

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
February 25, 2010
Approved March 25, 2010

CALL TO ORDER

Legislative Council Chair, Speaker Pingree called the February 2010 Legislative Council meeting to order at 1:45 P.M. in the Legislative Council Chambers.

ROLL CALL

Senators: Senate President Elizabeth Mitchell, Sen. Philip Bartlett, Sen. Jonathan Courtney
Sen. Lisa Marraché, Sen. Kevin Raye [both arrived after the start of the meeting]

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

Legislative Officers: Joy O'Brien, Secretary of the Senate
Millicent MacFarland, Clerk of the House
David E. Boulter, Executive Director of the Legislative Council
Debra Olken, Human Resources Director
Patrick Norton, Director, Office of Policy & Legal Analysis
Grant Pennoyer, Director, Office of Fiscal and Program Review
Suzanne Gresser, Revisor of Statutes
John Barden, Director, Law and Legislative Reference Library
Scott Clark, Director, LIS

Chair Pingree convened the meeting at 1:45 P.M. with a quorum of members present.

SUMMARY OF JANUARY 21, 2010 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of January 21, 2010 be accepted and placed on file.
Motion by Senator Bartlett. Second by Representative Berry. **Motion passed unanimous.**
(8-0) [Senator Marraché and Senator Raye absent for vote.]

Chair Pingree asked if there was any objection to taking 1 item out of order. There was no objection. The Chair then moved to **New Business, Item 1.**

NEW BUSINESS

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

Legislative Council Chair Pingree reminded Legislators that the legislature is working very hard to adjourn by end of March or the first week in April. She noted that the committees have approximately 2 weeks to report out all remaining bills in committee, followed by a state shutdown day on March 12th. In addition, the Governor has submitted 5 major bills recently. Chair Pingree expressed her concern about committees being able to get their work done in a timely manner if many more bills are introduced this session. She advised that Legislators seriously consider postponing new bill requests until next session. She indicated that she will oppose all but those essential bill requests.

Legislative Council Vice-chair Mitchell agreed with Chair Pingree's comments.

The Legislative Council then proceeded to consider and vote on the bill requests in accordance with the previously adopted protocol. Of the 16 bill requests, the council authorized 5 requests for introduction in the 2nd Regular Session of the 124th Legislature, 9 failed to be authorized, and 2 were tabled until a future Legislative Council meeting. The Legislative Council's actions on the requests are included on the attached list.

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

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

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

YMCA's Youth in Government Program

The Maine YMCA will hold its annual Youth in Government program for high school youth on Friday through Sunday, March 5 - 7, 2010. Activities will begin at about noon on Friday. About 80 students will participate.

YMCA's Youth in Government Program – Part 2

At the urging of the Legislative Council, the Maine YMCA has agreed to try holding its Youth in Government program in the fall rather than the spring. Numerous school activities in the fall create scheduling challenges but a November date seems achievable without losing participating schools. The Maine YMCA requests approval to hold its program during the 2nd week in November. If approved, the program would begin this fall (November 12-14, 2010). Mr. Boulter asked the Legislative Council's consideration of the YMCA's request for a fall session in the future.

Motion: That the Maine YMCA's Youth in Government Program be authorized to hold its annual program generally during the 2nd week in November, beginning this year on November 12-14, 2010. Motion by Senator Mitchell. Second by Senator Courtney.

Motion passed unanimous. (10-0)

Legislative Memorial Scholarship Auction

The Legislative Scholarship auction will be held on Tuesday, March 16th at the Augusta Civic Center, beginning at 5:00 p.m. Tickets are still available, and item donations are still being accepted.

Fiscal Report

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

Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$229.8	\$243.4	\$13.5	5.9%	\$251.3	-3.2%
FYTD	\$1,404.9	\$1,451.4	\$46.5	3.3%	\$1,537.1	-5.6%

General Fund revenue was \$13.5 million (5.9%) over budget in January, resulting in a \$46.5 million (3.3%) positive variance for the fiscal year-to-date (FYTD). This strong performance was primarily attributable to the Individual Income Tax revenues and Corporate Income Tax revenues, which offset continuing weakness in sales tax collections. General Fund revenue collections for the first half of FY 2010 declined 5.6% from the same period in FY 2009.

