

# MAINE STATE LEGISLATURE

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REP. SARA GIDEON  
CHAIR

SEN. MICHAEL D. THIBODEAU  
VICE-CHAIR

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER



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

SEN. GARRETT P. MASON  
SEN. ANDRE E. CUSHING  
SEN. TROY D. JACKSON  
SEN. NATHAN L. LIBBY  
REP. ERIN D. HERBIG  
REP. JARED F. GOLDEN  
REP. KENNETH W. FREDETTE  
REP. ELEANOR M. ESPLING

**128<sup>th</sup> Legislature  
Legislative Council**

**January 31, 2017  
11:00 AM**

**REVISED AGENDA**

<u>Page</u>	<u>Item</u>	<u>Action</u>
	<b>CALL TO ORDER</b>	
	<b>ROLL CALL</b>	
1	<b>SUMMARIES OF THE NOVEMBER 30, 2016 AND DECEMBER 8, 2016 MEETINGS OF THE LEGISLATIVE COUNCIL</b>	<b>Decision</b>
	<b>REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS</b>	
❖ 15	• Executive Director's Report (Mr. Pennoyer)	<b>Information</b>
16	• Fiscal Report (Mr. Nolan)	<b>Information</b>
20	• Studies Report (Ms. Hylan Barr)	<b>Information</b>
	<b>REPORTS FROM COUNCIL COMMITTEES</b>	
	• Personnel Committee	
	• State House Facilities Committee No Report	
	<b>OLD BUSINESS</b>	
22	Item #1: Approval of the <i>Legislator Attendance Policy</i>	<b>Decision</b>
24	Item #2: Recording and Archiving of Committee Audio Files	<b>Decision</b>
❖ 26	Item #3: Council Actions Taken By Ballot (No Action Required)	<b>Information</b>

- ❖ 27 Item #4: Reports to Legislative Council from the Committee on Appropriations and Financial Affairs and the Committee on Health and Human Services regarding the siting of a Secure Forensic Psychiatric Facility in the Capitol Area **Information**

#### **NEW BUSINESS**

- ❖ 29 Item #1: Consideration of After Deadline Bill Requests **Roll Call Vote**
- 33 Item #2: Proposed Legislative Council Policy on Legislative Studies (Ms. Hylan Barr) **Decision**
- 36 Item #3: 2017 Youth in Government Program (Request by State YMCA of Maine for Program Dates in November) **Decision**
- 37 Item #4: Acceptance of the Final Report of the Commission to Study the Economic, Environmental and Energy Benefits of the Maine Biomass Industry (December 2016) **Acceptance**
- 42 Item #5: Acceptance of the Eleventh Annual Report of the Right to Know Advisory Committee (January 2017) **Acceptance**

#### **ANNOUNCEMENTS AND REMARKS**

#### **ADJOURNMENT**



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**LEGISLATIVE COUNCIL  
MEETING SUMMARY  
November 30, 2016**

**CALL TO ORDER**

President Thibodeau called the November 30, 2016 meeting of the Legislative Council to order at 2:22 p.m. in the Legislative Council Chamber.

**ROLL CALL**

Senators: President Thibodeau

Absent: Senator Mason, Senator Cushing, Senator Alford and Senator Hill

Representatives: Speaker Eves, Representative McCabe, Representative Gideon, Representative Fredette and Representative Espling

Legislative Officers: Heather Priest, Secretary of the Senate  
Robert Hunt, Clerk of the House  
Grant T. Pennoyer, Executive Director of the Legislative Council  
Jackie Little, Human Resource Director  
Marion Hylan Barr, Director, OPLA  
Christopher Nolan, Director, OFPR  
Suzanne Gresser, Revisor of Statutes  
John Barden, Director, Law and Legislative Reference Library  
Kevin Dieterich, Director, Legislative Information Technology

President Thibodeau convened the meeting at 2:22 p.m. with a quorum of members present.

**SUMMARY OF SEPTEMBER 22, 2016 MEETING OF LEGISLATIVE COUNCIL**

**Motion:** That the Meeting Summary for September 22, 2016 be accepted and placed on file. Motion by Representative McCabe. Second by Speaker Eves. **Motion passed unanimous (6-0-0-4, with Senators Mason, Cushing, Alford, and Hill absent).**

## REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

### Executive Director's Report

Grant Pennoyer, Executive Director, reported on:

1. Status of Interim Construction Projects

We have wrapped up a busy construction season with the replacement of the State House EPDM roofing over the North and South Wings, the replacement of the State Street sidewalk in front of the State House and plaster repairs of water damage in the House Chamber from previous roof leaks. Work in House Chamber also included upgrading outdated network cables, replacing outdated video cameras and replacing the carpet. The Senate video cameras and system were also upgraded with similar equipment as the House during this interim.

2. Youth in Government Program at the State House

The Youth in Government Program held its annual event at the State House beginning Thursday evening November 10<sup>th</sup> through Sunday, November 13<sup>th</sup>. This year's program went very well.

3. New Member Orientation

The first day of orientation for new members of the 128<sup>th</sup> Legislature was held on Thursday, November 17<sup>th</sup>. We had approximately 40 members attending, including some members with prior service in the Legislature. The Pre-Legislative Conference beginning on Monday, December 5<sup>th</sup> continues this training.

4. Video of Legislative Process

We are currently exploring an option with the University to replace an outdated video of the legislative process. The University has proposed using its Media Studies Program's long-standing capstone course, Service Learning Practicum, as the means to update the video. We are focusing the video primarily on the committee process to keep the project manageable.

5. Copper Reuse Project – Artist Selection Process

The last phase of the copper reuse project is in process. The Maine Arts Commission has sent out a request for proposals based on the guidance developed by the Artist Selection Committee at its September 21<sup>st</sup> meeting.

6. Electric Vehicle Charging Stations

Two electric vehicle charging stations in the Parking Garage have been installed, but remain inoperative pending some final contract negotiations. The estimated implementation date has been delayed until January 1, 2017.

### Fiscal Report

Chris Nolan, Director, Office of Fiscal and Program Review, reported on the following.

#### General Fund Revenue Update

Total General Fund Revenue - FY 2017 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
October	\$274.9	\$291.2	\$16.3	5.9%	\$280.3	3.9%
FYTD	\$1,146.8	\$1,195.6	\$48.8	4.3%	\$1,140.8	4.8%

General Fund revenue was over budget by \$16.3 million (5.9%) for the month of October and over budget by \$48.8 million (4.3%) for the fiscal year to date. Individual income tax revenues were over budget for the month by \$11.1 million and over budget for the fiscal year to date by \$14.0 million. Final and estimated income tax payments were over budget for October while withholding receipts were essentially on budget. Sales and use taxes were over budget by \$6.0 million for the month and over budget by \$16.4 million for the fiscal year to date. September taxable sales increased 5.7% over last September. Corporate income tax revenue was over budget by \$5.5 million for the month of October and over budget by \$12.9 million for the fiscal year to date. The "other taxes and fees" category was under budget by \$12.7 million for the month, largely the result of the transfer for unorganized property taxes not being made until November. Similarly the "other revenue" category had a positive variance of \$8.2 million for October because tourism and Department of Transportation multimodal fund transfers were not made until early November.

### Highway Fund Revenue Update

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
October	\$28.0	\$28.3	\$0.3	1.2%	\$27.8	1.7%
FYTD	\$113.9	\$115.8	\$1.9	1.7%	\$114.1	1.5%

Highway Fund revenue was over budget by \$0.3 million (1.2%) for the month of October and over budget by \$1.9 million (1.7%) for the fiscal year to date. Motor fuel taxes were essentially on budget for the month, while motor vehicle registrations and fees were over budget for the month of October by \$0.5 million.

### Cash Balances Update

The average balance in the cash pool in October of \$978.6 million was down from the September average of \$985.3 million but was still well above both last year's average balance for October and the ten-year average for the month. General Fund internal borrowing from other funds was not needed in October. The average Highway Fund balance of \$41.4 million in October decreased from September's average of \$44.7 million.

### Revenue Forecast

The Revenue Forecasting Committee is scheduled to meet on November 28<sup>th</sup> to review and update the current revenue forecast to comply with its December 1<sup>st</sup> statutory deadline. A brief summary of its findings will be provided at the Legislative Council meeting.

### Studies Update and Report

Marion Hylan Barr, Director, Office of Policy and Legal Analysis, reported on the status of the Interim Legislative Studies and Committee meetings (please see the attached report). Most of the studies are meeting and work is progressing. One is in the process of drafting its report and one study has its final report complete and the Council will be acting on accepting it under new business during today's meeting.

## REPORTS FROM COUNCIL COMMITTEES

### 1. Personnel Committee

Speaker Eves reported that the Personnel Committee met on October 27<sup>th</sup> to consider the following items.

1. Discussion regarding Starting Salaries of the Clerk/Secretary

The committee discussed possible approaches to providing some flexibility based on the experience of a candidate at the time of initial appointment and directed Mr. Pennoyer to gather informal input from key stakeholders prior to any potential Personnel Committee or Legislative Council decision.

2. Request for Temporary Disability Benefits for Nonpartisan Employee

The committee considered a request by a 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 is required.

3. Request for Temporary Disability Benefits for Partisan Employee

The committee considered a request by a 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 is required.

4. Step Increase and Annual Evaluation of OPLA Director

The committee reviewed the annual evaluation of and considered a step increase for Director Marion Hylan Barr. The committee voted unanimously to approve this step increase. No action required by the Legislative Council.

5. Step Increase and Annual Evaluation of OFPR Director

The committee reviewed the annual evaluation of and considered a step increase for Director Christopher Nolan. The committee voted unanimously to approve this step increase. No action required by the Legislative Council.

6. Annual Evaluation of Executive Director

The committee reviewed the annual evaluation of Executive Director Grant Pennoyer. No action required by the Legislative Council.

7. Discussion regarding Legislator Attendance

Pursuant to statute, the committee reviewed a draft policy for recording attendance and for reducing legislators' salaries for absences as guidance for the 128<sup>th</sup> Legislature. The committee voted unanimously to give its recommendation to the 128<sup>th</sup> Legislative Council.

8. Review of Legislative Council Harassment Policy

Ms. Little prepared a draft policy for Legislative Council approval. The committee unanimously voted to recommend adoption by the Legislative Council. This item will be discussed further under old business.

9. HR Updates

Ms. Little provided the committee with information regarding the Legislature's new Aspiring Leaders Program, the Nonpartisan Employee Engagement Survey and Nonpartisan Core Values. No action required by the Legislative Council.

**2. State House Facilities Committee**

Senator Mason reported that the State House Facilities Committee met on October 27<sup>th</sup> to consider the following items.

