

REP. HANNAH M. PINGREE  
CHAIR  
  
SEN. ELIZABETH H. MITCHELL  
VICE-CHAIR



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

EXECUTIVE DIRECTOR  
DAVID E. BOULTER

124<sup>TH</sup> MAINE STATE LEGISLATURE  
LEGISLATIVE COUNCIL

MEETING SUMMARY  
February 26, 2009  
Approved March 26, 2009

**CALL TO ORDER**

Legislative Council Chair, Speaker Pingree called the Legislative Council meeting to order at 1:49 P.M. in the Legislative Council Chambers.

**ROLL CALL**

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

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

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  
Rose Breton, Legislative Finance Director  
Debra Olken, Human Resources Director  
Patrick Norton, Director, Office of Policy & Legal Analysis  
Grant Pennoyer, Director, Office of Fiscal and Program Review  
Margaret Matheson, Revisor of Statutes  
Paul Mayotte, Director, Legislative Information Services  
John Barden, Director, Law and Legislative Reference Library  
Beth Ashcroft, Director, Office of Program Evaluation and Government Accountability

Chair Pingree convened the meeting at 1:49 P.M. with a quorum of members present.

**SUMMARY OF JANUARY 22, 2009 MEETING OF LEGISLATIVE COUNCIL**

**Motion:** That the Meeting Summary of January 22, 2009 be accepted and placed on file. Motion by Senator Bartlett. Second by Representative Berry.

**Motion passed unanimous (10-0).**

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

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

The Legislative Council considered and acted on twenty-six and tabled seven after deadline requests. The Legislative Council's actions on these requests are included on the attached list.

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

**REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS**

**Executive Director's Report**

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

"New State House" turns 100 in 2010

Earle Shettleworth, Director of the Maine Historic Preservation Commission, has noted that the "new" State House, i.e. the current one, was formally dedicated on December 20, 1910. December 20, 2010 will be the 100<sup>th</sup> anniversary of the redesigned State House. The most dramatic changes were the construction of the North and South wings of the building and the construction of the dome modeled after that of the U.S. Capitol. According to news reports at the time, the building was completed within an appropriation of \$350,000 (~ \$8.0 million in today's dollars) and was the first public building in the country to be completed within budget.

Mr. Shettleworth has offered to work with the Legislative Council over the next year on a fitting ceremony to commemorate the 100<sup>th</sup> anniversary of the remodeled State House if the Legislature chooses to celebrate this event.

Legislative Memorial Scholarship Auction

The annual Legislative Memorial Scholarship Auction will be held at the Augusta Civic Center on Tuesday, March 17, 2009 beginning at 5:00 p.m. Donations are still being accepted. Tickets are \$20, dinner included. Proceeds are used to award a \$1,000 higher education scholarship to one student from each of Maine's 16 counties.

Public Hearing on LD 353

On February 27<sup>th</sup> at 2:00 p.m. the Appropriations Committee will invite public testimony on the legislative's portion of the proposed biennial budget. A letter is being provided to the committee noting the Legislative Council's Budget Subcommittee work on the budget, with budget adjustments to be forthcoming.

**Fiscal Report**

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

Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$261.0	\$251.3	(\$9.7)	-3.7%	\$278.0	-9.6%
FYTD	\$1,532.7	\$1,537.1	\$4.4	0.3%	\$1,571.9	-2.2%

- General Fund revenue was under budget by \$9.7 million in January, but remained over budget for the fiscal year-to-date (FYTD) by \$4.4 million or 0.3% through January 2009. January revenue was 9.6% below January 2008 and FY 2009 fiscal year-to-date (FYTD) revenue through January declined by 2.2% compared with the same period in FY 2008. The December 2008 General Fund revenue forecast projects a decline of 4.3% for total General Fund revenue in FY 2009.
- Sales and Use Tax, Cigarette Tax and Lottery revenue, all categories driven by consumer behavior, has fallen below budget for the FYTD through January, \$20.8 million, \$2.5 million and \$1.7 million respectively.
- The Other Revenue category was under budget through January by \$12.6 million or 11.0%. \$6.0 million was related to a timing issue in the revenue adjustment to the Unclaimed Property Transfer and \$1.0 million was related to a timing issue regarding transfers from the Fund for the Efficient Delivery of Local and Regional Services. Within Other Revenue, revenue transferred to the Maine Milk Pool was under budget by \$1.4 million through January. The negative variance for this transfer is expected to grow to as much as \$7.5 million through the end of FY 2009 based on updated milk price forecasts.
- The performance of the Individual Income Tax and Corporate Income Tax categories with a combined positive variance of \$39.6 million for the FYTD through January has been sufficient to offset the other General Fund negative variances. These categories are beginning to show signs of weakness that may reduce this cushion over the next few months. The major concern for the Individual Income Tax is the amount of the reduction in tax liability associated with net capital gains realizations. The 50% decline assumption in the current revenue forecast may not be conservative enough based on some qualitative responses from some tax practitioners. The accuracy of this critical assumption will not be known until shortly after the April 15th individual income tax filing deadline.

