

REP. SARA GIDEON  
CHAIR  
SEN. MICHAEL D. THIBODEAU  
VICE-CHAIR

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER



128<sup>TH</sup> 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

**128<sup>th</sup> Legislature  
Legislative Council**

**February 14, 2017  
1:30 PM**

**REVISED AGENDA**

<u>Page</u>	<u>Item</u>	<u>Action</u>
	<b>CALL TO ORDER</b>	
	<b>ROLL CALL</b>	
<b>1</b>	<b>SUMMARIES OF THE JANUARY 31, 2017 MEETING OF THE LEGISLATIVE COUNCIL</b>	<b>Decision</b>
	<b>REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS</b>	
<b>12</b>	<ul style="list-style-type: none"><li>Executive Director's Report (Mr. Pennoyer)</li></ul>	<b>Information</b>
<b>13</b>	<ul style="list-style-type: none"><li>Fiscal Report (Mr. Nolan)</li></ul>	<b>Information</b>
	<b>REPORTS FROM COUNCIL COMMITTEES</b>	
	<ul style="list-style-type: none"><li>Personnel Committee</li><li>State House Facilities Committee No Report</li></ul>	
	<b>OLD BUSINESS</b>	
<b>17</b>	Item #1: Approval of the <i>Legislator Attendance Policy</i> (Draft pending Personnel Committee Review)	<b>Decision</b>
	<b>NEW BUSINESS</b>	
<b>❖ 19</b>	Item #1: Consideration of After Deadline Bill Requests	<b>Roll Call Vote</b>

**23**    Item #2:    Acceptance of the Report of the Task Force on Public-private Partnerships to Support Public Education (February 2017)

**Acceptance**

**ANNOUNCEMENTS AND REMARKS**

**ADJOURNMENT**

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**LEGISLATIVE COUNCIL  
MEETING SUMMARY  
January 31, 2017**

**CALL TO ORDER**

Speaker Gideon called the January 31, 2017 meeting of the Legislative Council to order at 12:00 p.m. in the Legislative Council Chamber.

**ROLL CALL**

Senators: President Thibodeau, Senator Mason, Senator Cushing, 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  
Jennifer McGowan, Assistant 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 12:00 p.m. with a quorum of members present.

**SUMMARY OF NOVEMBER 30, 2016 AND DECEMBER 8, 2016 MEETINGS OF  
LEGISLATIVE COUNCIL**

**Motion:** That the Meeting Summaries for November 30, 2016 and December 8, 2016 be accepted and placed on file. Motion by Senator Mason. Second by Senator Cushing.  
**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 **New Business, Item 1.**

## 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 23 new bill requests, the council authorized 12 requests for introduction in the 1<sup>st</sup> Regular Session of the 128<sup>th</sup> Legislature, 2 failed to be authorized and 8 were tabled. Of the 5 joint resolutions, the council tabled all 5 items. Of the 2 Late-filed Major Substantive Rule requests, the council authorized 2. The Legislative Council's actions on the requests are included on the attached list.

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, reported on:

#### 1. New Employee Orientation

On Friday, January 20<sup>th</sup>, we held a new employee orientation session to provide some key information including the Personnel Policy Handbooks, pay and benefit options, building security and emergency policies, computer and email guidance and required harassment training. We had 27 new employees attend the session. For 4 new employees that were unable to attend and some employees that will join the Legislature in the near future, we have scheduled a make-up session for Wednesday, March 1<sup>st</sup>.

#### 2. Video of Legislative Process

We are working with the University of Southern Maine's Media Studies Program's long-standing capstone course, Service Learning Practicum, to update a video that had been shown as part of New Member Orientations for a number of Legislatures. Given how dated that old video was, it hasn't been presented to the last two Legislatures. This update will focus primarily on the committee process to keep the project manageable.

#### 3. Copper Reuse Project – Artist Selection Process

The last phase of the copper reuse project is in process. The Maine Arts Commission has sent out a request for proposals based on the guidance developed by the Artist Selection Committee at its September 21<sup>st</sup> meeting. We have had several artists visit the State House to see samples of the copper and to inspect the proposed sites for the artwork.

#### 4. Electric Vehicle Charging Stations

Two electric vehicle charging stations in the Parking Garage have been installed, but remain inoperative pending some final contract negotiations. These negotiations with two separate companies took longer than expected, but they are very close to finalizing. Barring any other unforeseen difficulties, the stations should be operational very soon.

#### 5. Blood Drive at the State House

On Wednesday, February 1<sup>st</sup>, there will be a Red Cross blood drive in the Hall of Flags from 9:30AM to 2:30PM.

## 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
December	\$263.9	\$274.0	\$10.1	3.8%	\$284.8	-3.8%
FYTD	\$1,706.8	\$1,729.2	\$22.4	1.3%	\$1,673.3	3.3%

General Fund revenue was over budget by \$10.1 million (3.8%) for the month of December and over budget by \$22.4 million (1.3%) for the fiscal year to date. These positive variances now reflect the December 2016 revenue forecast, which increased budgeted revenue by \$34.2 million for FY 2017. Individual income tax revenues were under budget for the month by \$0.8 million and under budget for the fiscal year to date by \$0.8 million. Withholding was under budget for the month by \$6.8 million. Maine Revenue Services has indicated some employers may be under withholding because they have not adjusted withholdings to reflect the phase out of standard and itemized deductions that began with the 2016 tax year. Estimated payments were over budget by \$3.9 million. The final estimated payment is due January 15 so more should be known about this line then. Sales and use taxes were over budget by \$0.9 million for the month. Corporate income tax revenue was over budget by \$7.5 million for the month of December. Estimated corporate tax payments were over budget due to several audits and refunds have been lower than last fiscal year.

### Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$24.2	\$24.7	\$0.5	2.2%	\$24.2	2.4%
FYTD	\$168.6	\$171.2	\$2.7	1.6%	\$169.0	1.3%

Highway Fund revenue was over budget by \$0.5 million (2.2%) for the month of December and over budget fiscal year to date by \$2.7 million (1.6%). Fuel taxes were over budget by \$1.1 million for the month. Motor vehicle registrations and fees were under budget by \$1.0 million for the month, but are over budget year to date by \$2.9 million. Motor vehicle registrations were under budget by \$0.6 million for the month. Since the last day of December was a Saturday, it is possible this underage is timing.

### Cash Balances Update

The average balance in the cash pool in December of \$948.8 million was down from the November average of \$956.2 million but was well above both last year's average balance for December and the ten-year average for the month. General Fund internal borrowing from other funds was once again not needed in December. The average Highway Fund balance of \$27.5 million in December decreased from November's average of \$44.8 million. This decrease was the result of the annual payment to the Local Road Assistance program being made in December.