1. Status Report on the Blaine House Landscaping Project

William Lund, Friends of the Blaine House, and Barbara Claudel, Blaine House Director, provided an update on the Blaine House Landscaping Project. Although the project started later than planned, they indicated that project is progressing well.

2. DHHS Secure Forensic Rehabilitation Facility at Riverview

Mr. Pennoyer noted that the Attorney General's Office discovered a previously ignored requirement that the Legislative Council in addition to the Capitol Planning Commission and the Bureau of General Services must approve construction projects in the statutorily defined Capitol Area. As a result, the committee received an overview of the project from representatives of the Bureau of General Services and the Department of Health and Human Services on the proposed construction of a new Secure Forensic Rehabilitation Facility to be located in a parking lot near the Riverview Psychiatric Recovery Center. After a long discussion, the committee recommended unanimously to send this issue to the full Council for discussion under new business on today's agenda.

3. Discussion of audio recording of committee meetings and MPBN *Capitol Connection*

This committee once again continued its discussion of the recording of committee meetings and was unable to reach consensus on a policy for the recording of committee meetings. The committee directed the Executive Director to draft a memo describing the committee's positions and provide options for the Legislative Council to consider. This memo will be reviewed and discussed later under old business on today's agenda.

#### 4. Updates from the Executive Director

Mr. Pennoyer noted that construction for this interim is coming to a close with only some work on the heating system repairs remaining. He also noted that Division of Risk Management made available to the Legislature some matching funds for the costs of preemptive repairs to the problematic State House heating and cooling system, which helped fund the project. Mr. Pennoyer also noted that he is exploring using the Prison Industries Program to repair the damaged wooden yoke of the State's Liberty Bell replica.

### OLD BUSINESS

#### **Item #1: Revision to the *Legislative Council Policy on Harassment***

Mr. Pennoyer presented a new revision to the *Legislative Council Policy on Harassment*. This is to make this separate policy in keeping with the updates to the Personnel Policy and Guidelines that were just approved. This is a separate policy from the personnel policies as it applies to the entire Legislature not just the staff. Representative Fredette questioned about the process for appeals under this policy, since it is not spelled out in the policy. Ms. Little explained that appeals are covered within the Personnel Policy and Guidelines and the collective bargaining agreement.

**Motion:** That the Legislative Council table this item for a future date. Motion by Representative Fredette. Second by Speaker Eves. **Motion passed unanimous (6-0-0-4, with Senators Mason, Cushing, Alford, and Hill absent).**

#### **Item #2: Recording and Archiving of Committee Audio Files**

Mr. Pennoyer brought the attention of the members to a memo summarizing the status of the State House Facilities Committee's discussions of the policy regarding recording and archiving of committee audio files and options for proceedings. Mr. Pennoyer explained that the members of the State House Facilities Committee were unable to reach consensus on this issue and noted the options for implementing a policy regarding committee audio files included in the memo.

**Motion:** That the Legislative Council table this item for a future date. Motion by Representative McCabe. Second by Representative Fredette. **Motion passed unanimous (6-0-0-4, with Senators Mason, Cushing, Alford, and Hill absent).**

#### **Item #3: Council Actions Taken by Ballot**

##### **Decision by Legislative Council Ballot:**

**Motion:** That the Legislative Council approve the Legislative Document Service for the First Regular Session of the 128<sup>th</sup> Legislature proposed by the Clerk of the House

Motion by: President Thibodeau  
Approved: November 18, 2016  
Vote: 10-0 in favor

Second by: Speaker Eves

## NEW BUSINESS

**Item #1: Approval of New Construction in the Capitol Area by the Legislative Council – DHHS Secure Forensic Rehabilitation Facility**

Mr. Pennoyer presented a requirement in statute that had previously been overlooked that require the Legislative Council to approve new construction in the statutorily defined Capitol Area. This requirement was discovered by the Attorney General before the final approval of the proposed construction of a new secure forensic rehabilitation facility near the Riverside Psychiatric Center, therefore, the Legislative Council needs to provide final approval of this new construction proposal that has received all other approvals required.

**Motion:** That the Legislative Council table this item for a future date. Motion by Representative McCabe. Second by Representative Gideon. **Motion Failed (5-1-0-4,** with Senators Mason, Cushing, Alford, and Hill absent).

Rep. Fredette stated his understanding that this project has been approved and is ready to go forward pending the approval by the Legislative Council and if not approved by Legislative Council this project could be built elsewhere.

Ricker Hamilton, Deputy Commissioner for Programs, Department of Health and Human Services was invited to present some information about the project. He explained that this is not a new service on the East Campus, it was provided by contracted services in the past, and confirmed Rep. Fredette's understanding that Governor could look elsewhere should the Legislative Council not approve the project.

Rep. Gideon stated that there is a desire by members of both parties to build a step-down facility and proposed tabling this so that returning members of the Legislative Council and the Governor can have a conversation about how we make this happen quickly in the committees of jurisdiction.

In response to questions from Rep. Fredette, Mr. Hamilton said that this facility would be built on the existing site and that the consequences of not approving this project would be significant. The lack of this facility was cited as one of the top issues identified by CMS for the decertification of Riverview Psychiatric Center and it is important for the whole mental health system. He also stated that the funding for this project is available from existing sources, which is estimated to be a little more than \$3 million of construction and \$2.6 million for services depending on the outcome of a request for proposals. He also noted moving the patients from acute beds to this facility would result in savings. He also noted that its proximity to the Riverview Psychiatric Center and the ability to coordinate with forensic services and psychiatrists and staff there were the reasons for recommending the proposed location.

In response to Rep. McCabe questions about the funding and if from existing sources what is not being done and will the funding continue, Mr. Hamilton explained that the \$3.5 million of construction costs were coming from: \$655,000 from mental health General Funds; \$900,000 in unspent funds; \$500,000 from funds that were not obligated; and the remaining from the journaling of expenditures to a federal grant for case management. These are one-time sources of funding that involved no cuts to services. For the ongoing costs of \$2.6 million for services, \$1 million from mental health General Fund, \$550,000 from the unused Consent Decree funding, and \$1 million of the \$1.4 million appropriated annually for forensic patients.

Rep. Gideon and Speaker Eves noted their preference of a public process with the committees of jurisdiction in January. In response, Mr. Hamilton stressed that the Legislative Council needs to vote today and that as far as he is willing to go with his commitment. Rep. Fredette indicated that if this project is not approved, that the department will go in another direction as the Governor has the authority.

Rep. Gideon noted that action would be sad and that it doesn't have to go that route and she listed out a series of questions that needed to be answered about the funding, the provider of the services, the licensing and regulation of the facility and the oversight by the Court Master and advocates that were included in a letter from the policy committees to the department that the department indicated it was too busy to answer

Mr. Hamilton indicated that the questions were answered and noted the costs of not approving this project.

John Blais of the Bureau of General Services explained the current RFP for this project produced a very favorable outcome with the successful bidder coming in \$1,000,000 lower than other bidders and that having to go through the RFP process again would up the project costs. A new site would also mean additional costs to go through a whole new set of permitting.

Rep. Espling asked if the permitting processes were public processes and Mr. Blais confirmed that they were public.

**Motion:** That the Legislative Council approve the request of new construction in the Capitol Area. Motion by Representative Fredette. Second by Representative Espling. **Motion failed (3-3-0-4, with Senators Mason, Cushing, Alford, and Hill absent).**

The Chair asked Mr. Pennoyer if the tabling motion required 6 votes. Mr. Pennoyer responded that pursuant to the Legislative Council's Rules of Procedure that the 6-vote requirement does apply to the tabling motion. The Chair explained that a tabling motion was not necessary as the previous motion to approve the project failed and that the council could move on.

The table motion by Rep. McCabe, second by Speaker Eves was withdrawn.

Rep. Fredette proposed a new motion of approving the project conditioned on the Department of Health and Human Services coming before a joint meeting of the Committee on Appropriations and Financial Services and the Committee on Health and Human Services to answer questions about the project in January.

In response to a question to clarify the motion, Rep. Fredette explained that his motion would give the department the authority to proceed today and it would require the department to come before the committees to answer questions and give the Legislature its proper ongoing oversight role. Rep. Fredette also noted a long list of projects that had been approved in the Capitol Area without Legislative Council approval.

**Motion:** That the Legislative Council approve the request of new construction in the Capitol Area on condition that DHHS participate with the AFA and HHS committees. Motion by Representative Fredette. Second by Representative Espling. **Motion failed (3-3-0-4, with Senators Mason, Cushing, Alford, and Hill absent).**

**Item #2: Acceptance of the Final Report of the Working Group to Study Background Checks for Child Care Facilities and Providers**

**Motion:** That the Legislative Council accept the Final Report of the Working Group to Study Background Checks for Child Care Facilities and Providers and place it on file. Motion by Representative Gideon. Second by Representative McCabe. **Motion passed unanimous (6-0-0-4, with Senators Mason, Cushing, Alford, and Hill absent).**

**Item #3: Acceptance of the Washington County Development Authority's Annual Report**

**Motion:** That the Legislative Council accept the Annual Report of the Washington County Development Authority and place it on file. Motion by Representative McCabe. Second by Speaker Eves. **Motion passed unanimous (6-0-0-4, with Senators Mason, Cushing, Alford, and Hill absent).**

**Item #4: Acceptance of the Loring Development Authority of Maine's Annual Report**

**Motion:** That the Legislative Council accept the Annual Report of the Loring Development Authority of Maine and place it on file. Motion by Speaker Eves. Second by Representative Gideon. **Motion passed unanimous (6-0-0-4, with Senators Mason, Cushing, Alford, and Hill absent).**

**ANNOUNCEMENTS AND REMARKS**

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 3:50 p.m.

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**LEGISLATIVE COUNCIL  
MEETING SUMMARY  
December 8, 2016**

**CALL TO ORDER**

President Thibodeau called the December 8, 2016 organizational meeting of the Legislative Council to order at 1:54 p.m. in the Legislative Council Chamber.

**ROLL CALL**

**Senators:** President Thibodeau, Senator Mason, Senator Cushing, Senator Jackson and Senator Libby

**Representatives:** Speaker Gideon, Representative Herbig, Representative Golden, Representative Fredette and Representative Espling

**Legislative Officers:** Heather Priest, Secretary of the Senate  
Bradley Sawyer, Assistant 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  
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

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

President Thibodeau, declaring that a quorum was present and pursuant to the Rules of Procedure adopted by the 127<sup>th</sup> Legislative Council and the Joint Rules adopted by the 127<sup>th</sup> Maine Legislature, called the first meeting of the 128<sup>th</sup> Legislative Council to order for the purposes of electing a Chair and a Vice-chair of the Legislative Council, adoption of rules of procedures and such other matters of the Legislative Council.

