

MAINE STATE LEGISLATURE

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SEN. BEVERLY C. DAGGETT
CHAIR

REP. PATRICK COLWELL
VICE-CHAIR



121st MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. SHARON ANGLIN TREAT
SEN. PAUL T. DAVIS, SR.
SEN. KENNETH T. GAGNON
SEN. CHANDLER E. WOODCOCK
REP. JOHN RICHARDSON
REP. JOSEPH BRUNO
REP. ROBERT W. DUPLESSIE
REP. DAVID E. BOWLES

DAVID E. BOULTER
EXECUTIVE DIRECTOR

MEETING SUMMARY
September 14, 2004
Approved October 12, 2004

CALL TO ORDER

The Chair, Senate President Daggett, called the Legislative Council meeting to order at 2:21 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	President Daggett, Sen. Treat, Sen. Gagnon, Absent: Sen. Davis, Sen. Woodcock
Representatives:	Speaker Colwell, Rep. Richardson, Rep. Bruno, Rep. Duplessie, Rep. Bowles
Legislative Officers:	Millicent MacFarland, Clerk of the House David Boulter, Executive Director, Legislative Council Grant Pennoyer, Director, Office of Fiscal and Program Review David Elliott, Director, Office of Policy and Legal Analysis Margaret Matheson, Revisor of Statutes Lynn Randall, State Law Librarian Paul Mayotte, Director, Legislative Information Services

SUMMARY OF THE AUGUST 24, 2004 COUNCIL MEETING

Motion: That the Meeting Summary of August 24, 2004 be accepted and placed on file. (Motion by Sen. Treat, second by Rep. Duplessie, unanimous).

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

- **Executive Director's Report**

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

- 1. State House Renovations Update**

The repointing of the West Wing is proceeding well and the work has an estimated completion date of October 15, 2004. November 1, 2004 is the estimated completion date for roof replacement of the West Wing. Interior repairs, re-plastering and painting will begin mid-September with a completion date of the first or second week in November. The damaged first floor marble landing on the north stairs will be replaced; work will begin in October with a completion date by the end of October.

Mr. Boulter showed photographs of some granite repointing to show Council members of the quality of the work being performed.

- 2. Office of Program Evaluation and Government Accountability**

Executive Director Boulter said that under current law, the Commissioner of the Department of Administration and Financial Affairs is required to provide office space for the OPEGA office, at no cost to the Legislature. The Commissioner will be furnishing the Legislative Council members with three to four options with recommendations regarding office space by October 1, 2004.

- 3. YMCA Youth in Government Program**

Discussions are underway regarding changing the date of the annual Youth in Government Program from the spring to the fall. A spring program is logistically necessary for 2005, but after that, the program will be scheduled for the fall. Mr. Boulter thanked Secretary of the Senate O'Brien for suggesting that future programs be held in the fall.

No Council action required.

- **Fiscal Report**

Grant Pennoyer, Director, Office of Fiscal and Program Review, presented his report to the Council.

General Fund and Highway Fund Revenue for August 2004

The General Fund was ahead of budget by \$25.6 million, resulting in a \$22.1 million positive variance for the first 2 months of Fiscal Year 2005. Sales Tax revenues were over budget \$1.2 million in August and \$4.0 million ahead for the fiscal year to date. Individual Income Tax had a positive variance of \$22.5 million in August and \$14.9 million ahead for the fiscal year to date. Corporate Income Tax revenues were over budget by \$1.9 million and has a positive variance of \$5.7 million for the fiscal year to date. Estate Tax was the only major negative variance through the first two months of Fiscal Year 2005, and being under budget by \$2.3 million for fiscal year to date. The Highway Fund revenue had a positive variance of \$2.1 million in August and ahead of budget \$2.9 million for the fiscal year to date.

Revenue Forecasting Committee Schedule

The Revenue Forecasting Committee has scheduled a meeting with the Consensus Economic Forecasting Commission on October 7, 2004 at 9:00 a.m. in the Appropriations Committee Room. The Bureau of the Budget and the Office of Fiscal and Program Review are reviewing revenue items in conjunction with the agencies and will report back to the Revenue Forecasting Committee.

Cash Pool Status

The General Fund balance would have remained negative but for the Tax Anticipation Note and reserve balances; however the status continues to improve.