Through January, the Individual Income Tax revenues are \$20.7 million above the December 2009 revenue forecast. Some of this positive variance related to withholding and refunds is likely a timing issue between months; however, final estimated payments for the 2009 tax year, which were due January 15th, performed well. The Revenue Forecast Committee (RFC) revised Individual Income Tax estimates upward by \$13.4 million in FY 2010 and \$2.0 million in FY 2011.

Corporate Income Tax has performed very well in the 2 months since the last forecast, having a positive variance through January of \$23.5 million FYTD. National forecasts for corporate profitability, while still negative, have improved since the December 2009 revenue forecast. As a result, the RFC revised Corporate Income Tax estimates upward by \$29.7 million in FY 2010 and \$36.7 million in FY 2011.

Sales Tax performance was closer to revised targets, but it still remains under budget for the FYTD through January by \$2.1 million, \$2.6 million when the Service Provider Tax is included with Sales and Use Tax. Consumption of taxable goods and services remains weak. The RFC revised Sales and Use Tax estimates downward by \$13.8 million in FY 2010 and \$17.0 million in FY 2011.

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$23.6	\$25.0	\$1.5	6.2%	\$24.8	0.9%
FYTD	\$159.4	\$164.5	\$5.1	3.2%	\$169.8	-3.1%

Highway Fund revenue was \$1.5 million (6.2%) over budget in January and was \$5.1 million (3.2%) over budget for the FYTD. The Fuel Taxes category, which was \$5.1 million over budget for the FYTD, continues to be the primary reason for this positive variance. The RFC's sales and excise tax model has been unable to capture the recent performance in this category. In this most recent forecast, the RFC disregarded the recommendations of the tax model and reverted back to the forecast prior to the December 2009 revenue revisions. This restores \$5.0 million in FY 2010 and \$4.8 million in FY 2011. Overall, the RFC increased Highway Fund revenue estimates for the 2010-2011

biennium by \$9.4 million. The Fuel Tax increase was reduced by a modest net reduction in other categories.

Revenue from motor vehicle registrations and fees remained modestly under budget for the FYTD. Long-term trailer revenue had a very strong month in January, offsetting other negative variances in this category. Title fee revenue also had accumulated a positive variance through January. Motor vehicle inspection sticker revenue rebounded strongly in January, erasing a negative variance through December of \$0.5 million.

Cash Balances

Presented below is a summary of the State's average cash balances in January 2010 compared to January 2009. The reliance on internal borrowing to meet General Fund cash flow needs remained at \$300 million again in January. The January average balance for the total cash pool was \$350.6 million, almost \$74.3 million less than last January and significantly below the historical average (2002 to 2009) of \$571.1 million.

The State Treasurer and State Controller have been evaluating cash needs and cash flow projections. Their current assessment is that the cash pool can support this high level of internal borrowing through February (current budget assumptions had assumed internal borrowing through December). They feel that some additional internal borrowing capacity remains. Cash flow over the next few weeks will be evaluated carefully and often to determine the timing of any external borrowing that may be required.

The Dirigo Health Fund has made some progress over the last 2 months toward building a cash balance sufficient to refund a portion of the \$25 million General Fund cash advance. In January, the average balance excluding the cash advance was -\$13.3 million. Dirigo returned \$11.0 million of the \$25 million advance through February 11th will implement the necessary initiatives to repay the remaining \$14 million by the end of this fiscal year.

Average balances in the Federal Expenditures Fund have shown some improvement from the lowest average of -\$40.0 million in October 2009. January's negative balance was \$21.9 million, which is still unusually high.

