

MAINE STATE LEGISLATURE

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REP. HANNAH M. PINGREE
CHAIR

SEN. ELIZABETH H. MITCHELL
VICE-CHAIR

EXECUTIVE DIRECTOR
DAVID E. BOULTER



124TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. PHILIP L. BARTLETT II
SEN. KEVIN L. RAYE
SEN. LISA T. MARRACHE
SEN. JONATHAN T. E. COURTNEY
REP. JOHN F. PIOTTI
REP. JOSHUA A. TARDY
REP. SETH A. BERRY
REP. PHILIP A. CURTIS

MEETING SUMMARY
June 9, 2009
APPROVED JULY 22, 2009

CALL TO ORDER

Legislative Council Chair, Speaker Pingree called the June Legislative Council meeting to order at 2:23 P.M. in the Legislative Council Chambers.

ROLL CALL

Senators: Senate President Elizabeth Mitchell, Sen. Philip Bartlett, Sen. Kevin Raye, Sen. Jonathan Courtney, Sen. Lisa Marraché

Representatives: Speaker Hannah Pingree, Rep. John Piotti [arrived after the start of the meeting], Rep. Seth Berry, Rep. Philip Curtis

Absent: Rep. Joshua Tardy

Legislative Officers: Joy O'Brien, Secretary of the Senate
Millicent MacFarland, Clerk of the House
Michael Cote, Assistant Clerk of the House
David E. Boulter, Executive Director of the Legislative Council
Patrick Norton, Director, Office of Policy and Legal Analysis
Grant Pennoyer, Director, Office of Fiscal and Program Review
Margaret Matheson, Revisor of Statutes
John Barden, Director, Law and Legislative Reference Library
Rose Breton, Legislative Finance Director
Debra Olken, Human Resources Director

Chair Pingree convened the meeting at 2:23 P.M. with a quorum of members present.

SUMMARY OF MAY 14TH & 18TH, 2009 MEETINGS OF LEGISLATIVE COUNCIL

Motion: That the meeting summaries for May 14th and 18th, 2009 be accepted and placed on file. Motion by Senate President Mitchell. Second by Senator Bartlett. **Motion passed unanimous (8-0).** [Representative Piotti and Representative Tardy absent for vote]

Chair Pingree asked if there was any objection to taking two items out of order. Hearing none, the Chair then moved to **New Business, Item 1: Consideration of After Deadline Bill Requests/Addendum** and **Item #2: Consideration of Legislative Study Requests**

ITEM #1: Consideration of After Deadline Bill Requests/Addendum

President Mitchell noted that the Legislature will be trying to adjourn on Friday, June 12 and that unless there is a matter of extraordinary emergency, she advised against authorizing any new bills. Speaker Pingree concurred.

The Legislative Council considered and acted on five and tabled three after deadline bill requests. The Legislative Council's actions on these requests are included on the attached list.

ITEM #2: Consideration of Legislative Study Requests

Mr. Boulter reviewed the suggested protocol for authorizing legislative studies and the policy matters that require a council decision, as follows:

- The Legislative Council will review study requests alphabetically by policy area.
- Voting will be by a show of hands, and each Legislative Council member's vote on each bill will be recorded. The record of each vote will be made available for public inspection following the meeting. A 2/3rd majority is required to authorize any study reporting to a subsequent Legislature.
- Committee chairs and others are welcome to observe the council's deliberations on the study requests, but discussion of the requests will be confined to council members. However, Legislative Council members may ask questions of committee chairs and other legislators regarding the proposed study if needed.
- Unless otherwise specified by the Legislative Council, authorized studies are to be drafted consistent with applicable standards and policies approved by the Council. Floor amendments to authorized studies making Council-authorized changes will be prepared in the name of the Senate Majority Leader, except for studies tabled in the House which will be in the name of the House Majority Leader.

