

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
SEPTEMBER 23, 2009
APPROVED OCTOBER 15, 2009

CALL TO ORDER

Legislative Council Chair, Speaker Pingree called the August Legislative Council meeting to order at 1:48 P.M. in the Legislative Council Chambers.

ROLL CALL

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

Absent: Sen. Lisa Marraché

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

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
John Barden, Director, Law and Legislative Reference Library
Beth Ashcroft, Director, Office of Program Evaluation &
Government Accountability
Debra Olken, Human Resources Director

Chair Pingree convened the meeting at 1:48 P.M. with a quorum of members present.

SUMMARY OF JULY 22nd MEETING OF THE LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of July 22, 2009 be accepted and placed on file. Motion by Senator Bartlett. Second by Senate President Mitchell. **Motion passed unanimous (7-0).** [Representative Piotti, Representative Tardy and Senator Marraché absent]

Note: There was no meeting summary for August since the August meeting of the Legislative Council was cancelled.

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

Executive Director's Report

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

Email notification of legislator expense payments

The Bureau of Accounts and Control is testing an email notification system that will allow legislators to register for and receive email notification whenever their Legislator expense payments are deposited into their accounts via EFT. This process should allow Legislators to have ready access to detailed remittance advice information and would be an alternative to "PayMode," already available to Legislators. If testing is successful, the system will be available by the start of the 2nd regular session.

Senator Raye asked if the email notification system will show expense detail (e.g. mileage, lodging reimbursements) and whether the notification system will be made available to state employees as well as Legislators.

Mr. Boulter replied that although he had not seen the notice prototype, it was his understanding that it will provide deposit detail, as does the PayMode reports available to Legislators. Mr. Boulter had not heard whether the email notification would be available to state employees but he said he would inquire.

Historic pamphlet on excise tax laws

Found among various previously uncatalogued volumes in the Law and Legislative Reference Library was a pamphlet regarding excise tax laws that was printed in Philadelphia in 1795. The author was James Thomson Callender, a noted pamphleteer and friend of Thomas Jefferson. The original owner appears to have been Mr. Aaron Burr, then a U.S. Senator from New York.

Bill production system upgrades

The current bill production system (MELD) will be beginning its fifth year of operation but uses technology and standards that are much more dated. Significant upgrades, revisions and improvements are planned to be developed over the next year or two to avoid system obsolescence, better utilize open source architecture and prevent negative impacts to legislative bill production operations. System changes will be developed in a test environment that will not affect the current bill production system, with a goal to have a current, better integrated and more responsive (i.e. faster production) system within 24 months. Once hired, the director of Information

Services and the Revisor of Statutes will be involved in the planning and implementation of system improvements and upgrades.

Margaret Matheson's retirement

After having served on the Legislature's nonpartisan staff for more than 26 years, 16 of which as the state's Revisor of Statutes, Meg Matheson is retiring from State service. She has served ably as Revisor, providing accuracy, consistency and clarity to Maine law during her tenure and has been a dedicated staff member who has greatly contributed to the professionalism and strength of the Legislative Branch as a separate, co-equal branch of State government. Legislators and staff alike will miss her and we wish her much happiness in her retirement years. Mr. Boulter reminded the Legislative Council members that a retirement celebration for Meg would be held at 3:00 P.M. in the Legislative Council chamber or immediately following the council meeting.

Fiscal Report

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

Revenue Update

Total General Fund Revenue - FY 2010 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
August	\$54.4	\$51.0	(\$3.4)	-6.2%	\$61.9	-17.6%
FYTD	\$288.7	\$274.4	(\$14.2)	-4.9%	\$309.2	-11.2%

General Fund revenue was under budget by \$3.4 million in August increasing the negative variance for the first 2 months of FY 2010 to \$14.2 million or 4.9%. General Fund revenue fell by 11.2% during the first 2 months of FY 2010 compared to the same period in FY 2009.

