

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
June 26, 2018
Approved September 20, 2018**

CALL TO ORDER

Speaker Gideon called the June 26, 2018 meeting of the Legislative Council to order at 4:48 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Thibodeau, Senator Mason and Senator Libby

Absent: Senator Jackson, Senator Volk (both arrived late)

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
Nik Rende, Acting Director, Legislative Information Technology
Beth Ashcroft, Director, Office of Program Evaluation and Government Accountability

Speaker Gideon convened the meeting at 4:48 p.m. with a quorum of members present.

SUMMARY OF MARCH 22, 2018 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary for March 22, 2018 be accepted and placed on file. Motion by Senator Mason. Second by Representative Herbig. **Motion passed unanimous (9-0-0-1, with Senator Volk absent).**

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

Grant Pennoyer, Executive Director, presented the following written report.

1. Youth in Government Program at the State House

In consultation with the Secretary of the Senate and the Clerk of the House, we have established the dates for this coming fall's Youth in Government Program at the State House. The program will be conducting its annual program in the State House and Cross Office Building from Friday, November 9th, to Sunday, November 11th.

2. Copper Reuse Project

The Copper Reuse Project is finally coming to a close. All remaining rough sheets of the copper have been sold and the second of the two authorized artworks is scheduled to be installed later this week on the exit wall leaving the main lobby of the State House. We still have some mementos for sale for those that missed out on a rough copper purchase.

3. Filtered Drinking Fountain Installed

The drinking fountain on the second floor of the State House has been updated to a filtered water dispenser. A similar upgrade of the drinking fountain on the 4th floor is in process. The upgrade for the third floor was delayed to avoid any disruption to the Special Session.

4. Health Insurance Premium Increase

Employee Health and Benefits has announced that health insurance premiums for the State plan will increase by 4% effective July 1, 2018.

Fiscal Report

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

1. General Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
May	\$251.5	\$258.3	\$6.7	2.7%	\$253.4	1.9%
FYTD	\$3,115.0	\$3,192.7	\$77.7	2.5%	\$3,044.0	4.9%

General Fund revenue was over budget by \$6.7 million (2.7%) for the month of May and over budget by \$77.7 million (2.5%) for the fiscal year to date. Individual income tax revenue was over budget by \$10.6 million for the month and over budget by \$52.2 million for the fiscal year to date. This positive monthly variance was primarily the result of strong withholding payments and an overage on the individual income tax refund line (less refunded than budgeted). As discussed in last month's report, the year to date variance is primarily the result of stronger than expected 2017 final income tax payments. Sales and use tax revenue (April sales) was over budget by \$4.6 million for the month and over budget by \$6.7 million for the fiscal year to date. Corporate income tax payments were \$3.7 million under budget for the month but \$15.3 million over budget for the fiscal year to date. The monthly variance

was mostly the result of corporate income tax refunds coming in under budget for the month by \$6.2 million (more refunded than budgeted).

2. Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
May	\$27.6	\$29.4	\$1.9	6.8%	\$28.1	4.6%
FYTD	\$302.4	\$307.8	\$5.4	1.8%	\$304.7	1.0%

Highway Fund revenue was over budget by \$1.9 million (6.8%) for the month of May and over budget by \$5.4 million (1.8%) for the fiscal year to date. Fuel taxes were under budget by \$0.3 million for the month but over budget by \$0.9 million for the fiscal year. Motor vehicle registration and fees were over budget by \$2.0 million for the month and \$4.3 million for the fiscal year.

3. Cash Balances Update

The average balance in the cash pool for May was \$1,201.5 million, up from April's average of \$1,074.3 million and above both last year's average balance for May and the ten-year average for the month. May's cash balances reflect a continued recovery from March which is typically the low point in the fiscal year for cash balances that are then usually replenished in April and May. General Fund internal borrowing from other funds was not needed in May (last done in April of 2016). The average Highway Fund balance of \$38.9 million in May was up from \$36.9 million in April.

REPORTS FROM COUNCIL COMMITTEES

1. State House Facilities Committee

Representative Herbig reported that the State House Facilities Committee met on Tuesday, March 27th, 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 overview on the Blaine House Maintenance and Improvement projects for the next several years. They requested that the Legislative Council fund the Blaine House repairs for FY19 in the amount of \$100,000. The committee concurred and recommended to bring to the Legislative Council.

Motion: That upon the unanimous recommendation of the State House Facilities Committee, the Legislative Council approve the transfer of a total of \$100,000 in the upcoming fiscal year from the State House Preservation and Maintenance Fund to the Blaine House Repairs and Maintenance Fund for the Blaine House Grounds Restoration Project. Motion by Representative Herbig. Second by President Thibodeau. **Motion passed unanimous (10-0).**

2. Gold Star Family Memorial in Capitol Park

Mr. Jonathan Kelley gave an overview of the proposal to locate a new Gold Star Family Memorial next to the Maine Vietnam Veterans Memorial in Capitol Park. The Gold Star committee is hoping to move this through quickly so that the memorial could be dedicated on September 30th which is Gold Star Mothers' Day. Given that legislation would be required to locate the memorial in the park, Rep. Golden recommended that it be brought forward to the full Legislative Council for discussion. This item is included under new business later on today's agenda.

