

MAINE STATE LEGISLATURE

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SEN. BETH EDMONDS
CHAIR

REP. GLENN A. CUMMINGS
VICE-CHAIR

123RD MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. ELIZABETH H. MITCHELL
SEN. CAROL WESTON
SEN. JOHN L. MARTIN
SEN. RICHARD W. ROSEN
REP. HANNAH M. PINGREE
REP. JOSHUA A. TARDY
REP. SEAN FAIRCLOTH
REP. ROBERT H. CROSTHWAITE

MEETING SUMMARY
October 25, 2007
Approved November 15, 2007

CALL TO ORDER

Legislative Council Chair, President Edmonds called the Legislative Council meeting to order at 10:53 A.M. in the Legislative Council Chamber.

ROLL CALL

Senators: President Beth Edmonds, Sen. Elizabeth Mitchell, Sen. John Martin,
Sen. Carol Weston, Sen. Richard Rosen

Representatives: Speaker Glenn Cummings, Rep. Hannah Pingree, Rep. Sean
Faircloth, Rep. Robert Crosthwaite, Rep. Joshua Tardy (arrived at
1:32 P.M.)

Legislative Officers: Joy O'Brien, Secretary of the Senate
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
Margaret Matheson, Revisor of Statutes
Patrick Norton, Director, Office of Policy & Legal Analysis
Grant Pennoyer, Director, Office of Fiscal and Program Review
Paul Mayotte, Director, Legislative Information Services

Legislative Council Chair, President Edmonds convened the meeting at 10:52 A.M. with a quorum of members present.

President Edmonds asked if there was any objection to taking 2 items out of order. Hearing none, the Chair then moved to **New Business, Items 1 and 2.**

NEW BUSINESS

Item #1: Suggested Procedures for Deciding Legislative Bill Requests

The agenda included a suggested protocol for deciding legislative bill requests. President Edmonds asked Executive Director Boulter to summarize the suggested protocol which he did, as follows:

1. Under the terms of the Maine Constitution, Section 1 of Article IV, Part Third, Legislative Power, the business of the second regular session must be limited to budgetary matters; legislation in the Governor's call; legislation of an emergency nature admitted by the Legislature; legislation referred to committees to study and report by the Legislature in the first regular session; and legislation presented to the Legislature by written petition of the electors (direct citizen initiative).
2. Under the 123rd Legislative Council's Rules of Procedure, any action of the Council requires the affirmative vote of at least 6 members.
3. Under Rule 203 of the Joint Rules of the 123rd Legislature, any vote of the Legislative Council to accept or reject a bill or resolve for introduction under the procedures established under the Joint Rules must be taken by the yeas and nays, and that vote must be recorded and made available for public inspection.
4. Under Rule 217 of the Joint Rules, a bill that has been introduced and finally rejected in a regular or special session may not be introduced in a subsequent session of the same Legislature except by a vote of 2/3 of both chambers. Therefore, determinations as to the relevancy of Rule 217 are within the purview of the presiding officers, not the Legislative Council.

Suggested Protocol for deciding legislative bill requests

- A. The Legislative Council will review bill requests alphabetically by policy area. An exception to this order of review may be made for bill requests for which an ASL Interpreter is required for persons who are deaf or hard of hearing. Those bills will be taken out of order at a time during the meeting when an interpreter is available.
- B. For procedural consistency, when voting on a bill request, the initial motion on a bill will be presumed to be a motion to accept the bill request for introduction into the second regular session along with a second to that motion. (Yea is to let in a bill; nay is to reject the bill for introduction). Also for procedural consistency, unless otherwise stated, each motion is presumed to have been made by the vice-chair of the Legislative Council, seconded by the chair.
- C. In order to review all legislative requests in a timely manner, voting will be by electronic vote or a show of hands, with each Council Member's vote on each bill being recorded. The record of each vote will be made available for public inspection following the meeting.

- D. If a bill request has been identified by the Revisor as requiring a ruling under Joint Rule 217, the Legislative Council may vote to accept that bill for introduction, conditional upon a subsequent ruling by the presiding officers. Absent a vote to accept the bill, the bill is presumed to have been turned down by unanimous vote of the Legislative Council.

