

MAINE STATE LEGISLATURE

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REP. SARA GIDEON
CHAIR

SEN. MICHAEL D. THIBODEAU
VICE-CHAIR

EXECUTIVE DIRECTOR
GRANT T. PENNOYER

128TH 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**

April 27, 2017

Approved May 25, 2017

CALL TO ORDER

Speaker Gideon called the April 27, 2017 meeting of the Legislative Council to order at 2:05 p.m. in the Legislative Council Chamber.

ROLL CALL

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

Absent: Senator Cushing (arrived late)

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

Absent: Representative Herbig

Legislative Officers: Heather Priest, Secretary of the Senate
Robert Hunt, 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 2:05 p.m. with a quorum of members present.

SUMMARY OF FEBRUARY 14, 2017 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary for March 23, 2017 be accepted and placed on file. Motion by Senator Mason. Second by President Thibodeau. **Motion passed unanimous (9-0-0-1, with Representative Herbig absent).**

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

Grant Pennoyer, Executive Director, reported on:

1. Updated Personnel Policies and Guidelines Handbooks

The comprehensive revision of the four Personnel Policies and Guidelines Handbooks that began at the end of 2015 has finally been completed with the final versions of these documents at the printer. They will be distributed to Legislative Staff as soon as they are available.

2. RFP for MELD Drafting System Replacement

As directed to do so by the Legislative Council of the 127th Legislature, we have posted a Request for Proposals (RFP) to solicit bids to replace the Legislature's antiquated bill drafting system, known as MELD. NCSL provided us with a list of firms that had done legislative information technology work in other states. In addition to sending the RFP to these firms, we also posted the RFP on the Executive Director's web page for "Bid Opportunities" and the State's site for RFP's. The proposals are due in mid-May.

3. Legislative Council's Budget Subcommittee

The Legislative Council's Budget Subcommittee is scheduled to meet immediately following this meeting of the Legislative Council. The subcommittee will review and present its recommendations on the provisional budget for the Legislature that was submitted to the Budget Office for inclusion in the 2018-2019 Biennial Budget Bill last September. The subcommittee's recommendations must then be adopted by the Legislative Council and transmitted to the Committee on Appropriations and Financial Affairs. Any changes regarding the Legislature's budget recommended by the Legislative Council must be included in the committee amendment to the Biennial Budget as submitted.

4. Copper Reuse Project – Artist Selection Process

The Artist Selection Committee is currently rating 30 proposals that met the requirements as part of the call for artists to submit ideas to reuse the copper from the State House Dome. The Artist Selection Committee is trying to schedule a meeting in June to advance the selection process to the finalist review phase.

5. Health Insurance Vendor Changes

The plan administrator for the State of Maine Health Plan is changing from Aetna to Anthem effective July 1, 2017. Printed communication should arrive in employee homes by the end of April. Annual open enrollment for health, dental and vision plans occurs May 1 through May 12. This is a time when employees may make changes to employee or dependent coverage without a qualifying event. Health plan premiums are increasing by 3% effective July 1. There is no change in dental or vision insurance premiums.

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
March	\$212.9	\$195.7	(\$17.2)	-8.1%	\$208.7	-6.2%
FYTD	\$2,391.3	\$2,404.1	\$12.8	0.5%	\$2,348.9	2.3%

General Fund revenue was under budget by \$17.2 million (8.1%) for the month of March but remains over budget by \$12.8 million (0.5%) for the fiscal year to date. Individual income tax revenues were under budget for the month by \$1.2 million but over budget for the fiscal year to date by \$5.9 million. Individual income tax withholding was over budget for March by \$6.6 million. For the fiscal year to date, withholding was under budget by \$11.3 million while estimated payments were over budget by \$18.1 million. Individual income tax refunds were under budget for the month (more refunded than budgeted) by \$12.0 million. Sales and use taxes for March (February sales) were under budget by \$2.7 million for the month and are over budget by \$1.7 million for the fiscal year to date. Corporate income tax revenue was under budget by \$14.3 million in March and by \$5.1 million for the fiscal year to date. This variance appears to be related to the timing of final corporate payments, with March's negative variance likely to be largely offset by a positive variance in April.

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
March	\$24.5	\$25.5	\$1.0	4.1%	\$25.0	2.0%
FYTD	\$245.9	\$249.1	\$3.2	1.3%	\$247.8	0.6%

Highway Fund revenue was over budget by \$1.0 million (4.1%) for the month of March and over budget for the fiscal year to date by \$3.2 million (1.3%). Fuel taxes were slightly under budget for the month but remain over budget for the fiscal year to date by \$0.8 million, while motor vehicle registrations and fees were over budget by \$1.3 million for the month and over budget by \$3.6 million for the fiscal year to date. Some of this positive variance is likely a timing issue given this category was under budget by \$1.1 million in February.