Post-employment Retirement Benefit Reporting

Mr. Pennoyer followed up on an inquiry at the August 24, 2004 meeting regarding post-employment retirement benefit reporting and whether it would affect Maine's budget. Mr. Pennoyer stated that it only affects the reporting and does not affect how Maine should budget. Maine budgets on a cash basis with some revenue items subject to modified accrual. The GASB Statement does not prescribe that the Legislature must prefund the retiree health insurance benefits, but it does propose that all states report on it. Maine currently includes that information in its Comprehensive Annual Financial Report.

No Council action required.

- **Office of Information Services' Report**

Paul Mayotte, Director, Legislative Information Services presented his report to the Council on the status of the HP contract to develop a bill drafting system. A memorandum of agreement has been entered into by the Legislature and HP on September 2, 2004. HP has installed a new server with the intent that it will address the Legislature's concerns about the slow performance of the bill drafting system. Testing began on Thursday, September 9, 2004. The preliminary results of the performance test showed a significant improvement in the performance of the application, however not to the level the Legislature had anticipated. On September 10, 2004 when further reviews began to determine why the levels of performance were not as expected it was discovered that the server installed by HP was configured incorrectly. HP is to correct the problem and restart performance testing on Thursday, September 16, 2004 with a completion date of Friday, September 17, 2004.

President Daggett requested that Mr. Mayotte forward information regarding the results of the testing to Council members.

- **Status of Interim Studies**

David Elliott, Director, Office of Policy and Legal Analysis, referred members to the Progress Report on Legislative Studies in their packet.

A copy of the Progress Report on Legislative Studies is attached.

REPORTS FROM COUNCIL COMMITTEES

- **Personnel Committee**

Rep. Richardson, Chair of the Personnel Committee, reported that the committee met earlier in the day to consider three items.

It considered a request for a 10 month unpaid leave of absence for a legislative employee to allow the employee to pursue advanced education. The Committee recommended approval of the request.

Motion: That the Legislative Council approve the request by legislative employee Patrick Norton for a leave of absence for up to 10 months to pursue advanced educational opportunities, and delegate to the Executive Director's administration of the leave provisions consistent with Section 7 (F) of the Legislative Council Personnel Policies. (Motion by Rep. Richardson, second by Sen. Treat).

Discussion: Rep. Bruno asked if Mr. Norton was to be employed by the Legislature on a part-time basis during the leave of absence and if so, would the Legislature be paying health insurance benefits for Mr. Norton during the leave.

Executive Director Boulter replied that Mr. Norton's request is for an unpaid leave. Between September 1, 2004 through December Mr. Norton will not be working for the Legislature and will be paying his own health insurance benefits, including the employer share of the insurance. The Legislature will bill Mr. Norton directly during this period. If Mr. Norton will be able to resume employment on a part time basis after December, he would have to work at least 16 hours a week to be eligible for employer paid contributions.

Chair Daggett asked if there were further questions. Seeing none, she called for a vote on the motion. The motion was approved unanimously.

Rep. Richardson also reported that the Personal Committee had also discussed scheduling performance reviews for the Legislative Council office directors. The committee agreed to establish a schedule to review the work performance of 4 non-partisan directors. The reviews will be conducted within the next 30 days, doing 2 reviews per day and include Margaret Matheson, Lynn Randall, David Elliott and Paul Mayotte. The Committee will also be considering requests for reappointments of Grant Pennoyer and David Boulter for re-appointments to their positions. The Personnel Committee will make its recommendations at the October 12, 2004 Council meeting.

No Council action required

- **State House Facilities Committee**

Sen. Gagnon, Chair of the State House Facilities Committee reported that legislative members of the Committee had met briefly earlier in the day. The Committee discussed a proposed new legislative license plate design. The Secretary of State has the authority under law to determine license plate designs, including legislative plates. Senator Gagnon said the State House Facilities Committee had developed a proposed new design for legislative license plates. He then presented that design to the Legislative Council members. Sen. Gagnon said the committee's goal in the design of the license plate was to show the Legislature as a unified Branch and therefore a single plate design to identify the members of the Legislature, using either an S or H before the number rather than separate plates as is now used.

Rep. Bruno inquired as to how the Tribal members of the House would be noted on the plate. Mr. Boulter said he understood that the design would be modified somewhat to accommodate tribal seals for each tribe. He also noted the Senate President, Senate Secretary, House Speaker and House Clerk will have specially designated license plates as well.

Sen. Gagnon indicated that the committee would present a request to the presiding officers seeking their support for the new plate design. [Note: immediately following the meeting, the presiding officers reviewed the design in detail and gave their support for the design. A letter to that effect was subsequently sent by the presiding officers to the Secretary of State.]

No Council action required.

