

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



MAINE STATE LEGISLATURE
OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

**MEETING OF LEGISLATIVE COUNCIL
MARCH 25, 2010
1:30 P.M.**

REVISED AGENDA

<u>Page</u>	<u>Item</u>	<u>Action</u>
	CALL TO ORDER	
	ROLL CALL	
1	SUMMARY OF THE FEBRUARY 25, 2010 MEETING OF THE LEGISLATIVE COUNCIL	Acceptance
	REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS	
12	▪ Executive Director's Report (Mr. Boulter)	Information
13	▪ Fiscal Report (Mr. Pennoyer)	Information
	REPORTS FROM COUNCIL COMMITTEES	
	• Personnel Committee (Speaker Pingree, Chair) (No Report)	
	• State House Facilities Committee (Rep. Piotti, Chair) <ul style="list-style-type: none">• Multi-Year Plan for Maintenance & Improvements 2010 Revision	Decision
	• Budget Subcommittee (Senate President Mitchell, Chair) (No Report)	
	• CSG Annual Meeting Planning Subcommittee (Sen. Bartlett & Rep. Smith, Co-chairs)	

OLD BUSINESS

- 16 **Item #1: Council Actions Taken By Ballot (No Action Required)** **Information**
List of actions taken by ballot by the Legislative Council
since its February 25, 2010 meeting. **(ATTACHED)**

NEW BUSINESS

- 17 **Item #1: Consideration of After Deadline Bill Requests / Addendum** **Roll Call Vote**
- 19 **Item #2: Request from the Joint Standing Committee on Natural Resources to Meet Over the Interim and for \$5,000 to Retain Experts** **Decision**
- 20 **Item #3: Annual Report on the Status of the Maine Workers' Compensation System** [complete copy available upon request] **Acceptance**
- 28 **Item #4: Review and Evaluation of LD 20: An Act to Require Insurance Companies to Cover the Cost of Prosthetics** (Joint Standing Committee on Insurance and Financial Services)
[complete copy available upon request] **Acceptance**

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

NOTE: THERE WILL BE A GROUP PHOTOGRAPH TAKEN OF THE LEGISLATIVE COUNCIL PRIOR TO THE MEETING. PLEASE BE IN THE ROOM AND READY FOR THE PHOTOGRAPH BY 1:15PM.

DAVID E. BOULTER
EXECUTIVE DIRECTOR
OF THE LEGISLATIVE COUNCIL



MAINE STATE LEGISLATURE
OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

MEETING SUMMARY
February 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)
<i>March 2010 Revenue Revision</i>	<i>\$29.8</i>	<i>\$21.2</i>	<i>\$51.0</i>
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.]

**Legislative Council Action On
After Deadline Requests to Introduce Legislation
Second Regular Session 124th Legislature
February 25, 2010**

		Action
SPONSOR: LR 2608	Rep. Adams, Herbert C. An Act To Decriminalize Violations of Rules Adopted by the Baxter State Park Authority	FAILED
SPONSOR: LR 2574	Sen. Bowman, Peter B. An Act Relating to the Governor's Duty To Review National Guard Federalization Orders	FAILED
SPONSOR: LR 2595	Rep. Cebra, Richard M. An Act To Require That Maine Welfare Recipients Submit To Random Drug Testing	FAILED
SPONSOR: LR 2606	Sen. Gooley, Walter R. An Act To Prohibit Texting while Operating a Motor Vehicle	FAILED
SPONSOR: LR 2585	Rep. Langley, Brian D. An Act To Require Insurance Companies To Provide Claims Data Information	FAILED
SPONSOR: LR 2601	Sen. Perry, Joseph C. An Act To Establish the Feature Motion Picture Fair Business Practices Act	TABLED 2/25/2010
SPONSOR: LR 2594	Rep. Sarty, Jr., Ralph W. An Act To Allow School Districts and Municipalities the Option To Seek Less Expensive Health Insurance Alternatives	FAILED
SPONSOR: LR 2618	Rep. Dill, Cynthia A. Resolve, Directing Maine Revenue Services To Report to the Legislature on Future Compliance with the Streamlined Sales and Use Tax Agreement Compact	FAILED
SPONSOR: LR 2623	Sen. Nutting, John M. An Act To Enhance Fire Suppression Activity through Enforcement of the Commercial Forestry Excise Tax	PASSED

SPONSOR: **Rep. Stevens, Sara R.** **TABLED 2/25/2010**
LR 2624 Resolve, Regarding Promotional Credits at
the Racino

SPONSOR: **Rep. Nelson, Mary P.** **FAILED**
LR 2564 Resolve, To Explore Ways to Allow School
Districts and Municipalities to Seek Savings
through Self-insurance for Teachers' Health
Insurance

SPONSOR: **Sen. Perry, Joseph C.** **FAILED**
LR 2507 An Act Regarding the Suspension of a Person's License If
That Person Is Charged with Operating a Motor Vehicle
while under the Influence of Drugs

JOINT RESOLUTION

SPONSOR: **Rep. Legg, Edward P.** **PASSED**
LR 2602 JOINT RESOLUTION MEMORIALIZING THE
PRESIDENT OF THE UNITED STATES AND THE
UNITED STATES CONGRESS TO ENACT THE
LYME AND TICK-BORNE DISEASES PREVENTION,
EDUCATION AND RESEARCH ACT OF 2009

JOINT RESOLUTION

SPONSOR: **Rep. Russell, Diane Marie** **PASSED**
LR 2529 JOINT RESOLUTION MEMORIALIZING THE
PRESIDENT OF THE UNITED STATES AND THE
UNITED STATES CONGRESS TO SUPPORT A
STRONG CLEAN ENERGY BILL