Cash Balances Update

The average balance in the cash pool for March was \$931.3 million, down from February's average of \$1,030.2 million but well above both last year's average balance for March and the ten-year average for the month. Historically, March is the low point in the year for cash balances that are then usually replenished in April and May. General Fund internal borrowing from other funds was not needed in March. The average Highway Fund balance of \$36.9 million in March increased from February's average of \$28.7 million but was below last year's March average of \$46.6 million.

Mr. Nolan also noted that the Revenue Forecasting Committee will be meeting on Monday, May 1st, for the May revenue forecast. He noted that they are currently preparing for that forecast. A preliminary look at April revenue collections looks like it will be close to budget, although individual income tax estimated payments may be under and reflect a shift of revenue between fiscal year 2017 and fiscal year 2018. Although fiscal year 2017 may be under as a result of estimated payments, the current budgeted balance should minimize negative effects. Also, current preliminary working forecasts indicate that fiscal year 2018 and fiscal year 2019 forecast may be revised upward slightly lessening the impact on the current budget window.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Speaker Gideon, Chair, reported that the Personnel Committee met on April 20th to consider the following items.

1. Emergency Preparedness Training for Legislators

Mr. Pennoyer provided the committee with an update regarding emergency preparedness resources for Legislators. Resource materials for both the Senate and the House were developed and distributed to members at their desks. The Secretary of the Senate and the Clerk of the House noted that they are working to keep their chamber staff prepared to handle emergencies and provide guidance to Legislators.

2. Work Life Balance Pilot Project

Ms. Little provided an update on the Work Life Balance Pilot Project. No action required by the Legislative Council.

3. NCSL Staff Classification, Compensation and Job Specifications Review

Ms. Little discussed the need to have NCSL review and update its previous study from 1999 regarding classification, compensation and job specifications for Legislative staff. The committee voted unanimously to recommend approval by the Legislative Council. This will be discussed further under New Business and a motion will be made at that time.

4. SOMER [pronounced SUMMER]: New HR System

Ms. Little provided the committee with information about the new HR system currently being implemented by the administration. The SOMER system will replace the MFASIS [pronounced EM'-fa-sis] HR system currently in place to maintain employee information, process payroll and manage employee benefits. The new system also offers functionality to manage employee timekeeping, accruals and leave time requests. The committee instructed Mr. Pennoyer to explore the SOMER time and attendance module in more depth and report back.

2. State House Facilities Committee

Representative Golden reported that the State House Facilities Committee met on April 25th to consider the following items.

1. Funding for Blaine House Repairs and Renovations

The committee received an update from the Friends of the Blaine House and the Blaine House Director on the Blaine House landscaping project to which the Legislature contributed \$151,000 from the State House Preservation Fund to the Blaine House Renovations and Repairs Fund. The committee also received an update on future needs of projects at the Blaine House.

2. Postal Delivery Changes

Andrew Giroux, Chief Procurement Officer in the Department of Administrative and Financial Services, provided an overview of the pending efficiency changes to postal delivery in many state office buildings, including the Cross Office Building, and indicated that they would like to work with the Legislature to implement something similar in the State House. The committee directed Mr. Pennoyer to work with Mr. Giroux and others in the State House to explore options for consolidated postal delivery.

3. State House Security

The committee reviewed a proposed amendment to the State House Security Policy presented by Mr. Pennoyer that provided some clarity on State House access authority for certain staff of the Administration and staff of the Attorney General. The committee is recommending adoption of the amendment which appears later on today's agenda under new business.

4. Committee Room Food Policy

Mr. Pennoyer presented some amendments designed to address some inconsistencies in several Legislative Council policies on food and beverages in Legislative committee and other rooms, to be consistent with current practice for many committees and to give the Presiding Officers some flexibility on approving the use of other committee rooms for legislative events that involve food and beverages. The committee is recommending adoption of these amendments to these policies. These amendments appear under new business later on today's agenda.

5. Room for Nursing Mothers in the State House

The committee directed Mr. Pennoyer to continue to explore options for a non-bathroom space for nursing mothers in the State House after a brief discussion.

6. Discussion of audio recording of committee meetings

Mr. Pennoyer reviewed a memo that was presented to the 127th Legislative Council summarizing the status of the 127th State House Facilities Committee's inability to reach consensus on a policy for the recording and archiving of committee audio files and possible options for a policy. The committee also received testimony supporting recording and archiving of the audio of committee meetings from the Maine Freedom of Information Coalition. The committee tabled this matter.