OLD BUSINESS

None

NEW BUSINESS

Item #1: OPEGA director position

Executive Director Boulter reminded the Legislative Council that at its August 24, 2004 meeting it had requested that the Executive Director's Office develop a proposed job description for the Director of the Office of Program Evaluation and Governmental Accountability consistent with legislative policies and the law. The Council also requested the Executive Director to prepare a suggested recruitment plan with the goal of having a director in the position by the end of 2004.

Discussion of the job description: It was first suggested that the section of the law that created the director position be included and wording of #1 under "Desirable Knowledge, Skills and Abilities" be changed with respect to knowledge of Maine law. After Council discussion it was concluded the wording was sufficient.

Rep. Bowles noted that Rep. David Trahan, who was involved in the enabling law was in attendance, and asked leave of the chair for Rep. Trahan to address the Council. Chair Daggett recognized Rep. Trahan. Rep. Trahan thanked Mr. Boulter for developing a job description that included, after his research, all of the issues and was sufficient. Rep. Trahan said the Legislative Oversight Committee for Office of Program Evaluation and Government Accountability is meeting on October 6, 2004, and at that time, would like to review the job description and the recruitment plan.

A copy of the job description is attached.

Discussion of the recruitment plan: The recruitment process would include publishing the position announcement in the major papers in the State, Boston Globe, NCSL website, CSG website, legislative website and internal posting. A copy of the plan is attached

Rep. Bowles noted that Monday 11/1/04 and Wednesday 11/3/04 was the day prior to and day after Election Day. The Council recommended that the recruitment schedule be adjusted to reflect legislators' unavailability on those days.

Sen. Gagnon suggested that the process of hiring the director be concluded before December 1, 2004 so this Council could make the final selection of OPEGA director.

A copy of the recruitment plan is attached.

Motion: That the Legislative Council adopt the proposed job description for the director of OPEGA and position recruitment plan with the minor changes incorporated and further authorize the Executive Director's Office to administer such duties and further detail as necessary to establish the position and implement the recruitment plan. (Motion by Sen. Treat, second by Rep. Bowles, unanimous).

President Daggett, chair suggested that a subcommittee of the Legislative Council be comprised of members of the Legislative Council Personal Committee and Senator Kenneth Gagnon to guide the interview process, participate in the interviews and ultimately, make a recommendation for the position to the full Legislative Council.

Item #2: Legislative Budget for the 2006-2007 Biennium (required current services submission)

Executive Director Boulter reminded the Legislative council that by law the Legislature has to submit a current services budget for the legislative accounts for the next biennium. The Executive Director's Office is authorized to submit the current services budget on a tentative basis in order for the Bureau of the Budget to receive necessary information as it prepares the State budget for current services. The current services budget does not include new or expanded programs and it does not include adjustments that the Council may subsequently make to its tentative budget.

He also noted, that if the incoming Council follows the practice used in the past, it will form a subcommittee that would review the tentative budget and make adjustments, as appropriate, for the legislative accounts before the budget is finalized. Under the law, the Legislative Council's recommendations are submitted to the Appropriations Committee for its consideration.

No Council action required.

Item #3: Pre-legislative conference dates

Mr. Boulter referred members to the proposed Pre-legislative Conference dates in their packets. The current Legislative Council hosts the Pre-legislative Conference, including the banquet and evening reception.

The Secretary of the Senate, Clerk of the House, and the Executive Director's Office will be working closely with each other and with the Council Members to ensure that the program meets their expectations.

No Council action required.

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

The Legislative Council meeting was adjourned at 3:27 p.m. (Motion by Speaker Colwell, second by Sen. Treat, unanimous).

Progress Report on Legislative Studies
(Studies authorized or undertaken following the 121st Legislature)

