

REP. HANNAH M. PINGREE
CHAIR

SEN. ELIZABETH H. MITCHELL
VICE-CHAIR

EXECUTIVE DIRECTOR
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
May 26, 2010
Approved June 30, 2010

CALL TO ORDER

Legislative Council Chair, Speaker Pingree called the May 26, 2010 Legislative Council meeting to order at 1:51 P.M. in the Legislative Council Chambers.

ROLL CALL

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

Absent: Sen. Philip Bartlett

Representatives: Speaker Hannah Pingree, Rep. John Piotti, Rep. Seth Berry

Absent: Rep. Joshua Tardy, Rep. Philip Curtis

Legislative Officers: Michael Cote, Assistant Clerk of the House
David E. Boulter, Executive Director of the Legislative Council
Rose Breton, Legislative Finance Director
Patrick Norton, Director, Office of Policy & Legal Analysis
Grant Pennoyer, Director, Office of Fiscal and Program Review
Suzanne Gresser, Revisor of Statutes
Beth Ashcroft, Director, Office of Program Evaluation and Government Accountability

Chair Pingree convened the meeting at 1:51 P.M. with a quorum of members present.

SUMMARY OF APRIL 6, 2010 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of April 6, 2010 be accepted and placed on file. Motion by Senator Marraché. Second by Representative Berry. **Motion passed unanimous.**
(7-0) [Representative Tardy, Representative Curtis and Senator Bartlett absent for vote.]

Chair Pingree asked if there was any objection to taking 1 item out of order. There was no objection. The Chair then moved to **REPORTS FROM COUNCIL COMMITTEES.**

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Speaker Pingree, Chair of the Personnel Committee reported the Personnel Committee met earlier that day and considered several personnel matters.

Temporary Disability Income Benefits

The committee reviewed and unanimously approved requests by a Senate employee, a House employee and a member of the nonpartisan staff for temporary disability income benefits as provided in the council's personnel policies and guidelines. No council action is required.

Reappointment of Office Director

The committee reviewed OFPR Director Grant Pennoyer's performance and considered his request for reappointment to a new 3-year term as director. The committee concluded that Mr. Pennoyer has performed well during his 9 years of service as office director and that he has made and continues to make improvements in the performance of the office. The committee members voted unanimously to recommend that Mr. Pennoyer be reappointed as director of OFPR.

MOTION: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council reappoint Grant T. Pennoyer to a new 3-year term as Director of the Office of Fiscal and Program Review, the date of his reappointment being retroactive to April 26, 2010. Motion by Chair Pingree. Second by Senator Mitchell. **Motion passed unanimous. (7-0)** [Representative Tardy, Representative Curtis and Senator Bartlett absent for vote.]

2. State House Facilities Committee

Representative Piotti, Chair of the State House Facilities Committee reported the committee had one item. He noted that the Legislature had passed a Resolve in 2009 authorizing a working group to arrange for a plaque honoring women veterans of the State to be placed in the Hall of Flags.

Mr. Boulter referred the Legislative Council members to **Item #5** on the Legislative Council's agenda: **Request for Authorization to Install Women Veterans' Plaque in the Hall of Flags.** By letter dated May 20, 2010, Maine Veterans' Services reported that a final design for the plaque has been developed, and the working group that had been established is seeking authorization to install the plaque in an appropriate location in the Hall of Flags. Upon receiving authorization, the working group and Maine Veterans' Services will begin fundraising for construction of the plaque.

MOTION: That the Legislative Council authorize placement of the plaque in the State House Hall of Flags conditional upon completion of all fundraising and construction of the plaque, the location of which to be determined by the chair of the Legislative Council after consultation with the chair of the State House and Capitol Park Commission, director of the Bureau of Maine Veterans' Services and the executive director. Motion by Representative Piotti. Second by Senator Mitchell. **Motion passed unanimous. (7-0)** [Representative Tardy, Representative Curtis and Senator Bartlett absent for vote.]

3. Budget Subcommittee

(No Report)

4. CSG Annual Meeting Planning Subcommittee

There was no committee report in light of Senator Bartlett's absence. Speaker Pingree mentioned that the Legislative Council will hold several monthly meetings prior to the CSG annual meeting in Portland and can receive committee reports at those meetings. She expressed her concerns that the committee's fundraising for the event was not going that well. She asked Senator Courtney, a member of the committee, if he could provide any additional information. Senator Courtney responded that Senator Bartlett and Representative Tardy have been working actively to obtain donations. There was no further discussion.

