

MEETING SUMMARY
OCTOBER 22, 2008
Approved November 19, 2008

CALL TO ORDER

Legislative Council Chair, President Edmonds called the Legislative Council meeting to order at 1:15 P.M. in the Legislative Council Chambers.

ROLL CALL

Senators: President Beth Edmonds, Sen. Elizabeth Mitchell, Sen. Richard Rosen, Sen. John Martin, Sen. Carol Weston (arrived shortly after the roll call)

Representatives: Speaker Glenn Cummings, Rep. Hannah Pingree, Rep. Robert Crosthwaite

Absent: Rep. Sean Faircloth, Rep. Joshua Tardy

Legislative Officers: Millicent MacFarland, Clerk of the House
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, Director, Law and Legislative Reference Library
Beth Ashcroft, Director, Office of Program Evaluation and
Government Accountability

Legislative Council Chair, President Edmonds convened the meeting at 1:16 P.M. with a quorum of members present.

SUMMARY OF SEPTEMBER 24, 2008 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of September 24, 2008 be accepted and placed on file. Motion by Representative Pingree. Second by Senator Martin. **Motion passed unanimous (8-0).** [Representative Faircloth and Representative Tardy absent]

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

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

- Flu Shot Clinic
A flu shot clinic will be held in the State House on Monday, October 27, 2008 for legislative employees and legislators. Signups are in the Executive Director's office.
- Updated Staff Publications
OFPR's summary of major state funding dispensed to municipalities and counties has been updated and is now available. For the FY ending June 30th disbursements to municipalities and counties represented nearly 40% of total General Fund revenue. OPLA has completed its update of the *Legislators' Handbook: A Guide for Maine Legislators* and it will be ready for distribution at the New Member Orientation next month.
- Legislator Orientation Programs
Legislative Council Chair Edmonds has appointed members to the council's subcommittee on legislative orientation. Draft program agendas will be circulated for review very shortly.
- Progress Report on Developing Automated Time Accounting System for Employees
Very good progress is being made developing a new system. Human Resources Director Olken will provide a brief update to the council at today's meeting.

Human Resources Director Olken informed the Legislative Council that she has been working with the software developer, Kronos International, on a timekeeping system which has been standardized to include the established work rules and various protocols in the program. It is anticipated that by mid-November there will be a trial period where the offices can test the program, with the plan to have the new time system fully operational by January, 2009.

Fiscal Report

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

1. Revenue Update

Total General Fund Revenue - FY 2009 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
September	\$296.9	\$293.0	(\$3.9)	-1.3%	\$281.5	4.1%
FYTD	\$612.1	\$602.2	(\$9.9)	-1.6%	\$596.1	1.0%

- General Fund revenue was under budget by \$3.9 million in September, resulting in a negative variance of \$9.9 million or 1.6% for the first quarter of FY 2009. First quarter revenue was 1.0% above the first quarter of FY 2008.
- The largest variance in September was corporate income tax, which was \$9.7 million under budget in September, a quarterly payment month. For the first quarter, this category has fallen \$7.8 million or 16.8% under budget and was 12.1% below the first quarter of FY 2008.
- Sales tax revenue was also under budget in September, offsetting some of the positive variance built up in the July and August. The negative variances are expected to grow until the forecast is revised.
- The cigarette tax, another consumption related tax, was under budget by \$0.7 million in September and \$2.0 million or 4.6% in the first quarter of FY 2009.
- Income from investments was above budget in September by \$1.4 million primarily related to the distribution of the reserves that had been set aside for the Mainsail II investment that is no longer required based on the resolution of that investment.

Total Highway Fund Revenue - FY 2009 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
September	32.3	31.0	(1.3)	-4.1%	30.2	2.3%
FYTD	67.6	63.0	(4.6)	-6.8%	63.7	-1.0%

- Highway fund revenue was under budget by \$1.3 million in September; falling \$4.6 million or 6.8% under budget for the first quarter of FY 2009. Highway fund revenue for the first quarter of FY 2009 continued to show negative growth; it was 1.0% below the first quarter of FY 2008.
- High fuel prices continue to slow fuel tax collections as September fuel tax revenue fell \$1.4 million below budget, increasing the negative variance for the first quarter of FY 2009 to \$3.3 million or 7.8%.

