

MAINE STATE LEGISLATURE

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SEN. JOHN L. MARTIN
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REP. JOSHUA A. TARDY
REP. SEAN FAIRCLOTH
REP. ROBERT H. CROSTHWAITE

123RD MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

MEETING SUMMARY
January 24, 2008
APPROVED FEBRUARY 28, 2008

CALL TO ORDER

Legislative Council Chair, President Edmonds called the Legislative Council meeting to order at 1:30 P.M. in the Legislative Council Chamber.

ROLL CALL

Senators: President Beth Edmonds, Sen. Elizabeth Mitchell, Sen. Carol Weston,
Sen. Richard Rosen, Sen. John Martin (arrived after start of meeting)

Representatives: Speaker Glenn Cummings, Rep. Hannah Pingree, Rep. Sean
Faircloth, Rep. Robert Crosthwaite, Rep. Joshua Tardy

Legislative Officers: David E. Boulter, Executive Director of the Legislative Council
Rose Breton, Legislative Finance Director
Debra Olken, Human Resources Director
Michael Cote, Assistant Clerk of the House
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, Law and Legislative Reference Library

Legislative Council Chair, President Edmonds convened the meeting at 1:30 P.M. with a quorum of members present.

SUMMARY OF DECEMBER 20, 2007 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of December 20, 2007 be accepted and placed on file.
Motion by Senator Mitchell. Second by Representative Pingree. **Motion passed unanimous (9-0).** [Senator Martin absent for vote.]

President Edmonds asked if there was any objection to taking 2 items out of order. Hearing none, the Chair then moved to **New Business, Item 1: Consideration of After Deadline Bill Requests and Item #2: Bill Request(s) by Newly Elected Legislators.**

NEW BUSINESS

ITEM #1: Consideration of After Deadline Bill Requests

The Legislative Council considered and acted on thirty-three after deadline bill requests. The Legislative Council's actions on these requests are included on the attached list.

ITEM #2: Bill Request(s) by Newly Elected Legislators

The Legislative Council considered and acted on one bill request by newly elected legislators. The Legislative Council's action on this request is included on the attached list.

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.

1. Legislative Breakfast Forums

The breakfast forums sponsored by the Maine Development Foundation, Muskie School, Margaret Chase Smith Policy Center, and University of Maine School of Law will begin on January 31st. Other forums dates are February 6, 13, 27 and March 5. The forums will be held from 8 – 9 a.m. in the Cross Café. Legislators will be receiving a brochure announcing the forums.

2. New Employee Orientation

HR Director Debra Olken will be conducting an orientation for legislative employees hired after January 2007 on Friday, January 25, 2008.

3. National Kidney Foundation Screening

The National Kidney Foundation will be holding a Kidney Early Evaluation Program screening on Thursday, March 27th from 11 am to 2 pm in the Welcome Center. Advanced sign-up is required. Upon registration, a screening questionnaire will be forwarded to registrants and will need to be completed and returned prior to the screening.

4. Availability of Maine Statutes

The new edition of the soft cover version of Maine Statutes (unannotated) is now available for purchase by legislators. Cost for the entire set is \$180.00. See the Executive Director's office for more information.

5. 2007 Income Tax Packets to Legislators

The Executive Director's office will distribute 2007 income tax information to legislators on Thursday, January 31, 2008.

6. Introduction of John Barden, Director, Law and Legislative Reference Library

Mr. Boulter publicly introduced Mr. John Barden who has been appointed Director of the Law and Legislative Reference Library by the Legislative Council. Mr. Barden began work on January 2, 2008. The members welcomed Mr. Barden.

Fiscal Report

Grant Pennoyer, Director, Office of Fiscal and Program Review, reported the following.

Mr. Pennoyer reported the Governor's supplemental budget bill is being produced in record time and a printed LD will be available for the public hearing.

Mr. Pennoyer distributed a memo announcing the release of the latest Compendium of State Fiscal Information.

