REP. SARA GIDEON CHAIR

SEN. MICHAEL D. THIBODEAU VICE-CHAIR

EXECUTIVE DIRECTOR GRANT T. PENNOYER



128TH MAINE STATE LEGISLATURE LEGISLATIVE COUNCIL SEN. GARRETT P. MASON SEN. AMY F. VOLK SEN. TROY D. JACKSON SEN. NATHAN L. LIBBY REP. ERIN D. HERBIG REP. JARED F. GOLDEN REP. KENNETH W. FREDETTE REP. ELEANOR M. ESPLING

LEGISLATIVE COUNCIL MEETING SUMMARY February 27, 2018 Approved March 22, 2018

CALL TO ORDER

Speaker Gideon called the February 27, 2018 meeting of the Legislative Council to order at 3:13 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:

President Thibodeau, Senator Mason, Senator Volk, and Senator Jackson

and Senator Libby

Representatives:

Speaker Gideon, Representative Herbig, Representative Golden, 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

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

Beth Ashcroft, Director, Office of Program Evaluation and Government

Accountability

Speaker Gideon convened the meeting at 3:13 p.m. with a quorum of members present.

SUMMARY OF JANUARY 25, 2017 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary for January 25, 2017 be accepted and placed on file. Motion by Senator Jackson. Second by Representative Golden. Motion passed unanimous (8-0-0-2, with Senator Libby and Representative Fredette absent).

Legislative Council Chair Gideon asked if there was any objection to taking items out of order. There was no objection. The Chair then moved to **Old Business, Item 1.**

OLD BUSINESS

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

The Legislative Council proceeded to consider eleven (11) tabled bill requests in accordance with the adopted protocol. The Legislative Council failed to authorize one (1) bill for introduction in the Second Regular Session, and the Council took no action on the remaining ten requests. The Legislative Council's action on the bill requests is attached.

Item #2: Council Actions Taken by Ballot

Requests for Introduction of Legislation:

LR 2882 An Act Regarding the Penalties for Hunting Deer over Bait

Submitted by: Senator Paul Davis, Sr.

Date: January 25, 2018

Vote: 10-0 Passed

LR 2888 An Act to Allow Cash Prizes for Certain Raffles Conducted by Charitable

Organizations

Submitted by: Senator Roger Katz Date: January 30, 2018

Vote: 8-1-1-0 Passed (with Representative Espling opposed and Representative

Fredette abstained)

LR 2895 An Act to Amend the Anson and Madison Water District Charter

Submitted by: Representative Bradlee Farrin

Date: February 5, 2018

Date: February 5, 2018 Vote: 10-0 Passed

LR 2844 JOINT RESOLUTION Memorializing the President of the United States and

the United States Congress to Exclude the State of Maine from Offshore Oil and Gas Drilling and Exploration Activities, Including Seismic Airgun

Blasting

Submitted by: Representative Michael Devin

Date: February 7, 2018

Vote: 7-3-0-0 Passed (with Senator Mason, Representatives Fredette and Espling

opposed)

LR 2899 An Act to Authorize the Treasurer of State to Facilitate the Establishment of

ABLE Accounts for Qualified Persons

Submitted by: Representative Matthew Pouliot

Date: February 13, 2018

Vote: 7-3-0-0 Passed (with Senator Mason, Representatives Fredette and Espling

opposed)

LR 2910 An Act to Increase Transparency in the Direct Initiative Process

Representative Louis Luchini Submitted by:

Date:

February 13, 2018

Vote:

10-0 Passed

LR 2920

An Act to Authorize a Prerelease Facility in Washington County

Submitted by: Senator Joyce Maker

Date:

February 13, 2018

Vote:

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

NEW BUSINESS

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

The Legislative Council proceeded to consider and vote on thirty-six (36) after deadline bill requests. The Legislative Council authorized eleven (11) bills for introduction in the Second Regular Session, six (6) bills failed, two (2) bills tabled, three (3) bills were withdrawn by the sponsor and the Council took no action on the remaining fourteen (14) bill requests. The Legislative Council's action on the bill requests is attached.

