

REP. HANNAH M. PINGREE
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DAVID E. BOULTER



124TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. PHILIP L. BARTLETT II
SEN. KEVIN L. RAYE
SEN. LISA T. MARRACHE
SEN. JONATHAN T. E. COURTNEY
REP. JOHN F. PIOTTI
REP. JOSHUA A. TARDY
REP. SETH A. BERRY
REP. PHILIP A. CURTIS

MEETING SUMMARY
July 22, 2009
Approved September 23, 2009

CALL TO ORDER

Legislative Council Chair, Speaker Pingree called the July Legislative Council meeting to order at 1:30 P.M. in the Legislative Council Chambers.

ROLL CALL

Senators: Senate President Elizabeth Mitchell, Sen. Kevin Raye, Sen. Lisa Marraché

Absent: Sen. Philip Bartlett, Sen. Jonathan Courtney

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

Absent: Rep. John Piotti

Legislative Officers: Michael Cote, Assistant Clerk of the House
David E. Boulter, Executive Director of the Legislative Council
Patrick Norton, Director, Office of Policy and Legal Analysis
Grant Pennoyer, Director, Office of Fiscal and Program Review
John Barden, Director, Law and Legislative Reference Library
Debra Olken, Human Resources Director

Chair Pingree convened the meeting at 1:30 P.M. with a quorum of members present.

SUMMARY OF JUNE 9TH MEETING OF THE LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of June 9, 2009 be accepted and placed on file. Motion by Representative Berry. Second by Senate President Mitchell. **Motion passed unanimous (7-0).** [Representative Piotti, Senator Courtney and Senator Bartlett absent]

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

Executive Director's Report

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

Loss of historic tree

A large sugar maple tree that sustained significant limb breakage caused by heavy winds was removed last week. According to the master arborist who inspected the tree, the tree was unsafe and posed a significant risk to property and persons. The tree was located at the southwest corner of the State House (outside the Appropriations committee room). Its age was estimated to be 175 years, having been planted close to the time of construction of the State House in 1829.

Representative Pingree suggested that replacing the tree be discussed at the next State House Facilities Committee meeting.

Computer room overheating

During the Independence Day weekend, the system supplying chilled water to the computer room malfunctioned resulting in extremely high temperatures in the room and placing the equipment at high risk for failure. Though response was delayed, the problem was discovered before any system actually failed, fortunately. A backup alarm/security service is being investigated to supplement the current alarm system and protocols that proved inadequate to safeguard key computer systems.

Mr. Boulter will be meeting with Building Control and the State House Facilities Committee to discuss recommendations to minimize future risks.

Retirement of Patrick Norton, Director, OPLA

OPLA Director Patrick Norton is retiring after 27 years of state service, 20 of which was with the Legislature. Pat served in various capacities in OPLA, the last four years of which as director. Pat's contribution to the legislature has been invaluable. A retirement reception for Pat was held immediately following the Legislative Council meeting.

Fiscal Report

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

Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
June	\$474.6	\$444.3	(\$30.3)	-6.4%	\$479.7	-7.4%
FYTD	\$2,854.8	\$2,811.4	(\$43.4)	-1.5%	\$3,087.8	-9.0%

General Fund revenue was under budget by \$30.3 million in June and closed FY 2009 with a \$43.4 million or 1.5% negative variance. General Fund revenue fell by 9.0% from FY 2008. The decline in revenue was driven primarily by income tax decline, with Individual Income Tax declining 12.4% and Corporate Income Tax declining 22.5%.

Negative variances continued in the income and sales tax lines despite significant downward revisions in the May forecast. The Individual Income Tax alone was \$39.5 million under budget for FY 2009, with half of this variance coming from withholding payments, which was \$20.4 million under budget for the fiscal year. Sales and Use Tax performance continued to deteriorate. Weather was a significant factor in May and June poor revenue performances. The weather is likely to be an even greater drag on July sales tax revenue representing taxable sales in June.

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
June	\$50.3	\$50.0	(\$0.3)	-0.7%	\$53.7	-7.0%
FYTD	\$325.1	\$324.2	(\$0.9)	-0.3%	\$328.1	-1.2%

Highway Fund revenue was under budget by \$0.3 million or 0.7% in June and ended FY 2009 with a negative variance of \$0.9 million or 0.3%. June's poor performance contributed to a 1.2% overall decline in annual Highway Fund revenue from FY 2008 to FY 2009. June's negative variance was primarily related to fuel taxes, which was under budget by \$1.6 million in June and ended the fiscal year \$1.0 million or 0.5% under budget.