Summary of Treasurer's Cash Pool		
January Average Daily Balances		
Millions of \$'s		
	2008	2009
General Fund (GF) Total	\$41.4	\$41.5
General Fund (GF) Detail:		
Budget Stabilization Fund	\$125.8	\$0.2
Reserve for Operating Capital	\$40.6	\$0.0
Tax Anticipation Notes	\$0.0	\$0.0
Internal Borrowing	\$195.5	\$300.0
Other General Fund Cash	(\$320.5)	(\$258.8)
Other Spec. Rev. - Interest to GF	\$9.0	(\$12.2)
Other State Funds - Interest to GF	(\$11.3)	\$11.6
Highway Fund	\$20.8	\$19.6
Other Spec. Rev. - Retaining Interest	\$44.3	\$44.7
Other State Funds	\$198.0	\$149.3
Independent Agency Funds	\$78.6	\$96.2
Total Cash Pool	\$380.9	\$350.6

March 2010 Revenue Forecast

The Revenue Forecasting Committee (RFC) met on Tuesday, February 23, 2010 to review the revenue projections for the General Fund and Highway Fund prior to the March 1st reporting deadline. The table below summarizes the revisions adopted by the RFC on Tuesday. For the General Fund and Highway Fund, they reversed some of the downward adjustments approved in the December 2009 forecast. The March 2010 forecast added back \$51.0 million to General Fund resources for the 2010-2011 biennium. Highway Fund revenue was increased by \$9.4 million. For other revenue sources, the RFC made small downward revisions to the Fund for a Healthy Maine revenue forecast and made no adjustments to the MaineCare Dedicated Revenue Taxes.

Summary of March 2010 Revenue Revisions

General Fund Summary

	FY09 Actual	FY10	FY11	FY12	FY13
Current Forecast	\$2,811,368,295	\$2,649,211,742	\$2,721,503,989	\$2,776,628,302	\$2,889,913,034
Annual % Growth	-9.0%	-5.8%	2.7%	2.0%	4.1%
Net Increase (Decrease)		\$29,817,638	\$21,158,388	\$2,336,418	\$7,111,403
Revised Forecast	\$2,811,368,295	\$2,679,029,380	\$2,742,662,377	\$2,778,964,720	\$2,897,024,437
Annual % Growth	-9.0%	-4.7%	2.4%	1.3%	4.2%

Highway Fund Summary

	FY09 Actual	FY10	FY11	FY12	FY13
Current Forecast	\$324,242,149	\$305,488,175	\$301,626,331	\$306,856,435	\$311,455,041
Annual % Growth	-1.2%	-5.8%	-7.0%	0.4%	3.3%
Net Increase (Decrease)		\$4,003,591	\$5,440,038	\$5,209,059	\$6,430,059
Revised Forecast	\$324,242,149	\$309,491,766	\$307,066,369	\$312,065,494	\$317,885,100
Annual % Growth	-1.2%	-4.5%	-0.8%	1.6%	1.9%

Fund for a Healthy Maine Summary

	FY09 Actual	FY10	FY11	FY12	FY13
Current Forecast	\$68,409,736	\$59,398,770	\$56,433,315	\$62,835,233	\$63,455,718
Annual % Growth	10.3%	-13.2%	-17.5%	5.8%	12.4%
Net Increase (Decrease)		(\$6,807)	(\$9,779)	(\$14,856)	(\$109,354)
Revised Forecast	\$68,409,736	\$59,391,963	\$56,423,536	\$62,820,377	\$63,346,364
Annual % Growth	10.3%	-13.2%	-5.0%	11.3%	0.8%

Medicaid/MaineCare Dedicated Revenue Taxes Summary

	FY09 Actual	FY10	FY11	FY12	FY13
Current Forecast	\$138,029,363	\$138,327,254	\$137,555,805	\$137,555,805	\$137,555,805
Annual % Growth	6.0%	0.2%	-0.3%	-0.6%	0.0%
Net Increase (Decrease)		\$0	\$0	\$0	\$0
Revised Forecast	\$138,029,363	\$138,327,254	\$137,555,805	\$137,555,805	\$137,555,805
Annual % Growth	6.0%	0.2%	-0.6%	0.0%	0.0%

The General Fund shortfall that needs to be addressed as part of the Supplemental Budget deliberations has been reduced by this forecast from \$408.4 million to \$357.5 million (see table below).

