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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  
MEETING SUMMARY  
September 20, 2018  
Approved December 6, 2018**

**CALL TO ORDER**

Speaker Gideon called the September 20, 2018 meeting of the Legislative Council to order at 1:27 p.m. in the Legislative Council Chamber.

**ROLL CALL**

Senators: President Thibodeau, Senator Volk, Senator Mason and Senator Libby

Absent: Senator Mason

Representatives: Speaker Gideon and Representative Espling

Absent: Representative Fredette (arrived late), Representative Herbig and Representative Golden

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  
Danielle Fox, Director, Office of Program Evaluation and Government Accountability

Speaker Gideon convened the meeting at 1:27 p.m. with a quorum of members present.

**SUMMARY OF JUNE 26, 2018 MEETING OF LEGISLATIVE COUNCIL**

**Motion:** That the Meeting Summary for June 26, 2018 be accepted and placed on file. Motion by President Thibodeau. Second by Senator Jackson. **Motion passed unanimous (6-0-0-4**, with Senator Mason, Representatives Herbig, Golden and 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 **Reports from Council Committees.**

## REPORTS FROM COUNCIL COMMITTEES

### 1. Personnel Committee

Speaker Gideon reported that the Personnel Committee met earlier today to consider the following matters:

#### 1. SOMER Update

Ms. Little informed the committee that the State of Maine has separated from the previous vendor for the Human Resources Management System project (formerly called SOMER). The project will still move forward as soon as a new vendor is selected.

#### 2. Legislator Attendance Policy

Mr. Hunt presented a draft legislator attendance policy for the committee's review. The committee voted to adopt this revised policy.

**Motion:** That upon the recommendation of the Personnel Committee, the Legislative Council approve the revision to the *Legislative Council Legislator Attendance Policy* effective immediately. Motion by Speaker Gideon. Second by President Thibodeau. **Motion passed unanimous (6-0-0-4**, with Senator Mason, Representatives Herbig, Golden and Fredette absent).

#### 3. Harassment Training Update

Ms. Little provided the committee with an update about harassment training and the Council's policy. Legislative staff and other interested parties are providing collaborative input into an updated policy and a draft revision will be available for the Personnel Committee and Legislative Council to consider at a future date. Plans are underway to provide harassment prevention training for lobbyists, legislative staff and legislators.

#### 4. New Member Orientation/Pre-Legislative Conference

Mr. Pennoyer provided the committee with an update on progress on planning for New Member Orientation and the Pre-Legislative Conference. The committee provided guidance and suggestions to Mr. Pennoyer.

#### 5. Vacation Policy and Use of Accrued Leave

Mr. Pennoyer raised a concern related to the current vacation policy and the length of the legislative session. After some discussion, the committee decided to raise this issue at a future meeting.

#### 6. Meal Reimbursement Policy

Mr. Pennoyer relayed information about the recent meal reimbursement policy change.

7. Nonpartisan Staff Employee Engagement Survey

Ms. Little presented a summary of the 2018 Nonpartisan Staff Employee Engagement Survey. Overall, employee responses were very positive.

8. Request for Temporary Disability from a Partisan Staff

The committee considered a request by the legislative employee for temporary disability income benefits. The request was consistent with the provisions for temporary disability income benefits under the Legislative Council's personnel policies and guidelines. Upon the recommendation of the Executive Director, the committee voted unanimously to approve the request. No Legislative Council action is required.

9. Performance Evaluation and Step Increase – Marion Hylan Barr

The committee reviewed the performance of and considered a step increase for Marion Hylan Barr, Director, OPLA. The committee voted unanimously to approve this step increase.

10. Performance Evaluation and Step Increase – Chris Nolan

The committee reviewed the performance of and considered a step increase for Chris Nolan, Director, OFPR. The committee voted unanimously to approve this step increase.

11. Performance Evaluation and Step Increase – Grant Pennoyer

The committee reviewed the performance of and considered a step increase for Grant Pennoyer, Executive Director. The committee voted unanimously to approve this step increase.

**2. State House Facilities Committee**

No report.

The Chair then moved to **New Business**.

**NEW BUSINESS**

**Item #1: Review of Legislative Council Policy on the Use of State House for Political Purposes**

Mr. Pennoyer explained that this policy is one that has been discussed by the State House Facilities Committee and supported by previous decisions of the Legislative Council. After discussion, the President suggested amending the policy to add “without the express consent of the Legislative Council” as a way for the Legislative Council to give an exception.

Motion: That the Legislative Council approve the *Legislative Council Policy on the Use of the State House for Political Purposes*, as amended, effective immediately. Motion by Senator Volk. Second by President Thibodeau. **Motion passed unanimous (6-0-0-4**, with Senator Mason, Representatives Herbig, Golden and Fredette absent).