1. Revenue Update

Total General Fund Revenue - FY 2008 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$252.9	\$241.2	(\$11.7)	-4.6%	\$248.1	-2.8%
FYTD	\$1,301.7	\$1,293.8	(\$7.8)	-0.6%	\$1,281.4	1.0%

- General Fund revenue for December was under budget by \$11.7 million, resulting in a \$7.8 million negative variance (-0.6%) for the fiscal year-to-date (FYTD). This variance is based on the revised December 2007 forecast.
- The growth of General Fund revenue from the first half of FY 2007 to the first half of FY 2008 remained at a very modest 1.0%.
- Most of the major tax lines were under performing relative to the new revenue forecast.

Total Highway Fund Revenue - FY 2008 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$27.2	\$27.4	\$0.2	0.7%	\$26.5	3.6%
FYTD	\$148.6	\$148.1	(\$0.5)	-0.3%	\$147.5	0.4%

- Highway Fund revenue was over budget in December by \$0.2 million, decreasing the negative variance of the FYTD to \$0.5 million or 0.3%. Highway Fund revenue for the 1st half of FY 2008 showed a modest, but positive growth rate of 0.4% over the same period in FY 2007.
- Fuel taxes were over budget by approximately \$1.0 million in December, which is a welcomed change for the Highway Fund.
- However, the Motor Vehicles Registration and Fees category was under budget by \$1.0 million. This category may need to be revised downward in the March 2008 revenue forecast based on downward trends in motor vehicle title fees and long-term trailer registration revenue.

2. Revenue Forecasting Schedule

- The Consensus Economic Forecasting Commission (CEFC) met on Tuesday, January 22nd at 9:30AM in Room 228 of the State House (Appropriations Committee Room). The update to the economic forecast is required by February 1st of each year.
- The Revenue Forecasting Committee (RFC) will be updating its revenue forecast using the updated CEFC economic forecast prior to its March 1st deadline. No meeting date has been set.

3. Cash Balances

- The total cash pool in December was \$588.3 million, which was above the average balance of the last 6 years for December of \$536.8 million.
- General Fund reserve fund balances are at their highest aggregate dollar level. In December, average balances in the Budget Stabilization Fund (Rainy Day Fund) and the Reserve for General Fund Operating Capital totaled \$158.2 million. The previous high was at the close of FY 2001, when the combined balances in these reserves totaled \$154.2 million.

President Edmonds asked if there was any objection to taking an item out of order in order to accommodate the schedule of the presenter of that item. Hearing none, the Chair then moved to **New Business, Item 3.**

NEW BUSINESS

ITEM #3: New: Maine Town & City Clerks' Association Request for guidance on absentee ballot and election process related to school consolidation (Linda Cohen on behalf of President, (TCCA).

Linda Cohen addressed the council on behalf of the President of the Maine Town & City Clerks' Association requesting guidance on the absentee ballot process as it relates to the school consolidation law. Ms. Cohen explained that among other requirements, the new school consolidation law (P.L. 207, c. 240) requires a vote in the community in certain circumstances related to the referendum election process. In reviewing the required voting process, the Maine Town and City Clerks' Association became aware of a potential conflict in voting processes that led to confusion as the proper manner of administering the vote. The MTCCA seeks legislative guidance on how to run such an election. Of particular concern is the absentee voting process; e.g., what question or questions are to be placed on an absentee ballot, their timing relative to a community's budget vote, and how may the vote be conducted without violating the election laws set forth in Title 21-A and Title 30-A.

The council discussed the matter. Senator Mitchell explained that the Joint Standing Committee on Education and Cultural Affairs is currently considering changes to the school consolidation law to fine tune it in order to improve its administration. She noted that the concerns by the MTCCA are timely ones and that the association should discuss the issue with the committee. Senator Mitchell agreed to assist the MTCCA in becoming aware of the date and time of committee work sessions and to facilitate bringing this issue to the attention of the committee so it may develop a resolution to the matter. The council members thanked Ms. Cohen for raising the issue so it could be resolved this session, and they generally agreed that Senator Mitchell's suggested approach was an appropriate one.

