

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. AMY F. VOLK
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
December 14, 2017
Approved January 25, 2018**

CALL TO ORDER

Speaker Gideon called the December 14, 2017 meeting of the Legislative Council to order at 2:02 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Thibodeau, Senator Mason, Senator Volk, and 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
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 2:02 p.m. with a quorum of members present.

SUMMARY OF NOVEMBER 30, 2017 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary for November 30, 2017 be accepted and placed on file. Motion by Representative Herbig. Second by Representative Fredette. **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 **Old Business, Item 1.**

OLD BUSINESS

Item #1: Consideration of the Tabled Bill Requests for Introduction in the Second Regular Session of the 128th Legislature – from October and November

The Legislative Council proceeded to consider and vote on seventeen (17) tabled bill requests in accordance with the adopted protocol. The Legislative Council authorized two (2) bills for introduction in the Second Regular Session, tabled four (4) bill requests and took no action on the remaining eleven requests. The Legislative Council's action on the bill requests is attached.

Item #2: Council Actions Taken by Ballot

Requests for Introduction of Legislation:

LR 2805 An Act to Implement A Regulatory Structure for Adult Use Marijuana

Submitted by: Representative Teresa Pierce

Date: November 30, 2017

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

NEW BUSINESS

Item #1: Consideration of Appealed Bill Requests for Introduction in the Second Regular Session of the 128th Legislature

The Legislative Council proceeded to consider and vote on twenty-four (24) bill requests in accordance with the adopted protocol. The Legislative Council authorized seven (7) bills for introduction in the Second Regular Session and tabled the remaining seventeen (17) bill requests. The Legislative Council's action on the bill requests is attached.

Item #2: Approval of the Use of ASL Space for Representatives Not Enrolled in the Two Major Parties

Mr. Pennoyer reviewed the proposal to reassign the space currently used by the American Sign Language Interpreters one day per week during the legislative session to the Representatives not enrolled in the two major parties for their use and for their part-time staff. This proposed reassignment of Room 219 in Cross was acceptable to those legislators. Mr. Pennoyer has worked with the Legislative Information Office and with the Speaker's Office to locate this suitable space.

Motion: That the Legislative Council approve the staff's recommendation to reassign Cross 219 for the use of those Representatives not enrolled in the two major parties. Motion by Representative Espling. Second by Senator Mason. **Motion passed unanimous (8-0-0-2, with President Thibodeau and Representative Fredette absent).**

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, presented the following report.

1. Updating Card Readers and New Access Cards

Although the new card readers have arrived, a reassessment of the effort required to install the new panels led to a determination to delay the transition until after the conclusion of the Second Regular Session. We will distribute the new cards immediately in advance of the transition. When the timing is determined for this coming interim, we will provide notice and instructions to all Legislators and Legislative Staff.

2. Harassment Training

Jackie Little, Human Resources Director, offered several training sessions on harassment last week with a new format that included a discussion of scenarios. This new format provided for some very thoughtful discussions of the various issues and was a very effective training session. Supervisors attended a separate session on Tuesday, December 5th, and three training sessions were offered for the rest of Legislative Staff on Wednesday, December 6th. Only two supervisors were not able to attend the mandatory training session on the 5th. They will be offered in-person training separately. For the 36 other staff that missed the training on the 6th, an additional session will be offered on January 19th at the end of a new employee orientation session.

3. Second Aspiring Leaders Program

A second group of staff have completed the Aspiring Leaders program that was first offered last year. This very successful program designed in-house to encourage and engage promising staff is being recognized by NCSL in an "Innovations" section in its magazine. This year's graduates are: Amy Gagne and Maura Pillsbury from the Office of Program Evaluation and Government Accountability; Luke Lazure from the Office of Fiscal and Program Review; Margaret Reynolds from the House Democratic Office; Emily Cook from the Senate Democratic Office; Henry Fouts, Karen Nadeau and Kristin Brawn from the Office of Policy and Legal Analysis; Amanda Goldsmith from the Executive Director's Office; and Jessica Lundgren from the Law and Legislative Reference Library.

4. Copper Reuse Project

With the selection of the two artists to use the copper from the State House Dome, we are nearing the end of the Copper Reuse Project. Artists will be completing their projects over the course of the Second Regular Session and will be installing them next June. We will also be doing one last marketing effort to sell sheets of copper. We have approximately 550 square feet available to sell.

Fiscal Report

Chris Nolan, Director, Office of Fiscal and Program Review, presented the following report.