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:

Pre-Legislative Conference & Other Planning

The 125th Legislature will be sworn in on December 1, 2010 and several items on the Legislative Council's agenda today relate to planning for legislator orientation programs for new and returning legislators. Although the convening of the new legislature is months away, a long lead time is necessary to properly plan for the activities and handouts that are part of the Pre-Legislative Conference and New Member orientation programs. Staff is beginning to prepare informational materials such as the Legislators' Handbook by inviting suggestions for updates and improvements of the informational materials. Work will be on-going throughout the summer with a completion goal by mid-fall.

State House Renovations and Improvements

This year's renovations and improvements to the State House and grounds will begin in early July and are scheduled to conclude by early October. The projects, approved by the council earlier this year, will focus on areas that are in serious need of repair, pose safety issues or if left uncorrected may result in more damage or costly repairs in the future. The projects include copper repairs to the low dome on the roof of the State House to prevent water infiltration, repairs and repainting of the interior of the high dome, reconstruction of the entrance drive and installation of a sidewalk at the Capitol Street entrance to the State House, and restoration of Governor Enoch Lincoln's vault and monument in Capitol Park.

Citizen Trade Policy Commission

An agreement between the Department of Labor and the Legislative Council for providing staffing to the policy trade commission during the past year will expire in June. Patrick Norton of OPLA will be working with chairs of the Citizen Trade Policy Commission to develop a plan for assistance to the commission, including providing some staffing assistance during this legislative interim. As part of its planning for staff support, the commission has requested that unspent funds from FY10 be carried over to support its activities for the coming fiscal year.

Fiscal Report

Office of Fiscal and Program Review Director Grant Pennoyer thanked the members of the Legislative Council for reappointing him for another term and expressed his enthusiasm in working with the council members in the years ahead. Mr. Pennoyer reported on the following:

He began by stating that although he has not had many opportunities to present positive fiscal news, he has the opportunity this time. General Fund revenue is above budget projections and while income tax revenue did not make budget, it was very close to projections. Most encouraging was sales tax performance; for the first time in nearly two years, sale tax revenue grew by 2.2%, March to March. The Highway Fund is also performing well and will end the fiscal year with a surplus.

Mr. Pennoyer reported that Dirigo Health has entered into a payment schedule with its contractor Harvard Pilgrim; to defer some payments that otherwise would come due by June 30th until the next fiscal year. Under this arrangement, Dirigo Health can repay the cash advance it received from the General Fund by June 30. In response to a question by Senator Courtney, Mr. Pennoyer stated that the deferred payment schedule does not require legislative approval.

Chair Pingree noted that the Department of Inland Fisheries and Wildlife's revenues are below projections by more than \$1 million. Mr. Pennoyer said that the department has not provided a good explanation for the variance and that his office would be monitoring the situation closely.

Mr. Pennoyer then presented his fiscal summary.

Revenue Update

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

| | Budget | Actual | Var. | % Var. | Prior Year | % Growth |
|-------|-----------|-----------|--------|--------|------------|----------|
| April | \$342.1 | \$344.6 | \$2.5 | 0.7% | \$338.9 | 1.7% |
| FYTD | \$2,053.5 | \$2,086.5 | \$33.0 | 1.6% | \$2,153.0 | -3.1% |

General Fund revenue was \$2.5 million (0.7%) over budget in April, increasing the fiscal year-to-date (FYTD) positive variance to \$33.0 million (1.6%). FYTD revenue is 3.1% below the same period in FY 2009.

While Individual Income Tax was under budget by \$10.4 million in April largely due to final payments being less than projected, it remained very close to budget for FYTD through April. Corporate Income Tax continued to build up its positive variance with April collections coming in \$4.6 million over budget and pushing the FYTD variance upward to \$15.5 million.

Sales tax collections in April, representing March taxable sales, were very strong coming in \$5.7 million ahead of projections for the month. Much of this unusual positive variance in sales tax collections may represent sales that would normally have occurred later in the year but occurred earlier due to the unusually warm weather in March.

Some areas of concern include the Real Estate Transfer Tax and Inland Fisheries and Wildlife revenue, which were more than \$1 million under budget each through April. The negative variances from these sources have been more than offset by strong performances in various other categories, such that the positive variance for the FYTD is expected to hold up through the end of the FY 2010.

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

| | Budget | Actual | Var. | % Var. | Prior Year | % Growth |
|-------|---------|---------|-------|--------|------------|----------|
| April | \$25.0 | \$27.5 | \$2.5 | 10.0% | \$25.5 | 7.8% |
| FYTD | \$234.4 | \$239.6 | \$5.2 | 2.2% | \$248.0 | -3.4% |

Highway Fund revenue was \$2.5 million (10.0%) over budget in April, increasing the FYTD positive variance to \$5.2 million (2.2%).