3. Statue of Fallen Maine Soldier

Mr. Pennoyer provided an overview of the committee's discussions at its last meeting of the proposal to locate a statue of a fallen Maine soldier in the Capitol Complex. Potential locations were discussed along with the idea of the statute being displayed for a short period of time. The committee decided to table the matter until its next meeting.

4. Killed in Action Flag

Mr. Pennoyer presented some background on the flag including how many other states are flying this flag on special occasions. Mr. Pennoyer further reported to the committee on a similar flag that several states are also flying on special occasions. The committee asked Mr. Pennoyer to research flag etiquette and decided to set aside the matter until its next meeting.

5. Request for Special Lighting of the State House

Mr. Pennoyer reviewed the request by the Consulate General of Israel to light the dome blue of the State House in April in honor of the 70th Anniversary of the founding of the modern State of Israel. Mr. Pennoyer explained that previous requests to light the dome have been declined by the Legislative Council but that there is no standing policy. He further stated that changing the dome color lights is not possible at this time without an upgrade to the equipment. The committee decided to deny this request and further to have Mr. Pennoyer develop a standard policy against these types of requests in the future to bring to the Legislative Council for approval.

6. Press Access through the Connector

Mr. Mal Leary, of the Maine Public Broadcasting Network, brought to the committee's attention the press's concerns about access to the State House after the State House has been locked and the press not being able to attend impromptu public meetings of the Legislature or even meeting with the Governor after normal business hours. Mr. Pennoyer and Mr. Gauvin, Chief of Capitol Police, answered various questions the committee posed. After much discussion, the committee tabled this item.

7. Potential Uses for the State House Café

Mr. Rich Desjardins, operator of Cross Café and State House Café, explained the difficulties he has had over the last few years in keeping the State House Café running. Mr. Pennoyer offered suggestions for other uses of the space for the committee to review. The committee tabled this item for future discussion.

8. Request to Tie Purple Ribbons around Trees in Capitol Park for National Crime Victims' Rights Week

Mr. Pennoyer reviewed the request to tie purple ribbons around trees in Capitol Park and explained that there is a section of the Capitol Park policy that prohibits affixing objects to trees. The committee voted to deny this request.

9. Plaque on Lobby Bench honoring Susan Mitchell

Sen. Jackson made the request for a small 2" plaque to be put on one of the lobby benches in honor of long-term lobbyist Susan Mitchell. Mr. Pennoyer explained that there are no other individuals honored within the State House. After discussion, the committee tabled this request.

10. 100th Anniversary of American Legion Plaque

Members of the American Legion requested that a plaque honoring the 100th Anniversary of the American Legion be hung somewhere in the State House potentially in the Hall of Flags. After learning that the American Legion first met in the Senate Chamber, Sen. Mason suggested the plaque might be hung in the Senate wing. This item will be discussed further at a future meeting pending the outcome of current legislation.

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 2.**

NEW BUSINESS

Item #2: Gold Star Family Memorial

Mr. Jonathan Kelley explained to the Council that the Gold Star organization is requesting to have this Family Memorial placed next to the Vietnam Memorial in Capitol Park. Their organization has raised the funds for the memorial, its installation and its upkeep. Mr. Pennoyer explained that Legislation is required to amend the statute in order to allow this memorial to be installed in Capitol Park.

Motion: That the Legislative Council authorize the introduction of a new bill to this special session sponsored by Representative Herbig to amend the statute in order to allow this memorial to be installed in Capitol Park. Motion by Senator Jackson. Second by Representative Golden. **Motion passed unanimous (10-0).**

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

REPORTS FROM COUNCIL COMMITTEES

2. Personnel Committee

President Thibodeau reported that the Personnel Committee met on May 15th and again on June 26th to consider the following matters:

1. LIT Director and OPEGA Director Interviews

The committee conducted interviews for the positions of Director, Office of Legislative Information Technology and Director, Office of Program Evaluation and Government Accountability. After careful consideration, the committee voted unanimously to recommend that the Legislative Council appoint Nik Rende as the director of LIT and Danielle Fox as the director of OPEGA. The Personnel Committee believes that both Nik's and Danielle's appointments as director would serve us well. The Personnel Committee is confident that Mr. Rende and Ms. Fox will be effective directors in leading their departments with skill and insight.

