

SEN. TROY D. JACKSON  
CHAIR

REP. SARA GIDEON  
VICE-CHAIR

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER



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

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

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

**May 23, 2019**

**PRELIMINARY AGENDA**

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	<b>CALL TO ORDER</b>	
	<b>ROLL CALL</b>	
1	<b>SUMMARY OF THE APRIL 25, 2019 MEETING OF THE LEGISLATIVE COUNCIL</b>	<b>Decision</b>
	<b>REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS</b>	
12	• Executive Director's Report (Mr. Pennoyer)	<b>Information</b>
13	• Fiscal Report (Mr. Nolan)	<b>Information</b>
	<b>REPORTS FROM COUNCIL COMMITTEES</b>	
	• Personnel Committee	
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	<b>OLD BUSINESS</b>	
17	Item #1: Council Actions Taken by Ballot (No Action Required)	<b>Information</b>
	Item #2: Legislative Budget	<b>Decision</b>
	<b>NEW BUSINESS</b>	
18	Item #1: Consideration of After Deadline Bill Requests	<b>Roll Call Vote</b>
21	Item #2: Proposed Second Session Cloture Schedule and Related Dates (Suzanne Gresser, Revisor of Statutes)	<b>Decision</b>
24	Item #3: Approval of the revised <i>Legislative Council Policy on Harassment</i>	<b>Decision</b>
31	Item #4: Request regarding the Yellow Tulip Project (Quality Improvement Council)	<b>Decision</b>

Item #5: Bicentennial Briefing (Sen. William Diamond)

**Information**

**ANNOUNCEMENTS AND REMARKS**

**ADJOURNMENT**

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**LEGISLATIVE COUNCIL  
MEETING SUMMARY  
April 25, 2019**

**CALL TO ORDER**

President Jackson called the April 25, 2019 meeting of the 129<sup>th</sup> Legislative Council to order at 1:51 p.m. in the Legislative Council Chamber.

**ROLL CALL**

Senators: President Jackson, Senator Libby, Senator Dow and Senator Timberlake  
Absent: Senator Vitelli (arrived late)  
Representatives: Speaker Gideon, Representative Dillingham and Representative Stewart  
Absent: Representative Moonen (arrived late) and Representative Fecteau  
Legislative Officers: Darek Grant, Secretary of the Senate  
Marcia Homstead, Assistant 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  
Chris Nolan, Director, Office of Fiscal and Program Review  
Marion Hylan Barr, Director, Office of Policy and Legal Analysis  
John Barden, Director, Law and Legislative Reference Library  
Nik Rende, Director, Legislative Information Technology

President Jackson convened the meeting at 1:51 p.m. with a quorum of members present.

**SUMMARY OF MARCH 28, 2019 MEETING OF LEGISLATIVE COUNCIL**

**Motion:** That the Meeting Summary for March 28, 2019 be accepted and placed on file. Motion by Senator Libby. Second by Speaker Gideon. **Motion passed unanimously (7-0-0-3**, with Senator Vitelli and Representatives Moonen and Fecteau absent).

## REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

### Executive Director's Report

Grant Pennoyer, Executive Director, presented the following report.

#### 1. Remote Public Testimony

Last month in my report to you, I introduced the new online process for accepting remote testimony being developed by the Office of Legislative Information Technology (LIT), the Legislative Information Office (LIO) and the Law and Legislative Reference Library. The significant growth of emailed testimony over the last few years has made the implementation of this automated processing of remote testimony a high priority. The Clerks even with the assistance of LIO staff have not been able to keep up and process all the emailed testimony as this process is very labor intensive.

Shortly after last month's Council meeting, LIT was able to resolve some of the final "bugs" in this new application and we reached out to the committee chairs with a description of the new remote testimony process. Their feedback added a significant improvement to the subject line of the automated emails forwarding with the testimony to committee members, adding the LD#(s) to the subject line in addition to the committee abbreviation and date of the hearing. Early last week, we sent out a broadcast email announcing the implementation of the new application beginning Monday, April 22<sup>nd</sup>. After concerns were raised about no longer accepting any emailed testimony, we issued a new announcement indicating that we would continue to accept testimony by email, but we are strongly encouraging the public to use the testimony application.

If an insufficient percentage of the public switch from email to using the new web-based application, then I will be asking the Council to address the significant demands related to processing and posting emailed testimony, which could include: additional session-only staff; no longer posting testimony submitted by email; or next session making the use of the application mandatory for remote testimony and no longer accepting email.

#### 2. MELD Bill Production System Replacement Project

The Revisor of Statutes has been testing the new Bill Production System (BPS) about three weeks producing test bills and amendments. Some of the more recent phases of the project have involved much more complicated programming and has resulted in the timeline for completing the project being extended by about two weeks. We are still confident that we can have a fully functioning BPS in time for producing bills during the 2<sup>nd</sup> Regular Session.

### 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 2019 (\$'s in Millions)**

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
March	\$176.4	\$217.0	\$40.6	23.0%	\$192.2	12.9%
FYTD	\$2,629.3	\$2,649.7	\$20.3	0.8%	\$2,502.4	5.9%

General Fund revenue was over budget by \$40.6 million (23.0%) for the month of March and by \$20.3 million (0.8%) for the fiscal year to date. Individual income tax revenue was over budget by \$26.2 million for the month but is still under budget by \$17.7 million for the fiscal year to date. The positive variance in individual income tax revenue in March was largely the result of a negative variance in income tax refunds of \$16.3 million (an increase in net revenue) and a positive variance in individual income tax withholding payments of \$8.0 million. The negative variance in March individual income tax refunds offsets February's positive variance of \$17.0 million (a reduction in net revenue). Corporate income tax revenue was over budget by \$10.6 million for the month and by \$22.1 million for the fiscal year to date, largely the result of corporate estimated payments exceeding budgeted levels. Sales and use tax revenue (February sales) was over budget for the month by \$0.8 million and for the fiscal year to date by \$1.1 million.

## 2. Highway Fund Revenue Update

**Total Highway Fund Revenue - FY 2019 (\$'s in Millions)**

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
March	\$25.2	\$25.4	\$0.2	0.8%	\$24.4	3.8%
FYTD	\$256.3	\$260.2	\$4.0	1.5%	\$250.6	3.8%

Highway Fund revenue was over budget by \$0.2 million (0.8%) for the month of March and by \$4.0 million (1.5%) for the fiscal year to date. Fuel taxes were under budget by \$0.9 million for the month and under budget by \$1.1 million for the fiscal year to date. Motor vehicle registrations and fees were over budget for the month by \$1.3 million and over budget for the fiscal year to date by \$5.4 million.

## 3. Cash Balances Update

The average balance in the cash pool for March was \$1,337.1 million, a decrease from February's average of \$1,464.8 million but above both last March's average balance and the ten-year average for the month. Historically, March is a low point in the fiscal year for cash balances that are then usually replenished in April and May. General Fund internal borrowing from other funds was not needed in January (has not been needed since April of 2016). The average Highway Fund balance of \$35.2 million in March was up from February's average of \$32.2 million and above last March's average balance.

## 4. Economic/Revenue Forecast

The Consensus Economic Forecasting Commission (CEFC) convened on March 29, 2019, to review and update its forecast through 2023. The CEFC made only modest changes to the economic forecast. The Revenue Forecasting Committee (RFC) is scheduled to meet on May 1, 2019 to review and update as necessary the existing revenue forecast. The modest changes reflected in the new CEFC forecast are expected to have only a modest effect on the revenue forecast. The RFC will also consider the impact of April performance of individual and corporate income taxes at its May 1<sup>st</sup> meeting.

## REPORTS FROM COUNCIL COMMITTEES

### Personnel Committee

President Jackson reported that the Personnel Committee met on Wednesday, April 17<sup>th</sup> to consider the following matters:

#### 1. Workday Maine Update

Ms. Little provided the committee with an update regarding the Workday Maine HR System project. Mr. Phillip Platt, Director of Shared Services for DAFS, was available to answer the committee's questions. The committee is recommending to the Legislative Council that the Legislative Branch fully utilize the Workday Maine HR System.