## **Item #2: Request to Hold the State Debate Team Finals in the State House**

Representative Denno presented his request on behalf of the Maine National Speech and Debate Association to allow the 2019 District Congressional Debate Maine Qualifiers to be held in the State House on Saturday, January 12<sup>th</sup>. Mr. Jason Curry of Greeley High School explained that there would be approximately 70 people at this event. They are requesting the use of both Chambers, four committee rooms and the Welcome Center.

Motion: That the Legislative Council approve the request to hold the 2019 District Congressional Debate Maine Qualifiers in the State House on Saturday, January 12, 2019. Motion by Senator Jackson. Second by President Thibodeau. **Motion passed unanimous (7-0-0-3**, with Senator Mason, Representatives Herbig, and Golden absent).

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

## **REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES**

### **Executive Director's Report**

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

#### 1. Update on State House Facilities Projects

The major facilities project this interim has been the continuation of the window painting and pane replacement that began last interim addressing window maintenance issues primarily in the South Wing and the south face of the West Wing. We are also doing a restoration of the original windows that are in the Hall of Flags and the two stairwells and the exterior door in the Hall of Flags.

This year will also bring to an end the project to replace faulty Kitec fitting and piping in the State House heating and cooling system, which has taken four years to accomplish, leaving us better able to focus on other much needed preventive maintenance for the heating and cooling system in the future.

The project to upgrade Parking Lot O, southernmost parking lot in the State House campus, will begin in October with the addition of new lighting and an emergency call box and concluding with a repaving of the entire lot.

The start of the project to renovate the entrance to the Legislative Information Office has been delayed by the lead time on certain materials. We are still working on completing the project this interim, but it will not end until after the start of the next Legislature.

Also, starting in October is the replacement of carpeting in the Legislative Council Chamber and the Appropriations Committee Room.

Costs of some of these projects have been higher than budgeted, but sufficient funds remain in the facilities budget to complete this work. Under new business later in today's agenda, I will be reviewing these projects with you.

## 2. MELD Replacement Project

The information system project to replace the outdated bill production system, MELD, is progressing well. We are on track to do some parallel production testing of bills and amendments during the 1<sup>st</sup> Regular Session of the 129<sup>th</sup> Legislature with the complete switch over to the new Bill Production System by the 2<sup>nd</sup> Regular Session.

## 3. State House Items in Storage

Since the major renovation the State House during the 1998 to 2001 period, numerous items were moved to storage. The Secretary of the Senate, the Clerk of the House and I recently were provided an opportunity to review the items that are stored in two storage facilities. There are numerous items that were placed in storage in the years since the renovation that are broken or that are not going to be used again. I will be working with the Secretary and the Clerk to begin paring back what we are storing as part of PRO Moving's consolidation of State House storage to one facility.

## Fiscal Report

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

### 1. General Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
August	\$314.7	\$329.2	\$14.5	4.6%	\$306.1	7.5%
FYTD	\$566.6	\$601.9	\$35.3	6.2%	\$550.7	9.3%

General Fund revenue was over budget by \$14.5 million (4.6%) for the month of August and by \$35.3 million (6.2%) for the fiscal year to date. Individual income tax revenue was over budget by \$2.6 million for the month and by \$16.7 million for the fiscal year to date. Most of this positive variance was the result of higher than budgeted withholding and lower than budgeted refund payments. Corporate income tax revenue was over budget by \$4.3 million for the month and by \$6.6 million for the fiscal year to date. Sales and use tax revenue (July sales) was over budget by \$5.1 million for the month and \$8.4 for the fiscal year to date.

### 2. Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
August	\$32.0	\$32.8	\$0.9	2.7%	\$32.0	2.5%
FYTD	\$61.2	\$63.4	\$2.2	3.6%	\$58.4	8.6%

Highway Fund revenue was over budget by \$0.9 million (2.7%) for the month of August and by \$2.2 million (3.6%) for the fiscal year to date. Fuel taxes were over budget by \$0.2 million for the month and by \$0.4 million for the fiscal year to date. Motor vehicle registrations and fees were over budget for the month by \$0.7 million and over budget for the fiscal year to date by \$1.8 million. The majority of this variance was in the long-term trailer registration fee line.

## 3. Cash Balances Update

The average balance in the cash pool for August was \$1,313.9 million, up from July's average of \$1,222.5 million and above both last August's average balance and the ten-year average for the month. General Fund internal borrowing from other funds was not needed in August (has not been needed since April of 2016). The average Highway Fund balance of \$37.3 million in August was up from July's average of \$20.1 million.

