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REP. SETH A. BERRY
REP. KENNETH W. FREDETTE
REP. JEFFREY M. MCCABE

EXECUTIVE DIRECTOR
GRANT T. PENNOYER

126TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

**LEGISLATIVE COUNCIL
MEETING SUMMARY
September 30, 2014
Approved October 23, 2014**

CALL TO ORDER

Legislative Council Chair Mark Eves called the September 30, 2014 Legislative Council meeting to order at 2:04 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Alfond, Senator Haskell and Senator Katz

Absent: Senator Jackson and Senator Thibodeau

Representatives: Speaker Eves, Representative Berry and Representative Fredette

Absent: Representative McCabe

Legislative Officers: Robert Hunt, Clerk of the House pro tem
Jennifer McGowan, Assistant Clerk of the House pro tem
Suzanne Gresser, Acting Executive Director
Dawna Lopatosky, Legislative Finance Director
Grant Pennoyer, Director, Office of Fiscal and Program Review
Marion Hylan Barr, Director, Office of Policy and Legal Analysis
Ed Charbonneau, Acting Revisor of Statutes
John Barden, Director, Law and Legislative Reference Library
Nik Rende, Acting Director, Legislative Information Technology

Speaker Eves convened the meeting at 2:04 p.m. with a quorum of members present.

Speaker Eves asked for a moment of silence to remember Millicent M. MacFarland, Clerk of the House, who passed away on Saturday, September 27th following a long illness.

SUMMARY OF JULY 24, 2014 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary for July 24, 2014 be accepted and placed on file. Motion by President Alfond. Second by Senator Haskell. **Motion passed unanimous (6-0-0-3**, with Senators Jackson and Thibodeau, and Representative McCabe absent).

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

Suzanne Gresser, Acting Executive Director, reported on the following:

1. Copper Dome Replacement

Progress on the copper dome replacement and associated projects is proceeding on schedule. Work on the bottom third of the actual dome will be completed today. At this point, the contractors are doing the remaining roof work on the surface near the balusters; the top deck of the scaffolding will be lowered and outfitted to accommodate the painting of the white copper surfaces, including the columns and windows that lay below the dome. It is anticipated that the entire project will be completed in November 2014.

2. Legislator Orientation preparations

Legislative offices are preparing materials for the New Member Orientation and the Pre-Legislative conference for the 127th Legislature. Once the agendas have been tentatively developed, a draft will be distributed to Legislative Council members for their review. New Member Orientation will be held on Thursday, November 13, 2014 and the Pre-legislative Conference will be held December 1- 4, 2014.

3. Manager, Legislative Information Office

Ms. Gresser announced the appointment of Casey Milligan as Manager of the Legislative Information Office.

Fiscal Report

Grant Pennoyer, Director, Office of Fiscal and Program Review, reported on the following:

Revenue Update

| Total General Fund Revenue - FY 2015 (\$'s in Millions) | | | | | | |
|---|---------|---------|---------|--------|------------|----------|
| | Budget | Actual | Var. | % Var. | Prior Year | % Growth |
| August | \$84.0 | \$80.5 | (\$3.5) | -4.1% | \$85.0 | -5.2% |
| FYTD | \$328.7 | \$333.2 | \$4.5 | 1.4% | \$303.2 | 9.9% |

General Fund revenue was under budget by \$3.5 million (4.1%) for August, but remained over budget for the first two months of the fiscal year by \$4.5 million (1.4%). As a reminder, August revenue was reduced by \$187.5 million to offset amounts that were accrued and recorded as revenue in June of FY 2014. This is the last fiscal year that the year-end accrual will distort monthly revenue so significantly. Beginning in FY 2016, the reduction to the accrual will be offset in June at the same time as the accruals for the next fiscal year.

August's negative variance was the result of an \$11.9 million shortfall in income tax withholding receipts. Some of this may be related to the accrual offset and some may be a timing issue. September withholding receipts will help in determining the cause of August's withholding shortfall. Total Individual Income Tax collections remained over budget for the fiscal year despite this shortfall. Sales and Use Tax collections also fell short of projections in August. With the exception of June taxable sales, which were enhanced by a bump up from deferred spring expenditures, taxable sales growth in calendar year 2014 has been below projections.

Highway Fund Revenue Update

| Total Highway Fund Revenue - FY 2015 (\$'s in Millions) | | | | | | |
|---|--------|--------|---------|--------|------------|----------|
| | Budget | Actual | Var. | % Var. | Prior Year | % Growth |
| August | \$8.6 | \$8.2 | (\$0.5) | -5.3% | \$8.4 | -2.4% |
| FYTD | \$36.7 | \$38.4 | \$1.6 | 4.4% | \$36.9 | 4.1% |

Highway Fund revenue was under budget by \$0.5 million (5.3%) in August, but remain over budget for the fiscal year by \$1.6 million. The Fuel Taxes category was under budget by just under \$1.0 million largely because of special fuel tax collections. Monthly volatility is common for special fuel collections as they are due at the very end of the month. For the fiscal year, the Fuel Taxes category maintained a sizeable positive variance. Long-term Trailer Registration Fees revenue was over budget again in August. July's and August's positive variances were the result of major expansions of the fleets of two of the companies participating in Maine's long-term trailer registration program.