Summary of General Fund Shortfall – 2010-2011 Biennium

	FY 2010	FY 2011	Biennium
Negative Ending Balances from FY 2009	(\$22.3)	(\$2.5)	(\$24.8)
December 2009 Revenue Revision	(\$209.4)	(\$174.2)	(\$383.6)
March 2010 Revenue Revision	\$29.8	\$21.2	\$51.0
Ending General Fund Balances	(\$201.9)	(\$155.6)	(\$357.5)

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

(No Report)

2. State House Facilities Committee

- **Request to Darken Dome in Support of WWF’s “Earth Hour 2010” & Relevant Legislative Council Policy**

Facilities Committee Chair Piotti reported that the State House Facilities Committee met on February 11th and discussed three facilities-related matters.

Use of locally-grown food in State House Café and Cross Cafeteria

The committee reviewed information provided by the operators of the Cross Cafeteria and the State House Café about use of Maine-grown foods as part of their food offerings. The committee was generally satisfied with the results. However, the committee felt that more could be done to encourage caterers who serve refreshments in the Hall of Flags or at other events, such as caucuses, to offer more Maine-grown foods. The committee felt that some practical guidelines for caterers should be developed, and asked the chair and the executive director to develop guidelines for consideration by the full Legislative Council. That work is now underway. No Legislative Council action is needed at this time.

LD 445 as it relates to potential changes to the House chamber

LD 445 as amended by the Judiciary Committee would increase the number of tribal representatives to the Legislature from two to three beginning in January 2012. Ultimately, four tribes may have representatives to the legislature at some point, necessitating two additional seats. If the legislation passes, some reconfiguration of the House chamber would be necessary. The committee reviewed preliminary cost estimates; however, the committee decided to postpone any immediate action pending a legislative decision on the legislation. If the bill passes, there may be a fiscal note.

The committee suggested that a subcommittee be established to consider various facility-related issues and report back in the fall. No Legislative Council action is needed at this time.

Request to darken the State House dome on March 27th

The committee received a Legislator request to darken the dome for one hour on Saturday, March 27th in support of the World Wildlife Fund’s “Earth Hour 2010”. WWF is seeking to have corporate and public entities turn off lights in prominent buildings as a call to action on climate change. The committee was tentatively

agreeable to approving the request but because of potential policy implications, it felt the matter should be decided by the full Legislative Council. The general policy of the policy (copy of which was included on page 22 in the packet) was to not grant requests to light the capitol dome or display lights in support of or in opposition to any organization or cause, keeping the dome lights as an identifiable symbol of democracy, not particular issues. The policy does provide for an exception, if warranted. Background information was provided in the Legislative Council packet. Representative Piotti stated that this item requires a council decision.

Representative Piotti concluded by stating that the Facilities Committee recommended approval of this particular request.

Senate President Mitchell reminded Legislative Council members that there is a long history of great public outcry when the dome is not lit at night. In past years as a cost savings measure, the dome lights were turned off, and local residents initiated fundraising to relight the dome. Senate President Mitchell also reminded the members of the council's policy that other similar requests have been turned down and approval of this request would set a bad precedent. She urged consistency in application of the council's policy.

Representative Piotti commented that this request is distinguished from others in that this request gives the Legislative Council the opportunity to tell the public of measures that the council has taken to increase energy efficiency in the State House, notably the new LED lighting in the dome.

Motion: That the Legislative Council approve the request to turn off the dome lights for one hour on March 27, 2010, as an exception to the policy, and further direct the Executive Director to try to obtain publicity highlighting energy efficiency measures taken in the State House. Motion by Representative Piotti. Second by Senator Marraché. **Motion passed.** (9-1, with Senator Mitchell opposed)

3. Budget Subcommittee

- FY2010-2011 Budget Adjustment Recommendations

Budget Subcommittee Chair Mitchell stated that the Budget Subcommittee met on February 23rd to consider the Legislature's budget reduction commitment that is established in the Governor's supplemental budget proposal. Part CC of the budget bill calls for budget adjustments to legislative accounts totaling about \$2.3 million. In addition, Part A of the bill would require an additional reduction of \$1.0 million.

