

# MAINE STATE LEGISLATURE

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REP. JOHN RICHARDSON  
CHAIR

SEN. BETH EDMONDS  
VICE-CHAIR



122<sup>ND</sup> MAINE STATE LEGISLATURE  
LEGISLATIVE COUNCIL

SEN. MICHAEL F. BRENNAN  
SEN. PAUL T. DAVIS, SR.  
SEN. KENNETH T. GAGNON  
SEN. CAROL WESTON  
REP. GLENN A. CUMMINGS  
REP. DAVID E. BOWLES  
REP. ROBERT W. DUPLESSIE  
REP. JOSHUA A. TARDY

DAVID E. BOULTER  
EXECUTIVE DIRECTOR

**MEETING SUMMARY**  
**AUGUST 25, 2005**  
**APPROVED SEPTEMBER 22, 2005**

**CALL TO ORDER**

The Chair, Speaker Richardson, called the Legislative Council meeting to order at 1:32 p.m. in the Legislative Council Chamber.

**ROLL CALL**

Senators: Sen. Gagnon, Sen. Davis, Sen. Weston  
Sen. Brennan joined the meeting in progress  
Absent: President Edmonds

Representatives: Speaker Richardson, Rep. Cummings, Rep. Duplessie  
Representatives Bowles and Tardy joined the meeting in progress.

Legislative Officers: Joy O'Brien, Secretary of the Senate  
Millicent MacFarland, Clerk of the House  
David Boulter, Executive Director, Legislative Council  
Grant Pennoyer, Director, Office of Fiscal and Program Review  
Patrick Norton, Deputy Director, Office of Policy and Legal Analysis

**SUMMARY OF THE JULY 7, 2005 COUNCIL MEETING**

**Motion:** That the Meeting Summary of July 7, 2005 be accepted and placed on file. (Motion by Representative Cummings, second by Senator Davis, unanimous.)

**REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS**

• **Executive Director's Report**

David Boulter, Executive Director of the Legislative Council reported to the Council that summer's construction projects, both inside and outside the State House, are proceeding on schedule and on budget. The stairs to Capitol Street should be completed in mid-September.

**• Fiscal Report**

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

**1. General Fund and Highway Fund Revenue – July 2005 Variance Report**

General Fund revenue was \$2.0 million over budget for the first month of FY 06. This positive variance is largely due to an unusual estate tax payment of \$6 million in July, which contributed to a \$7.1 million positive variance in the Estate Tax line. Absent that positive variance, the General Fund would have had a \$5.0 million negative variance for the first month of FY 06. Other negative variances included:

- Sales Tax line under budget by \$2.6 million, which may be attributable to the effect of higher fuel prices;
- Other Revenue line under budget by \$2 million, attributable to Department of Health and Human Services' computer issues that affected billings; and
- Lottery Revenue line under budget by \$1.2 million as Powerball changes have yet to take effect.

Highway Fund revenue was \$0.9 million under budget for the first month of FY 06. This negative variance is largely attributable to a negative variance in Fuel Taxes. High oil prices is likely affecting fuel usage and travel.

**General Fund Status:**

At the close of FY 05, the State realized an increase of unappropriated surplus of \$48.1 million. This consisted of \$29.9 million of excess revenue and \$18.2 million of lapsed balances and other accounting adjustments. That surplus was reduced by Legislative year-end transfers, such as to the Baxter Compensation Authority, Budget Stabilization Fund, Retirement Allowance Fund, State Contingent Account, et al, amounting to \$41.6 million. Therefore, the net increase to the General Fund unappropriated surplus at the end of FY 05 is \$6.5 million. The FY 06 beginning balance is now \$33.7 million and the budgeted balance at the close of FY 07 is \$11.6 million.