1. General Fund Revenue Update

Total General Fund Revenue - FY 2018 (\$'s in Millions)

| | Budget | Actual | Var. | % Var. | Prior Year | % Growth |
|----------|-----------|-----------|--------|--------|------------|----------|
| November | \$264.3 | \$276.6 | \$12.3 | 4.7% | \$259.6 | 6.5% |
| FYTD | \$1,462.1 | \$1,507.2 | \$45.1 | 3.1% | \$1,455.2 | 3.6% |

General Fund revenue was over budget by \$12.3 million (4.7%) for the month of November and over budget by \$45.1 million (3.1%) for the fiscal year to date. These positive variances do not reflect the December 2017 revenue forecast, which increased budgeted revenue by \$17.9 million in FY 2018. Individual income tax revenue was over budget for the month by \$10.3 million and over budget for the fiscal year by \$34.8 million. Withholding payments continued to be strong in November. An additional (fifth) Thursday in November likely contributed to the overage. Sales and use taxes for November (October sales) were on budget for the month but over budget by \$3.8 million for the fiscal year. Corporate income tax revenue was under budget by \$5.9 million in November but over budget by \$3.5 million for the fiscal year to date. Corporate income tax refunds were under budget (more refunded than budgeted) by \$6.4 million for the month but are essentially on budget for the fiscal year to date. This underage appears to be a timing issue as corporate income tax refunds previous to November had been over budget (less refunded than budgeted).

2. Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2018 (\$'s in Millions)

| | Budget | Actual | Var. | % Var. | Prior Year | % Growth |
|----------|---------|---------|-------|--------|------------|----------|
| November | \$31.8 | \$33.2 | \$1.4 | 4.5% | \$30.7 | 8.4% |
| FYTD | \$147.2 | \$147.5 | \$0.3 | 0.2% | \$146.5 | 0.7% |

Highway Fund revenue was over budget by \$1.4 million (4.5%) for the month of November and over budget by \$0.3 million (0.2%) for the fiscal year to date. These positive variances do not reflect the December 2017 revenue forecast, which decreased budgeted revenue by \$2.5 million in FY 2018. The majority of this overage relates to truck registration fees received through the International Registration Plan. This line will be adjusted upwards in December.

3. Cash Balances Update

The average balance in the cash pool for November was \$1,120.3 million, down from October's average of \$1,142.1 million but well above both last year's average balance for November and the ten-year average for the month. General Fund internal borrowing from other funds was not needed in November. The average Highway Fund balance of \$25.3 million in November increased from October's average of \$21.7 million.

Studies Report

Marion Hylan Barr, Director, Office of Policy and Legal Analysis, presented the following report. Two more studies have their final report drafted (Task Force on Maine's 21st Century Economy and Workforce and the Right to Know Advisory Committee). Some of the committees have held recent work sessions and public hearings and their work is on-going. Others are still waiting for appointments to be completed.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Speaker Gideon reported that the Personnel Committee held a meeting on December 13th to consider the following matters:

1. SOMER Update

Ms. Little provided a brief update to the committee about the SOMER HR system implementation.

2. Discussion: Harassment in the Workplace

Senator Libby presented his joint rule change proposal to enhance our harassment training for Legislators. Ms. Little provided an update on mandatory staff and supervisory harassment training.

3. Director Reappointment – Marion Hylan Barr, Director, OPLA

The committee considered the reappointment of Marion Hylan Barr as Director of the Office of Policy and Legal Analysis. The committee reviewed the annual evaluation of and considered a step increase for Director Hylan Barr. The committee voted unanimously to approve this step increase and further to recommend that the Legislative Council reappoint Ms. Hylan Barr.

Motion: That the Personnel Committee recommends that the Legislative Council appoint Marion Hylan Barr as Director of the Office of Policy and Legal Analysis, the date of her reappointment being retroactive to November 21, 2017. Motion by Speaker Gideon. Second by Senator Mason. **Motion passed unanimous (8-0-0-2,** with President Thibodeau and Representative Fredette absent).

4. Director Reappointment – Christopher Nolan, Director, OFPR

The committee considered the reappointment of Christopher Nolan as Director of the Office of Fiscal and Program Review. The committee reviewed the annual evaluation of and considered a step increase for Director Nolan. The committee voted unanimously to approve this step increase and further to recommend that the Legislative Council reappoint Mr. Nolan.

Motion: That the Personnel Committee recommends that the Legislative Council appoint Chris Nolan as Director of the Office of Fiscal and Program Review, the date of his reappointment being retroactive to December 1, 2017. Motion by Speaker Gideon. Second by Senator Mason. **Motion passed unanimous (8-0-0-2,** with President Thibodeau and Representative Fredette absent).

5. Director Reappointment – Grant Pennoyer, Executive Director

The committee considered the reappointment of Grant Pennoyer as Executive Director of the Legislative Council. The committee reviewed the annual evaluation of and considered a step increase for Executive Director Pennoyer. The committee voted unanimously to approve this step increase and further to recommend that the Legislative Council reappoint Mr. Pennoyer.

