

MAINE STATE LEGISLATURE

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SEN. TROY D. JACKSON
CHAIR

REP. SARA GIDEON
VICE- CHAIR

EXECUTIVE DIRECTOR
GRANT T. PENNOYER



129TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. NATHAN L. LIBBY
SEN. ELOISE A. VITELLI
SEN. DANA L. DOW
SEN. JEFFREY L. TIMBERLAKE
REP. MATTHEW W. MOONEN
REP. RYAN M. FECTEAU
REP. KATHLEEN R.J. DILLINGHAM
REP. HAROLD TREY STEWART III

**LEGISLATIVE COUNCIL
MEETING SUMMARY
October 23, 2019
Approved December 6, 2019**

CALL TO ORDER

President Jackson called the October 23, 2019 meeting of the 129th Legislative Council to order at 10:58 a.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Jackson, Senator Libby, Senator Vitelli, Senator Dow and Senator Timberlake

Representatives: Speaker Gideon, Representative Moonen, Representative Fecteau, Representative Dillingham and Representative Stewart

Legislative Officers: Darek Grant, Secretary of the Senate
Robert Hunt, Clerk of the House
Suzanne Gresser, Revisor of Statutes
Dawna Lopatosky, Legislative Finance Director
Chris Nolan, Director, Office of Fiscal and Program Review
Marion Hylan Barr, Director, Office of Policy and Legal Analysis

President Jackson convened the meeting at 10:58 a.m. with a quorum of members present.

SUMMARY OF JUNE 17, 2019 MEETING OF LEGISLATIVE COUNCIL

The summary for this meeting was approved by Legislative Council ballot on July 10, 2019.

Legislative Council Chair Jackson asked if there was any objection to taking items out of order. There was no objection. The Chair then moved to New Business.

NEW BUSINESS

Item #1: Request to Hold the State Debate Team Finals in the State House

Ms. Gresser reviewed the request from the Maine National Speech and Debate Association to hold the 2020 District Congressional Debate Maine Qualifiers in the State House on Saturday, January 18, 2020. Representative Moriarty then gave a more detailed description of the event.

Motion: That the Legislative Council authorizes the Maine National Speech and Debate Association to hold the 2020 District Congressional Debate Maine Qualifiers at the State House on Saturday, January 18, 2020. Motion by Speaker Gideon. Second by Representative Dillingham. **Motion passed unanimously (10-0-0).**

Item #9: Procedures for Deciding Legislative Bill Requests and Consideration of Bill Requests for the Second Regular Session.

Ms. Gresser reviewed the procedures for the review of Legislative Bill Requests and the proposed protocol for deciding those requests.

Motion: That the Legislative Council approves the proposed protocol for deciding Legislative Bill Requests. Motion by Senator Libby. Second by Senator Timberlake. **Motion passed unanimously (10-0-0).**

The Legislative Council proceeded to consider and vote on three hundred ninety-seven (397) bill requests in accordance with the adopted protocol, and using an electronic voting system. The Legislative Council authorized one hundred thirty-four (134) bills for introduction in the Second Regular Session, tabled twenty-nine (29) bill requests and declined to authorize two hundred thirty-two (232) bill requests. Two (2) bill requests were withdrawn by the sponsor prior to the Legislative Council's vote. The Legislative Council's action on the bill requests is attached.

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

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

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

1. Bill Production System Project Update

The new Bill Production System to replace the MELD bill production system has fallen a few weeks behind schedule due to the complexity of the remaining components of the project and some complications with the migration of the statutes from MELD to the new system. With the migration of the statutes now completed, the Revisor's Office is focusing on entering all of last session's enacted laws affecting the statutes so that they can do their annual statute update and the new system will be fully updated. We are still hopeful to have the new Bill Production System fully functioning for the 2nd Regular Session. Some helpful, ease-of-use components, which are technically complex for the contractor, may not be available during the early stages of the drafting season.