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

OLD BUSINESS

Item #3: Task Force on Health Care Coverage Funding Update

Mr. Pennoyer updated the Legislative Council as to the status of the funding for the Task Force on Health Care Coverage for All Maine. Based on the current available balance and expenditure projections, the Task Force has sufficient funding available to hold up to four interim meetings.

Motion: That the Legislative Council authorizes the Task Force on Health Care Coverage for All of Maine to hold up to four meetings after the Second Regular Session based on the outside funding contributed to date. If an additional meeting is required, the task force must seek prior approval and must have sufficient balances from this outside funding remaining after the four meetings to fund the projected costs of the additional meeting. Motion by Representative Herbig. Second by Representative Golden. Motion passed unanimous (7-0-0-3, with Senators Jackson and Libby and Representative Fredette absent).

NEW BUSINESS

Item #2: Presentation of Annual OPEGA Report

Ms. Ashcroft, Director of the Office of Program Evaluation and Government Accountability, presented OPEGA's Annual Report to the Legislative Council. OPEGA completed 5 projects including the Maine State Lottery and 3 projects involving Tax Expenditures, and worked on 7 others. Out of the 239 cumulative total recommendations OPEGA has made to date, 146 have been implemented or affirmatively addressed, 42 are in progress, and 51 have not been addressed most of which OPEGA is no longer doing active follow-up on. OPEGA also stayed within budget again in 2017.

Motion: That the OPEGA Annual Report be accepted and placed on file. Motion by Representative Herbig. Second by Senator Volk. Motion passed unanimous (6-0-0-4, with Senators Jackson and Libby and Representatives Golden and Fredette absent).

Item #3: State Audit Findings, Office of the State Auditor

The Office of the State Auditor submitted to the Legislative Council a report of its findings from the State Audit for the year ended June 30, 2017.

Motion: That the report from the Office of the State Auditor be accepted and placed on file. Motion by Senator Mason. Second by Representative Herbig. Motion passed unanimous (6-0-0-4, with Senators Jackson and Libby and Representatives Golden and Fredette absent).

Item #4: Acceptance of the Task Force to Identify Special Education Cost Drivers and Innovative Approaches to Services

The Task Force to Identify Special Education Cost Drivers and Innovative Approaches to Services submitted its report for acceptance by the Legislative Council.

Motion: That the report from the Task Force to Identify Special Education Cost Drivers and Innovative Approaches to Services be accepted and placed on file. Motion by Senator Mason. Second by Representative Herbig. Motion passed unanimous (6-0-0-4, with Senators Jackson and Libby and Representatives Golden and Fredette absent).

Item #5: Acceptance of the Commission to Streamline Veterans' Licensing and Certification Report

The Commission to Streamline Veterans' Licensing and Certification submitted its report for acceptance by the Legislative Council.

Motion: That the report from the Commission to Streamline Veterans' Licensing and Certification be accepted and placed on file. Motion by Senator Mason. Second by Senator Volk. Motion passed unanimous (6-0-0-4, with Senators Jackson and Libby and Representatives Golden and Fredette absent).

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

Grant Pennoyer, Executive Director, presented the following report.

1. Bill Production System Replacement Project

The first phase of the project to replace the MELD bill production system is reaching its conclusion. This phase included an intensive review process to lay out detailed requirements for the new system starting with an in-depth review of the current process. Also included in

this phase will be a refined cost estimate for the remaining work required to implement the new system based on the much more detailed requirements developed as part of the first phase. Tallan's updated estimated cost of the remaining portion of this project is \$3.249 million, which is slightly less than the RFP estimate and without the substantial separate contingency budget of the RFP estimate. We are currently working with Tallan to finalize contract language and develop a scope of work for the remaining project. The scope of work document includes a timeline that plans to fully implement the new bill production system for the Second Regular Session of the 129th Legislature.