Motion: That the Personnel Committee recommends that the Legislative Council appoint Grant Pennoyer as Executive Director of the Legislative Council, the date of his reappointment being retroactive to October 6, 2017. Motion by Speaker Gideon. Second by Senator Mason. **Motion passed unanimous (8-0-0-2,** with President Thibodeau and Representative Fredette absent).

6. Merit Increases for the Secretary of the Senate and the Clerk of the House

The committee voted to approve step increases of one-step for both the Secretary of the Senate and the Clerk of the House.

7. Two Requests for Temporary Disability Benefits for Partisan Employees

The committee considered two requests by legislative employees for temporary disability income benefits. The requests were 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 requests. An additional issue of replacement personnel arose. The funding for the replacement personnel requires the Council's approval.

Motion: That the Personnel Committee recommends that the Legislative Council authorizes the use of available balances from the Legislative account to fund the cost of replacement personnel during staff absences while out on Temporary Disability. Motion by Speaker Gideon. Second by Senator Mason. **Motion passed unanimous (8-0-0-2,** with President Thibodeau and Representative Fredette absent).

Speaker Gideon, Representative Herbig and Senator Mason individually recognized each Director and thanked them for their dedicated service and proven leadership of their respective departments.

2. State House Facilities Committee

No Report

ANNOUNCEMENTS AND REMARKS

Mr. Pennoyer reminded the Council that the Legislative Council picture is usually taken at the January meeting.

Speaker Gideon wished everyone a happy and safe holiday season.

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 4:04 p.m.

LEGISLATIVE COUNCIL ACTION TAKEN ON
TABLED BILL REQUESTS FROM
OCTOBER 26, 2017 and NOVEMBER 30, 2017

| LR Number | Sponsor | Title | ACTION TAKEN |
|-----------|---------------------------|--|---------------------------|
| 2521 | Sen. Bellows, Shenna | An Act To Ensure Quality of and Increase Access to Recovery Residences | PASSED 12/14/17 |
| 2650 | Sen. Chenette, Justin | An Act To Close Loopholes in Election Laws and Ban the Use of Leadership Political Action Committees for Personal Profit | TABLED 12/14/17 |
| 2651 | Sen. Chenette, Justin | An Act To Clarify the Difference between Late and Unfiled Campaign Expenditures and Expenses Reports | TABLED 12/14/17 |
| 2604 | Sen. Cushing, III, Andre | An Act To Increase Safety on Youth Hunting Day for Hunting Bear by Allowing an Accompanying Adult To Possess a Firearm | PASSED 12/14/17 |
| 2754 | Sen. Cushing, III, Andre | Resolve, To Study Methods for Better Transportation for Students and Workers in Maine | TABLED 12/14/17 |
| 2481 | Rep. Fredette, Kenneth | An Act To Authorize a General Fund Bond Issue To Fund a Program of Student Debt Consolidation and Repayment | 11/30/2017 |
| 2492 | Rep. Gerrish, Karen | An Act To Create a Full-time Drug Interdiction Unit within the State | 11/30/2017 |
| 2716 | Rep. Herbig, Erin | An Act To Attract Trained Firefighters to Maine and Provide Incentives To Retain Them | 11/30/2017 |
| 2506 | Sen. Jackson, Troy | An Act To Support Funding for Workforce Development in Maine | 10/26/2017 |
| 2783 | Sen. Langley, Brian | An Act To Extend Secondary Student Eligibility in the Competitive Skills Scholarship Program | TABLED 12/14/17 |
| 2761 | Sen. Libby, Nathan | Resolve, To Require the Department of Labor To Receive Federal Workforce Innovation and Opportunity Act Funds | 10/26/2017 |
| 2562 | Rep. Parry, Wayne | An Act To Waive Income Restrictions for Supplemental MaineCare Coverage for Children Diagnosed with Cystic Fibrosis | 11/30/2017 |
| 2523 | Rep. Perry, Anne | An Act To Ensure Federal Funding for Job Training Services | 10/26/2017 |
| 2472 | Rep. Stewart, III, Harold | An Act To Prevent Human Trafficking, Protect Children and Finance the Victims' Compensation Fund | 11/30/2017 |
| 2605 | Pres. Thibodeau, Michael | An Act To Amend the Laws Restricting Firearms on Public Lands | 11/30/2017 |

| | | | |
|------|------------------------|--|------------|
| 2624 | Rep. Wadsworth, Nathan | An Act To Ensure Fairness and Affordability in the Private Residential and Commercial Rental Markets | 11/30/2017 |
| 2551 | Rep. White, Dustin | An Act To Increase the Bottle Redemption Rate To Counterbalance Increases in the Minimum Wage | 11/30/2017 |