2. NCSL Legislative Research Librarians Portland Conference

In September Maine hosted a professional development seminar of NCSL's Legislative Research Librarians group in Portland. The seminar includes a visit to Augusta and the State House on Tuesday, September 24th. Staff of the Law and Legislative Research Library helped NCSL organize the conference which went very well.

3. State House Café Reopening

The Business Enterprise Program within the Division of the Blind and Visually Impaired has found a new operator to take over the State House Café. Betty Baker, the mother of Lisa Baker (Assistant Sergeant of Arms in the House), is the operator. She opened for business on Monday, October 21st and will be operating as the Merrymeeting Café.

Fiscal Report

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

1. General Fund Revenue Update (see attached)

Total General Fund Revenue - FY 2020 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
September	\$403.8	\$424.0	\$20.2	5.0%	\$402.1	5.5%
FYTD	\$1,023.5	\$1,055.0	\$31.5	3.1%	\$1,004.0	5.1%

General Fund revenue was over budget by \$20.2 million (5.0%) for the month of September and by \$31.5 million (3.1%) for the fiscal year to date.

Individual income tax revenue was over budget by \$10.0 million for the month and by \$16.4 million for the fiscal year to date. Estimated individual income tax payments were over budget for the month by \$4.1 million while individual income tax withholdings were over budget by \$5.4 million. Corporate income tax revenue was over budget by \$9.0 million for the month but by only \$2.0 million for the fiscal year to date, with the September positive variance driven by estimated payments which were over budget by \$7.5 million for the month. The first quarterly estimated payments to be paid in FY 2020 were due in September. Sales and use tax revenue (August sales) was over budget for the month by \$2.6 million and by \$10.0 million for the fiscal year to date.

2. Highway Fund Revenue Update (see attached)

Total Highway Fund Revenue - FY 2020 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
September	\$27.3	\$31.2	\$3.8	14.1%	\$27.0	15.3%
FYTD	\$90.1	\$95.8	\$5.7	6.3%	\$90.5	5.9%

Highway Fund revenue was over budget by \$3.8 million (14.1%) for the month of September and by \$5.7 million (6.3%) for the fiscal year to date.

Fuel taxes were over budget by \$3.3 million for the month and by \$3.5 million for the fiscal year to date. Motor vehicle registrations and fees were over budget for the month by \$0.4 million and over budget for the fiscal year to date by \$2.1 million.

3. Cash Balances Update

The average balance in the cash pool for September was \$1,629.3 million, an increase from August's average of \$1,626.2 million and above both last September's average balance and the ten-year average for the month. The average Highway Fund balance of \$16.1 million in September was down from August's average of \$41.3 million as a result of strong construction season spending.

4. Revenue Forecasting - Next Steps

The Consensus Economic Forecasting Commission is scheduled to meet on October 25, 2019 to review and update its economic forecast for its required November 1, 2019 report, while the Revenue Forecasting Committee has scheduled November 25, 2019 for its meeting to review and update its revenue forecast to comply with its December 1, 2019 statutory reporting deadline.

Studies Report

Marion Hylan Barr, Director, Office of Policy and Legal Analysis, submitted the written studies report found in the agenda packet.

REPORTS FROM COUNCIL COMMITTEES

Personnel Committee

The Personnel Committee submitted the following written report. The committee met on Tuesday, July 16th and Wednesday, September 11th to consider the following matters:

1. Onsite Childcare

Ms. Little provided an update to the committee and continues to work with the Governor's office to move this project forward. This matter will continue to be discussed at future meetings.

2. Workday Update

Ms. Little provided the committee with highlights of a few changes that will be made to legislative operations due to the Workday implementation. Ms. Little will continue to provide the committee with updates as the project moves forward.

3. Political Activity of Committee Clerks

The committee reviewed a draft revision provided by Mr. Pennoyer of the *Personnel Policies and Guidelines* regarding political activity of committee clerks. These changes were approved by ballot as part of collective bargaining and will be incorporated in the personnel policy updates.