General Fund and Highway Fund Budgeted Balances

Both the General Fund and the Highway Fund ended FY 2009 with positive ending balances. However, the negative revenue variances in each of the funds will create shortfalls in the 2010-2011 biennium as both used balance forward to keep the biennium in balance. The amount of the shortfall will depend on the amount of lapsed balances and final closing accounting transactions recorded by the Office of the State Controller. Final budgeted balances based on actions through the 124th Legislature, 1st Regular Session were:

General Fund 2010-2011 Biennium Beginning Balance	\$52.2 Million
General Fund 2010-2011 Biennium Ending Balance	\$ 1.3 Million
Highway Fund 2010-2011 Biennium Beginning Balance	\$ 1.0 Million
Highway Fund 2010-2011 Biennium Ending Balance	\$ 0.5 Million

Cash Update

Presented below is a summary of the State's average cash balances in June compared to June 2008. The General Fund's poor revenue performance over the last 2 months and the use of all reserves continued to worsen cash balances. The average balance for the total cash pool in June was \$109.2 million below June 2008 and significantly below June's 2002 to 2008 historical average of \$629.5 million. At the Appropriations committee meeting, the State Treasurer and the State Controller announced that they would need to issue a Tax Anticipation Note (TAN) of \$125 million to help with cash flow issues through FY 2010. The last time the State issued TAN's was in FY 2006 in the amount of \$123.6 million.

Summary of Treasurer's Cash Pool		
June Average Daily Balances		
Millions of \$'s		
	2008	2009
General Fund (GF) Total	\$25.9	\$40.1
General Fund (GF) Detail:		
Budget Stabilization Fund	\$118.9	\$75.5
Reserve for Operating Capital	\$40.6	\$40.6
Tax Anticipation Notes	\$0.0	\$0.0
Internal Borrowing	\$13.5	\$200.0
Other General Fund Cash	(\$147.1)	(\$276.1)
Other Spec. Rev. - Interest to GF	\$155.0	\$6.2
Other State Funds - Interest to GF	(\$12.7)	(\$10.8)
Highway Fund	\$18.4	\$25.5
Other Spec. Rev. - Retaining Interest	\$78.7	\$21.2
Other State Funds	\$200.7	\$280.9
Independent Agency Funds	\$87.5	\$81.2
Total Cash Pool	\$553.5	\$444.4

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Chair Pingree reported that the Personnel Committee met briefly earlier in the day to discuss the process and schedule for recruiting candidates for the directors of OPLA and Information Services, and it authorized temporary disability income benefits for a member of the Senate Secretary's office, consistent with the Personnel Policies and Guidelines.

2. State House Facilities Committee

(No Report)

3. Budget Subcommittee

(No Report)

4. CSG Annual Meeting Planning Subcommittee

Mr. Boulter reported that on August 4th Maine is hosting a reception at the CSG/ERC annual meeting in Burlington, Vermont. Senator Bartlett and Representative Nancy Smith have been working with Moose Ridge Associates to arrange for that event. Senator Bartlett has sent out letters to select Maine firms seeking donations to offset the cost of the event.

Representative Pingree asked if conference registration figures were available.

Mr. Boulter replied that he did not have actual registration numbers but that CSG had informed him that there had been a flurry of late registrations so the number of attendees has increased significantly in the last few weeks.

Senator Mitchell noted that the state of Nevada did not pay its annual dues to NCSL this year due to severe fiscal constraints.

Representative Berry indicated that he would be attending the CSG conference and would make an effort to have all Maine attendees attend the reception to promote next year's event.

OLD BUSINESS

(There was no Old Business.)

NEW BUSINESS

ITEM #1: University of Maine System Task Force Report [Chancellor Pattenaude] (Executive Summary attached)

University of Maine System Chancellor Richard L. Pattenaude and Lyndel J. Wishcamper, Chair of the Board of Trustees made a presentation to the Legislative Council on the recent task force report on the University of Maine System. The report is entitled "*Meeting New Challenges, Setting New Directions: The Task Force Report*," issued on July 7, 2009. The Chancellor and the Chair explained that the University of Maine System Task Force was given a broad mandate to address the challenges to the University of Maine System posed by the economic crisis and a persistent structural deficit equivalent to about 10% of its budget, without considering the closure of any of its seven operating campuses.