**Motion:** That upon the unanimous recommendation of the Personnel Committee, the Legislative Council authorizes the executive director to explore the functionality of the Workday Maine human resource management system and implement this system for nonpartisan staff if he deems it appropriate to meet the recruiting, onboarding, timekeeping, accrual and leave time request needs for nonpartisan staff; and further, authorizes the Executive Director to implement the Workday Maine human resource management system if deemed appropriate by the Clerk and Secretary to meet the recruiting, onboarding, timekeeping, accrual and leave time request needs with respect to House and Senate employees respectively and sufficiently addresses access and security concerns; and further, directs the Executive Director to provide regular updates on this project at future Personnel Committee meetings. Motion by President Jackson. Second by Senator Libby. **Motion passed unanimously (7-0-0-3**, with Representatives Moonen, Fecteau and Dillingham absent).

2. Electronic Communication Guidelines for Legislators and Legislative Staff.

Mr. Rende, Director of LIT, provided information to the committee regarding electronic communications. The committee provided guidance. This item will be discussed later during New Business.

3. Harassment Prevention Update

Ms. Little reviewed the latest draft harassment policy. The committee provided Ms. Little with final guidance for policy edits. It is anticipated that the committee will be prepared to recommend a revised policy at its next meeting.

4. Onsite Child Care

The committee identified some next steps for Ms. Little to take regarding this matter. This matter will be discussed at a future meeting.

5. Collective Bargaining

Mr. Pennoyer and Ms. Little provided the committee with background information related to collective bargaining. This item will be discussed at a future meeting.

### **State House Facilities Committee**

Senator Libby reported that the State House Facilities Committee met on Wednesday, April 24<sup>th</sup> to consider the following items.

1. Press Access through the Connector

At the committee meeting, Mr. Pennoyer provided an overview of a new solution that has been developed to quickly provide access to the State House for the Press through the Connector when warranted. During the Legislative Council meeting, Senator Libby

presented a proposed amendment to the Security Screening Policy which allows the media access to the State House through the connector if certain requirements are met.

**Motion:** That the Legislative Council approves an amendment to the *Legislative Council Policy on Security Screening Protocols for the Maine State House* as presented which creates a new section VI.F. Motion by Senator Libby. Second by Senator Vitelli. **Motion passed unanimously (8-0-0-2, with Representatives Moonen and Fecteau absent).**

2. Amendment to Security Screening Policy for MEMA Director Access

Mr. Pennoyer presented to the committee a proposed amendment to the Security Screening Policy to add the MEMA Director to the list of employees that have after-hours access to the State House to be able to meet with the Governor.

**Motion:** That the Legislative Council approves an amendment to the *Legislative Council Policy on Security Screening Protocols for the Maine State House* as presented which revises section VI.E. Motion by Senator Libby. Second by Representative Dillingham. **Motion passed unanimously (8-0-0-2, with Representatives Moonen and Fecteau absent).**

3. Security in the Cross Office Building

The committee discussed the idea of providing security screening in the Cross Office Building with Mr. Pennoyer and Chief Gauvin of Capitol Police. The committee is recommending that the Legislative Council direct Chief Gauvin and the Executive Director to develop some options for adding security screening at the Cross Office Building and present those to the State House Facilities Committee at a future meeting.

**Motion:** That the Legislative Council directs the Executive Director to coordinate with Chief Gauvin, Bureau of Capitol Police, to develop some options for adding security screening in the Cross Office Building and to present those options to the State House Facilities Committee. Motion by Senator Libby. Second by Representative Dillingham. **Motion passed unanimously (8-0-0-2, with Representatives Moonen and Fecteau absent).**

4. Multi-year Plan for Maintenance and Improvements

The committee reviewed the multi-year plan for maintenance and improvement projects for the State House and grounds. The committee recommended that the Legislative Council approve the plan as presented. This matter will be discussed later under new business in today's agenda.

President Jackson asked if there was any objection to taking items out of order. There was no objection. The Chair then moved to **New Business, Item #5.**

**NEW BUSINESS**

**Item #5: Adoption of the Maine State House and Grounds Multi-Year Plan for Maintenance and Improvements**

Senator Libby gave a brief overview of the Multi-Year Plan and then presented the following motion.

**Motion:** That upon the unanimous recommendation of the State House Facilities Committee the Legislative Council approves the maintenance and improvement projects as presented in the 2019 update of the Maine State House and Grounds Multi-Year Plan for Maintenance and Improvements. Motion by Senator Libby. Second by Representative Dillingham. **Motion passed (6-2-0-2**, with Senator Timberlake and Representative Stewart opposed and Representatives Moonen and Fecteau absent).

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

## REPORTS FROM COUNCIL COMMITTEES

### Legislative Budget Subcommittee

Speaker Gideon reported the Budget Subcommittee met on Wednesday, April 24<sup>th</sup> to review the Legislature's Budget. Dawna Lopatosky, Legislative Finance Director, reviewed the budget materials she had prepared for the committee. In addition to the provisional budget recommendations submitted last summer to the Bureau of the Budget and included in the Governor's proposed Biennial Budget, the subcommittee also considered several new initiatives. A motion was made and withdrawn regarding a proposed Legislative budget with the determination that changes may need to be made. It was recommended that these changes be reviewed before submitting a new motion for a Legislative budget.

## OLD BUSINESS

### Item #1: Council Actions Taken by Ballot

#### Requests for Introduction of Legislation:

**LR 2489      An Act Directing That the Towns Comprising Hospital Administrative District No. 4 Hold a Vote on the Proposed Merger with Northern Light**

Submitted by: Senator Paul Davis  
Date: April 9, 2019  
Vote: 10-0-0-0 Passed

**LR 2490      An Act To Amend the Charter of the Mayo Regional Hospital To Give It Authority To Merge with Northern Light Hospital**

Submitted by: Representative Norman Higgins  
Date: April 9, 2019  
Vote: 10-0-0-0 Passed

**LR 2491      An Act Regarding On-premise Liquor Licenses**

Submitted by: Senator Louis Luchini  
Date: April 16, 2019  
Vote: 10-0-0-0 Passed



**LR 2475      An Act To Provide for Gubernatorial Appointments to the Maine Charter School Commission**

Submitted by: Senator Justin Chenette  
 Date: April 16, 2019  
 Vote: 7-3-0-0 Passed (with Sen. Timberlake and Reps. Dillingham and Stewart opposed)

**LR 2496      An Act To Return Funds to Maine Property Taxpayers**

Submitted by: Speaker Sara Gideon  
 Date: April 18, 2019  
 Vote: 9-1-0-0 Passed (with Sen. Timberlake opposed)

**LR 2487      An Act To Prohibit Prescription Drug Advertising in Maine**

Submitted by: Senator Benjamin Chipman  
 Date: April 18, 2019  
 Vote: 7-3-0-0 Passed (with Sens. Dow and Timberlake and Rep. Dillingham opposed)

**LR 2502      An Act To Clarify the Definition of Consumer-owned Transmission and Distribution Utility**

Submitted by: Representative Nicole Grohoski  
 Date: April 24, 2019  
 Vote: 6-4-0-0 Passed (with Sens. Dow and Timberlake and Reps. Dillingham and Stewart opposed)

**NEW BUSINESS**

**Item #1: Consideration of After Deadline Requests**

The Legislative Council proceeded to consider and vote on fourteen (14) after deadline bill requests and four (4) Joint Resolutions. The Legislative Council authorized 4 (4) bills for introduction in the Second Regular Session, six (6) bills were tabled, and four (4) bills remained tabled from a previous meeting. The Legislative Council tabled one (1) Joint Resolution and three (3) Joint Resolutions remained tabled from a previous meeting. The Legislative Council's action on the bill requests is attached.

**Item #2: Archived Committee Audio Files**

Mr. Pennoyer reviewed the status of archived committee audio files and presented the question of allowing the archived files to be put on the website for anyone to access for the Legislative Council to consider. After discussion, the following motion was made.

**Motion:** That the Legislative Council approves making the archived and all future committee audio files available to the public on the Legislative website. Motion by Speaker Gideon. Second by Representative Stewart. **Motion passed unanimously (7-0-0-3**, with Senator Libby and Representatives Moonen and Fecteau absent).

**Item #3: Adoption of the *Legislative Council Policy on Electronic Communications***

The Legislative Council discussed this issue and it was recommended to send this policy back to the Personnel Committee for changes.

