

REP. RYAN FECTEAU
CHAIR

SEN. TROY JACKSON
VICE-CHAIR

EXECUTIVE DIRECTOR
SUZANNE M. GRESSER



130TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. NATHAN L. LIBBY
SEN. ELOISE A. VITELLI
SEN. JEFFREY L. TIMBERLAKE
SEN. MATTHEW POULIOT
REP. MICHELLE DUNPHY
REP. RACHEL TALBOT ROSS
REP. KATHLEEN R.J. DILLINGHAM
REP. JOEL STETKIS

**LEGISLATIVE COUNCIL
MEETING SUMMARY
January 28, 2021
Approved February 25, 2021**

CALL TO ORDER

Speaker Fecteau called the January 28, 2021 meeting of the 130th Legislative Council to order at 1:32 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Jackson, Senator Libby, Senator Vitelli, Senator Timberlake and Senator Pouliot

Representatives: Speaker Fecteau, Representative Dunphy, Representative Talbot Ross, Representative Dillingham and Representative Stetkis

Legislative Officers: Darek Grant, Secretary of the Senate
Robert Hunt, Clerk of the House
Suzanne Gresser, Executive Director of the Legislative Council
Ed Charbonneau, Revisor of Statutes
Danielle Fox, Director, Office of Policy and Legal Analysis
Chris Nolan, Director, Office of Fiscal and Program Review
Nik Rende, Director, Legislative Information Technology
Dawna Lopatosky, Legislative Finance Director
Jackie Little, Human Resources Director

Speaker Fecteau convened the meeting at 1:32 p.m. with a quorum of members present.

SUMMARY OF DECEMBER 6, 2018 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary for December 3, 2020 be accepted and placed on file. Motion by Senator Pouliot. Second by Representative Dunphy. **Motion passed unanimously (10-0).**

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

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 2021 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Change
December	\$258.0	\$319.0	\$61.0	23.7%	\$296.3	7.7%
FYTD	\$1,979.0	\$2,043.8	\$64.9	3.3%	\$1,979.1	3.3%

General Fund revenue was over budget by \$61.0 million (23.7%) for the month of December and over budget by \$64.9 million (3.3%) for the fiscal year to date. These positive variances are in addition to the December 2020 revenue forecast, which increased budgeted revenue by \$272.8 million for FY 2021. Individual income tax revenue was over budget by \$32.0 million for the month. Withholding revenue was over budget for the month by \$17.8 million, estimated payments were over budget by \$8.9 million and refunds were over budget (less paid than budgeted) by \$3.7 million for the month. Corporate income tax revenue was over budget by \$18.4 million for the month and year to date. Most of this positive variance was the result of final estimated payments for calendar year 2020 exceeding budget by \$16.5 million. Final payments were under budget by \$0.6 million while refunds were over budget (less paid than budgeted) by \$2.6 million. Sales and use tax revenue (November sales) was over budget by \$9.6 million for the month and year to date. Total taxable sales for the month of November 2020 were 7.7% higher than for November 2019.

2. Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2021 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Change
December	\$23.2	\$23.9	\$0.8	3.3%	\$24.7	-3.2%
FYTD	\$170.3	\$172.8	\$2.5	1.5%	\$181.2	-4.6%

Highway Fund revenue was over budget by \$0.8 million (3.3%) for the month of December and over budget by \$2.5 million (1.5%) for the fiscal year to date. These positive variances are in addition to the December 2020 revenue forecast, which increased budgeted revenue by \$11.4 million for FY 2021. Fuel taxes were over budget by \$0.2 million for the month and by \$0.7 million for the fiscal year to date. Motor vehicle registrations and fees were over budget by \$0.4 million for the month and by \$1.3 million for the fiscal year to date.

