

MAINE STATE LEGISLATURE

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REP. HANNAH M. PINGREE
CHAIR

SEN. ELIZABETH H. MITCHELL
VICE-CHAIR

EXECUTIVE DIRECTOR
DAVID E. BOULTER



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

124TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL
LEGISLATIVE COUNCIL
May 14, 2009
8:00 P.M.
REVISED AGENDA

<u>Page</u>	<u>Item</u>	<u>Action</u>
	CALL TO ORDER	
	ROLL CALL	
1	SUMMARY OF THE APRIL 16, 2009 MEETING OF THE LEGISLATIVE COUNCIL	Acceptance
	REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS	
	▪ Executive Director's Report (Mr. Boulter) (No Report)	Information
	▪ Fiscal Report (Mr. Pennoyer) (No Report)	Information
	▪ Information Services Report (No Report)	Information
	REPORTS FROM COUNCIL COMMITTEES	
	• Personnel Committee (Speaker Pingree, Chair) (No Report)	
	• State House Facilities Committee (Rep. Piotti, Chair) (No Report)	
	• Budget Subcommittee (Senate President Mitchell, Chair) Recommendations for Budget Savings for FY 2010/2011	
	• CSG Annual Meeting Planning Subcommittee (Senator Bartlett and Representative Nancy Smith, Co-chairs)	

OLD BUSINESS

- | | | |
|-----------|--|--------------------|
| 10 | Item #1: Council Actions Taken By Ballot (No Action Required)
A copy of a list of actions taken by ballot by the Legislative Council since its April 16, 2009 meeting is attached. | Information |
|-----------|--|--------------------|

NEW BUSINESS

- | | | |
|-----------|--|----------------------------------|
| 11 | Item #1: Consideration of After Deadline Bill Requests | Roll Call Vote |
| | Item #2: L.D. 1428, "An Act Regarding the Pay of Tribal Representatives [Speaker Hannah Pingree] | Information/
Decision |
| 12 | Item #3: Resolution Supporting the Passage of LD 1020 "An Act to End Discrimination in Civil Marriage and Affirm Religious Freedom" | Information |
| 15 | Item #4: Request for a proposed study from the Joint Standing Committee on Utilities and Energy for approval under Joint Rule 353 | Decision |

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

REP. HANNAH M. PINGREE
CHAIR

SEN. ELIZABETH H. MITCHELL
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124TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

MEETING SUMMARY
April 16, 2009

CALL TO ORDER

Legislative Council Chair, Speaker Pingree called the Legislative Council meeting to order at 2:10 P.M. in the Legislative Council Chambers.

ROLL CALL

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

Representatives: Speaker Hannah Pingree, Rep. John Piotti, Rep. Seth Berry, Rep. Philip Curtis

Absent: Rep. Joshua Tardy

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

Chair Pingree convened the meeting at 2:10 P.M. with a quorum of members present.

SUMMARY OF MARCH 26, 2009 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of March 26, 2009 be accepted and placed on file. Motion by Senator Bartlett. Second by Representative Berry. **Motion passed unanimous (9-0).**
[Representative Tardy absent]

Chair Pingree asked if there was any objection to taking one item out of order. Hearing none, the Chair then moved to **New Business, Item 1: Consideration of After Deadline Bill Requests/Addendum.**

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

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

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:

Preparations for Public Hearing at Augusta Civic Center on April 22, 2009

Working in conjunction with the presiding officers, committee chairs and the Augusta Civic Center, staff from various offices are making all necessary preparations for the legislative hearing on LDs 1020 and 1118 next Wednesday. As with other very large hearings, necessary logistical and security arrangements are being made to assure an orderly hearing.

HVAC Piping Failure - Update

Mr. Boulter is working with a mechanical engineer to develop testing procedures and system monitoring protocols to prevent future piping failures such as was experienced last month, and to install alarms or other warnings in the event of a system malfunction. He will be working with the Building Control Center to implement the recommendations once they are developed.

Paul Mayotte Leaving the Legislature

Paul Mayotte, Director of Information Services is leaving the legislature to pursue other employment opportunities. We wish him well. Deputy Director Scott Clark will handle day-to-day operational aspects of the office during the period of transition.

