

MEETING SUMMARY
February 28, 2008
Approved as amended March 26, 2008

CALL TO ORDER

Legislative Council Chair, President Edmonds called the Legislative Council meeting to order at 2:25 P.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. Joshua Tardy (arrived after start of meeting), Rep. Robert Crosthwaite

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
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 2:25 P.M. with a quorum of members present.

SUMMARY OF JANUARY 24, 2008 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of January 24, 2008 be accepted and placed on file.
Motion by Senator Martin. Second by Representative Pingree. **Motion passed unanimous (9-0). [Representative Tardy absent for vote.]**

President Edmonds asked if there was any objection to taking an item out of order. Hearing none, the Chair then moved to **New Business, Item 1: Consideration of After Deadline Bill Requests.**

NEW BUSINESS

ITEM #1: Consideration of After Deadline Bill Requests

The Legislative Council considered and acted on two and tabled five after deadline bill requests.

Representative Faircloth made a motion to remove from the table LR 2794: “An Act to Create a Tax Deferral Program for Maine Residents 65 Years of Age or Older”. Second by Representative Pingree. The Legislative Council voted to remove the request from the table, and by a vote of 3-6-0-1, the motion to accept LR 2794 for introduction failed.

The Legislative Council’s actions on these requests are included on the attached list.

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

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director’s Report

David Boulter, Executive Director of the Legislative Council, reported on the following.

Legislative Mini-forums

The legislative mini-forums led by the Maine Development Foundation and the University of Maine’s policy schools are underway, with 3 of the 5 mini-forums having been held. Attendance has been good averaging 15 to 20 legislators and staff, and the post-forum evaluations have indicated that attendees have found them to be worthwhile. Two forums remain to be held: March 5 and March 12 (rescheduled from February due to adverse weather).

Health Awareness & Wellness Programs

As part of an outreach program, HR Director Debby Olken has distributed information to Legislators and staff on available health programs designed to promote wellness. Upcoming in March will be Kidney Early Evaluation Program screening at no cost sponsored by the National Kidney Foundation. Advance signup is necessary. Already underway and very popular are chair massages. For a small fee, legislators and employees receive a head and shoulder massage. Advance signup is necessary as well, due to its popularity. As other wellness programs become available, Ms. Olken will send out announcements.

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 |
|---------|-----------|-----------|----------|--------|------------|----------|
| January | \$298.2 | \$278.0 | (\$20.2) | -6.8% | \$280.1 | -0.8% |
| FYTD | \$1,599.9 | \$1,571.9 | (\$28.0) | -1.8% | \$1,561.6 | 0.7% |

- General Fund revenue for January was under budget by \$20.2 million, increasing the negative variance for the fiscal year-to-date (FYTD) to \$28.0 million (1.8%). This variance is based on the revised December 2007 forecast, which lowered FY 2008 General Fund revenue by \$37.8 million.
- The largest negative variance in January was in the Individual Income Tax category, which was under budget by \$20.5 million in January. However, \$10.3 million of the negative variance is related to the timing of payments of the BETR program. BETR payments are still expected to be close to budget for the fiscal year.
- 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 |
|---------|---------|---------|-------|--------|------------|----------|
| January | \$24.7 | \$25.1 | \$0.5 | 2.0% | \$24.8 | 1.4% |
| FYTD | \$173.2 | \$173.3 | \$0.0 | 0.0% | \$172.2 | 0.6% |

- Highway Fund revenue was over budget in January by \$0.5 million, eliminating the negative variance for the FYTD. FY 2008 Highway Fund revenue through January is just slightly ahead of budget and shows a modest, but positive growth rate of 0.6% over the same period in FY 2007.
- While Fuel Tax revenue was running ahead of budget through January, the Motor Vehicles Registration and Fees category remained under budget by \$1.3 million through January. This category will likely 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 and Preliminary Recommendations

- The Revenue Forecasting Committee (RFC) will be meeting on Monday, February 25th at 1:00 p.m. to revise its revenue forecast using the updated CEFC economic forecast prior to its March 1st statutory report deadline. Preliminary recommendations from Maine Revenue Services for the major tax lines reflect a downward adjustment in the \$80 million range for the 2008-2009 biennium. The significant downward revisions proposed by the Department of Health and Human Services further decrease the General Fund preliminary revenue recommendations to a downward adjustment in the \$95 million range for the 2008-2009 biennium.

3. Cash Balances

- The total cash pool in January was \$583.3 million, which was below the average balance of the last 6 years for January of \$600.8 million.
- In January, average balances in the Budget Stabilization Fund (Rainy Day Fund) and the reserve for General Fund Operating Capital totaled \$158.6 million. The Budget

Stabilization Fund increased over last month by approximately \$0.4 million as a result of interest earnings.