4. Committee Clerk Evaluation Process and Hiring Process

Ms. Little presented a brief overview of the current evaluation process and hiring process for committee clerks. The committee offered guidance for a future change of the evaluation process in the *Personnel Policies and Guidelines for Legislative Committee Clerks*.

5. Harassment Prevention

Ms. Little provided a brief update about distribution and implementation of the new harassment policy as well as upcoming annual training.

6. Collective Bargaining

The committee first provided guidance to Mr. Pennoyer and Ms. Little related to collective bargaining. At its second meeting, the committee approved the cost items related to this item. This matter has been approved by Legislative Council ballot.

7. Requests for Temporary Disability Partisan Staff

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. No Legislative Council action is required.

8. Consideration of Position Reclassification

The committee deliberated a request to reclassify one position in the Law and Legislative Reference Library. The committee approved the plan as proposed. This matter has been approved by Legislative Council ballot.

9. Performance Evaluation and Step Increase – Danielle Fox

The committee reviewed the performance of Danielle Fox, Director of OPEGA and voted unanimously to approve a step increase for her.

10. Performance Evaluation and Step Increase – Grant Pennoyer

This item was tabled for a future meeting.

State House Facilities Committee

Senator Libby presented the following report. The State House Facilities Committee met on Tuesday, September 17th to consider the following items.

1. Food Service at the State House Café

Mr. Pennoyer reported that the Business Enterprise Program of the Division of the Blind and Visually Impaired had been able to find another operator to offer food service at the State House Café for this coming session.

2. Disposition of Old Flag Poles

Mr. Pennoyer provided an update on the lack of progress on finding a nonprofit to find a home for the old flag poles from the low domes of the State House given the expense of relocating the poles. He noted that some contractors had expressed an interest in taking possession of and moving the poles from Lot O.

Motion: That upon the recommendation of the State House Facilities Committee, the Legislative Council authorizes the Executive Director to donate the old flag poles to contractors who will remove them from their current resting space beside Parking Lot O. Motion by Senator Libby. Second by Senator Dow. **Motion passed unanimously (10-0-0).**

3. State House Items in Storage

Mr. Pennoyer updated the committee on the disposing of State House items from storage. After some discussion and suggestions, including possibly donating some items to the Legislative Memorial Scholarship Auction, the committee recommended that the Executive Director work expeditiously with the Secretary of the Senate and the Clerk of the House to significantly reduce the items in storage.

Motion: That upon the recommendation of the State House Facilities Committee, the Legislative Council authorizes the Executive Director to contact architectural salvage companies to reduce the State House items in storage, and further authorizes the Executive Director to donate some of the items to the Legislative Memorial Scholarship Auction. Motion by Senator Libby. Second by Senator Timberlake. **Motion passed unanimously (10-0-0-0).**

4. Update to State House Security Screening Policy for Reorganization of Governor's Office

The committee discussed a suggested amendment to address a reorganization of the Governor's Office. That suggested amendment will be presented later under new business.

5. Repurposing of Room 213 in the Cross Office Building

The committee discussed repurposing Room 213 of the Cross Office Building, one of the two seldom used Legislative Retiring Rooms in that building, as a large flexible room for conference space, overflow hearings and for meetings that include serving food.

Motion: That upon the recommendation of the State House Facilities Committee, the Legislative Council directs the Executive Director to repurpose Room 213 in the Cross Office Building as a large, flexible room for conference space, overflow hearings and for meetings that include serving food. Motion by Senator Libby. Second by Senator Vitelli. **Motion passed unanimously (10-0-0-0).**

6. Introduction to the Maine State House Mobile Tour Experience

The committee received a briefing from staff of the Maine State Museum about a new project to develop an on-line mobile tour experience for visitors to the State House funded by a grant from the Maine Bicentennial Commission.