Policy Issues Needing Decision (and Recommendation)

1. **Number of authorized meetings and meeting location-Recommendation:**
Unless otherwise specified by the Legislative Council, the number of study meetings is not to exceed four (4) and meetings are to be held in the Augusta area.
2. **Studies conducted using non-General Fund sources-Recommendation:**
When a study committee is required to be funded by outside funds, the study committee may not convene until sufficient funds are received to pay for the study.

3. **Interim committee meetings-Recommendation:** Unless authorized by law or joint order, joint standing committees may not meet during the interim for any purpose without the prior written approval of the presiding officers. Committees wishing to meet must submit a written request to meet to the presiding officers indicating the number of meetings requested, the purpose of the meetings and the date of the meeting. Committee clerks will not be authorized for interim committee meetings.

Motion: That the suggested protocol and the recommendations on the policy issues be adopted. Motion by Senator Mitchell. Second by Representative Berry. **Motion passed, unanimous (8-0).** [Representative Piotti and Representative Tardy absent for vote]

Eighteen (18) legislative study requests were reviewed and decided by the Legislative Council. Results are attached.

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

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

Executive Director's Report

David Boulter, Executive Director of the Legislative Council, reported on the following:

State House Repairs and Improvements

Work to make necessary repairs and improvements to the State House, including patching and painting public spaces, will begin in July.

VOIP Telephone System

Staff has been investigating the feasibility of upgrading the current telephone system to a modern, computerized system, Voice Over Internet Protocol (VOIP). The initial assessment suggests that upgrading the system to a VOIP system suggests that it may be cost-effective over the long-term and result in enhanced telephone features without decreasing reliability.

At the next State House Facilities Committee meeting, staff will present background information and a proposal for proceeding to the next level of assessment for the committee's review.

Resignation of Edward A. Charbonneau IV

Ed Charbonneau, Senior Attorney in the Revisor's Office is resigning his position after 15 years to accept a position outside of the Legislature. He is a skilled lawyer and drafter and has been a huge asset to the Revisor's Office. Ed's last day with the Legislature will be shortly after adjournment of the first regular session.

Fiscal Report

Grant Pennoyer, Director, Office of Fiscal and Program Review, presented the fiscal report.

Revenue Update

Total General Fund Revenue - FY 2009 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
May	\$235.3	\$214.1	(\$21.2)	-9.0%	\$248.0	-13.7%
FYTD	\$2,380.1	\$2,367.0	(\$13.1)	-0.6%	\$2,608.1	-9.2%

General Fund revenue was under budget by \$21.2 million in May and the Fiscal Year-to-date (FYTD) by \$13.1 million or -0.6%. May revenue was 13.7% below May 2008 and 9.2% below the same FYTD period in FY 2008. This variance report is now based on the May revenue forecast and legislative changes implemented in the biennial budget bill, LD 353 as enacted as PL 2009, c. 213.

Sales and Use Tax continued to underperform in May despite the significant downward adjustments in the May revenue revision. Sales tax collections representing April taxable sales were under budget by \$2.8 million. The Service Provider Tax and Cigarette and Tobacco Products Tax categories were also under in May.

Individual Income Tax category was under budget by \$18.3 million in May. Due to a positive variance related to the BETR program, this category was under budget by \$16.0 million for the FYTD. Receipts from withholding taxes were under budget \$12.1 million for May and for the FYTD. This is a concern, especially if this negative variance continues into June.

The Corporate Income Tax category was over budget in May by \$3.4 million. This category along with Public Utilities Tax and Insurance Companies Tax categories were the only major categories over budget.

Total Highway Fund Revenue - FY 2009 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
May	\$25.7	\$26.3	\$0.6	2.4%	\$25.0	5.2%
FYTD	\$274.8	\$274.3	(\$0.6)	-0.2%	\$274.4	0.0%

Highway Fund revenue was over budget by \$0.6 million or 2.4% in May but was under budget for the FYTD through May by \$0.6 million or 0.2%. Bureau of Motor Vehicle revenue was under budget by \$1.1 million in May, but Fuel Tax more than offset this negative variance in May. The Fuel Tax category was over revised budget by \$1.5 million. The new forecast appears to have captured the reduction in fuel consumption and the shift of volume to gasoline-ethanol mix, taxed at a lower rate.

