



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
March 23, 2017
Approved April 27, 2017**

CALL TO ORDER

Speaker Gideon called the March 23, 2017 meeting of the Legislative Council to order at 1:47 p.m. in the Legislative Council Chamber.

ROLL CALL

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

Absent: Senator Libby (arrived late)

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

Absent: Representative Fredette (arrived late)

Legislative Officers: Heather Priest, Secretary of the Senate
Robert Hunt, Clerk of the House
Grant T. Pennoyer, Executive Director of the Legislative Council
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
Beth Ashcroft, Director, Office of Governmental Accountability and Program Evaluation

Speaker Gideon convened the meeting at 1:47 p.m. with a quorum of members present.

SUMMARY OF FEBRUARY 14, 2017 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary for February 14, 2017 be accepted and placed on file. Motion by Senator Cushing. Second by Senator Mason. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

Grant Pennoyer, Executive Director, reported on:

1. New Employee Orientation

On Wednesday, March 1st, we held an additional new employee orientation session for new employees that were not able to attend the last session in January. All seven of the new employees that missed the first opportunity were able to attend the March 1st session.

2. Benefits Fair – March 29th

We have scheduled a Benefits Fair on Wednesday, March 29th, from 12:30pm to 4:00pm in the Hall of Flags. Representatives from various organizations will be on hand to answer Legislator and employee questions on various state employee benefits.

3. Video of Legislative Process

We are working with the University of Southern Maine's Media Studies to update a video of the legislative process with the primary focus on the committee process. We will be working with the Marine Resources Committee and the Transportation Committee to pick some bills that would be interesting and be good examples of all aspects of the committee process.

4. Copper Reuse Project – Artist Selection Process

We have received 34 proposals as part of the call for artists to submit ideas to use the copper. The Artist Selection Committee will be meeting in a few weeks to begin the process of selecting the artist.

5. Electric Vehicle Charging Stations

Two electric vehicle charging stations in the Parking Garage have been installed, but remain inoperative pending the establishing of a merchant account to accept credit card payments for the use of the stations. This should be finalized in three weeks.

6. Health Insurance Vendor Changes

Anthem has been selected to provide health insurance and Express Scripts has been selected to provide prescription drug coverage beginning July 1, 2017. They will be replacing Aetna, the current provider. Additional information about the transition will be coming from the Department of Administrative and Financial Services once negotiations have been completed.

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 |
| February | \$161.3 | \$155.4 | (\$5.8) | -3.6% | \$139.5 | 11.4% |
| FYTD | \$2,178.4 | \$2,208.4 | \$30.0 | 1.4% | \$2,140.2 | 3.2% |

General Fund revenue was under budget by \$5.8 million (3.6%) for the month of February but remains over budget by \$30.0 million (1.4%) for the fiscal year to date. Individual income tax revenues were under budget for the month by \$8.9 million but over budget for the fiscal year to date by \$7.2 million. Individual income tax withholding was under budget for February by \$5.0 million. For the fiscal year to date, withholding was under budget by \$17.9 million while estimated payments were over budget by \$16.6 million. Preliminary March withholding data look positive and could offset some of the February negative variance. Individual income tax refunds were under budget for the month (more refunded than budgeted) by \$6.0 million mainly due to timing between the months of January and February. Sales and use taxes for February (January sales) were over budget by \$1.7 million for the month and are over budget by \$4.4 million for the fiscal year to date. Corporate income tax revenue was over budget by \$1.2 million in February and by \$9.1 million for the fiscal year to date.

Highway Fund Revenue Update

| Total Highway Fund Revenue - FY 2017 (\$'s in Millions) | | | | | | |
|---|---------|---------|---------|--------|------------|----------|
| | Budget | Actual | Var. | % Var. | Prior Year | % Growth |
| February | \$26.8 | \$25.3 | (\$1.4) | -5.3% | \$27.3 | -7.1% |
| FYTD | \$221.4 | \$223.6 | \$2.2 | 1.0% | \$222.7 | 0.4% |

Highway Fund revenue was under budget by \$1.4 million (5.3%) for the month of February but over budget for the fiscal year to date by \$2.2 million (1.0%). Fuel taxes were under budget by \$0.1 million for the month but remain over budget for the fiscal year to date by \$0.9 million, while motor vehicle registrations and fees were under budget by \$1.1 million for the month but remain over budget by \$2.3 million for the fiscal year to date.

Cash Balances Update

The average balance in the cash pool for February was \$1,030.2 million, exceeding January's average of \$1,006.7 million and well above both last year's average balance for February and the ten-year average for the month. General Fund internal borrowing from other funds was not needed in February. The average Highway Fund balance of \$28.7 million in February increased from January's average of \$26.9 million but was below last year's February average of \$40.0 million.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

No report

2. State House Facilities Committee

Representative Herbig, Chair, reported that the State House Facilities Committee met on March 21st to consider the following items.