### Studies Update and Report

Marion Hylan Barr, Director, Office of Policy and Legal Analysis, reported on the status of the Interim Legislative Studies and Committee meetings (please see the attached report). Most of the studies have completed their work and submitted final reports. One is in the process of drafting its

final report. The Task Force to End Student Hunger in Maine is continuing its work however its annual report is in progress. The Citizen Trade Policy Commission is also continuing its work.

## REPORTS FROM COUNCIL COMMITTEES

### 1. Personnel Committee

Speaker Gideon reported that the Personnel Committee met on January 26<sup>th</sup> to consider the following items.

#### 1. Legislator Attendance Policy

The committee reviewed the revised policy pursuant to a request by the Legislative Council. The committee recommends adoption by the Legislative Council. This item will be continued on the agenda under Old Business.

#### 2. Initial Salary of the Secretary and the Clerk

The committee reviewed a draft amendment regarding the setting of the initial salaries of the Secretary of the Senate and the Clerk of the House. After discussion, the committee decided to table this item.

#### 3. Update for Recent Law Change Regarding Marijuana

The committee reviewed an update to the 4 Personnel Policy Manuals to address an ambiguity created by the change in status of the use and possession of marijuana by adults in Maine. The committee recommends that the Legislative Council approve this change in the manuals and that it be incorporated with all the other updates before the upcoming release of the revised Policy Manuals.

**Motion:** That upon the unanimous recommendation of the Personnel Committee, the Legislative Council approve the proposed changes to the *Personnel Policy and Guidelines* handbooks relating to recent law changes regarding marijuana; and further, authorize the Executive Director to insert these language changes into the *Personnel Policy and Guidelines* handbooks for all legislative employees. Motion by Speaker Gideon. Second by President Thibodeau. **Motion passed unanimous (10-0).**

#### 4. Reappointment, Annual Evaluation and Step Increase – Law Library Director

The committee considered the reappointment of John Barden as Director of the Law and Legislative Reference Library. The committee reviewed the annual evaluation of and considered a step increase for Director Barden. The committee voted unanimously to approve this step increase and further to recommend that the Legislative Council reappoint Mr. Barden.

**Motion:** That the Personnel Committee recommends that the Legislative Council appoint John Barden as Director of the Law and Legislative Reference Library, the date of his reappointment being retroactive to January 2, 2017. Motion by Senator Mason. Second by Senator Cushing. **Motion passed unanimous (10-0).**

5. Annual Evaluation of OPEGA Director

The committee reviewed the annual evaluation of Director Beth Ashcroft. No action required by the Legislative Council.

6. Annual Evaluation and Step Increase – LIT Director

The committee reviewed the annual evaluation of and considered a step increase for Legislative Information Technology Director Kevin Dieterich [Dee-trick]. The committee voted unanimously to approve this step increase. No action required by the Legislative Council.

7. Annual Evaluation of ROS Director

The committee reviewed the annual evaluation of Revisor of Statutes Suzanne Gresser. No action required by the Legislative Council.

2. **State House Facilities Committee**

No report

**OLD BUSINESS**

**Item #1: Approval of the Legislator Attendance Policy**

**Motion:** That upon the unanimous recommendation of the Personnel Committee, the Legislative Council adopt the proposed *Legislative Council Legislator Attendance Policy*. Motion by Speaker Gideon. Second by Senator Cushing. **No vote**

Senator Libby would like to have an amendment added to the policy in the section of recording of attendance that allows a Senator to notify either the Secretary or through a Floor Leader. President Thibodeau explained that this would be a change in how things are currently done in the Senate.

**Motion:** That the Legislative Council table this item for a future meeting. Motion by Senator Cushing. Second by Representative Herbig. **Motion passed unanimous (9-0-0-1, with President Thibodeau absent).**

Senator Libby clarified that his amendment only applies to tardiness of a member not an absence of a member. Speaker Gideon asked if Senator Libby would provide proposed language for review. Representative Espling suggested that the proposed language be directed to the Personnel Committee first.

**Motion:** That the Legislative Council table this item for a future meeting. Motion by President Thibodeau. Second by Senator Cushing. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

**Item #2: Recording and Archiving of Committee Audio Files**

Mr. Pennoyer reviewed the options for the future of recording and archiving of committee audio files and options for proceedings. Senator Mason explained his opposition to this policy. Senator Jackson stated that he was in favor of the policy and that his constituents wanted the Legislature to bring back MPBN's *Capitol Connection* channel which filmed committees in action.

**Motion:** That the Legislative Council implement Option 1: a policy similar to the Legislative Council's policy of the Senate and House video recordings, recording and archiving the audio of committee proceedings and making it available through links on the Legislature's web page. Motion by Senator Jackson. Second by Senator Libby. **Motion failed (5-5, with Senators Thibodeau, Mason, Cushing, and Representatives Fredette and Espling opposed).**

**Motion:** That the Legislative Council table this item for a future meeting. Motion by President Thibodeau. Second by Representative Fredette. **Motion passed (9-1, with Senator Jackson opposed).**

**Item #3: Council Actions Taken by Ballot****Requests for Introduction of Legislation:****LR 2178 An Act to Provide Funds for Access for Veterans Seeking Health Care**

Submitted by: Representative Jared Golden  
 Approved: January 12, 2017  
 Vote: 9-1-0-0 in favor (with Rep. Espling opposed)

**LR 2596 An Act to Allow the Secretary of State to Issue Temporary Licenses Pending Receipt of Necessary Paperwork from the Driver Education and Evaluation Program**

Submitted by: Senator Joyce Maker  
 Approved: January 12, 2017  
 Vote: 10-0-0-0 in favor

**LR 2223 An Act to Change the Oversight Agency for Recreational Marijuana from Department of Agriculture to the Bureau of Public Safety, Bureau of Alcoholic Beverages and Lotter Operations and to Allocate Funds for Implementation**

Submitted by: Speaker Sara Gideon  
 Approved: January 26, 2017  
 Vote: 10-0-0-0 in favor

**Item #4: Reports to Legislative Council from the Committee on Appropriations and Financial Affairs and the Committee on Health and Human Services regarding the siting of a Secure Forensic Psychiatric Facility in the Capitol Area**

**Motion:** That the Legislative Council accept the reports from the Committee on Appropriations and Financial Affairs and the Committee on Health and Human Services regarding the siting of a Secure Forensic Psychiatric Facility in the Capitol Area and



place them on file. Motion by Senator Jackson. Second by Representative Espling.  
**Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

## NEW BUSINESS

### **Item #2: Proposed Legislative Council Policy on Legislative Studies**

Ms. Hylan Barr reviewed the changes to the Legislative Council Policy on Legislative Studies from the version approved by the 127<sup>th</sup> Legislative Council. The changes were made to be consistent with changes made to the Joint Rules and how the Legislative Council has historically treated nonconforming studies.

