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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
March 26, 2009
APPROVED APRIL 16, 2009

CALL TO ORDER

Legislative Council Chair, Speaker Pingree called the Legislative Council meeting to order at 1:57 P.M. in the Legislative Council Chambers.

ROLL CALL

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

Sen. Lisa Marrache (arrived shortly 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
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

Chair Pingree convened the meeting at 1:57 P.M. with a quorum of members present.

SUMMARY OF FEBRUARY 26, 2009 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of February 26, 2009 be accepted and placed on file. Motion by Senator Bartlett. Second by Representative Berry. **Motion passed unanimous (9-0). (Senator Marrache absent for vote)**

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 eighteen and tabled two 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:

Piping Leak in State House Update

On March 24th an HVAC piping leak on the 5th floor of the State House released water that traveled through to the 1st floor causing damage to the rooms. Particularly hard hit were the House Majority staff offices and the Governor’s cabinet room. Remediation is on-going and rooms should re-open on Monday. The cabinet room will need more extensive repairs to restore it to its prior condition.

Shelving Repairs to Library Storage Area

Work is on-going to repair and replace shelving that collapsed at the library’s off-site warehouse earlier this month. Some shelving will be rebuilt and some compact shelving will be installed to prevent any recurrence.

Freedom of Access Request

Earlier this week, this office received an information request from the Maine Heritage Policy Center, filed pursuant to the Freedom of Access Act, for legislative payroll data for members of the Maine Legislature including names, salary, other payments and benefit costs for calendar years 2006, 2007 and 2008.

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
February	\$135.0	\$114.5	(\$20.5)	-15.2%	\$138.1	-17.1%
FYTD	\$1,667.7	\$1,651.6	(\$16.1)	-1.0%	\$1,710.0	-3.4%

General Fund revenue was under budget by \$20.5 million in February and fell below budget for the Fiscal Year-to-date (FYTD) by \$16.1 million or 1.0% through February 2009. February revenue was 17.1% below February 2008 and FY 2009 Fiscal Year-to-date (FYTD) revenue through February declined by 3.4% compared with the same period in FY 2008. The December 2008 General

Fund revenue forecast projects a decline of 4.1% for total General Fund revenue in FY 2009.

The effects of the recession have begun to show in revenue categories beyond the tax categories driven by consumption. Individual income tax withholding over the last 2 months has fallen further below budget, showing the effects of recent layoffs and job losses. Corporate income tax collections were also significantly below budget. This was compounded by an adjustment to offset a miscoded December audit payment that actually resulted in negative revenue in this category for February.

Sales and Use Tax revenue continued its decline in February and for the FYTD has fallen \$26.0 million or 4.3% below budget. Average taxable sales for the 3-month period ending with January fell 8% compared to the same period last year. Lottery revenue was also significantly below budget, falling \$2.2 million or 6.3% below projections.

The Other Revenue category was under budget through February by \$14.2 million or 10.8%. Approximately half of this negative variance is related to timing issues, \$6.0 million from the improperly distributed revenue adjustment to the Unclaimed Property Transfer and \$1.2 million from a delay in making transfers from the fund for the Efficient Delivery of Local and Regional Services. Other major contributors to the negative variance in the Other Revenue category include transfers to the Maine Milk Pool (\$2.9 million), the Milk Handling Fee (\$0.7 million) and State Cost Allocation Plan revenue (\$3.0 million).

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
February	\$24.8	\$25.9	\$1.1	4.5%	\$23.1	12.4%
FYTD	\$201.6	\$195.8	(\$5.8)	-2.9%	\$196.3	-0.3%

Highway Fund revenue was over budget by \$1.1 million in February, reducing the negative FYTD variance through February to \$5.8 million or 2.9%. With the strong performance in February, the FYTD decline of Highway Fund revenue compared with FY 2008 was almost erased but remained slightly negative at a 0.3% decline.

With the exception of Motor Vehicle Inspection Fees, all major categories of Highway Fund revenue were over budget. The first positive monthly variance in FY 2009 for the Fuel Taxes category was a pleasant surprise. However, there doesn't appear to be a good explanation at this point for this departure from recent trends.

Revenue Forecast Update

The Consensus Economic Forecasting Commission met on Tuesday, March 31st to update its November 2008 economic forecast. Given the timing of the last forecast and the intervening, discouraging economic news, a sizeable downward revision to the economic forecast is expected that will, in turn, result in a lower revenue forecast.

