

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

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EXECUTIVE DIRECTOR  
DAVID E. BOULTER



124<sup>TH</sup> 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  
December 17, 2009  
APPROVED JANUARY 21, 2010

**CALL TO ORDER**

Legislative Council Chair, Speaker Pingree called the December Legislative Council meeting to order at 1:47 P.M. in the Legislative Council Chambers.

**ROLL CALL**

Senators: Senate President Elizabeth Mitchell, Sen. Philip Bartlett, Sen. Kevin Raye, Sen. Jonathan Courtney  
Sen. Lisa Marraché [arrived after the start of the meeting]

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

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  
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 1:47 P.M. with a quorum of members present.

**SUMMARY OF NOVEMBER 5, 2009 MEETING OF LEGISLATIVE COUNCIL**

**Motion:** That the Meeting Summary of November 5, 2009 be accepted and placed on file.  
Motion by Senator Mitchell. Second by Representative Berry. **Motion passed unanimous.**  
**(8-0)** [Senator Marraché and Representative Tardy absent for vote.]

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

## NEW BUSINESS

### Item #1: Consideration of Legislators' Bill Requests that were Tabled

Legislative Council Chair Pingree noted at the outset that a number of bill requests related to school consolidation and taxation had been tabled at the October Council meeting awaiting the outcome of the November referendum. Chair Pingree suggested that all the tabled tax bills remain on the table. It was also suggested that all the tabled school consolidation bills with the exception of LR 2323: *An Act to Allow the Town of Wells and the Town of Ogunquit to Amend the Terms of their Cost-sharing Agreement for their Community School District and to Provide Each Town the Ability to Withdraw from the Wells-Ogunquit Community School District* be authorized for introduction.

The Legislative Council proceeded to consider and vote on 28 bill requests in accordance with the previously adopted protocol, and using an automated voting system. Of the 28 bill requests, the council authorized 15 requests for introduction in the 2nd Regular Session of the 124th Legislature, 1 failed to be authorized, and 12 were tabled until a future Legislative Council meeting. The Legislative Council's actions on these requests are included on the attached list.

**Motion:** That all taxation-related legislative requests for bills that had been tabled at either the Legislative Council's October or November meetings remain tabled. Motion by Senator Mitchell. Second by Senator Raye. **Motion passed unanimous. (9-0)** [Representative Tardy absent]

**Motion:** That all the education-related legislative requests that had been tabled at the Legislative Council's October or November meetings, except for LR 2323, be authorized for introduction. Motion by Senator Mitchell. Second by Senator Raye. **Motion passed unanimous. (9-0)** [Representative Tardy absent]

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:

#### H1N1 Vaccine Clinic

The Maine CDC has announced that the State has now received sufficient quantities of the H1N1 vaccine to make the flu shots available to the general public, not just "high risk" populations. H1N1 flu clinics will be held at State work sites. A flu clinic will be held for legislative employees and Legislators in the State House in the very near future. A notice will be sent when the clinic details have been finalized. The Maine CDC expects the H1N1 virus to continue to circulate among the population and while the number of cases of the flu has decreased, a resurgence is expected.

#### CPR/First Aid Training Seminar

A CPR/First Aid training seminar is being developed for interested legislative employees. The training is not a "first responder" level training but is designed to provide basic first aid techniques to staff in order to develop a more informed workforce in case of emergencies. The training will be scheduled for early January.

Speaker Pingree mentioned that a flu clinic was being held today until 3:00 P.M. at the Lou Buker School in Augusta. The clinic is open to the general public.

## 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
November	\$199.4	\$201.8	\$2.3	1.2%	\$198.6	1.6%
FYTD	\$1,031.4	\$964.7	(\$66.7)	-6.5%	\$1,044.3	-7.6%

General Fund revenue in November was \$2.3 million over the budgeted revenue amounts prior to the downward revisions to budgeted revenue in December 2009 Revenue Forecast. General Fund revenue remained \$66.7 million (6.5%) below revenue estimates prior to the December revisions and for the first 5 months of FY 2010 was 7.6% below the same period in FY 2009. The December monthly revenue report will reflect the downward revisions of the December 2009 revenue forecast, which lowered FY 2010 revenue estimates by \$209.4 million and projects a 5.8% decline from FY 2009. The December forecast lowered General Fund revenue by a total of \$383.6 million for the 2010-2011 biennium.