JOINT RESOLUTION

SPONSOR: **Sen. Marrache, Lisa T.** **PASSED**
LR 2617 JOINT RESOLUTION MEMORIALIZING
CONGRESS TO MAKE EXEMPTIONS FROM THE
ETHANOL FUEL PROVISIONS OF THE FEDERAL
CLEAN AIR ACT

JOINT RESOLUTION

SPONSOR: **Rep. Shaw, Michael A.** **PASSED**
LR 2619 JOINT RESOLUTION MEMORIALIZING THE
UNITED STATES NAVY TO NAME A NEW BATH
IRON WORKS ARLEIGH BURKE DESTROYER THE
USS BELKNAP

DAVID E. BOULTER
EXECUTIVE DIRECTOR
OF THE LEGISLATIVE COUNCIL



MAINE STATE LEGISLATURE

OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

Executive Director's Report
March 25, 2010

1. Receipt of Energy Efficiency Award

Efficiency Maine has approved a one-time incentive award to the legislature in the amount of \$6,000 in recognition of the Legislative Council's leadership on the project to install energy efficient lighting in the Capitol dome. Efficiency Maine noted that the project has great significance as a public reminder of the importance of energy efficiency as well as the practical benefit of long-term cost savings. The money is to partially off-set the initial installation costs of the LED lighting for the exterior of the State House dome.

Efficiency Maine has a variety of programs that may be of relevance. Efficiency upgrades for many lighting installations in state buildings may be eligible for a commercial incentives program.

G:\Council\124th Legislative Council\ED Report\Executive Director's report 2010-3-25.doc 3/25/2010 8:55 AM

Fiscal Briefing

Legislative Council Meeting

March 25, 2010

Prepared by the Office of Fiscal & Program Review

1. Revenue Update (also see attached tables)

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
February	\$104.9	\$102.5	(\$2.4)	-2.3%	\$114.5	-10.5%
FYTD	\$1,547.1	\$1,553.9	\$6.8	0.4%	\$1,651.6	-5.9%

General Fund revenue was \$2.4 million (2.3%) under budget in February, but it remained over budget for the fiscal year-to-date (FYTD) by \$6.8 million (0.4%). These variances differ from the Executive's February report because these variances are based on the revised monthly distribution of the March 2010 revenue forecast

Some of the concerns in the current revenue performance for the FYTD based on the March 2010 revenue revision include: Real Estate Transfer Tax and Inland Fisheries and Wildlife revenue. The negative variances from these sources have been more than offset by strong performances in all other major categories.

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
February	\$24.8	\$25.0	\$0.2	0.8%	\$25.9	-3.7%
FYTD	\$184.9	\$189.5	\$4.6	2.5%	\$195.8	-3.2%

Highway Fund revenue was \$0.2 million (0.8%) over budget in February and was \$4.6 million (3.2%) over budget for the FYTD based on the March 2010 revenue forecast. Fuel Tax collections, despite the upward revision in the March forecast, have accumulated a positive variance of \$3.8 million through February.

2. Cash Balances

The State's average cash balances continue to be well below historical averages and General Fund internal borrowing has reached record highs at an average of \$303.2 million in February. Despite the low total cash pool balances, the State has avoided external borrowing through March. This will produce budgeted debt service savings that has yet to be fully recognized in supplemental budget proposals. The State Treasurer and State Controller have been evaluating cash needs and cash flow. Preparations for external borrowing are in place to quickly use this option, when the need arises.

The Dirigo Health Fund (DHF) continued to make progress toward repaying the \$25 million General Fund cash advance. To date, DHF has repaid half, \$12.5 million, but only has 3 months remaining to pay the remainder.

Average balances in the Federal Expenditures Fund have shown some improvement from the lowest average of -\$40.0 million in October 2009. February's negative balance improved to \$15.5 million, which was still significantly negative and above the norm. This balance does not yet reflect the full effect of \$29.7 million of federal withholding from Medicaid match that is related to the disallowance of targeted cash management billings. The Governor's supplemental budget proposals would offset this effect if approved.

General Fund and Highway Fund Revenue
Fiscal Year Ending June 30, 2010
Reflecting Budgeted Amounts Through March 2010 Revenue Forecast