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$26.7	\$24.8	(\$1.9)	-7.2%	\$25.1	-1.3%
FYTD	\$176.7	\$169.8	(\$6.9)	-3.9%	\$173.3	-2.0%

- Highway Fund revenue was under budget by \$1.9 million in January, falling \$6.9 million or 3.9% under budget for the FYTD through January. The decline of Highway Fund revenue from FY 2008 was 2.0% after January's revenue performance.
- Fuel Taxes continued to fall below projections. Through January, this category fell \$3.7 million or 3.2% below revised projections. Motor Vehicle Registration and Fees and Inspection Fees Highway Fund revenue categories were also running behind the revised forecast through January. These negative variances have continued in these categories despite downward revisions for each in the December 2008 revenue forecast.

### Revenue Forecasting Update

The Consensus Economic Forecasting Commission (CEFC) and Revenue Forecasting Committee (RFC) met jointly on Tuesday, February 17th to review new economic and revenue data and tax practitioner survey data. A summary was presented to the Appropriations Committee after the meeting. The CEFC will meet on March 31st and the RFC will meet on April 27th to meet reporting deadlines. Some of the findings presented at the meeting include:

- From December 2007 to December 2008 15,000 jobs were lost in Maine with most of the job losses coming in the final quarter of 2008;
- Some CEFC members thought that employment would decline by an additional 15,000 although the Federal Stimulus Package might reverse a portion of that job decline; and
- A survey of tax practitioners indicates that the 50% decline in net capital gains realizations assumed in the current forecast may not be conservative enough, resulting in a downside risk for the short-term FY 2009 revenue forecast.

### Cash Balances Update

<b>Summary of Treasurer's Cash Pool</b>		
<b>January Average Daily Balances – Millions of \$'s</b>		
	<b>2008</b>	<b>2009</b>
General Fund (GF) Total	\$49.0	\$41.4
General Fund (GF) Detail:		
Budget Stabilization Fund	\$118.0	\$125.8
Reserve for Operating Capital	\$40.6	\$40.6
Tax Anticipation Notes	\$0.0	\$0.0
Internal Borrowing	\$115.8	\$195.5
Other General Fund Cash	(\$225.3)	(\$320.5)
Other Spec. Rev. - Interest to GF	\$56.1	\$9.0
Other State Funds - Interest to GF	\$0.0	(\$11.3)
Highway Fund	\$27.8	\$20.8
Other Spec. Rev. - Retaining Interest	\$75.5	\$44.3
Other State Funds	\$257.0	\$198.0
Independent Agency Funds	\$117.8	\$78.6
<b>Total Cash Pool</b>	<b>\$583.3</b>	<b>\$380.9</b>

- The average balance for the last 7 Januarys, 2002 to 2008, was \$598.3 million.
- General Fund internal borrowing increased to \$195.5 million in January. Excluding reserve fund balances and internal borrowing, the General Fund average cash balance was negative by \$320.5 million.
- The current budget situation indicates a further decline in the General Fund cash position, based on the reliance of the transfer of \$56.1 million from the Maine Budget Stabilization Fund (MBSF) to balance the FY 2009 General Fund budget. That MBSF transfer occurred at the end of January when PL 2009, c. 1, Part E became effective. The immediate transfer from the MBSF will improve the balance in the General Fund for interest income purposes, but will not improve the

overall General Fund cash position. Interest earnings on MBSF balances accrue to the MBSF and not the General Fund.

- The State Controller confirmed that the cash flow borrowing for the operating deficit of the Dirigo Health Fund at the close of FY 2008 was assigned to the General Fund. Accounting entries were entered to record the appropriate payables and receivables in the 2 funds. These receivables need to be addressed by the end of FY 2009. While average cash balances for the Dirigo Health Fund improved in December based on savings offset payment receipts, the average balance declined again to a negative balance of \$15.9 million in January.

#### Federal Stimulus Package

- The estimated 10-year cost of the proposal according to the Congressional Budget Office is \$787.2 billion with the bulk of the cost in federal fiscal years 2009, 2010 and 2011 (\$718.7 million).
- Some funding will flow directly to local units of government. Funds coming directly to the State will include some distributions based on existing federal formulas while other funds to the State will be awarded on a competitive basis. Some of the changes, such as the Medicaid changes, will result in General Fund savings. Tax provisions in the federal stimulus package that affect federal adjusted gross income may result in some State revenue losses if Maine conforms to the changes in the federal internal revenue code.
- Medicaid savings based on a \$2.0 billion MaineCare program would produce an estimated General Fund savings of nearly \$374 million over the 3 fiscal years 2009 to 2011. The state would receive an additional \$52 million in savings over the 3-year period if Maine's unemployment rate increases result in Maine receiving a 2nd tier "High Unemployment" FMAP bonus.
- OFPR will release a summary of potential state budgetary impacts from the federal stimulus package as soon as the analysis has been completed.