No further action on this matter was taken by the Legislative Council.

President Edmonds asked if there was any objection to taking one additional item out of order; reconsideration of a bill request considered earlier in the meeting under **New Business: Item #1.** Hearing no objection, the chair then moved to that item.

NEW BUSINESS

ITEM #1: Consideration of After Deadline Bill Requests

Having voted on the prevailing side, Speaker Cummings made a motion to reconsider the Legislative Council's denial of LR 2886: "Joint Resolution Memorializing Congress to Enact Legislation to Ensure Health Care For All" for introduction, second by Representative Faircloth. The Legislative

Council voted to reconsider its action, and by a vote of 6-3-0-1, it voted to accept LR 2886 for introduction.

Senator Martin then made a motion to remove from the table LR 2833: "An Act to Create the Public Power Delivery System". The Legislative Council voted to remove the request from the table, and by a vote of 8-0-0-2, it voted to accept LR # 2833 for introduction.

The Legislative Council then returned to the other items on its agenda.

Information Technology Report

Paul Mayotte, Director, Office of Legislative Information Services, reported the following.

Production Tracking System

The vendor Voyager System, Inc. provided a software release on 1/17/08, correcting 26 items identified in testing. He reported that verification testing of the corrections is underway. A final software release from Voyager, correcting items found in testing, is planned by Voyager during the week of 1/21/08, and a session to review the application with the Secretary and Clerk has been scheduled.

President Edmonds stated that in an earlier council meeting, the council had asked that Mr. Mayotte meet with the Clerk and the Secretary about their information needs. She asked Mr. Mayotte if their requests made it into this release.

Mr. Mayotte reported that the items requested by the Clerk and Secretary did not make it into this release. This release is the "functional equivalent" of the WANG system so additional requests from the Clerk and Secretary and all users have not been reflected in this release.

President Edmonds then asked if the requested changes can be made immediately. Mr. Mayotte responded by suggesting the request be referred to the Subcommittee to Administer Technology since he did not want to cause his office to violate the council's confidentiality requirements [personnel rules]. President Edmonds agreed that a full discussion of the issue among the council members is appropriate and to establish what information is needed, by whom and for what purpose.

Mr. Boulter clarified that development of the Voyager system does not preclude access to or use of information requested by the Clerk and Secretary; it is not a flaw in the design of the system, it is a policy matter for the council. He further explained that nonpartisan staff is prohibited not by technology policy but the Legislative Council's personnel policies from disclosing certain information relating to legislation. Through long standing policy, nonpartisan staff is prohibited from disclosing confidential information as a condition of employment. The Council, not the staff, may change the policy to allow release of that information. Mr. Boulter suggested that a discussion by the Personnel Committee is appropriate because it is a personnel policy that binds nonpartisan staff.

Senator Martin added that it is a matter for the entire council to review. He indicated that he has concerns about some of the confidential information that would be released. Senator Martin reminded the council members that in past years there was a concerted effort by the "lobby" to gain access to bill information as legislation was being developed, and procedures were instituted to limit access. He suggested that as a start, to identify the information that is currently protected by the confidentiality provisions of the policy and proceed from that point.

Mr. Boulter stated that the personnel policies govern the nonpartisan staff. Eventually it should be a full council discussion but the Personnel Committee probably would be an appropriate committee to begin the review. Senator Weston said if the issue deals with policy the Personnel Committee has adopted, she was not sure what involvement the technology subcommittee would have.

Senator Martin suggested that since a joint Personnel / Technology Subcommittee would comprise most council members, a meeting of the full council would make sense. The members generally agreed. President Edmonds suggested that a meeting be scheduled in conjunction with the next regular meeting of the Legislative Council.