The Legislative Council's Rules of Procedure prescribe the following with regard to the election of Legislative Council Officers:

**Rule #2** provides that the position of Chair alternate in succeeding biennial sessions between a member from the Senate and a member from the House of Representatives. Thus, pursuant to these Rules, the Chair for this new Legislative Council should be a Legislative Council member who serves in the Maine House of Representatives.

**Rule #3** provides that the Vice-chair not be a member of the same body of the Legislature as the Chair. Thus, the Vice-chair for the 128<sup>th</sup> Legislative Council should be a member who serves in the Senate.

President Thibodeau stated that unless there was objection, the Legislative Council would continue its long-standing practice of conducting the vote by a showing of hands. Upon the election of a chair, the chair will preside over the remainder of this meeting.

Hearing no objection, President Thibodeau opened the floor for nominations for Chair of the Legislative Council.

**Nomination:** That House Speaker Sara Gideon of Freeport serve as Chair of the Legislative Council for the 128<sup>th</sup> Legislature. (Nominated by Senator Jackson, seconded by Representative Herbig).

President Thibodeau asked if there were further nominations. Hearing none, President Thibodeau closed the nominations. The vote for Legislative Council Chair was taken. House Speaker Gideon was elected to serve as Chair of the Legislative Council for the 128<sup>th</sup> Legislature. Motion passed unanimously (10-0).

Speaker Gideon then presided for the remainder of the meeting. Speaker Gideon proceeded to open the floor for nominations for Vice-chair of the Legislative Council.

**Nomination:** That Senate President Michael Thibodeau of Winterport serve as Vice-chair of the Legislative Council for the 128<sup>th</sup> Legislature. (Nominated by Senator Mason, seconded by Representative Fredette).

Speaker Gideon asked if there were further nominations. Hearing none, Speaker Gideon closed the nominations. The vote for Legislative Council Vice-chair was taken. President Thibodeau was elected to serve as Vice-chair of the Legislative Council for the 128<sup>th</sup> Legislature. Motion passed (9-0-1-0, with President Thibodeau abstaining).

## **ADOPTION OF RULES OF PROCEDURE**

### **Proposed Rules of Procedure for Legislative Council Adoption**

Executive Director Pennoyer briefly explained the provisions of the suggested *Rules of Procedure* for the Legislative Council of the 128<sup>th</sup> Legislature, which was revised from the rules for the Legislative Council of the 127<sup>th</sup> Legislature.

At the request of Rep. Fredette, Mr. Pennoyer explained the process of circulating and approving ballots.

**Motion:** That the Legislative Council adopt the proposed Rules of Procedure for the Legislative Council of the 128<sup>th</sup> Legislature. Motion by President Thibodeau. Second by Senator Mason. **Motion passed unanimously (10-0).**

[Note: A copy of the Rules of Procedure as adopted by the Legislative Council is attached.]

## OLD BUSINESS

None

Rep. Fredette asked why the decision on the secure forensic psychiatric facility was not on the agenda. President Thibodeau explained that the issue was not tabled at the last meeting of the 127<sup>th</sup> Legislative Council and that the last motion failed therefore the issue was dropped from further consideration.

## NEW BUSINESS

### **Item #1: Summary of Legislative Council Authority and Duties**

Mr. Pennoyer gave an overview of the authority and duties of the Legislative Council as set forth in Maine law. No action by the Legislative Council was required.

### **Item #2: Establishment of Salaries for Constitutional Officers and the State Auditor**

One of the initial decisions required of the Legislative Council once a new Legislature is convened is the assignment of the salary for newly elected Constitutional Officers and a newly elected State Auditor. State law prescribes the salary grade and the initial salary step for each official or allows for step-increases for continuous service. As all of the Constitutional Officers and the State Auditor were re-elected into another term for the 128<sup>th</sup> Legislature, they qualify for step increases.

**Motion:** That the Legislative Council approve a step increase for the Secretary of State to Step 7, the State Treasurer to Step 5, and the Attorney General and State Auditor both to Step 9, effective January 1, 2017. Motion by Senator Mason. Second by Senator Libby. **Motion passed unanimously (10-0).**

### **Item #3: Establishment of Initial Salaries for Secretary of the Senate and Clerk of the House**

Another initial decision required of the Legislative Council once a new Legislature is convened is establishing the initial salary for a newly elected Secretary of the Senate and a newly elected Clerk of the House. State law also prescribes the salary grade and the initial salary options for each of the Legislative officials. Both the Secretary of the Senate and the Clerk of the House were originally elected at the convening of the 127<sup>th</sup> Legislature, and were re-elected into office for the 128<sup>th</sup> Legislature. As such both the Secretary of the Senate and the Clerk of the House qualify for step increases.

**Motion:** That the Legislative Council approve a one-step step increase for the Secretary of the Senate to Step 5 and the Clerk of the House to Step 5 of Salary Grade 14 of the

Legislature's salary schedule, in accordance with State law. Motion by Senator Mason. Second by Representative Herbig. **Motion passed unanimously (10-0).**

**Item #4: Legislative Council Policy on Processing Closely-Related Legislator Bill Requests**

Revisor Suzanne Gresser explained that in past sessions, the Legislative Council has established a policy whereby the Office of the Revisor of Statutes was directed to combine legislator bill requests for duplicate or closely related bills (Joint Rule 206). This provision of Joint Rule 206 has existed since the 118<sup>th</sup> Legislature.

Joint Rule 206, Section 2 provides that:

*For duplicate or closely related bills or resolves, the Legislative Council may establish a policy for combination of requests and the number of cosponsors permitted on combined requests.*

Before the above language was adopted by the 118<sup>th</sup> and subsequent legislatures, every bill was simply processed and printed without regard to whether it was closely related to another. Since the advent of the rule, however, each Legislative Council has used its authority to direct that the Revisor's Office in some manner combine closely related bills in order to facilitate the efficient processing of bills.

When the 124<sup>th</sup> Legislature adopted a cloture deadline of mid-January, the process was modified slightly in order to allow the printing of some bills in advance of the later cloture deadline. The Legislative Council of the 124<sup>th</sup> Legislature directed the Revisor's Office to make reasonable efforts to identify duplicate bills as the office processed them before cloture and to notify sponsors as in the past, setting up primary and "mandatory" cosponsors. The Council recognized that by printing bills prior to cloture, a number of potential duplicates would not be identified and combined; however, the Council did not want to suspend the printing of bills until after the cloture date because it would not further the Legislature's goal of expeditious processing and printing of bills.

Because the cloture deadline of the 128<sup>th</sup> Legislature is December 30, 2016, in order to facilitate the expeditious processing of bills in the same manner as was done in the first regular sessions of the 124<sup>th</sup>, 125<sup>th</sup>, 126<sup>th</sup> and 127<sup>th</sup> legislatures, Ms. Gresser recommended that the Legislative Council adopt the process that was established by the those legislatures.

**Motion:** That the Legislative Council adopt the Policy on Processing of Closely-Related Legislator Bill Requests recommended by the Revisor for the 128<sup>th</sup> Legislature. Motion by Speaker Gideon. Second by President Thibodeau. **Motion passed unanimously (10-0).**

**Item #5: Legislative Council Policy on Legislator Attendance**

Mr. Pennoyer reviewed provisions of the policy on Legislator Attendance. During discussion, concerns were raised about the differences between how the Senate and the House record legislator attendance, a lack of a provision for appeal and the retroactive effective date. The Legislative Council decided that the policy should be referred back to the Personnel Committee for review.

**Motion:** That the Legislative Council table this item and refer it back to the Personnel Committee for review. Motion by President Thibodeau. Second by Senator Mason. **Motion passed unanimously (10-0).**

**Item #6: Legislative Council Policy on Harassment**

Mr. Pennoyer explained the revisions to the Legislative Council Policy on Harassment. The update to this policy includes a new definition of harassment generally at the request of a member of the 127<sup>th</sup> Legislative Council. The previous version only had a definition of sexual harassment.

**Motion:** That the Legislative Council adopt the *Legislative Council Policy on Harassment*. Motion by Representative Espling. Second by President Thibodeau. **Motion passed (9-0-1-0**, with Representative Fredette abstaining).

**New Item**

Rep. Espling moved to add an item to the agenda about the Riverview expansion.

Speaker Gideon explained that she had not anticipated taking this item up at this meeting as she has reached out to the Governor's Office to meet and figure out the best path for providing a step-down facility, that meeting with the Governor has been scheduled. Therefore, she recommends not bringing this matter up at this time.

Rep. Fredette expressed concern about the delay in dealing with this important matter until the next council meeting more than six weeks away.

Speaker Gideon noted that if there is progress that a meeting of the Legislative Council could be considered earlier or the matter could be addressed by ballot.

**Motion:** That the Legislative Council add an item to the agenda. Motion by Representative Espling. Second by Representative Fredette. **Motion failed (5-5)**.

**Item #7: Legislative Council meeting schedule for 2017**

Mr. Pennoyer reviewed the proposed Legislative Council meeting schedule for 2017. Representative Fredette requested an additional Legislative Council meeting to be added to the schedule. Speaker Gideon said that she would consider adding an additional meeting to the schedule after she has had the opportunity to meet with the Governor.

**Motion:** That the Legislative Council adopt the proposed Legislative Council meeting schedule for 2017. Motion by Senator Mason. Second by Senator Cushing. **Motion passed (8-1-0-1**, with Representative Fredette absent).

**ANNOUNCEMENTS AND REMARKS**

Mr. Pennoyer recognized Capitol Police Officer Meghan Fenton who used her life-saving training on a legislative employee who was aspirating. Officer Fenton heard the call for help and rushed to provide aid. Using her training, she quickly applied the appropriate technique to clear the airway of the very panicked employee. The Legislative Council offered their sincere appreciation to Officer Fenton for her quick actions.

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 2:53 p.m.

REP. SARA GIDEON  
CHAIR

SEN. MICHAEL D. THIBODEAU  
VICE-CHAIR

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER



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

SEN. GARRETT P. MASON  
SEN. ANDRE E. CUSHING  
SEN. TROY D. JACKSON  
SEN. NATHAN L. LIBBY  
REP. ERIN D. HERBIG  
REP. JARED F. GOLDEN  
REP. KENNETH W. FREDETTE  
REP. ELEANOR M. ESPLING

## **Legislative Council Executive Director's Report January 31, 2017**

### **1. New Employee Orientation**

On Friday, January 20<sup>th</sup>, we held a new employee orientation session to provide some key information including the Personnel Policy Handbooks, pay and benefit options, building security and emergency policies, computer and email guidance and required harassment training. We had 27 new employees attend the session. For 4 new employees that were unable to attend and some employees that will join the Legislature in the near future, we have scheduled a make-up session for Wednesday, March 1<sup>st</sup>.

