

# 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

**LEGISLATIVE COUNCIL  
MEETING SUMMARY  
January 31, 2017  
Approved February 14, 2017**

**CALL TO ORDER**

Speaker Gideon called the January 31, 2017 meeting of the Legislative Council to order at 12:00 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  
Robert Hunt, Clerk of the House  
Jennifer McGowan, Assistant Clerk of the House  
Grant T. Pennoyer, Executive Director of the Legislative Council  
Dawna Lopatosky, Legislative Finance Director  
Jackie Little, Human Resources Director  
Suzanne Gresser, Revisor of Statutes  
Marion Hylan Barr, Director, Office of Policy and Legal Analysis  
Chris Nolan, Director, Office of Fiscal and Program Review  
John Barden, Director, Law and Legislative Reference Library  
Kevin Dieterich, Director, Legislative Information Technology

Speaker Gideon convened the meeting at 12:00 p.m. with a quorum of members present.

**SUMMARY OF NOVEMBER 30, 2016 AND DECEMBER 8, 2016 MEETINGS OF  
LEGISLATIVE COUNCIL**

**Motion:** That the Meeting Summaries for November 30, 2016 and December 8, 2016 be accepted and placed on file. Motion by Senator Mason. Second by Senator Cushing.  
**Motion passed unanimous (10-0).**

Legislative Council Chair Gideon asked if there was any objection to taking items out of order. There was no objection. The Chair then moved to **New Business, Item 1.**

## NEW BUSINESS

### Item #1: Consideration of After Deadline Bill Requests

The Legislative Council considered and voted on the bill requests in accordance with the established protocol. Of the 23 new bill requests, the council authorized 12 requests for introduction in the 1<sup>st</sup> Regular Session of the 128<sup>th</sup> Legislature, 2 failed to be authorized and 8 were tabled. Of the 5 joint resolutions, the council tabled all 5 items. Of the 2 Late-filed Major Substantive Rule requests, the council authorized 2. The Legislative Council's actions on the requests are included on the attached list.

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

## REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

### Executive Director's Report

Grant Pennoyer, Executive Director, reported on:

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 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
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.

### Highway Fund Revenue Update

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.

### 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.

### 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 have completed their work and submitted final reports. One is in the process of drafting its

final report. The Task Force to End Student Hunger in Maine is continuing its work however its annual report is in progress. The Citizen Trade Policy Commission is also continuing its work.

## REPORTS FROM COUNCIL COMMITTEES

### 1. Personnel Committee

Speaker Gideon reported that the Personnel Committee met on January 26<sup>th</sup> to consider the following items.

#### 1. Legislator Attendance Policy

The committee reviewed the revised policy pursuant to a request by the Legislative Council. The committee recommends adoption by the Legislative Council. This item will be continued on the agenda under Old Business.

#### 2. Initial Salary of the Secretary and the Clerk

The committee reviewed a draft amendment regarding the setting of the initial salaries of the Secretary of the Senate and the Clerk of the House. After discussion, the committee decided to table this item.

#### 3. Update for Recent Law Change Regarding Marijuana

The committee reviewed an update to the 4 Personnel Policy Manuals to address an ambiguity created by the change in status of the use and possession of marijuana by adults in Maine. The committee recommends that the Legislative Council approve this change in the manuals and that it be incorporated with all the other updates before the upcoming release of the revised Policy Manuals.

**Motion:** That upon the unanimous recommendation of the Personnel Committee, the Legislative Council approve the proposed changes to the *Personnel Policy and Guidelines* handbooks relating to recent law changes regarding marijuana; and further, authorize the Executive Director to insert these language changes into the *Personnel Policy and Guidelines* handbooks for all legislative employees. Motion by Speaker Gideon. Second by President Thibodeau. **Motion passed unanimous (10-0).**

#### 4. Reappointment, Annual Evaluation and Step Increase – Law Library Director

The committee considered the reappointment of John Barden as Director of the Law and Legislative Reference Library. The committee reviewed the annual evaluation of and considered a step increase for Director Barden. The committee voted unanimously to approve this step increase and further to recommend that the Legislative Council reappoint Mr. Barden.

**Motion:** That the Personnel Committee recommends that the Legislative Council appoint John Barden as Director of the Law and Legislative Reference Library, the date of his reappointment being retroactive to January 2, 2017. Motion by Senator Mason. Second by Senator Cushing. **Motion passed unanimous (10-0).**

5. Annual Evaluation of OPEGA Director

The committee reviewed the annual evaluation of Director Beth Ashcroft. No action required by the Legislative Council.

6. Annual Evaluation and Step Increase – LIT Director

The committee reviewed the annual evaluation of and considered a step increase for Legislative Information Technology Director Kevin Dieterich [Dee-trick]. The committee voted unanimously to approve this step increase. No action required by the Legislative Council.

7. Annual Evaluation of ROS Director

The committee reviewed the annual evaluation of Revisor of Statutes Suzanne Gresser. No action required by the Legislative Council.