Mr. Pennoyer pointed out that in both the General Fund and the Highway Fund there was very slow growth; General Fund -- .07%, and Highway Fund -- .06%.

In response to inquiries about how the proposed \$99 million in General Fund budget reductions relate to the budget shortfall, Mr. Pennoyer stated that \$50 million of the \$99 million relate to estimates of projected revenue shortfalls in the major tax lines. The remaining \$49 million relate to changes in the federal Medicaid regulations (targeted case management, TCM) that will result in decreased reimbursement from the federal government. The revised revenue forecast accounts for about \$12.2 million of the \$49 million.

Speaker Cummings mentioned that the revised revenue forecast does not appear to account for an economic multiplier effect from the federal economic stimulus package passed by the U.S. Congress. Mr. Pennoyer explained that the model used to forecast revenue did factor in the federal stimulus package through the economic forecast, and the Revenue Forecasting Committee made a further adjustment of \$8 million associated with increased disposable income.

Senator Rosen noted that unlike in past economic downturns, it appears that all major revenue lines: personal income taxes, cigarette taxes, sales taxes and corporate income taxes, are trending downward, suggesting a state-wide economic downturn. Mr. Pennoyer commented that most of the revenue changes relate to decreases in consumer consumption, related in part to very high oil prices.

Representative Pingree asked how TCM was factored into the latest revenue forecast, specifically if the forecast presumes that the state will continue to pay for all of the services that would no longer be reimbursable by the federal government under the Medicaid regulation changes.

Mr. Pennoyer's response was yes. The forecast recognizes the loss of revenue to the General Fund as a result of decreased federal reimbursement, but presumes that state costs to support the programs at their current level will continue. He noted that, ultimately, it is the Legislature's decision whether to continue those programs at their current level or make changes to reduce costs in light of the federal regulation changes. Finally, he noted that unlike other federally funded programs that receive a federal match, this portion of targeted case management services is 100% paid for by the General Fund, with federal reimbursement amounts treated as (offsetting) revenue.

Information Technology Report

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

Web Page Statutes:

The Maine Statutes through the 1st Regular Session of the 123rd Legislature have been posted on the Legislature's website now that the inaccuracies have been corrected.

Web Page Server:

- The Legislature's website is hosted on the "Janus" server physically housed at the InforME facility.
- The Janus server is obsolete and will be phase-out service by InforME in 2008.

- The majority of the Legislature’s website content has been moved off of the Janus server.
- The office is coordinating a scope of work within the Legislature to move the remaining legislative content off of the Janus server during 2008 interim.

Status of Legislative Studies

(No Report)

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Speaker Cummings presented the report of the Personnel Committee which met on February 28, 2008 and considered two items:

Request for Temporary Disability Income Benefits

The committee approved a request for temporary disability income benefits for a member of the Senate staff, to become effective on March 5, 2008.

Corporate Ski Voucher Opportunity

Sugarloaf/Sunday River offers a “corporate” discount with participation in its voucher program subject to certain terms of participation including marketing of the Sugarloaf/Sunday River resort. The committee discussed whether it was appropriate for the legislature to participate. The committee concluded that participation by legislators or legislative staff subject to the terms and conditions of the program was not appropriate given the legislature’s law-making role that could include legislation affecting the ski resorts or the ski industry.

No action by the Legislative Council is necessary.

2. State House Facilities Committee

(No Report)

3. Budget Subcommittee

(No Report)

4. Subcommittee to Administer Technology

Proposal for Electronic Distribution of Documents in the Chambers (“paperless chamber project”)

Senate President Edmonds, chair of the subcommittee, presented the subcommittee’s report for the meeting held on February 28, 2008 to consider the proposal for electronic distribution of documents in the chambers (“paperless chamber project”).

President Edmonds presented the recommendation of the subcommittee, recommending by a 3 to 2 vote, that the Legislative Council reconsider its earlier decision not to authorize the chamber automation as a full scale or pilot project. She stated that after further discussion, the

subcommittee voted to recommend that the Legislative Council authorize a pilot project only for the House chamber that includes limited software development by the selected vendor International Roll-Call (IRC) and the purchase of several laptop computers, to be paid for by savings identified by the Speaker in the House portion of the Legislature's budget.

Motion: That the Legislative Council reconsider its earlier decision to 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. Motion by President Edmonds. Second by Senator Martin. **Motion passed (8-2).** Senator Rosen and Senator Weston opposed.