Motion: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council appoint Nicholas Rende as director of the Office of Legislative Information Technology, the effective date of his appointment being Wednesday, June 27, 2018, pursuant to 3 MRSA §162, sub-§6, and that Mr. Rende's initial salary in the position be established at Salary Grade 14, step 6 of the Legislature's salary schedule; and further that the Executive Director, in consultation with the director, establish performance standards and goals for the director's position and make such operational and organizational improvements as necessary to assure an effective and well run Office of Legislative Information Technology. Motion by President Thibodeau. Second by Senator Mason. **Motion passed unanimous (10-0).**

Motion: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council appoint Danielle Fox as director of the Office of Program Evaluation and Government Accountability, the effective date of her appointment being Monday, August 27, 2018, pursuant to 3 MRSA 37§995, sub-§1, and that Ms. Fox's initial salary in the position be established at Salary Grade 13, step 7 of the Legislature's salary schedule, with an initial 5-year term; and further that the Executive Director, in consultation with the director, establish performance standards and goals for the director's position and make such operational and organizational improvements as necessary to assure an effective and well run Office of Legislative Information Technology. Motion by Speaker Gideon. Second by Senator Mason. **Motion passed unanimous (10-0).**

The Council welcomed both Nik and Danielle as directors and congratulated them on their well-deserved promotions. Senator Libby recognized and thanked Beth Ashcroft for her years of service as Director of OPEGA and wished her well in her future endeavors.

2. NCSL Job Classification and Compensation Study Update

The committee held discussions about the NCSL Job Classification and Compensation Study report. The committee accepted the report with the plan to implement only two of NCSL's recommendations at this time.

Motion: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council accepts the 2018 NCSL Job Classification and Compensation Study report and implements the following two recommendations:

- To reclassify Legal Proofreader and Senior Legal Proofreader positions in the Office of the Revisor of Statutes; and
- To authorize the Executive Director to create more promotional opportunities for Analysts/Attorneys through the use of Senior and Principal designations where appropriate;

and further authorizes ongoing savings in the Legislative and Office of Program Evaluation and Government Accountability accounts from recent staff transitions and

hiring decisions to be used to fund any costs related to the reorganization. Motion by President Thibodeau. Second by Senator Mason. **Motion passed unanimous (10-0).**

3. Harassment Training Update

Ms. Little provided the committee with updates of staff and legislator training. Ms. Little also reviewed the planned work on this project during the interim.

4. SOMER Update

Ms. Little provided an update to the committee about the SOMER project. No Legislative Council action is required at this time.

5. Reimbursement for Attorney Bar Dues

Mr. Pennoyer made a recommendation that the payment limit for renewals of Attorney Bar Dues and other licenses and certifications required as a condition of employment be raised to \$400. The committee recommends this change to the Personnel Policies and Guidelines.

Motion: That the Legislative Council approve an amendment to the Personnel Policies in Part VI, Section J, sub-section 2, "Certification and Licenses," to increase the limit for payment of the renewal of professional licenses required as a condition of employment from \$300 to \$400 effective immediately. Motion by President Thibodeau. Second by Senator Mason. **Motion passed unanimous (10-0).**

6. Legislator Attendance Policy

Ms. Little reviewed the current process for legislator attendance in accordance with the statute and Legislative Council policy. The committee provided guidance and directed staff to present draft policy language for review at the next meeting.

7. New Member Orientation/Pre-Legislative Conference

The committee reviewed agendas from the 2016 New Member Orientation and Pre-Legislative Conference. Mr. Pennoyer and Ms. Little presented some suggestions for the 2018 events. The committee provided feedback. No Legislative Council action is required.

OLD BUSINESS

Item #1: Council Actions Taken by Ballot

Decisions by Legislative Council Ballot:

Motion: That the Legislative Council approves the Marijuana Advisory Commission as an on-going legislative commission established in LD 1719 An Act to Implement a Regulatory Structure for Adult Use Marijuana that will incur additional annual costs to the Legislature of \$2,250 beginning in fiscal year 2018-19 for which a General Fund appropriation is included. And further that the Legislative Council approves this commission as non-conforming with the provisions of Joint Rule 353.

Motion by: Speaker Gideon Second by: President Thibodeau
 Date: April 17, 2018
 Vote: 9-0-1-0 Passed (with Representative Fredette abstained)

Motion: That the Legislative Council authorize the funding for and approve the nonconforming elements pursuant to Joint Rule 353 of the following legislative studies:

- **The Commission To Study Long-term Care Workforce Issues (see LD 1466); and**
- **The Task Force for the Study and Planning for the Implementation of Maine's Early Childhood Special Education Services (see LD 1870).**

Motion by: Speaker Gideon Second by: President Thibodeau
 Date: June 19, 2018
 Vote: 10-0-0-0 Passed

Requests for Introduction of Legislation – Special Session:

LR 3054 Resolve, To Name the Bridge over the Kennebec River in the Town of Norridgewock the Corporal Eugene Cole Memorial Bridge

Submitted by: Representative Bradlee Farrin
 Date: June 19, 2018
 Vote: 10-0-0-0 Passed

LR 3053 An Act To Clarify which Municipalities May Receive a Portion of Day Use and Camping Fees from State Parks and Historic Sites

Submitted by: Representative Ralph Chapman
 Date: June 19, 2018
 Vote: 9-1-0-0 Passed (with President Thibodeau opposed)

LR 3058 Resolve, To Name the Bridge over the Saco River in the Town of Fryeburg the Nathan Desjardins Memorial Bridge

Submitted by: Representative Nathan Wadsworth
 Date: June 19, 2018
 Vote: 10-0-0-0 Passed

NEW BUSINESS

No other New Business was taken up by the Legislative Council.

ANNOUNCEMENTS AND REMARKS

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 5:17 p.m.