**Motion:** That the Legislative Council recommends that the Personnel Committee review this policy for changes and bring it back to the Legislative Council at a future time. Motion by Representative Dillingham. Second by Senator Timberlake. **Motion passed unanimously (6-0-0-4**, with Senators Libby and Vitelli and Representatives Moonen and Fecteau absent).

**Item #4: Request regarding the ASLCS Professional Development Conference**

Mr. Hunt, Clerk of the House, presented a request on behalf of Mr. Grant, Secretary of the Senate, and himself for Maine to host the 2020 ASLCS Conference in Portland with a trip to Augusta planned during the conference. Mr. Hunt gave an overview about the American Society of Legislative Clerks and Secretaries, which typically includes guests from other countries.

**Motion:** That the Legislative Council approves the request for Maine to host the ASLCS Conference in 2020. Motion by Representative Dillingham. Second by Speaker Gideon. **Motion passed unanimously (6-0-0-2**, with Senators Libby and Vitelli and Representatives Moonen and Fecteau absent).

**Item #6: Funding for the Commission on Uniform State Laws**

Commission member Ann Robinson gave a presentation about the commission. A discussion was held with several questions posed, including regarding the funding of this commission over time. A request was made to Ms. Robinson to provide more information. This matter will be discussed at a future meeting.

**ANNOUNCEMENTS AND REMARKS**

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 3:28 p.m.

**129th Maine State Legislature  
Legislative Council Actions Taken on  
Requests to Introduce Legislation  
First Regular Session  
April 25, 2019**

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR: Submitted by State Agencies**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2498	An Act Regarding the Timeliness of Payments to the State	PASSED
2508	An Act To Amend the Laws Governing Investigations by School Entities into Holders of Credentials	PASSED
2511	An Act To Amend Licensure for Professional Engineers	PASSED

**SPONSOR: Sen. Erin Herbig**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2505	An Act To Exempt Purchases by Pet Food Pantries from Sales Tax	TABLED

**SPONSOR: Rep. Colleen M. Madigan**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2499	Resolve, To Increase Funding for Evidence-based Therapies for Treating Emotional and Behavioral Problems in Children	TABLED

**SPONSOR: Sen. Rebecca Millett**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2494	An Act To Ensure Public Notification of Air Quality Assessments and Violations	TABLED
2495	An Act To Ensure Accuracy and Reliability of Environmental Testing	TABLED

**SPONSOR: Rep. Trey Stewart**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2512	An Act To Provide a Sales Tax Exemption for Certain Community Nonprofit Agencies	TABLED

**SPONSOR: Rep. Mike A. Sylvester**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2482	An Act To Provide a Workers' Compensation Tax Credit for Certain Businesses	TABLED

#### LATE-FILED MAJOR SUBSTANTIVE RULES

**SPONSOR:**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2510	Resolve, Regarding Legislative Review of Portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 28: Allowances for Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations, a Late-filed Major Substantive Rule of the Department of Health and Human Services	PASSED

#### JOINT RESOLUTIONS

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2445	JOINT RESOLUTION MEMORIALIZING THE FEDERAL ENERGY REGULATORY COMMISSION TO REQUIRE THAT THE NEW ENGLAND POWER POOL MAKE ITS MEETINGS OPEN TO THE PUBLIC AND THE MEDIA	TABLED

#### TABLED BY THE LEGISLATIVE COUNCIL

#### AFTER DEADLINE BILL REQUESTS

**SPONSOR: Pres. Troy Dale Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2267	An Act To Establish Clear Standards for Outcome-based Forestry	Tabled 01/24/19
2422	An Act To Open Maine's Primaries To Cast Ballots in Primary Elections Starting in 2020	Tabled 02/28/19

**SPONSOR: Rep. Peter Lyford**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2397	An Act To Allow Certain Licensees To Be Classified as Purveyors of Alcoholic Beverages and To Be Eligible To Conduct Additional Retail Taste-testing Events	Tabled 02/28/19

**SPONSOR: Sen. Jeff Timberlake**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2415	An Act To Eliminate the Fee for Gold Star Family Vanity Registration Plates	Tabled 02/28/19

#### JOINT RESOLUTIONS

**SPONSOR: Sen. Shenna Bellows**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
223	JOINT RESOLUTION MEMORIALIZING MAINE'S CONGRESSIONAL DELEGATION TO SUPPORT THE SOCIAL SECURITY FAIRNESS ACT OR OTHER LEGISLATION TO REPEAL BOTH THE WINDFALL ELIMINATION PROVISION AND THE GOVERNMENTAL PENSION OFFSET PROVISIONS OF THE FEDERAL SOCIAL SECURITY ACT	Tabled 01/24/19

**SPONSOR: Rep. Donna R. Doore**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
452	JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO SUPPORT ELIMINATING THE WINDFALL ELIMINATION PROVISION FROM THE FEDERAL SOCIAL SECURITY ACT	Tabled 01/24/19

**SPONSOR: Pres. Troy Dale Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1141	JOINT RESOLUTION MEMORIALIZING THE UNITED STATES INTERNAL REVENUE SERVICE TO GRANT EVERY POSSIBLE CONSIDERATION TO THE OFFER IN COMPROMISE SUBMITTED BY OUR KATAHDIN	Tabled 01/24/19

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## Executive Director's Report May 23, 2019

### 1. Remote Public Testimony Application

The application to allow for the submission of testimony online has been working well for the last month. The Office of Legislative Information Technology (LIT) and the Legislative Information Office (LIO) worked cooperatively to quickly address identified issues with the application. I would like to thank those offices for their efforts to make the implementation of this application successful. As I mentioned last month, we will be evaluating the shift from emailed testimony to testimony submitted using this new application and reporting back to you after the session with options for the future.

### 2. Archived Committee Audio

Pursuant to the Legislative Council's motion at its last meeting, LIT has made the archived versions of the committee audio files available on the Legislature's website. I have not made a broad announcement of its availability as I was waiting for LIT to address some minor issues in the way the files are accessed. When LIT completes the corrections and makes it available, I will be sending out an announcement of its availability both internally and to the interested parties lists.

### 3. Fiscal Year 2019-20 Insurance Premium Increases

The Department of Administrative and Financial Services recently released the proposed rate changes for fiscal year 2019-20 for both Health Insurance and Dental Insurance that will take effect July 1<sup>st</sup>. Health Insurance premiums will increase by 3.8% and dental insurance premiums will increase by 9%. I would note that this is the first increase in dental insurance premiums since 2013. Coverage changes are available on the website of the Office of Employee Health and Benefits within the Bureau of Human Resources.

# Fiscal Briefing

May 23, 2019

*Prepared by the Office of Fiscal & Program Review*

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

**Total General Fund Revenue - FY 2019 (\$'s in Millions)**

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
April	\$447.0	\$520.2	\$73.2	16.4%	\$432.0	20.4%
FYTD	\$3,085.8	\$3,179.4	\$93.5	3.0%	\$2,934.4	8.3%

General Fund revenue was over budget by \$73.2 million (16.4%) for the month of April and by \$93.5 million (3.0%) for the fiscal year to date. These positive variances **do not reflect the May 2019 revenue forecast**, which increased budgeted revenue by \$66.7 million for FY 2019. Individual income tax revenue was over budget by \$53.0 million for the month and by \$35.3 million for the fiscal year to date; \$25 million of this positive year-to-date variance is reflected in the May 2019 revenue forecast. The positive variance in individual income tax revenue in April was largely the result of a positive variance in year-end filing receipts of \$54.3 million. Corporate income tax revenue was over budget by \$13.2 million for the month and by \$35.2 million for the fiscal year to date; \$35 million of this positive year-to-date variance is reflected in the May 2019 revenue forecast. Sales and use tax revenue (March sales) was under budget for the month by \$0.6 million and on budget for the fiscal year to date; the May 2019 forecast made no changes in these lines.

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

**Total Highway Fund Revenue - FY 2019 (\$'s in Millions)**

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
April	\$27.7	\$28.9	\$1.2	4.3%	\$27.7	4.4%
FYTD	\$284.0	\$289.2	\$5.2	1.8%	\$278.4	3.9%

Highway Fund revenue was over budget by \$1.2 million (4.3%) for the month of April and by \$5.2 million (1.8%) for the fiscal year to date. These variances **do not reflect the May 2019 revenue forecast**, which increased budgeted revenue by \$4.8 million for FY 2019. Fuel taxes were over budget by \$0.2 million for the month but under budget by \$0.8 million for the fiscal year to date. Motor vehicle registrations and fees were over budget for the month by \$0.8 million and over budget for the fiscal year to date by \$6.1 million; \$4.5 million of this positive year-to-date variance is reflected in the May 2019 revenue forecast.