1. State House Security

Mr. Pennoyer updated the committee on the status of a proposal in the Governor's Budget to eliminate funding for the security screeners at the State House. He also provided the committee with an update of a review of State House access for consistency with the recently

revised State House Security Policy. As a result of the effort, the Governor's Office and the Attorney General's Office suggested some amendments to the policy to continue access for certain staff. After the meeting, the Executive Director and the Attorney General's Office were unable to resolve the issues without having the committee revisit them. The Executive Director notified the members and the matter was reconsidered after the meeting. The Executive Director will report back to the next Facilities Committee meeting with some revised security policy language.

2. Review of Committee Room Food Policy

Mr. Pennoyer provided an overview of the policy regarding the serving of food in committee rooms. After some discussion of some of the issues with the difficulty in scheduling rooms where food can be served, the committee recommended that the Executive Director come up with some revisions to the policy based on the discussion and present those at the next Facilities Committee meeting.

3. Request of Furniture in the Hallways on the 2nd Floor of the Cross Office Building.

The committee discussed some requests to add some furniture in the hallways of the 2nd Floor of the Cross Office Building outside of some of the committee rooms and in the long hallways from the main lobby. The committee decided against the furniture outside of the committee rooms but did recommend that the Executive Director add some benches in the two long hallways from the main lobby.

4. Room for Nursing Mothers in the State House

The committee reviewed possible options for a non-bathroom space for nursing mothers in the State House. While the initial review of the existing rooms did not produce any good options, the committee decided to revisit this issue next time after some more research.

5. Postal Delivery Changes

Mr. Pennoyer presented an overview of the pending changes to postal delivery in the Cross Office Building that would be fully implemented in a few weeks. Office mailboxes were added on the first floor of the Cross Building near the Connector for pick and drop-off for all mail to offices in the Cross Office Building. He also noted that he had been approached by Central Services to do something similar in the State House. Given space limitations in the State House, implementation of this would be difficult in the State House. Central Services will present the concept at a future meeting of the Facilities Committee.

6. Process of Bidding Out Projects

Mr. Pennoyer provided an overview of the requests of the Facilities Committee of the 127th Legislature to provide more opportunities for other contractors to bid on construction projects at the State House. The architect and construction manager had not been opened up to bid. Mr. Pennoyer indicated that the pending projects for the upcoming year were of a manageable scope that he and the recently hired Facilities Manager could handle the construction oversight in-house. The committee supported the notion of bidding out the individual projects for the upcoming construction season without an architect or overall construction manager.

7. Review of State House and Grounds Last 5-year Plan

Mr. Pennoyer provided an overview of the last 5-year plan and explained that they would be doing something similar, but developed in-house for the upcoming long-term plan. During his review of the projects that were in the last plan, but not approved, the projects to add video cameras in committee rooms once more opened up the discussion of the policy on recordings and archiving committee audio webcasts. Of particular concern was the recent use of a committee audio file for political purposes. Mr. Pennoyer and Clerk Hunt provided some background on the issue. The committee decided to defer a decision on the committee audio policy until a future meeting after some more research.

8. Funding for Blaine House Repairs and Renovations

Mr. Pennoyer presented some background on the recent transfer of \$151,000 in funding from the State House Preservation Fund to the Blaine House Renovations and Repairs Fund. Mr. Pennoyer noted the difficulty in meeting this transfer request given the sudden nature of the large request that wasn't factored into the long range plan that had already committed the significant resources towards major State House projects. The last Facilities Committee did express an interest in making sure that the Blaine House was maintained properly and interest in working with the Friends of the Blaine House and the Blaine House Director to be able to factor future needs into long-range plans. The committee recommended that the Friends of the Blaine House and the Blaine House Director be invited back to the next meeting of the committee to discuss future plans for the Blaine House maintenance and improvements.

OLD BUSINESS

Item #1: Council Actions Taken by Ballot

Requests for Introduction of Legislation:

LR 2281 An Act to Provide Funds for Federal Training for First Responders

Submitted by: Representative Owen Casas
 Date: March 13, 2017
 Vote: 10-0-0 Passed

LR 2289 An Act to Ban the Burning of Marijuana Debris

Submitted by: Representative Eleanor Espling
 Date: March 21, 2017
 Vote: 5-5-0-0 Failed (with Sen. Jackson and Libby, and Rep. Gideon, Herbig and Golden 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 6 new bill requests, the council authorized 4 requests for introduction in the 1st Regular Session of the 128th Legislature, 1 failed and 1 was tabled. Of the 5 bill requests previously tabled, 2 failed to be authorized, 1 was withdrawn by the sponsor, 1 was tabled and the

council took no action on the remaining request. The council took no action on the 4 joint resolutions. The Legislative Council's actions on the requests are included on the attached list.

Item #2: Request for an exception to food service in the Hall of Flags Policy from the Maine Credit Union League

Mr. Pennoyer presented a request from the Maine Credit Union League that was asking for an exception to the food service limitation in the *Legislative Council Policy on the Use of the Hall of Flags*. They have an event scheduled for Thursday, March 30, 2017 during which they would like to offer luncheon items, such as sandwiches, cheese platters etc. that are currently prohibited under the policy.