Fiscal Report

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

Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
March	\$173.7	\$162.4	(\$11.3)	-6.5%	\$193.0	-15.9%
FYTD	\$1,841.4	\$1,814.0	(\$27.4)	-1.5%	\$1,903.0	-4.7%

General Fund revenue was under budget by \$11.3 million in March and fell below budget for the Fiscal Year-to-date (FYTD) by \$27.4 million or 1.5% through March 2009. March revenue was 15.9% below March 2008 and 4.7%

below the same 3 quarters in FY 2008. This FYTD decline is greater than the 4.1% decline projected in the current General Fund revenue forecast.

Sales and Use Tax continued its decline in March and for the FYTD has fallen \$31.0 million or 4.7% below budget, 4.2% below FY 2008 amounts for the same period. The Cigarette and Tobacco Products Tax category was \$4.2 million under budget in March. This negative variance was particularly large this month due to suppliers reducing inventories in anticipation of the federal tax changes. With the federal tax increases, this category is expected to decline further below budget for the remainder of FY 2009 and beyond.

Both the Individual and Corporate Income Tax categories were under budget in March. Individual Income Tax remained over budget by \$17.0 million for the FYTD providing some cushion heading into the April tax filing season. Through March, core Individual Income Tax (excluding the effects of the tax reimbursement transfers) declined 2.6% from the same period in FY 2008. The revenue forecast assumes an 8.1% decline for the full fiscal year. Much of the additional decline is projected to occur in April. Corporate Income Tax fell \$1.4 million under budget for the FYTD through March and has declined 19.4% from the same period in FY 2008, compared to an 8.5% decline for the full fiscal year.

Insurance Companies Tax category and the Other Revenue Category were the only 2 categories over budget in March. Insurance Companies Tax reflects payments based on calendar year 2008 performance, which was better than projections. The Other Revenue category rebounded in March due to “catch-up” transfers to the Fund for the Efficient Delivery of Local and Regional Services and a \$3.5 million positive variance in Department of Health and Human Services revenue. Other Revenue remained \$9.8 million under budget through March, largely due to a \$6.0 million timing issue related to the Unclaimed Property Transfer and the transfers to the Maine Milk Pool, which had a negative FYTD variance of \$5.1 million.

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
March	\$30.0	\$26.7	(\$3.3)	-11.0%	\$27.4	-2.4%
FYTD	\$231.5	\$222.5	(\$9.1)	-3.9%	\$223.7	-0.5%

Highway Fund revenue was under budget by \$3.3 million or 11% in March and \$9.1 million or 3.9% for the FYTD through 3 quarter of FY 2009. The brief reprieve in February from a series of negative variances was just that – brief. Through 3 quarters of FY 2009 Highway Fund revenue has declined 0.5% from the same period in FY 2008 despite indexing fuel tax rates for inflation. While fuel consumption has declined, the negative variances in the fuel tax category have also been driven by a greater than anticipated shift by distributors to the use of “E-10” gasoline-ethanol mix. The E-10 gasoline-ethanol mix qualifies for a tax rate that is approximately \$0.01 lower than the rate for gasoline.

Revenue Forecast Update

The Consensus Economic Forecasting Commission (CEFC) met on Tuesday, March 31st and concluded its update of the economic forecast, last updated on November 1, 2008. A copy of the full CEFC report is available on the web at: http://www.maine.gov/legis/ofpr/revenue_forecasting_committee/consensus_economic_forecast/apr2009_full_report.pdf

The Revenue Forecasting Committee (RFC) will meet on Tuesday, April 28th to conclude the May revenue forecast update. It has a statutory reporting deadline of May 1st.

Information Technology Report

On behalf of the entire Legislative Council, Chair Pingree thanked Mr. Mayotte for his service to the Legislature and wished him well in his future endeavors.

Status of Legislative Studies

(No Report)

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

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

The Personnel Committee met to discuss proposed language that would clarify in law that the level of group life insurance coverage for Legislators is calculated using the salary for Legislators averaged over their 2-year term in office, a practice that has been in place for several decades. The committee concluded that the language was necessary and appropriate to provide clarity and guidance to the Maine Public Employees Retirement System.