The Revenue Forecasting Committee will meet on Tuesday, April 28th to conclude the May revenue forecast update.

Cash Balances Update

Summary of Treasurer's Cash Pool		
February Average Daily Balances		
Millions of \$'s		
	2008	2009
General Fund (GF) Total	(\$1.7)	\$1.3
General Fund (GF) Detail:		
Budget Stabilization Fund	\$118.4	\$75.2
Reserve for Operating Capital	\$40.6	\$40.6
Tax Anticipation Notes	\$0.0	\$0.0
Internal Borrowing	\$124.5	\$204.5
Other General Fund Cash	(\$285.1)	(\$319.0)
Other Spec. Rev. - Interest to GF	\$47.7	\$11.4
Other State Funds - Interest to GF	(\$5.5)	(\$11.8)
Highway Fund	\$30.7	\$21.5
Other Spec. Rev. - Retaining Interest	\$73.0	\$45.5
Other State Funds	\$182.2	\$231.3
Independent Agency Funds	\$145.7	\$83.3
Total Cash Pool	\$472.1	\$382.6

The comparison of the average balances of February 2008 and February 2009 shows that the average total cash pool balance last month was \$382.6 million, which was \$89.6 million less than February 2008. The average balance for February during the last 7 years, 2002 to 2008, was \$589.9 million.

General Fund internal borrowing increased to \$204.5 million in February, \$80 million more than the same period last year. Excluding reserve fund balances and internal borrowing, the General Fund average cash balance was negative by \$319.0 million. The negative balance in the Dirigo Health Fund also declined further in February, averaging \$17.6 million for the month.

The pending release of 2 quarters of federal stimulus funds related to the temporary increase in the Federal Medical Assistance Percentage (FMAP) will help buoy General Fund cash position, offsetting some of the effect of the \$56.1 million from the Maine Budget Stabilization Fund (MBSF). However, internal borrowing is reaching its limit and the State Controller and State Treasurer have been analyzing the State's cash position to determine the timing of any external borrowing that may be necessary. If negative revenue variances continue and MaineCare spending continues to exceed expectations, they will no longer be able to avoid external cash flow borrowing.

MaineCare Spending Update

The administration, as part of its briefing on the use of the federal stimulus funds, notified the Appropriations Committee that recent trends in MaineCare spending would create a General Fund shortfall for the current fiscal year of \$50 million. In addition, a \$15 million prior period accounting error was identified that also needed to be offset in the current year, creating a total estimated shortfall of \$65 million in FY 2009. The Department of Health and Human Services (DHHS) further identified the need for additional 2010-2011 biennium resources due to changes in trend. DHHS proposed to use the enhanced FMAP savings to fund the shortfalls identified as \$25.0 million in FY 2010 and \$15 million in FY 2011.

Federal Stimulus Package

Definitive information on the Federal Stimulus Package has been slow in coming. The focus on accountability and transparency for the use of these funds and the extent of the package has made the development of the related regulations more complicated and slower than originally anticipated. The Administration has made a number of announcements regarding the use and oversight of these stimulus funds. Most of these announcements and information regarding the Federal Stimulus Package is available on the Governor's recovery web site:

<http://www.maine.gov/recovery/>.

Recently, the Administration has begun to present proposals for some of the more flexible elements of the Federal Stimulus Package. The Commissioner of Education's updates and presentations regarding the State Fiscal Stabilization Fund portion of the stimulus are available through the web site at the link noted above. Not included on the web site were the presentations to the Appropriations Committee on March 16th in which the Administration provided estimates of the savings from the enhanced FMAP and its proposals to use that flexible General Fund savings. The table below summarizes the estimated savings and proposed uses.

Estimated Savings and Uses of Enhanced FMAP Savings in Federal Stimulus Package (Millions of \$'s)

	FY 2009	FY 2010	FY 2011
Estimated Saving from Enhanced FMAP	(\$113.5)	(\$149.5)	(\$71.5)
Proposed Uses of Savings:			
Offset to Placeholder in Biennial Budget	\$0.0	\$98.8	\$0.0
Payment to Hospitals	\$45.0	\$57.0	\$0.0
Medicaid/MaineCare Shortfalls	\$65.0	\$25.0	\$15.0
Other Health-related Initiatives	\$3.0	\$17.3	\$3.6
Net Cost (Savings) After Initiatives	(\$0.5)	\$48.6	(\$52.9)

Information Technology Report

Speaker Pingree expressed her appreciation to the Information Services staff for their assistance in setting up computers and telephones for the House Majority office that had been temporarily relocated due to the piping leak.