Fund for a Healthy Maine Update

The Fund for a Healthy Maine closed FY 2014 with an actual ending balance of \$7.3 million. This \$7.1 million increase above the final budgeted balance of \$0.2 million was generated by a \$4.6 million revenue surplus, \$1.7 million of lapsed balances and \$0.7 million of prior period recoveries and other accounting adjustments. Although the budgeted ending balance for FY 2015 currently reflects \$14.5 million as "available," that amount includes \$5.6 million that was received in FY 2014 from the release of 2003 disputed funds. The next revenue forecast later this fall will need to adjust for this and lower the budgeted ending balance accordingly.

Cash Balances

Total average balance in the cash pool for August was substantially higher than the last two fiscal years, but General Fund internal borrowing was only slightly below August of 2012, a year that also involved the repayment of budget balancing borrowing.

Interim Legislative Studies Report

Marion Hylan Barr, Director, Office of Policy and Legal Analysis, reported as to the current status of the interim legislative studies and commissions. (Refer to status report in the agenda materials.) Ms. Hylan Barr reported that most commissions are meeting as needed. She also brought Members attentions to the memo from the Commission on Independent Living and Disability which is requesting permission to convene. Two commissions are requesting to hold additional meetings prior to their final reporting deadline. Ms. Hylan Barr further stated that there are two committees that seem to be inactive: the Legislative Youth Advisory Council and the Judicial Compensation Commission. The HHS Committee will be meeting on October 15th and it is anticipated that the VLA

Committee will be holding another meeting soon to discuss the casino study. Senator Haskell suggested that the GOC be added to the report as an authorized committee.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Legislative Council Chair Eves reported that the Personnel Committee's Search Subcommittee began a search process in early summer to recruit for the position of Executive Director of the Legislative Council. The Subcommittee conducted an extensive recruitment process, advertising nationally, online, and in Maine newspapers. The Subcommittee met over the summer, soliciting input from the legislative staff offices, establishing position qualifications, reviewing applications, interviewing candidates and contacting references. The recruitment process has now been concluded and one very strong candidate is being recommended for appointment.

The subcommittee considered 54 applicants for the Executive Director position and after preliminary screening narrowed the list to a top tier list. The Personnel Committee interviewed five highly qualified individuals. After careful consideration, the Personnel Committee has recommended unanimously that the current Director of the Office of Fiscal and Program Review, Grant Pennoyer, be appointed as the Executive Director of the Legislative Council. With his 30 years of experience in the Office of Fiscal and Program Review, his exemplary credentials, and his knowledge of and service to the Maine Legislature, the committee is confident that Grant will be an effective director in leading the office with skill and foresight.

Members of the Personnel Committee expressed their appreciation of the recruitment process, for Ms. Gresser's work as Acting Executive Director, and for Mr. Pennoyer as the new Executive Director.

Motion: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council appoint Grant Pennoyer of Yarmouth to a 3 year term as Executive Director of the Legislative Council, the date of his appointment being effective on Monday, October 6, 2014, pursuant to 3 MRSA, §162, sub-§6; further that Mr. Pennoyer's initial salary be established at Grade 15, Step 8 of the Legislature's employee salary schedule; and further that the Acting Executive Director shall work with Mr. Pennoyer to coordinate Mr. Pennoyer's transition from the Office of Fiscal & Program Review to the Office of the Executive Director so as to minimize Mr. Pennoyer's forfeiting of scheduled vacation time.

Motion by Speaker Eves. Second by Representative Fredette. **Motion passed unanimous (6-0-0-3,** with Senators Jackson and Thibodeau, and Representative McCabe absent).

2. State House Facilities Committee

State House Facilities Committee Chair Representative Berry reported that the State House Facilities Committee met on Tuesday, September 9, 2014 to further consider the potential reuse of the copper that has been removed from the State House Dome.

The Maine Arts Commission provided the committee staff with additional budget detail for the costs of artist participation associated with the proposals outlined in the Maine Arts Commission's recommendations for the reuse of copper. Committee staff combined the cost information regarding artist participation with other general cost information to produce a cost template for the committee to use as it considered the proposals. Committee staff indicated that the costs associated with each individual proposal would change depending on the amount of

copper allocated to that proposal, as well as unknowns such as the actual cost of fabricating the commemorative items and the market for the sale of the copper to artisans. Julie Richard, the Executive Director of the Maine Arts Commission responded to questions regarding the proposals.

In response to questions raised, Representative Berry reviewed the estimated costs of this process.