Motion: That, upon the unanimous recommendation of the Personnel Committee, the Legislative Council re-affirm the current retirement system practice of calculating group life insurance coverage for Legislators using the 2-year income averaging method, and pursue legislation clarifying that Legislator coverage levels are to be calculated in that manner. Motion by Senator Mitchell. Second by Senator Bartlett. **Motion passed unanimous (9-0). [Representative Tardy absent for vote]**

2. State House Facilities Committee

Rep. Piotti, chair of the State House Facilities, reported that the committee met on Monday, March 30, 2009 to discuss numerous items. They are discussed below.

A. Multi-Year Plan for State House Maintenance and Improvements

The committee reviewed the proposed multi-year plan for maintenance and improvements for the State House and Grounds for 2009. Because of the current economic conditions, the proposed plan was scaled down and lower priority projects were deferred to out years. During its review, the committee further scaled down the project list for 2009, resulting in some expected budget savings that the Budget Subcommittee can use toward overall Legislative budget savings. Representative Piotti noted that several items were postponed until 2010. He also noted that the 100th anniversary of the 1910 redesign of the State House is approaching and that the necessary improvements should be on a schedule to be completed by then.

Motion: That, upon the unanimous recommendation of the State House Facilities Committee, the Legislative Council authorize maintenance and improvements to the State House and Grounds as described in the 2009 revision of the Multi-Year Plan, as further revised by the committee, and further authorize the Executive Director to take necessary measures to implement the plan in accordance with the schedules contained in the plan. Motion by Representative Piotti. Second by Representative Curtis. **Motion passed unanimous (9-0). [Representative Tardy absent for vote]**

Speaker Pingree asked that, for the benefit of the audience, several projects be described.

Representative Piotti responded by explaining two projects were a building-wide cleaning and repair and repainting of plaster walls in the public areas of the State House.

Mr. Boulter noted that a key project for 2009 is the installation of energy efficient LED lighting to replace the old style metal halide lighting on the exterior of the capitol dome. Installation of this lighting will result in substantial energy savings in comparison to the old technology lamps [84% reduction in electrical energy consumption]. Repairing the entrance drive to the North parking lot, a major project, was postponed because it was not deemed to be essential this year.

B. Request for display of Memorial in the Hall of Flags

The committee considered a request by the Department of Defense, Veterans and Emergency Management for permission from the Legislative Council to place a free-standing memorial symbolizing the global war on terror in the Hall of Flags until the war ends. It discussed the proposal, particularly the proposed indefinite period of display, and a location that would be both respectful of the memorial and not be disruptive to the Legislative events and activities. Permanent floor mounted or free standing displays are more problematic in high traffic areas open to the public and the committee is suggesting a policy to address the issue. Overall, the committee was supportive of a limited display.

Motion: That upon the unanimous recommendation of the State House Facilities Committee, the Legislative Council approve the placement of the war on terror memorial in its display case in a suitable location in the Hall of Flags for a period of three months; further that the chair of the Legislative Council consult with the chairs of the Joint Standing Committee on Legal and Veterans' Affairs about the feasibility of displaying the memorial in the committee room until the war ends or to another time certain; and further that the Legislative Council adopt a policy for the Hall of Flags that memorials, plaques or commemorative displays for extended or permanent exhibit be limited to those that are wall-mounted. Motion by Representative Piotti. Second by Senator Marrache. **Motion passed unanimous (9-0). [Representative Tardy absent for vote]**

Senator Marrache asked for clarification whether the approved motion would prohibit temporary displays in the Hall for Flags. Representative Piotti answered that the motion applies to memorials, plaques or commemorative displays for “extended or permanent exhibit.”

C. Piping Failure Update

The committee was given a report on the discovery of the piping failure that occurred in the State House on March 25th, and the remedial measures taken to abate the water damage. All rooms re-opened for use by the end of March.

D. Building Tour

The committee requested a building tour since many of the facilities committee members are not as familiar with this building as they would like to be. Representative Piotti extended an invitation to all members of the Council to participate in the tour.