Mr. Mayotte reported on the following projects.

Bill Status Application

The bill status application is stable and is functioning appropriately. The small number of problems reported has been corrected promptly and vendor support has been excellent. Report output continues to be monitored to insure accuracy. Several new reports within the application have been developed in response to evolving user needs.

Automated Sponsor Notification

In a multiple office effort using the capabilities of the bill status application, an automated process to notify Legislators via email of public hearings and work sessions has been developed and implemented. This will provide legislators that have email with real time notices of all committee activities related to their bills.

Legislative Wireless Network Service Improvements

Over the next several weeks the office will be upgrading the original wireless network routers installed five plus years ago when legislative wireless service was first implemented. Wireless service will be fully maintained throughout the process. Once the upgraded routers are installed, Legislators and other users will see more consistent service campus wide and a significant increase in signal strength. Overall the wireless network will have the increased capacity to support the continued rapid growth in wireless use for several years into the future.

Senator Marrache asked Mr. Mayotte if the legislative website includes a convenient way for the public to find out the status of legislation. Mr. Mayotte responded by saying that the legislative homepage includes a section in the upper right hand corner where bill status can be easily located. Senator Marrache asked if the same approach could be developed for the Maine.gov website (Executive Branch). Speaker Pingree suggested that the Executive Branch staff be approached to discuss modifying the website to include bill status information.

Speaker Pingree commented that the presiding officers have allowed quite a few bills to have unlimited co-sponsorships this session, requiring committee clerks to notify all sponsors when a bill is scheduled for public hearing. She inquired whether the practice of sending paper copies of the notice to sponsors and co-sponsors could be discontinued if the Legislators receive notice by email, thereby saving clerk time and paper costs. Mr. Boulter responded that it could be done if the Legislative Information office was given direction to minimize paper copies.

Representative Berry then commented that several Legislators had approached him because they are not receiving the House Calendar by email. He suggested that Legislators should

receive it automatically without having to make special arrangements. Clerk of the House MacFarland responded by explaining that people do not receive the House Calendar by email unless they specifically request to receive it. She noted that the calendar for the session on the following day is posted on the House website the evening before session.

Senator Raye asked if email notifications to bill sponsors are sent only to a Legislator's legislative email address or to any other email address the Legislator chooses. Mr. Boulter responded that it is sent to the email address designated by the Legislator, for example the Legislator or the Legislator's aide.

Senator Courtney concluded the discussion by suggesting that paper notices of bill hearings be phased out, beginning with the co-sponsors and then with sponsors once the email has been shown to work satisfactorily.

Status of Legislative Studies

(No Report)

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Chair Pingree presented the Personnel Committee report for the Personnel Committee meeting held earlier in the day.

Group Life Insurance Coverage and Payment Procedures for Legislators

The committee discussed a proposed change in how group life insurance coverage is provided to Legislators. The issue is that Maine PERS has concluded that the current process used for calculating coverage levels, a practice that has been in place for 30 years, may not be totally consistent with current law. Options and approaches were discussed, and the committee will make a recommendation to the Legislative Council on a direction to resolve the issue at its next meeting.

Update on Kronos Timekeeping System

Human Resources Director Debby Olken updated the committee on progress toward a new timekeeping system for legislative employees. While the committee had originally envisioned and authorized development of a unified timekeeping system, it became apparent that three separate systems are necessary to meet the needs of the various offices (House, Senate and nonpartisan offices). The direction is now to develop separate systems within the existing project budget. This approach should allow offices to begin using a new timekeeping system by this summer or sooner.

Request for Temporary Disability Income Benefits

The committee approved a request for temporary disability income benefits for a member of the nonpartisan staff, to become effective on or about June 11, 2009.

Compensation for Tribal Representatives

The Legislative Council had a brief discussion on the compensation paid to Tribal representatives to the Legislature. Senator Bliss will be requesting an after deadline bill relating to compensation for the Tribal representatives.