### **2. Video of Legislative Process**

We are working with the University of Southern Maine's Media Studies Program's long-standing capstone course, Service Learning Practicum, to update a video that had been shown as part of New Member Orientations for a number of Legislatures. Given how dated that old video was, it hasn't been presented to the last two Legislatures. This update will focus primarily on the committee process to keep the project manageable.

### **3. Copper Reuse Project – Artist Selection Process**

The last phase of the copper reuse project is in process. The Maine Arts Commission has sent out a request for proposals based on the guidance developed by the Artist Selection Committee at its September 21<sup>st</sup> meeting. We have had several artists visit the State House to see samples of the copper and to inspect the proposed sites for the artwork.

### **4. Electric Vehicle Charging Stations**

Two electric vehicle charging stations in the Parking Garage have been installed, but remain inoperative pending some final contract negotiations. These negotiations with two separate companies took longer than expected, but they are very close to finalizing. Barring any other unforeseen difficulties, the stations should be operational very soon.

### **5. Blood Drive at the State House**

On Wednesday, February 1<sup>st</sup>, there will be a Red Cross blood drive in the Hall of Flags from 9:30AM to 2:30PM.

# Fiscal Briefing

January 26, 2017

*Prepared by the Office of Fiscal & Program Review*

## 1. General Fund Revenue Update (see attached)

**Total General Fund Revenue - FY 2017 (\$'s in Millions)**

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$263.9	\$274.0	\$10.1	3.8%	\$284.8	-3.8%
FYTD	\$1,706.8	\$1,729.2	\$22.4	1.3%	\$1,673.3	3.3%

General Fund revenue was over budget by \$10.1 million (3.8%) for the month of December and over budget by \$22.4 million (1.3%) for the fiscal year to date. These positive variances now reflect the December 2016 revenue forecast, which increased budgeted revenue by \$34.2 million for FY 2017. Individual income tax revenues were under budget for the month by \$0.8 million and under budget for the fiscal year to date by \$0.8 million. Withholding was under budget for the month by \$6.8 million. Maine Revenue Services has indicated some employers may be under withholding because they have not adjusted withholdings to reflect the phase out of standard and itemized deductions that began with the 2016 tax year. Estimated payments were over budget by \$3.9 million. The final estimated payment is due January 15 so more should be known about this line then. Sales and use taxes were over budget by \$0.9 million for the month. Corporate income tax revenue was over budget by \$7.5 million for the month of December. Estimated corporate tax payments were over budget due to several audits and refunds have been lower than last fiscal year.

## 2. Highway Fund Revenue Update (see attached)

**Total Highway Fund Revenue - FY 2017 (\$'s in Millions)**

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$24.2	\$24.7	\$0.5	2.2%	\$24.2	2.4%
FYTD	\$168.6	\$171.2	\$2.7	1.6%	\$169.0	1.3%

Highway Fund revenue was over budget by \$0.5 million (2.2%) for the month of December and over budget fiscal year to date by \$2.7 million (1.6%). Fuel taxes were over budget by \$1.1 million for the month. Motor vehicle registrations and fees were under budget by \$1.0 million for the month, but are over budget year to date by \$2.9 million. Motor vehicle registrations were under budget by \$0.6 million for the month. Since the last day of December was a Saturday, it is possible this underage is timing.

## 3. Cash Balances Update

The average balance in the cash pool in December of \$948.8 million was down from the November average of \$956.2 million but was well above both last year's average balance for December and the ten-year average for the month. General Fund internal borrowing from other funds was once again not needed in December. The average Highway Fund balance of \$27.5 million in December decreased from November's average of \$44.8 million. This decrease was the result of the annual payment to the Local Road Assistance program being made in December.

**General Fund Revenue**  
**Fiscal Year Ending June 30, 2017 (FY 2017)**

Updated 1/12/17

**December 2016 Revenue Variance Report**

Revenue Category				Fiscal Year-To-Date					FY 2017 Budgeted Totals
	December '16 Budget	December '16 Actual	December '16 Variance	Budget	Actual	Variance	Variance %	% Change from Prior Year	
Sales and Use Tax	95,617,930	96,522,029	904,099	732,275,986	733,180,085	904,099	0.1%	7.0%	1,334,011,722
Service Provider Tax	4,800,000	4,785,560	(14,440)	30,629,204	30,614,765	(14,439)	0.0%	34.0%	59,149,448
Individual Income Tax	150,091,017	149,247,583	(843,434)	758,002,861	757,159,427	(843,434)	-0.1%	-4.3%	1,485,648,976
Corporate Income Tax	21,000,000	28,453,433	7,453,433	70,553,192	78,006,979	7,453,787	10.6%	81.3%	161,093,471
Cigarette and Tobacco Tax	10,871,779	9,866,922	(1,004,857)	72,388,429	71,383,572	(1,004,857)	-1.4%	-3.1%	139,179,000
Insurance Companies Tax	28,660	458,751	430,091	12,894,095	15,648,525	2,754,430	21.4%	23.2%	76,700,000
Estate Tax	944,000	382,050	(561,950)	10,715,262	10,153,311	(561,951)	-5.2%	-19.3%	16,378,323
Other Taxes and Fees *	8,617,024	8,938,968	321,944	70,502,186	71,022,317	520,131	0.7%	5.7%	142,973,133
Fines, Forfeits and Penalties	1,500,611	1,097,004	(403,607)	10,209,300	8,823,458	(1,385,842)	-13.6%	-12.7%	22,237,275
Income from Investments	131,587	275,503	143,916	845,251	1,275,743	430,492	50.9%	174.0%	1,707,976
Transfer from Lottery Commission	5,278,855	5,103,638	(175,217)	28,505,784	29,690,154	1,184,370	4.2%	5.2%	54,900,000
Transfers to Tax Relief Programs *	(30,500,000)	(27,171,473)	3,328,527	(46,549,651)	(36,121,245)	10,428,406	22.4%	-8.1%	(64,448,340)
Transfers for Municipal Revenue Sharing	(4,581,740)	(4,581,748)	(8)	(32,313,355)	(32,255,774)	57,581	0.2%	6.5%	(64,684,234)
Other Revenue *	93,621	632,887	539,266	(11,854,895)	(9,339,973)	2,514,922	21.2%	-64.7%	21,603,304
<b>Totals</b>	<b>263,893,344</b>	<b>274,011,107</b>	<b>10,117,763</b>	<b>1,706,803,649</b>	<b>1,729,241,342</b>	<b>22,437,693</b>	<b>1.3%</b>	<b>3.3%</b>	<b>3,386,450,054</b>

\* Additional detail by subcategory for these categories is presented on the following page.

**General Fund Revenue**  
**Fiscal Year Ending June 30, 2017 (FY 2017)**

Updated 1/12/17

**December 2016 Revenue Variance Report**

Revenue Category	December '16			Fiscal Year-To-Date					FY 2017 Budgeted Totals
	Budget	Actual	Variance	Budget	Actual	Variance	Variance %	% Change from Prior Year	
<b>Detail of Other Taxes and Fees:</b>									
- Property Tax - Unorganized Territory	0	0	0	12,771,589	11,500,982	(1,270,607)	-9.9%	2.6%	14,513,169
- Real Estate Transfer Tax	1,406,838	1,375,863	(30,975)	10,251,370	10,220,395	(30,975)	-0.3%	7.8%	18,044,043
- Liquor Taxes and Fees	1,569,186	1,586,931	17,745	11,289,396	11,799,883	510,487	4.5%	0.4%	21,415,688
- Corporation Fees and Licenses	188,639	156,577	(32,063)	1,350,976	1,592,828	241,852	17.9%	2.2%	9,088,649
- Telecommunication Excise Tax	0	20,924	20,924	0	43,081	43,081	N/A	225.8%	6,500,000
- Finance Industry Fees	2,195,991	2,598,200	402,209	13,175,946	13,791,750	615,804	4.7%	-1.8%	26,851,990
- Milk Handling Fee	491,520	536,791	45,271	3,206,799	3,252,070	45,271	1.4%	88.6%	6,155,899
- Racino Revenue	590,347	672,214	81,867	4,363,764	4,405,621	41,857	1.0%	-3.3%	8,578,779
- Boat, ATV and Snowmobile Fees	174,137	194,793	20,656	1,737,463	1,589,508	(147,955)	-8.5%	-3.3%	4,523,561
- Hunting and Fishing License Fees	1,109,087	665,795	(443,292)	7,697,821	7,808,288	110,467	1.4%	2.1%	15,878,217
- Other Miscellaneous Taxes and Fees	891,279	1,130,880	239,601	4,657,062	5,017,912	360,850	N/A	38.2%	11,423,138
<b>Subtotal - Other Taxes and Fees</b>	<b>8,617,024</b>	<b>8,938,968</b>	<b>321,944</b>	<b>70,502,186</b>	<b>71,022,317</b>	<b>520,131</b>	<b>N/A</b>	<b>5.7%</b>	<b>142,973,133</b>
<b>Detail of Other Revenue:</b>									
- Liquor Sales and Operations	1,978	4,000	2,022	12,018.00	18,431	6,413	N/A	11.5%	9,845,500
- Targeted Case Management (DHHS)	226,487	33,891	(192,596)	961,469	768,871	(192,598)	-20.0%	-26.5%	2,300,000
- State Cost Allocation Program	1,529,320	1,506,031	(23,289)	9,030,852	9,841,657	810,805	9.0%	6.4%	18,296,832
- Unclaimed Property Transfer	0	0	0	0	0	0	N/A	N/A	7,000,000
- Tourism Transfer	0	0	0	(14,601,204)	(14,590,665)	10,539	0.1%	-11.3%	(14,601,204)
- Transfer to Maine Milk Pool	(1,246,010)	(1,260,234)	(14,224)	(10,346,742)	(10,360,967)	(14,225)	-0.1%	-52.8%	(17,049,616)
- Transfer to STAR Transportation Fund	0	0	0	(7,900,000)	(7,908,006)	(8,006)	-0.1%	-8.2%	(7,900,000)
- Other Miscellaneous Revenue	(418,154)	349,198	767,352	10,988,712	12,890,706	1,901,994	17.3%	14.9%	23,711,792
<b>Subtotal - Other Revenue</b>	<b>93,621</b>	<b>632,887</b>	<b>539,266</b>	<b>(11,854,895)</b>	<b>(9,339,973)</b>	<b>2,514,922</b>	<b>21.2%</b>	<b>-64.7%</b>	<b>21,603,304</b>
<b>Detail of Transfers to Tax Relief Programs:</b>									
- Me. Resident Prop. Tax Program (Circuitbreaker)	0	120	120	0	2,946	2,946	N/A	1.0%	0
- BETR - Business Equipment Tax Reimb.	(2,000,000)	(6,952,829)	(4,952,829)	(18,000,000)	(15,855,776)	2,144,224	11.9%	-22.4%	(30,500,000)
- BETE - Municipal Bus. Equip. Tax Reimb.	(28,500,000)	(20,218,764)	8,281,236	(28,549,651)	(20,268,415)	8,281,236	29.0%	0.9%	(33,948,340)
<b>Subtotal - Tax Relief Transfers</b>	<b>(30,500,000)</b>	<b>(27,171,473)</b>	<b>3,328,527</b>	<b>(46,549,651)</b>	<b>(36,121,245)</b>	<b>10,428,406</b>	<b>22.4%</b>	<b>-8.1%</b>	<b>(64,448,340)</b>
<b>Inland Fisheries and Wildlife Revenue - Total</b>	<b>1,425,364</b>	<b>938,995</b>	<b>(486,369)</b>	<b>9,992,531</b>	<b>9,935,792</b>	<b>(56,739)</b>	<b>-0.6%</b>	<b>N/A</b>	<b>21,499,761</b>