**Motion:** That the Legislative Council approve the Legislative Council Policy on Legislative Studies. Motion by President Thibodeau. Second by Representative Herbig.  
**Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

### **Item #3: 2017 Youth in Government Program**

Mr. Pennoyer presented the request from Director Lonney Steeves of the State YMCA of Maine who proposed holding the 2017 Youth in Government Program on November 10-11-12 or November 17-18-19. Mr. Pennoyer recommended that due to the success of the 2016 event which was held on Veterans' Day weekend the event be held over that same weekend in 2017.

**Motion:** That the Legislative Council approve the request by the State YMCA of Maine to hold the 2017 Youth in Government Program on November 10-11-12, 2107. Motion by Senator Cushing. Second by Senator Jackson. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

### **Item #4: Acceptance of the Final Report of the Commission to Study the Economic, Environmental and Energy Benefits of the Maine Biomass Industry**

**Motion:** That the Legislative Council accept the Final Report of the Commission to Study the Economic, Environmental and Energy Benefits of the Maine Biomass Industry and place it on file. Motion by President Thibodeau. Second by Senator Cushing.  
**Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

### **Item #5: Acceptance of the Eleventh Annual Report of the Right to Know Advisory Committee**

**Motion:** That the Legislative Council accept the Eleventh Annual Report of the Right to Know Advisory Committee and place it on file. Motion by Senator Cushing. Second by Senator Jackson. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

## ANNOUNCEMENTS AND REMARKS

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 1:15 p.m.

**128th Maine State Legislature  
Legislative Council  
Requests to Introduce Legislation  
First Regular Session  
As of: 1/31/2017 12:43:23 PM**

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR:**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2162	An Act To Amend the Election Laws Relating to Party Qualification	PASSED
2163	An Act To Amend the Election Laws	PASSED

**SPONSOR: Rep. Seth A. Berry**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2159	An Act To Clarify the Ability of Restaurants To Impose Service Charges in Lieu of Gratuities	PASSED
2160	Resolve, To Require the Public Utilities Commission To Study the Security of Maine's Electric Grid	TABLED

**SPONSOR: Sen. Eric L. Brakey**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2182	An Act To Require That Landowners with Property Enrolled in the Tree Growth Tax Program Receive Timely Notice of Changes in Valuation of That Property	TABLED
2208	An Act To Remove Toy Cannons from the List of Approved Fireworks	FAILED
2230	An Act Regarding the Liability of the Owner of Railroad Tracks for Injuries to Pedestrians	FAILED

**SPONSOR: Rep. Patrick W. Corey**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2233	An Act To Ban the Purchase of Retail Marijuana and Retail Marijuana Products with Temporary Assistance for Needy Families Program Benefits	PASSED

**SPONSOR: Sen. Scott W. Cyrway**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2188	An Act To Establish a Minimum Wage for Minors	PASSED
2210	An Act Regarding the Use of Force in the Crime of Robbery	PASSED

**SPONSOR: Rep. Kenneth W. Fredette**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2227	An Act To Support Maine Charities	PASSED

**SPONSOR: Sen. Geoffrey M. Gratwick**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2196	An Act Regarding MaineCare Coverage for Telehealth Services	TABLED
2219	An Act Regarding Commercial Insurers and Telehealth	TABLED

**SPONSOR: Rep. Sheldon Mark Hanington**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2187	Resolve, To Establish a Commission To Identify Unnecessary Regulations and Other Barriers to Businesses	PASSED

**SPONSOR: Rep. Stephanie Hawke**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2228	An Act To Ensure Proper Patient Care	TABLED

**SPONSOR: Sen. Troy D. Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2198	An Act To Require Greater Clearing of Vegetation along Certain State Roads	PASSED
2220	An Act To Allow Vehicles Registered as Wreckers To Transport 2 Vehicles	PASSED
2224	An Act To Amend the Laws Governing the Appointment of Members to Charter Commissions by Municipalities	PASSED

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2192	An Act Regarding the Natural Resources Protection Act	TABLED

**SPONSOR:** Rep. Timothy S. Theriault

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2183	An Act To Disburse Funds to the Maine Fire Protection Services Commission	TABLED

**SPONSOR:** Sen. Amy F. Volk

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2165	An Act To Retain Skilled Workers in the State	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

**SPONSOR:** Rep. Karleton S. Ward

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2212	An Act To Amend the Law Regarding Super Cribbage Tournaments	PASSED

#### LATE-FILED MAJOR SUBSTANTIVE RULES

**SPONSOR:**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2222	Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization and Approval of Education Personnel, a Late-filed Major Substantive Rule of the Department of Education	PASSED

2231	Resolve, Regarding Legislative Review of Portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97, Private Non-Medical Institution Services, a Late-filed Major Substantive Rule of the Department of Health and Human Services	PASSED
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## JOINT RESOLUTIONS

**SPONSOR:** Rep. Henry John Bear

<u>LR #</u>	<u>Title</u>	<u>Action</u>
249	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE CONGRESS OF THE UNITED STATES TO PROVIDE TO THE HOULTON BAND OF MALISEET INDIANS JUST AND EQUITABLE COMPENSATION FOR NEGATIVE IMPACTS UPON MALISEET TRIBAL LANDS COMPARABLE TO THE LAND CLAIM SETTLEMENT PROVIDED TO THE PENOBSCOT NATION AND PASSAMAQUODDY TRIBE IN THE 1980 MAINE INDIAN CLAIMS SETTLEMENT ACT	TABLED

**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

**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

**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

**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

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**Legislative Council  
Executive Director's Report  
February 14, 2017**

**1. Notices for Public Regarding Committee Web Broadcasts**

The Legislative Information Office has been working with the Committee Clerks to improve the signs warning the public that committee public hearings and meetings are broadcast to the web and recorded. The scripts provided to committee chairs to open public hearings and work sessions have also been updated.

**2. Blood Drive at the State House**

The Red Cross blood drive on Wednesday, February 1<sup>st</sup>, in the Hall of Flags was incredibly successful, exceeding the Red Cross' goal by more than 160%.

**3. Legislature's Copiers Being Replaced Next Week**

All of the leased copiers provided through the central state program are being switched out next week. We worked out the timing of the switch over during the school vacation when committee activity was expected to be slower. The copiers are the same make and this transition should be relatively straight forward.

**4. Inaugural Class of the Aspiring Leaders Program**

The very first class of a brand new Aspiring Leaders Program concluded their series of sessions last week. This is a group of 14 legislative staff who applied to this program and were accepted from a larger pool of applicants and were recommended by their office directors or supervisors. This challenging program was an opportunity for these staff to explore multiple lessons on leadership and other areas of professional growth. These dedicated staff represent hope for the continuity of the Legislature's staff leadership as we deal with imminent retirement of Baby Boomers. The graduates of this inaugural class are: Al Boutot (Clerk's Office); Brad Sawyer (Secretary's Office); Amy Sylvester (House Democratic Office); Sherry Davis (Executive Director's Office); Alex Burnett (Law Library); Stacy Morang (LIT); Susan Johannesman, Ethan Keyes and Sarah McSorley (ROS); Anna Broome, Danielle Fox, Colleen McCarthy Reid and Lucia Nixon (OPLA); and Matt Kruk (OPEGA).