2. Revenue Forecasting

- The Consensus Economic Forecasting Commission (CEFC) met on Thursday, October 16th to update the economic forecast. As expected given the current economic situation, the CEFC's forecast was more pessimistic particularly for calendar year 2009. The forecast is based on a national forecast assuming a relatively mild recession in the 2nd half of 2008 and continuing through the 1st quarter of 2009. The CEFC noted that this forecast also has much more risk associated with it, particularly if credit markets do not stabilize in the next 6 to 8 weeks.
- While Maine has been less affected by the current economic situation than many other states, reductions of revenue projections beginning in FY 2009 will be driven by the changes in this forecast, which will be finalized by the November 1st

reporting deadline. The short-term effects on General Fund Revenue are the most substantial, with employment forecast to decline in 2008 and 2009 and personal income growth in 2009 reduced from 4.1% growth to 2.8% growth.

- In addition, there are 2 other critical variables that are forecast by the Revenue Forecasting Committee that will likely lower revenue projections further, assumptions on capital gains and corporate profits. An even greater decline of capital gains in tax year 2008 may substantially reduce individual income tax revenue in the current fiscal year based on what appears to be a similar situation to the years 2001 and 2002.
- The Revenue Forecasting Committee (RFC) will hold 2 subcommittee meetings on October 28th and 29th to review all of the revenue categories not forecast using the tax models. The full committee will review the recommendations of the subcommittee at a meeting in mid-November and review the recommendations of Maine Revenue Services and the output of the tax model for the major tax lines.

3. Cash Balances

- The average total cash pool balance last month was \$477.9 million, which was \$135.9 million less than the \$613.7 million average for September 2007. The average balance in September for the 7 years from 2001 to 2007 was \$617.6 million.
- While the General Fund cash position is worse than last year, the State Treasurer and the State Controller told the Appropriations and Financial Affairs Committee at its October meeting that the State could make it through the current fiscal year without any external borrowing, relying solely on internal borrowing within the cash pool.

Information Technology Report

- Post Session Updates
The 123rd 2nd regular and 1st special sessions update to the Web page statutes is ready pending completion of an update to improve the on-line statutes search function.
- WANG Phase-out
Work to phase-out the WANG is nearing the final stage. Mr. Mayotte stated that implementation of the new time reporting system is in final development. Training in the use of the application will begin shortly with implementation to follow. Other WANG based applications have been successfully moved to other platforms and the three WANG printers in ROS are being removed.
- Server Consolidation (update)
A total of eight old servers have been taken out of service. Functions on two additional servers will be moved to new servers and the old servers taken out of service in November. Further server consolidation will take place following the end of the next legislative session.
- Law Library Digital Records Storage
Working with the Law and Legislative Reference Library, a process was developed for the cost effective storage, access and backup of the electronic files being created by digitizing paper documents.

Senator Rosen asked Mr. Mayotte whether the digitized documents will be available on-line. Mr. Barden responded by indicating initially they will be available only

internally but the goal is to make them available on-line eventually. The Laws of Maine will be accessible over the Internet. Even digitization for internal users initially has advantages since the library currently spends a lot of time scanning materials to be delivered. It will be a much more efficient use of staff to access an electronic database for downloading and sending information to patrons.

Senator Rosen then asked if the Laws of Maine is currently on-line. Mr. Barden stated that it was not, only the web version that is not digitized.

President Edmonds asked Mr. Barden to estimate how long it would take to digitize the documents. Mr. Barden answered by saying digitizing the Laws of Maine going back to 1987 should be completed quickly. The second phase will be more time consuming, i.e., developing a system to deliver to digitized images. He explained that he met with the Chief Justice to discuss exactly this issue since there is an increasing number of restrictions on what the Judiciary is able to provide through the court library system.