**Highway Fund Status:**

Excess revenue, lapsed balances and an unbudgeted transfer of excess equity in the Retiree Health Insurance Fund increased the Highway Fund unallocated surplus by \$12.5 million in FY 05. Year-end transfer provisions distributed all but \$1 million of the additional unallocated surplus. \$2.9 million was transferred to the Highway Fund salary plan and \$8.5 million was transferred to the Highway and Bridge Improvement program within the Department of Transportation. The Highway Fund ending balance at the close of FY 05 and the beginning balance of the 2006-2007 biennium increased from \$7.7 million to \$8.7 million. The budgeted balance for the close of FY 07 is now projected to be \$2.0 million.

**Fund for a Healthy Maine Status:**

Excess revenue, lapsed balances and some prior period adjustments increased the Fund for a Healthy Maine balance at the close of FY 05 from the final budgeted amount of \$2.7 million to \$5.1 million. The budgeted balance for the close of the 2006-2007 biennium is now projected to be \$2.4 million. Final reconciliation is not yet completed, so amounts are subject to change.

### **July 2005 Cash Pool Average Balances**

The average daily balance of July 2005 General Fund cash was negative by \$9.5 million. Excluding the average balances attributable to the major General Fund reserve accounts and Tax Anticipation Notes, the average balance in the General Fund would have been negative by \$113.6 million. The overall negative position for July is largely attributable to the delay in issuing Tax Anticipation Notes (TAN's) and a lower total issue amount. The FY 06 TAN's total \$123.6 million and were issued on July 21<sup>st</sup>. This amount is lower than the FY 05 TAN's by \$66.4 million. This reduced reliance on TAN's indicates an improving trend in overall General Fund cash position.

### **Cash Pool Average Balance History**

The greatest volatility in the average balance is in the "General Fund – Other". While this portion has been negative through this period, the recent trend has been positive. As the reserve balances were depleted in FY 03, the General Fund had to rely on TAN's to provide liquidity. The reliance on TAN's peaked in FY 03 at \$275 million and has declined to \$123.6 in FY 06. The other portions of the cash pool are much less volatile.

### **General Fund Cash Balances**

The decline in the general fund cash balances was due largely to the substantial initial lease payments for the wholesale liquor operation received at the end of FY 04 and beginning of FY 05. The balances were artificially inflated the prior year, making it appear that the trend was heading down. Absent any major revenue variances or budget changes over the biennium it appears that the cash position should not be severely adversely affected.

### **Highway Fund Cash Balances**

The historical trends in Highway Fund cash balances are very similar to the General Fund trends. After trending upward during the second half of FY 04, the Highway Fund trended downward for several months at the end of FY 05. This reduction was largely due to the budgeted transfers to the General Fund, which were recorded in April 2005. The most recent trend line seems to be heading upward again.

#### **• Update of Interim Studies**

Patrick Norton, Deputy 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.

#### **• Office of Information Services' Report**

Paul Mayotte, Director Legislative Information Services, submitted a written report to the Legislative Council. In it he stated that:

#### **Bill Drafting System:**

HP installed the final production version of the bill drafting software on Monday, August 22, 2005 that includes all contractual requirements and fixes.

User testing of the software is being conducted by the Revisor's Office with testing to be completed on August 25, 2005. Following testing, the Legislature has five workdays to review the test data and advise HP of the test results. Initial test results are positive.

Preparation to place the bill drafting system into production will commence upon formal acceptance of the software.

## REPORTS FROM COUNCIL COMMITTEES

### • Personnel Committee

Rep. Cummings, Chair of the Personnel Committee, reported that the Committee had met earlier that morning and considered the following items:

The Committee discussed the Director, Office of Policy and Legal Analysis position, reviewed resumes and selected a small number of applicants to interview. Over 50 applications for the position have been received. The interview panel will be the Personnel Committee.

The Committee considered granting a general salary increase to legislative employees not covered by a collective bargaining agreement. The Personnel Committee voted unanimously to recommend that the Legislative Council approve the motion to be presented by Rep. Cummings. Chair Cummings offered the following motion:

**Motion:** That the Legislative Council authorize a 3% increase in the legislative salary schedule for legislative employees not represented by a bargaining agent, retroactive to July 3, 2005 and a second 3% increase to the legislative salary schedule for those employees, beginning July 2, 2006. Further that the Legislative Council authorizes the same salary increases for legislative employees in the IANLP bargaining unit. The Legislative Council authorizes the Executive Director to take all necessary steps to properly implement the salary schedule adjustments. (Motion by Rep. Cummings, second by Sen. Brennan, unanimous).