**Highway Fund Revenue**  
**Fiscal Year Ending June 30, 2017 (FY 2017)**

Updated 1/12/17

**December 2016 Revenue Variance Report**

Revenue Category	December '16			Fiscal Year-To-Date					FY 2017 Budgeted Totals
	Budget	Actual	Variance	Budget	Actual	Variance	% Variance	% Change from Prior Year	
<b>Fuel Taxes:</b>									
- Gasoline Tax	15,720,178	17,031,674	1,311,496	106,757,377	107,453,339	695,962	0.7%	2.5%	200,201,200
- Special Fuel and Road Use Taxes	4,442,088	4,375,073	(67,015)	25,207,099	24,927,009	(280,090)	-1.1%	-1.9%	47,086,700
- Transcap Transfers - Fuel Taxes	(1,482,687)	(1,573,657)	(90,970)	(9,697,111)	(9,798,599)	(101,488)	-1.0%	-2.3%	(18,171,111)
- Other Fund Gasoline Tax Distributions	(393,115)	(425,943)	(32,828)	(2,669,682)	(2,711,207)	(41,525)	-1.6%	-3.4%	(5,006,432)
Subtotal - Fuel Taxes	18,286,464	19,407,146	1,120,682	119,597,683	119,870,542	272,859	0.2%	1.6%	224,110,357
<b>Motor Vehicle Registration and Fees:</b>									
- Motor Vehicle Registration Fees	5,308,748	4,592,599	(716,149)	31,137,215	32,951,047	1,813,832	5.8%	1.3%	66,345,787
- License Plate Fees	294,243	284,931	(9,312)	1,782,267	1,945,458	163,191	9.2%	1.1%	3,458,710
- Long-term Trailer Registration Fees	1,123,077	937,844	(185,233)	3,497,772	3,951,247	453,475	13.0%	-3.6%	9,884,523
- Title Fees	1,083,634	997,862	(85,772)	6,591,433	6,910,902	319,469	4.8%	0.1%	13,366,264
- Motor Vehicle Operator License Fees	586,940	691,532	104,592	4,046,908	4,441,635	394,727	9.8%	6.9%	8,499,545
- Transcap Transfers - Motor Vehicle Fees	(3,487,335)	(3,610,090)	(122,755)	(7,715,186)	(7,961,625)	(246,439)	-3.2%	-0.3%	(15,570,414)
Subtotal - Motor Vehicle Reg. & Fees	4,909,307	3,894,677	(1,014,630)	39,340,409	42,238,664	2,898,255	7.4%	1.3%	85,984,415
Motor Vehicle Inspection Fees	328,543	685,384	356,841	1,876,250	1,867,374	(8,877)	-0.5%	0.0%	2,982,500
Other Highway Fund Taxes and Fees	111,792	162,961	51,169	654,277	728,491	74,214	11.3%	4.7%	1,280,229
Fines, Forfeits and Penalties	60,445	63,271	2,826	377,532	411,283	33,751	8.9%	7.6%	739,039
Interest Earnings	52,310	29,593	(22,717)	300,727	164,524	(136,203)	-45.3%	67.5%	585,484
Other Highway Fund Revenue	459,012	496,662	37,650	6,406,252	5,956,088	(450,164)	-7.0%	-4.7%	9,959,100
<b>Totals</b>	<b>24,207,873</b>	<b>24,739,693</b>	<b>531,820</b>	<b>168,553,130</b>	<b>171,236,966</b>	<b>2,683,836</b>	<b>1.6%</b>	<b>1.3%</b>	<b>325,641,124</b>

## 2016 Interim Legislative Studies and Committee Meetings

Updated January 20, 2017

Study/Committee	Citation	2016 Meetings Authorized	2016 Meetings Held	Scheduled Next Meeting Date(s)	Report Date	Chair(s)	Status/Notes
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### NEW STUDIES

Working Group to Study Child Care Background Checks	H.P. 1167	4	9/14/16 9/28/16 10/14/16		11/2/2016	Sen. Roger Katz Rep. Aaron Frey	Work completed; report printed and posted to OPLA website
(Feasibility Study)/Implementation Committee to Determine Feasible Options for Preventing TANF Program Benefits, through EBT Cards, from Being Used to Purchase Prohibited Products or Services	PL 2015 c. 484	4	9/30/16 10/21/16		12/15/2016	Sen. Earle McCormick Rep. Drew Gattine	Study convened and staffed by DHHS; work completed and report sent to HHS Committee
York County Court House Site Selection Committee	PL 2015 c. 468	4	8/1/16 9/1/16 9/19/16 10/3/16 10/12/16 10/31/16 11/4/16		1/1/2017	Hon. Thomas Humphrey	Convened and staffed by State Court Administrator; work completed and report printed and posted to Judicial Branch website
Commission to Reform Public Education Funding and Improve Student Performance in the State	PL 2015 c. 389	6 per year (12 total)	4/25/16 8/29/16 9/26/16 10/17/16 10/31/16 11/28/16 12/12/16	1/23/2017	1/10/2017	Representative of the DOE (appointed by Governor)	Study convened and staffed by DOE; work ongoing; Phase One Report completed and posted to DOE website
Task Force on Public-private Partnerships to Support Public Education	Resolve 2015 c. 89	4	9/22/16 10/14/16 11/7/16	12/13/16	1/15/2017	Sen. Kimberley Rosen Rep. Teresa Pierce	Work completed; draft report in progress
Commission to Study the Economic, Environmental and Energy Benefits of the Maine Biomass Industry	Resolve 2015 c. 85	4	8/2/16 9/6/16 9/13/16 11/1/16	12/5/16	12/6/2016	Sen. Thomas Saviello Rep. Jeff McCabe	Work completed; report completed and posted to OPLA website
Maine Health Exchange Advisory Committee	S.P. 533 as amended by H-501	2			11/5/2016	Rep. Linda Sanborn	Appointments not completed (8/19); committee did not meet during interim

### ON-GOING LEGISLATIVE STUDIES

State Education and Employment Outcomes Task Force	20-A MRSA Sec. 12901	no more than 4 times per year			11/1 annually	Sen. Brian Langley Rep. Richard Farnsworth	Appointments not completed (11/15; legislative appointments are completed); task force did not meet during interim
Task Force To End Student Hunger in Maine	20-A MRSA Sec. 6663	at least 2 and no more than 4 per year	6/2/16 9/13/16 11/15/16		1/10 annually	Sen. Justin Alford Rep. Phyllis Ginzler	Staffed by DOE; work ongoing; annual report in progress
Right to Know Advisory Committee	1 MRSA Sec. 411	not fewer than 4 times per year	6/22/16 7/20/16 8/17/16 9/14/16 10/5/16		1/15 annually	Sen. David Burns	Work completed; report completed and posted to OPLA website
Citizen Trade Policy Commission	10 MRSA Sec. 11	at least 2 times per year	6/21/16 9/15/16		annually	Sen. Amy Volk Rep. Robert Saucier	Appointments not completed (new legislative appointments needed); work ongoing
Judicial Compensation Commission	4 MRSA Sec. 1701	n/a funded by court system			12/15 of each even numbered year		Appointments not completed (0/3); commission did not meet during interim

## 2016 Interim Legislative Studies and Committee Meetings

Updated January 20, 2017

Study/Committee	Citation	2016 Meetings Authorized	2016 Meetings Held	Scheduled Next Meeting Date(s)	Report Date	Chair(s)	Status/Notes
<b>AUTHORIZED COMMITTEE MEETINGS</b>							
TRA Committee (study of transportation funding reform per letter from President and Speaker)		4					Committee did not meet during interim
TAX Committee (tax expenditure review per PL 2015 c. 344)		3	7/19/16 8/30/16				
EDU Committee (committee review of appointments to SBE and MCSC)		1	11/4/16 - postponed				Committee did not meet during interim
ENR Committee (briefings)		1	9/7/16				

REP. SARA GIDEON  
CHAIR

SEN. MICHAEL D. THIBODEAU  
VICE-CHAIR

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER



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

SEN. GARRETT P. MASON  
SEN. ANDRE E. CUSHING  
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REP. JARED F. GOLDEN  
REP. KENNETH W. FREDETTE  
REP. ELEANOR M. ESPLING

## **Legislative Council Policy on Legislator Attendance**

Pursuant to 3 MRSA, section 2, third paragraph, the 128<sup>th</sup> Legislative Council adopts the following policy regarding excessive unexcused Legislators absences and the means of reducing the offending member's salary.

### **Recording Attendance**

At the beginning of each session of the Senate, the Secretary of the Senate shall record the Senators that are absent each legislative day. Senators that arrive late for a Senate session must notify the Secretary of the Senate. The President must approve all leave from a Senate session.

At the beginning of each session of the House, the quorum call will be the official record of attendance. Members who miss the quorum call but did attend the session must notify the Clerk of the House. The House shall provide forms to members to request leave for a legislative day.

### **Reporting Absences without Leave**

At least on a monthly basis, the Secretary of the Senate and the Clerk of the House shall notify Legislators who have one or more absences without leave.

### **Reducing Legislator Salaries for Excess Absences without Leave**

Members that exceed the statutory threshold of number of absences without leave will have the member's salary reduced using the following graduated reductions.

During the First Regular Session, salaries will be reduced by \$25 for each day above 5 days but less than 11 days, by \$50 per day for each day above 10 days but less than 16 days and \$100 per day for each day greater than 15 days. Total salary reductions for absences without leave may not exceed the member's salary for the First Regular Session.