7. Drones in Capitol Park

Mr. Pennoyer presented a proposed amendment to the Policy on the use of Capitol Park to address an ambiguity on the use of drones. This was precipitated by a request by the State Library to host a "Drone Day in the Park" as an educational event on the current and future uses of drone technology. The committee recommended adoption of the amendment to the policy by the Legislative Council to address the ambiguity on the use of drones, which appears later under new business. Separately, the committee discussed whether to provide an exception to the general policy for the educational event, "Drone Day in the Park." The committee decided to defer that decision to the full Council for discussion.

OLD BUSINESS

Item #1: Council Actions Taken by Ballot

LR 2305 **Resolve, Regarding Legislative Review of Portions of Chapter 11: Rules Governing the Controlled Substances Prescription Monitoring Program and Prescription of Opioid Medications, a Late-filed Major Substantive Rule of the Department of Health and Human Services**

Submitted by: Department of Health and Human Services
Date: March 29, 2017
Vote: 10-0-0-0 Passed

LR 2301 **Resolve, To Study the Placement of Vehicle Charging Stations on Maine's Highways**

Submitted by: Representative Owen Casas
Date: March 30, 2017
Vote: 8-2-0-0 Passed (with Rep. Fredette and Espling opposed)

LR 2310 **An Act Regarding Disclosure of Health Care Information of a Deceased Person**

Submitted by: Senator Nathan Libby
Date: April 4, 2017
Vote: 8-2-0-0 Passed (with Rep. Fredette and Espling opposed)

LR 2282 **Resolve, Regarding Legislative Review of Portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 29, Allowances for Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder, a Late-filed Major Substantive Rule of the Department of Health and Human Services**

Submitted by: Department of Health and Human Services
Date: April 7, 2017
Vote: 10-0-0-0 Passed

LR 2311 **An Act to Define the Intertidal Zone for the Management and Enforcement of Shellfish Conservation Ordinances**

Submitted by: Representative Michael Devin
Date: April 13, 2017
Vote: 9-1-0-0 Passed (with Rep. Espling opposed)

LR 2331 **Resolve, To Establish the Maine Health Advisory Committee**

Submitted by: Senator Geoffrey Gratwick
Date: April 19, 2017
Vote: 8-2-0-0 Passed (with Rep. Fredette and Espling opposed)

LR 2315 An Act to Protect Online Privacy

Submitted by: Senator Shenna Bellows

Date: April 19, 2017

Vote: 7-3-0-0 Passed (with Sen. Thibodeau, Sen. Cushing and Rep. Fredette opposed)

LR 2335 An Act to Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes of Regional School Unit No. 5

Submitted by: Speaker Sara Gideon

Date: April 20, 2017

Vote: 8-2-0-0 Passed (with Rep. Fredette and Espling opposed)

LR 2338 An Act to Assist Individuals to Obtain a Permit to Grow and Sell Water Spinach

Submitted by: Representative Mark Lawrence

Date: April 20, 2017

Vote: 8-2-0-0 Passed (with Rep. Fredette and Espling opposed)

LR 2319 An Act to Restrict for a Specified Number of Years the Alteration in the Identities of Principals of Corporations that are Authorized to Apply for Casino Licenses

Submitted by: Senator Ronald Collins

Date: April 20, 2017

Vote: 9-1-0-0 Passed (with Rep. Fredette opposed)

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 12 new bill requests, the council authorized 7 requests for introduction in the 1st Regular Session of the 128th Legislature, 2 failed, 2 were withdrawn by the sponsor and 1 was tabled. The council took no action on the 2 bill requests previously tabled. Of the 4 joint resolutions, 1 failed and the council took no action on the remaining items. The Legislative Council's actions on the requests are included on the attached list.

Item #2: NCSL

Speaker Gideon and Mr. Pennoyer explained that the legislature has not had the benefit of an NCSL Staff Classification, Compensation and Job Specifications Review since 1999. These are typically done every 7 years so we are very much out of date. In order to make sure that the legislature has appropriate job levels and salaries in order to be competitive, the Personnel Committee recommends that this review be undertaken at this time.

Motion: That upon the unanimous recommendation of the Personnel Committee, that the Legislative Council authorize the executive director to enter into an agreement with NCSL for completion of the proposed Review of Staff Classification, Compensation and Job Specifications; and further authorize the transfer of available balances from

Legislative accounts to fund the cost of the study. Motion by Speaker Gideon. Second by Senator Mason. **Motion passed unanimous (8-0-0-2**, with President Thibodeau and Representative Herbig absent).

Mr. Pennoyer then gave a brief explanation of the NCSL dues funding shortfall. He further explained that by bringing the dues up to date, NCSL would be able to keep the costs of the staff classification review down.

Motion: That the Legislative Council authorizes the executive director to pay the FY17 NCSL outstanding dues assessment of \$9,867; and further authorizes the transfer of available balances from Legislative accounts to fund the payment. Motion by Speaker Gideon. Second by Senator Mason. **Motion passed unanimous (8-0-0-2**, with President Thibodeau and Representative Herbig absent).

