

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
June 19, 2006
APPROVED JULY 27, 2006*

CALL TO ORDER

The Chair, Speaker Richardson, called the Legislative Council meeting to order at 1:48 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Edmonds, Sen. Brennan, Sen. Davis,
Sen. Gagnon, Sen. Weston

Representatives: Speaker Richardson, Rep. Cummings, Rep. Bowles,
Rep. Duplessie, Absent: Rep. Tardy

Legislative Officers: Joy O'Brien, Secretary of the Senate
Millicent MacFarland, Clerk of the House
Michael Cote, Assistant Clerk of the House
David Boulter, Executive Director, Legislative Council
Grant Pennoyer, Director, Office of Fiscal and Program Review
Patrick Norton, Director, Office of Policy and Legal Analysis
Margaret Matheson, Revisor of Statutes
Lynn Randall, State Law Librarian

SUMMARY OF THE MAY 22, 2006 COUNCIL MEETING

Motion: That the Meeting Summary of May 22, 2006 be accepted and placed on file. (Motion by President Edmonds, second by Rep. Duplessie, unanimous (7-0) Sen. Weston, Rep. Cummings and Rep Tardy absent).

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

- **Executive Director's Report**

David Boulter, Executive Director reported the following:

1. **New Hires**

A. The Law and Legislative Reference Library has hired Ms. Diane Vorpagel to fill the vacant Administrative Secretary position. She was formerly employed at Senior Spectrum in Augusta and Central Maine Power Company, and began work earlier this month.

B. The Office of Legislative Information Services has hired Mr. Mark Deering as a Senior Programmer Analyst. He was formerly employed by New Hampshire Electric Cooperative and has more than 10 years of database administration and programming experience. He begins work on June 19th.

2. **Construction along State Street**

The city of Augusta is installing granite curbing and a bituminous sidewalk along the west side of State Street, from the traffic circle to the Blaine House, to improve the main avenue to the State House. As part of the project, the street that is adjacent to the SPO (Gannett House) will be discontinued.

3. **Union Street Reconstruction**

At present there has been no decision by MDOT about cost-sharing to place utilities underground along the South side of Union Street. A meeting has been scheduled with DOT on Monday, June 19th to discuss the project.

4. **Enacted Law Digest**

The Enacted Law Digest that summarizes all laws enacted this past legislative session will be sent for printing by the end of the week and will be distributed to all legislators before the end of June. The Enacted Law Digest is prepared by OPLA and OFPR staff.

5. **Legislation Information Forums and Training**

The Maine Development Foundation is holding a meeting on Wednesday, June 21 to begin the planning for Legislator training and information forums for the 123rd Legislature. The Legislative Council's advisory committee is invited, once members have been selected.

President Edmonds inquired about the status of work being performed on the parking lot and Mr. Boulter responded that the first phase was scheduled for this summer, beginning in July.

Speaker Richardson suggested that in the future it would be nice to have new employees introduced at Legislative Council meetings so that members would be able to meet the new staff.

- **Fiscal Report**

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

1. **General Fund and Highway Fund Revenue Update**

- General Fund revenue was \$28.5 million over budget for the month of May, increasing the positive variance to \$69.4 million (+2.9%) for the fiscal year-to-date (FYTD). This variance reflects the March revenue revisions and all enacted laws through the 2nd Regular Session. Individual income tax and corporate income tax are the major contributors to this positive variance.
- Highway Fund revenue was over budget in May by \$2.0 million, reducing the negative variance for the FYTD to \$1.8 million (-0.6%). The Fuel Taxes line has been the major reason for the FYTD negative variance. It remained \$2.9 million under budget despite being revised downward by \$4.1 million in FY06 in the March 2006 revenue forecast. High gasoline prices have affected gasoline consumption. However, May's negative variance was not as large as that of the previous month.

2. **Cash Pool and Cash Balance Trends**

- Average balance of the Cash Pool was \$828.7 million in May. This is above the average balances of the last 5 years of \$601.4 million and above last May's balance of \$820.4 million.
- The positive revenue variances have offset the cash drain of MaineCare interim payment recovery performance. As a result, the General Fund internal borrowing from Other Special Revenue Funds, which increased to \$83.5 million in the early part of April, was eliminated at the end of April.
- Highway Fund cash balances have begun to recover over the last 4 months after dropping earlier this fiscal year as a result of the budget problems within the Department of Transportation. This recovery may be shortened by the additional demands on Highway Fund resources as a result of the flood damage in southern Maine.

3. **Fund Status Reports**

- General Fund available resources during the 122nd Legislature, 2nd Regular Session, which totaled \$118.1 million prior to Legislative actions, were nearly fully committed for various purposes by the supplemental budget and the bills enacted off the Special Appropriations Table (only \$18,747 remains uncommitted).
- Highway Fund available resources, which totaled \$5.0 million, remained at slightly over \$1.0 million at the close of the 2nd Regular Session. This net change of only -\$4.0 million understates the effort to provide approximately \$31.0 million of new Highway Fund allocations for the Highway and Bridge Improvements program shortfall.

Rep. Cummings asked Mr. Pennoyer if reduced fuel consumption was the contributing factor in the highway fund negative variance.