**2. State House Facilities Committee**

No report

**OLD BUSINESS**

**Item #1: Approval of the Legislator Attendance Policy**

**Motion:** That upon the unanimous recommendation of the Personnel Committee, the Legislative Council adopt the proposed *Legislative Council Legislator Attendance Policy*. Motion by Speaker Gideon. Second by Senator Cushing. **No vote**

Senator Libby would like to have an amendment added to the policy in the section of recording of attendance that allows a Senator to notify either the Secretary or through a Floor Leader. President Thibodeau explained that this would be a change in how things are currently done in the Senate.

**Motion:** That the Legislative Council table this item for a future meeting. Motion by Senator Cushing. Second by Representative Herbig. **Motion passed unanimous (9-0-0-1, with President Thibodeau absent).**

Senator Libby clarified that his amendment only applies to tardiness of a member not an absence of a member. Speaker Gideon asked if Senator Libby would provide proposed language for review. Representative Espling suggested that the proposed language be directed to the Personnel Committee first.

**Motion:** That the Legislative Council table this item for a future meeting. Motion by President Thibodeau. Second by Senator Cushing. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

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

Mr. Pennoyer reviewed the options for the future of recording and archiving of committee audio files and options for proceedings. Senator Mason explained his opposition to this policy. Senator Jackson stated that he was in favor of the policy and that his constituents wanted the Legislature to bring back MPBN's *Capitol Connection* channel which filmed committees in action.

**Motion:** That the Legislative Council implement Option 1: 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. Motion by Senator Jackson. Second by Senator Libby. **Motion failed (5-5**, with Senators Thibodeau, Mason, Cushing, and Representatives Fredette and Espling opposed).

**Motion:** That the Legislative Council table this item for a future meeting. Motion by President Thibodeau. Second by Representative Fredette. **Motion passed (9-1**, with Senator Jackson opposed).

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

**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**

**Motion:** That the Legislative Council accept the reports 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 and

place them on file. Motion by Senator Jackson. Second by Representative Espling. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

## **NEW BUSINESS**

### **Item #2: Proposed Legislative Council Policy on Legislative Studies**

Ms. Hylan Barr reviewed the changes to the Legislative Council Policy on Legislative Studies from the version approved by the 127<sup>th</sup> Legislative Council. The changes were made to be consistent with changes made to the Joint Rules and how the Legislative Council has historically treated nonconforming studies.

**Motion:** That the Legislative Council approve the Legislative Council Policy on Legislative Studies. Motion by President Thibodeau. Second by Representative Herbig. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

### **Item #3: 2017 Youth in Government Program**

Mr. Pennoyer presented the request from Director Lonney Steeves of the State YMCA of Maine who proposed holding the 2017 Youth in Government Program on November 10-11-12 or November 17-18-19. Mr. Pennoyer recommended that due to the success of the 2016 event which was held on Veterans' Day weekend the event be held over that same weekend in 2017.

**Motion:** That the Legislative Council approve the request by the State YMCA of Maine to hold the 2017 Youth in Government Program on November 10-11-12, 2107. Motion by Senator Cushing. Second by Senator Jackson. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

### **Item #4: Acceptance of the Final Report of the Commission to Study the Economic, Environmental and Energy Benefits of the Maine Biomass Industry**

**Motion:** That the Legislative Council accept the Final Report of the Commission to Study the Economic, Environmental and Energy Benefits of the Maine Biomass Industry and place it on file. Motion by President Thibodeau. Second by Senator Cushing. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

### **Item #5: Acceptance of the Eleventh Annual Report of the Right to Know Advisory Committee**

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

## **ANNOUNCEMENTS AND REMARKS**

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 1:15 p.m.

**128th Maine State Legislature  
Legislative Council  
Requests to Introduce Legislation  
First Regular Session  
As of: 1/31/2017 12:43:23 PM**

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR:**

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

2163	An Act To Amend the Election Laws	PASSED
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**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	PASSED

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

2208	An Act To Remove Toy Cannons from the List of Approved Fireworks	FAILED
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2230	An Act Regarding the Liability of the Owner of Railroad Tracks for Injuries to Pedestrians	FAILED
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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	PASSED

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2188	An Act To Establish a Minimum Wage for Minors	PASSED
2210	An Act Regarding the Use of Force in the Crime of Robbery	PASSED

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

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

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2196	An Act Regarding MaineCare Coverage for Telehealth Services	TABLED
2219	An Act Regarding Commercial Insurers and Telehealth	TABLED

**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	PASSED

**SPONSOR: Rep. Stephanie Hawke**

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

**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	PASSED
2220	An Act To Allow Vehicles Registered as Wreckers To Transport 2 Vehicles	PASSED
2224	An Act To Amend the Laws Governing the Appointment of Members to Charter Commissions by Municipalities	PASSED

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

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

**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	TABLED

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

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

**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	TABLED

**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	PASSED

#### 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	PASSED
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	PASSED

## 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	TABLED

**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	TABLED

**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	TABLED

**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	TABLED

**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	TABLED