Senator Mitchell asked that she be provided with a summary of the budget that is remaining and is available to complete the Kronos Timekeeping System.

2. State House Facilities Committee

Rep. Piotti, chair of the State House Facilities, reported that the committee will be meeting on Monday, March 30, 2009.

3. Budget Subcommittee

Senate President Mitchell presented the Budget Subcommittee's report. She reported that the subcommittee met on March 24th to continue its review of the proposed budget for the Legislature for the 2010-2011 biennium. At the meeting, members reviewed expenditure information relating to three on-going commissions and a letter from the Government Oversight Committee, as well as other areas of potential 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 is planning to develop final recommendations on adjustments to the legislative budget for consideration by the full Legislative Council.

4. CSG Annual Meeting Planning Subcommittee

Senator Bartlett, co-chair of the CSG Annual Meeting Planning Subcommittee, reported that the subcommittee has not met yet but he did attend CSG/ERC's Executive Committee meeting in Vermont where the upcoming events in Vermont and the upcoming 2010 conference in Maine were discussed. Vermont has contributed about \$100,000 from its budget toward the 2009 annual meeting. Vermont has been trying to raise an additional \$200,000, but is having difficulty doing so in this sluggish economy. A close watch is being kept on the number of attendees this summer. Attendance at the annual meeting is typically in the range of 600 people. Attendance projections will help scale Maine's event appropriately. CSG staff will be sending information on how much has been spent for each of the last three annual meetings and a summary of host state responsibilities. At its meeting, the subcommittee will review proposals for an event planning consultant. There is some urgency because the first event is this summer in Vermont, so the subcommittee needs to review the proposals, hire a consultant and raise money this summer.

OLD BUSINESS

ITEM 1: Legislative Council Actions Taken by Ballot

There was no action taken by ballot by the Legislative Council since the last meeting.

NEW BUSINESS

ITEM #2: Memorandum of Agreement Regarding Maintenance of the Road Connecting Union and Gage Streets

Mr. Boulter explained that the Memorandum of Agreement proposed by the Maine Department of Transportation relates to maintenance of the state-owned road connecting Union and Gage streets (connector road). Capitol Park is bordered by Capitol Street (on north) and Union Street (on south). They are connected on the east by a road constructed in 1977 or 1978 across a portion of Capitol Park by the Bureau of Public Improvements. The road has since been maintained by the state,

Mr. Boulter explained that Capitol Park is owned by the State of Maine and is a portion of the original parcel on which the capitol was constructed in the early 1830s. Capitol Park extends to the Kennebec River and includes the land where the road is now located. Pursuant to Maine law, the Legislative Council has jurisdiction over Capitol Park.

By separate agreement between the Maine Department of Transportation and the City of Augusta (not involving the Legislative Council), Union Street was rebuilt in 2006 along with the connector road. Part of that agreement was to have the city assume maintenance of the connector road. The parties would now like to formalize that agreement with respect to maintenance through the proposed MOA, which requires Legislative Council approval. The agreement has been reviewed by the Attorney General's office, and should adequately protect the Legislature's interests.

President Mitchell asked if the city is in agreement with the proposal that it assume the maintenance responsibilities for the connector road. Mr. Boulter responded that it was his understanding that the city was in agreement to perform the maintenance once the Maine Department of Transportation reconstructed the road; however he suggested that any motion include a provision that the Legislative Council enter into the agreement only following signed agreement by the other parties.

Motion: That the Legislative Council approve the memorandum of agreement and authorize the Executive Director to execute this or a substantially similar agreement upon execution of the agreement by the MaineDOT and the city of Augusta. Motion by Senator Bartlett. Second by Representative Berry. **Motion passed unanimous (9-0).** [Representative Tardy absent for vote.]

ITEM #3: Final Report: Study of Statewide Market for Forest Products Harvesting and Hauling Services

Motion: To accept the Final Report: Study of Statewide Market for Forest Products Harvesting and Hauling services and place it on file. Motion by Senator Bartlett. Second by Representative Berry. **Motion passed unanimous (9-0).** [Representative Tardy absent for vote]

ANNOUNCEMENTS AND REMARKS

None

ADJOURNMENT

The Legislative Council meeting was adjourned at 2:58 P.M.