Cash Balances

With the infusion of cash from April's income tax revenue, the State will be able to avoid external borrowing for another year (FY 2006 was the last year the State utilized external cash flow borrowing). Total cash balances in April averaged \$342.8 million and were more than \$90 million higher than last year's balance at this time, despite having \$115.8 million less of reserve balances.

The Dirigo Health Fund (DHF) has repaid all but \$7.5 million of the \$25 million General Fund cash advance. DHF has negotiated a restructured payment schedule with Harvard Pilgrim to defer some payments in order to make the final payments to the General Fund before June 30th.

Average balances in the Federal Expenditures Fund have continued to show some improvement from the lowest average of -\$40.0 million in October 2009. April's negative balance improved to \$7.2 million. Although some negative balances are normal for federal funds, April's balance was still higher than the norm.

Status of Legislative Studies

Mr. Norton presented his written status report that was included in the Legislative Council meeting materials.

Mr. Norton reported that the Task Force on Kinship Families is still pending receipt and acceptance of nonstate funding, which is an item on the Legislative Council's agenda (**New Business, Item #1**). Mr. Norton then proceeded to report on the status of legislative studies and interim committee meetings.

Senator Courtney asked if the Legislative Council members could receive notification when interim committee meetings are scheduled. Mr. Norton explained that meetings are noted on the Weekly Legislative Calendar distributed by the Clerk's office. It was suggested that the Legislative Council members be polled to their preferred email address for sending notices, and that council members be copied on notices to committee members when they are notified of scheduled committee meetings.

OLD BUSINESS

(There was no Old Business.)

NEW BUSINESS

ITEM #1: Acceptance of Funds to Support *Resolve 2009, c. 136: Resolve, to Establish the Task Force on Kinship Families, as amended by P.L. 2009, c. 576, Part EEEE*

University of Maine Center on Aging in partnership with Relatives as Parents (RAPP) and Families and Children Together (F.A.C.T.)

The matter was presented to the Legislative Council because the enabling legislation requires the council to accept and authorize use of the nonstate funds before the task force convenes.

Two principal funding sources for the task force have been identified: Families and Children Together (F.A.C.T.) from Bangor (\$2,500) and the University of Maine Center on Aging (\$1,990). The \$2,500 from F.A.C.T. has been received and the remaining \$1,990 has been promised to be delivered by May 27th. Mr. Boulter indicated that he had reviewed the information from the two funding sources and concluded they are acceptable funding entities.

Motion: To accept funds from the University of Maine Center on Aging in partnership with Relatives as Parents (RAPP) and from Families and Children Together (F.A.C.T.) and authorize convening of the task force established by Resolve, to Establish the Task Force on Kinship Families, as amended by P.L. 2009, c. 576, Part EEEE to convene. Motion by Senator Marrache. Second by Senator Raye. **Motion passed unanimous. (6-0)** [Representative Tardy, Representative Curtis, Representative Piotti and Senator Bartlett absent for vote.]

ITEM #2: Citizens Trade Policy Commission

The Citizen Trade Policy Commission requested approval to carry over its FY10 funds that remain unspent by the close of the fiscal year in order to use those funds to support commission activities in FY11.

Chair Pingree noted that during the legislative budget process, funding for the trade commission was reduced, and the trade commission indicated at that time that carry over of unspent funds would help mitigate the impact of reduced funding.

In response to a question by Senate President Mitchell, Legislative Finance Director Rose Breton stated that currently \$16,700 is unspent. Of that amount, \$7,500 is committed to the Department of Labor for Contracted Services (staffing). The net remaining funds total about \$9,200. If another trade commission meeting is held in June as expected, the amount of unspent funds would be reduced accordingly.

Chair Pingree asked about the amount budgeted and cuts from the trade commission's budget. Ms. Breton explained that the budget had been \$42,370 and was reduced by \$30,000. The FY11 budget is now \$12,370. A motion was then made.

Motion: That the Legislative Council approve the request of the Citizen Trade Policy Commission to carryover unspent funds remaining at the end of FY 10 into FY 11, to be used for the purposes for which they were originally intended. The funds may not be redirected for any other purpose without the prior approval of the Legislative Council.