Item #3: Proposed Amendments to Legislative Council Policies pending State House Facilities Committee Review

The following policies were discussed and voted on as follows.

- Policy on Security Screening Protocols for the Maine State House
Motion: That upon the unanimous recommendation of the State House Facilities Committee, the Legislative Council approve the amendments to *Legislative Council Policy on Security Screening Protocols for the Maine State House*. Motion by Representative Golden. Second by Senator Cushing. **Motion passed unanimous (8-0-0-2**, with President Thibodeau and Representative Herbig absent).
- Food & Beverages in Committee Rooms Policy
Motion: That upon the unanimous recommendation of the State House Facilities Committee, the Legislative Council repeal the *Food & Beverages in Committee Rooms Policy*. Motion by Representative Golden. Second by Senator Mason. **Motion passed unanimous (8-0-0-2**, with President Thibodeau and Representative Herbig absent).
- Policy on the Use of Legislative Committee Rooms & Other Meeting Space
Motion: That upon the unanimous recommendation of the State House Facilities Committee, the Legislative Council approve the amendments to *Legislative Council Policy on the Use of Legislative Committee Rooms & Other Meeting Space*. Motion by Representative Golden. Second by Senator Cushing. **Motion passed unanimous (8-0-0-2**, with President Thibodeau and Representative Herbig absent).
- Policy on the Use of the Legislative Conference Room
Motion: That upon the unanimous recommendation of the State House Facilities Committee, the Legislative Council approve the amendments to *Legislative Council Policy on the Use of the Legislative Conference Room*. Motion by Representative Golden. Second by Senator Cushing. **Motion passed unanimous (8-0-0-2**, with President Thibodeau and Representative Herbig absent).
- Policy on the Use of Capitol Park
After discussion, the Legislative Council decided to table this item for a future meeting. Motion by Senator Mason. Second by Senator Libby. **Motion passed unanimous (8-0-0-2**, with Representative Fredette and Herbig absent).

ANNOUNCEMENTS AND REMARKS

President Thibodeau reminded everyone that the Legislative Council Budget Subcommittee meeting would be taking place immediately following the conclusion of the Legislative Council meeting following a short break.

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 3:03 p.m.

**128th Maine State Legislature
Legislative Council Action Taken on
Requests to Introduce Legislation
First Regular Session
As of: 4/27/2017**

AFTER DEADLINE BILL REQUESTS

SPONSOR: Sen. Catherine Breen

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2307	An Act To Exempt from Sales Tax the Fee Associated with the Paint Stewardship Program	Passed

SPONSOR: Sen. Michael E. Carpenter

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2340	An Act Authorizing the Aroostook Band of Micmacs To Benefit from the Operation of an Existing Casino	Passed

SPONSOR: Sen. Justin Mark Chenette

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2336	An Act To Strengthen the Integrity of the Legislature	Failed

SPONSOR: Rep. Janice E. Cooper

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2329	An Act Regarding Inspection Requirements for Public Safety and Municipal Vehicles Owned by Island Communities	Passed

2330	An Act To Allow Nonresidents To Serve on Volunteer Boards in Island Communities	Tabled
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SPONSOR: Rep. Bradlee Thomas Farrin

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2348	An Act To Strengthen Maine Legislative Ethics Standards	Failed
2349	An Act To Strengthen the Restrictions Governing Lobbying by Former Legislators and Former Executive Branch Officials	Passed

SPONSOR: Rep. Margaret M. O'Neil

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2346	An Act To Enhance Funds for Opiate Treatment	Passed

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2325	An Act To Protect Privacy of Internet Consumers	Withdrawn by Sponsor

SPONSOR: Rep. Jennifer Ellen Parker

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2306	An Act To Support Employment Opportunity in Maine	Passed

SPONSOR: Rep. Matthew G. Pouliot

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2321	Resolve, To Amend Authorization To Sell Certain Property in Augusta	Passed

SPONSOR: Rep. Roger E. Reed

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2241	An Act To Require That Maine Taxpayer-subsidized Clean Election Funds Be Spent in the State	Tabled 02/14/17 Withdrawn by Sponsor

TABLED BY THE LEGISLATIVE COUNCIL

AFTER DEADLINE BILL REQUESTS

SPONSOR: Rep. Henry John Bear

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2278	An Act To Encourage Support of the Tribal Government of the Houlton Band of Maliseet Indians through On-reservation Business Activity	Tabled 03/24/17

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 01/31/17

JOINT RESOLUTIONS

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 01/31/17

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 02/14/17

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 01/31/17

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 02/14/17 Failed