#### **Information Technology Report**

(No Report)

#### **Status of Legislative Studies**

(No Report)

### **REPORTS FROM COUNCIL COMMITTEES**

#### **1. Personnel Committee**

(No Report)

#### **2. State House Facilities Committee**

(No Report)

### **3. Budget Subcommittee**

Senate President Mitchell presented the Budget Subcommittee's report. She reported that the subcommittee met on February 19th to review the proposed budget for the Legislature for the 2010-2011 biennium. At the meeting, members discussed the tentative budget submitted by the last Legislative Council, the Governor's proposal for the Legislature and various accounts and operating budgets. The subcommittee is seeking to find budget savings in the Legislature, both short-term and long-term, that will help reduce overall State costs over the next two years.

At its next meeting, the subcommittee will discuss policy and cost implications of various items identified on a long list of areas of potential budget savings. The Budget Subcommittee is scheduled to meet again in March.

As a reminder, the Legislative Council is charged with the responsibility for the Legislative budget, and once the subcommittee makes its recommendations to the full Legislative Council, the Legislative Council will convey its budget decisions to the Appropriations committee so the budget adjustments can be incorporated into the Appropriations committee budget amendment.

### **4. CSG Annual Meeting Planning Subcommittee**

(No Report)

## **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 22, 2009 meeting was attached. No further action by the Legislative Council was required.

## **NEW BUSINESS**

### **ITEM #2: CSG/ERC Annual Meeting Planning – Event Planning Services**

Senator Bartlett, co-chair of the CSG/ERC 2010 Annual Meeting Planning Subcommittee, opened the discussion by saying that event planning and fundraising activities need to begin soon so the Legislative Council can meet its commitments to host the 2010 CSG/ERC annual meeting in Portland, and that the planning committee needs to consider hiring a firm to help plan for and organize those activities. The first event occurs in August 2009, an evening dinner and social event at the 2009 annual meeting in Burlington, Vermont. Senator Bartlett said he was prepared to make a motion to authorize the executive director to enter into a contract with an event planning firm in an amount not to exceed \$25,000. The firm would work with the planning subcommittee to develop and organize activities and raise funds to pay for the events.

Senator Raye asked if the past Legislative Council had budgeted \$25,000 when it voted to host the annual meeting. Executive Director Boulter responded that money had not been budgeted, the thought being that the contract costs would be included in the event costs to be covered through fundraising.

President Mitchell raised a concern about appropriation of \$25,000 from the legislative account in light of the current budget climate even though hosting the annual meeting will be a boost in tourism for the state. Representative Tardy agreed, and stated that it may be best to wait until the budget subcommittee had sorted through budget issues. Senator Bartlett responded that waiting poses risks since funds need to be raised for the event this August.

Representative Piotti suggested seeking out potential event planning consultants to estimate costs but not immediately authorizing funds for a contract. Senator Bartlett noted that at least one consultant has been contacted.

Mr. Boulter reminded Legislative Council members that the Legislative Council of the 123<sup>rd</sup> Legislature has already committed the legislature to hosting the annual meeting and that substantial fundraising, well beyond that needed to hire a consultant, is required by CSG. Senator Raye asked if a commitment for \$25,000 is needed up front. Mr. Boulter responded by saying that while it is not necessary initially, he would not enter into a contract for services unless the Legislative Council authorizes a manner of payment.

After further discussion among the Legislative Council members about ways to meet the legislature's hosting obligations while remaining sensitive to budgeting constraints, Senator Bartlett made the following motion:

**Motion:** That the Legislative Council authorize the Executive Director of the Legislative Council to enter into a contract with an event planning consultant for the 2010 CSG/ERC annual meeting in Portland once a consultant has been selected by the co-chairs of the CSG/ERC Planning Subcommittee. Funding for the contract must be paid for through solicitation and receipt of private, non-legislative funds as part of Maine's contribution to the annual meeting. Motion by Representative Piotti. Second by Senator Raye. **Motion passed unanimous (10-0).**

### **ITEM #3: Executive Session**

**Motion:** That, in accordance with 1 M.R.S.A. section 405, subsection 6, the Legislative Council enter into an executive session for the purposes of discussing collective bargaining matters. Motion by Chair Pingree. Second by Representative Berry. **Motion passed unanimous (10-0).**

The Council recessed at 3:00 PM to go into an executive session.

The Legislative Council adjourned its executive session at 3:25 p.m. Motion by Senator Bartlett. Second by Representative Berry. **Motion passed unanimous (10-0).**

The Chair reconvened the Legislative Council meeting at 3:25 p.m.

### **ANNOUNCEMENTS AND REMARKS**

None

### **ADJOURNMENT**

The Legislative Council meeting was adjourned at 3:28 P.M.