- E. Legislative sponsors and others are welcome to observe the Council's deliberations on the bill requests, but discussion of the requests will be confined to Council Members. Discussion of a bill request among Council Members will be limited to whether it is appropriate for introduction under Constitutional provisions for second regular session bills, and will not speak to the merits of the bill itself.

- F. If the Legislative Council turns down a bill request, a Legislator may appeal that decision. At a subsequent meeting of the Legislative Council, the Legislator may speak briefly to the bill request under appeal.

- G. A legislative request that has been identified by the Revisor's office as being closely related to another legislative request that was earlier filed (i.e., having been assigned a lower LR number) or to a carryover bill is presumed to have been turned down by a unanimous vote of the Legislative Council.

A council member suggested that the protocol for closely related requests described in paragraph G be modified to reflect that the council will vote on each request (i.e. no presumption that a bill has been turned down). The council members generally agreed to the suggested change.

Motion: That the Legislative Council adopt the suggested protocol, A-G, for deciding legislative bill requests as set forth in the "Procedures for Review of Legislative Bill Requests" document dated October 25, 2007, except that paragraph G is amended to reflect that the council will vote on each closely related request. Motion by Speaker Cummings. Second by President Edmonds. **Motion passed, unanimous (9-0) [Representative Tardy absent for vote]**

Item #2: Consideration of Legislative Bill Requests for Introduction In the Second Regular Session of the 123rd Legislature

The Council proceeded to consider and vote on 566 bill requests in accordance with the adopted protocol, and using an automated voting system. The council's action on the bill requests is attached.

SUMMARY OF SEPTEMBER 27, 2007 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of September 27, 2007 be accepted and placed on file. Motion by Speaker Cummings. Second by Representative Crosthwaite. **Motion passed unanimous (9-0).** [Senator Weston absent for vote]

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 policy forum proposal

The University of Maine System's policy and law schools along with the Maine Development Foundation will be submitting a joint proposal to the Legislative Council to hold a brief policy seminar for legislators on "Bill Signing Day" (if one is authorized) and several breakfast or lunch time seminars in January and early February. Unlike the forums held for legislators at the beginning of last session, the group is suggesting a shorter, small group discussion-oriented format for the seminars that will invite discussion between legislators and university faculty/presenters. As part of the proposal, various topics that are relevant to legislators will be suggested but the emphasis will not be on urgent issues facing the legislature in the upcoming session. A formal proposal will be forthcoming soon.

2. Citizen Trade Policy Commission staffing

OPLA Director Patrick Norton is working with the chairs of the Citizen Trade Policy Commission to contract with a person to provide staff support to the commission on a part-time basis. The commission was appropriated funds last session to contract for staff support, and Mr. Norton is assisting with the recruitment process. Position announcements will be sent to the Muskie School of Public Service and the Margaret Chase Smith Policy Center since students in the graduate programs may be excellent candidates for this part-time position. Once a person is hired, OPLA will assist with administration of the contract and oversight of the staff. The commission hopes to have a contract staff person hired by December.

3. File back-up and off-site storage of electronic data

The Office of Information Services is completing the installation of hardware and software at the Central Maine Commerce Center (CMCC) on Civic Center Drive that allows for key legislative files on our computer system to be automatically backed up and stored in a secure location at the CMCC. These procedures provide greater security of legislative files and much greater efficiency by backing them up to an off-site location electronically. Off-site back-up of files on hard drives and tape drives is scheduled for completion by the end of the year.

Fiscal Report

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

Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
September	\$286.6	\$281.5	(\$5.1)	-1.8%	\$287.2	-2.0%
FYTD	\$601.2	\$596.1	(\$5.1)	-0.8%	\$599.1	-0.5%

- General Fund revenue for September was under budget by \$5.1 million and was under budget for the 1st Quarter of FY 2008 by the same amount. The negative variance for the 1st Quarter represents a variance of less than 1%, but does represent a decline in collections from the same period in FY 2007 by 0.5%. As noted last month, some timing issues still remain that reflect some temporary positive variances, primarily tax reimbursement programs and IF&W revenue.
- Notable problem areas include corporate income tax and cigarette tax collections. Revenue adjustments in these particular categories will be decided by variables determined by the Revenue Forecasting Committee (RFC). Sales and use tax collections were modestly over budget in September reflecting strong August tourism spending, but concerns over the effect

of record high oil prices (also forecast by the RFC) will likely create a greater downward revision to the forecast than the changes to the economic forecast would otherwise suggest.