Mr. Mayotte concluded by reaffirming what Mr. Boulter said, that the Voyager system is a very capable system so it is not a technology discussion at this point but a policy discussion about access to confidential information.

Bill Drafting System

No significant activity to report. IS staff is supporting OFPR and ROS to ensure the supplemental budget bill flows through the drafting system in a prompt manner.

Chamber Automation

To be covered in the report from the Subcommittee to Administer Technology.

Senate and House servers

Additional memory has been installed in the server supporting the LawMaker application; and the 9-year old "session" servers were successfully replaced before the start of the session.

Website

Changes are being made to improve the formatting and completeness of the Maine statutes presented on the Legislature's website. [Significant errors in posting statutes to the website were discovered such that the statutes have been removed until corrected programming has been completed.]

Status of Legislative Studies

Pat Norton, Director, Office of Policy and Legal Analysis, reported the following:

Committee Status:

- Total anticipated bill load for this session is currently estimated at ~ 450 bills. At present, nearly 90% (396) of the currently anticipated bills have printed and referred to committees, and nearly 25% (110) of them have already been voted or reported out. This estimate of bill load includes the 169 carryovers, but does not include any after-deadline bill requests that are still pending, committee bills that may be introduced later in the session pursuant to law or Joint Rule 353 (committee bills introduced after receipt of a study report) or unanticipated Governor's bills.
- The AFA committee has scheduled two weeks of joint hearings with the policy committees on the supplemental budget beginning on January 28. Although these joint budget hearings (and subsequent work sessions) will affect the pace at which some committees will be able to work through their bills, committees have coordinated with the AFA committee to avoid conflicts with other committee work and to allow other committee work to continue during that period to the extent possible.

Status of legislative studies staffed by OPLA:

- Recently published study reports include those for the Harness Racing study, the Prosperity Committee study and the annual report of the Right to Know Advisory Committee. The Postsecondary Access Study report will undergo study committee review this week and should be published before the end of January. The Joint Order establishing the hearing loss study passed earlier this month and the chairs have scheduled the first meeting for January 23rd (4 meeting total; reporting date of March 3). The Citizen Trade Policy Commission is meeting on January 18, and the Legislative Youth Advisory Council (LYAC) is meeting on January 29 (to coincide with the Education Committee's public hearing on one of the two LYAC bills).

REPORTS FROM COUNCIL COMMITTEES**1. Personnel Committee**

(No Report)

2. State House Facilities Committee

Representative Pingree presented the report of the State House Facilities Committee which met on January 17, 2008 to consider three matters:

- **State House Security Planning**

The committee discussed the need for security planning and the most recent trial use of metal detectors during the State of the State address. Capitol Security Chief Gauvin urged the committee to continue moving forward in security planning, incrementally as circumstances warrant. The committee will review the recommendations for State House security improvements that were approved by the Legislative Council of the 122nd Legislature, and discuss their implementation at a future meeting.

- **Display of Reproduction of Original Maine Constitution**

This matter was referred to the committee by the Legislative Council at an earlier meeting. The State Archivist has reproduced the 14 pages of the original Maine Constitution at full scale (40" x 32") and the committee is considering appropriate locations where they may be displayed as a group publicly. After discussion, the committee concluded it could better determine where the reproductions are suited for display once they are framed and available due to their large size and number.

Costs to mount and frame the pages would be \$2,000 - \$2,500, which the State Archives is asking the Legislative Council to pay for; labor costs would be absorbed by the Archives. The committee voted to recommend to the Legislative Council that it support the Archives efforts to make publicly available the reproduction of the Maine Constitution.

- **Phase I Parking Lot Improvements**

Finally, the executive director sought and received guidance on options to pursue with the general contractor and further steps to be taken on parking lot corrections for work that was done in 2006. No action by the Legislative Council is required.