The negative variance in August was less than that of each of the previous 3 months, but August revenue may have been skewed by an offset or reversal of FY 2009 year-end revenue accruals. While sales tax collections were much closer to budget than in recent months, the monthly distribution did not accurately reflect the amount of the accrual reduction in August. The accrual reduction was understated by roughly \$8 million. The lower budgeted amount in August also skews other monthly budgeted amounts resulting in a timing issue within the fiscal year. July taxable sales (August revenue) still declined by 8.7% compared to last July. The nice weather in August and the temporary boost to automobile sales from the federal "Cash for Clunkers" program hopefully will allow September sales tax collections to remain closer to budget despite the timing issue.

Negative variances also continued in the Individual Income Tax category. While income tax withholding was slightly over budget in August, for the first 2 months of FY 2010 it remained roughly \$5.0 million under budget. September will be a crucial month for gauging the health of individual income tax collections as estimated tax payments are due on September 15th.

A new problem area arose in August with Cigarette and Tobacco Tax collections coming in under budget by \$2.1 million. However, in aggregate excluding sales and individual

income taxes, General Fund revenue categories have been performing well relative to budget.

Total Highway Fund Revenue - FY 2010 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
August	\$6.1	\$8.0	\$2.0	32.4%	\$6.9	16.6%
FYTD	\$31.1	\$36.1	\$5.0	16.1%	\$32.1	12.5%

Highway Fund revenue was above budget by \$2.0 million or 32.4% in August, increasing the positive variance for the first 2 months of FY 2010 to \$5.0 million (16.1%) with a 12.5% positive growth rate compared to the same period in FY 2009.

Fuel taxes for the first 2 months grew by 17.7% compared with the same period last year. Legislative changes to fuel tax rates effective July 1, 2009 from the treatment of gasoline with 10% ethanol and indexing (based on 3.8% inflation in 2008) were major contributors to this growth. As with the sales tax, some of the \$3.3 million positive variance in the Fuel Taxes category is skewed due to calculation of the FY 2009 year-end revenue accrual that erroneously lowered budgeted revenue in August.

While August motor vehicle fee revenue collections were well under budget, this was due to a timing issue in the monthly distribution. This category has remained over budget for the first 2 months of FY 2010. Some of the positive variance may also reflect a temporary increase in vehicle sales activity from the “Cash for Clunkers” program.

Fund for a Healthy Maine Budgeted Balances

As reported in the August issue of the *Fiscal News*, the Fund for a Healthy Maine (FHM) ended FY 2009 with a positive revenue variance and positive ending balances. The new positive budgeted balance of \$5.1 million at the end of the 2010-2011 biennium, which at the end of the session was nearly \$0, is sufficient to offset a \$536,000 fund-wide deallocation that would have been distributed as reductions to FHM programs. Final budgeted balances based on actions through the 124th Legislature, 1st Regular Session and FY 2009 balances forward were:

Fund for a Health Maine 2010-2011 Biennium Beginning Balance	\$11.8 Million
Fund for a Health Maine 2010-2011 Biennium Ending Balance	\$ 5.1 Million

Cash Update

Presented below is a summary of the State’s average cash balances in August 2009 compared to August 2008. Despite poor General Fund revenue performances over the last 2 months and the use of virtually all reserves, the State has not yet needed to do any external borrowing. Some variances on the expenditure side, largely school subsidy payments, have partially offset the effect of the negative revenue variances. The average balance for the total cash pool in August was \$37.9 million below August 2008 and more than \$200 million below August’s 2001 to 2008 historical average of \$631.8 million. Internal borrowing to shore up the General Fund was \$147.3 million more than last August. This largely reflects the reduction of reserve balances which were \$163.8 million below August 2008.

Dirigo Health Fund’s cash position declined further in August dropping to -\$23.9 million, which was offset by a FY 2010 \$25 million cash advance from the General Fund. The

hope is that Dirigo Health Fund's cash position begins to turn around beginning in September.