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
September	31.8	30.2	(1.5)	-4.8%	30.4	-0.5%
FYTD	68.1	63.7	(4.4)	-6.5%	65.3	-2.4%

- Highway fund revenue for the 1st Quarter of FY 2008 was under budget by \$4.4 million or -6.5% and was below the same quarter in FY 2007 by 2.4%. Most of the negative variance is driven by the negative variances in fuel taxes.

Preliminary Economic Forecast and Schedule for Revenue Forecast

- The Consensus Economic Forecasting Commission met on Tuesday, October 16th and concluded its preliminary forecast, the summary of which is presented below.

Preliminary Recommendations for November 2007 Economic Forecast						
<u>Calendar Years</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
• W&S Employment (Annual Percentage Change)						
> Consensus 02/2007	0.5	0.7	0.8	0.8	0.7	0.6
> Consensus 11/2007	0.5	0.5	0.3	0.6	0.7	0.7
Net Change in Forecast		-0.2	-0.5	-0.1	0.0	0.1
• Personal Income (Annual Percentage Change)						
> Consensus 02/2007	5.2	4.3	4.5	4.5	4.3	4.2
> Consensus 11/2007	3.9	4.9	4.4	4.5	4.5	4.6
Net Change in Forecast		0.6	-0.1	0.0	0.2	0.4
• CPI (Annual Percentage Change)						
> Consensus 02/2007	3.5	2.5	2.2	2.2	2.2	2.2
> Consensus 11/2007	3.2	2.8	2.5	2.5	2.5	2.5
Net Change in Forecast		0.3	0.3	0.3	0.3	0.3

- The Revenue Forecasting Committee will meet on Monday, November 19th at 9:30AM in the State House to conclude the fall forecast for the December 1st report date.

Information Technology Report

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

Bill Drafting System:

The post session statute update and publishing process is reaching a conclusion. The process has required the Information Services office and contractor support to address issues identified during the update process. The work of the staff in the Revisor's office in using the new system for the first time has been excellent.

The updated Maine Revised Statutes on the Legislature's web page will be available shortly after the statute update process is completed.

Having used the bill drafting system for one complete session, staff is now preparing a long-term plan for maintaining and improving the bill drafting application.

Production Tracking System:

The contractor, Voyager Systems, Inc., has delivered a release of the software for user testing by the production offices. User acceptance testing is scheduled to start at the end of September and be completed in October.

If needed, the existing WANG tracking system is available as a backup should there be issues implementing the upgraded system.

Chamber Automation Request for Proposals (RFP):

A bidder's conference took place on October 4th. Seven firms were represented. Three firms submitted requests for an extension of time for the submission of the RFP response. The basis for the requests was to enable the vendors to factor in the results of the bidder's conference and to prepare more complete proposals. After consultations with the presiding officers, a two week extension of time to submit the proposals from Friday, October 19th to Friday, November 2nd was authorized.

Second Regular Session Preparation:

Work is in progress to prepare for the start of the next legislative session. This includes the installation of upgraded servers and PCs that support chamber operations, performing the annual preventive maintenance program on all legislative printers and sound system checks. Work is also being performed to improve wireless and network services.

Information Services is working with the Secretary's Office to formalize the management and operations of the Senate video system based on the lessons learned during the last session.

Status of Legislative Studies

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

The majority of the studies is scheduled to report during the first of December and is anticipating completing on time. Mr. Norton noted that the Working Group to Study the Effectiveness and Timeliness of Early Identification and Intervention for Children with Hearing Loss which was authorized at the September 27th Legislative Council meeting to accept outside funding, is still in the process of raising the funds and appointments are not completed, and, therefore, the study has not begun.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Motion: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council reappoint David E. Boulter to a 3-year term as Executive Director of the Legislative Council, the date of reappointment being retroactive to September 17, 2007. Motion by Speaker Cummings. Second by Senator Mitchell. **Motion passed, unanimous (10-0).**

Speaker Cummings also noted that the Personnel Committee is still in the process of reviewing applicants for the Law and Legislative Reference Library Director position.