FEBRUARY 2010 REVENUE VARIANCE REPORT

Revenue Line	February '10 Budget	February '10 Actual	February '10 Var.	FY10 YTD Budget	FY10 YTD Actual	FY10 YTD Variance	FY10 YTD Variance %	FY10 Budgeted Totals
General Fund								
Sales and Use Tax	55,253,718	55,251,047.54	(2,670.46)	540,506,886	540,958,953.01	452,067.01	0.1%	883,839,994
Service Provider Tax	4,366,352	4,369,022.00	2,670.00	33,031,204	32,579,136.19	(452,067.81)	-1.4%	55,590,852
Individual Income Tax	24,274,494	24,274,494.25	0.25	779,650,355	779,650,353.08	(1.92)	0.0%	1,291,380,000
Corporate Income Tax	4,956,711	4,956,711.76	0.76	92,894,337	92,894,337.08	0.08	0.0%	147,718,716
Cigarette and Tobacco Tax	10,914,417	10,971,753.65	57,336.65	95,964,842	98,444,730.90	2,479,888.90	2.6%	140,139,902
Insurance Companies Tax	1,094,870	678,200.49	(416,669.51)	13,102,805	13,579,463.81	476,658.81	3.6%	71,985,000
Estate Tax	2,245,136	2,753,305.07	508,169.07	16,126,589	18,101,874.97	1,975,285.97	12.2%	29,593,253
Other Taxes and Fees	8,287,999	6,594,185.66	(1,693,813.34)	85,290,747	82,624,483.77	(2,666,263.23)	-3.1%	148,808,830
Fines, Forfeits and Penalties	2,603,889	2,775,906.54	172,017.54	21,805,270	22,023,751.42	218,481.42	1.0%	32,853,721
Income from Investments	8,848	10,059.91	1,211.91	185,161	186,097.17	936.17	0.5%	103,246
Transfer from Lottery Commission	3,810,323	4,294,931.95	484,608.95	33,340,363	34,483,543.85	1,143,180.85	3.4%	49,534,250
Transfers to Tax Relief Programs	(7,848,030)	(7,737,381.02)	110,648.98	(106,407,196)	(106,492,724.96)	(85,528.96)	-0.1%	(112,559,862)
Transfers for Municipal Revenue Sharing	(10,348,035)	(10,303,224.16)	44,810.84	(72,107,907)	(72,107,732.87)	174.13	0.0%	(101,487,142)
Other Revenue	5,271,367	3,587,206.12	(1,684,160.88)	13,717,278	16,963,217.83	3,245,939.83	23.7%	41,528,620
Totals	104,892,059	102,476,219.76	(2,415,839.24)	1,547,100,734	1,553,889,485.25	6,788,751.25	0.4%	2,679,029,380
Highway Fund								
Fuel Taxes	16,648,936	16,684,147.77	35,211.77	127,186,462	131,030,486.10	3,844,024.10	3.0%	220,305,526
Motor Vehicle Registration and Fees	7,363,114	7,547,280.49	184,166.49	47,639,889	48,525,406.56	885,517.56	1.9%	75,043,693
Inspection Fees	108,468	120,654.50	12,186.50	2,564,951	2,583,517.57	18,566.57	0.7%	3,896,915
Fines, Forfeits and Penalties	152,343	106,296.97	(46,046.03)	1,136,317	1,046,909.66	(89,407.34)	-7.9%	1,745,049
Income from Investments	7,718	7,718.24	0.24	89,623	89,623.02	0.02	0.0%	113,330
Other Revenue	532,089	533,399.82	1,310.82	6,308,715	6,258,540.30	(50,174.70)	-0.8%	8,387,253
Totals	24,812,668	24,999,497.79	186,829.79	184,925,957	189,534,483.21	4,608,526.21	2.5%	309,491,766

Comparison of Actual Year-to-Date Revenue Through February of Each Fiscal Year

REVENUE CATEGORY	FY 2006	% Chg	FY 2007	% Chg	FY 2008	% Chg	FY 2009	% Chg	FY 2010	% Chg
GENERAL FUND										
Sales and Use Tax	\$573,137,020.15	5.3%	\$594,863,904.93	3.8%	\$598,011,131.86	0.5%	\$574,667,917.72	-3.9%	\$540,958,953.01	-5.9%
Service Provider Tax	\$25,862,996.06	2.8%	\$28,245,379.76	9.2%	\$30,221,134.31	7.0%	\$31,304,837.92	3.6%	\$32,579,136.19	4.1%
Individual Income Tax	\$777,493,920.98	2.4%	\$825,887,462.40	6.2%	\$857,987,836.86	3.9%	\$866,170,115.80	1.0%	\$779,650,353.08	-10.0%
Corporate Income Tax	\$99,473,816.82	42.8%	\$87,862,161.25	-11.7%	\$88,530,977.26	0.8%	\$72,380,142.18	-18.2%	\$92,894,337.08	28.3%
Cigarette and Tobacco Tax	\$100,747,058.36	57.3%	\$106,272,944.56	5.5%	\$102,863,218.01	-3.2%	\$98,872,694.95	-3.9%	\$98,444,730.90	-0.4%
Insurance Companies Tax	\$13,197,945.87	-20.4%	\$13,399,164.86	1.5%	\$14,387,593.53	7.4%	\$13,107,073.17	-8.9%	\$13,579,463.81	3.6%
Estate Tax	\$54,014,724.35	184.3%	\$33,679,678.22	-37.6%	\$20,960,142.96	-37.8%	\$19,149,077.63	-8.6%	\$18,101,874.97	-5.5%
Other Taxes and Fees	\$77,407,315.28	5.8%	\$82,788,094.39	7.0%	\$80,637,135.20	-2.6%	\$80,211,457.62	-0.5%	\$82,624,483.77	3.0%
Fines, Forfeits and Penalties	\$22,785,360.52	3.8%	\$26,094,262.82	14.5%	\$29,011,590.55	11.2%	\$28,451,515.38	-1.9%	\$22,023,751.42	-22.6%
Earnings on Investments	\$4,212,416.38	48.3%	\$1,696,816.19	-59.7%	\$2,106,341.83	24.1%	\$1,394,900.66	-33.8%	\$186,097.17	-86.7%
Lottery Transfers	\$34,177,094.30	2.9%	\$33,558,940.83	-1.8%	\$32,512,585.01	-3.1%	\$33,149,299.60	2.0%	\$34,483,543.85	4.0%
Transfer from Lottery Commission	(\$100,612,643.85)	-310.6%	(\$90,284,949.10)	10.3%	(\$97,271,455.97)	-7.7%	(\$114,080,567.21)	-17.3%	(\$106,492,724.96)	6.7%
Transfers to Tax Relief Programs	(\$70,143,110.63)	-10.2%	(\$68,775,271.93)	2.0%	(\$75,351,460.60)	-9.6%	(\$72,952,567.31)	3.2%	(\$72,107,732.87)	1.2%
Transfers for Municipal Revenue Sharing	\$29,865,660.53	-65.3%	\$25,758,213.12	-13.8%	\$25,352,019.95	-1.6%	\$19,812,528.72	-21.9%	\$16,963,217.83	-14.4%
Other Revenue	\$1,641,619,575.12	0.9%	\$1,701,046,802.30	3.6%	\$1,709,958,790.76	0.5%	\$1,651,638,426.83	-3.4%	\$1,553,889,485.25	-5.9%
HIGHWAY FUND										
Fuel Taxes	\$131,128,246.34	-0.3%	\$133,405,167.33	1.7%	\$131,794,778.17	-1.2%	\$129,392,101.92	-1.8%	\$131,030,486.10	1.3%
Motor Vehicle Registration and Fees	\$53,281,775.23	4.9%	\$52,650,561.96	-1.2%	\$52,379,040.32	-0.5%	\$55,320,877.20	5.6%	\$48,525,406.56	-12.3%
Inspection Fees	\$2,870,855.89	3.5%	\$3,003,890.90	4.6%	\$2,876,853.20	-4.2%	\$2,331,586.83	-19.0%	\$2,583,517.57	10.8%
Fines	\$1,188,376.51	1.7%	\$1,167,222.88	-1.8%	\$1,178,494.53	1.0%	\$1,163,298.49	-1.3%	\$1,046,909.66	-10.0%
Income from Investments	\$1,025,119.04	72.9%	\$530,069.91	-48.3%	\$986,581.63	86.1%	\$361,589.15	-63.3%	\$89,623.02	-75.2%
Other Revenue	\$6,899,595.65	8.9%	\$6,874,030.14	-0.4%	\$7,132,870.16	3.8%	\$7,218,052.43	1.2%	\$6,258,540.30	-13.3%
TOTAL HIGHWAY FUND REVENUE	\$196,393,968.66	1.6%	\$197,630,943.12	0.6%	\$196,348,618.01	-0.6%	\$195,787,506.02	-0.3%	\$189,534,483.21	-3.2%