# Fiscal Briefing

February 14, 2017

*Prepared by the Office of Fiscal & Program Review*

## 1. General Fund Revenue Update (see attached)

Total General Fund Revenue - FY 2017 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$310.3	\$323.7	\$13.4	4.3%	\$327.4	-1.1%
FYTD	\$2,017.1	\$2,052.9	\$35.8	1.8%	\$2,000.7	2.6%

General Fund revenue was over budget by \$13.4 million (4.3%) for the month of January and over budget by \$35.8 million (1.8%) for the fiscal year to date. Individual income tax revenues were over budget for the month by \$16.9 million and over budget for the fiscal year to date by \$16.1 million. Withholding was under budget for the month by \$6.1 million. Estimated payments were over budget by \$11.8 million. This should reflect final 2016 estimated payments which were due January 15. Refunds were over budget (less refunded than budgeted) by \$11.6 million. Sales and use taxes for January (December sales) were over budget by \$1.8 million for the month and are over budget by \$2.7 million for the fiscal year to date. Transfers for tax relief programs were under budget (more transferred than budgeted) by \$8.0 million for the month but are still over budget by \$2.4 million for the fiscal year to date. BETE reimbursements to municipalities account for most of this January variance.

## 2. Highway Fund Revenue Update (see attached)

Total Highway Fund Revenue - FY 2017 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$26.1	\$27.0	\$1.0	3.7%	\$26.4	2.3%
FYTD	\$194.6	\$198.3	\$3.6	1.9%	\$195.4	1.5%

Highway Fund revenue was over budget by \$1.0 million (3.7%) for the month of January and over budget for the fiscal year to date by \$3.6 million (1.9%). Fuel taxes were over budget by \$0.7 million for the month while motor vehicle registrations and fees were over budget by \$0.5 million for the month. As was discussed last month, motor vehicle registrations and fees were under budget in December, and since the last day of December was a Saturday, the variances are likely related to timing between the two months.

## 3. Cash Balances Update

The average balance in the cash pool in January of \$1,006.7 million marks the first time in decades that the average daily balance has exceeded one billion dollars. January's average balance exceeded the December average of \$948.8 million and was well above both last year's average balance for January and the ten-year average for the month. General Fund internal borrowing from other funds was not needed in January. The average Highway Fund balance of \$26.9 million in January decreased from December's average of \$27.5 million and from last year's January average of \$39.1 million. The decrease in January's average balance likely still reflects the annual payment to the Local Road Assistance program made in December.

**General Fund Revenue  
Fiscal Year Ending June 30, 2017 (FY 2017)**

**January 2017 Revenue Variance Report**

Revenue Category	January '17		January '17		Fiscal Year-To-Date			FY 2017 Budgeted Totals		
	Budget	Actual	Actual	Variance	Budget	Actual	Variance			
Sales and Use Tax	122,660,264	124,455,171	1,794,907		854,936,250	857,635,256	2,699,006	0.3%	6.7%	1,334,011,722
Service Provider Tax	4,740,289	5,149,087	408,798		35,369,493	35,763,852	394,359	1.1%	33.8%	59,149,448
Individual Income Tax	163,835,514	180,766,372	16,930,858		921,838,375	937,925,799	16,087,424	1.7%	-3.6%	1,530,248,976
Corporate Income Tax	6,000,000	6,435,027	435,027		76,553,192	84,442,006	7,888,814	10.3%	63.6%	161,093,471
Cigarette and Tobacco Tax	10,937,115	12,951,510	2,014,395		83,325,544	84,335,081	1,009,537	1.2%	0.1%	139,179,000
Insurance Companies Tax	73,280	72,519	(761)		12,967,375	15,721,043	2,753,668	21.2%	23.5%	76,700,000
Estate Tax	944,000	265,025	(678,975)		11,659,262	10,418,336	(1,240,926)	-10.6%	-28.0%	16,378,323
Other Taxes and Fees *	10,706,357	11,366,894	660,537		81,208,543	82,389,212	1,180,669	1.5%	6.2%	142,973,133
Fines, Forfeits and Penalties	1,400,045	1,412,294	12,249		11,609,345	10,235,752	(1,373,593)	-11.8%	-9.8%	22,237,275
Income from Investments	145,901	296,411	150,510		991,152	1,572,153	581,001	58.6%	175.0%	1,707,976
Transfer from Lottery Commission	4,223,073	3,656,986	(566,087)		32,728,857	33,347,140	618,283	1.9%	-4.6%	54,900,000
Transfers to Tax Relief Programs *	(12,000,349)	(20,008,904)	(8,008,555)		(58,550,000)	(56,130,150)	2,419,850	4.1%	-20.0%	(64,448,340)
Transfers for Municipal Revenue Sharing	(5,417,178)	(5,580,172)	(162,994)		(37,730,533)	(37,835,947)	(105,414)	-0.3%	5.6%	(65,484,234)
Other Revenue *	2,092,817	2,468,579	375,762		(9,762,078)	(6,871,394)	2,890,684	29.6%	-129.1%	21,603,304
<b>Totals</b>	<b>310,341,128</b>	<b>323,706,797</b>	<b>13,365,669</b>		<b>2,017,144,777</b>	<b>2,052,948,139</b>	<b>35,803,362</b>	<b>1.8%</b>	<b>2.6%</b>	<b>3,430,250,054</b>

\* Additional detail by subcategory for these categories is presented on the following page.