## 3. Cash Balances Update

The average balance in the cash pool for April was \$1,415.6 million, an increase from March's average of \$1,337.1 million and above both last April's average balance and the ten-year average for the month. Historically, March is a low point in the fiscal year for cash balances that are then usually replenished in April and May. The average Highway Fund balance of \$65.0 million in April was up significantly from March's average of \$35.2 million and above last April's average balance. This positive variance was largely the result of receiving a distribution of bond funds in April.

**General Fund Revenue  
Fiscal Year Ending June 30, 2019 (FY 2019)**

**April 2019 Revenue Variance Report**

Revenue Category	April '19			Fiscal Year-To-Date			FY 2019 Budgeted Totals
	Budget	Actual	Variance	Budget	Actual	Variance	
Sales and Use Tax	113,846,274	113,198,313	(647,961)	1,258,062,288	1,258,546,063	483,775	6.1%
Service Provider Tax	4,645,093	4,865,608	220,515	48,958,706	49,856,387	897,681	0.3%
Individual Income Tax	249,386,000	302,415,676	53,029,676	1,384,405,204	1,419,688,128	35,282,924	7.0%
Corporate Income Tax	40,290,000	53,454,470	13,164,470	169,678,265	204,919,985	35,241,720	39.3%
Cigarette and Tobacco Tax	10,008,639	10,888,067	879,428	110,018,513	105,810,585	(4,207,928)	0.0%
Insurance Companies Tax	13,175,144	12,313,598	(861,546)	40,747,812	41,536,488	788,676	2.6%
Estate Tax	1,555,869	7,440,325	5,884,456	7,456,270	13,356,579	5,900,309	16.8%
Other Taxes and Fees *	8,302,829	9,734,051	1,431,222	115,811,819	122,222,137	6,410,318	5.5%
Fines, Forfeits and Penalties	1,606,148	1,344,837	(261,311)	14,045,850	13,015,427	(1,030,423)	-14.9%
Income from Investments	573,242	964,514	391,272	6,931,242	8,446,573	1,515,331	90.9%
Transfer from Lottery Commission	4,227,909	4,351,875	123,966	48,293,540	53,245,028	4,951,488	1.5%
Transfers to Tax Relief Programs *	(859,266)	(915,722)	(56,456)	(68,368,623)	(62,091,289)	6,277,334	2.8%
Transfers for Municipal Revenue Sharing	(2,510,749)	(3,365,856)	(855,107)	(55,492,378)	(55,697,372)	(204,994)	-0.4%
Other Revenue *	2,798,197	3,550,310	752,113	5,273,155	6,504,304	1,231,149	243.1%
<b>Totals</b>	<b>447,045,329</b>	<b>520,240,066</b>	<b>73,194,737</b>	<b>3,085,821,663</b>	<b>3,179,359,022</b>	<b>93,537,359</b>	<b>8.3%</b>

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



**General Fund Revenue  
Fiscal Year Ending June 30, 2019 (FY 2019)**

**April 2019 Revenue Variance Report**

Revenue Category	April '19			Fiscal Year-To-Date			% Change from Prior Year	FY 2019 Budgeted Totals
	Budget	April '19 Actual	April '19 Variance	Budget	Actual	Variance		
<b>Detail of Other Taxes and Fees:</b>								
- Property Tax - Unorganized Territory	0	0	0	12,431,431	12,769,543	338,112	2.7%	14,694,831
- Real Estate Transfer Tax	1,048,407	1,265,784	217,377	15,215,980	16,050,431	834,451	5.5%	17,767,433
- Liquor Taxes and Fees	1,439,076	1,804,389	365,313	19,364,862	18,942,185	(422,677)	-2.2%	22,220,860
- Corporation Fees and Licenses	874,167	1,201,180	327,013	5,103,088	5,945,986	842,898	16.5%	9,838,649
- Telecommunication Excise Tax	(108,146)	0	108,146	6,033,648	6,157,147	123,499	2.0%	6,000,000
- Finance Industry Fees	2,279,324	2,386,250	106,926	23,333,240	24,188,050	854,810	3.7%	27,891,990
- Milk Handling Fee	312,500	293,734	(18,766)	3,588,314	4,318,977	730,663	20.4%	4,580,022
- Racino Revenue	626,263	714,719	88,456	6,915,333	6,991,827	76,494	1.1%	8,167,875
- Boat, ATV and Snowmobile Fees	347,859	287,200	(60,659)	2,959,525	2,764,925	(194,600)	-6.6%	4,523,561
- Hunting and Fishing License Fees	817,905	445,559	(372,346)	12,739,561	12,536,040	(203,521)	-1.6%	15,999,151
- Other Miscellaneous Taxes and Fees	665,474	1,335,236	669,762	8,126,837	11,557,026	3,430,189	42.2%	11,574,754
<b>Subtotal - Other Taxes and Fees</b>	<b>8,302,829</b>	<b>9,734,051</b>	<b>1,431,222</b>	<b>115,811,819</b>	<b>122,222,137</b>	<b>6,410,318</b>	<b>5.5%</b>	<b>143,259,126</b>
<b>Detail of Other Revenue:</b>								
- Liquor Sales and Operations	2,565	8,600	6,035	23,940,000	42,650	18,710	78.2%	28,500
- Targeted Case Management (DHHS)	83,564	13,511	(70,053)	1,032,872	214,113	(818,759)	-79.3%	1,200,000
- State Cost Allocation Program	1,073,861	1,560,616	486,755	13,532,214	15,024,379	1,492,165	11.0%	17,196,039
- Unclaimed Property Transfer	0	0	0	0	0	0	N/A	6,200,000
- Tourism Transfer	0	0	0	(18,109,058)	(17,171,837)	937,221	5.2%	(18,109,058)
- Transfer to Maine Milk Pool	(606,589)	(819,396)	(212,807)	(12,074,195)	(14,028,712)	(1,954,517)	-16.2%	(13,220,037)
- Transfer to STAR Transportation Fund	0	0	0	0	0	0	N/A	0
- Other Miscellaneous Revenue	2,244,796	2,786,979	542,183	20,867,382	22,423,711	1,556,329	7.5%	26,018,966
<b>Subtotal - Other Revenue</b>	<b>2,798,197</b>	<b>3,550,310</b>	<b>752,113</b>	<b>5,273,155</b>	<b>6,504,304</b>	<b>1,231,149</b>	<b>23.3%</b>	<b>19,314,430</b>
<b>Detail of Transfers to Tax Relief Programs:</b>								
- Me. Resident Prop. Tax Program (Circuitbreaker)	0	182	182	0	10,768	10,768	N/A	0
- BETR - Business Equipment Tax Reimb.	(509,266)	(928,828)	(419,562)	(27,600,000)	(18,929,808)	8,670,192	31.4%	(27,600,000)
- BETE - Municipal Bus. Equip. Tax Reimb.	(350,000)	12,925	362,925	(40,768,623)	(43,172,249)	(2,403,626)	-5.9%	(40,768,623)
<b>Subtotal - Tax Relief Transfers</b>	<b>(859,266)</b>	<b>(915,722)</b>	<b>(56,456)</b>	<b>(68,368,623)</b>	<b>(62,091,289)</b>	<b>6,277,334</b>	<b>9.2%</b>	<b>(68,368,623)</b>
<b>Inland Fisheries and Wildlife Revenue - Total</b>	<b>1,260,392</b>	<b>867,693</b>	<b>(392,699)</b>	<b>16,480,823</b>	<b>16,017,597</b>	<b>(463,226)</b>	<b>-2.8%</b>	<b>21,482,520</b>