The Legislative Council further authorizes the Executive Director to take the necessary steps at the appropriate time after the official close of the fiscal year to affect the transfer of these funds. Motion by Representative Berry. Second by Senator Raye. **Motion passed unanimous. (6-0)**

[Representative Tardy, Representative Curtis, Representative Piotti and Senator Bartlett absent for vote.]

ITEM #3: Legislative Council's Orientation Programs and Schedule for 124th Legislature

Mr. Boulter reminded the Legislative Council that in six months, the Legislative Council will hold its orientation program for newly elected legislators. In order to plan for the orientation, Mr. Boulter requested that the Legislative Council establish the date in November when it will be held. Mr. Boulter suggested several potential dates: November 12th (immediately following Veteran's Day holiday), November 16th, November 19th, or November 23rd (2 days prior to Thanksgiving).

Senator Marraché preferred either November 18th or 19th as they would not fall in a week when there is a holiday. Chair Pingree suggested that coordinating post-election caucuses with the date of the New Member Orientation would be efficient. She suggested that the orientation date be Friday, November 19th, and asked if there was an objection. No objection was voiced.

Motion: That the New Member Orientation be held Friday, November 19th.
Motion passed unanimous. (6-0) [Representative Tardy, Representative Curtis, Representative Piotti and Senator Bartlett absent for vote.]

ITEM #4: Policy Leaders Academy – Bus Tours and Legislative Forums for the 125th Maine Legislature

Maine Development Foundation President Laurie Lachance spoke to the Legislative Council about MDF's planning for economic development bus tours and policy forums for the incoming Legislature. She explained that for nearly 30 years, MDF has hosted bus tours of the state during each first regular session, usually 2-3 days in duration. They typically occur in January as the legislature is getting underway. Ms. Lachance stated that MDF solicits feedback from participants and included a summary in her written materials. Based upon the feedback, she recommended that it modify the bus tour schedule by holding one, rather than two, bus tours in the first regular session, followed by a policy forum held during the Pre-Legislative Conference. A second bus tour would be held during the start of the second regular session or possibly during the legislative interim following the first session. Numerous Legislative Council members agreed that this approach would be helpful to the legislative schedule and allow for greater legislator participation.

President Mitchell inquired whether mostly freshman legislators or returning legislators participate in the bus tours. She noted that 1/3 of the legislators participated in the last bus tour. Ms. Lachance stated that most of the participants were Representatives, with only two Senators having participated.

The council then discussed generally timing of bus tours and how it affects the legislative session schedule and activities in January, and alternative dates, including following the first regular session. Chair Pingree cautioned against a bus tour in January of the second regular session because of the immediate work legislators have at the very beginning of the session.

The discussion concluded with the Legislative Council agreeing that bus tours in January of the first regular session should be limited to one, and with one legislative policy forum to be held during the Pre-Legislative Conference. Further, members suggested that MDF poll members' interest in participating in an economic bus tour in the fall of the second regular

session (September – December). Ms. Lachance concluded by saying she would work with Executive Director Boulter and others to develop the bus tour and policy forum program.

Item #6: Legislative Digest of Bill Summaries and Enacted Laws

The digest was distributed to Legislative Council members. No Council action was required.

Item #7: Briefing on Past & On-going OPEGA Reviews

OPEGA Director Beth Ashcroft addressed the Legislative Council on the OPEGA materials included in the packet. She said she was before the council to answer any questions it may have about the information and reports issued since January 2010.

She spoke briefly on the following reports and projects:

- Emergency Communications in Kennebec County issued in February 2010
- Identifying potential savings in professional services contracts for FY11 for review by the Appropriations Committee presented during the 2nd regular session
- Maine Turnpike Authority review (began in May 2010)
- Medical Services in State Correctional Facilities (completion date TBD)

With respect to Emergency Communications, Ms. Ashcroft indicated that the report included implementing legislation that was subsequently enacted. With respect to professional services contracts, about \$200,000 of the identified areas of potential savings were reappropriated to offset other program reductions. OPEGA has identified eight sets of questions that define the scope of the review of the Maine Turnpike Authority. The medical services review is not yet underway, and OPEGA is considering engaging a consultant to assist with quality of care issues and assessments related to medical services.

Chair Pingree thanked Ms. Ashcroft for her update.

ANNOUNCEMENTS AND REMARKS

None

ADJOURNMENT

The Legislative Council meeting was adjourned at 2:45 P.M. Motion by Senator Mitchell. Second by Senator Raye. **Motion to adjourn passed, unanimous. (5-0)** [Representative Tardy, Representative Curtis, Representative Piotti, Representative Berry and Senator Bartlett absent for vote.]