**General Fund Revenue  
Fiscal Year Ending June 30, 2017 (FY 2017)**

**January 2017 Revenue Variance Report**

Revenue Category	January '17		January '17		Fiscal Year-To-Date			% Change from Prior Year	FY 2017 Budgeted Totals
	Budget	Actual	Actual	Variance	Budget	Actual	Variance		
<b>Detail of Other Taxes and Fees:</b>									
- Property Tax - Unorganized Territory	0	0	0	0	12,771,589	11,500,982	(1,270,607)	-9.9%	14,513,169
- Real Estate Transfer Tax	1,539,467	1,280,880	(258,587)		11,790,837	11,501,275	(289,562)	-2.5%	18,044,043
- Liquor Taxes and Fees	1,424,497	1,594,085	169,588		12,713,893	13,393,968	680,075	5.3%	21,415,688
- Corporation Fees and Licenses	228,644	387,494	158,850		1,579,620	1,980,322	400,702	25.4%	9,088,649
- Telecommunication Excise Tax	0	0	0		0	43,081	43,081	N/A	6,500,000
- Finance Industry Fees	2,695,992	2,326,740	(369,252)		15,871,938	16,118,490	246,552	1.6%	26,851,990
- Milk Handling Fee	491,517	156,857	(334,660)		3,698,316	3,408,927	(289,389)	-7.8%	6,155,899
- Racino Revenue	657,109	591,976	(65,133)		5,020,873	4,997,597	(23,276)	-0.5%	8,578,779
- Boat, ATV and Snowmobile Fees	356,539	383,623	27,084		2,094,002	1,973,131	(120,871)	-5.8%	4,523,561
- Hunting and Fishing License Fees	2,213,227	3,093,857	880,630		9,911,048	10,902,145	991,097	10.0%	15,878,217
- Other Miscellaneous Taxes and Fees	1,099,365	1,551,384	452,019		5,756,427	6,569,295	812,868	N/A	11,423,138
<b>Subtotal - Other Taxes and Fees</b>	<b>10,706,357</b>	<b>11,366,894</b>	<b>660,537</b>		<b>81,208,543</b>	<b>82,389,212</b>	<b>1,180,669</b>	<b>N/A</b>	<b>142,973,133</b>
<b>Detail of Other Revenue:</b>									
- Liquor Sales and Operations	1,774	4,990	3,216		13,792,000	23,421	9,629	N/A	9,845,500
- Targeted Case Management (DHHS)	231,297	335,950	104,653		1,192,766	1,104,821	(87,945)	-7.4%	2,300,000
- State Cost Allocation Program	1,266,304	1,735,857	469,553		10,297,156	11,577,514	1,280,358	12.4%	18,296,832
- Unclaimed Property Transfer	0	0	0		0	0	0	N/A	7,000,000
- Tourism Transfer	0	0	0		(14,601,204)	(14,590,665)	10,539	0.1%	(14,601,204)
- Transfer to Maine Milk Pool	(1,337,431)	(660,778)	676,653		(11,684,173)	(11,021,744)	662,429	5.7%	(17,049,616)
- Transfer to STAR Transportation Fund	0	0	0		(7,900,000)	(7,908,006)	(8,006)	-0.1%	(7,900,000)
- Other Miscellaneous Revenue	1,930,873	1,052,560	(878,313)		12,919,585	13,943,266	1,023,681	7.9%	23,711,792
<b>Subtotal - Other Revenue</b>	<b>2,092,817</b>	<b>2,468,579</b>	<b>375,762</b>		<b>(9,762,078)</b>	<b>(6,871,394)</b>	<b>2,890,684</b>	<b>29.6%</b>	<b>21,603,304</b>
<b>Detail of Transfers to Tax Relief Programs:</b>									
- Me. Resident Prop. Tax Program (Circuitbreaker)	0	(366)	(366)		0	2,580	2,580	N/A	0
- BETR - Business Equipment Tax Reimb.	(9,000,000)	(8,328,612)	671,388		(27,000,000)	(24,184,389)	2,815,611	10.4%	(30,500,000)
- BETE - Municipal Bus. Equip. Tax Reimb.	(3,000,349)	(11,679,926)	(8,679,577)		(31,550,000)	(31,948,341)	(398,341)	-1.3%	(33,948,340)
<b>Subtotal - Tax Relief Transfers</b>	<b>(12,000,349)</b>	<b>(20,008,904)</b>	<b>(8,008,555)</b>		<b>(58,550,000)</b>	<b>(56,130,150)</b>	<b>2,419,850</b>	<b>4.1%</b>	<b>(64,448,340)</b>
<b>Inland Fisheries and Wildlife Revenue - Total</b>	<b>2,684,214</b>	<b>3,559,942</b>	<b>875,728</b>		<b>12,676,745</b>	<b>13,495,734</b>	<b>818,989</b>	<b>6.5%</b>	<b>21,499,761</b>

## Highway Fund Revenue Fiscal Year Ending June 30, 2017 (FY 2017)

### January 2017 Revenue Variance Report

Revenue Category	January '17		January '17		Fiscal Year-To-Date			FY 2017 Budgeted Totals
	Budget	Actual	Actual	Variance	Budget	Actual	Variance	
<b>Fuel Taxes:</b>								
- Gasoline Tax	16,267,260	16,797,489	530,229	123,024,637	1,226,191	1.0%	2.6%	200,201,200
- Special Fuel and Road Use Taxes	3,600,362	3,876,371	276,009	28,807,461	(4,081)	0.0%	1.2%	47,086,700
- Transcap Transfers - Fuel Taxes	(1,459,562)	(1,519,035)	(59,473)	(11,156,673)	(160,962)	-1.4%	-2.8%	(18,171,111)
- Other Fund Gasoline Tax Distributions	(406,796)	(420,055)	(13,259)	(3,076,478)	(54,784)	-1.8%	-3.3%	(5,006,432)
<b>Subtotal - Fuel Taxes</b>	<b>18,001,264</b>	<b>18,734,770</b>	<b>733,506</b>	<b>137,598,947</b>	<b>1,006,365</b>	<b>0.7%</b>	<b>2.2%</b>	<b>224,110,357</b>
<b>Motor Vehicle Registration and Fees:</b>								
- Motor Vehicle Registration Fees	4,144,307	4,500,530	356,223	35,281,522	37,451,577	6.2%	1.6%	66,345,787
- License Plate Fees	61,063	45,767	(15,296)	1,843,330	1,991,225	8.0%	1.0%	3,458,710
- Long-term Trailer Registration Fees	1,090,540	1,178,714	88,174	4,588,312	5,129,961	11.8%	-4.6%	9,884,523
- Title Fees	982,379	967,390	(14,989)	7,573,812	7,878,292	4.0%	-0.7%	13,366,264
- Motor Vehicle Operator License Fees	636,934	683,569	46,635	4,683,842	5,125,204	9.4%	6.4%	8,499,545
- Transcap Transfers - Motor Vehicle Fees	0	0	0	(7,715,186)	(7,961,625)	-3.2%	-0.3%	(15,570,414)
<b>Subtotal - Motor Vehicle Reg. &amp; Fees</b>	<b>6,915,223</b>	<b>7,375,969</b>	<b>460,746</b>	<b>46,255,632</b>	<b>49,614,634</b>	<b>7.3%</b>	<b>1.2%</b>	<b>85,984,415</b>
Motor Vehicle Inspection Fees	293,541	343,235	49,694	2,169,791	2,210,608	1.9%	-5.2%	2,982,500
Other Highway Fund Taxes and Fees	73,403	78,800	5,397	727,680	807,291	10.9%	-21.2%	1,280,229
Fines, Forfeits and Penalties	74,786	54,729	(20,057)	452,318	466,012	3.0%	5.3%	739,039
Interest Earnings	63,629	19,150	(44,479)	364,356	183,673	-49.6%	62.3%	585,484
Other Highway Fund Revenue	661,420	432,174	(229,246)	7,067,672	6,388,263	(679,409)	-9.6%	9,959,100
<b>Totals</b>	<b>26,083,266</b>	<b>27,038,827</b>	<b>955,561</b>	<b>194,636,396</b>	<b>198,275,793</b>	<b>1.9%</b>	<b>1.5%</b>	<b>325,641,124</b>

REP. SARA GIDEON  
CHAIR

SEN. MICHAEL D. THIBODEAU  
VICE-CHAIR

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER



128<sup>TH</sup> MAINE STATE LEGISLATURE  
LEGISLATIVE COUNCIL

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SEN. ANDRE E. CUSHING  
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SEN. NATHAN L. LIBBY  
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REP. ELEANOR M. ESPLING

## **Legislative Council Policy on Legislator Attendance**

Pursuant to 3 MRSA, section 2, third paragraph, the 128<sup>th</sup> Legislative Council adopts the following policy regarding excessive unexcused Legislators absences and the means of reducing the offending member's salary.