Representative Piotti and Senator Marrache noted that the 100th anniversary of the 1910 addition to the State House will be occurring in December 2010. Representative Piotti noted that the anniversary will actually occur during the 125th Legislature but the 124th Legislative Council will need to plan for any celebratory event. He indicated that there is no need to structure a committee now but if anyone is particularly interested in participating in planning an event, to speak with him. It was noted that Senator Raye, Senator Marrache, and Senator Mitchell expressed an initial interest.

3. Budget Subcommittee

President Mitchell, chair of the Budget Subcommittee, reported that the Budget Subcommittee has met two times to discuss a variety of budget savings options and measures. She noted that the subcommittee has met its internal target relating to the employee attrition rate. The subcommittee will reconvene once the Revenue Forecasting Committee has met and released its revised revenue forecast so the subcommittee will know what additional budget savings need to be achieved.

4. CSG Annual Meeting Planning Subcommittee

Senator Bartlett, co-chair of the CSG Annual Meeting Planning Subcommittee, reported that the subcommittee met for the first time on April 9, 2009 to begin its planning for hosting the CSG/ERC annual meeting that will be held August 15-18, 2010. The subcommittee reviewed two proposals for event planning services: one by Great Gatherings and one by Moose Ridge Associates, both having offices in Augusta. The subcommittee selected Moose Ridge Associates, feeling that it has greater fundraising experience and capacity. The subcommittee authorized the Executive Director to enter into discussions with Moose Ridge Associates with a goal of entering into a contract this month. The proposed cost for the event planning consultant is \$17,500 plus expenses, with payment to come from funds raised.

No action by the Legislative Council is required.

Senator Raye asked how payments to the consultant will be structured to avoid allowing the consultant to be paid 100% from the initial money raised.

Rep. Piotti explained that the payment schedule will be part of the specific contract, likely to be partial payments staggered over time, and the money will come from fundraising.

OLD BUSINESS

ITEM 1: Legislative Council Actions Taken by Ballot

There was no action taken by ballot by the Legislative Council since the last meeting.

NEW BUSINESS

ITEM #2: Request from the Department of Defense, Veterans and Emergency Management to display a State of Maine Global War on Terror Memorial in the Hall of Flags (State House Facilities Committee recommendation)

The Legislative Council approved placement of the war on terror memorial in its display case in a suitable location in the Hall of Flags for a period of three months by motion earlier in the meeting. No other action by the Legislative Council was necessary.

ANNOUNCEMENTS AND REMARKS

None

ADJOURNMENT

The Legislative Council meeting was adjourned at 2:47 P.M.

**LEGISLATIVE COUNCIL ACTION ON
REQUESTS TO INTRODUCE LEGISLATION
FIRST REGULAR SESSION**

As of: April 10, 2009

SPONSOR:	Sen. Raye, Kevin L.	Action Passed
LR 1974	An Act To Provide a Lower Rate of Taxation on Severance Pay	
SPONSOR:	Sen. Raye, Kevin L.	Passed
LR 1975	An Act To Ensure Fair Calculation of Severance Pay for Maine Workers	
SPONSOR:	Rep. Smith, Nancy E.	Passed
LR 1971	An Act Regarding the Evaluation of Economic Development Programs	
SPONSOR:	Rep. Thomas, Douglas A.	Withdrawn
LR 1973	An Act To Authorize a General Fund Bond Issue To Enable Maine Farmers To Form a Cooperative To Buy or Build a Milk Processing Plant	
SPONSOR:	Rep. Valentino, Linda M.	Passed
LR 1965	Resolve, To Recognize Women Veterans in the Hall of Flags	
TABLED BY THE LEGISLATIVE COUNCIL		
SPONSOR:	Rep. Bickford, Bruce A.	Action Failed
LR 1873	An Act To Limit the Liability of Landowners for Noncommercial Aviation Activities	
SPONSOR:	Rep. Tardy, Joshua A.	TABLED 03/26/09
LR 1957	Resolve, To Identify Unfunded State Educational Mandates	