## Highway Fund Revenue Fiscal Year Ending June 30, 2019 (FY 2019)

### April 2019 Revenue Variance Report

Revenue Category	April '19		Fiscal Year-To-Date			FY 2019 Budgeted Totals			
	Budget	Actual	April '19 Actual	April '19 Variance	Budget		Actual	Variance	% Variance
<b>Fuel Taxes:</b>									
- Gasoline Tax	16,318,026	16,277,025	(41,001)	174,858,836	172,344,088	(2,514,748)	-1.4%	0.2%	
- Special Fuel and Road Use Taxes	3,476,437	3,773,818	297,381	40,784,679	42,321,099	1,536,420	3.8%	15.0%	
- Transcap Transfers - Fuel Taxes	(1,450,953)	(1,473,285)	(22,332)	(15,846,260)	(15,776,653)	69,607	0.4%	-2.4%	
- Other Fund Gasoline Tax Distributions	(408,062)	(407,040)	1,022	(4,372,697)	(4,309,809)	62,888	1.4%	-0.1%	
Subtotal - Fuel Taxes	17,935,448	18,170,518	235,070	195,424,558	194,578,724	(845,834)	-0.4%	2.9%	
<b>Motor Vehicle Registration and Fees:</b>									
- Motor Vehicle Registration Fees	5,880,066	5,789,819	(90,247)	52,750,783	54,276,075	1,525,292	2.9%	1.1%	
- License Plate Fees	200,618	207,086	6,468	2,820,030	2,994,642	174,612	6.2%	3.3%	
- Long-term Trailer Registration Fees	588,515	1,131,739	543,224	9,842,504	13,476,911	3,634,407	36.9%	21.3%	
- Title Fees	1,199,258	1,436,901	237,643	10,992,518	12,289,742	1,297,224	11.8%	4.9%	
- Motor Vehicle Operator License Fees	755,705	803,448	47,743	7,812,703	7,886,990	74,287	1.0%	12.7%	
- Transcap Transfers - Motor Vehicle Fees	0	0	0	(10,993,592)	(11,587,467)	(593,875)	-5.4%	-1.5%	
Subtotal - Motor Vehicle Reg. & Fees	8,624,162	9,368,993	744,831	73,224,946	79,336,893	6,111,947	8.3%	5.8%	
<b>Motor Vehicle Inspection Fees</b>									
Other Highway Fund Taxes and Fees	200,209	260,900	60,691	2,802,084	2,703,099	(98,986)	-3.5%	2.1%	
Fines, Forfeits and Penalties	111,903	145,027	33,124	1,034,607	1,180,892	146,285	14.1%	5.1%	
Interest Earnings	57,521	62,290	4,769	616,510	501,779	(114,731)	-18.6%	-18.6%	
Other Highway Fund Revenue	9,057	68,830	59,773	288,600	529,210	240,610	83.4%	153.4%	
Totals	27,735,636	28,938,221	1,202,585	284,024,519	289,184,168	5,159,649	1.8%	3.9%	

**Legislative Council Actions  
Taken by Ballot Since the  
April 25, 2019 Council Meeting**

**Requests for Introduction of Legislation:**

**LR 2494      An Act To Ensure Public Notification of Air Quality Assessments and Violations**

Submitted by: Senator Rebecca Millett  
Date: May 1, 2019  
Vote: 6-4-0-0 Passed (with Sens. Dow and Timberlake and Reps. Dillingham and Stewart opposed)

**LR 2505      An Act To Exempt Purchases by Pet Food Pantries from Sales Tax**

Submitted by: Senator Erin Herbig  
Date: May 1, 2019  
Vote: 8-2-0-0 Passed (with Sens. Dow and Timberlake opposed)

**LR 2495      An Act To Ensure Accuracy and Reliability of Environmental Testing**

Submitted by: Senator Rebecca Millett  
Date: May 2, 2019  
Vote: 6-4-0-0 Passed (with Sens. Dow and Timberlake and Reps. Dillingham and Stewart opposed)

**LR 2529      An Act To Authorize the Transfer of a Plot of Land from the State to the Town of Allagash**

Submitted by: President Troy Jackson  
Date: May 14, 2019  
Vote: 7-3-0-0 Passed (with Sen. Timberlake and Reps. Dillingham and Stewart opposed)

**129th Maine State Legislature  
Legislative Council  
Requests to Introduce Legislation  
First Regular Session  
As of May 17, 2019**

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR: Rep. Patrick Corey**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2518	An Act To Fund Community Domestic Violence Prevention Programs through Municipal, County and State Firearm Take Back Programs	

**SPONSOR: Sen. Paul Davis**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2532	An Act Regarding the Baiting of Deer	
2538	Resolve, To Name the Schoodic Boat Launch in Lake View Plantation the Mayo Boat Landing and Public Access Point	

**SPONSOR: Sen. Jim Dill**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2515	Resolve, To Designate a Bridge in Indian Purchase Township the Detective Benjamin Campbell Bridge	

**SPONSOR: Rep. David Haggan**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2528	Resolve, To Name the Rest Stop on Interstate 95 in Hampden after State Trooper Ben Campbell	

**SPONSOR: Rep. Jeffery Hanley**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2519	An Act To Require the Negotiation of a Per-megawatt Fee for the Energy Transmitted over the Central Maine Power Company Hydro-Quebec Transmission Line	<b>In Ballot Process</b>

**SPONSOR: Sen. Lisa Keim**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2536	An Act To Enhance Personal and Public Safety	<b>In Ballot Process</b>

**SPONSOR: Sen. Dave Miramant**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2533	An Act To Amend the Definition of Emergency Vehicles To Permit Engine Operation on Maine State Ferry Service Vessels	

**SPONSOR: Sen. Matthew Pouliot**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2539	An Act To Provide Funds To Continue the Statewide Online Advanced Placement Course Program Provided by the Department of Education in Partnership with the University of Maine at Fort Kent	

**SPONSOR: Sen. Kimberley Rosen**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2534	An Act To Amend the Charter of the Lucerne-in-Maine Village Corporation	

**TABLED BY THE LEGISLATIVE COUNCIL**

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR: Pres. Troy Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2267	An Act To Establish Clear Standards for Outcome-based Forestry	Tabled 01/24/19

2422	An Act To Open Maine's Primaries To Cast Ballots in Primary Elections Starting in 2020	Tabled 02/28/19
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**SPONSOR: Rep. Peter Lyford**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2397	An Act To Allow Certain Licensees To Be Classified as Purveyors of Alcoholic Beverages and To Be Eligible To Conduct Additional Retail Taste-testing Events	Tabled 02/28/19

**SPONSOR: Rep. Colleen Madigan**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2499	Resolve, To Increase Funding for Evidence-based Therapies for Treating Emotional and Behavioral Problems in Children	Tabled 04/25/19

**SPONSOR: Rep. Trey Stewart**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2512	An Act To Provide a Sales Tax Exemption for Certain Community Nonprofit Agencies	Tabled 04/25/19 <b>In Ballot Process</b>

**SPONSOR: Rep. Mike Sylvester**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2482	An Act To Provide a Workers' Compensation Tax Credit for Certain Businesses	Tabled 04/25/19

**SPONSOR: Sen. Jeff Timberlake**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2415	An Act To Eliminate the Fee for Gold Star Family Vanity Registration Plates	Tabled 02/28/19

**JOINT RESOLUTIONS**

**SPONSOR: Sen. Shenna Bellows**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
223	JOINT RESOLUTION MEMORIALIZING MAINE'S CONGRESSIONAL DELEGATION TO SUPPORT THE SOCIAL SECURITY FAIRNESS ACT OR OTHER LEGISLATION TO REPEAL BOTH THE WINDFALL ELIMINATION PROVISION AND THE GOVERNMENTAL PENSION OFFSET PROVISIONS OF THE FEDERAL SOCIAL SECURITY ACT	Tabled 01/24/19

**SPONSOR: Rep. Seth Berry**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2445	JOINT RESOLUTION MEMORIALIZING THE FEDERAL ENERGY REGULATORY COMMISSION TO REQUIRE THAT THE NEW ENGLAND POWER POOL MAKE ITS MEETINGS OPEN TO THE PUBLIC AND THE MEDIA	Tabled 04/25/19

**SPONSOR: Rep. Donna Doore**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
452	JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO SUPPORT ELIMINATING THE WINDFALL ELIMINATION PROVISION FROM THE FEDERAL SOCIAL SECURITY ACT	Tabled 01/24/19

**SPONSOR: Pres. Troy Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1141	JOINT RESOLUTION MEMORIALIZING THE UNITED STATES INTERNAL REVENUE SERVICE TO GRANT EVERY POSSIBLE CONSIDERATION TO THE OFFER IN COMPROMISE SUBMITTED BY OUR KATAHDIN	Tabled 01/24/19



SUZANNE M. GRESSER  
REVISOR

MAINE STATE LEGISLATURE  
OFFICE OF THE REVISOR OF STATUTES  
STATE HOUSE STATION 7  
AUGUSTA, MAINE 04333-0007  
(207) 287-1650  
FAX: (207) 287-6468

**To:** Members of the Legislative Council of the 129<sup>th</sup> Legislature  
**From:** Suzanne M. Gresser, Revisor of Statutes *SMG*  
**RE:** Proposed Second Session Cloture Schedule and Related Dates  
**Date:** May 23, 2019

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Attached for your review and consideration is a proposed schedule that establishes dates and deadlines for cloture and related events for the Second Regular Session of the 129<sup>th</sup> Legislature. Pursuant to Joint Rule 203, the Legislative Council is charged with establishing the cloture date and procedures for submission of legislation for each second regular session.