### **Recording Attendance**

At the beginning of each session of the Senate, the Secretary of the Senate shall record the Senators that are absent each legislative day. Senators that arrive late for a Senate session must notify the Secretary of the Senate directly or indirectly through one of their floor leaders. The President must approve all leave from a Senate session.

At the beginning of each session of the House, the quorum call will be the official record of attendance. Members who miss the quorum call but did attend the session must notify the Clerk of the House. The House shall provide forms to members to request leave for a legislative day.

### **Reporting Absences without Leave**

At least on a monthly basis, the Secretary of the Senate and the Clerk of the House shall notify Legislators who have one or more absences without leave.

### **Reducing Legislator Salaries for Excess Absences without Leave**

Members that exceed the statutory threshold of number of absences without leave will have the member's salary reduced using the following graduated reductions.

During the First Regular Session, salaries will be reduced by \$25 for each day above 5 days but less than 11 days, by \$50 per day for each day above 10 days but less than 16 days and \$100 per day for each day greater than 15 days. Total salary reductions for absences without leave may not exceed the member's salary for the First Regular Session.

During the Second Regular Session, salaries will be reduced by \$25 for each day above 3 days but less than 7 days, by \$50 per day for each day above 6 days but less than 10 days and \$100

per day for each day greater than 9 days. Total salary reductions for absences without leave may not exceed the member's salary for the Second Regular Session.

During either session, if a member is absent without leave for more than 8 consecutive legislative days, the Secretary of the Senate or the Clerk of the House shall inform the Executive Director of the Legislative Council, who shall suspend the member's biweekly salary payments pending the member's return or approval of leave.

A Legislator may appeal salary reductions under this policy to the Personnel Committee of the Legislative Council.

This policy is adopted by the Legislative Council and is effective as of the date of adoption.

By: \_\_\_\_\_  
Executive Director of the Legislative Council

Authority: 3 MRSA §2

Adopted:

Effective Date:

**128th Maine State Legislature  
Legislative Council  
Requests to Introduce Legislation  
First Regular Session  
As of: 2/10/2017 10:39:41 AM**

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR: Rep. Peter A. Lyford**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2238	An Act To Allow Trapping of Canada Lynx	

**SPONSOR: Rep. Richard A. Pickett**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2240	An Act To Rename the Bridge over the Androscoggin River between Peru and Mexico	

**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	

**SPONSOR: Rep. Heather W. Sirocki**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2235	An Act To Safeguard Personal Information Provided to School Districts	

**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

**SPONSOR: Sen. Eric L. Brakey**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2182	An Act To Require That Landowners with Property Enrolled in the Tree Growth Tax Program Receive Timely Notice of Changes in Valuation of That Property	Tabled 01/31/17

**SPONSOR: Sen. Geoffrey M. Gratwick**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2196	An Act Regarding MaineCare Coverage for Telehealth Services	Tabled 01/31/17

2219	An Act Regarding Commercial Insurers and Telehealth	Tabled 01/31/17
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**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

**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

**SPONSOR: Rep. Timothy S. Theriault**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2183	An Act To Disburse Funds to the Maine Fire Protection Services Commission	Tabled 01/31/17

**SPONSOR: Sen. Amy F. Volk**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2165	An Act To Retain Skilled Workers in the State	Tabled 01/31/17

**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. Henry John Bear**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
249	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE CONGRESS OF THE UNITED STATES TO PROVIDE TO THE HOULTON BAND OF MALISEET INDIANS JUST AND EQUITABLE COMPENSATION FOR NEGATIVE IMPACTS UPON MALISEET TRIBAL LANDS COMPARABLE TO THE LAND CLAIM SETTLEMENT PROVIDED TO THE PENOBSCOT NATION AND PASSAMAQUODDY TRIBE IN THE 1980 MAINE INDIAN CLAIMS SETTLEMENT ACT	Tabled 01/31/17 Withdrawn by Sponsor

**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 01/31/17

**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 01/31/17

128th Maine State Legislature  
Addendum  
Legislative Council  
Requests to Introduce Legislation  
First Regular Session

Actions Taken After February 10, 2017

**SPONSOR:** Spkr. Sara Gideon

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2248	An Act To Save the Lives of Stage-four Cancer Patients	



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STATE OF MAINE  
128th LEGISLATURE  
FIRST REGULAR SESSION

Task Force on Public-private Partnerships  
To Support Public Education

January 2017

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James A. Clair  
Jim Geary  
Kim Gore  
Lauren Sterling  
Erika Stump

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- A. Authorizing Resolve: Resolve 2015, chapter 89, Resolve to Create the Task Force on Public-private Partnerships to Support Public Education
- B. Membership List, Task Force on Public-private Partnerships to Support Public Education
- C. Detailed Summary of Presentations and Discussions at the Task Force Meetings
- D. Examples of “Pay for Success” Legislation
- E. Resources Provided to the Task Force
- F. Acknowledgement of Key Resource People and Organizations

## Executive Summary

The Task Force on Public-private Partnerships to Support Public Education (“Task Force”) was established during the Second Regular Session of the 127th Legislature by Resolve 2015, Chapter 89 (LD 1675, “Resolve, To Create the Task Force on Public-private Partnerships to Support Public Education”). The Task Force was comprised of 12 members, including three legislators and nine individuals with expertise in Maine public education financing and performance-based contracting in the social sector or social impact partnerships. The Task Force was charged with conducting a study of performance-based contracting and social impact partnerships to support public education.

### **Policy Levers to Enhance the Use of Performance-based Contracting and Social Impact Partnerships to Support Public Education in Maine**

In carrying out its work, the Task Force researched various aspects of governmental policy levers related to the use of performance-based contracting, including Pay for Success (“PFS”) contracts and social impact bond (“SIB”) partnerships with private foundations and philanthropists to support social sectors and public education districts.

Social impact or performance-based investment models exist to:

- ❖ Use outcomes data to **better target and match** populations to services;
- ❖ Ensure **taxpayer dollars support successful solutions** and outcomes rather than poor or unknown outcomes;
- ❖ Develop **problem-based procurements** that solicit innovative and evidence-based solutions;
- ❖ Use contracts to **set clear, meaningful outcome targets**, tying a portion of payments to performance when appropriate;
- ❖ Shift contract management from a compliance-oriented activity to a **performance-oriented approach**; and
- ❖ Create mechanisms to **rigorously evaluate programmatic impact**, and use that learning to inform future spending.