2. Harassment Training Update

Jackie Little, Human Resources Director, has provided training for the four major caucuses. She has scheduled a training session for the Independents and Green Independents today and an additional training session for the House Republican Caucus on March 1st. Not counting the pending session, she has trained 115 Legislators and will be scheduling training sessions for any remaining Legislators that missed the training sessions conducted in caucus meetings. Ms. Little has also provided this important training to all Legislative Staff.

Fiscal Report

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

1. General Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$325.4	\$367.6	\$42.3	13.0%	\$323.7	13.6%
FYTD	\$2,070.7	\$2,152.5	\$81.8	4.0%	\$2,052.9	4.9%

General Fund revenue was over budget by \$42.3 million (13.0%) for the month of January and over budget by \$81.8 million (4.0%) for the fiscal year to date. Individual income tax revenue was over budget by \$36.6 million for the month and \$58.0 million for the fiscal year to date. Income tax withholding and estimated payments were the major contributors to this positive variance, with estimated payments over budget by \$19.6 million for the month. It is likely the early January estimated payment receipts were a carryover from taxpayers paying their January 15th estimated payment in calendar year 2017 in anticipation of the Tax Cuts and Jobs Act (TCJA) cap on federal deductions for state and local taxes beginning in 2018. Sales tax revenue (December sales) was under budget by \$1.0 million for the month but over budget by \$4.3 million for the fiscal year to date. The cold temperatures and snow likely affected December sales. BETR transfers continue to lag behind budgeted estimates. This category was over budget (less reimbursed than budgeted) by \$9.1 million for the fiscal year to date. It is still likely this could be a timing issue. This and all revenue lines will be reviewed for the March revenue forecast.

2. Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$26.1	\$28.2	\$2.0	7.8%	\$27.0	4.1%
FYTD	\$194.3	\$199.3	\$4.9	2.5%	\$198.3	0.5%

Highway Fund revenue was over budget by \$2.0 million (7.8%) for the month of January and over budget by \$4.9 million (2.5%) for the fiscal year to date. Motor vehicle registrations and

fees, in particular long-term trailer registration fees and title fees, were the main driver of this overage to date. Fuel taxes also showed a positive variance in January and for the fiscal year to date.

3. Cash Balances Update

The average balance in the cash pool for January was \$1,200.5 million, significantly up from December's average of \$1,084.7 million and 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 not needed in January (last done in April of 2016). The average Highway Fund balance of \$8.3 million in January was essentially unchanged from December. December is usually the low point in the year after the annual payment to the Local Road Assistance program.

Mr. Nolan also provided an overview of the preliminary recommendations of the Revenue Forecasting Committee that met earlier in the day to update the revenue forecast for the March 1st reporting deadline. He noted that the Revenue Forecasting Committee increased projections of General Fund revenue by \$128.5 million for the current biennium. He also noted that the increase in projections of Highway Fund revenue of \$1.9 million for the biennium would bring the Highway Fund back into balance.

Studies Report

Marion Hylan Barr, Director, Office of Policy and Legal Analysis, presented the following report. The majority of the studies have completed their work. The ACF Study of Conserved Lands Owned by Nonprofit Conservation Organizations has just sent its report to the printers. A few of the studies will have work ongoing such as the Task Force on Health Care Coverage for All of Maine, the Maine Bicentennial Commission and the Citizen Trade Commission.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

No report.

2. State House Facilities Committee

No report.

ANNOUNCEMENTS AND REMARKS

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 5:05 p.m.