**Legislative Council Actions
Taken by Ballot Since the
February 25, 2010 Council Meeting**

Request for Introduction of Legislation

- A. LR 2608 **An Act to Decriminalize Violations of Rules Adopted by the Baxter State Park Authority**

Submitted by: Representative Herbert Adams
Accepted: March 10, 2010 Vote: 10 – 0 in favor

- B. LR 2653 **An Act to Amend the Waste Motor Oil Disposal Site Remediation Program**

Submitted by: Representative John Martin
Accepted: March 23, 2010 Vote: 6 – 3 in favor (1 absent)

- C. LR 2655 **An Act to Support the Dairy Industry**

Submitted by: Representative Wendy Pieh
Accepted: March 24, 2010 Vote: 10 – 0 in favor

- D. LR 2650 **JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS
TO INCREASE THE FLEXIBILITY REGARDING PAYMENTS TO STATE
VETERANS' HOMES**

Submitted by: Representative Alexander Cornell du Houx
Accepted: March 24, 2010 Vote: 10 – 0 in favor

LEGISLATIVE COUNCIL
AFTER DEADLINE REQUESTS TO INTRODUCE LEGISLATION
SECOND REGULAR SESSION 124th LEGISLATURE

March 25, 2010

Action

SPONSOR: **Rep. Cohen, Joan F.**
LR 2630 An Act To Encourage the Growth of Maine's Wine Industry

SPONSOR: ~~**Sen. Goodall, Seth A.**~~
LR 2635 ~~An Act To Amend the Waste Motor Oil Disposal Site Remediation Program~~

SPONSOR **Rep. John Martin**
LR 2653 ~~An Act to Amend the Waste Motor Oil Disposal Site Remediation Program~~

Accepted by Ballot
March 23, 2010

SPONSOR: **Rep. Joy, Henry L.**
LR 2643 Resolve, To Study the Feasibility of Dividing Maine into 2 States

SPONSOR: **Rep. Pendleton, Peggy A.**
LR 2631 Resolve, Requiring the Department of Inland Fisheries and Wildlife To Convey an Easement on the Eastern Trail Road in Scarborough

JOINT RESOLUTION

SPONSOR: **Rep. Cornell du Houx, Alexander**
LR 2650 ~~JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO INCREASE THE FLEXIBILITY REGARDING PAYMENTS TO STATE VETERANS' HOMES~~

Accepted by Ballot
March 24, 2010

TABLED BY THE LEGISLATIVE COUNCIL

Action

SPONSOR: **Sen. Perry, Joseph C.**
LR 2601 An Act To Establish the Feature Motion Picture Fair Business Practices Act

TABLED 02/25/10

SPONSOR: **Rep. Stevens, Sara R.**
LR 2624 Resolve, Regarding Promotional Credits at the Racino

TABLED 02/25/10

ADDENDUM
LEGISLATIVE COUNCIL
AFTER DEADLINE REQUEST TO INTRODUCE LEGISLATION
SECOND REGULAR SESSION 124th LEGISLATURE
March 25, 2010

Action

SPONSOR: **Rep. Thibodeau, Michael D.**
LR 2661 An Act To Preserve the Freedom of Maine People To
 Provide for Their Health Care

JOINT RESOLUTION

SPONSOR: **Rep. Cushing, III, Andre E.**
LR 2654 JOINT RESOLUTION TO PROTECT MAINE'S
 SOVEREIGNTY AND ITS CITIZENS' RIGHT TO
 CHOICE