Summary of Treasurer's Cash Pool		
August Average Daily Balances		
Millions of \$'s		
	2008	2009
General Fund (GF) Total	\$27.6	\$38.5
General Fund (GF) Detail:		
Budget Stabilization Fund	\$123.4	\$0.2
Reserve for Operating Capital	\$40.6	\$0.0
Tax Anticipation Notes	\$0.0	\$0.0
Internal Borrowing	\$48.4	\$195.6
Other General Fund Cash	(\$184.8)	(\$157.4)
Other Spec. Rev. - Interest to GF	\$104.1	\$1.5
Other State Funds - Interest to GF	(\$15.6)	(\$14.4)
Highway Fund	\$12.9	\$20.7
Other Spec. Rev. - Retaining Interest	\$77.5	\$35.0
Other State Funds	\$178.6	\$255.1
Independent Agency Funds	\$79.0	\$89.9
Total Cash Pool	\$464.1	\$426.2

Speaker Pingree asked what percentage of the sales tax revenue was attributed to the federal "Cash for Clunkers" program. Mr. Pennoyer responded that the State Controller's report combined that program's revenue with other transportation-related revenue so that amount is not easily discernable. He agreed to investigate the question and report back to the Council.

Note: Subsequent to the meeting, Mr. Pennoyer reported to the Legislative Council members that according to Maine Revenue Services (MRS) while it does not have specific data to quantify the financial effect of the program, it believes the positive effect was substantial. A survey by MRS of larger automobile dealers in Maine indicates a 7.5% growth in sales in July and a 21.5% growth in August, in sharp contrast to significant declines in previous months.

In response to a question about meeting dates, Mr. Pennoyer stated that the Consensus Economic Forecasting Commission is scheduled to meet on Monday, October 26, 2009. The Revenue Forecasting Committee will meet in November, prior to the Thanksgiving holiday.

Status of Legislative Studies

The Legislative Council members welcomed Mr. Norton back to resume his position as director of the Office of Policy and Legal Analysis.

Note: As reported at a previous Legislative Council meeting, Mr. Norton was considering retiring from State service. Subsequently, Mr. Norton decided against retiring and is happily resuming his position in OPLA.

Patrick Norton presented the status of interim 2009 legislative studies and committee meetings. Mr. Norton reported that all studies where member appointments have been completed are going forward. The teacher compensation study is awaiting several appointments, and the Task Force on Kinship Families did not obtain private funds to support the study so it will not proceed. He summarized the status of the remaining studies. Mr. Norton reported that the Citizen Trade Policy Commission is meeting regularly and is preparing its annual report. The commission is planning to renew a contract with the Department of Labor for administration staffing assistance, using funds that the Legislative Council authorized to be carried over to FY10. Finally, it is planning to contract for the biennial assessment of the effect of trade policies on the state.

Mr. Norton reported that the Legislative Youth Advisory Council has not met, pending review of the structure and organization by legislative members. The Right-to-Know Advisory Committee has met once as a full committee and has held several subcommittee meetings. Its report is due by January 15, 2010.

Mr. Norton reminded the members that it budgeted for 32 interim committee meetings and 30 meetings have already taken place or have been authorized. The Joint Standing Committee on Education and Cultural Affairs may be requesting to meet two times which if approved would exhaust the remaining budgeted meetings days.

Speaker Pingree commented that she is interested in having some policy committees meet this fall to work and report out carryover bills, even if that means reducing the number of days in legislative session in January to cover the costs.

Mr. Norton concluded by saying that the Joint Standing Committee on Agriculture, Conservation and Forestry has not scheduled its meeting to date because the public hearing on the Maine Land Use Regulation Commission's comprehensive land use plan revision will not be held until later in September. The committee will not meet until the public comment period has closed.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Chair Pingree reported that the Personnel Committee had met briefly earlier in the day to discuss the process and schedule for recruiting candidates for the Reviser of Statutes and for interviewing selected candidates for the Director of Legislative Information Services (IT Director). In addition, it authorized temporary disability income benefits for a member of the Senate Majority office, consistent with the Personnel Policies and Guidelines.

2. State House Facilities Committee

(No Report)

3. Budget Subcommittee

(No Report)

4. CSG Annual Meeting Planning Subcommittee

Senator Bartlett gave a brief presentation on the status of event planning for the *50th Annual Meeting of The Council of State Governments, Eastern Regional Conference* being held in Portland, Maine, August 15 – 18, 2010.

