\$0.4)	-1.6%	\$25.8	-1.6%
FYTD	\$197.9	\$196.7	(\$1.2)	-0.6%	\$194.7	1.0%

Highway Fund revenue was under budget by \$0.4 million (1.6%) in February and \$1.2 million (0.6%) for the fiscal year through February. Fuel Taxes revenues are the cause of the negative variance, which are under budget for the fiscal year through February by \$2.1 million. Positive variances from motor vehicle registrations and fees have offset only a portion of the Fuel Taxes' negative variances.

### Cash Balance Update

The average balance in the cash pool in February was \$407.9 million, \$26.0 million more than a year ago. General Fund internal borrowing remains higher than last year; February was \$28.0 million higher than February 2012. Absent any significant variances that will negatively affect cash balances, the State should be able to avoid external borrowing again this year.

## Revenue Forecasting Update

The Consensus Economic Forecasting Commission (CEFC) met on Tuesday, March 26<sup>th</sup> and had a follow up conference call on the morning of the 28<sup>th</sup> after the release of 2012 Personal Income data that was lower than previous projections. The CEFC's forecast is due by April 1<sup>st</sup>. While the CEFC made only modest changes to their previous forecast, the calendar year 2013 Personal Income forecast revision downward, which is only partially offset by a 2014 upward revision, may drive revenue estimates for the major taxes downward for each year of the forecast period. The Revenue Forecasting Committee (RFC) will be meeting during the last week in April to update the revenue forecast for its May 1<sup>st</sup> reporting deadline. The timing of the meeting will allow the RFC to assess preliminary data from April Individual Income Tax filings.

## REPORTS FROM COUNCIL COMMITTEES

### 1. Personnel Committee

No report.

### 2. State House Facilities Committee

Representative Seth Berry, Chair of the State House Facilities Committee, gave the following report. The State House Facilities Committee met on Tuesday, March 26<sup>th</sup> to consider the following items:

#### 1. Security Screening in State House

The committee continued its discussion of security screening measures in the State House that are conducted by the Bureau of Capitol Police. Chief Gauvin was present to answer several questions posed to him by committee members at an earlier meeting, including those related to screening activity and statistics, screening in other state houses, exceptions to screening, staffing and costs. No action was taken and the committee will resume its discussions at a future meeting.

#### 2. Multi-Year Plan for State House Maintenance and Improvements – 2013

The committee reviewed the various maintenance and improvement projects proposed for this year including: paver sealant, stairs and pavement inspection and repair, painting and cosmetic upgrades in public areas of the building, exterior granite inspection and repair, and West entry door replacements. It also considered installation of video cameras in the Appropriations Committee room to facilitate television broadcasts of committee proceedings. The committee was given a presentation of proposed copper sheathing replacement on the State House dome. This project, proposed to be conducted in 2014, will require extensive preparatory work this year in order to be carried out in 2014. The original copper on the dome, installed in 1909-1910, has exceeded its life expectancy and needs replacement. Reliable life expectancy of copper is 75 years. The current copper on the dome is greater than 100 years old and is allowing water infiltration. Its replacement in 2014 along with repairs to the mechanical buildings on the roof will then allow needed replacement of the EPDM roofing on the State House in the following year.



The committee also briefly discussed the coloration on the dome once copper is replaced – it will turn brown and remain so for about 30-35 years before developing the green patina we see on the dome now. It also discussed whether the dome could be gilded as are most other New England state capitols and asked for more information about gilding costs, function and durability. No action was taken on this matter.

The committee also discussed the condition of carpeting in various areas in the State House and areas that may need replacement.

After review, the committee voted unanimously to recommend that the Legislative Council approve the multi-year plan including necessary preparation for dome and roofing repairs in 2014 so they may be conducted as cost-effectively as possible and in a timely manner, with the following exceptions:

1. Replacement of West entry doors should be postponed until 2014 when all doors can be done while construction crews are already onsite for the dome work, resulting in some decreased costs;
2. Installation of 3 video cameras in the Appropriations Committee room should be postponed until a future date. The committee felt that this project was not as high a priority as other more pressing projects and that discussions with MPBN about cost-sharing capital equipment purchases should occur before the project is authorized; and lastly,
3. The committee is recommending that the Executive Director arrange for an assessment of the current condition of carpets in the State House and make recommendations for replacements, including potentially some this year if the carpeting poses a safety hazard.

Senator Thibodeau noted that the dome restoration project is a substantial project and he would like an understanding of the bid process. He also inquired if the dome sheathing could be extended 10-20 years in order to postpone replacement. Representative Berry stated that if there are additional questions, the facilities committee would have time to meet again to discuss these issues. Representative Berry will work with Mr. Boulter to schedule a follow-up facilities committee meeting shortly. No motion was offered.

## **ANNOUNCEMENTS AND REMARKS**

With no other business to consider or announcements, the Legislative Council meeting was adjourned at 3:26 p.m.