JOINT RESOLUTION

SPONSOR: **Rep. Magnan, Veronica**
LR 2662 JOINT RESOLUTION TO PRESERVE THE
 INTEGRITY OF MAINE'S TEXTBOOKS FOR THE
 EDUCATION OF MAINE'S CHILDREN

JOINT RESOLUTION

SPONSOR: **Sen. Mitchell, Elizabeth H.**
LR 2658 JOINT RESOLUTION MEMORIALIZING THE
 UNITED STATES DEPARTMENT OF COMMERCE
 AND THE UNITED STATES INTERNATIONAL
 TRADE COMMISSION TO ENSURE THAT OUR
 TRADE LAWS ARE ENFORCED

JOINT RESOLUTION

SPONSOR: **Rep. Rotundo, Margaret R.**
LR 2652 JOINT RESOLUTION MEMORIALIZING
 CONGRESS TO ADOPT LEGISLATION THAT
 STRENGTHENS ENFORCEMENT OF DOMESTIC
 SOURCING LAWS AND PROHIBITS PURCHASING
 FROM NONDOMESTIC SWEATSHOPS

SENATE

SETH A. GOODALL, DISTRICT 19, CHAIR
DEBORAH L. SIMPSON, DISTRICT 15
DOUGLAS M. SMITH, DISTRICT 27

SUSAN Z. JOHANNESMAN, LEGISLATIVE ANALYST
MARIANNE MACMASTER, COMMITTEE CLERK



HOUSE

ROBERT S. DUCHESNE, HUDSON, CHAIR
JOHN L. MARTIN, EAGLE LAKE
JANE E. EBERLE, SOUTH PORTLAND
BRIAN D. BOLDUC, AUBURN
MELISSA WALSH INNES, YARMOUTH
JOAN W. WELSH, ROCKPORT
JAMES M. HAMPER, OXFORD
BERNARD L. A. AYOTTE, CASWELL
PETER E. EDGECOMB, CARIBOU
JANE S. KNAPP, GORHAM

STATE OF MAINE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

COMMITTEE ON NATURAL RESOURCES

March 16, 2010

The Honorable Hannah M. Pingree
Chair of the Legislative Council
The Honorable Elizabeth H. Mitchell
Vice-chair of the Legislative Council
124th Legislature
State House
Augusta, ME 04333

RE: Request to meet over the interim

Dear Madam President and Madam Speaker:

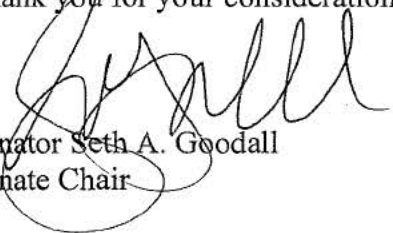
The Joint Standing Committee on Natural Resources requests to meet over the interim to continue the essential and important task of identifying and formulating potential solutions to:


1. The legal and policy issues related to the importation of out-of-state waste; and
2. Issues related to capacity needs of the State for the disposal of solid waste.

The committee requests to meet a total of 4 times during the interim to do this work in order to thoroughly prepare a proposal to be considered during the 1st Regular Session of the 125th Legislature.

We are also requesting authorization to use up to \$5,000 from legislative accounts to retain the assistance of outside experts if needed. Please note that our request to meet is not dependent on approval of the funding request.

Thank you for your consideration of this request.


Senator Seth A. Goodall
Senate Chair


Representative Robert S. Duchesne
House Chair

c: David Boulter, Executive Director, Legislative Council
Patrick Norton, Director, Office of Policy and Legal Analysis



Annual Report on the Status of the Maine Workers' Compensation System

**Submitted to the
124th Legislature
(Second Regular Session)**

February 2010

William A. Peabody
Director
Bureau of Labor Standards
Department of Labor

Paul R. Dionne
Executive Director
Workers' Compensation Board

Mila Kofman
Superintendent
Bureau of Insurance
Department of Professional and
Financial Regulation

EXECUTIVE SUMMARY

The Workers' Compensation Board, in consultation with the Superintendent of Insurance and the Director of the Bureau of Labor Standards, is directed by Title 39-A, Section 358-A(1) to submit an annual report on the status of the workers' compensation system to the Governor and the Joint Standing Committee on Labor and Joint Standing Committee on Insurance and Financial Services by February 15 of each year.

WORKERS' COMPENSATION BOARD

The Governor worked diligently with both labor and management to ensure the passage of Public Law 2004 Chapter 608 which became effective April 8, 2004. The intent of the legislation was to break the Board's gridlock on key issues and return a sense of normalcy to the Board's operations. The legislation changed the structure of the Board from eight members to seven. Three members represent labor and three represent management. The seventh member is the Executive Director, who serves as Chair of the Board and at the pleasure of the Governor. Since the effective date of the legislation, the Board has resolved all of the gridlock issues and functions in an effective manner in setting policy for Board business. Some of the difficult issues the Board has acted on, or will act on, include: hearing officer appointments; hearing officer terms; budgetary and assessment matters; Section 213 actuarial studies; electronic filing mandates; by-law revisions; legislation; compliance issues; independent medical examiners; worker advocate resources and reclassifications; dispute resolution issues; increase in compliance benchmarks; independent contractors; an independent audit by Blake, Hurley, McCallum, and Conley; a Facility Fee Schedule; data gathering project; and Employee Misclassification.