Status of Legislative Studies

Patrick Norton, Director, Office of Policy and Legal Analysis, drew the Legislative Council Members' attention to the Summary of the Status of Studies found in the packet. Mr. Norton explained that all the studies are on track and are expected to be completed within budget and reports issued on time.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

(No Report)

2. State House Facilities Committee

State House Facilities Committee Chair Representative Pingree reported that the Facilities Committee met on October 15, 2008 to discuss security in the State House and additional measures to consider for improving security. She explained that the discussion was an outgrowth of the report on capitol security prepared by the Legislative Council of the 122nd Legislature. The committee will be preparing recommendations for the Legislative Council to consider at its November or December meeting. While the report will include measures to improve and better prepare for security issues, it will not recommend significant changes to the current building entry screening at this time.

No action required from the Legislative Council at this time.

3. Budget Subcommittee

Senator Martin said that the committee did not meet this month. He indicated that he plans to schedule a meeting to provide direction as to appropriate budget savings that can be achieved in legislative accounts so that amount can be factored into the Governor's proposals for addressing the FY 09 budget shortfall.

4. Subcommittee to Administer Technology
(No Report)

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

ITEM #1: Letter from State YMCA of Maine regarding Youth in Government program date for 2009

Mr. Boulter reminded the Legislative Council members that at the October meeting, they had asked him to approach the YMCA director again about alternatives to the program dates he proposed (April/May) and to re-consider a Fall program. Mr. Boulter indicated that he did have a discussion with the director, Lonney Steeves. Mr. Steeves explained the YMCA's perspective in his letter. Mr. Steeves concluded that a Fall program is wholly unworkable and would likely mean an end to this long established civic education program. Based on his survey, he indicated that participating high schools have too many scheduling conflicts in the Fall, particularly Aroostook County schools that take a Fall potato harvest break. Fall sports schedules also pose significant scheduling conflicts. Mr. Steeves concluded that a Spring program really is the only viable time.

Mr. Boulter reminded members that Mr. Steeves had proposed three Spring dates, two of which had been found to be objectionable (last week-end in March, 1st weekend in April). This leaves the May 8-10, 2009 date. This date should not conflict with the legislative schedule, including budget bill debates. Mr. Boulter stated that, absent objection from the Council, he will notify Mr. Steeves that the approved date for the 2009 YMCA Youth in Government program is May 8-10, 2009.

ITEM #2: Draft Study Report by OPLA: A Study of Laws in Other States That Permit the Dissemination of Confidential Information Pertaining to Teacher Certification (Mr. Norton)

Mr. Norton explained the Legislative Council directed the Office of Policy and Legal Analysis to conduct a study of laws in other states that permit the dissemination of confidential information relating to teachers' certification. Mr. Norton presented a draft report to the council members and explained that it is now out for technical review among the respondents. Mr. Norton anticipated that the report will be finalized and distributed by November 5, 2008.

Legislative Council Chair President Edmonds then proceeded to ITEM #5: *Final Report Of The Joint Select Committee on Health and Human Services Review of the Fund for a Healthy Maine* and ITEM #6: *Annual Report of the Citizen Trade Policy Commission*

ITEM #5: Final Report of the Joint Select Committee on Health and Human Services Review of the Fund for a Healthy Maine

and

ITEM #6: Annual Report of the Citizen Trade Policy Commission

Motion: To accept the Final Report of the Joint Select Committee on Health and Human Services Review of the Fund for a Healthy Maine and the Annual Report of the Citizen Trade Policy Commission and place them on file. Motion by Representative Pingree. Second by Representative Crosthwaite. **Motion passed, unanimous. (8-0)** [Representative Faircloth and Representative Tardy absent for vote.]

Legislative Council Chair President Edmonds then proceeded to Item # 3 on the Council's agenda.