Mr. Pennoyer responded that he thought that it did have an impact on the negative variance.

- **Office of Information Services' Report**

Legislative Information Services Director Paul Mayotte was unable to attend the meeting, but submitted a written report, that was included in the Legislative Council packet.

- **Study Commissions Report**

Pat Norton, Director, Office of Policy and Legal Analysis reported that initial staffing assignments had been made for the study commissions and stated that meetings would be scheduled once members had been appointed. A listing of approved legislative studies was included in the Legislative Council packet.

PERSONNEL COMMITTEE

Rep. Cumming, Chair of the Personnel Committee, reported that the committee met prior to the Legislative Council meeting on June 19, 2006 to consider several items:

1. It unanimously approved a request for temporary disability income benefits, consistent with the Personnel Policies and Guidelines for Legislative Leadership Employees, for a member of the Senate Majority Office. No action by the Legislative Council is required.
2. It met with OFPR director Grant Pennoyer to review his performance over the past year and to provide guidance for the next year. No action by the Legislative Council is required.
3. It met with Law Librarian Lynn Randall to review her performance over the past year and to consider her re-appointment to a new 3-year term. The committee was in support of Ms. Randall's re-appointment and Rep. Cummings stated that he would offer a motion under New Business on the agenda.

REPORTS FROM COUNCIL COMMITTEES

Sen. Gagnon said that the State House Facilities Committee had not met since the meeting of May 22, 2006 and therefore, did not have a report.

OLD BUSINESS

Item #1: Council actions taken by ballot

A copy of a list of actions taken by ballot by the Legislative Council since May 16, 2006 is attached. No further action by the Legislative Council is required.

NEW BUSINESS

Item #1: Reappointment of Lynn Randall as State Law Librarian

Rep. Cummings made the following motion:

That upon the unanimous recommendation of the Personnel Committee, the Legislative Council re-appoint Lynn E. Randall to a new 3 year term as State Law Librarian retroactive to June 16, 2006. Second by President Edmonds. (Motion Approved 8 – 1, Rep. Bowles opposed)

Item #2: Request from State Representative William Smith requesting payment for Special Session, 121st Legislature

Rep. William Smith of Van Buren requested that the Legislative Council reconsider its earlier decision not to make payment to legislators who had not requested payment by the deadline (May 2005). By earlier letter, Executive Director Boulter explained to Rep. Smith that payment was not authorized because the deadline had passed nearly a year earlier. The matter was then presented to the Legislative Council for its review. The Legislative Council members reviewed the attached written materials and a general discussion followed.

The Chair, Speaker Richardson, made a motion that the Executive Director request that the Attorney General's Office review the payment request by Rep. Smith and advise the Legislative Council whether the Legislature is legally obligated to make payment. Second by Senate President Edmonds.

Further discussion followed. Several members inquired as to whether other legislators might be entitled to payment and if so how many. Mr. Boulter indicated that the legislators affected were those who served in the 121st Legislature. 135 members had received payment. The remaining members had either refused payment or did not return the required acceptance/refusal form.

Senator Weston agreed with Speaker Richardson that seeking legal advice as to the Legislature's legal obligation was a prudent course of action. Rep. Bowles noted the long delay between the deadline for making a payment request and Rep. Smith's request. He asked if there had been communication on this matter in the intervening period.

Mr. Boulter responded that until receipt of Rep. Smith's May 2006 letter, there had been no communication between the Executive Director's office and Rep. Smith after Mr. Boulter notified Rep. Smith in writing on June 1, 2005 that Rep. Smith had not completed, signed and submitted a Special Pay Calculation/Refusal form to the Executive Director's Office, and thus would not receive any Special Session payment.

Speaker Richardson then restated his motion, adding that the request by Rep. Smith would be tabled until such time as the Attorney General's Office has advised the Legislative Council on its legal obligations, second by President Edmonds. Motion passed unanimous 9-0.

Item #3: Status of Bureau of Capitol Security

The Chair, Speaker Richardson, brought up a new item not on the agenda. Speaker Richardson suggested that with the retirement of Capitol Security Chief Don Sutter, the Legislative Council might want to consider whether the Bureau of Capitol Security's reporting authority should be changed to the Chief of the Maine State Police rather than the Commissioner of Public Safety as it is now. He stated that having Capitol Security report directly to the Chief of the State Police might provide better accountability and synergy. He also suggested that State House security might also be enhanced if Capitol Security hired retired state police officers. Sen. Gagnon offered to discuss this matter with members of the State House Facilities Committee. Speaker Richardson suggested inviting Colonel Poulin, Chief of the Maine State Police, to the next meeting. Commissioner Cantara is already a participant in the State House Facilities Committee's Working Group on Capitol Security. Sen. Gagnon, Chair of the State House Facilities Committee will schedule a facilities committee meeting this summer.

ANNOUNCEMENTS AND REMARKS

Speaker Richardson requested a moment of silence in memory of Captain Patrick Damon, a member of the Maine Army National Guard and a former legislative employee, who died in Afghanistan in the service of his State and the Nation.

ADJOURNMENT

The Legislative Council meeting was adjourned at 2:20 p.m. Motion by Rep. Cummings, second by Sen. Brennan, unanimous.