Motion: That the Legislative Council authorize a pilot project only for the House Chamber that includes limited software development by IRC and the purchase of ten laptop computers; five for the House Democrats and five for the House Republicans, to be paid for by savings identified by the Speaker in the House portion of the Legislative Council's current budget. Motion by President Edmonds. Second by Senator Mitchell.

Discussion followed.

Speaker Cummings explained that the rationale for the automation project is to save money and become more efficient by having electronic access to legislative documents at each Legislator's desk. However, given the current budget situation, it is financially improbable to pursue a full scale automation project at this time. Therefore, the request to the Legislative Council is for a pilot project, limited to the House of Representatives to be paid for by savings identified in House funds. The Speaker stated that savings can be achieved using electronic distribution of documents, as evidenced by the West Virginia Legislature's experience where a new system paid for itself in two years. He further explained that even a pilot project would save money, through avoidance of costly software development mistakes that would inevitably result if a small scale pilot was not developed and tested. The pilot can be a model for future Legislatures. Ultimately, money can be saved through reduced document printing costs and in personnel. He concluded that no new funds are needed for the pilot project; funds will be found within "House" accounts.

Senator Weston expressed her opposition to the motion. She emphasized that savings, if any, would come from the full scale project, not the pilot, and the pilot project will result in a net cost. She further stated that if the House has identified savings, then those funds should be considered "surplus" and discussion should focus on how best to use money that is surplus. Senator Weston stated that she could not support starting a new program that could cost \$600,000 in light of the current budget hearings and budget cuts that will occur this session.

Speaker Cummings reiterated that savings would result from avoidance of costly software development mistakes as well as avoiding potential embarrassment over a flawed design. He noted that \$74,000 was authorized by the Legislative Council for constituent services software that will entail on-going maintenance costs. That proposal did not achieve budget savings.

Senator Martin noted that he did not support the full scale project because he is uncertain that it is going to be successful or that legislators would use it appropriately. However, he stated that he is comfortable with this pilot project; it may not work but use of the pilot will allow the Legislature to find out if it is workable. He noted that the cost is not \$0.75 million but something closer to \$35,000 - \$45,000. Senator Martin commented that the hardware is of secondary importance as legislators can use their own laptop computers if the Legislative

Council chooses not to proceed beyond the pilot project. Finally, Senator Martin emphasized that the legislative budget is within the sole jurisdiction of the Legislative Council; there is no House money or Senate money or accounts.

Representative Crosthwaite explained that at various times he supported and opposed the proposal. He inquired into what savings could be achieved this fiscal year in light of Legislative adjournment in April, and whether savings would be achieved by staff position eliminations. Speaker Cummings reiterated that the savings to be achieved would be avoided costs from project design.

Senator Mitchell concluded the discussion by indicating she supports this small pilot proposal so there will be an opportunity to test this approach to see if it is a viable alternative to the current approach of paper processing and distribution.

With the discussion having concluded, President Edmonds restated the motion and called for a vote. **The motion passed 7 – 3.** Senator Rosen, Senator Weston and Representative Crosthwaite opposed.

NEW BUSINESS

ITEM #2: Legislative Council 123rd Group Photograph

The Legislative Council was reminded that a group photograph of the Legislative Council for the 123rd Legislature is scheduled for March 26, 2008 directly following the Council meeting.

President Edmonds requested that Legislative Council meetings for the remainder of the year be moved from Thursdays to Wednesdays to accommodate the schedule of a Legislative Council member. Mr. Boulter agreed to accommodate the request and provide a revised schedule to the members.

ITEM #3: FY09 Dues Request by the Council of State Governments (CSG) for NSAAS And ETC

Mr. Boulter reported that the Council of State Governments (CSG) dues are paid on an annual basis. These are supplemental appropriation requests that have been paid in the past. The first is for Eastern Regional Conference Northeast States Association for Agriculture Stewardship (NSAAS) in the amount of \$10,000 for FY 09 and second is for the Eastern Trade Council in the amount of \$5,500. In the past, as these are not the regular annual dues, the requests have been referred to the Budget Subcommittee for recommendation.

Motion: To refer the FY 09 CSG dues request to the Budget Subcommittee for its review and recommendation. Motion by Representative Pingree. Second by Senator Mitchell. **Motion passed (9-1).** Senator Rosen opposed.

Senator Mitchell commented that the Budget Subcommittee should take note that the Council of State Governments, Eastern Regional Conference hopes to hold its annual conference in Maine in 2010 which would be a great economic benefit to the state.