3. Cash Balances Update

The average balance in the cash pool for December was \$2,617.2 million, a decrease from November's average of \$2,802.3 million. Most of this decrease was the result of the average balance from the \$1,250 million federal Coronavirus Relief Fund (CRF) payment Maine received in April, decreasing from \$766.9 million in November to \$587.2 million in December. The average Highway Fund balance in December was \$26.7 million, a decrease from November's average of \$35.1 million. This normal December decrease was the result of the annual payment to the Local Road Assistance program being made in December.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Speaker Fecteau reported that the Personnel Committee met on Thursday, January 21st to consider the following matters:

1. Recruitment of Director, Office of Program Evaluation and Government Accountability

The committee interviewed and concluded its review of candidates for the vacant position of Director of the Office of Program Evaluation and Government Accountability, and reached consensus on its recommendation that Lucia Nixon, currently an analyst in the Office of Policy and Legal Analysis, be appointed to the position of Director, Office of Program Evaluation and Government Accountability.

Motion: That upon the consensus recommendation of the Personnel Committee, the Legislative Council approve the appointment of Lucia Nixon to the position of Director, Office of Program Evaluation and Government Accountability, effective February 22, 2021, at Step 5 in Salary Range 13. Motion by Senator Timberlake. Second by Senator Libby. **Motion passed unanimously (10-0)**

Speaker Fecteau recognized Ms. Nixon and offered the congratulations of the Legislative Council.

2. Request for Temporary Disability Nonpartisan Staff

The committee considered a request by a 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.

3. Performance Evaluations; Step Increases – Nik Rende, Christopher Nolan and John Melendez Barden

The committee reviewed the performance of Nik Rende, Director of Legislative Information Technology, Christopher Nolan, Director of the Office of Fiscal and Program Review and John Melendez Barden, Director of the Law and Legislative Reference Library. The Personnel Committee voted unanimously to approve a step increase for Mr. Rende and Mr. Nolan. Mr. Melendez Barden is not eligible for a step increase at this time. No Legislative Council action is required.

4. Legislative Council's COVID-19 Prevention Policy

As directed to do so at the December 3, 2020 Legislative Council meeting, the Personnel Committee discussed the Council's COVID-19 Prevention Policy. The committee provided Ms. Gresser with direction for proposed changes to the policy for consideration and discussion by the Legislative Council. This item is addressed as Item #2 under New Business in today's agenda.

2. State House Facilities Committee

No Report

OLD BUSINESS

Item #1: Council Actions Taken by Ballot

Decisions by Legislative Council Ballot:

Motion: That the Legislative Council approve a modification of its COVID-19 Prevention Policy to include in that policy's definition of "essential third parties" for December 14, 2020 only, the four Members of the Electoral College for the State of Maine, the Convening Officer, and those limited personnel necessary to conduct the Electoral College proceedings, including the Attorney General of the State, a Messenger to the United States District Court, the Electoral College Historian, and a Dedimus Justice, in order that, pursuant to 3 United States Code, section 7, the Electors may meet and give their votes for United States President and Vice President.

Motion by: Speaker Fecteau Second by: President Jackson

Date: December 11, 2020

Vote: 9-0-0-1 Passed (with Representative Dillingham recorded as absent)

NEW BUSINESS

Item #1: Consideration of After Deadline Requests

The Legislative Council proceeded to consider and vote on eleven (11) after deadline bill requests and seven (7) Joint Resolutions. The Legislative Council authorized all eleven (11) bills for introduction in the Second Regular Session, and the Council authorized introduction of four (4) Joint Resolutions and tabled three (3) Joint Resolutions. The Legislative Council's action on the bill requests is attached.