ADDENDUM
LEGISLATIVE COUNCIL ACTION ON
REQUESTS TO INTRODUCE LEGISLATION
FIRST REGULAR SESSION
After: April 10, 2009

SPONSOR:	Rep. Crockett, Jarrod S.	Action Passed
LR 1982	An Act Relating to the Carrabassett Valley Sanitary District	
SPONSOR:	Rep. Hanley, Stephen P.	Tabled 4/16/09
LR 1980	An Act To Amend the Laws Pertaining to the Collection of Child Support	
SPONSOR:	Sen. Hobbins, Barry J.	Passed
LR 1984	An Act Regarding the Maine Energy Recovery Facility	
SPONSOR:	Sen. Marrache, Lisa T.	Passed
LR 1981	An Act To Clarify the Laws Governing Adverse Possession	
SPONSOR:	Sen. Mitchell, Elizabeth H.	Passed
LR 1979	An Act Concerning Debarment from Contracts with the Department of Environmental Protection	
SPONSOR:	Rep. Pingree, Hannah M.	Passed
LR 1983	An Act To Assist Maine Workers and Businesses To Succeed in a Changing Economy	

**Legislative Council Actions
Taken by Ballot Since the
April 16, 2009 Council Meeting**

Request for Introduction of Legislation

A. LR 1987 **An Act to Reaffirm that Maine is Open for Business (title subsequently changed)**

Submitted by: Rep. Nancy Smith
Accepted: 4/28/09 Vote: 10 – 0 in favor

Request to Report Out a Bill That Includes a Legislative Study That is Not Consistent with Joint Rule 353

B. LD 1012 **An Act to Establish the Maine Broadband Commission**

Submitted by: Senator Barry Hobbins
Representative Jon Hinck
Accepted: 5/4/09 Vote: 8 – 2 in favor

**LEGISLATIVE COUNCIL
REQUESTS TO INTRODUCE LEGISLATION
FIRST REGULAR SESSION
As of: May 14, 2009**

		Action
SPONSOR:	Rep. Beaudette, Stephen R.	
LR 1994	An Act To Authorize a General Fund Bond Issue for the Establishment of a College of Dental Management at the University of New England's Portland Campus	
SPONSOR:	Rep. Connor, Gary A.	
LR 1993	An Act To Reduce the Minimum Number of School Days That a School is Closed for an Emergency	
SPONSOR:	Rep. Tilton, Dianne	
LR 1986	An Act To Allow Municipalities To Institute Temporary Closures of Their Municipal Shellfish Programs	

TABLED BY THE LEGISLATIVE COUNCIL

		Action
SPONSOR:	Rep. Hanley, Stephen P.	TABLED 04/16/09
LR 1980	An Act To Amend the Laws Pertaining to the Collection of Child Support	
SPONSOR:	Rep. Tardy, Joshua A.	TABLED 03/26/09
LR 1957	Resolve, To Identify Unfunded State Educational Mandates	

Resolve 16-08/09
Tab 33 4-27-09

JILL C. DUSON (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
DANIEL S. SKOLNIK (3)
CHERYL A. LEEMAN (4)

EXECUTIVE DIRECTOR'S
OFFICE
CITY OF PORTLAND
2009 APR 30 11:08 AM
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
DORY RICHARDS WAXMAN (A/L)
NICHOLAS M. MAVODONES (A/L)

**RESOLUTION SUPPORTING THE PASSAGE OF LD1020
"AN ACT TO END DISCRIMINATION IN CIVIL MARRIAGE AND
AFFIRM RELIGIOUS FREEDOM"**

WHEREAS, LD 1020, An Act to End Discrimination in Civil Marriage and Affirm Religious Freedom, sponsored by Senator Dennis Damon of Trenton, is currently before the Maine Legislature, and

WHEREAS, LD 1020 is a critical legal step in the long fight to provide equal legal access and protection to all of Maine residents regardless of their sex, or sexual orientation; and

WHEREAS, it is vital in a fair society for everyone to have equal rights under the laws of the state and county; and