ITEM #4: Legislative’s Council’s Policy on Legislative Confidentiality for Nonpartisan Employees

Senate President Edmonds recommended that Legislative’s Council’s policy on legislative Confidentiality for nonpartisan employees be referred to the Personnel Committee for its review and recommendation.

Senate President Edmonds explained that she and House Speaker Cummings are seeking ways to receive information in a timely fashion about amendments to bills, and that raises the issue about the prerogative of a legislator to keep confidential his or her amendment. She emphasized that she is looking for the number of amendments and where they are, not the content.

Mr. Boulter explained that the long standing policy (nearly 30 years) of the Legislative Council is to require bill and amendment information and their status in the process to be kept confidential except as released by the sponsor. He noted that this practice is consistent with many other state legislatures. Senator Rosen commented that once a sponsor signs off on an amendment it becomes public.

Secretary of the Senate Joy O’Brien stated that the information she is looking for is how many Senate amendments there are and by which political party. In that way, she could discuss with party floor leaders about amendments being prepared by their members. Senator Weston commented that members may not want that information disclosed, even to their leaders.

Revisor Margaret Matheson commented that she routinely provides aggregate information to the presiding officers about the status of amendments in process, as allowed by the council’s policy on confidentiality.

Senate President Edmonds concluded the discussion by indicating these issues are important for the Personnel Committee to discuss, so that an appropriate level of legislator confidentiality is maintained but still provide a smooth process. Representative Tardy added that at the same time nonpartisan employees should be protected which is why this is a personnel issue.

Motion: To refer the proposal to change the Legislative Council’s policy on legislative confidentiality for nonpartisan employees to the Personnel Committee for its review and recommendation. Motion by Speaker Cummings. Second by Senator Mitchell. **Motion passed (7-1)**, Senator Weston opposed. [Senator Martin and Representative Faircloth absent for vote.]

ITEM #5: MDF Policy Leaders Academy: Planning for 124th Legislature and Schedule

The University System and its policy centers and law school, the Community College System and the Maine Development Foundation would like to continue the partnership with the Legislature in developing and delivering orientation programs that are tailored to the interests and needs of the legislators. MDF President Laurie Lachance requested that Executive Director Boulter and the six chiefs of staff to work with the Maine Development Foundation, University policy schools and the Community College System to develop a comprehensive program of legislative orientation for the Council’s review and approval.

Motion: To authorize the Executive Director, chiefs of staffs and members of the Legislative Council to plan for and develop a proposed legislator orientation program for the 124th Legislature following adjournment of the legislative session. Motion by Representative

Pingree. Second by Representative Faircloth. **Motion passed (8-0)** [Senator Martin and Senator Weston absent for vote.]

Item #6: Report on Government Evaluation Act Review of the Department of Labor

Item #7: Final Report of the Commissions to Develop Strategies to Increase Postsecondary Access, Retention, and Completion for Low-Wage, Low-Skilled Adults (separate handout)

Item #8: Government Evaluation Act Review of the Office of the State Treasurer

Item #9: Government Evaluation Act Review of the State Planning Office

Item #10: Government Evaluation Act Review of the Maine Municipal Bond Band

Item #11: Government Evaluation Act Review of the Public Utilities Commission

The Legislative Council unanimously accepted and placed on file the reports noted in Items 6 - 11.

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 Speaker Cummings. Second by President Edmonds. **Motion passed unanimous (8-0).** [Senator Martin and Senator Weston absent for vote.]

The Legislative Council recessed at 4:48 p.m. to go into an executive session. The Legislative Council ended its executive session at 4:51 p.m. and reconvened its general meeting.

Collective Bargaining Matters and Cost of Living Adjustments for Legislative Employees in IANLP Bargaining Unit

Motion: That pursuant to its authority under 26 MRSA, Section 979-A, subsection 5, the Legislative Council of the 123rd Legislature ratifies the tentative agreement entered into by authorized representatives of the Legislative Council and the Independent Association of Nonpartisan Legislative Professionals (IANLP) on February 27, 2008. The Legislative Council's ratification of this agreement is contingent upon and becomes effective only after the bargaining agent for the IANLP has notified the Legislative Council's representative in writing that the unit has ratified the agreement. The Legislative Council authorizes the Executive Director to take all necessary steps to carry out the terms of this Agreement including implementing the salary schedule adjustments. Motion by Speaker Cummings. Second by

Senator Rosen. **Motion passed unanimous (8-0).** [Senator Martin and Senator Weston absent for vote.]

ANNOUNCEMENTS AND REMARKS

None

ADJOURNMENT

The Legislative Council meeting was adjourned at 4:53 P.M.