During the Second Regular Session, salaries will be reduced by \$25 for each day above 3 days but less than 7 days, by \$50 per day for each day above 6 days but less than 10 days and \$100 per day for each day greater than 9 days. Total salary reductions for absences without leave may not exceed the member's salary for the Second Regular Session.

During either session, if a member is absent without leave for more than 8 consecutive legislative days, the Secretary of the Senate or the Clerk of the House shall inform the Executive Director of the Legislative Council, who shall suspend the member's biweekly salary payments pending the member's return or approval of leave.

A Legislator may appeal salary reductions under this policy to the Personnel Committee of the Legislative Council.

This policy is adopted by the Legislative Council and is effective as of the date of adoption.

By: \_\_\_\_\_  
Executive Director of the Legislative Council

Authority: 3 MRSA §2

Adopted:

Effective Date:

SEN. MICHAEL D. THIBODEAU  
CHAIR

REP. MARK W. EVES  
VICE-CHAIR

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER



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

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

MEMO

To: Members of the Legislative Council

From: Grant T. Pennoyer, Executive Director

Date: November 30, 2016

Re: State House Facilities Committee – Committee Audio Recommendation

The State House Facilities Committee met on October 27<sup>th</sup> to once again discuss a policy regarding recording and archiving of committee audio files. The committee realizes that it is important to have a policy in place or some guidance about the recording and archiving of audio files of committee hearings, work sessions and other public meetings so that it can be clearly communicated and understood by the next Legislature. At its meeting on the 27<sup>th</sup>, the State House Facilities Committee was unable to reach consensus and recommended that the Executive Director prepare a memo to the Council summarizing the discussion and referring the final decision on the policy regarding the recording and archiving of committee audio files to the full Legislative Council.

As background, at the beginning of the Second Regular Session, the Maine Legislature entered into a contractual arrangement with Sliq Media Technologies, Inc. to upgrade the Legislature's webcasts of Senate and House videos and committee audio to improve accessibility across devices and update outdated hardware. As part of Sliq's standard implementation, webcasts of video and audio signals are recorded and archived and the streamed version is actually played from the recorded version of the files. There was some confusion about the process of broadcasting and recording committee audio webcasts. Some members were very concerned about recording committee proceeding and the potential adverse impact on the public testifying at committees, particularly as it was initially unclear that the proceedings were being recorded.

At the Legislative Council's April 28th meeting, the Council approved the posting of the historical archived files of House and Senate session videos. However, the Council asked the State House Facilities Committee to further discuss the recording of committee audio webcasts and report back with a recommendation.

The State House Facilities Committee's last discussion ended similarly to its previous discussions with some members feeling that committee audio webcasts should not be recorded due to concerns about the public even with adequate notice of the recordings. Others did not have the same concerns as once something is broadcast to the internet it can be recorded by anyone and, in fact, Maine Public

Broadcasting records most committee audio broadcasts. Maine Public Broadcasting also recorded and broadcast many committee meetings, while it was operating Maine Capitol Connection during the 126<sup>th</sup> Legislature. Other members also felt that there was some educational and research value to having an archive of the recorded committee audio files. It was also noted that it has been a very useful backup for manual digital recorders that failed during a meeting.

Currently, Sliq has not been directed to make any changes to their standard process until the Legislative Council reaches a decision on the committee recordings. The Legislature has recorded files of committee proceedings during the 2<sup>nd</sup> Regular Session of the 127<sup>th</sup> Legislature and interim meetings after the 2<sup>nd</sup> Regular Session. They are only available upon request. The Office of Legislative Information Technology is working on making the archived files of Senate and House videos of the 2<sup>nd</sup> Regular Session available through the Legislature's web page.

At the request of the committee, I am presenting some options for the future of audio broadcasts of committee proceedings to be considered by the full Legislative Council. They are as follows:

1. Implement a policy similar to the Legislative Council's policy of the Senate and House video recordings, recording and archiving the audio of committee proceedings and making it available through links on the Legislature's web page;
2. Maintain the current process of recording committee proceedings, but not making the files readily available to the public, except by request to the Executive Director; or
3. Pay Sliq to change its normal process to immediately delete the audio files of committee proceedings once broadcast.

With either options 1 or 2, the Legislative Council could consider copyrighting the files.

**Legislative Council Actions  
Taken by Ballot Since the  
December 8, 2016 Council Meeting**

**Requests for Introduction of Legislation:**

**LR 2178      An Act to Provide Funds for Access for Veterans Seeking Health Care**

Submitted by: Representative Jared Golden  
Approved: January 12, 2017  
Vote: 9-1-0-0 in favor (with Rep. Espling opposed)

**LR 2596      An Act to Allow the Secretary of State to Issue Temporary Licenses Pending  
Receipt of Necessary Paperwork from the Driver Education and Evaluation  
Program**

Submitted by: Senator Joyce Maker  
Approved: January 12, 2017  
Vote: 10-0-0-0 in favor

**LR 2223      An Act to Change the Oversight Agency for Recreational Marijuana from  
Department of Agriculture to the Bureau of Public Safety, Bureau of  
Alcoholic Beverages and Lotter Operations and to Allocate Funds for  
Implementation**

Submitted by: Speaker Sara Gideon  
Approved: January 26, 2017  
Vote: 10-0-0-0 in favor

JAMES M. HAMPER, District 19, Chair  
 ROGER J. KATZ, District 15  
 CATHERINE E. BREEN, District 25



DREW GATTINE, Westbrook, Chair  
 JOHN L. MARTIN, Eagle Lake  
 AARON M. FREY, Bangor  
 ERIK C. JORGENSEN, Portland  
 BRIAN L. HUBBELL, Bar Harbor  
 DENISE A. TEPLER, Topsham  
 TOM J. WINSOR, Norway  
 HEATHER W. SIROCKI, Scarborough  
 JEFFREY L. TIMBERLAKE, Turner  
 H. STEDMAN SEAVEY, Kennebunkport

MAUREEN DAWSON, Legislative Analyst  
 MARIANNE MACMASTER, Committee Clerk

State of Maine  
 ONE HUNDRED AND TWENTY-EIGHT LEGISLATURE  
 COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS

January 25, 2017

Hon. Michael D. Thibodeau, President of the Senate  
 Hon. Sara Gideon, Speaker of the House  
 Members of the Legislative Council

Dear Legislative Council Members,

The members of the Appropriations and Financial Affairs Committee and the members of the Health and Human Services Committee met jointly on January 5<sup>th</sup> in order to receive public comment on the siting of the proposed secure forensic facility in the capital area. The two committees decided to then meet separately to develop recommendations requested in your letter dated December 27, 2016. The Appropriations Committee met on January 25<sup>th</sup> and voted unanimously in favor of the following motion:

*"While the committees did not have an opportunity to evaluate a specific proposal for operations of a secure forensic facility; through public testimony we recognize the need for such a facility. Therefore, should a proposal come before the Legislative Council, the members of the Appropriations and Financial Affairs Committee would recommend approving construction in the capital area."*

We are attaching three appendices to this letter. Appendix A includes correspondence with the Honorable Paul LePage regarding information sought by the committees. Appendix B includes testimony received during the public comment period of the joint meeting of the two committees. Appendix C is a letter received from the Honorable Janet Mills, Attorney General in response to a request by two members of the Appropriations Committee for an opinion on the authority of the Executive Branch to build and operate the proposed facility without Legislative approval.

Thank you for the opportunity to provide input on this issue. If you have any questions, please feel free to contact one of us or any member or our committee.

Sincerely,

  
 James Hamper, Senate Chair  
 Appropriations and Financial Affairs

  
 Drew Gattine, House Chair  
 Appropriations and Financial Affairs

Enclosures

SENATE

ERIC L. BRAKEY, DISTRICT 20, CHAIR  
ROGER J. KATZ, DISTRICT 15  
BENJAMIN M. CHIPMAN, DISTRICT 27

ANNA BROOME, LEGISLATIVE ANALYST  
ERIN LUNDBERG, LEGISLATIVE ANALYST  
JILL LAPLANTE, COMMITTEE CLERK



HOUSE

PATRICIA HYMANSON, YORK, CHAIR  
ANNE C. PERRY, CALAIS  
SCOTT M. HAMANN, SOUTH PORTLAND  
COLLEEN M. MADIGAN, WATERTOWN  
DALE J. DENNO, CUMBERLAND  
JENNIFER ELLEN PARKER, SOUTH BERWICK  
DEBORAH J. SANDERSON, CHELSEA  
RICHARD S. MALABY, HANCOCK  
FRANCES M. HEAD, BETHEL  
PAUL B. CHACE, DURHAM

STATE OF MAINE  
ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE  
COMMITTEE ON HEALTH AND HUMAN SERVICES

TO: Speaker Sara Gideon, Chair  
President Michael D. Thibodeau, Vice-Chair  
Members of the Legislative Council

FROM: Eric L. Brakey, Senate Chair *ELB*  
Patricia Hymanson, House Chair *PH*  
Members of the Health and Human Services Committee

DATE: January 25, 2017

RE: Proposed construction of a secure forensic unit in the Capitol Area

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The Health and Human Services Committee is pleased to provide this unanimous recommendation to the Legislative Council regarding proposed construction projects in the Capitol Area.

The Committee recommends that if the Governor puts forward a request to construct a secure forensic step-down facility on the capitol grounds, this proposal should be approved. We did not review a specific proposal for a secure forensic step-down unit but we would like to emphasize that we all understand the need and urgency for construction of such a facility.

Thank you for the opportunity to provide input on this issue. If you have any questions, please feel free to contact one of us or any member of the Committee.