WHEREAS, the laws of the State of Maine currently do not allow same-sex couples to marry and in fact prohibit persons of the same sex from contracting a marriage; and


WHEREAS, LD 1020 recognizes the important legal distinction between the laws of the state, which are the product of secular, non-religious process and policy making and the laws and tenets of religious organizations; and

WHEREAS, this important distinction is crafted and integrated by the founders of the United States into the U.S. Constitution, and by the founders of Maine into the Maine Constitution both of which require the separation of church and state; and

WHEREAS, LD 1020, at the same time fully recognizes and affirms the right of religious freedom for organizations by explicitly stating that this proposed law does not authorize any court or other state or local governmental body, entity, agency or commission to compel, prevent or interfere in any way with any religious institutions, religious doctrine, policy, teaching or solemnization of marriage within that particular religious faith's tradition as guaranteed by the Maine Constitution, Article 1, Section 3 or the First Amendment of the United States Constitution; and

WHEREAS, LD 1020 similarly recognizes the religious freedom of an individual to not perform a marriage ceremony by explicitly stating that "a person authorized to join persons in marriage and who fails or refuses to join persons in marriage is not subject to any fine or other penalty for such failure or refusal;" and

WHEREAS, the secular institution of marriage is designed and intended to further the relationship between individuals who are committed to a binding and long-term relationship both

A TRUE COPY
ATTEST: 
Linda C. Cohen, MMC, City Clerk
Portland, Maine
DATE: 4/28/09

Passage 4/27/09 8-0 (Skolnik absent)

of which are in the best interest of society at large and particularly children who can benefit from such relationships in a family environment; and

WHEREAS, the legal institution of marriage brings with it a host of legal rights and responsibilities that are designed to promote and support long-term relationships and families; and

WHEREAS, those rights and responsibilities are currently denied to the gay and lesbian citizens of the State of Maine; and

WHEREAS, a number of other states throughout the country including the State of New Hampshire, have already adopted laws providing equal legal access to marriage for same sex couples; and

WHEREAS, the citizens of Portland have always supported and believed that an individual should be judged by his or her acts and not by labels; and

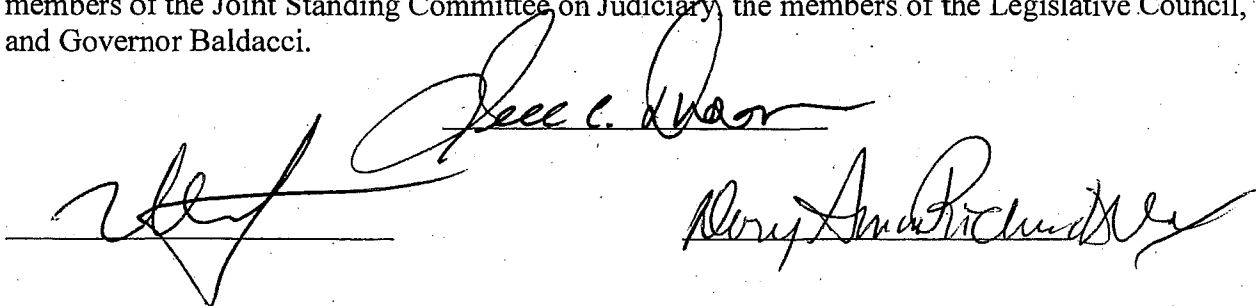
WHEREAS, that conviction on the part of the citizens of Portland led the Portland City Council on May 11, 1992 to enact the first human rights ordinance in the State of Maine granting protection against discrimination based on sexual orientation in employment, housing, public accommodations, and credit availability; and

WHEREAS, on November 8, 2005 the people of the State of Maine supported P.L. 2005, Chapter 10, a similar law amending the State's Human Rights Act which law went into effect on December 28, 2005; and

WHEREAS, LD 1020 will further the march toward legal equality, protection and rights for all of Maine citizens;

NOW THEREFORE BE IT RESOLVED, that the undersigned members of the Portland City Council strongly supports LD1020 and respectfully requests that the City's delegation and the other members of the Maine House and Senate, and the Honorable John Baldacci, Governor of the State of Maine, support it and pass it during this session of the 124th Maine State Legislature; and

BE IT FURTHER RESOLVED, that the City Clerk shall forward a copy of this Resolution and the Council's action on it to the members of the Portland Delegation, the members of the Joint Standing Committee on Judiciary, the members of the Legislative Council, and Governor Baldacci.