The Task Force’s findings and recommendations are presented within the context of three prevalent strategies that Task Force members concluded are essential policy levers for the Maine Department of Education (and other state agencies), the Legislature’s Education Committee (and other legislative committees), educators, local school officials, state education associations, state and local government officials and private or social sector organizations in the State to pursue:

**1. Overarching goal:** Design an overarching goal for enhancing public-private partnerships to support public education;

2. **Feasibility study:** Conduct a feasibility study that examines proposed strategies using a Pay for Success (PFS) or results-driven contract model to fund a selected public education project; and

3. **Rules of engagement:** Provide a clear outline of the potential technical and financial responsibilities of each role represented within PFS or results-driven contract models.

The Task Force proposes that the Legislature considers the following strategies and recommendations regarding the viability of implementing performance-based contracting and social impact partnerships with private and governmental entities to support public education in Maine.

## **STRATEGY 1: OVERARCHING GOAL DESIGNATION**

### **Designating an Overarching Goal for Enhancing Public and Private Partnerships to Support Public Education**

#### Findings

The recent Maine Education Policy Research Institute's ("MEPRI") report on the use of Social Impact Bonds ("SIBs") for funding education in Maine indicated that in 2013-14, public kindergartens in the state enrolled approximately 13,500 students which suggests that prekindergarten ("pre-K") enrollment in Maine's public preschools served less than 40% of eligible children. The Maine Economic Growth Council's "*Measures of Growth 2016*" report called attention to the National Assessment of Educational Progress's ("NAEP") fourth grade reading scores for Maine students. The percentage of Maine students scoring at or above the fourth grade reading score proficiency rate in 2015 was 36% (as compared to 43% of New England students and 35% of United States students). While the Maine Economic Growth Council proposed that 50% of Maine students should score at or above the NAEP proficiency rate by 2020, Maine student's progress does not appear to be significant relative to the benchmark. Task Force members expressed their desire to focus efforts to improve kindergarten readiness and literacy rates for children by age eight (up to the third grade) in order to achieve the student performance benchmark.

Maine is falling short of the proficiency rates for third grade literacy levels and also has room for improvement in kindergarten readiness. Data shows that roughly 35% of Maine students entering kindergarten have significant behavioral issues; and there is a tremendous amount of capability to help improve proficiency rates and behavior, but the State often runs into roadblocks on how to pay for their promotion and sustainability.

Educare Central Maine ("Educare") has coordinated Early Head Start, Head Start, public pre-K and private childcare to serve enrolled infants, toddlers and three and four year old low-income children in infant-toddler classrooms and preschool classrooms for the past seven years in Waterville. Educare's evaluator reported results, evaluation and elements to consider for a social investment project for early childhood and preschool programs. Educare, which partners with five school districts in Maine at the regional level, proposes that preschool "dosage" (full

days and a full year) matters and advises that students, especially low-income children, need at least three years of high-quality learning environments to meet goals and outcomes to maximize children's learning. The Maine Early Learning Investment Group ("MELIG") has partnered with Educare, RSU #54 (Skowhegan, Canaan, Norridgewock), and the workforce development and adult education collaborative to replicate the Educare two-generation model in a rural setting. Another two-generation model in Maine, the Barbara Bush Foundation for Family Literacy model, focuses simultaneously on early childhood education for preschoolers and adult literacy for their parents. This model also measures pre-assessment and post-assessment progress on standardized tests in their programs.

The Deputy Commissioner of the Maine Department of Education ("DOE") presented his consideration of public-private partnerships to support public education. He indicated that the DOE is working on establishing a pilot program for public-private partnerships collaborating with the Department of Corrections and the Department of Health and Human Services and a philanthropic private donor. The pilot program would support nine superintendent regions in state; identify schools with highest level of free and reduced lunch students and schools with the lowest level of parent education to develop adult education targeting for parents; identify mechanisms to provide ongoing daily support services and coaching for literacy; provide laptop programs for every student; focus on a variety of resources to enhance student literacy education in kindergarten through third grade; and expand labor force programs for adults in corrections. Members of the Task Force propose a continued connection with the DOE to engage their support for the Task Force's proposal to have state policymakers in Maine State government's executive and legislative branches collaborate with the Harvard Kennedy School's Government Performance Lab, the Social Finance organization, and with public and private partners in Maine foundations (e.g., Barbara Bush Foundation, Libra Foundation, John T. Gorman Foundation, etc.), to assist with implementing a PFS pilot project for improving third grade students' literacy performance in Maine.

The Task Force focused on policies, projects and programs in other states' performance-based contracts and public-private partnerships, and members debated how such models should be followed or altered to enhance financial assistance for Maine's pre-K and early childhood education programs and services. Task Force members reached consensus to establish a pilot project to implement a program funded via a PFS performance-based contract model or SIB loans from private investors. The PFS funding model projects allow for experimentation within an evidence-based set of strategies, with the government payment based on outcomes instead of quantity of services. The SIBs serve as an upfront financing device as well as collaborative engagement of private and public stakeholders in outcomes-based exploration of effective public services. The incorporation of preliminary steps, including feasibility studies and pilot implementation projects in these models, can improve state and local government assessments of the impact of the service or intervention before public funds are requested to support longer-term or statewide implementation.

**Recommendation #1.** The overarching goal is to implement a performance-based, public-private partnership approach to financing public education, such as a Pay for Success (PFS) funding model, to expand early childhood (including early childhood objectives that focus on educational, as well as social and emotional health) and pre-K education programs that can

help increase students' kindergarten readiness and educational performance as related to demonstrating proficiency in reading and writing literacy by the third grade.

## STRATEGY 2: FEASIBILITY STUDY

### Conduct a Feasibility Study That Examines Proposed Strategies Using a Pay for Success or Results-driven Contract Model to Fund a Selected Public Education Project

#### Findings

The Harvard Kennedy School Government Performance Lab introduced its Request for Proposals ("RFP") for technical assistance with Pay for Success ("PFS") projects using social impact bonds ("SIBs") and performance improvement projects to the Task Force. Several Task Force members and staff observed the Harvard Lab's webinar on their RFP timelines for selecting and providing the next two rounds of technical assistance project awards for up to nine state or local governments. The upcoming RFP applications are due by March 15, 2017. The Harvard Lab offers to provide technical assistance to individual state or local governments, cohorts of governments, or cross-jurisdictional partnerships. While the primary applicant must be a state or local government, governments can also apply with private and/or social sector organizations as partners.