7. World War II 75th Anniversary – Display of WWII Veterans' Portraits in 2020

The committee reviewed a proposal by an artist to display portraits of WWII veterans' in the Hall of Flags. The committee is not forwarding this request on to the Council based on concerns over the proposed length of the exhibit conflicting with other uses in the Maine Bicentennial and the cost of the transporting and setup of the portrait display.

8. Update of Maintenance and Improvement Projects

Mr. Pennoyer provided an update on some of the major maintenance and improvement projects currently in process at the State House. Later, under new business, we will be reviewing a change to original plans and cost estimates for the Parking Lot O project.

OLD BUSINESS

Item #1: Council Actions Taken by Ballot

Legislative Council Decisions:

Motion: That the Meeting Summary for June 17, 2019 be accepted and placed on file.

Motion by: President Jackson Second by: Speaker Gideon

Date: July 10, 2019

Vote: 10-0-0-0 Passed

Motion: That the Legislative Council approves the Executive Director's proposed reclassification of one position in the Law and Legislative Reference Library.

Motion by: President Jackson Second by: Speaker Gideon

Date: August 14, 2019

Vote: 10-0-0-0 Passed

Motion: That pursuant to its authority under 26 MRSA, §979-A, sub-§5, the Legislative Council of the 129th Legislature ratify the collective bargaining agreements for the period October 1, 2019 through September 30, 2021 that were negotiated and tentatively agreed to by the authorized representatives of the Legislative Council and the Maine State Employees Association-SEIU Local 1989 on behalf of the Administrative Unit of Legislative Employees on September 12, 2019 and by the authorized representatives of the Legislative Council and the Independent Association of Nonpartisan Legislative Professionals (IANLP) on September 25, 2019. Further, that the Legislative Council authorize the Executive Director to take all necessary steps to carry out the terms of these two Agreements; Further, that upon recommendation of the Personnel Committee, the Legislative Council exercise its right to adopt the revisions to its personnel policies, pending agreement from the respective authorities; to apply personnel policies and benefit provisions that are comparable to those contained in the ratified collective bargaining agreements; and direct its Executive Director to incorporate as appropriate and administer those provisions; and Further that compensation provisions in the form of general salary increases, longevity payment changes and vacation accruals changes comparable to that provided in the aforementioned ratified collective bargaining agreements be provided to legislative employees who are not represented by a collective bargaining agent, the effective dates of such compensation provisions to coincide with those contained in the aforementioned collective bargaining agreement ratified.

Motion by: President Jackson Second by: Speaker Gideon

Date: October 4, 2019

Vote: 10-0-0-0 Passed

NEW BUSINESS

Item #2: Amendment to the *Legislative Council Policy on Security Screening Protocols for the Maine State House*

Ms. Gresser reviewed the proposed amendment to the policy, which includes a change for the Governor's Office staff access.

Motion: That upon the recommendation of the State House Facilities Committee, the Legislative Council approves the revision to the *Legislative Council Policy on Security Screening Protocols for the Maine State House* effective immediately. Motion by Senator Libby. Second by Representative Dillingham. **Motion passed unanimously (10-0-0-0).**

Item #3: Proposed Document Service Fee Schedule for the 129th Legislature Second Regular Session

Ms. Gresser presented the proposed Document Service fee schedule for the Second Regular Session. The fees remain the same as the First Regular Session.

Motion: That the Legislative Council approves proposed Document Service Fee Schedule for the 129th Legislature Second Regular Session. Motion by Representative Dillingham. Second by Senator Libby. **Motion passed unanimously (10-0-0-0).**

Item #4: Various Requests from the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act

Ms. Gresser reviewed the requests from the Task Force, which include: 1) holding up to four additional meetings, one of which would be held at the Wabanaki Center at the University of Maine; 2) enlisting the aid of the Indigenous Peoples Clinic at the Suffolk University School of law for research regarding the impact of proposal being considered by the Task Force; and 3) approving an extension of the reporting deadline to December 15th.