[Handwritten signature]

John Case
Janet R. Marshall

SENATE

BARRY J. HOBBS, DISTRICT 5, CHAIR
PETER B. BOWMAN, DISTRICT 1
ROGER L. SHERMAN, DISTRICT 13

LUCIA A. NIXON, LEGISLATIVE ANALYST
KRISTEN GOTTLIEB, COMMITTEE CLERK



HOUSE

JON HINCK, PORTLAND, CHAIR
HERBERT C. ADAMS, PORTLAND
RICHARD D. BLANCHARD, OLD TOWN
STACY T. DOSTIE, SABATTUS
SEAN FLAHERTY, SCARBOROUGH
DAVID A. VAN WIE, NEW GLOUCESTER
JOSEPH A. WAGNER, LYMAN
KENNETH C. FLETCHER, WINSLOW
STACEY ALLEN FITTS, PITTSFIELD
MICHAEL D. THIBODEAU, WINTERPORT

Proposed Study
LCagande

STATE OF MAINE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

COMMITTEE ON UTILITIES AND ENERGY

TO: Hannah M. Pingree, Chair
Elizabeth H. Mitchell, Vice-chair
Legislative Council

FROM: Barry J. Hobbins, Senate Chair *BH*
Jon Hinck, House Chair *JH*
Joint Standing Committee on Utilities and Energy

DATE: April 24, 2009

RE: Request for approval under Joint Rule 353

As you know, Legislative Council policies require joint standing committees to obtain the approval of the Legislative Council before reporting to the Legislature a bill, resolve or joint order that is in any way inconsistent with Joint Rule 353 governing legislative studies.

The Joint Standing Committee on Utilities and Energy respectfully requests such approval to report out the attached unanimous committee amendment to L.D. 1012 (Resolve, Directing the ConnectME Authority to Create the Broadband Strategy Council). There is only one requirement of Joint Rule 353 that this committee amendment does not meet, which is the requirement that a majority of members of a "legislative study" must be legislators. Under the committee amendment, 5 of the 11 members of the Broadband Strategy Council are legislators (45%). The membership of the Broadband Strategy Council has been carefully considered and designed to maximize its efficiency and success, and we hope that this relatively minor departure from Joint Rule 353 will be favorably considered.

We thank you for your consideration of our request and hope to hear back from you soon. Our committee is prepared to report out L.D. 1012, an emergency measure, as soon as possible.

Cc: David Boulter, Executive Director of the Legislative Council
Patrick Norton, Director, Office of Policy and Legal Analysis
Members, Legislative Council
Members, Joint Standing Committee on Utilities and Energy

**COMMITTEE AMENDMENT TO LD 1012,
An Act to Establish the Maine Broadband Commission**

Amend the bill by striking everything and replacing it with a resolve:

Resolve, Directing the ConnectME Authority to Create the Broadband Strategy Council

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Congress of the United States has made certain resources available to states, municipalities and quasi-governmental organizations through the American Recovery and Reinvestment Act of 2009 (ARRA) to support broadband infrastructure for community institutions as well as increasing the availability of broadband access in rural areas, and

Whereas, the State of Maine recognizes that broadband technology is a key driver of economic growth, and

Whereas, the deadlines set forth in the ARRA for organizations to present plans and apply for funding for broadband infrastructure projects will occur in the coming days and weeks, and

Whereas, this legislation needs to take effect before the 90 day period expires so that decisions regarding Maine's broadband infrastructure needs can be made before the application periods for ARRA funding have expired; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Council established. Resolved: That the ConnectME Authority shall establish the Broadband Strategy Council, referred to in this Resolve as "the council," to advise the Authority on all matters pertaining to broadband opportunities available under the American Recovery and Reinvestment Act of 2009, as well as advise the University of Maine System with respect to matters pertaining to the lease or sale of excess broadband capacity as a result of the conversion of the Educational Broadband Spectrum.