Consistent with the Joint Rules and past Legislative Council practice and policy, the schedule requires that:

- Bill requests be accompanied on or before the cloture date by sufficient instructions from which a bill may be fully drafted;
- If a bill is to be drafted by an outside source, the final draft must be submitted to the Revisor's Office by the cloture date; and
- Departments and agencies must submit final drafts by the cloture date.

During the time between cloture and the meeting of the Legislative Council to undertake the initial screening of Legislators' bill requests, the Revisor's Office will prepare and distribute a packet that lists all of the requests filed by Legislators that are subject to the Council's vote. Each request to be voted upon will be indexed by subject matter and given a brief summary by the Revisor's Office. The office, with the assistance of the Office of Policy and Legal Analysis and the Office of Fiscal and Program Review, will also identify requests that appear to be closely related to other requests, to bills carried over to the second regular session, or to bills that might be considered finally rejected in the first regular session. The packet also includes a listing of those bills carried over and a listing of bill titles submitted by executive and independent agencies, which, traditionally, have not been subject to the screening process.

After the initial screening of Legislators' requests and decision by the Legislative Council, the Revisor's Office will compile the results and notify each individual Legislator of the Council's actions and provide instructions on the procedure to follow if a Legislator wishes to appeal a decision of the Legislative Council.

A supplemental volume will be prepared and distributed between the appeal deadline and the meeting of the Council to hear those appeals.

The schedule also includes the option of a bill signing day, which is traditionally scheduled in mid-December prior to the convening of the Second Regular Session to ensure that all bills that have been drafted will be signed and ready for introduction when the Legislature convenes in January. I have suggested two alternative days in order to enable the coordination of this year's bill signing day with any Legislator training sessions that may be scheduled.

In the 128<sup>th</sup> Legislature, out of 289 pre-cloture Legislator-filed bill requests, the Legislative Council accepted a total of 96. In the 127<sup>th</sup> Legislature, out of 414 pre-cloture Legislator-filed bill requests, the Legislative Council accepted a total of 91. For both of those years, most of the bills were completed and signed on the applicable bill signing day and transmitted to the Secretary of the Senate and the Clerk of the House for printing and referral to committees before the Second Regular Session convened. Departments and agencies were also subject to the bill signing day, and most of their pre-cloture bill requests were also completed and sent to the chambers before the session convened.

If I can provide you any further information, please do not hesitate to contact me.

Attachment

cc: Grant Pennoyer, Executive Director



129<sup>TH</sup> LEGISLATIVE COUNCIL  
 SECOND REGULAR SESSION  
 SCHEDULE FOR REVIEW OF LEGISLATOR REQUESTS  
 TO INTRODUCE LEGISLATION

**September 27<sup>th</sup> (Friday)**  
 4 p.m.

**Filing Deadline (Cloture) \***

- Legislators (with sufficient information to fully draft; **OR** if outside entity is providing draft, with the final draft)
- Department/Agencies (final drafts)

**October 24<sup>th</sup> (Thursday)**  
 10 a.m.

**Legislative Council meeting –  
 Consideration of Legislators’  
 requests**

**October 25<sup>th</sup> (Friday)**

**Notification of Council’s action mailed to  
 sponsors**

**October 30<sup>th</sup> (Wednesday)**

**Deadline for filing appeals**

**November 21<sup>st</sup> (Thursday)**  
 10 a.m.

**Legislative Council meeting to  
 consider appeals**

**December 17<sup>th</sup> or 18<sup>th</sup> (*tentative*)**

**Bill Signing Day** (subject to  
 approval by Presiding Officers)

**January 8<sup>th</sup> (Wednesday)**

**Legislature convenes**

\* Legislators are encouraged to file bill requests well in advance of this deadline.

Sun	Mon	Tue	Wed	Thu	Fri	Sat
<b>September 2019</b>						
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					
<b>October 2019</b>						
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		
<b>November 2019</b>						
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
<b>December 2019</b>						
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

SEN. TROY D. JACKSON  
CHAIR

REP. SARA GIDEON  
VICE-CHAIR

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER



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

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

## Legislative Council Policy on Harassment

### Harassment prevention and awareness

The Legislative Branch is committed to creating and maintaining a work environment that is free from harassment, including sexual harassment. Harassment undermines the quality of the work environment and the integrity of the employment relationship, destroys morale, interferes with performance, and demeans victims. The Legislative Branch affirms the right under this policy of all Legislators, legislative staff, and others having business with the Legislative Branch, to work in an environment that is free from harassment. Prevention is the best tool to eliminate harassment in the workplace. We strive for harassment prevention through best practices including: a strong leadership commitment to harassment prevention, a stated policy against harassment, effective training, empowering bystanders to intervene, and fostering a respectful and inclusive workplace culture. We are committed to preventing illegal harassment and to identifying and remedying inappropriate behavior if and when it occurs.

The purpose of this policy is to provide information about available internal and external resources, clearly outline the complaint process, identify supervisor responsibilities and comply with legal requirements.

### Definitions

#### 1. "Covered person" means:

- Staff, interns and volunteers of the Legislative Branch
- Legislators, and
- Third parties, including the media, lobbyists, contractors, and members of the general public who have business with the Legislative Branch.

It is not the intent under this policy for the Legislative Branch to receive complaints, investigate complaints, or mediate disputes between third parties.

#### 2. "Harassment" means:

Unwelcome conduct that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), and the Americans with Disabilities Act of 1990 (ADA), Genetic Information Nondiscrimination Act of 2008 (GINA), Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) or the Maine Human Rights Act. The U.S. Equal Employment Opportunity Commission describes harassment as unlawful when:

*"1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person*

would consider intimidating, hostile, or abusive. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under those laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.”

**3. “Sexual harassment” means:**

*“Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or c) such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.”*

**3. “Supervisor” means:**

The Legislative Branch has several trained supervisors who are responsible for appropriately receiving complaints and handling concerns.

Legislative staff, interns or volunteers should report concerns to any trained supervisor listed below:

- Executive Director
- Human Resources Director
- President of the Senate
- Speaker of the House
- Any Caucus Leader
- Any Assistant Caucus Leader
- Clerk of the House
- Assistant Clerk of the House
- Secretary of the Senate
- Assistant Secretary of the Senate
- Any Chief of Staff
- Revisor of Statutes
- Director, Law Library
- Director, Legislative IT
- Director, OFPR
- Director, OPLA
- Director, OPEGA
- Finance Director
- Manager, Legislative Information
- Deputy Director, OPLA
- Deputy Director, Law Library
- Deputy Director, Revisor of Statutes

Legislators should report concerns to any trained supervisor listed below:

- President of the Senate
- Speaker of the House
- Any Caucus Leader
- Any Assistant Caucus Leader
- Clerk of the House (for House members)
- Secretary of the Senate (for Senators)
- Human Resources Director

Third parties should report concerns to any trained supervisor listed below:

- Executive Director
- Human Resources Director
- President of the Senate
- Speaker of the House
- Clerk of the House
- Secretary of the Senate
- Facilities Manager
- Legislative Information Office Manager

### **What this policy covers**

The Legislative Branch affirms the right of all Legislators and legislative staff to work in an environment that is free from harassment and in addition is committed to ensuring that all covered persons can work and do business in a legislative environment free from harassment.