Item #2: Proposed amendments to the Legislative Council's COVID-19 Prevention Policy

- Protective face coverings.** Ms. Gresser summarized the Personnel Committee's review and discussion of the Legislative Council's COVID-19 Prevention Policy concerning protective face coverings, and reported that, in accordance with the direction of the Personnel Committee, she had contacted the Maine CDC and requested guidance regarding which specific types of face coverings might be considered acceptable for purposes of COVID-19 prevention and protection. The response from the Maine CDC was forwarded to the Council members, and included in the Legislative Council's materials as an addendum. Speaker Fecteau informed the Council that Representative Dillingham had shared with him photographs of specific alternative face shields that members have either worn or hoped to wear, and that those photographs had also been forwarded to the Maine CDC for its consideration. Speaker Fecteau shared with the Council the Maine CDC's general guidance that if a person cannot wear a material or fabric face mask, the important criteria for a face shield is that the face shield wrap around the face and extend below the chin, and based on that general guidance, in addition to standard full-face shields, there are 4 alternative face shields that appear to comply with the Maine CDC's guidance. Speaker Fecteau suggested that the Legislative Council approve those 4 variations of face shields

as part of the revised policy. Members of the Council then reviewed the specific language of the draft amendment, and supported clarifying the language to ensure that protective face coverings would be worn in common areas of legislative space, including the House and Senate chambers and the hallways.

Motion: That upon the recommendation of the State House Personnel Committee, the Legislative Council approve revising the Legislative Council’s COVID-19 Prevention Policy to clarify that protective face coverings must be worn in common areas of legislative space; and specify that, in accordance with the guidelines of the Maine CDC, if a person must wear a face shield, in addition to standard full face shields, the only alternative face shields that may be worn are those depicted in the attachments to the policy. Motion by Senator Timberlake. Second by Representative Dunphy. **Motion passed unanimously (9-0-0-1, with Senator Pouliot absent).**

- **Allowing limited access to legislative space by authorized guests.** Ms. Gresser summarized a draft proposal by Senator Timberlake and Representative Dillingham to the Legislative Council’s COVID-19 Prevention Policy that would allow Legislators to invite a very limited number of guests into the State House. The members of the Council discussed specific details of the proposal. Senator Libby suggested that the guest proposal be reviewed by either the State House Facilities Committee or the Maine CDC, and that the results of that review be brought back to a future Legislative Council meeting. Senator Libby also suggested that individuals in the State House Complex be given an opportunity to implement the revision to the policy regarding protective face coverings before an additional change to the policy is adopted. Speaker Fecteau confirmed that Senator Timberlake would be willing to initiate the request for the review of the guest proposal by either the Maine CDC or the State House Facilities Committee, and requested that model guidance be developed and distributed to legislative offices setting out procedures to be followed when someone in the State House Complex is diagnosed with COVID-19.

Motion: That the proposal allowing limited access to legislative space by authorized guests be tabled. Motion by Senator Vitelli. Second by Senator Libby. **Motion passed (6-3-0-1, with Senator Timberlake, Representative Dillingham and Representative Stetkis opposed, and Senator Pouliot absent).**

Item #3: State House Complex Security

Representative Dillingham began the discussion regarding the process of implementing changes to security in the State House complex. Speaker Fecteau invited Commissioner of Public Safety, Michael Sauschuck to address the Council and describe the process leading up to, and the specifics about, the temporary security measures that were implemented following the events of January 6th in Washington D.C. Commissioner Sauschuck explained the reasoning behind temporarily reducing the number of access points and reducing vehicle access. Speaker Fecteau suggested that the State House Facilities Committee review the process and procedures for implementing changes to security changes. No Council action was required.

Item #4: Acceptance of the Fifteenth Annual Report of the Right to Know Advisory Committee

The Right to Know Advisory Committee submitted its Fifteenth Annual Report for acceptance by the Legislative Council.

Motion: That the Legislative Council accept the Fifteenth Annual Report of the Right to Know Advisory Committee and place it on file. Motion by Senator Libby. Second by

Representative Dunphy. **Motion passed unanimously (9-0-0-1, with Representative Pouliot absent).**

ANNOUNCEMENTS AND REMARKS

Senator Timberlake shared feedback from members regarding the difficulties posed by the unavailability of paper copies of testimony and committee materials. Representative Dillingham inquired about the provision of a stipend for paper and ink, and about the ability of committee members to send documents to print in committee rooms. Speaker Fecteau indicated that he understood the concern, and shared that staff in the House Majority Office were preparing copies of materials for members who so requested.