The importance of the Governor's legislation (Chapter 608) cannot be overly emphasized. The State of Maine has gradually improved its national rating regarding the costs of workers' compensation and an effective and efficient Board help to perpetuate this positive trend. Decisions are less regularly made by the Chair in a tie-breaking manner, which means, in large part, that the parties of interest are reaching consensus more often on decisions that impact their constituencies.

The composition of the Board was changed as a result of recent legislation. In order to maintain continuity, a member from both Labor (Anthony Monfiletto) and Management (James Mingo) were nominated by the Governor and confirmed by the Legislature. The Executive Director/Chair (Paul Dionne) was also nominated by the Governor and confirmed by the Legislature. Two new Labor Members (Ginette Rivard and Dan Lawson) and two new Management Members (Sophia Leotsakos Wilson and Mitch Sammons) were nominated by the Governor and confirmed by the Legislature. The new Board is handling difficult issues efficiently and professionally. As an example, the Board, upon the recommendation of the Executive Director, approved a transfer of \$3 million to offset the assessment to employers.

It was not too long ago that Maine was one of the costliest states in the nation in regard to workers' compensation costs. A recent article in the *Workers' Compensation Policy Review* compared the costs of benefits for 47 states and highlighted Maine's achievements during the past few years: "The experience in Maine ... clearly demonstrates that significant reduction in cash, medical, and total benefits are possible."

The various reports comparing Maine to the other states in regard to the costs of workers' compensation indicate that Maine has improved significantly in lowering its costs. "Maine is one of the states with the largest decrease in benefit costs"; "Maine is at the national average for cash benefits, medical benefits, and total cash and medical benefits"; "Maine's rank was 30th among 45 states and Maine's rank was 3rd among the New England states with only Massachusetts and Rhode Island faring better than Maine."

Maine has gone from one of the costliest states in the nation to one that is moving to the level of average costs for both premiums and benefits and has positioned itself to continue this trend. Maine appears to have struck a balance between reasonable costs and reasonable benefits, all within the Governor's policy of keeping Maine fair-minded and competitive.

The Board submitted two bills for consideration during the First Regular Session of the 124th Legislature, both were enacted into law.

The first bill changes the assessment process so that assessment collections which exceed 10% of the maximum assessment are used to reduce the annual assessment on insured employers.

The second bill clarifies that Maine Insurance Guaranty Association (MIGA) is required to pay all penalties for non-compliance of the Maine Workers' Compensation Act, with the exception of the penalty in Section 359(2) provided for in Title 39-A.

The Board will submit at least three bills for consideration during the Second Regular Session of the 124th Legislature.

One will ensure that penalties for not maintaining required workers' compensation coverage are applied equally to all business entities;

Another will enhance the Abuse Unit's ability to coordinate enforcement with other agencies;

And, the third bill will reverse the Law Court's holding in *Nichols v. S.D. Warren* clarifying that certain insurance benefits are not subject to offset.

An independent accountant report prepared by Blake, Hurley, McCallum & Conley gave the Board a clean bill of health for the past 10 years in regard to its assessment and budgetary procedures. It also advanced recommendations to improve the process, most of which have been implemented by the Board. One of the recommendations that has not been dealt with was to legislatively change the "assessment statute to require insurance companies to pay assessments

on the same basis as the self-insureds” (cash basis in lieu of rate basis). The change would simplify the process and reduce administrative costs, but would be very cumbersome for the insurance companies to implement.

The Workers’ Compensation Board has made significant progress in regard to a Facility Fee Schedule to contain health care costs. In 2007, the Board contracted with Ingenix to review hospital inpatient, outpatient, and ambulatory surgical center charges and costs. Four meetings have been held with the consensus-based rulemaking group. Although that group was able to reach consensus on the methodology, it was unable to agree on the base rate. The objectives of the Fee Schedule include: providing access to quality care for injured workers, ensuring that providers are paid fairly, reducing and containing healthcare costs, and, creating clarity in rules and simplicity for maintenance.

The Facility Fee Schedule should not be viewed as a one-time event, accordingly, Board Staff has recommendations for future courses of action:

- Medicare updates should be reviewed and adjusted annually;
- Payment rates should be recalculated and adjusted annually;
- Expenditures should be analyzed annually;
- Ingenix should be retained for one year to review and analyze the data and make recommendations to the Board as to adjustments to the Facility Fee Schedule.

The Board agreed on a rule for the Facility Fee Schedule which was sent out for public hearing. Comments were submitted by the various interest groups and considered by the Board. In November 2009, the Board agreed to obtain new data and consider its impact, if any, on the base rate for payment. As a result, the Board missed the adoption deadline date of December 24, 2009 for passage of the rule. The Board will consider the new data and send a rule back out for public hearing in 2010.

Employee misclassification is another issue dealt with by the Board in 2009. This is a huge problem in Maine as well as nationally. The Governor issued an Executive Order in January 2009 appointing a Task Force to analyze the problem in Maine and to make recommendations to the Governor.

The Task Force has met regularly over the past 12 months and has held three, well-attended, public hearings in Bangor, Portland, and Lewiston. The Workers’ Compensation Board has two members on the Task Force and has provided a Report to the Task Force and the Legislature. The Report recommends internal changes, such as reclassification and reallocation of positions which would improve oversight significantly at very little costs. The Report also recommends that the Task Force consider the feasibility of creating an Employee Misclassification Unit and determine whether this would lead to increased revenues and decreased premiums.

Overall, dispute resolution is performing at peak levels. Compliance with the Workers’ Compensation Act is high. Frequency of claims is down. Compensation rates have dropped 47 percent since 1993. The Superintendent of Insurance has approved a 7 percent rate reduction for 2010. MEMIC has recently declared a \$15 million dividend to Maine businesses. And, the Board

has reduced the assessment to employers by \$3 million. All of which contribute to one of the more stable workers' compensation systems in the country.