Senator Bartlett indicated that he and others on the subcommittee have been hard at work planning for the annual meeting, and had attended the annual meeting this year in Burlington, Vermont. Maine hosted a reception at the meeting that was very well received. At the reception, Maine distributed gift bags to attendees that included among other things, Raye's Mustard (with sincere appreciation to Senator Raye). Senator Bartlett noted that former State Senator Marge Kilkelly, now deputy executive director of CSG/ERC, was in attendance at today's meeting.

Senator Bartlett gave an overview of CSG's mission, member states and provinces and CSG's relevance to all three branches of state government. Senator Bartlett also spoke to Maine's fundraising commitment for the annual meeting, a goal of \$300,000 to support the social events at the meeting. He noted that host states typically appropriate funds out of state budgets to partially offset costs, with the balance being raised privately. Senator Bartlett further stated that hosting an annual meeting gives states (and their businesses) a great opportunity to showcase their state and their assets to many others.

Senator Bartlett indicated that to have strong private sector fundraising, the Legislative Council needs to have a strong host committee and Legislator participation to raise the funds. He is anticipating several "anchor" sponsors who will contribute in the \$20,000 - \$25,000 range and build from that through smaller, but significant donations. He indicated that the subcommittee will be meeting on Wednesday, October 7th as a kickoff meeting. Invited will be business leaders and lobbyists. He will present a fundraising status report to CSG in November and on December 4th, the CSG/ERC executive committee will meet in New York City. Senator Bartlett and Representative Nancy Smith plan to attend that meeting.

Former Senator Kilkelly then spoke briefly to the Legislative Council on CSG, its key policy initiatives and the excellent opportunity Maine has in 2010.

President Mitchell suggested that the executive and judicial branches be approached to participate in the annual meeting.

Senator Courtney expressed concern that he and several others on the council's subcommittee had not been made aware of the various meetings that have been held with the council's consultant John Hennessey and CSG/ERC. Senator Bartlett responded that most of the earlier discussions and meetings were informal and focused on the 2009 reception in Vermont. Senator Courtney commented that to assure this event is bipartisan and receives support from all caucuses, all members of the subcommittee should be kept informed of its meetings, progress and related issues.

Speaker Pingree stated that the Executive Director's office will help notify subcommittee members of meetings and other activities. Speaker Pingree thanked Senator Bartlett and former Senator Kilkelly for their presentations.

OLD BUSINESS

(There was no Old Business.)

NEW BUSINESS

ITEM #1: Request by State YMCA of Maine for Youth in Government Program Dates for 2010

After some discussion and a brief presentation by the YMCA's Youth in Government Program Director Lonny Steeves, the Legislative Council authorized the State YMCA to conduct its 2010 Youth in Government program in the State House and Cross Building on Friday, March 5 through Sunday, March 7, 2010, with the program commencing and rooms being made available on Friday, March 7th at approximately 1:00 P.M.

ITEM #2: Request to Extend the Deadline for Funding for Study Pursuant to PL 2009, c. 136; *Resolve, to Establish the Task Force on Kinship Families* (Rep. Cain)

After reviewing the request, the Legislative Council members concluded that the resolve did not grant the Legislative Council the authority to grant an extension; therefore, the Legislative Council declined the request to extend the deadline for funding for *Resolve, to Establish the Task Force on Kinship Families, PL 2009, c. 136*. It was noted that the deadline for receiving funds was in July, and to date no funds have been received.

ITEM #3: Request by Maine State Museum to Ratify Acceptance and Placement of Governor Nelson Dingley Bust in the State House Portrait Collection (Joseph Phillips, Director)

The Colby College Museum of Art has offered a life sized bronze bust of former Maine Governor Nelson Dingley, Jr. to the Maine State Museum. Governor Dingley served in the Maine Legislature and was Speaker of the House in 1863 and 1864. He was Governor for two terms, 1873 and 1874 and was later elected to the U.S. Congress. The Legislative Council voted unanimously to accept Governor Nelson Dingley bust in the State House Portrait Collection and to arrange for the Executive Director to work with the directors of the Maine State Museum and the Maine Historic Preservation Commission to find an appropriate location to display the bust.