Sec. 2. Council membership. Resolved: That the commission consists of 11 members appointed as follows:

1. Two members of the Senate appointed by the President of the Senate, including 1 member from the majority party and 1 member from the minority party;
2. Three members of the House of Representatives appointed by the Speaker of the House, including 2 members from the majority party and 1 member from the minority party;
3. A representative of the Department of Administrative and Financial Services, Office of Information Technology;
4. The Commissioner of the Department of Economic and Community Development or his designee;
5. The chair of the Public Utilities Commission or the chair's designee;
6. The Executive Director of the ConnectME Authority;
7. A representative from the University of Maine System; and

8. A representative from the Maine School and Library Network.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair of the council, and the first-named House of Representatives member is the House chair of the council; and be it further

Sec. 4. Appointments; convening of council. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council and the Executive Director of the ConnectME Authority once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the council; and be it further

Sec. 5. Council duties. Resolved: That, the council shall:

1. Identify and examine the broadband opportunities contained in the American Recovery and Reinvestment Act of 2009;
2. Encourage a state-wide strategic approach to broadband deployment that is efficient, coordinated and consistent with other long-term goals and with the Public Utilities Commission's prior determinations regarding broadband deployment;
3. Make recommendations to the ConnectME Authority for a strategic broadband infrastructure plan;
4. Make recommendations to the University of Maine System regarding the lease or sale of excess broadband capacity in the educational broadband spectrum;
5. Foster public-private cooperation and co-investment in broadband deployment;
6. Promote fair and open competition in the delivery of broadband service; and
7. Invite and consult with public and private sector stakeholders to identify needs and opportunities for expanding broadband access.

Sec. 6. Role of ConnectME Authority; Resolved: That taking into account the advice and recommendations of the council, the ConnectME Authority shall coordinate efforts of state agencies and other instrumentalities of the State in taking advantage of broadband opportunities for public institutions under the American Recovery and Reinvestment Act of 2009 and is authorized to act on behalf of the State in any application for administrative or programmatic funds under the American Recovery and Reinvestment Act of 2009; and

Sec. 7. Staff assistance. Resolved: That the ConnectME Authority shall provide necessary staffing services to the council with assistance from the Department of Administrative and Financial Services, Office of Information Technology, the Department of Economic and Community Development and the Public Utilities Commission; and be it further

Sec. 8. Compensation; meetings. Resolved: That the legislative members of the council are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the council. Meetings of the council held when the Legislature is in session may be held only on days when the Legislature is already meeting in session and not on any other day; and be it further

Sec. 9. Termination. Resolved: The council terminates December 1, 2010; and be it further:

Sec. 10. Appropriations and allocations. Resolved: That the following appropriations and allocations are made:

- *To be drafted by OFPR*
- *Commitment from ConnectME Authority to provide funding for all Legislative costs*
- *Estimated Legislative costs outlined below** (developed by Rose Breton, Office of the Executive Director)*

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This amendment replaces the bill with a resolve. The amendment directs the ConnectME Authority to establish the Broadband Strategy Council to advise the Authority on all matters pertaining to broadband opportunities available under the American Recovery and Reinvestment Act of 2009, as well as advise the University of Maine System with respect to matters pertaining to the lease or sale of excess broadband capacity as a result of the conversion of the educational broadband spectrum. The Broadband Strategy Council consists of 11 members, including 2 members of the Senate and 3 members of the House of Representatives, and is is staffed by the ConnectME Authority.

Estimated Legislative Costs

FY09: \$210

FY10: \$4,320

FY11: \$1,765

Underlying assumptions regarding meeting schedule

FY09: May 1, 2009 - Jun 30, 2009 => 4 meetings to occur only on "session days"

FY10: July 1, 2009 - Dec 31, 2009 => 6 meetings

Jan 1, 2010 - Apr 15, 2010 => 4 meetings to occur only on "session days"

Apr 15, 2010 - Jun 30, 2010 => 1 meeting

FY11: Jul 1, 2010 - Nov 30, 2010 => 3 meetings