These amounts are in addition to approximately \$4.6 million in budget adjustments to legislative accounts for FY2010-2011 that are already committed.

The committee reviewed the budget reduction proposal prepared by the Executive Director's office. The committee concluded that the proposal would fully meet the budget target established in the supplemental budget for the Legislature without seriously undermining legislative operations or the ability of the Legislature to carry out its Constitutional and statutory responsibilities.

President Mitchell emphasized that staff offices throughout the legislature are working hard to reduce costs. Positions have been kept vacant, travel is greatly reduced, and newspaper advertising costs are significantly lower than in previous years.

The committee unanimously recommended approval. Senate President Mitchell then offered a motion reflecting the committee's decision.

MOTION: That upon the unanimous recommendation of the Budget Subcommittee, the Legislative Council accept the legislative budget adjustments proposed in Part CC of LD 1671 (supplemental budget bill), totaling \$2,294,465 (\$1,096,299 in FY 10 and \$1,198,166 in FY 11) and convey its decision to the Joint Standing Committee on Appropriations and Financial Affairs.

FURTHER, that the Executive Director also convey to the Joint Standing Committee on Appropriations and Financial Affairs that the Legislative Council intends to establish shutdown days and longevity pay for legislative employees in a manner comparable to that established in the supplemental budget for executive branch employees.

FURTHER, that upon the unanimous recommendation of the Budget Subcommittee, the Legislative Council direct the Executive Director to prepare and transmit implementing language to the Joint Standing Committee on Appropriations and Financial Affairs related to the Legislature's share of the statewide deappropriation in Part A of LD 1671 to identify the projected savings from each legislative account that will be achieved as a result of the rate reduction for retiree health insurance, totaling \$1,000,388. **Motion** by Senator Mitchell. Second by Senator Raye. **Motion passed unanimous. (10-0)**

4. CSG Annual Meeting Planning Subcommittee

Senator Bartlett reported that the subcommittee had met earlier in the week and progress is being made in planning for the annual meeting. He stated that the event planner presented an overview to the subcommittee on potential social event venues, with most of the major events having been locked in. He reminded the Legislative Council that the CSG/ERC Executive Committee will meet in Portland on March 6, 2010. A reception will be held Friday evening, March 5th at Preti, Flaherty, Beliveau and Pachios' offices in Portland. Preti Flaherty has agreed to host the reception. Legislative Council members are invited to attend.

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 January 21, 2010 meeting was included in the Council's packet of information. No further action by the Legislative Council was required.

Chair Pingree then proceeded to **Item 2** under New Business.

NEW BUSINESS

Receipts of reports:

ITEM #2: Government Evaluation Act Review of the Maine Pilotage Commission
(Report from Joint Standing Committee on Transportation)

ITEM #3: Report of the Commissioner Pursuant to Resolve 2009, ch. 73 – Sunrise Review
(Department of Professional & Financial Regulation)

ITEM #4: Report of the Commissioner Pursuant to Resolve 2009, ch. 74 Sunrise Review
(Department of Professional & Financial Regulation)

Motion: To accept the following reports and place them on file.

- Government Evaluation Act Review of the Maine Pilotage Commission
- Report of the Commissioner Pursuant to Resolve 2009, Ch. 73 – Sunrise Review
- Report of the Commissioner Pursuant to Resolve 2009, Ch. 74 Sunrise Review

Motion by Senator Bartlett. Second by Representative Berry. **Motion passed unanimous. (10-0)**

ITEM #5: Year 2008 Insurance Fraud and Abuse Annual Report (Department of Professional & Financial Regulation)

Information only; no action from the Legislative Council required.

ITEM #6: Preliminary Report: The Health Insurance Market in Maine (Department of Professional & Financial Regulation)

Information only; no action from the Legislative Council required.

ANNOUNCEMENTS AND REMARKS

None

ADJOURNMENT

The Legislative Council meeting was adjourned at 2:47 P.M. Motion by Senator Bartlett. Second by Senator Raye. **Motion to adjourn passed, unanimous. (9-0)** [Representative Tardy absent for vote.]