The following are characteristics that are specifically protected in some form under state and/or federal law. Any conduct that degrades, ridicules or otherwise draws unwanted attention to any employee or other person having dealings with the Legislative Branch on the basis of:

- Race
- Color
- Sex (including pregnancy and medical conditions resulting from pregnancy)
- Sexual orientation (including actual or perceived sexual orientation or gender identity/gender expression)
- Marital status
- Physical or mental disability (including current or past disability, perceived disability or association with a disabled person)
- Religion
- Age
- Ancestry or national origin
- Genetic information
- Whistleblower activity
- Military or veteran status (including current or past military service)
- A previous assertion of a claim or right under the Maine Workers' Compensation Act

Harassment is a violation of law and of this policy. Harassment is unacceptable conduct and will not be condoned or tolerated in the workplace.

### **Examples of harassment**

The examples provided below illustrate the types of behaviors that may constitute harassment. Whether behavior constitutes harassment depends on the totality of the circumstances. The examples in this section are not intended to be exhaustive of all behaviors that may violate this policy. Whether an act or series of acts constitutes harassment depends on the relevant facts and must be determined on a case-by-case basis. A single act may or may not constitute harassment and behavior that may be inoffensive in a single instance may, if repeated, become offensive and harassing over time.

Sexual harassment: Examples of sexual harassment can include:

- a. Verbal
  - Sexual comments or innuendos about one's clothing, body or sexual activity
  - Discussing sexual topics in the workplace, such as sexual practices or preferences or telling sexual jokes or stories
  - Requesting or demanding sexual favors
  - Repeatedly asking to socialize on or off-duty when an individual has indicated they are not interested;
  - Suggesting that there is any connection between sexual behavior and any term or condition of employment (whether positive or negative)

- b. Nonverbal
  - Displaying sexually explicit pictures or objects in the work area
  - Giving gifts of a sexual nature
  - Making sexually suggestive gestures
  - Making unwelcome visits to a home or hotel room
- c. Physical
  - Unwelcome hugs or kissing
  - Patting, pinching or intentionally brushing against an individual's body
  - Unwelcome sexual contact or intercourse
  - Sexual assault

Other harassment: Examples based on protected characteristics include, but are not limited to:

- Offensive jokes, slurs or name calling
- Physical assaults, threats or intimidation
- Ridicule or mockery
- Insults or put-downs
- Offensive objects or pictures, or
- Interference with work performance.

Relevant considerations: The examples illustrate behaviors that may be harassment. The following are relevant when considering the circumstances:

- A single incident may or may not be harassment
- Whether an action is considered harassment depends on the circumstances and will be reviewed on a case-by-case basis
- Conduct or communication that is welcome to one person may be unwelcome to another
- Conduct or communication that was welcome between two individuals at one time may become unwelcome later, and
- The individual raising the concern does not have to be the recipient of the behavior, but can be anyone affected by the conduct.

Unprofessional behavior prohibited:

Any behavior of a sexual nature in the workplace is considered unprofessional regardless of whether it constitutes illegal sexual harassment. Similarly, any conduct that degrades, ridicules or otherwise draws unwanted attention to any covered person on the basis of protected characteristics listed above is considered unprofessional regardless of whether it constitutes illegal harassment. Disciplinary action may result regardless of whether the recipient finds the conduct offensive.

Trained supervisor responsibilities

A supervisor must take all concerns brought to the supervisor's attention seriously, provide a supportive environment, and work constructively to address any inappropriate or unprofessional conduct in the workplace.

A supervisor who receives a concern must consult with the Human Resources Director to determine the appropriate course of action. If it is determined in consultation with human resources that the behavior is inappropriate or unprofessional pursuant to other applicable policies but does not rise to the level of illegal harassment, the supervisor must document the information received and summarize discussions held, corrective action plans developed and any implementation and/or follow-up actions taken. A

supervisor must take all reasonable steps to ensure that these records are kept confidential and are not accessible to others.

If it is determined in consultation with human resources that the behavior appears to involve illegal harassment the Human Resources Director will ensure that the matter is addressed in accordance with this policy.

Not following the supervisor responsibilities in this policy will be considered a failure to fulfill the responsibilities of the position and may result in disciplinary action. When in doubt about the seriousness or nature of the behavior reported, a supervisor should discuss the matter with the Human Resources Director.

### **Seeking advice**

Covered persons who experience or witness potentially inappropriate behavior are strongly encouraged to promptly speak to an appropriate, trained supervisor as listed in a previous section or the Human Resources Director. Discussions, information sharing and seeking advice will be kept as confidential as possible. Complete confidentiality in all cases cannot be guaranteed.

Not all reported behavior may meet the definition of illegal harassment, but behavior that raises concerns will always be taken seriously and addressed as needed. If behavior doesn't appear to meet the definition of illegal harassment, other policies relating to the professional behavior of legislative staff may apply. The Human Resources Director can provide guidance on this policy and other applicable policies, assist in identifying ways to resolve the concern and improve the work environment, and also provide guidance on the complaint process if the reported behavior does appear to involve illegal harassment. If the reported behavior appears to involve illegal harassment, investigation and action pursuant to this policy will be required to ensure the harassment stops.

In addition, the Maine Coalition Against Sexual Assault provides a confidential telephone, text and chat resource to discuss questions, concerns and options for those that may have experienced or witnessed sexual harassment or inappropriate behavior. The hotline can be accessed by texting or calling 1-800-871-7741. Visit <http://www.mecasa.org> for more information.

### **Complaint and investigation process**

Any covered person who believes she or he has been subjected to harassment is strongly encouraged to make a complaint to any supervisor listed previously in this policy, which includes the Human Resources Director. The complaint may be made orally or in writing. Any complaint received by a supervisor requires consultation with the Human Resources Director

If, in consultation with the Human Resources Director, it is determined that the reported behavior may constitute illegal harassment, the Human Resources Director must ensure it is investigated as a complaint under this policy.

Unless circumstances warrant otherwise, investigations and corrective actions are developed in consultation with the relevant supervisors, the Executive Director, and if involving Legislators, with the relevant caucus leader and/or presiding officer. Appropriate and alternative arrangements will be made if the alleged harasser is someone who would normally be involved in the investigation/corrective action process.

Investigations will be prompt, impartial, and thorough. Confidentiality and privacy of affected individuals (complainants, witnesses, and the subject of the complaint) will be protected to the extent possible and permitted by law, consistent with a thorough and impartial investigation. Complainants and the subject of

the complaint will be informed of the resolution of the complaint to the extent permitted under the law. The Human Resources Director must document complaints, investigations and outcomes.

After an investigation, anyone who has been determined to have harassed another in violation of this policy will be subject to appropriate corrective and/or disciplinary action. In the case of legislative staff, this may include termination of employment. For legislators, this may include expulsion. The investigation and corrective action may differ depending on the circumstances of the complaint, in particular, if the complainant or alleged harasser is a third party.

### **Retaliation prohibited**

Retaliation or a threat or suggestion of retaliation against any covered person who makes a complaint in good faith is strictly prohibited. This includes retaliation against individuals who raise concerns, complaints, or those who participate as witnesses or otherwise assist an investigation. Complainants are protected from retaliation regardless of the resolution of the original complaint. Retaliation should be reported in the same manner as described above for harassment complaints and will be promptly investigated. Retaliatory conduct is grounds for disciplinary action, up to and including termination for legislative staff and up to and including expulsion for legislators. Depending on the facts, the following could be retaliation:

- Reprimanding an employee or giving a performance evaluation that is lower than it should be;
- Transferring the employee to a less desirable position;
- Engaging in verbal or physical abuse;
- Threatening to make, or actually making reports to authorities;
- Increasing scrutiny;
- Spreading false rumors; or
- Making the person's work more difficult.

### **Training**

The Legislative Branch will provide in-person harassment prevention training to new and existing legislative staff, interns, volunteers and Legislators at least annually. This includes specific training for supervisors on their obligations. Newly hired legislative staff are required to attend training within 30 days after employment begins. Attendees are required to sign an acknowledgement of understanding this policy. In accordance with state law, registered lobbyists are also required to attend annual in-person training.