In the past seven years, the Maine Workers' Compensation Board has transitioned from an agency whose purpose was mainly dispute resolution to one which provides effective regulation, improved compliance, strong advocacy for injured workers, and is now assuming a major role in employee misclassification.

BUREAU OF INSURANCE

The advisory loss costs, the portion of the workers' compensation rates which cover projected loss and loss adjustment expenses, has dropped in each of the past three years. They are now, on average, nearly 47 percent lower than they were at the time of the last major reform to the workers' compensation system in 1993. The most recent reduction in loss costs of 7 percent became effective on January 1, 2010. Although medical costs slightly increased in policy year 2007, the average medical cost per case has risen significantly since policy year 2000. This development is important because medical benefits constitute 53 percent of the total benefit costs in Maine. Medical costs and services are rising faster than overall inflation as measured by the Consumer Price Index, and are rising faster than wages.

The decrease in advisory loss costs is not evenly distributed across all rating classifications. Although all five industry group experienced declines, they ranged from just under 5 percent to greater than 10 percent as shown here:

<u>Industry Group</u>	<u>Percent Decrease</u>
Miscellaneous	-9.3%
Manufacturing	-5.1%
Office Clerical	-4.8%
Contracting	-10.4%
Goods & Services	-4.9%

The change in loss costs for individual classifications within each group varies depending on the experience within each classification. Some employers will see premium decreases while other employers will see increases.

Maine Employers' Mutual Insurance Company (MEMIC) is the insurer of last resort in Maine. Although MEMIC's market share has dropped each of the last four years, the workers' compensation insurance market is still very concentrated. Much of the business is written by a small number of companies. There are, however, continued signs that pricing has become more competitive. Some insurers have lowered their rates in hopes of attracting business. Additionally, the number of insurance companies becoming licensed to provide workers' compensation coverage in Maine has been on the increase for several years. Insurers other than MEMIC do not have to offer coverage to employers and can be more selective in choosing which employers to underwrite. In order to become eligible for lower rates, an employer needs to have a history of

few or no losses, maintain a safe work environment, be willing to follow loss control recommendations, and strive to prevent and control any future losses. New businesses and businesses with unfavorable loss experience likely have fewer options available.

Twenty-eight insurers wrote more than \$1 million each in annual premium in 2008; this was one more company writing at that volume of business than in 2007. The top 10 insurance groups wrote 94 percent of the workers' compensation insurance in the state in 2008, the same as in 2007. Self-insured employers represented over 44 percent of the overall workers' compensation market in 2008, the third consecutive increase after reaching a low of about 40 percent in 2005. Self-insurance continues to be a viable alternative to the insurance market for some employers.

BUREAU OF LABOR STANDARDS

The Bureau of Labor Standards (BLS) of the Maine Department of Labor (MDOL) works in collaboration with the Maine Workers' Compensation Board (WCB) in the prevention of occupational injuries and illnesses by a variety of means. Under Title 26 MRSA § 42-A, the BLS is charged with establishing and supervising safety education and training programs. Additionally, the BLS has the authority to collect and analyze statistical data on work-related injuries and illnesses and their effects. The MDOL is also responsible for enforcement of Maine labor laws and the related rules and standards, including occupational safety and health standards in the public sector.

SafetyWorks! is an identity that encompasses the occupational safety and health (OSH) training, consultation and outreach functions of the BLS. These activities include use of WCB data to respond to requests for information from the OSH community and the general public on the safety and health of Maine workers. SafetyWorks! instructors also design their safety training programs based on industry profiles generated from data from the WCB *First Reports of Occupational Injury or Disease* and other sources.

In terms of enforcement, the Wage and Hour Division of the BLS reviews and approves work permit applications to protect minor workers and inspects employers for compliance with Maine child labor law. The Wage and Hour Division may use the data from the WCB *First Reports*, among other criteria, to select employers for inspection. The Workplace Safety and Health Division of the BLS enforces safety regulations *in the public sector only*. The Workplace Safety and Health Division prioritizes state and local agencies for inspection based on the agency's injury and illness data from the WCB, the results of the Federal Bureau of Labor Statistics Survey of Occupational Injuries and Illnesses, or complaints from employees or employee representatives.

Effective workplace injury and illness prevention requires a detailed working knowledge of all factors contributing to occupational safety and health. The WCB collects data from its *First Reports*, which the BLS electronically imports for coding and analysis. In addition, the following annual data collections are administered by the Research and Statistics Unit of the BLS: 1) the Federal Bureau of Labor Statistics' Survey of Occupational Injuries and Illnesses, 2) the Federal

Occupational Safety and Health Administration's (OSHA) Data Initiative, and 3) the Census of Fatal Occupational Injuries. Taken together, the results of these surveys provide an epidemiological profile of occupational injuries and illnesses in Maine. The BLS also conducts research on narrower foci. In 2009 such research took the form of:

- Continuation of capacity building in OSH surveillance in cooperation with the Maine Center for Disease Control and Prevention, and
- Expansion of the in-house of an occupational fatality reporting program similar to the federal Fatality Assessment, Control, and Evaluation (FACE) program.

In addition, the Bureau completed two special studies using summer interns. One, done in conjunction with MeCDC (Maine Center for Disease Control), looked at the use of Poison Control Center data to identify workplace exposures to hazardous substances. The other studied the accuracy of the federal OSHA expedited settlement program in correcting standards violations.