November's relatively strong performance was driven by tax collections late in November, primarily from Corporate Income tax collections that were received as part of the Tax Receivables Reduction Initiative (TRRI). Corporate Income tax revenue, primarily as a result of TRRI, came in \$10.8 million ahead of the pre-December revenue estimates. Individual Income tax revenue was under budget by \$4.6 million for November, but this was an improvement over past months. Individual Income tax revenue was under budget for the first 5 months of FY 2010 by \$62.8 million. The Revenue Forecasting Committee revised Individual Income tax revenue downward in its December forecast by \$166.8 million in FY 2010.

November's Sales tax performance, a modest improvement over prior months, fell below budget by \$4.7 million or 6.2%. For the fiscal year through November, sales tax revenue was under budget by \$30.1 million. FY 2010 sales tax revenue was revised downward in the December forecast by \$41.3 million.

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
November	\$27.1	\$27.1	\$0.0	0.2%	\$27.4	-0.9%
FYTD	\$113.3	\$115.8	\$2.5	2.2%	\$118.6	-2.4%

Highway Fund revenue was just slightly over budget in November compared to the forecast prior to the December revenue revisions. November's positive variance resulted from Bureau of Motor Vehicle (BMV) revenue, which was ahead of budget for the month due to a positive variance in the revenue from the Long-term Trailers program. The Highway Fund retained a \$2.5 million positive variance for the first 5 months of FY 2010 due solely to the early variances in the Fuel Taxes category, which was \$3.5 million over budget through November. For the first 5 months of FY 2010, Highway Fund revenue was 2.4% below collections in the same period last fiscal year.

The December 2009 revenue forecast reduced Highway Fund revenue estimates by \$7.3 million in FY 2010 and \$14.3 million for the 2010-2011 biennium. The Highway Fund's

revenue performance to date seems inconsistent with the downward revisions in the forecast. The greatest downward revisions in the December forecast were driven by the economic forecast and the tax model calculations. The Revenue Forecasting Committee (RFC) did not accept the full reduction calculated by the tax models and the changes to Personal Income. The RFC will be watching the performance within this category carefully to test the accuracy of the model's predictions.

### Revenue Forecasting Revisions

Provided below is a summary of the December 2009 Revenue Forecast.

## Summary of December 2009 Revenue Revisions

Millions of \$'s

### General Fund Summary

	FY09 Actual	FY10	FY11	FY12	FY13
Current Forecast	\$2,811.4	\$2,856.7	\$2,897.9	\$2,939.3	\$3,035.9
Annual % Growth	-9.0%	1.6%	3.1%	2.9%	4.8%
Net Increase (Decrease)		(\$209.4)	(\$174.2)	(\$164.8)	(\$146.9)
Revised Forecast	\$2,811.4	\$2,647.2	\$2,723.7	\$2,774.6	\$2,889.0
Annual % Growth	-9.0%	-5.8%	2.9%	1.9%	4.1%

### Highway Fund Summary

	FY09 Actual	FY10	FY11	FY12	FY13
Current Forecast	\$324.2	\$312.7	\$308.7	\$314.4	\$320.3
Annual % Growth	-1.2%	-3.5%	-4.8%	0.5%	3.7%
Net Increase (Decrease)		(\$7.3)	(\$7.1)	(\$7.6)	(\$8.8)
Revised Forecast	\$324.2	\$305.5	\$301.6	\$306.9	\$311.5
Annual % Growth	-1.2%	-5.8%	-7.0%	-5.4%	2.0%

### Fund for a Healthy Maine Summary

	FY09 Actual	FY10	FY11	FY12	FY13
Current Forecast	\$68.4	\$59.7	\$57.1	\$62.8	\$62.6
Annual % Growth	10.3%	-12.8%	-4.3%	10.0%	-0.3%
Net Increase (Decrease)		\$0.5	\$0.2	\$1.2	\$0.9
Revised Forecast	\$68.4	\$60.2	\$57.3	\$64.0	\$63.5
Annual % Growth	10.3%	-12.0%	-4.8%	11.6%	-0.8%