### • State House Facilities Committee

Senator Gagnon, Chair, State House Facilities Committee, reported that the committee met on August 3, 2005 and discussed the following issues:

#### 1. Honoring Chamberlain

The committee continued its discussion of creating a bust or statue in the State House honoring Civil War hero Joshua Chamberlain. Up until about 1910, a bust of Chamberlain resided in the Hall of Flags. The committee also discussed creating a work of art honoring Harriett Beecher Stowe for her contributions to ending slavery. The committee has asked State Historian Earle Shettleworth to research more background on Chamberlain and Stowe and consult with other history experts about bringing renewed recognition to them.

#### 2. Use of the Hall of Flags

The committee discussed at length developing an appropriate policy governing the use of the Hall of Flags in response to extensive booking of the Hall of Flags and complaints about its use from legislators and others. It discussed 3 objectives: restoring the Hall as a

place of honor and reflection of those whose sacrificed to defend our country; maintaining an educational focus on organized activities in the Hall of Flags related to governmental activities; and maintaining a safe environment for building occupants and visitors.

The committee developed various criteria, including limiting the serving of full meals, and asked the Executive Director to prepare a draft policy for review.

The draft policy will be discussed at the Facilities Committee meeting following the Council meeting.

### **3. State House Security**

The committee continued its discussion of improving security in and around the State House. Particular attention was given to the role of Capitol Security and its resources and reporting structure. The committee will convene a working group this Fall to consider ways to improve security. The Commissioner of Public Safety, Chief of Capitol Security and Augusta Police Chief will be invited to participate in the work group.

A Council member inquired if the committee had considered hiring retired law enforcement officers to supplement Capitol Security officers, particularly during the session, thereby keeping security costs lower. Sen. Gagnon said the committee did discuss this option and it will be a topic for further discussion at the meeting of the working group to review Capitol Security.

The State House Facilities Committee will be meeting immediately following the Legislative Council meeting.

## **OLD BUSINESS**

### **Item #1: Council Actions Taken by Ballot**

Chair Richardson noted that the ballot was to reauthorize the Land for Maine's Future bond.

No Council action required.

## **NEW BUSINESS**

### **Item #1: Request by Maine Citizen Trade Policy Commission to carry forward \$5,000 from FY 05 to FY 06**

Executive Director Boulter said that the Maine Citizen Trade Policy Commission has requested that it be authorized to carry forward funds that had been appropriated from FY 05 to FY 06 for the purposes of conducting assessment of the impact of the International Trade Agreement. The Commission was unable to complete its first assessment in the last fiscal year. No additional money is requested.

**Motion:** That the Legislative Council authorize the Executive Director to transfer \$5,000 from Maine Citizen Trade Policy Commission funds appropriated in FY 05 to its FY 06

budget for the purposes of completing the trade agreement assessment. (Motion by Rep. Duplessie, second by Sen. Brennan, motion approved, 8-1, Rep. Bowles opposed).

**Item #2: Request by Maine Emergency Management Agency for OPLA Staff Support to the Task Force to Study Maine's Homeland Security Needs (Senate President Edmonds)**

Executive Director Boulter reported that President Edmonds, on behalf of the Maine Emergency Management Agency, requested that Office of Policy and Legal Analysis staff assist Maine Emergency Management Agency staff in staffing the Task Force. The Resolve, to Establish the Task Force to Study Maine's Homeland Security Needs was passed by the Legislature this session as Chapter 126. The Resolve requires that the Maine Emergency Management Agency staff this task force given the nature of its expertise. The Maine Emergency Management Agency would like OPLA to staff the task force, stating that Maine Emergency Management Agency has insufficient staffing to properly staff the task force. Mr. Boulter said that OPLA will be drafting legislation for the task force in any event.