A serious problem is missing data in WCB *First Reports* submitted by Electronic Data Interchange (EDI). Missing fields prevent useful analysis and BLS must therefore collect the data by phone. In 2007, a Value-Stream Mapping (VSM) team determined that BLS case coding quality was the same as before EDI. However, coding was taking more effort (about twice as much overall) to maintain that quality. The VSM team was able to show that almost 60 percent of the incoming cases had problems, some involving multiple fields. The VSM process identified and implemented a series of changes, including correcting a general programming error that had affected half of the cases entering the coding process. These changes resulted in significant improvements in the coding process.

A separate, chronic problem in the use of WCB data is that around 50 percent of *First Reports* are missing the date for the employee's return to work. The "return to work" date is a critical data element for a number of important purposes. The problem is at least partly due to a built-in functionality of the WCB system. The EDI process seems to be improving the results in this area somewhat, but there is still a long way to go.

The Occupational Safety and Health Data Collection and Injury Prevention Work Group was convened September 29, 2003, by the Department of Labor under 2003 Public Law chapter 471. Membership includes representatives of the WCB staff. Among the primary purposes of the Work Group is the identification of ways to improve the collection and analysis of occupational safety and health data. Such problems in data collection and sharing are being closely examined and there is good reason to hope for improvements. The Work Group will likely be reporting to the Legislature in mid-to-late 2010 on specific problems and recommendations, particularly the submission of "medical-only" reports.

The BLS applied for no research grants in 2009 because National Institute of Occupational Safety and Health (NIOSH) funding was unavailable. The Maine Occupational Research Agenda (MORA), created in 2000 on the model of the National Occupational Research Agenda, provided input to BLS on a variety of OSH issues through review of relevant projects during the year.

In 2009, the Research and Statistics Unit of BLS continued its data outreach initiative, placing its accumulated data and data-related services before the public. SafetyWorks! administered the Safety and Health Achievement Recognition Program (SHARP) in the private sector and began the parallel Safety and Health Award for Public Employers (SHAPE) in the public sector as means of recognizing outstanding employer safety programs. There are now 33 sites in the SHARP program and 23 employers in SHAPE. The Bureau supported the creation of a SHARP/SHAPE employer network.



DEPARTMENT OF
**Professional &
Financial Regulation**
STATE OF MAINE

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
- BUREAU OF FINANCIAL INSTITUTIONS
- OFFICE OF LICENSING AND REGISTRATION

A Report to the Joint Standing Committee on Insurance and Financial Services of the 124th Maine Legislature

Review and Evaluation of LD 20
An Act to Require Insurance Companies
To Cover the Cost of Prosthetics

March 5, 2010

Prepared by:
Donna Novak, FCA, ASA, MAAA
of NovaRest, Inc.
Marti Hooper, CEBS
of the Maine Bureau of Insurance

I. Executive Summary

Maine currently requires that insurance carriers provide coverage for prosthetic devices to replace all or part of an arm or leg. However, as currently written, the statute specifically excludes prosthetic devices that contain microprocessor devices. LD 20, An Act to Require Insurance Companies to Cover the Cost of Prosthetics, as amended would require coverage for prosthetics employing microprocessors.

Currently most prosthetics employing microprocessor technology are used for knee prosthetics. Microprocessor prosthetics for other applications are being developed and are expected to be widely available for ankles, hands, elbows, etc. in the future.

Microprocessor knee prosthetics allow individuals to walk more naturally, with less effort, and more stability than with prior technology. This results in fewer injuries due to falls and improved benefit since the amputee does not tire as easily.

Coverage for microprocessor prosthetics is available through Workers Compensation insurance, Medicare, MaineCare, the Veterans Administration (VA), and Tricare for those who qualify.

To date, ten other states have adopted mandated prosthetic coverage, and none of these states exclude coverage for microprocessor prosthetics from their mandate.

Cigna and UnitedHealthcare currently cover microprocessors. Due to the currently limited utilization of microprocessors in prosthetic devices, Aetna believes that the cost implications are immaterial, and Aetna expects no increases to premiums, administrative expenses or indirect costs at this time. Mega Life estimates an impact of less than two-tenths of one percent, but anticipates that this number will likely increase with new technologies.

Anthem estimated the cost of this amendment based on the State of Maine Employee Health Plan (SOM), which currently covers prosthetic devices with microprocessors. For a 12-month experience period ending October 2009, the cost associated with the SOM plan for prosthetics with microprocessors was approximately \$0.11 per member per month (PMPM). During that period, there were only two SOM members incurring claims that listed "microprocessor" in the procedure description. Trending the \$0.11 PMPM to be effective in a 2010 rating period, Anthem estimates the cost to be approximately \$0.12 PMPM for group products.

In their response to the Department's survey, Harvard Pilgrim estimated the cost to be under 0.1% of claims or approximately \$0.30 PMPM. Moreover, based on Harvard Pilgrim's actual experience to date in Massachusetts and New Hampshire, use of these devices is low, so the impact on a PMPM basis is much less (approximately \$0.05 PMPM).

We estimate the initial premium increase for insured plans would be approximately \$0.15 PMPM or 0.05% of premium. Ultimately, this could increase to \$0.35 or 0.11% of premium.

For our cost estimates, we assumed that when the amendment is first implemented, microprocessor prosthetics will be primarily for knees, but over time microprocessor prosthetics will be available for ankles, wrists and elbows. We also assume that a microprocessor prosthetic costs \$32,000 more than a traditional prosthetic, that the prosthetic will be eligible for replacement every 5 years (consistent with Medicare rules) and that currently 28% of microprocessor prosthetics are covered by insurance.