General Fund Budgeted Balance

Based on enacted law to date and the May forecast, the budgeted ending balance at the close of the current fiscal year is \$26.6 million. Fortunately, this balance provides a buffer against a negative revenue variance should sales and individual income taxes fall below budget in June as they did in May. The projected balance at the end of the 2010-2011 biennium is \$2.7 million. If the current fiscal year ends with a negative revenue variance, the budgeted ending balance will be reduced.

Cash Update

May's poor revenue performance and the actions taken to address the additional shortfall mean that General Fund cash balances will end the year significantly in the "red." The average balance for the total cash pool in May was \$277.2 million below May 2008 and significantly below the 2002 to 2008 historical average for May of \$684.8 million

Summary of Treasurer's Cash Pool		
May Average Daily Balances		
Millions of \$'s		
	2008	2009
General Fund (GF) Total	\$19.3	\$18.7
General Fund (GF) Detail:		
Budget Stabilization Fund	\$118.9	\$75.5
Reserve for Operating Capital	\$40.6	\$40.6
Tax Anticipation Notes	\$0.0	\$0.0
Internal Borrowing	\$6.8	\$214.8
Other General Fund Cash	(\$147.0)	(\$312.2)
Other Spec. Rev. - Interest to GF	\$166.3	(\$57.1)
Other State Funds - Interest to GF	(\$14.3)	(\$10.8)
Highway Fund	\$27.9	\$29.4
Other Spec. Rev. - Retaining Interest	\$85.2	\$47.5
Other State Funds	\$192.0	\$208.1
Independent Agency Funds	\$119.8	\$82.9
Total Cash Pool	\$596.0	\$318.8

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Chair Pingree presented the Personnel Committee report for the Personnel Committee meeting held earlier in the day.

Proposed shutdown day schedule

The committee voted to recommend a schedule for closure of legislative offices for budgetary reasons. Legislative employees will not be paid for those days when legislative offices are closed.

Motion: That the Legislative Council establish the following schedule for closure of legislative offices. Employees must take the designated days off without pay and no employee leave with pay or unpaid leaves are allowed for those days designated as Legislative Branch Closure Days.

For 2009:

Monday, July 6, 2009
Friday, August 7, 2009
Friday, September 4, 2009
Friday, October 9, 2009
Thursday, December 24, 2009

For 2010:

A decision on specific closure days for 2010 is deferred pending a Legislative Council assessment of the effects of shutdown days on legislative operations during the second regular session.

Motion by Representative Pingree. Second by Representative Piotti. **Motion passed unanimous (9-0).** [Representative Tardy absent for vote]

Information Services Director

The committee authorized recruitment for the director of the Office of Information Services, with an anticipated completion of recruitment by late summer.

Voluntary Unpaid Leave

The committee discussed proposed personnel policies and guidelines to implement a voluntary unpaid leave program in the legislature, building on existing unpaid leave policies. The plan is to have guidelines in place for this summer.

2. State House Facilities Committee

(No Report)

3. Budget Subcommittee

(No Report)

4. CSG Annual Meeting Planning Subcommittee

Senator Bartlett, co-chair, reported that the annual meeting registrations for Burlington, Vermont remain low. Following the August meeting, he intends to reconvene the 2010 annual meeting planning subcommittee to assess the plans and fundraising capability for the 2010 meeting in Portland.

OLD BUSINESS

ITEM 1: Legislative Council Actions Taken by Ballot

A copy of the list of actions taken by ballot by the Legislative Council since its May 14, 2009 meeting was attached. No further action by the Legislative Council was required.