**128th Maine State Legislature  
Legislative Council  
Requests to Introduce Legislation  
First Regular Session  
As of: 1/20/2017 9:19:55 AM**

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR: Office of the Secretary of State**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2162	An Act To Amend the Election Laws Relating to Party Qualification	

2163 An Act To Amend the Election Laws

**SPONSOR: Rep. Seth A. Berry**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2159	An Act To Clarify the Ability of Restaurants To Impose Service Charges in Lieu of Gratuities	

2160 Resolve, To Require the Public Utilities Commission To Study the Security of Maine's Electric Grid

**SPONSOR: Sen. Eric L. Brakey**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2182	An Act To Require That Landowners with Property Enrolled in the Tree Growth Tax Program Receive Timely Notice of Changes in Valuation of That Property	

**SPONSOR: Sen. Scott W. Cyrway**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2188	An Act To Establish a Minimum Wage for Minors	

**SPONSOR: Rep. Sheldon Mark Hanington**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2187	Resolve, To Establish a Commission To Identify Unnecessary Regulations and Other Barriers to Businesses	

**SPONSOR: Rep. John J. Picchiotti**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2192	An Act Regarding the Natural Resources Protection Act	

**SPONSOR:** Rep. Timothy S. Theriault

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2183	An Act To Disburse Funds to the Maine Fire Protection Services Commission	

**SPONSOR:** Sen. Amy F. Volk

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2165	An Act To Retain Skilled Workers in the State	

#### JOINT RESOLUTIONS

**SPONSOR:** Rep. Henry John Bear

<u>LR #</u>	<u>Title</u>	<u>Action</u>
249	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE CONGRESS OF THE UNITED STATES TO PROVIDE TO THE HOULTON BAND OF MALISEET INDIANS JUST AND EQUITABLE COMPENSATION FOR NEGATIVE IMPACTS UPON MALISEET TRIBAL LANDS COMPARABLE TO THE LAND CLAIM SETTLEMENT PROVIDED TO THE PENOBSCOT NATION AND PASSAMAQUODDY TRIBE IN THE 1980 MAINE INDIAN CLAIMS SETTLEMENT ACT	

**SPONSOR:** Rep. Seth A. Berry

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1255	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO ALLOW DRUGS TO BE IMPORTED FROM CANADA	

**SPONSOR:** Rep. Heidi E. Brooks

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1554	JOINT RESOLUTION MEMORIALIZING THE UNITED STATES SENATE TO RATIFY THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN	

**SPONSOR:** Rep. Deane Rykerson

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1224	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO INITIATE A REVENUE-NEUTRAL FEE ON THE PRODUCTION OF CARBON	

**128th Maine State Legislature**  
**Addendum**  
**Legislative Council**  
**Requests to Introduce Legislation**  
**First Regular Session**

**Actions Taken After January 20, 2017**

**SPONSOR: Sen. Eric L. Brakey**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2208	An Act To Remove Toy Cannons from the List of Approved Fireworks	

2230	An Act Regarding the Liability of the Owner of Railroad Tracks for Injuries to Pedestrians	
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**SPONSOR: Rep. Patrick W. Corey**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2233	An Act To Ban the Purchase of Retail Marijuana and Retail Marijuana Products with Temporary Assistance for Needy Families Program Benefits	

**SPONSOR: Sen. Scott W. Cyrway**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2210	An Act Regarding the Use of Force in the Crime of Robbery	

**SPONSOR: Rep. Kenneth W. Fredette**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2227	An Act To Support Maine Charities	

**SPONSOR: Sen. Geoffrey M. Gratwick**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2196	An Act Regarding MaineCare Coverage for Telehealth Services	

2219	An Act Regarding Commercial Insurers and Telehealth	
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**SPONSOR: Rep. Stephanie Hawke**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2228	An Act To Ensure Proper Patient Care	

**SPONSOR: Sen. Troy D. Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2198	An Act To Require Greater Clearing of Vegetation along Certain State Roads	
2220	An Act To Allow Vehicles Registered as Wreckers To Transport 2 Vehicles	
2224	An Act To Amend the Laws Governing the Appointment of Members to Charter Commissions by Municipalities	

**SPONSOR: Rep. Nathan J. Wadsworth**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2209	An Act To Make Performing Arts Centers Exempt from Sales Tax	

**SPONSOR: Rep. Karleton S. Ward**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2212	An Act To Amend the Law Regarding Super Cribbage Tournaments	

#### LATE-FILED MAJOR SUBSTANTIVE RULES

**SPONSOR:**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2222	Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization and Approval of Education Personnel, a Late-filed Major Substantive Rule of the Department of Education	
2231	Resolve, Regarding Legislative Review of Portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97, Private Non-Medical Institution Services, a Late-filed Major Substantive Rule of the Department of Health and Human Services	

#### JOINT RESOLUTIONS

**SPONSOR: Sen. Troy D. Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2201	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO ENDORSE THE AMERICAN RECOVERY AND REINVESTMENT ACT	

REP. SARA GIDEON  
CHAIR  
SEN. MICHAEL D. THIBODEAU  
VICE-CHAIR



SEN. GARRETT P. MASON  
SEN. ANDRE E. CUSHING  
SEN. TROY D. JACKSON  
SEN. NATHAN L. LIBBY  
REP. ERIN D. HERBIG  
REP. JARED F. GOLDEN  
REP. KENNETH W. FREDETTE  
REP. ELEANOR M. ESPLING

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER

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

## **Legislative Council Policy on Legislative Studies for 128<sup>th</sup> Maine Legislature**

### **1. Introduction**

On March 22, 2007, the Legislative Council unanimously endorsed revisions to Joint Rule 353 and revisions to Legislative Council policies proposed by a Legislative Council subcommittee established to study the legislative study process. On May 15, 2007, the Legislative Council's proposed revisions to Joint Rule 353 were adopted by the House and the Senate, as amended by the Joint Select Committee on Joint Rules. Joint Rules adopted by each successive legislature have included Joint Rule 353.

Joint Rule 353, Section 11, requires the Legislative Council to adopt policies governing legislative studies at the beginning of each legislative biennium. Pursuant to that authority, the Legislative Council adopts this policy on legislative studies to establish policies and procedures governing the Legislative Council's authorization of legislative studies, conditions on the funding of legislative studies, exceptions to the definition of legislative study, legislative study drafting standards and other provisions necessary to satisfy the requirements of Joint Rule 353.

### **2. Council authorization of legislative studies**

Legislative studies are authorized only upon the approval of a majority of the Legislative Council during its review of the study table, except that approval of 2/3 of the Legislative Council is required to authorize a legislative study that is required to submit a report to a subsequent Legislature.

### **3. Funding of legislative studies**

The Legislative Council shall establish a study line in the Legislative Account to which legislative studies are budgeted and study expenses charged. That study line must include funds appropriated by the Legislature for those purposes and funds allocated by the Legislature from other departmental accounts to the Legislative Account for the purposes of funding a legislative study. The Legislative Council shall also establish budgets and provide sufficient money from the legislative account for studies to be conducted by joint standing committees, joint select committees and other study committees of the Legislature. The Legislative Council shall

provide sufficient money to enable the committees to reasonably conduct and complete the requirements of the studies.

#### **4. Acceptance of private contributions to support legislative studies**

Private financial or in-kind contributions to support the work of legislative studies may not be accepted from any party having a pecuniary or other vested interest in the outcome of the study. Any person, other than a state agency, authorized and desiring to make a financial or in-kind contribution must certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the study. All such contributions are subject to the approval of the Legislative Council. All contributions accepted must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of contributions, the date the contributions were received, from whom the contributions were received and the purpose of and any limitation on the use of those contributions. The Executive Director of the Legislative Council shall administer the contributions and shall notify the chairs of the legislative study committee when those contributions have been received. If funding for a legislative study is contingent upon receipt of private contributions and sufficient contributions have not been received within 30 days after the effective date of the study instrument, then no meetings of the study are authorized and no study-related expenses of any kind may be incurred or reimbursed.

#### **5. Exceptions to Joint Rule 353**

The following limited exemptions to Joint Rule 353 are provided.

- A. Boards and commissions created in statute and codified in Title 5, chapter 379 are exempted from the provisions of this Joint Rule, except that the use of new legislative financial resources or Legislative Council staffing by a new board or commission or as the result of an amendment to an existing board or commission must be referred to a special study table for review and approval by the Legislative Council regarding the use of those resources;
- B. Legislation directing an agency or a group of stakeholders to study and report to the Legislature on any matter may include the appointment of not more than two members of the Legislature, provided that the report of the agency or group is required to be submitted within the biennium in which the legislation is introduced, that there are no other legislative appointments required, that the legislators are appointed consistent with subsection 3 and that no other legislative resources are required. Legislation creating such groups must be referred to a special study table for review and approval by the Legislative Council regarding the use of those resources.
- C. Notwithstanding Joint Rule 353, section 8, a joint select committee established in a manner consistent with Joint Rule 351 may, if so authorized in joint order establishing the joint select committee, introduce legislation to implement its recommendations.

**6. Council review of committee requests to vary from Joint Rule 353**

Pursuant to Joint Rule 353, the Legislative Council must specifically review and approve as an exception any legislative study that is inconsistent with that joint rule.

**7. Authority and effective date**

Pursuant to its authority under Joint Rule 353, Section 11, the Legislative Council hereby adopts this policy governing legislative studies on this 26<sup>th</sup> day of January, 2017.

This policy takes effect immediately.

BY: \_\_\_\_\_  
Grant T. Pennoyer, Executive Director



REP. SARA GIDEON  
CHAIR

SEN. MICHAEL D. THIBODEAU  
VICE-CHAIR

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER

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

SEN. GARRETT P. MASON  
SEN. ANDRE E. CUSHING  
SEN. TROY D. JACKSON  
SEN. NATHAN L. LIBBY  
REP. ERIN D. HERBIG  
REP. JARED F. GOLDEN  
REP. KENNETH W. FREDETTE  
REP. ELEANOR M. ESPLING

MEMO

To: Members, Legislative Council

From: Grant T. Pennoyer 

Date: January 26, 2017

Re: Youth in Government Program

I received a request from Lonney Steeves, Director of the Maine YMCA Youth in Government Program, regarding the scheduling of the 2017 Youth in Government Program. The 2016 program included 163 students from 23 different schools and YMCAs and was a big success.

The two weekends that Lonney is suggesting are November 10-11-12 or November 17-18-19. Due to the success of holding the 2016 program on the weekend of the Veterans' Day holiday, I would like to recommend that the Legislative Council approve that weekend (November 10-11-12) again this year. As this program uses many rooms in the State House and the Cross Office Building, holding it to overlap with a long holiday weekend prevents any conflicts of room usage.