Motion by Senator Bartlett. Second by Senator Raye. **Motion passed unanimous (7-0)**. [Representative Piotti, Representative Tardy and Senator Marraché absent]

ITEM #4: Funding for *Update of Study of Single-payor Health Care System* Resolve 2009, c. 135

Mr. Boulter explained that a search was conducted to find non-state funding to pay for the study update, estimated to be \$60,000. Because no funding source could be identified, the study will not proceed.

The Legislative Council took no further action on the *Update of Study of Single-payor Health Care System, Resolve 2009, c. 135*.

ITEM #5: Request by Maine Office of Tourism for use of the Hall of Flags for evening dinner (Patricia A. Eltman, Director of Tourism, Department of Economic and Community Development)

Mr. Boulter explained that the Office of Tourism has requested use of the Hall of Flags for a “black-tie” awards dinner to be held in February 2010. He said that the annual dinner has been held in Portland in past years, but Tourism Director Pat Eltman was exploring holding the event in Augusta in 2010. About 150 – 200 people would be invited. All costs, including set up, take down, equipment and services costs, would be borne by the office, not the Legislature.

President Mitchell stated that she supported the idea of a formal dinner, reminding members that the dinner commemorating the 175th Anniversary of the Blaine House held in August 2008 was an elegant affair. She also noted it is a way to receive some revenue that could be used for building upkeep.

Senator Courtney asked if a tour of the State House was to be included. Speaker Pingree noted that costs of a tour guide would have to be borne by the Office of Tourism.

Mr. Boulter noted that no alcohol could be served in the State House and the Office of Tourism was seeking an alternative venue for its pre-dinner reception.

Motion: To approve the Maine Office of Tourism’s request to use of the Hall of Flags on the evening of February 1, 2010 for the 2010 Governor’s Conference on Tourism awards dinner, upon the condition that all costs associated with the event be borne by the Office of Tourism. Motion by Senator Raye. Second by Senate President Mitchell. **Motion passed unanimous (7-0).** [Representative Piotti, Representative Tardy and Senator Marraché absent]

ITEM #6: OPEGA Annual Work Plan for 2009-2010 - Overview of the plan (Ms. Ashcroft)

Beth Ashcroft, OPEGA director gave a brief update of the office’s biennial work plan for 2009 – 2010. The work plan may be obtained from the Office of Program Evaluation and Government Accountability.

ITEM #7: Executive Session

Motion: That, in accordance with 1 MRSA section 405, subsection 6, the Legislative Council enter into an executive session for the purposes of discussing collective bargaining matters between the employee representative for the Administrative Unit of

Legislative Employees and the Legislative Council. Motion by Senate President Mitchell. Second by Representative Berry. **Motion passed unanimous (8-0).** [Representative Tardy and Senator Marraché absent]

The Council recessed at 3:10 PM to go into an executive session.

The Legislative Council adjourned its executive session at 3:15 P.M. Motion by Senator Raye. Second by Representative Curtis. **Motion passed (7-1).** [Representative Piotti, Representative Tardy and Senator Marraché absent]

The Chair reconvened the Legislative Council meeting at 3:15 p.m.

ANNOUNCEMENTS AND REMARKS

Speaker Pingree extended an invitation to the Legislative Council and members of the audience to a reception for retiring Revisor of Statutes Margaret Matheson immediately following the Legislative Council meeting. At the reception, the Legislative Council members and Mr. Boulter thanked Ms. Matheson for her 26 years of legislative service, the last 16 as the Revisor of Statutes and wished her well in her retirement. The effective date of her retirement was August 31, 2009. Ms. Matheson was presented with a retirement gift and a legislative sentiment in recognition and appreciation for her many years of distinguished service.

ADJOURNMENT

The Legislative Council meeting was adjourned following the reception for Ms. Matheson.