NEW BUSINESS

ITEM #3: Cloture Schedule for 2nd Regular Session

Margaret Matheson, Revisor of Statutes, drew members' attention to her proposed cloture date memo. She reported that the proposed schedule establishing dates and deadlines for cloture and related events for the Second Regular Session of the 124th Legislature is as follows:

September 16th (4 p.m.) Filing Deadline (cloture)

October 8th (10 a.m.)	Legislative Council Meeting – Screening of Legislators’ requests
October 14th	Notification of Council’s action mailed to sponsors
October 20th	Deadline for filing appeals
October 29th	Legislative Council Meeting to consider appeals
Week of December 14th	Bill Signing week (subject to approval by the presiding officers)
January 6, 2010	Legislature convenes

After some discussion, members concluded that the cloture date should be set for September 23rd, not September 16th and that Ms. Matheson and Mr. Boulter should develop a revised schedule to reflect the cloture date change.

Motion: That Legislative Council establish the cloture date for filing bill requests for the 2nd Regular Session as September 23, 2009 and direct the Revisor and the Executive Director to prepare a revised schedule to be presented at the next Legislative Council meeting. Motion by Senator Bartlett. Second by Senator Mitchell. **Motion passed, unanimous (9-0).** [Representative Tardy absent for vote]

ITEM #4: L.D. 1428, “An Act Regarding the Pay of Tribal Representatives
[Speaker Hannah Pingree]

Speaker Pingree inquired whether there is one or two bills pending before the Legislature regarding Indian tribes or tribal pay.

Mr. Boulter responded that there are two bills: LD 1428; *An Act Regarding the Pay of Tribal Representatives* (relating to the Penobscot and Passamaquoddy tribal representatives at the Legislature); and LD 445; *An Act to Improve Tribal-State Relations* (relating to allowing a Maliseet tribal representative at the Legislature).

There are legislative costs related to each bill. Speaker Pingree expressed her desire to fund costs associated with LD 1428 within existing legislative resources for the next biennium. While finding sufficient funds may be difficult, she believed funds can be found. She further expressed a desire to carryover LD 445 to allow the Legislative Council to study the implications, including costs for payment for an additional tribal member and House chamber reconfiguration costs.

Senator Courtney concurred, but suggested that consideration be given to having the two tribal representative seats at the Legislature represent all Maine tribes rather than increasing the number of tribal representatives at the Legislature.

Mr. Boulter summarized the discussion and general understanding of the members, that the expenses to pay tribal members pursuant to LD 1428, as amended, would be as follows:

- FY09 from unexpended balances in the legislative account
- FY10 & FY11 from the legislative account by achieving equivalent Personal Services reductions elsewhere in the legislative budget to cover the costs.

Speaker Pingree made a motion to pay the Penobscot and Passamaquoddy tribal members beginning in FY09 as provided by LD 1428 as amended, with funding to be provided as

summarized by the Executive Director. Second by Senator Bartlett. **Motion passed, unanimous (9-0).** [Representative Tardy absent for vote]

A second motion was offered.

Motion: That the Legislative Council recommend to the Joint Standing Committee on Appropriations and Financial Affairs that LD 445 be carried over to the 2nd Regular Session pending review by the Legislative Council for cost and other implications. **Motion by Senate President Mitchell. Second by Senator Bartlett. Motion passed, unanimous (9-0).** [Representative Tardy absent for vote]

ITEM #5: Citizen Trade Policy Commission

Request to Carry Over Unspent FY 09 Funds to FY 10

Motion: That the Citizen Trade Policy Commission be authorized to carry over unspent funds from FY09 to FY10. Motion by Senator Bartlett. Second by Representative Berry. **Motion passed, unanimous. (7-0)** [Representative Tardy, Representative Piotti and Senator Raye absent for vote]

ANNOUNCEMENTS AND REMARKS

None

ADJOURNMENT

The Legislative Council meeting was adjourned at 4:17 P.M.