RECEIVED DEC 28 2015

STATE OF MAINE  
127th LEGISLATURE  
SECOND REGULAR SESSION

**Final Report of the Commission to Study the  
Economic, Environmental and Energy Benefits of the  
Maine Biomass Industry**

**December 2016**

**Staff:**

**Deirdre Schneider, Legislative Analyst  
Karen Nadeau-Drillen, Legislative Analyst  
Office of Policy & Legal Analysis  
13 State House Station  
215 Cross Building  
Augusta, ME 04333-0013  
(207) 287-1670  
[www.maine.gov/legis/opla](http://www.maine.gov/legis/opla)**

**Members:**

**Sen. Thomas B. Saviello, Chair  
Sen. James F. Dill  
Rep. Jeff M. McCabe, Chair  
Rep. Norman E. Higgins  
Rep. Deane Rykerson  
Thomas Abello  
Jason Brochu  
John Bryant  
Robert Cleaves  
Steve Hanington  
Robert Linkletter  
Ryan McAvoy  
Stephen Shaler**

## Table of Contents

	Page
<b>Executive Summary</b> .....	i
<b>I. Introduction</b> .....	1
<b>II. Commission Process</b> .....	1
<b>III. Goals and Recommendations</b> .....	4
<b>IV. Conclusion</b> .....	23

### Appendices

- A. Authorizing Joint Order, Resolve 2015, ch. 85
- B. Membership list, Commission to Study the Economic, Environmental and Energy Benefits of the Maine Biomass Industry
- C. Written Public Comments – After November 1, 2017 meeting
- D. Written Public Comments – After December 5, 2017 meeting
- E. Goals and Recommendations Table

## Executive Summary

The 127<sup>th</sup> Maine Legislature established the Commission to Study the Economic, Environmental and Energy Benefits of the Maine Biomass Industry (referred to in this report as the “commission”) with the passage of Resolve 2015, chapter 85. Pursuant to the resolve, 13 members were appointed to the commission: two members from the Maine Senate, three members from the Maine House of Representatives, a commercial wood harvester who supplies biomass, a representative of the biomass electric industry, a representative of a sawmill located in Maine, a scientist from the University of Maine who studies forest health and silviculture, a representative of a conservation organization, a representative of a pulp and paper manufacturer located in Maine, a representative of commercial timber holdings in Maine, and a representative of a business that uses biomass for thermal generation or cogeneration or an expert in the use of biomass energy for thermal generation or cogeneration.

The resolve set forth the following duties for the commission:

- Review and evaluate the economic, environmental and energy benefits of Maine’s biomass resources, as well as public policy and economic proposals to create and maintain a sustainable future for the Maine biomass industry;
- Consider the interconnection of economic markets for biomass and forest products and the energy policy of the State;
- Consider whether the environmental, economic and energy benefits of biomass support updating the State’s energy policy to strengthen and increase the role that biomass and the forest products industry play throughout the State;
- Consider the costs of implementing any recommendations and the effect of leaving current policies in place; and
- Examine any other issues to further the purposes of the study.

In addition, the commission was required to seek public input and to consult and collaborate with stakeholders and experts in the fields of economic development, natural resources and energy policy. The commission is required to submit a report, with findings and recommendations, including suggested legislation, to the Joint Standing Committee on Energy, Utilities and Technology and the Joint Standing Committee on Agriculture, Conservation and Forestry in December 2016.

Over the course of five meetings the commission received presentations from stakeholders, in-state and out-of-state utility regulators, state office representatives, subject matter experts, and visited a logging operation, sawmill, biomass facility and combined heat and power (CHP) facility.

With this information and through several discussions the commission developed five broad goals, and 15 recommendations to increase support for Maine’s biomass industry (Appendix E). The commission developed the following broad goals:

- Encourage investment in biomass facilities and promote greater efficiency;

- Encourage investments in combined heat and power systems to promote efficiency;
- Enable and encourage co-location and other innovative projects utilizing behind-the-meter technologies to incentivize manufacturing growth and increase system reliability;
- Promote and develop Maine's forest-related resources in-state and abroad and take advantage of federal grant funding and other collaborative efforts to bolster the forest-based economy in Maine; and
- Create state policies that encourage biomass energy production and heating with biomass.

The commission developed the following recommendations to assist and encourage further investment in the biomass industry:

- Amend the renewable portfolio standards by creating a thermal class to incentivize increased efficient biomass use for thermal;
- Amend the renewable portfolio standards to explicitly extend new renewable capacity resource portfolio requirements beyond 2017;
- Create an addition under the renewable portfolio standards that provides incentives for facilities that create in-state jobs and economic benefits;
- Offer incentives through Efficiency Maine Trust or other avenues to those converting to combined heat and power (CHP) systems;
- Incentivize schools and other public institutions to convert to CHP systems;
- Provide greater flexibility in the establishment of back-up and standby charges in order to alleviate the burden for large energy users who are seeking to use alternative systems to lower their energy costs and lessen their demand on the transmission system;
- Amend existing laws to explicitly allow microgrids statewide;
- Amend existing law regarding permitting of electrical lines, including poles and other related structures in, upon, along, over, across or under a road, street or other public way for persons other than transmission and distribution utilities;
- Amend existing law, or encourage the Public Utilities Commission through rulemaking, to increase the cap on installed capacity of a jointly owned generating facility under "shared ownership" net energy billing, as well as eliminate the cap of 10 accounts or meters for net energy billing;
- Review the federal Economic Development Assessment Team's final report on Maine's forest economy and a final report on biomass energy under the auspices of the Governor's Energy Office to avoid duplicative efforts and to take advantage of collaborative efforts to address Maine's issues with its forest-based economy;
- Encourage the Maine Forest Service to support efforts toward fostering growth and innovation across Maine's forest products industry, including full utilization of recently awarded grants from the U.S. Department of Agriculture (USDA) for a State Wood Energy Assistance Team and the "Strengthening and Expanding Maine Wood Markets" project;
- Establish a program similar to the "Get Real. Get Maine!" campaign to encourage the use of Maine wood energy among residents to heat their homes, businesses and public institutions and to promote local forest products locally, nationally and globally;
- Provide funding, through bonds and tax incentives, for research and development of new wood-based technologies and to get these new technologies from the incubator phase into the marketplace;

- Through statutory changes, categorize biomass-derived carbon dioxide emissions as carbon neutral and exempt from regulation under certain air pollution laws; and
- Encourage the Governor's Energy Office to make biomass a more focused, greater priority in Maine's Comprehensive Energy Plan.

In making its recommendations, the commission ensured that its recommendations addressed the biomass industry as a whole and did not just focus on energy production. The commission through its recommendations hopes to diversify the biomass industry, encourage more in-state investment and provide more stability to the industry.



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STATE OF MAINE  
128th LEGISLATURE  
FIRST REGULAR SESSION

Eleventh Annual Report  
of the  
Right to Know Advisory Committee  
  
January 2017

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## Table of Contents

	Page
<b>Executive Summary</b> .....	<b>i</b>
<b>I. Introduction</b> .....	<b>1</b>
<b>II. Committee Duties</b> .....	<b>2</b>
<b>III. Recent Court Decisions Related to Freedom of Access Issues</b> .....	<b>4</b>
<b>IV. Right to Know Advisory Committee Subcommittee</b> .....	<b>4</b>
<b>V. Committee Process</b> .....	<b>5</b>
<b>VI. Actions Related to Recommendations Contained in Tenth Annual Report</b> .....	<b>12</b>
<b>VII. Recommendations</b> .....	<b>13</b>
<b>VIII. Future Plans</b> .....	<b>21</b>

### Appendices

- A. Authorizing Legislation: 1 MRSA §411
- B. Membership List
- C. Correspondence to and from the Advisory Committee related to the Maine Warden Service's consideration of FOAA requests
- D. Correspondence from the Advisory Committee
  - Letter to Joint Standing Committee on Judiciary regarding records describing hazardous materials transported by a railroad company
  - Letter to Joint Standing Committee on Judiciary regarding the treatment of personal contact information for professions and occupations regulated by the State
  - Letter to Joint Standing Committee on Health and Human Services regarding proposed data release rule of the Maine Center for Disease Control and Prevention
  - Letter to Chandler E. Woodcock, Commissioner of the Department of Inland Fisheries & Wildlife regarding email confidentiality of license and permit applicants
  - Letter to Joint Standing Committee on Health and Human Services regarding possibility of repeal of the Mental Health Homicide, Suicide and Aggravated Assault Review Board
- E. Recommended legislation to clarify that advance payment may be required before providing a public record to a requestor
- F. Recommended legislation to modify or repeal existing public records exceptions

## EXECUTIVE SUMMARY

This is the eleventh annual report of the Right to Know Advisory Committee. The Right to Know Advisory Committee was created by Public Law 2005, chapter 631 as a permanent advisory council with oversight authority and responsibility for a broad range of activities associated with the purposes and principles underlying Maine's freedom of access laws. The 17 members are appointed by the Governor, the Chief Justice of the Supreme Judicial Court, the Attorney General, the President of the Senate and the Speaker of the House of Representatives. More information is available on the Advisory Committee's website, which can be found at <http://legislature.maine.gov/legis/opla/righttoknow.htm>. The Office of Policy and Legal Analysis provides staffing to the Advisory Committee while the Legislature is not in session.

By law, the Advisory Committee must meet at least four times per year. During 2016, the Advisory Committee met on June 22, July 20, August 17, September 14 and October 5. The Advisory Committee established the Public Records Exceptions Subcommittee to assist it in conducting its work. The subcommittee held four meetings and made recommendations to the Advisory Committee. On September 14, 2016, the Advisory Committee held a public hearing to take comments and suggestions about how the Freedom of Access Act is working and how it might be improved, consistent with its goals of giving citizens adequate access to records and meetings of decision making bodies of government.

As in previous annual reports, this report includes a brief summary of the legislative actions taken in response to the Advisory Committee's January 2016 recommendations and a summary of relevant Maine court decisions from 2016 on the freedom of access laws.

For its eleventh annual report, the Advisory Committee makes the following unanimous recommendations:

- Communicate the Advisory Committee's interpretation of 1 MRSA §402, sub-§3, ¶U, which relates to hazardous materials transported by rail, to the Joint Standing Committee on Judiciary and recommend that the Judiciary Committee draft a bill and hold a public hearing on that bill to elicit public input on public access concerns associated with passage of PL 2015, ch. 161, §3;**
- Communicate to the Joint Standing Committee on Judiciary guidelines for considering proposed legislation relating to the confidentiality of personal information about professional and occupational licensees and applicants;**
- Communicate to the Joint Standing Committee on Health and Human Services potential concerns that the proposed rule of the Maine Center for Disease Control and Prevention appears to limit the scope of information available to the public about threats to public health, including communicable diseases;**
- Enact legislation to clarify that government entities may require advance payment before providing a public record to a requestor;**

- Continue without modification, amend or repeal certain existing public records exceptions enacted after 2004 and before 2013;**
- Communicate with the Joint Standing Committee on Health and Human Services about potential repeal of the Mental Health Homicide, Suicide and Aggravated Assault Review Board;**
- Establish a Technology Subcommittee of the Right to Know Advisory Committee; and**
- Continue discussion of proposals related to the confidentiality of personally-identifiable information under FOAA.**

In 2017, the Right to Know Advisory Committee will continue to discuss the unresolved issues identified in this report and to provide assistance to the Judiciary Committee relating to proposed legislation affecting public access. The Advisory Committee looks forward to another year of activities working with the Public Access Ombudsman, the Judicial Branch and the Legislature to implement the recommendations included in this report.