Legislative Council Action Taken on Tabled Pre Cloture Bills Requests From October and November 2017 February 27, 2018

Sen. Justin Mark Chenette SPONSOR: Title Action LR# 2650 An Act To Close Loopholes in Election Laws and Ban the Use Tabled 11/30/17 of Leadership Political Action Committees for Personal Profit Tabled 1/26/18 SPONSOR: Sen. Andre E. Cushing III <u>LR #</u> Title Action Resolve, To Study Methods for Better Transportation for Tabled 11/30/17 2754 Students and Workers in Maine Tabled 12/14/17 **SPONSOR:** Rep. Karen A. Gerrish LR# Action Tabled 11/30/17 2492 An Act To Create a Full-time Drug Interdiction Unit within the State **FAILED** SPONSOR: Sen. Troy D. Jackson LR# Title Action 2506 An Act To Support Funding for Workforce Development in Tabled 10/26/17 Maine SPONSOR: Sen. Brian D. Langley Title Action LR# An Act To Extend Secondary Student Eligibility in the Tabled 11/30/17 2783 Competitive Skills Scholarship Program Tabled 12/14/17 SPONSOR: Sen. Nathan L. Libby <u>Action</u> LR# Title 2761 Resolve, To Require the Department of Labor To Receive Tabled 10/26/17 Federal Workforce Innovation and Opportunity Act Funds

SPONSOR: Rep. Wayne R. Parry

<u>LR #</u> <u>Title</u> <u>Action</u>

2562 An Act To Waive Income Restrictions for Supplemental Tabled 11/30/17

MaineCare Coverage for Children Diagnosed with Cystic

Fibrosis

SPONSOR: Rep. Anne C. Perry

Title **Action** <u>LR #</u>

2523 An Act To Ensure Federal Funding for Job Training Services Tabled 10/26/17

SPONSOR: Rep. Harold L. Stewart III

Action <u>LR#</u>

2472 An Act To Prevent Human Trafficking, Protect Children and Tabled 11/30/17

Finance the Victims' Compensation Fund

President Michael D. Thibodeau SPONSOR:

<u>LR#</u> <u>Title</u> **Action** Tabled 11/30/17

An Act To Amend the Laws Restricting Firearms on Public 2605 Lands

Rep. Dustin Michael White **SPONSOR:**

<u>Action</u> <u>LR #</u>

2551 An Act To Increase the Bottle Redemption Rate To Tabled 11/30/17

Counterbalance Increases in the Minimum Wage

128th Maine State Legislature Legislative Council Action Taken on Requests to Introduce Legislation Second Regular Session February 27, 2018 REVISED

AFTER DEADLINE BILL REQUESTS

SPONSOR:	Sen. Troy D. Jackson	
<u>LR #</u> 2911	Title An Act Regarding the Placement of Children in Foster Care	Action PASSED
SPONSOR:	Rep. Louis J. Luchini	,
<u>LR#</u> 2910	<u>Title</u> An Act To Increase Transparency in the Direct Initiative Process	Action Processed by Ballot
SPONSOR:	Rep. Colleen M. Madigan	
<u>LR #</u> 2909	<u>Title</u> An Act To Increase Funding for Evidence-based Therapies for Treating Emotional and Behavioral Problems in Children	Action PASSED
SPONSOR:	Sen. David R. Miramant	
<u>LR #</u> 2907	<u>Title</u> An Act To Ensure Nondiscriminatory Treatment of Public, Educational and Governmental Access Channels by Cable Television Operators	Action FAILED
SPONSOR:	Rep. Matthew G. Pouliot	
<u>LR #</u>	<u>Title</u>	<u>Action</u>
2899	An Act To Authorize the Treasurer of State To Facilitate the Establishment of ABLE Accounts for Qualified Persons	Processed by Bailot
SPONSOR:	Rep. Deborah J. Sanderson	
<u>LR #</u> 2913	<u>Title</u> An Act Regarding the Membership of the Board of Directors of the Hallowell Water District	Action TABLED

TABLED BY THE LEGISLATIVE COUNCIL

AFTER DEADLINE BILL REQUESTS

SPONSOR: Rep. Seth A. Berry

LR # <u>Title</u> <u>Action</u>

2836 Resolve, To Require the Public Utilities Commission To Adopt Tabled 1/25/18

Rates for Regulated For-profit Utilities Based on the Reduction in the Federal Corporate Income Tax Rates