## 4. FY 2018 Year-End Transactions

The FY 2018 closing General Fund balance totaled \$175.8 million, \$74.6 million of which was budgeted and \$101.2 million was unbudgeted. The \$101.2 million not budgeted included \$82.1 million in General Fund revenue surplus, \$14.9 million in unbudgeted lapsed program balances and \$4.2 million in other accounting adjustments. All fixed dollar transfers of what is known as the "cascade" provided for under current law were made (5 MRSA §1507, §1511, §1519 and §1536) with 80% of the remainder of the unbudgeted surplus distributed to the Maine Budget Stabilization Fund (\$76.2 million) and 20% distributed to the Tax Relief Fund for Maine Residents (\$19.0 million). These distributions brought the totals of the Maine Budget Stabilization Fund and the Tax Relief Fund to \$272.9 million and \$28.4 million respectively. The table below summarizes the sources and uses of FY 2018 unbudgeted unappropriated surplus funds.

### FY 2018 General Fund Year-End Summary

<b>Sources of General Fund Year-end Surplus:</b>	
General Fund Revenue Variance	\$82,055,418
Unbudgeted Lapsed Balances	\$14,862,361
Other Accounting Adjustments Increasing (Decreasing) Balance	\$4,241,080
<b>Total Increase in Unbudgeted Unappropriated Surplus</b>	<b><u>\$101,158,859</u></b>
<b>Uses of General Fund Year-end Surplus:</b>	
<b>Fixed Dollar Transfers</b>	
Replenish Contingent Account up to \$350,000 (5 MRSA §1507)	(\$350,000)
Transfer to Loan Insurance Reserve up to \$1,000,000 (5 MRSA §1511)	(\$1,000,000)
Transfer to General Fund Operating Capital (5 MRSA §1536)	(\$2,500,000)
Transfer to Retiree Health Insurance UAL (5 MRSA §1519)	(\$2,000,000)
<b>Total Fixed Dollar Transfers</b>	<b><u>(\$5,850,000)</u></b>
<b>Percentage Transfers - Remaining Surplus after Fixed Dollar Transfers</b>	<b>\$95,308,859</b>
Maine Budget Stabilization Fund	80.0% (\$76,247,087)
Tax Relief Fund for Maine Residents	20.0% (\$19,061,772)
<b>Total Closing Transfers</b>	<b><u>(\$101,158,859)</u></b>

The Highway Fund also has a statutory year-end transfer provision that transfers all but \$100,000 of the increase in the unallocated surplus above the budgeted amount to the Department of Transportation for highway and bridge improvement projects in the next fiscal year. The amounts that transferred and are available in FY 2019 are \$10.9 million. In addition to a \$6.9 million revenue surplus, unexpended Highway Fund allocations that lapsed

back to the unallocated surplus totaled \$3.7 million and other net accounting adjustments equaled \$0.4 million.

### FY 2018 Highway Fund Year-End Summary

<b>Sources of Highway Fund Year-end Surplus:</b>	
Highway Fund Revenue Variance	\$6,949,635
Unbudgeted Lapsed Balances	\$3,729,292
Other Accounting Adjustments Increasing (Decreasing) Balance	\$365,422
<b>Total Increase in Unbudgeted Unallocated Surplus</b>	<b>\$11,044,349</b>
<b>Uses of Highway Fund Year-end Surplus:</b>	
Required Increase to Budgeted Balance	\$100,000
<b>Net Unallocated Transferred to Transportation</b>	<b>\$10,944,349</b>

## OLD BUSINESS

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

#### Decisions by Legislative Council Ballot:

**Motion:**        **That the Legislative Council authorizes the funding for and approves the nonconforming elements pursuant to Joint Rule 353 of the legislative study included in LD 1095, "An Act To Establish the Maine Coastal Risks and Hazards Commission".**

Motion by:    Speaker Gideon                      Second by: President Thibodeau  
 Date:            June 27, 2018  
 Vote:            8-0-0-2 Passed (with President Thibodeau and Senator Mason absent)

**Motion:**        **That the Legislative Council approve the design for the American Legion plaque honoring its 100 Years of Service to be displayed in the State House.**

Motion by:    Speaker Gideon                      Second by: President Thibodeau  
 Date:            August 22, 2018  
 Vote:            10-0 Passed

## NEW BUSINESS

### Item #3: Update on Facilities Project Costs

Mr. Pennoyer reported to the Council the revised costs for the following facilities projects. The Legislative Information Office entry way project was originally estimated to cost \$25,000 however the lowest bid received was \$67,340 due to the complicated nature of the project and increased material costs. There are sufficient funds in the State House Preservation and Maintenance Fund account to cover the cost variance for this project.

The second project with an increased cost is the audio-visual upgrade for the Appropriations Committee Room. This was originally estimated for \$20,000 however the revised bid is \$56,048. After discussion, Mr. Pennoyer was directed to look into more audio-visual options for the Appropriations Committee Room.

#### **ANNOUNCEMENTS AND REMARKS**

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 2:19 p.m.