Motion: That the Legislative Council approve the request from the Maine Credit Union League for an exception to the food service limitation in the *Legislative Council Policy on the Use of the Hall of Flags*. Motion by Senator Mason. Second by Senator Cushing. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

Item #3: Presentation of the Annual Report by Beth Ashcroft, Director, OPEGA

Ms. Ashcroft presented OPEGA's Annual Report on Activities and Performance for 2016. She noted that the report is required by law to be submitted to the Legislature. She then proceeded to summarize key aspects of the report.

Ms. Ashcroft reminded members that OPEGA goals are to provide timely, relevant and useful information and recommendations, conduct all work with objectivity and accuracy, communicate regularly on OPEGA activities, results and impacts, and to utilize resources effectively, efficiently and economically. She briefly discussed OPEGA accomplishments, noting that two full-time positions dedicated to reviews of tax expenditures were added in 2015 bringing the total number of staff up to nine.

Ms. Ashcroft stated that OPEGA's GOC-approved work plan included 16 projects for 2015-2016. In 2016, the office completed 2 projects and conducted substantial work on 6 others. She drew members attention to a chart of cumulative recommendations found on page 29 of the agenda packet, totaling 221 recommendations, of those 62% (138 of 221) have been implemented or affirmatively addressed.

Motion: That the Legislative Council accept the OPEGA 2016 Annual Report on Activities and Performance. Motion by Senator Libby. Second by Representative Espling. **Motion passed unanimous (8-0-0-2, with President Thibodeau and Representative Fredette absent).**

Item #4: GOC Recommendation Regarding Oversight of the Office of Information Technology

Ms. Ashcroft presented the GOC suggestions for change in Legislative oversight of the Office of Information Technology to the Legislative Council for future consideration. Currently, OIT is under the jurisdiction of the Joint Standing Committee of the State and Local Government Committee. The GOC suggested some alternatives to this oversight including:

- Ensuring the SLG Committee includes legislators with IT expertise and experience and/or interest in IT matters and possibly providing authorization for meetings dedicated to IT during legislative interims

- Establishing a new legislative committee, or possibly a committee that also includes non-legislators, with members who have relevant backgrounds or interest in IT and assigning that committee jurisdiction over only OIT and IT matters
- Establishing a subcommittee of members from existing Joint Standing Committees who have relevant background and/or interest in IT and assign jurisdiction over OIT and IT matters to that subcommittee

There is a budget proposal to make the Office of Information Technology a cabinet-level agency. The Legislative Council will revisit the GOC's recommendations after July when the budget proposal has been addressed.

ANNOUNCEMENTS AND REMARKS

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 2:52 p.m.

**128th Maine State Legislature
Legislative Council Action Taken on
Requests to Introduce Legislation
First Regular Session
3/23/2017**

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 |

SPONSOR: Rep. Pinny Beebe-Center

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2298 | Resolve, Authorizing Claire Dean Perry and the Estate of William Dean To Bring Suit against the Surety Obtained by the Department of Health and Human Services in Its Capacity as Public Conservator | PASSED |

SPONSOR: Rep. Kenneth W. Fredette

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2263 | An Act To Require Insurance Coverage for the Diagnosis and Treatment of Lyme Disease | PASSED |

SPONSOR: Rep. Stacey K. Guerin

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2294 | An Act To Relieve Overcrowding in County Jails | PASSED |

SPONSOR: Sen. Kimberley C. Rosen

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2280 | An Act To Study the Negue Plymouth Trading Post in Orono | FAILED |

SPONSOR: Rep. Deane Rykerson

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|---|---------------|
| 2264 | An Act To Appropriate Funds To Provide Sea Protection and Public Access to the Historic Whaleback Lighthouse in Kittery | PASSED |

LATE-FILED MAJOR SUBSTANTIVE RULES**SPONSOR:**

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------|
| 2283 | Resolve, Regarding Legislative Review of Portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 21, Allowances for Home and Community Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder, a Late-filed Major Substantive Rule of the Department of Health and Human Services | PASSED |

TABLED BY THE LEGISLATIVE COUNCIL**AFTER DEADLINE BILL REQUESTS****SPONSOR:****Rep. Seth A. Berry**

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--|---------------------------|
| 2160 | Resolve, To Require the Public Utilities Commission To Study the Security of Maine's Electric Grid | Tabled 01/31/17 FAILED |

SPONSOR:**Rep. Stephanie Hawke**

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|--------------------------------------|---------------------------|
| 2228 | An Act To Ensure Proper Patient Care | Tabled 01/31/17 FAILED |

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

| <u>LR #</u> | <u>Title</u> | <u>Action</u> |
|-------------|---|--|
| 2192 | An Act Regarding the Natural Resources Protection Act | Tabled 01/31/17 WITHDRAWN BY SPONSOR |

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 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 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 |