Motion: That the Legislative Council authorize payment to the Maine State Archives in an amount not to exceed \$2,000 for the purpose of preparing and making available to the public a full-size framed reproduction of the original Maine Constitution, and further that the reproduction be displayed as a temporary exhibit in a location deemed suitable to the

facilities committee. Motion by Representative Pingree. Second by Senator Mitchell.
Motion passed unanimous (8-0). [Representative Crosthwaite, Representative Cummings absent for vote.]

3. Budget Subcommittee

Senator Martin presented the report of the Budget Subcommittee. The Budget Subcommittee met on January 17, 2008 and considered 3 items.

- **“Efficiency Savings” initiative**
 The subcommittee voted to recommend that \$160,000 lapse from various legislative account balances in the manner prescribed by the subcommittee as legislative budget savings pursuant to P.L. 2007, c. 240 (the \$10.1M reduction in FY08).
- **FY 08/09 budget savings**
 The subcommittee also voted to recommend that \$415,950 lapse from various legislative account balances in the manner prescribed by the subcommittee as legislative savings to help offset the revenue shortfall in FY 08/09 (the \$95M reduction). Members expressed concern that members of the Executive Branch are treating the legislature as an executive “agency”. The committee also discussed the Governor’s executive order to curtail allotments including legislative funds and the incorrect budget language that appeared in the draft supplemental budget bill. The subcommittee reiterated that the Legislative Council has authority over the legislative budget and the Executive Branch may not curtail legislative funds. The subcommittee asked the executive director to prepare a letter to the state budget officer clarifying the limited role of the Executive in legislative budget matters.
- **Rate negotiations with daily newspapers on publication of legal notices**
 The subcommittee received a report on the status of negotiations to reduce the rates charged for publishing public notice of legislative hearings and other activities. Negotiation results have varied, with the subcommittee seeking real cost savings for advertising over a several year period. The subcommittee generally agreed that it should pursue contracts with daily newspapers only if real cost savings can be demonstrated (e.g. Bangor Daily News); otherwise it should more vigorously explore advertising through newspaper inserts in daily or weekly newspapers or through the legislative website on the Internet.

Motion: That upon the unanimous recommendation of the Budget Subcommittee that the Legislative Council lapse to the General Fund \$160,000 in FY 08 and \$415,950 over the FY 08/09 biennium as apportioned among legislative accounts by the subcommittee, and direct the executive director to submit implementing language to the Appropriations Committee for inclusion in the supplemental budget legislation. Motion by Senator Martin. Second by Representative Pingree. **Motion passed unanimous (8-0).**
[Representative Crosthwaite, Representative Cummings absent for vote]

Senator Weston asked for a copy of the detail for amounts to be lapsed to the General Fund. Executive Director Boulter agreed to provide a copy to Senator Weston.

4. Subcommittee to Administer Technology

President Edmonds presented the report of the Subcommittee to Administer Technology which met on January 8, 2008 to consider one item: chamber automation proposals.

The subcommittee met to review the vendor proposals relating to increasing automation in the House and Senate chambers, review vendor reference checks and make a recommendation to the Legislative Council on the proposals.

The members discussed the status of the proposal: In response to the Council's RFP, five vendors submitted a proposal to develop software to allow chamber documents to be distributed to legislators electronically. Subsequently, the subcommittee narrowed the number of vendor proposals under consideration to two and sought proposals for a pilot project. The subcommittee reviewed the two pilot project proposals, with the costs ranging from \$10,000 - \$40,000.

While supportive of better utilizing technology to improve legislative operations, a majority of the subcommittee expressed concern about the costs for either the full scale project or a pilot project including purchasing laptop computers for legislators at this time given the State's financial constraints. A majority voted to recommend to the Legislative Council that it not pursue the project and so notify the vendors who submitted proposals. It felt that a future Legislative Council could reconsider the project when financial conditions improve. President Edmonds offered the following motion.

Motion: That the Legislative Council not authorize development of a "paperless chamber" project or a pilot project for the House or Senate chambers, and that potential vendors be so notified.