Motion: That the Legislative Council authorizes the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act to meet for up to four additional meetings, to hold one of those additional meetings at the Wabanaki Center at the University of Maine, to enlist the assistance of the Indigenous Peoples Clinic at Suffolk University School of Law to conduct research regarding the impact of proposals being considered by the Task Force, and to extend the reporting deadline to December 15, 2019. Motion by Representative Moonen. Second by Representative Dillingham. **Motion passed unanimously (10-0-0-0).**

The Legislative Council then had a discussion regarding another request from the Task Force for an honorarium of \$1500 for travel costs for the professor and students from the Indigenous Peoples Clinic. The Legislative Council did not move forward with this request.

Item #5: Requests from the Commission to Study Long-term Care Workforce Issues

Ms. Gresser reviewed the requests from the Commission which include holding an additional meeting and an extension of the reporting deadline to December 15th.

Motion: That the Legislative Council authorizes the Commission to Study Long-term Care Workforce Issues to extend the reporting deadline to December 15, 2019 and to hold one

additional meeting in order to complete their work. Motion by Representative Moonen. Second by Senator Timberlake. **Motion passed unanimously (10-0-0-0).**

Item #6: Approval of Outside Funding for the Committee to Study the Feasibility of Creating Basic Income Security and other requests

Ms. Gresser reviewed the requests from the Committee which include approval of the outside funding raised, to raise additional funds to cover the travel of outside experts, and authorization for the Committee to meet and begin its work with a majority of appointments having been made. Discussion was held regarding the request to raise additional funds.

Motion: That the Legislative Council authorizes the Committee To Study the Feasibility of Creating Basic Income Security to accept the outside funds raised. Motion by Representative Moonen. Second by Senator Libby. **Motion passed unanimously (10-0-0-0).**

Motion: That the Legislative Council authorizes the Committee To Study the Feasibility of Creating Basic Income Security to raise additional funds for the purpose of covering any travel costs requested by outside experts asked to present to the study committee and further authorizes the expenditure of these additional funds if approved by the Legislative Council. If sufficient funds are not received for this purpose, no expenses of any kind may be incurred or reimbursed to outside experts. Motion by Representative Moonen. Second by Senator Vitelli. **Motion passed (9-1-0-0, with Senator Timberlake opposed).**

Motion: That the Legislative Council authorizes the Committee To Study the Feasibility of Creating Basic Income Security to meet and conduct its business recognizing a majority of appointments have been made. Motion by Representative Moonen. Second by Senator Libby. **Motion passed unanimously (10-0-0-0).**

Item #7: Parking Lot O - Revised Project Plan

Ms. Gresser gave an overview of the Parking Lot O Project Plan. The latest estimate is approximately \$200,000 more than the estimate when the plan was developed. The State House Facilities Committee discussed various suggestions which include other less expensive options. The Legislative Council asked that the Executive Director bring the final plan before them prior to signing any contract.

Motion: That the Legislative Council approves the revised cost estimate for the project and authorizes the Executive Director to proceed with the reconstruction and repaving of Parking Lot O, using the most cost-effective method of implementation while meeting minimum standards for durability. Motion by Senator Libby. Second by Senator Timberlake. **Motion passed unanimously (10-0-0-0).**

Item #8: Report from the Joint Standing Committee on Criminal Justice and Public Safety

The Joint Standing Committee on Criminal Justice and Public safety submitted a report to the Legislative Council regarding their review of the Department of Corrections Rule 2.12(F) on prisoner savings accounts in accordance with the provisions of Title 5, section 11113 through 11115. The committee voted to direct the Office Policy and Legal Analysis to draft legislation concerning this matter after the Second Regular Session begins in January 2020.

ANNOUNCEMENTS AND REMARKS

President Jackson asked the Legislative Council if the next meeting could be held on Friday, December 6th. The Legislative Council would consider appeals of bill request decisions at this meeting. The members seemed agreeable to this request however some indicated that they would have to check their schedules.

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 3:15 p.m.