The Harvard Lab also offers to provide short-term technical assistance to governments that submits a request to enter into a memorandum of understanding ("MOU") for an independent review of the components of Pay for Success (PFS) projects that are in the forward-thinking stages of development. The Harvard Lab offers to review such short-term technical assistance requests from governments for entering into an MOU on a rolling basis.

*"Factors to evaluate when exploring a Pay for Success project:*

- A. Enthusiasm and commitment among an Administration's leadership -- it should be a high-priority issue;*
- B. Potential for a broad, scalable impact -- setting up PFS projects can be time- and labor-intensive, so only projects with sufficient scale should be considered;*
- C. Possibility of high net benefits;*
- D. Potential for rigorous evaluation -- measurable outcomes, reliable comparison group or counterfactual;*
- E. Well-defined treatment population; and*
- F. Potential payer(s)."*

*-- Harvard Kennedy School Government Performance Lab (September 2016)*

The Task Force considered the following two options for engaging with the Harvard Lab (or with another technical assistance organization) to design a plan to establish a PFS pilot project for improving third grade students' literacy results in Maine: (1) to submit an RFP in March 2017 for the federal and private grant funds provided to the Harvard Lab to engage with states and jurisdictions to create PFS programs; or (2) to submit a formal request in collaboration with the executive branch's state agencies, the legislative branch's joint standing committees, school districts and private foundations, to the Harvard Lab (or another technical assistance organization) to provide technical assistance support for the best PFS model for Maine.

**Recommendation #2.** As it is unlikely that Maine government officials could put forward an RFP to the Harvard Kennedy School Government Performance Lab in time for the March 2017 application deadline, most Task Force members concurred with the proposal that the Maine State Government should submit a request as soon as possible to enter into a memorandum of understanding ("MOU") with the Harvard Lab (or another technical assistance organization) to conduct a feasibility study that examines proposed strategies using a PFS or results-driven contract model to fund a public education project designed to increase Maine students' kindergarten readiness and educational performance as related to demonstrating proficiency in reading and writing literacy by the third grade.

The Task Force also proposes that the Legislature's Joint Standing Committee on Education and Cultural Affairs considers introducing a joint order or a resolve, as soon as possible, to direct the Maine State Government's executive branch agencies and the legislative branch's joint standing committees to collaborate and establish a request for an independent review of a feasibility study to be provided by the Harvard Lab (or by another "third party" technical assistance organization). The legislative document should also propose that the following provisions be considered for inclusion in the terms of the MOU entered into with the "third party" technical assistant organization.

- ❖ During the feasibility study, the government collaborators and technical assistance organization members should invite stakeholders, including educators, local school officials, state education associations, state and local government officials and private or social sector organizations to provide feedback to the feasibility study group.
- ❖ Upon completion of the feasibility study, the government collaborators and technical assistant organization members should submit the feasibility study report, including the feasibility study review process and the proposed plans for a PFS contract model pilot project and project evaluation to the Legislature's Joint Standing Committee on Education and Cultural Affairs (and other joint standing committees).
- ❖ The feasibility study report should also be made available to stakeholders and the public by being posted on the Department of Education's (and other state agencies') publicly accessible website along with any documents pertaining to the feasibility studies, contracts, and evaluation plans related to the proposed PFS pilot project.
- ❖ Upon receipt and review of the feasibility study report, the Legislature's Joint Standing Committee Education and Cultural Affairs (and other joint standing committees) should have

the authority to submit legislation to implement a PFS contract model pilot project or an ongoing program to create mechanisms to establish and fund early childhood programs and pre-K education programs that can help increase Maine students' kindergarten readiness and educational performance as related to demonstrating proficiency in reading and writing literacy by the third grade.

The feasibility study group should consider the following provisions to determine how, and under what conditions, a PFS program could be implemented in Maine to increase students' kindergarten readiness and educational performance as related to demonstrating proficiency in reading and writing literacy by the third grade:

- ❖ Identify the remaining unmet need for additional pre-K and early childhood education services in Maine;
- ❖ Identify a target population;
- ❖ Identify and assess potential service models with specified outcomes and capacity for expansion or establishment in the public education system, with emphasis on models that include evidence-based curricula and comprehensive staff training;
- ❖ Assess data, legal, and regulatory systems;
- ❖ Assess current contracting options and potential for establishing legal contracting opportunities necessary within PFS or other results-driven models;
- ❖ Engage local funder community;
- ❖ Develop recommendations for further action, including pilot service project;
- ❖ Identify and engage community and government stakeholders; and
- ❖ Identify local and national sources of capital.

### **STRATEGY #3: RULES OF ENGAGEMENT**

#### **Provide a Clear Outline of the Potential Technical and Financial Responsibilities of Each Role Represented Within PFS or Results-Driven Contract Models**

##### Findings

*“The term ‘pay for success initiative’ means a performance-based grant, contract, or cooperative agreement awarded by a public entity in which a commitment is made to pay for improved outcomes that result in social benefit and direct cost savings or cost avoidance to the public sector.”*

*-- Definition of Pay for Success Initiative, (Every Student Succeeds Act)*



There is a fundamental agreement among members of the Task Force that comprehensive early childhood and pre-K programs establish a strong educational foundation which provides tools for academic success and continued learning. Such programs also support a child's ongoing emotional and social well-being. An additional, more long-term benefit that is universally accepted by the Task Force is the decrease in the need for certain services and interventions, which are often associated with the absence of an environment that supports a child's emotional health, social skills and educational success.

Outcomes reflecting these long-term benefits can serve as performance measures of educational services and can be incorporated into determinations of success within performance-based financing or funding contracts. For this purpose, such outcomes would need to be quantified to forecast potential savings to the State from a decrease in needed services, such as educational remediation programming and interventions from criminal justice agencies.

However, the Task Force notes that although these long-term benefits can be quantified for certain elements of the performance-based financing model, a source of revenue must be identified in order for the State to meet its contractual repayment obligations to investors. In addition, sources of funds to pay other involved parties required to establish, monitor and evaluate both the educational service and the funding contract are necessary. In a PFS model, this usually includes: (a) additional staff at state and local level dedicated specifically to the development, oversight and management of payments and services related to contracts; (b) an intermediary organization to raise and manage funds as well as structure contracts; and (c) the external evaluator to determine "success" of services.

The State, which arguably assumes the least up-front risk from a financial perspective, is obligated to use taxpayer dollars to pay for the contracted services, (for early childhood development programs in this case), which demonstrate that the programs have met performance measures. In some cases, the State may also use public or private funds for independent evaluators and state staff determined to be necessary to facilitate the program under the PFS model. Although the State's financial risk is relatively smaller than that of the other investment partners under this structure, it is critical that a source of revenue be identified for deposit in a dedicated fund established for the purpose of making payments to the service provider.

**Recommendation #3.** Prior to entering into a Pay for Success Financing model contract for funding early childhood education services, whether a pilot project or a statewide program, the Legislature should dedicate a source of revenue for payment under the legal obligations of performance-based financing contracts.