MEETING SUMMARY
October 15, 2009
APPROVED NOVEMBER 5, 2009

CALL TO ORDER

Legislative Council Chair, Speaker Pingree called the October Legislative Council meeting to order at 10:53 A.M. in the Legislative Council Chambers.

ROLL CALL

Senators:	Senate President Elizabeth Mitchell, Sen. Philip Bartlett, Sen. Kevin Raye, Sen. Lisa Marraché, 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 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 John Barden, Director, Law and Legislative Reference Library

Chair Pingree convened the meeting at 10:53 A.M. with a quorum of members present.

Chair Pingree asked if there was any objection to taking 2 items out of order. Hearing none, the Chair then moved to **New Business, Items 1 and 2.**

NEW BUSINESS

Item #1: Suggested Procedures for Deciding Legislative Bill Requests

The agenda included a suggested protocol for deciding legislative bill requests. Chair Pingree asked Executive Director Boulter to summarize the suggested protocol which he did, as follows:

1. Under the terms of the Maine Constitution, Section 1 of Article IV, Part Third, Legislative Power, the business of the second regular session must be limited to budgetary matters; legislation in the Governor's call; legislation of an emergency nature admitted by the Legislature; legislation referred to committees to study and report by the Legislature in the first regular session; and legislation presented to the Legislature by written petition of the electors (direct citizen initiative).

2. Under the 124th Legislative Council's Rules of Procedure, any action of the Council requires the affirmative vote of at least 6 members.

3. Under Rule 203 of the Joint Rules of the 124th Legislature, any vote of the Legislative Council to accept or reject a bill or resolve for introduction under the procedures established under the Joint Rules must be taken by the yeas and nays, and that vote must be recorded and made available for public inspection.

4. Under Rule 217 of the Joint Rules, a bill that has been introduced and finally rejected in a regular or special session may not be introduced in a subsequent session of the same Legislature except by a vote of 2/3 of both chambers. Therefore, determinations as to the relevancy of Rule 217 are within the purview of the presiding officers, not the Legislative Council.

Suggested Protocol for deciding legislative bill requests

A. The Legislative Council will review bill requests alphabetically by policy area. An exception to this order of review may be made for bill requests for which an ASL Interpreter is required for persons who are deaf or hard of hearing. Those bills will be taken out of order at a time during the meeting when an interpreter is available.

B. For procedural consistency, when voting on a bill request, the initial motion on a bill will be presumed to be a motion to accept the bill request for introduction into the second regular session along with a second to that motion. (Yea is to let in a bill; nay is to reject the bill for introduction). Also for procedural consistency, unless otherwise stated, each motion is presumed to have been made by the vice-chair of the Legislative Council, seconded by the chair.

C. In order to review all legislative requests in a timely manner, voting will be by electronic vote or a show of hands, with each Council Member's vote on each bill being recorded. The record of each vote will be made available for public inspection following the meeting.

D. If a bill request has been identified by the Revisor as requiring a ruling under Joint Rule 217, the Legislative Council may vote to accept that bill for introduction, conditional upon a subsequent ruling by the presiding officers. Absent a vote to accept the bill, the bill is presumed to have been turned down by unanimous vote of the Legislative Council.

E. Legislative sponsors and others are welcome to observe the Council's deliberations on the bill requests, but discussion of the requests will be confined to Council Members. Discussion of a bill request among Council Members will be limited to whether it is appropriate for introduction under Constitutional provisions for second regular session bills, and will not speak to the merits of the bill itself.

F. If the Legislative Council turns down a bill request, a Legislator may appeal that decision. At a subsequent meeting of the Legislative Council, the Legislator may speak briefly to the bill request under appeal.

G. A legislative request that has been identified by the Revisor's Office as being closely related to another legislative request that was earlier filed (i.e., having been assigned a lower LR number) or to a carryover bill is presumed to have been turned down by a unanimous vote of the Legislative Council.

Motion: That the Legislative Council adopt the suggested protocol, A-G, for deciding legislative bill requests as set forth in the "Procedures for Review of Legislative Bill Requests" document dated October 15, 2009. Motion by Representative Tardy. Second by Senator Mitchell. **Motion passed, unanimous. (10-0)**

Item #2: Consideration of Legislative Bill Requests for Introduction In the Second Regular Session of the 123rd Legislature

The Council proceeded to consider and vote on 373 bill requests in accordance with the adopted protocol, and using an electronic voting system. The council authorized 129 bills for introduction in the second regular session, and tabled 26 bill requests. The council's action on the bill requests is attached.