**128th Maine State Legislature
Legislative Council Action Taken on
Requests to Introduce Legislation
Second Regular Session
12/14/17**

AFTER DEADLINE BILL REQUESTS

SPONSOR: Rep. Barbara A. Cardone

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2806 | An Act To Amend the Maine Uniform Trust Code | TABLED |

SPONSOR: Sen. Michael E. Carpenter

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2797 | An Act To Amend the Laws Governing Indecent Conduct To Include Distribution of Photographic Images | TABLED |

SPONSOR: Rep. Owen D. Casas

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2795 | RESOLUTION, AMENDING THE CONSTITUTION OF MAINE TO ALLOW FOR RANKED-CHOICE VOTING | TABLED |

SPONSOR: Sen. Justin Mark Chenette

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|---|---------------|
| 2802 | An Act To Prevent the State Take-over of Local Roads without Local Approval | TABLED |

| | | |
|------|---|--------|
| 2803 | An Act To Reverse the Department of Transportation Take-over of Killick Pond Road in Hollis | TABLED |
|------|---|--------|

SPONSOR: Sen. Scott W. Cyrway

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2799 | An Act To Provide a License at No Charge to Student Plumbers for On-the-job Training | TABLED |

| | | |
|------|-----------------------------------|--------|
| 2800 | An Act To Ban Drinkable Marijuana | TABLED |
|------|-----------------------------------|--------|

SPONSOR: Rep. Ryan M. Fecteau

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2796 | An Act To Improve Efficiency in the Delivery of Workforce Training | TABLED |

SPONSOR: Rep. Scott M. Hamann

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|---|---------------|
| 2792 | An Act To Prohibit the Purchase and Possession of Bump Stocks | TABLED |

SPONSOR: Rep. Jeffery P. Hanley

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|---|---------------|
| 2793 | Resolve, Authorizing the Bureau of Parks and Lands To Transfer a Parcel of Land in the Town of Pittston | PASSED |

SPONSOR: Rep. Erin D. Herbig

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|---|---------------|
| 2814 | An Act To Provide a Sales Tax Credit for Nonprofit Heating Assistance Organizations | PASSED |

| | | |
|------|--|--------|
| 2815 | An Act To Clarify Educational Placement and Notification in Regard to Parental Rights and Responsibilities | PASSED |
|------|--|--------|

SPONSOR: Rep. Gary L. Hilliard

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2794 | An Act To Educate the Public Concerning Health and Safety Matters Relating to the Use of Marijuana | TABLED |

SPONSOR: Sen. Brian D. Langlely

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2804 | An Act To Rename the Schoolhouse Bridge in Surry | PASSED |

SPONSOR: Sen. Nathan L. Libby

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2791 | An Act To Provide for In-person Visitation of Incarcerated Persons | PASSED |

SPONSOR: Rep. Louis J. Luchini

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--------------------------------------|---------------|
| 2807 | An Act Regarding Maine's Liquor Laws | PASSED |

SPONSOR: Rep. Richard S. Malaby

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2811 | Resolve, Regarding Increases in Reimbursement Rates for Certain Children's Habilitative Services under MaineCare | TABLED |

SPONSOR: Rep. Teresa S. Pierce

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2808 | An Act To Allow The Maine Educational Center for the Deaf and Hard of Hearing and Governor Baxter School for the Deaf To Lease Space to Maine's Protection and Advocacy Agency for Persons with Disabilities | PASSED |

SPONSOR: Pres. Michael D. Thibodeau

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2819 | An Act To Require Annual Sexual Harassment Training for Legislators, Employees of the Legislature and Registered Lobbyists | TABLED |

SPONSOR: Sen. David Woodsome

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2812 | An Act Regarding the Use by Fire Departments of Recertified Self-contained Breathing Apparatus | TABLED |

JOINT RESOLUTIONS

SPONSOR: Sen. Geoffrey M. Gratwick

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2653 | JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO ESTABLISH A NATIONAL REVENUE-NEUTRAL FEE ON CARBON-BASED FOSSIL FUELS | TABLED |

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|---|---------------|
| 2818 | JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO LEAD A GLOBAL EFFORT TO PREVENT NUCLEAR WAR | TABLED |

SPONSOR: Rep. Beth A. O'Connor

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|---|---------------|
| 2461 | JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO ALLOW THE IMPORTATION OF AFFORDABLE AND SAFE PRESCRIPTION DRUGS | TABLED |

SPONSOR: Rep. Maureen Fitzgerald Terry

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|---|---------------|
| 2469 | JOINT RESOLUTION MEMORIALIZING CONGRESS TO CLARIFY THE LAWS TO ENSURE THAT NEO-NAZI GROUPS ARE LABELED AS TERRORIST ORGANIZATIONS | TABLED |