Motion: That, upon the unanimous recommendation of the State House Facilities Committee, the Legislative Council authorize the purchase of the copper that was removed from the State House Dome in the process of its restoration State House Dome; further that the Legislative Council authorize the Executive Director to implement the Maine Arts Commission's "Recommendations for the State Dome Copper Reuse" (which may include creation of a commemorative artifact, selling copper to local jewelers and artisans, selling or donating copper to sculptors and/or educational institutions, creating one or more installations of public art on the grounds of the Capitol Complex, and recycling copper for salvage) in a manner that maximizes the goals of offsetting the dome project costs and facilitating the creation of art using the historic copper; and further that the Executive Director provide to the Legislative Council regular reports relating to the status of the Copper Reuse projects. Motion by Representative Berry. Second by Senator Haskell. **Motion passed unanimous (6-0-0-3,** with Senators Jackson and Thibodeau, and Representative McCabe absent).

OLD BUSINESS

Item #1: Council Actions Taken by Ballot

Legislative Council Decision:

That the Legislative Council approve the request by the Maine State Police to serve food, buffet-style to its troopers in the Hall of Flags as part of a formal inspection of its Central Division on or about noon on October 9, 2014

Motion by: Representative Mark Eves
 Second by: Senator Justin Alfond
 Approved: September 8, 2014 Vote: 9-0 in favor

That the Legislative Council approve the request by the Commission to Continue the Study of Long-term Care Facilities to extend its final reporting deadline to Friday, November 14, 2014, and further to hold a meeting on Tuesday, October 28, 2014.

Motion by: Representative Mark Eves
 Second by: Senator Justin Alfond
 Approved: September 15, 2014 Vote: 9-0 in favor

NEW BUSINESS

Item #1: Request to display Tree of Honor in the Hall of Flags

Ms. Gresser reviewed a request from the Boys Scouts to have a Tree of Honor displayed in the Hall of Flags during this holiday season. The Tree of Honor displays remembrances of veterans

by anyone who would like to remember a veteran or to honor active military personnel by hanging an ornament on the tree. The ornament may include a personal message for that veteran.

Motion: That the Legislative Council approve the request to allow the Boys Scouts' Tree of Honor to be displayed in the Hall of Flags. Motion by Speaker Eves. Second by Representative Berry. **Motion passed unanimous (6-0-0-3**, with Senators Jackson and Thibodeau, and Representative McCabe absent).

Item #2: Request to Convene the Commission on Independent Living and Disability

Ms. Gresser reviewed the request from the Commission on Independent Living and Disability to convene prior to the completion of its appointments. Ms. Gresser further explained that the chairs of the commission feel it is appropriate to convene at this time.

Motion: That the Legislative Council authorize the Commission on Independent Living and Disability to convene. Motion by Senator Haskell. Second by Representative Berry. **Motion passed unanimous (6-0-0-3**, with Senators Jackson and Thibodeau, and Representative McCabe absent).

Item #3: Request from the Commission to Study College Affordability and College Completion

Ms. Gresser reviewed the request from the Commission to Study College Affordability and College Completion to hold two additional meetings prior to its December 2014 reporting deadline. Ms. Gresser further explained that commission feels that it can hold these additional meetings without requesting any additional funding.

Motion: That the Legislative Council approve the request from the Commission to Study College Affordability and College Completion to hold two additional meetings prior to its December 2014 reporting deadline. Motion by President Alford. Second by Representative Berry. **Motion passed unanimous (6-0-0-3**, with Senators Jackson and Thibodeau, and Representative McCabe absent).

Item #4: Request from the Commission to Study the Effects of Coastal and Ocean Acidification and its Existing and Potential Effects on Species that are Commercially Harvested and Grown along the Maine Coast

Ms. Gresser reviewed the request from the Commission to Study the Effects of Coastal and Ocean Acidification and its Existing and Potential Effects on Species that are Commercially Harvested and Grown along the Maine Coast to hold two additional meetings prior to its December 2014 reporting deadline. Ms. Gresser further explained that commission feels that it can hold these additional meetings without requesting any additional funding.

Motion: That the Legislative Council approve the request from the Commission to Study the Effects of Coastal and Ocean Acidification and its Existing and Potential Effects on Species that are Commercially Harvested and Grown along the Maine Coast to hold two additional meetings prior to its December 2014 reporting deadline. Motion by Representative Berry. Second by President Alford. **Motion passed unanimous (6-0-0-3**, with Senators Jackson and Thibodeau, and Representative McCabe absent).

ANNOUNCEMENTS AND REMARKS

Representative Berry reminded the Members that a time capsule will be installed in the copper dome immediately following this meeting. Items include a piece of the old copper, a copy of today's newspaper, a legislative register, and personal items from Members of the Council.

With no other business to consider or announcements, the Legislative Council meeting was adjourned at 2:39 p.m.