SUMMARY OF SEPTEMBER 23, 2009 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of September 23, 2009 be accepted and placed on file. Motion by Senator Marraché. Second by Senator Mitchell. **Motion passed unanimous. (10-0)**

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

(No Report)

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
September	$298.7	$270.7	($28.0)	-9.4%	$293.0	-7.6%
FYTD	$587.4	$545.1	($42.3)	-7.2%	$602.2	-9.5%

General Fund revenue was under budget by $28.0 million in September increasing the negative variance for the first quarter of FY 2010 to $42.3 million or 7.2%. General Fund revenue fell by 9.5% during the first quarter of FY 2010 compared to the same period in FY 2009.

Individual Income Tax was the primary factor in September's negative variance. This category was under budget by $28.0 million in September due to an $18.4 million shortfall in estimated payments due on September 15th and an $8.9 million (or roughly 10%) shortfall in withholding payments. Individual Income Tax collections for the first quarter of FY 2010 were $39.3 million below projections.

Sales Tax collections were under budget by $6.3 million in September and fell $18.3 million below projections for the first quarter. Sales Tax performance in September (August taxable sales) was disappointing given the return of nice weather in August and the temporary boost to automobile sales from the "Cash for Clunkers" program.

While Corporate Income Tax estimated payments were below budget in September, this category remained above budget through the first quarter. The only other negative variances through the first quarter were in the Estate Tax and Fines, Forfeits and Penalties categories. With the exception of the Sales Tax and Income Tax categories, the remaining revenue categories were above budget by $15.3 million for the first quarter of FY 2010.

September's revenue performance has prompted the Governor to begin the process of curtailing allotments. He is also preparing for a shortfall in the $200 million range to be addressed by a supplemental budget for the Second Regular Session.

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
September	$27.9	$25.9	($2.0)	-7.3%	$31.0	-16.5%
FYTD	$59.0	$61.9	$3.0	5.1%	$63.0	-1.7%

Mr. Pennoyer's written report summarized the status of Highway Fund revenue and the Dirigo Health Fund, and provided a status report on cash balances. Mr. Pennoyer commented that the state will require tax anticipation note borrowing in November.

Legislative Council Chair Pingree asked when the Revenue Forecasting Committee will meet. Mr. Pennoyer answered that the Consensus Economic Forecasting Commission will meet on Monday, October 26th at 9:30 AM and the Revenue Forecasting Committee will meet on Tuesday, November 17th at 10:00 AM.

Status of Legislative Studies

Mr. Norton provided a written status report that is included in the Legislative Council meeting materials.

REPORTS FROM COUNCIL COMMITTEES

1. **Personnel Committee**

   Chair Pingree noted that the Personnel Committee is still in the process of reviewing applicants for the Legislative Information Technology Director position.

2. **State House Facilities Committee**

   (No Report)

3. **Budget Subcommittee**

   (No Report)

4. **CSG Annual Meeting Planning Subcommittee**

   Senator Bartlett, co-chair reported that the subcommittee had met on October 7, 2009. Invitees to the meeting included representatives of private sector businesses who may be strong candidates to serve on a "Host Committee" and assist in fund-raising for the event. CSG/ERC representatives attended the meeting as well. The subcommittee will meet in November to figure out how to raise $300,000 in a relatively short period. Senator Bartlett stated that he had started to reach out to folks, and spoke with them about what CSG is about and encouraging them to get involved. He said that he has received positive feedback and that most of the businesses he spoke with wanted to participate in some way.

   Senator Marrache asked if the date for the November meeting has been set yet.

   Senator Bartlett responded that he will work with Executive Director Boulter to see if meeting on or about the date of the next Legislative Council meeting is feasible.

   Chair Pingree noted that the next meeting on November 5th is the meeting when the Legislative Council will hear legislator appeals.

There was no Old Business. Chair Pingree then proceeded to **Item 3** under New Business.

NEW BUSINESS

ITEM #3: Notification from the State of Maine Department of Audit that the Single Audit of the State of Maine for the year ended June 30, 2009 is being performed.

Mr. Boulter reported that the letter from the State Auditor regarding the State Single Audit is for informational purposes only. No Legislative Council action is required.

ITEM #4: Collective Bargaining Matters

Motion: That, in accordance with 1 MRSA section 405, subsection 6, the Legislative Council enter into an executive session for the purposes of discussing collective bargaining negotiations between the employee representative for the Administrative Unit of Legislative Employees and the Legislative Council. Motion by Chair Pingree. Second by Senator Mitchell. **Motion passed, unanimous. (9-0) [Representative Tardy absent for vote.]**

The council went into executive session at 2:17 P.M.. The council ended its executive session at 2:28 P.M. Motion by Senator Raye. Second by Senator Mitchell. **Motion to adjourn passed, unanimous. (9-0) [Representative Tardy absent for vote.]**

The Legislative Council resumed its general meeting.

ANNOUNCEMENTS AND REMARKS

None

ADJOURNMENT

The Legislative Council meeting was adjourned at 2:29 P.M. **Motion to adjourn passed unanimous. (9-0) [Representative Tardy absent for vote.]**