Status as of 9/14/2004 9:46:45AM

<u>Study Name</u>	<u>First Meeting Date</u>	<u>Date, Time & Location of Next Meeting</u>	<u>Report Dates/ Reports To</u>	<u>Comments/Status of Study</u>
Recodification of Title 7 SP0586 -			January 15, 2005: ACF Committee	2-year study begun in 2003; OPLA/ROS developing draft for ACF Committee review
Commission to Study Public Health LD0471 - Resolve 2003, Chapter 95	12/5/03	9/24/04 9:00 am	November 3, 2004: 1st Regular Session, 122nd Legislature	Continuation of 2003 study; subcommittees formed to develop recommendations; full committee met 8/2/04; will hold public hearing to take comments on preliminary recommendations
Health Care System and Health Security Board LD0855 - Public Law 2001, Chapter 439, Part ZZZ	10/12/01	9/22/04 1:00 pm Room 427, State House	Nov. 1, 2004: 1st Reg. Session of 122nd Legislature	Multi-year study begun 2001; will meet in September for update on Dirigo
Commission to Study Compliance with Maine's Freedom of Access Laws LD1079 - Resolve 2003, Chapter 83	11/19/03	9/14/04 9:30 am (cancelled) 9/21/04 10:00 am Rm 438 SH	November 3, 2004: Joint Standing Committee on Judiciary	Study extended from 2003 by PL 2003, c. 709; commission has formed 3 subcommittees to address new charge
Task Force to Study Parity and Portability of Retirement Benefits for State Law Enforcement Officers, Municipal and County Law Enforcement Officers and Firefighters LD1343 - Resolve 2003, Chapter 76	8/11/03	9/29/04 9:00 am Labor Committee, Room # 220, COB	November 3, 2004: 1st Reg. Session of 122nd Legislature	Continuation of 2003 study; met 8/11/04; 2 additional meetings authorized in 2004
Commission to Improve the Sentencing, Supervision, Management and Incarceration of Prisoners LD1614 - Public Law 2003, Chapter 451	9/4/03	9/15/04 10:00 am Rm 228, State House	2/5/2004: Criminal Justice and Public Safety Committee 1/1/2005: Criminal Justice and Public Safety Committee	Study extended from 2003 by PL 2003, c. 707

Progress Report on Legislative Studies
(Studies authorized or undertaken following the 121st Legislature)

Status as of 9/14/2004 9:46:46AM

<u>Study Name</u>	<u>First Meeting Date</u>	<u>Date, Time & Location of Next Meeting</u>	<u>Report Dates/ Reports To</u>	<u>Comments/Status of Study</u>
Citizen Trade Policy Commission LD1815 - Public Law 2003, Chapter 699			Annual: Governor, Legislature AG and municipalities Annually: Congressional delegation, Maine International Trad : Maine International Trade Center : Maine Municipal Association : United States Trade Representative's Office : NCSL and NAAG	16 of 22 appointments made
Maine Drug Return Implementation Group LD1826 - Public Law 2003, Chapter 679			January 31, 2005: Health and Human Services Committee	10 of 11 appointments made
Health and Human Services Committee Review of the Establishment of the Department of Health and Human Services LD1913 - Public Law 2003, Chapter 689	7/27/04	9/15/04 10:00 am Rm 202 CSOB	None Required	1st meeting held 7/27/ 04; 2nd meeting 9/15/04
Intergovernmental Advisory Group LD1930 - Public Law 2003, Chapter 696			Annually in January: State and Local Government Committee	2 of 15 appointments made
Government Oversight Committee (OPEGA) LD2193 - Public Law, Ch. 702	8/19/04	10/6/04 1:00 pm Rm 334, SH		Working on committee procedural rules and OPEGA Office mission statement

Selection criteria:
Session ID = 121
Study Type = Legislative

Proposed Salary Group 13

**CLASS TITLE: Director,
 Office of Program Evaluation and Government Accountability**

The director is the administrative head of the Office of Program Evaluation and Government Accountability, an evaluation unit of the Maine Legislature. The director directs and manages a group of professional and support staff and has overall responsibility for the work of the office. The director serves as staff to the legislative committee on government oversight. The director performs a broad range of highly complex managerial and administrative duties, and works with the legislative oversight committee, executive director and others to identify, develop and implement operational policies and procedures dealing with the administration of the office and accomplishment of evaluation work. The director is appointed by the Legislative Council for a fixed term and works under the overall direction of the legislative oversight committee. The director exhibits high professional and ethical standards and works in a nonpartisan manner in carrying out the responsibilities of the office.

Examples of Duties and Responsibilities

1. Recruits and employs, in consultation with the human resources director, evaluation analysts and support staff for the OPEGA office.
2. Trains, evaluates and when necessary, disciplines employees in the office, in consultation with the human resources director.
3. Plans, assigns, directs, schedules and supervises employees in the OPEGA office in accordance with polices adopted by the oversight committee and consistent with the policies of the Legislative Council.
4. Prepares and presents biennial budgets for approval in accordance with law and rule, and manages the financial resources of the office in accordance with direction from the committee and within its approved budget.
5. Develops goals and strategies, in consultation with the oversight committee, for accomplishing the work of the office.
6. Prepares and presents annual work plans to the committee for its review and approval, and implements the approved plans.
7. Performs complex and diverse research and evaluation functions, and prepares evaluation reports and other assessments at the direction of the oversight committee.
8. Reviews, edits and approves drafts, reports and official communications emanating from the office.
9. Testifies and presents program evaluation reports to the oversight committee and, upon request, to other legislative committees.
10. Works cooperatively with the oversight committee, presiding officers, Legislative Council and others to accomplish the goals of the office and keep others informed of the work of the office.