### **Maine Human Rights Commission**

In addition to internal reporting mechanisms, legislative staff and Legislators have the right to file a complaint of sexual harassment or other harassment with the Maine Human Rights Commission (MHRC) and the Equal Employment Opportunity Commission. Legislative staff and Legislators are protected by law from retaliation for exercising this right or for aiding an investigation or testifying in any proceedings brought in response to a complaint. Complaints may be filed with the MHRC within 300 days of the date of the alleged harassment by contacting:

**Maine Human Rights Commission**  
**19 Union Street (51 State House Station)**  
**Augusta, ME 04333**  
**Phone: (207) 624-6290**  
**<https://www.maine.gov/mhrc/>**

**Feedback**

The Legislative Branch is committed to continuous improvement of this policy. Feedback on this policy is encouraged and should be provided to the Human Resources Director.

Statutory References:

- 5 MRSA §7070
- 5 MRSA §4553
- 26 MRSA §807
- 3 MRSA §170-B

THIS REVISED POLICY IS ADOPTED BY THE LEGISLATIVE COUNCIL ON THIS 23<sup>RD</sup> DAY OF MAY, 2019.

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

Authority: 3 MRSA §162 and 25 MRSA §2904

Adopted: December 8, 2016

Effective Date: December 8, 2016

Revised: May 23, 2019

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This policy of the Legislative Council is codified in the *Personnel Policies and Guidelines* handbooks for Legislative employees.



GRANT T. PENNOYER  
EXECUTIVE DIRECTOR  
OF THE LEGISLATIVE COUNCIL



MAINE STATE LEGISLATURE

OFFICE OF THE EXECUTIVE DIRECTOR  
LEGISLATIVE COUNCIL

**MEMO**

To: Legislative Council

From: Grant T. Pennoyer *GP*

Date: May 17, 2019

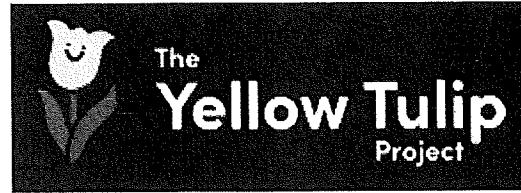
Re: Yellow Tulip Project

Attached you will find a proposal requesting the Legislature's participation in the Yellow Tulip Project. I felt it was necessary to bring this to the Legislative Council as it involves planting yellow tulips in the State House gardens between the State House and the Cross Office Building. While this may seem very straight forward and I am sure we can accommodate the addition of the tulips to the flower beds between the buildings, the Legislative Council recently promulgated a new policy that provides guidance on using the State House for political purposes. That policy states "that no political signs or signs advocating for any cause be attached to the State House or any surrounding structures or posted on State House grounds, without the express consent of the Legislative Council." A copy of that policy is attached.

This proposal does not include any signage attributing the new yellow tulips to the project, but they would be the center of events in May each year. The tulips and the events would be highlighted by the Yellow Tulip Project in materials and information distributed by the group. The caution I would offer about authorizing this particular project and the planting of the tulips is the precedent set by allowing the use of the State House gardens to represent a particular cause that could be used by other groups in support of similar initiatives at the State House.

## Yellow Tulip Project – QIC

<https://theyellowtulipproject.org/>



### **Project Description:**

The Yellow Tulip Project focuses on smashing the stigma that surrounds mental illness and building a community where people realize there is help and hope out there. When founder Julia Hansen was in middle school and until her sophomore year in high school she definitely felt alone in dealing with her own depression. The deafening silence and stigma that surrounds the topic kept her from reaching out for help.

It took the tragedy of losing her two best friends to suicide in 2015-2016 for her to find her voice and to speak out. She had an idea - to create a space for determined youth to eradicate stigma, build community, and inspire productive conversations about how to combat the rising rates of suicide. The Yellow Tulip Project was born from this vision.

There are three aspects to the project:

1. Hope Gardens – these are planted at schools and community organizations in the fall and the tulips are welcomed in the spring. These communal events bring people together and provide a space for conversations about mental health.
  - Hope Gardens bring a community together to collectively push back against the stigma associated with mental illness. And after a long winter, tulips remind us of perseverance and the renewal of spring.
  - The Hope Planting events coincide in or around *Global Mental Health Awareness Day* on October 10th
  - Spring Hope Garden flowers and exhibit/education coincide with mental health awareness month in May
2. A growing network of passionate YTP Ambassadors to represent The Yellow Tulip Project in schools around the country. Dedicated youth ambassadors are given leadership positions within the organization as well. These Ambassadors speak at public events and spread the anti-stigma message of hope.
3. The “I Am More: Facing Stigma” photography exhibit. This exhibit features powerful black and white portraits of people who are either personally dealing with their own mental health challenges, or have been impacted by a family member or friend’s mental illness and want to speak out to help smash the stigma. They are musicians, artists, nature lovers, parents, and friends; and they are all Facing Stigma. This exhibit challenges our assumptions of what mental illness “looks like”.

## **The Quality Improvement Committee (QIC)**

The Statewide QIC serves as the mental health and substance abuse planning and advisory council for Maine. Meetings are held monthly in Augusta, typically on the first Friday of each month. Our membership is a combination of youth, family, young adults, and adults with the experience of living with emotional and behavioral health issues, providers of services for children, youth, family, young adult, adults and State of Maine employees from mental health, substance abuse, housing, corrections, data, education, labor and Medicaid.

### **Mission**

The mission of the Statewide Quality Improvement Council is to improve the state system of mental health and substance use disorder services by magnifying the voice of the Mainer's with lived experiences and their families by making specific recommendations for improvements.

### **QIC Proposal:**

For the QIC, the plan would be to have a fall 2019 event with local student Ambassadors, legislators, QIC members, and the public for the planting. We would hope to generate some press and to raise awareness of mental health and suicide – helping to reduce stigma.

Then in May 2020, we would celebrate the tulips in the garden with another ceremony. There would be a press conference with QIC members, legislators, the governor, and public to have a proclamation and again raise awareness. There would then be viewing of the photo display and educational sessions for QIC and legislators on mental health issues and suicide prevention.

For the photo display at the capital, the Maine Arts Commission requires having 30-40 pieces framed and ready to hang for the display. It will be one of their regular rotational displays from April through June 2020 in the Cross Building. Currently, there are only 24 pieces in the traveling display so the YTP and QIC could put out a call for art from local schools to generate an additional 15 pieces. The focus would be on personal stories and reflections.

### **Request of the Legislative Council:**

To do this project we need approval of the Legislative Council for the planting of the tulip bulbs in the fall of 2019. We have already arranged with the Maine Arts Commission to be the rotating art display for the spring of 2020.

And we would hope for a legislative sentiment and participation of leadership in both the fall and spring ceremonies.

There is already a May children's mental health awareness day at the Hall of Flags each year, with parent and family groups and providers of services coming together. This Yellow Tulip project would provide an addition each year with the visual blooming of the yellow tulips.

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



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

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER

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

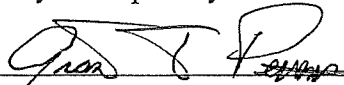
### Legislative Council Policy on the Use of the State House for Political Purposes

It is the intent of the Legislative Council that the State House and its surrounding grounds reflect a neutral institution of Democracy that is a place for political discussion and an environment within and around the State House that does not reflect any favoritism or bias toward a particular cause or political point of view.

Therefore, it is the policy of the Legislative Council that no political signs or signs advocating for any cause be attached to the State House or any surrounding structures or posted on State House grounds, without the express consent of the Legislative Council. Persons may carry signs as part of a demonstration or rally, but nothing may be attached to the State House or surrounding trees or structures, such as fences or light posts. The prohibition on posting of signs includes the projecting of images on the State House or any surrounding structures.

This policy includes proposals to change the lighting of the State House Dome to commemorate or recognize an event or worthy cause. The State House Dome lights are not currently equipped to accommodate colors or filters, but any proposal including those as simple as turning off some of the lights for a particular reason are not consistent with maintaining the neutrality of the State House and therefore must be denied.

This policy is adopted by the Maine Legislative Council on September 20, 2018.

By:   
Executive Director of the Legislative Council

Authority: 3 MRSA § 162

Adopted: September 20, 2018

Effective Date: September 20, 2018