**ITEM #3: Update on OPEGA Projects and Initiatives
(Beth Ashcroft, Director, OPEGA)**

OPEGA Director Ashcroft thanked the members for the opportunity to provide a status report on OPEGA initiatives and projects. She drew member's attention to the OPEGA Work Plan. She explained that the work plan was approved by the Government Oversight Committee. She said that since the last session ended, OPEGA has released three reports, completed the State Administration Staffing review, the Contracting for Cost Shared Non-MaineCare Human Services and Contracts for Professional Services which focused on the procurement process used by the State. She then drew member's attention to the category called "In Progress." Three projects are on-going, and the goal is to have those completed by the early part of next session. They are Children's Mental Health Services focusing on outpatient services within that group, Durable Medical Equipment and Medical Supplies that are paid for through MaineCare, and the Fund for Healthy Maine. Ms. Ashcroft stated that earlier this summer she conducted interviews with some Legislative Council members and other Legislators seeking feedback on OPEGA and also getting an idea of what topics they were interested in. A number of themes and topics emerged. Ms. Ashcroft said that the Government Oversight Committee asked that work on the leased office space project be temporarily suspended.

Senator Martin asked in reference to the Children Mental Health Services review, whether OPEGA hired any contractors who have expertise in this area. Ms. Ashcroft responded by saying that the focus of that review is narrowly on the question of administrative costs in the outpatient delivery system and the primary factors driving those costs. She said that her office has the expertise in house to do that assessment.

Senator Martin stated that he felt a review of the costs the state is paying to lease office space would be much more beneficial than the other reviews because of the costs, and that the cost information would be especially helpful to the Appropriations Committee in January. He said that if the state can eliminate leased space, it can reduce its costs. By way of example, he cited the Department of Labor building on Capitol Street that is scheduled to be torn down, sold and leased back to the State. He felt this would yield quicker results than the Fund for Healthy Maine.

Ms. Ashcroft responded by saying that what OPEGA has looked at and intends to look at in that review probably would not address the issue of leasing vs. owning office space. The review is confined to determining whether the rent being paid is comparable with the market rates. OPEGA does not plan to do any cost benefit analysis of leasing office space and the alternative: renovating and reusing State buildings.

Senator Mitchell noted that one of the reasons for the OPEGA briefing at the meeting is to get feedback and gather suggestions for projects that would help the Legislature achieve greater cost effectiveness in State administered programs.

Senator Martin reiterated that a study of leased space: short-term and long-term leases, would likely yield better results. He noted that studying the Fund for a Health Maine may not be the best use of resources, especially since it has already been studied several times. By way of example, he noted the report by the Health and Human Services Committee that was just issued. (Agenda Item #5.)

Ms. Ashcroft then spoke of one other initiative in OPEGA. The OPEGA staff has been engaged in an exercise to evaluate itself as a government program of the Legislature. The office has incorporated the feedback that it heard from legislators. She said the office is working on a strategic plan and goals, objectives and performances measures for the next biennium. She said that she wants OPEGA to be a role model for the rest of government with programs that are effective and efficient. Ms. Ashcroft said that the office is happy to finally be in a place where it is modeling what it expects other people to do. Finally, she mentioned that she will be clear sending the message to all legislators that OPEGA is part of the menu of resources that is available to the Legislature. She concluded that OPEGA exists to serve the Legislature.

ITEM #4: Proposed Fee Schedule for Legislative Documents for First Regular Session of the 124th Legislature (Clerk of the House Millie MacFarland)

Clerk of the House Millie MacFarland stated that every year she brings forward to the Legislative Council a proposed fees schedule for the legislative document service. Attached in the packet is the fee schedule. Ms. MacFarland did not propose a fee increase for the first regular session of the 124th Legislature because the next postage increase that is expected is not until May of 2009. She drew member's attention to the third page of the letter that included a ten year look back at the number of subscriptions to the Legislative Document Service and the revenue received for that service. There has been a steady decline in demand for that service. She thought the reason for that is that more people are accessing information electronically. Ms. MacFarland felt that she would be reducing the number of paper copies printed because of the decline in this service. She recommended that the Legislative Council approve the proposal.

Motion: That the Legislative Council accept the Proposed Fee Schedule for Legislative Documents for First Regular Session of the 124th Legislature. Motion by Senator Martin. Second by Representative Pingree. **Motion passed unanimous (8-0).** [Representative Faircloth and Representative Tardy absent]

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

Motion to adjourn by Senator Martin. Second by Representative Crosthwaite. **Motion passed unanimous (8-0).** [Representative Faircloth and Representative Tardy absent]

The Legislative Council meeting was adjourned at 2:02 P.M.