### Medicaid/MaineCare Dedicated Revenue Taxes Summary

	FY09 Actual	FY10	FY11	FY12	FY13
Current Forecast	\$138.0	\$140.7	\$140.8	\$140.9	\$141.0
Annual % Growth	6.0%	2.0%	0.1%	0.1%	0.1%
Net Increase (Decrease)		(\$2.4)	(\$3.3)	(\$3.4)	(\$3.5)
Revised Forecast	\$138.0	\$138.3	\$137.6	\$137.6	\$137.6
Annual % Growth	6.0%	0.2%	-0.6%	0.0%	0.0%

### General Fund Shortfall

Provided below is a summary of the General Fund shortfall recognized by the December 2009 revenue forecast and the FY 2009 revenue shortfall. Addressing the FY 2010 shortfall (\$231.7 million) will be challenging since only 6 months remain in FY10. The General Fund biennial budget already included \$16 million of one-day borrowing to balance FY 2010 which has been contributed to the General Fund declining cash position.

## Summary of General Fund Shortfall

2010-2011 Biennium (Millions of \$'s)

	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)
Streamlining Initiative	\$0.0	(\$30.0)	(\$30.0)
<b>Ending General Fund Balances</b>	<b>(\$231.7)</b>	<b>(\$206.7)</b>	<b>(\$438.4)</b>

### Cash Balances

Presented below is a summary of the State's average cash balances in November 2009 compared to November 2008. Despite the poor performance of General Fund revenue and the use of virtually all reserves, the State has not yet implemented any external borrowing. This strategy, while increasing savings in budgeted debt service costs in the Office of the Treasurer, has significantly lowered the total cash pool and lowered investment returns (less available cash to invest). The reliance on internal borrowing to meet General Fund cash flow needs was at its highest level ever at \$293.2 million last month, \$168.2 million higher than November 2008. The November average balance for the total cash pool was \$302.6 million, almost \$102 million less than last November, and significantly below the historical average (2001 to 2008) of \$549.2 million.

The Dirigo Health Fund has made little progress in the last 2 months toward paying back the \$25 million General Fund cash advance. Excluding the cash advance, the fund had a negative balance of \$20.5 million, just slightly more negative than September's and October's average balances. November's average balance was more negative than last November by more than \$1.5 million.

Average balances for federal funds in November remained substantially negative as they were in October. This appears to be primarily related to MaineCare spending. Some modest negative balances in federal funds are expected due to federal cash management requirements.

<b>Summary of Treasurer's Cash Pool</b>		
<b>November Average Daily Balances</b>		
<b>Millions of \$'s</b>		
	<b>2008</b>	<b>2009</b>
General Fund (GF) Total	\$20.2	\$9.7
General Fund (GF) Detail:		
Budget Stabilization Fund	\$130.9	\$0.2
Reserve for Operating Capital	\$40.6	\$0.0
Tax Anticipation Notes	\$0.0	\$0.0
Internal Borrowing	\$125.0	\$293.2
Other General Fund Cash	(\$276.3)	(\$283.7)
Other Spec. Rev. - Interest to GF	\$39.9	(\$36.9)
Other State Funds - Interest to GF	(\$13.1)	\$11.4
Highway Fund	\$11.8	\$15.7
Other Spec. Rev. - Retaining Interest	\$62.3	\$46.7
Other State Funds	\$204.9	\$149.9
Independent Agency Funds	\$78.5	\$106.0
<b>Total Cash Pool</b>	<b>\$404.5</b>	<b>\$302.6</b>

### Status of Legislative Studies

Mr. Norton provided a written status report that is included in the Legislative Council meeting materials. Mr. Norton stated that all joint standing committees, except for the Appropriations Committee, have concluded their interim committee work. He noted that the Fish and Wildlife Committee was meeting today to discuss carryover bills and budget issues.

The Teacher Compensation study convened on Monday and had a productive meeting. The committee will issue a report that will recommend, among other things, that the study be extended into next interim.

Speaker Pingree stated that she and the Senate President sent a memo out to committee chairs about working closely with OPLA staff to schedule public hearings during the first part of January, making the beginning of the session very productive for everybody. The Appropriations Committee will begin its public hearings on the budget on January 5<sup>th</sup>. She noted that Mr. Norton has been very helpful in preparing the legislature for an early start on committee work.

Speaker Pingree also noted that the Revisor's office had completed drafting and processing all bills by the start of the session which was very helpful; she thanked the Revisor's staff as well as the House Clerk and the Senate Secretary who had printed and referred a majority of those bills to committees.