2. State House Facilities Committee

Representative Pingree reported that the State House Facilities Committee will be meeting soon to review security measures in the State House.

3. Subcommittee to Review the Study Committee Process

(No Report)

4. Budget Subcommittee

(No Report)

5. Subcommittee to Administer Technology

(No Report)

There was no Old Business. President Edmonds then proceeded to **Item 3** under New Business.

NEW BUSINESS

ITEM #3: Request by Representative Koffman and Representative Rector To Authorize Expenditures For Legislator's Lunch While Attending a Legislative Training Workshop

Speaker Cummings reported that this request was an extension of a legislative seminar organized by Representative Rector and Representative Koffman last year on collaborative decision-making. This training session was voluntary and participants included representatives and senators. The seminar would be a continuation of the earlier one. There would be no expense to the council except for reimbursement for meals for the day.

Council members discussed the request including the potential for future requests for meal reimbursement for other informational meetings. Members generally felt that other sources of funding, such as campaign funds, not state funds, would be more appropriate.

Motion: That the Legislative Council authorize expenditures for legislators' lunch while attending a legislative training workshop. Motion by Speaker Cummings. Second by Representative Pingree. **Motion failed (3-5).** [Senator Edmonds, Senator Mitchell, Senator Martin, Senator Rosen, Representative Crosthwaite opposed; Senator Weston and Representative Tardy absent for vote.]

ITEM #4: Request by the Joint Standing Committee on Criminal Justice and Public Safety to Partially Fund a Sentencing Summit

The chairs of the Joint Standing Committee on Criminal Justice and Public Safety requested that the Legislative Council make a \$550 contribution to a "sentencing summit" to be held on October 30, 2007. The Department of Corrections, the Judicial Branch and the Legislative Council have all been asked to contribute in equal amounts funds toward the cost of the Sentencing Summit. The summit is being coordinated by the Department of Corrections.

Motion: That the Legislative Council not approve the request to partially fund the Sentencing Summit and to request the executive director to so notify the Department of Corrections. Motion by

Senator Martin. Second by Senator Rosen. **Motion passed, unanimous (9-0)** [Senator Weston absent for vote.]

ITEM #5: Revised Request to Establish a Joint Subcommittee on Transportation Funding

The Joint Standing Committee on Appropriations and Financial Affairs submitted a revised request to establish a joint subcommittee, which included the following:

- Establish a Joint Subcommittee to Study Transportation Funding, comprised of 4 members each from the committees on Appropriations and Transportation to be appointed by the presiding officers in accordance with Joint Rule 353(3);
- Authorize the Transportation committee chairs and minority leads to meet with the full Appropriations committee at the Appropriations committee's regularly scheduled meeting in November to begin the discussion and planning; and
- Authorize the subcommittee to meet once in December and once in January.

Motion: To approve the revised request by the Joint Standing Committee on Appropriations and Financial Affairs. Motion by Senator Edmonds. Second by Representative Pingree. **Motion passed. (7-1)** [Representative Crosthwaite opposed, Senator Weston and Representative Faircloth absent for vote.]

ITEM #6: Request by the Joint Select Committee on Future Maine Prosperity to hold a subcommittee meeting on November 6, 2007

Motion: To approve the request for one subcommittee meeting. Motion by Senator Martin. Second by Senator Rosen. **Motion passed, unanimous. (9-0)** [Senator Weston absent for vote]

ITEM #7: Proposed Fee Schedule for Legislative Documents for Second Regular Session of the 123rd Legislature

Assistant Clerk of the House Michael Cote presented a recommended new fee schedule for legislative documents for the 2nd Regular Session.

Motion: To approve the document fee schedule as proposed. Motion by Senator Martin. Second by Senator Mitchell. **Motion passed, unanimous. (9-0)** [Senator Weston absent for vote.]

ITEM #8: Collective Bargaining Matters

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 MSEA and the Legislative Council. Motion by Speaker Cummings. Second by Senator Mitchell. **Motion passed, unanimous. (9-0)** [Senator Weston absent for vote]

The council then went into executive session. The council ended its executive session at 2:44 P.M. and resumed its general meeting.

ANNOUNCEMENTS AND REMARKS

None

ADJOURNMENT

The Legislative Council meeting was adjourned at 2:45 P.M. **Motion passed unanimous. (10-0)**

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