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 4:29 p.m.

**130th Maine State Legislature
Legislative Council Actions Taken on
Requests to Introduce Legislation
First Regular Session**

January 28, 2021

AFTER DEADLINE BILL REQUESTS

SPONSOR: Sen. Cathy Breen

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1964	An Act To Authorize a General Fund Bond Issue To Establish the State Infrastructure Adaptation Fund	PASSED

SPONSOR: Rep. Benjamin Thomas Collings

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1958	An Act To Preserve and Protect the State's Rail Corridors	PASSED

SPONSOR: Sen. Chip Curry

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1975	An Act To Establish the Maine Workforce, Research, Development and Student Achievement Institute	PASSED

SPONSOR: Sen. Scott Wynn Cyrway

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1974	An Act To Require Telecommunications Companies To Divulge Location Information to Law Enforcement When Necessary To Resolve an Ongoing Crime or Locate a Missing Person	PASSED

SPONSOR: Rep. Kathleen R.J. Dillingham

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1960	An Act To Update Maine's Prohibition on Sales of Upholstered Furniture Treated with Flame-retardant Chemicals	PASSED

SPONSOR: Rep. Kathy I. Javner

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1969	Resolve, To Dedicate a Portion of Route 6 from Lee to Springfield in Honor of Blair Emery	PASSED

SPONSOR: **Sen. Matthew Gary Pouliot**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1982	An Act To Amend the Property Tax Exemption for Legally Blind Persons	PASSED

SPONSOR: **Rep. Rachel Talbot Ross**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1978	An Act To Place the Capitol Police under the Jurisdiction of the Legislature	PASSED

SPONSOR: **Rep. Nathan J. Wadsworth**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1962	An Act To Promote Workforce Development and Provide an Economic Stimulus for Maine-based Filmmakers and Supporting Businesses	PASSED

JOINT RESOLUTIONS

SPONSOR: **Rep. Billy Bob Faulkingham**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
500	JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO URGE THE CONGRESS TO ADOPT THE "KEEP NINE AMENDMENT"	TABLED

SPONSOR: **Sen. Stacey Guerin**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
513	JOINT RESOLUTION URGING THE PRESIDENT OF THE UNITED STATES TO DESIGNATE A STATE FUNERAL FOR THE LAST LIVING WORLD WAR II MEDAL OF HONOR RECIPIENTS	TABLED

SPONSOR: **Sen. Lisa Keim**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1586	JOINT RESOLUTION, URGING THE RESTORATION OF CONSTITUTIONALISM AND THE TENTH AMENDMENT	TABLED

SPONSOR: **Sen. Dave Miramant**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
855	JOINT RESOLUTION MEMORIALIZING THE UNITED STATES DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICE TO INCLUDE CERTAIN NONFOOD ESSENTIALS IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM	PASSED

SPONSOR: **Sen. Trey Stewart**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
831	JOINT RESOLUTION MEMORIALIZING THE FEDERAL GOVERNMENT TO ELIMINATE THE WINDFALL ELIMINATION PROVISION THAT PENALIZES MAINE STATE RETIREES	PASSED

SPONSOR: **Rep. Sophia Bailey Warren**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1767	JOINT RESOLUTION, URGING COOPERATION BY MAINE AND THE FEDERAL GOVERNMENT TO ADDRESS CLIMATE CHANGE	PASSED

**130th Maine State Legislature
Legislative Council Actions Taken on
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First Regular Session
Addendum**

January 28, 2021

SPONSOR: Sen. Matthew Gary Pouliot

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1991	An Act To Require State Reimbursement of the Tax Paid by Residential Treatment Facilities and Nursing Homes	PASSED

SPONSOR: Sen. Trey Stewart

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1990	An Act To Provide Health Coverage Plans to Workers in Certain Industries	PASSED

JOINT RESOLUTIONS

SPONSOR: Sen. Dave Miramant

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1992	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO ESTABLISH A NATIONAL INFRASTRUCTURE BANK	PASSED