Senator Martin asked for clarification of the motion; the motion was restated. Senator Martin seconded the motion, adding an amendment that the Executive Director is not authorized to expend any funds from legislative accounts toward this project.

Representative Pingree expressed regret that the Speaker who is spearheading this project is not present and was not at the technology subcommittee meeting. She noted that there was a bipartisan discussion at the committee chairs' meeting earlier that morning where a pilot project was discussed. President Edmonds noted that although a pilot project might be feasible, it is related to a larger scale project so that committing to the smaller project also commits the legislature to the large next step, and that is a concern. Representative Tardy supported Senator Martin's amendment, indicating that the motion would have the effect of preventing the pilot project, a project he did not support.

Tabling the motion was discussed briefly, with some support for tabling the motion as long as the House did not move forward on the project until the proposal was dealt with by the council. Ultimately a tabling motion was not pursued.

President Edmonds asked Mr. Boulter that if the intent is to prohibit the project from proceeding, can it be stopped. Mr. Boulter responded by saying that if the Legislative Council directs that no invoices are to be paid, then they will not be paid.

Senator Martin then amended the motion to state that the Executive Director is not authorized to make any payment until the matter is decided by the council. The motion was seconded by Representative Tardy.

Senator Martin then stated that there are certain expenditures, for example, travel vouchers and travel expenses that the presiding officers authorize for payment: other expenses and purchases must come before Legislative Council for approval and he wanted to make clear, that is always the way it has been since the Council was established.

Motion: That a decision on the pilot project be tabled until further discussion and a final decision on the proposal by Legislative Council and until then the Executive Director is not authorized to make any payment from legislative accounts relating to the project except by approval of the Legislative Council. Motion by Senator Martin. Second by Representative Tardy. **Motion passed unanimous (8-0).** [Speaker Cummings and Representative Crosthwaite absent for vote.]

OLD BUSINESS

ITEM #1: Legislative Council Actions Taken by Ballot

A copy of the list of actions taken by ballot by the Legislative Council since its December 20, 2007 meeting was attached. No further action by the Legislative Council was required.

There was no other Old Business.

President Edmonds then proceeded to **Item 4** under New Business.

NEW BUSINESS

- ITEM #4: Report on "The Initiative" to Streamline State Government: Findings and Recommendations (Joint Standing Committee on Appropriations and Financial Affairs) (separate handout)**
- ITEM #5: Biennial Report on the Provision of Housing and Food to State Employees (DAFS, Bureau of the Budget)**
- ITEM #6: Final Report of the Alternative Education Programs Committee (separate handout)**
- Item #7: Final Report of the Commission to Study Primary Care Medical Practice (separate handout)**
- Item #8: Final Report of the Commission to Study the Promotion, Expansion and Regulation of the Harness Racing Industry (separate handout)**
- Item #9: Final Report of the Committee to Study Appropriate Funding of the State Police (separate handout)**
- Item #10: Final Report of the Committee on Future Maine Prosperity (separate handout)**
- Item #11: Second Annual Report of the Right to Know Advisory Committee (separate handout)**
- Item #12: Government Evaluation Act Review of the Maine Municipal and Rural Electrification Cooperative Agency**

Motion: To accept the reports noted in Items # 4 through # 12 and place them on file. Motion by Senator Mitchell. Second by Representative Pingree. **Motion passed unanimous (9-0).** [Speaker Cummings absent for vote]

Item #13: Collective Bargaining Matters (Executive Session)

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 Independent Association of Nonpartisan Legislative Professionals (IANLP) and the Legislative Council.

Motion by Representative Pingree. Second by Senator Mitchell. **Motion passed unanimous (9-0).** [Speaker Cummings absent for vote]

The Council recessed at 3:08 PM to go into an executive session.

Meeting Reconvened

The Legislative Council ended its executive session and the Chair reconvened the meeting at 3:20 p.m.

ANNOUNCEMENTS AND REMARKS

None

ADJOURNMENT

The Legislative Council meeting was adjourned at 3:20 P.M.