Chair Pingree asked if there was any objection to taking up the two after deadline bills tabled earlier in today's meeting. Hearing none, the Legislative Council proceeded to consider and vote on 2 after deadline requests. Both of the tabled after deadline requests were authorized for introduction in the

2nd Regular Session of the 124th Legislature. The Legislative Council's votes on those bills are noted on the attached list.

## REPORTS FROM COUNCIL COMMITTEES

### 1. Personnel Committee

Personnel Committee Chair Pingree reported that the interview panel consisting of President Mitchell, Senator Raye, Representative Tardy and herself, has been interviewing candidates for the Revisor and the Director of Information Technology positions. She stated that the interview panel has made very good progress in evaluating candidates for these important positions, and she anticipated presenting hiring recommendations to the Legislative Council at its January meeting. She also mentioned that she may schedule the January meeting of the Legislative Council to a time earlier in the month so the decisions on the director positions can be made as soon as possible.

### 2. State House Facilities Committee

(No Report)

### 3. Budget Subcommittee

(No Report)

### 4. CSG Annual Meeting Planning Subcommittee

Senator Bartlett reported that he and co-chair Representative Smith attended the CSG/ERC Executive Committee in New York City along with a number of other legislators from Maine. He and Representative Smith were formally voted in as the chair and co-chairs of CSG/ERC for the upcoming year. They had very fruitful discussions on content planning for the upcoming annual meeting. He noted that there needs to be a great deal of fundraising for the event, and there have been preliminary discussions.

There was no Old Business. Chair Pingree then proceeded to **Item 2** under New Business.

## NEW BUSINESS

### ITEM #2: Schedule for Legislative Office Closure Days for 2010

Mr. Boulter provided an overview of the issue. In the budget approved by the Legislative Council was a series of reductions in the Personnel Services portion of the Legislature's budget to help balance the state budget. It included among other things, closure of legislative offices on various days (shutdown days) during the biennium. In June 2009, the Legislative Council established the schedule for legislative shutdown days for the first part of 2009 and it is now necessary for the council to make a decision about shutdown days for the legislature for calendar year 2010 in order to meet the required budget savings. He drew the Legislative Council members' attention to his memo that outlined the closure day schedule for all Executive Branch employees with the exception of those who are exempt by the nature of their work. Most of the Executive Branch office closure days are associated with a holiday, either immediately preceding or following the holiday. There are 10 shutdown days in 2010. Mr.

Boulter stated that a schedule for office closure is a decision of the Legislative Council but some budget savings are necessary to ensure the Legislative budget is balanced.

Representative Pingree reminded the Legislative Council members that the council had postponed its decision on office closure days for 2010 in order to assess the potential effects of closure days for the legislature during the 2<sup>nd</sup> regular session. She stated that she and President Mitchell felt it was appropriate for legislative employees to take the same shutdown days as those in the Executive Branch. Furthermore, holding a legislative session on an Executive Branch shutdown day would be difficult for those Executive Branch employees who need to be at the Legislature. She concluded by saying that it makes sense to follow the same shutdown day schedule established for the Executive Branch for 2010, but that it was open for discussion.

**Motion:** That the Legislative Council adopt a legislative office closure schedule for the remainder of the 124<sup>th</sup> Legislature, consisting of the same shutdown days as established for Executive Branch employees, described in the Executive Director's memo. Motion by Senator Mitchell. Second by Senator Raye. **Motion passed unanimous. (9-0)** [Representative Tardy absent for vote.]

**ITEM #3: Study on the Feasibility of and Process for the Creation of an Insurance Fraud Division within the Bureau of Insurance**

**Motion:** That the Legislative Council accept the Bureau of Insurance, Department of Professional and Financial Regulation's report and place it on file. Motion by Senator Mitchell. Second by Senator Raye. **Motion passed unanimous. (9-0)** [Representative Tardy absent for vote.]

**ITEM #4: Collective Bargaining Matters (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 Senator Mitchell. Second by Senator Marraché. Motion passed unanimous. (9-0)** [Representative Tardy absent for vote.]

The council entered into an executive session at 2:27 P.M. The council ended its executive session at 2:45 P.M. Motion by Senator Mitchell. Second by Senator Raye. **Motion to adjourn the executive session 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 2:46 P.M. Motion by Senator Mitchell. Second by Senator Raye. **Motion to adjourn passed, unanimous. (9-0)** [Representative Tardy absent for vote.]