Desirable Knowledge, Skills and Abilities

Demonstrated:

1. knowledge of the construct and intent of Maine law, rules and policies relative to conducting legislative oversight and program evaluation, public records, and handling of sensitive and confidential materials.
2. knowledge of strategic planning and goal setting, including identification of strengths, weaknesses, opportunities, strategic issues, and strategies for action.
3. knowledge of state legislative oversight, program evaluation and applied research sufficient to lead a professional staff engaging in these activities.
4. knowledge of state and local government administration and finance.
5. knowledge of contracting for professional expertise, including:
 - defining the scope of work and performance expectations; preparing requests for proposals; costing; establishing consultant selection criteria; negotiating contracts, establishing contract milestones and deliverables; and monitoring consultant performance.
6. knowledge of generally accepted principles of human resource management, budgeting, accounting, and purchasing.
7. ability to lead and manage people effectively.
8. ability to function with little supervision and independently but under the general policy direction of the legislative oversight committee and in compliance with law and legislative rules.
9. ability to direct and motivate employees having advanced academic degrees in public policy, law, internal auditing and other similar professions.
10. ability to interact diplomatically and effectively with legislators and other elected and appointed public officials at the committee and department head level.
11. ability to communicate effectively orally and in writing, including writing and editing complex technical evaluation reports, management reviews, summary reports and other documents.
12. skills in problem-solving and decision-making.
13. proficiency in using office suite software such as Microsoft Word, Excel and PowerPoint.
14. skills in organizing and making public presentations and in testifying before committees of elected officials or governing boards.

Desirable Minimum Educational and Other Qualifications

1. Master's degree from an accredited university or college, with an academic concentration in public administration, public management, program evaluation, economics, finance, public policy analysis, law, business administration or a closely related field of study for a person to engage in evaluation or analysis of government or business, applying quantitative or qualitative research methods.

2. At least five years of management experience in a comparable executive position with department or division level responsibility and authority.
3. At least three years experience in managing program evaluations, performance audits, policy analysis or applied public policy or research.

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PROPOSED RECRUITMENT PLAN
for
DIRECTOR, OFFICE OF PROGRAM EVALUATION AND GOVERNMENT
ACCOUNTABILITY

September 9, 2004

- Tuesday 9/14/04** **Legislative Council to review and approve proposed job description, salary grade assignment and recruitment plan.**
- Wednesday 9/15/04** Revise job description and recruitment plan, as modified by the Legislative Council; finalize for presentation to legislative oversight committee.
- Week of 9/20/04** Distribute job description & recruitment plan to members of the legislative oversight committee for review, and revise as appropriate. Determine recruitment sources and develop advertisements.
- Week of 9/27/04** Begin recruitment; announce position opening:
Boston Globe; Maine Sunday Telegram; Kennebec Journal; Bangor Daily News (weekend editions 10/2-3/04 and 10/16-17/04), and other Maine papers?
Legislative website
Internal postings in legislative offices
Internet sources as relevant and beneficial (jobs-in-me.com, monster.com, etc.)
National organizations (e.g., NCSL and CSG)
- Interim:** **Establish interview team.**
Select dates for first and second interviews.
Discuss and develop interview questions.
Determine interview protocols.
- Friday 10/29/04** Deadline for receipt of all applications.
- Monday 11/1/04** Initial review of applications, make copies and distribute to interview team.
- Wednesday 11/3/04** Finalize list of applicants to interview; notify selected applicants.
Send letter of acknowledgement to all applicants.
- Week of 11/8/04** **Conduct first round of interviews.** (Note: Thursday is a state-observed holiday)
- Week of 11/15/04** **Conduct second (follow-up) interviews** with narrowed list of applicants, as necessary. Conduct reference checks and other appropriate follow-ups.
- Week of 11/22/04** Determine first (and second) choices. (note Thanksgiving holiday)
Make tentative offer of position, negotiate terms of employment, etc.
- Week of 11/29/04** **Present recommendation to Legislative Council for decision.**
or 12/6/04 Send letters to all applicants, and announce selection.
- By 12/31/04** Selected candidate begins position.