The Task Force organized into three subcommittees that specifically addressed the issues of how to provide governance and System-wide services, how to allocate resources, and how to sharpen campus missions. For the University of Maine System, working its way through the current challenges to a successful future will require:

- Assigning accountability to specific people to achieve key objectives;
- Systematically and objectively restructuring the strategic plans of the various campuses;
- Instituting systems for incentivizing excellent performance; and
- Establishing a system of metrics relevant to the performance of various functions of the System.

Within this general framework, the Task Force identified four key goals for the University of Maine System. Within the sections discussing each goal, specific recommendations are contained. The broad goals are:

1. Establish a public agenda
2. Act as a union and not a confederation
3. Restructure System-wide services
4. Use financial policy to realize System goals

They concluded by saying that public meetings will be held on the task force report to invite comments and suggestions by the public.

ITEM #2: Proposed Fee Schedule for *Laws of Maine*

Mr. Boulter suggested that the Legislative Council consider establishing a fee to cover the printing and binding costs for the *Laws of Maine*. Currently the Legislative Council spends over \$60,000 biennially to print copies of the *Laws of Maine*. Hundreds of copies are distributed to public and private sector entities without charge.

Motion: That the Legislative Council authorize the Executive Director of the Legislative Council to charge a fee for distribution of the *Laws of Maine* to cover the legislative costs of printing and binding, excluding copies distributed for legislative use and a reasonable number of volumes to be distributed to the Judicial Branch for use by Maine justices and judges. Motion by Senate President Mitchell. Second by Senator Marraché. **Motion passed unanimous (7-0).** [Representative Piotti, Senator Courtney and Senator Bartlett absent]

ITEM #3: *Legislative Digest of Bill Summaries and Enacted Laws*

Copies of the *Legislative Digest*, produced by Office of Policy and Legal Analysis and the Office of Fiscal and Program Review were distributed to the Legislative Council members. No action was required.

ITEM #4: Updated Schedule for Review of Legislator Requests to Introduce Legislation [2nd Regular Session cloture date]

An updated *Schedule for Review of Legislator's Requests to Introduce Legislation* was distributed to the Legislative Council members for their review. The schedule established the cloture date for filing bill requests for the 2nd Regular Session as September 23, 2009 as directed at the June 9, 2009 Legislative Council meeting. No further action was required.

ITEM #5: Executive Session

Motion: That, in accordance with 1 MRSA section 405, subsection 6, the Legislative Council enter into an executive session for the purposes of discussing collective bargaining negotiations between the employee representative for the Administrative Unit of Legislative Employees and the Legislative Council. Motion by Senate President Mitchell. Second by Representative Berry. **Motion passed unanimous (7-0).** [Representative Piotti, Senator Courtney and Senator Bartlett absent]

The Council recessed at 2:18 PM to go into an executive session.

The Legislative Council adjourned its executive session at 2:31 P.M. Motion by Senate President Mitchell. Second by Representative Berry. **Motion passed (6-1).** [Representative Piotti, Senator Courtney and Senator Bartlett absent; Representative Tardy opposed]

The Chair reconvened the Legislative Council meeting at 2:31 p.m.

ANNOUNCEMENTS AND REMARKS

Speaker Pingree extended an invitation to the Legislative Council and members of the audience to a reception for retiring OPLA Director Patrick Norton immediately following the Legislative Council meeting. At the reception, the Legislative Council members and Mr. Boulter thanked Mr. Norton for his 20 years of extraordinary service to the Legislature, and wished him well in his retirement. The effective date of his retirement is August 1, 2009. Mr. Norton was presented with a retirement gift. Deputy Commissioner of Inland Fisheries and Wildlife Paul Jacques, a former Legislator, Legislative Chair and Leader presented Mr. Norton with a framed wildlife print as an expression of appreciation for his service to the Legislature.

ADJOURNMENT

The Legislative Council meeting was adjourned following the reception for Mr. Norton.