SPONSOR: Rep. Owen D. Casas

LR # Title Action
2795 RESOLUTION, AMENDING THE CONSTITUTION OF Tabled 12/14/17

MAINE TO ALLOW FOR RANKED-CHOICE VOTING

SPONSOR: Sen. Andre E. Cushing III

LR# Title Action

2866 An Act To Allow Individuals To Obtain Feline Rabies Vaccine Tabled 1/25/18

To Vaccinate Feral Cats

SPONSOR: Rep. Jessica L. Fay

LR # Title Action

An Act To Ensure Fuel Delivery during Emergencies Tabled 1/25/18

WITHDRAWN

SPONSOR: Rep. Ryan M. Fecteau

<u>LR#</u> <u>Title</u> <u>Action</u>

2796 An Act To Improve Efficiency in the Delivery of Workforce Tabled 12/14/17

Training

SPONSOR: Rep. Aaron M. Frey

<u>LR# Title</u> <u>Action</u>

2885 An Act Regarding Financial Orders Requested by the Tabled 1/25/18

Attorney General In Ballot Process

SPONSOR: Speaker Sara Gideon

LR # Title Action

2822 An Act To Restore Net Neutrality Protections to Consumers in Tabled 1/25/18

Maine

2875 An Act To Discourage Sexual Harassment and Assault in the Tabled 1/25/18

Workplace

SPONSOR: Rep. Scott M. Hamann <u>LR #</u> <u>Action</u> 2792 An Act To Prohibit the Purchase and Possession of Bump Tabled 12/14/17 Stocks **FAILED** SPONSOR: Rep. Gary L. Hilliard <u>LR #</u> Title <u>Action</u> 2794 An Act To Educate the Public Concerning Health and Safety Tabled 12/14/17 Matters Relating to the Use of Marijuana SPONSOR: Sen. Troy D. Jackson **Action** <u>LR #</u> 2846 Resolve, Directing the Public Utilities Commission To Give Tabled 1/25/18 Final Approval for a Long-term Contract for Electricity from **Experimental Floating Turbines** 2884 An Act Concerning Commercial Vehicle Weight Limit Tabled 1/25/18 Exemptions That Are Advantageous to Canadian Truckers SPONSOR: Sen. Nathan L. Libby <u>LR #</u> Action 2837 Tabled 1/25/18 An Act To Require Annual In-person Sexual Harassment Training for Legislators, Legislative Employees, Constitutional Officers and Liaisons and Registered Lobbyists An Act To Provide Reasonable Exemptions from the Work Tabled 1/25/18 2848 Requirements for MaineCare for Persons Who Are Elderly or Disabled[®] SPONSOR: Sen. Joyce A. Maker LR# Action 2876 An Act To Include Operating a Motor Vehicle in a Parking Tabled 1/25/18 Area to the Law Regarding Operating after Habitual Offender **PASSED** Revocation President Michael D. Thibodeau SPONSOR: LR# <u>Action</u> 2819 Tabled 12/14/17 An Act To Require Annual Sexual Harassment Training for Legislators, Employees of the Legislature and Registered WITHDRAWN Lobbyists

SPONSOR:

Sen. David Woodsome

LR# 2812 Title

An Act Regarding the Use by Fire Departments of Recertified

Self-contained Breathing Apparatus

Action

Tabled 12/14/17

JOINT RESOLUTIONS

SPONSOR:

Sen. Justin Mark Chenette

<u>LR #</u>

Title

<u>Action</u>

2850

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO EXEMPT MAINE FROM THE NEW OFFSHORE DRILLING RULES PROPOSED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR

Tabled 1/26/18

SPONSOR:

Sen. Geoffrey M. Gratwick

LR#

<u>Title</u>

<u>Action</u>

2653

JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO ESTABLISH A NATIONAL

REVENUE-NEUTRAL FEE ON CARBON-BASED FOSSIL

FUELS

2818

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT

OF THE UNITED STATES AND THE UNITED STATES

CONGRESS TO LEAD A GLOBAL EFFORT TO PREVENT

NUCLEAR WAR

Tabled 12/14/17

WITHDRAWN

Tabled 12/14/17

128th Maine State Legislature ADDENDUM - REVISED Legislative Council Action Taken on Requests to Introduce Legislation Second Regular Session

Actions Taken After February 9, 2018					
SPONSOR:	Sen. Eric Brakey				
<u>LR #</u> 2952	Title An Act To Allow School Administrative Units To Establish Rules, Procedures and Guidelines for Properly Trained Staff to Carry a Concealed Handgun on School Property while Acting in Their Official Capacities	Action FAILED			
SPONSOR:	Rep. Owen D. Casas				
<u>LR #</u> 2950	Title Resolve, To Require the Office of the Attorney General To Temporarily Stay Disconnection Actions and Adverse Credit Reports Related To Billing Disputes with Central Maine Power Company	Action TABLED			
SPONSOR:	Rep. Richard M. Cebra				
<u>LR #</u> 2938	Title An Act To Improve the Safety of Maine Students	Action FAILED			
SPONSOR:	Rep. Patrick W. Corey				
<u>LR #</u> 2937	Title An Act To Strengthen School Security	Action PASSED			
SPONSOR:	Sen. Mark N. Dion				
<u>LR #</u> 2943	<u>Title</u> An Act To Create a Community Protection Order	Action PASSED			
SPONSOR:	Speaker Sara Gideon				
<u>LR #</u> 2916	<u>Title</u> An Act To Clarify the Dispensing of Naloxone Hydrochloride by Pharmacists	Action In Ballot Process			
SPONSOR:	Rep. James R. Handy				
<u>LR #</u> 2946	Title An Act To Enhance and Increase the Availability of Mental Health	Action PASSED			

Providers in Maine

2947

An Act To Increase Educator, Student, Parent and Community

Awareness of Mental Health Issues That May Lead to Harm of a

Person or Oneself

SPONSOR: Sen. Troy D. Jackson

LR # Title

An Act Regarding Permits for Burial of Cremated Remains

Action PASSED

PASSED

SPONSOR:

Sen. Rebecca J. Millett

LR # 2944

2949

2925

Title An Act To Require the Department of Education To Report to the

Action **FAILED**

Legislature Annually Incidents Involving Firearms in Schools and

To Make This Information Available to the Public Online

An Act To Include Security Installations and Upgrades in Maine's School Revolving Renovation Fund

PASSED

SPONSOR:

Rep. Heather B. Sanborn

LR#

Title

2945 An Act To Prohibit High-capacity Magazines Action

FAILED

LATE-FILED MAJOR SUBSTANTIVE RULES

SPONSOR:

LR# 2948 Title

Resolve, Regarding Legislative Review of Portions of Chapter

Action

PASSED

115: the Credentialing of Educational Personnel, a Late-filed

Major Substantive Rule of the Department of Education

2951

Resolve, Regarding Legislative Review of Portions of Chapter

180: Performance Evaluation and Professional Growth Systems,

a Late-filed Major Substantive Rule of the Department of

Education

PASSED

JOINT RESOLUTIONS

SPONSOR:

Sen. Benjamin M. Chipman

<u>LR#</u>

<u>Title</u>

2927 JOINT RESOLUTION CONDEMNING THE VIOLENCE IN

Action In Ballot Process

CHARLOTTESVILLE, VIRGINIA, EXPRESSING THE

COMMITMENT OF THE LEGISLATURE TO UPHOLD CONSTITUTIONAL RIGHTS AND URGING CONGRESS TO STRENGTHEN LAWS AGAINST MASS VIOLENCE AND

DOMESTIC TERRORISM