In response to an inquiry by the Chair, Deputy Director Patrick Norton indicated that OPLA has sufficient resources to staff the task force.

**Motion:** That the Legislative Council direct the Office of Policy and Legal Analysis to assist MEMA in providing staffing support, including drafting legislation, to the Task Force to Study Maine's Homeland Security Needs when the Legislature is not in session. (Motion by Sen. Gagnon, second by Rep. Cummings, unanimous).

## **ANNOUNCEMENTS AND REMARKS**

None

## **ADJOURNMENT**

The Legislative Council meeting was adjourned at 2:16 p.m. (Motion by Rep. Duplessie, second by Sen. Davis, unanimous).

## 2005 Interim Study Status Report

(as of August 18, 2005)

#	Study Name	Policy Area	Appointment Deadline	Start Date	Report Dates/Reports to:	Number of Appointed Members	Appointments made as of 8/18/05	Responsible Agency/Staffing	Study Status as of 8/18/05
1	<b>Study of Forest Ownership in Maine</b> (staff study in conjunction with C/O of LD 1406)	ACF	No appointments needed	July, 2005	ACF	None		OPLA staff study	Initial research begun
2	<b>Commission to Reform the State Budget Process</b> (PL 2005, c. 386, Part O)	AFA	7/30/2005	No later than 15 days after all appointments	To AFA Committee by 1/3/06	12	8	Bureau of the Budget	Awaiting completion of appointments
3	<b>CRJ Committee review of Sex Offender Laws</b> (PL 2005, c. 423)	CRJ	No appointments needed	Not specified	No report	None		OPLA staffing	CRJ met on 8/9/05
4	<b>Task Force to Study Maine's Homeland Security Needs</b> (Resolve 2005, c. 126)	CRJ	7/23/2005	No later than 8/1/2005	12/7/05 Interim Report; 11/1/06 Final Report (both to Legislature)	11	0	Maine Emergency Management Agency staffing	Awaiting completion of appointments
5	<b>Legislative Youth Advisory Council</b> (PL 2001 c.439, as amended by PL 2005, c. 414)	EDU	Continuing	Continuing	Annually; Legislature	22	16	OPLA staffing	OPLA has met with Dept of Education; no LYAC meeting yet scheduled
6	<b>Review and Recodify Laws Pertaining to Violence in Our Schools</b> (Resolve 2005, c. 120)	EDU	No appointments needed	Not specified	Legislation due 12/7/05 to EDU	None		OPLA and ROS	Initial research begun
7	<b>Blue Ribbon Commission on the Future of MaineCare</b> (Resolve 2005, c. 117)	HHS	7/21/2005	No later than 8/1/05	12/7/05 to HHS and AFA	10	0	OPLA and OFPR staffing	Awaiting completion of appointments
8	<b>Governor's Committee to Study the Feasibility of the Importation of Prescription Drugs</b> ( P&S 2005, c. 26)	HHS	Not specified	Not specified	1/15/06 to HHS	Two Legislative appointments needed	0	Governor's Office	Awaiting completion of appointments
9	<b>Task Force to Study Cervical Cancer Prevention, Detection and Education</b> (Resolve 2005, c. 121)	HHS	7/21/2005	By 8/1/05	12/7/05 to HHS and Gov; Final Report 11/1/06 to HHS and Gov	16	2	OPLA staffing	Awaiting completion of appointments

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10	<b>DHHS Working Group on Department's Accounting Structure</b> (PL 2005, c. 412)	HHS	No appointments needed	Not specified	10/1/05 to HHS; AFA and Gov	None	.	OPLA/OFPR will participate in working group	DHHS staffing. No meetings held yet
11	<b>Review the Establishment of the DHHS</b> (PL 2003, c. 689)	HHS	No appointments needed	Continuing	No report	None		DHHS is lead agency (with drafting assistance from OPLA and ROS)	DHHS briefing to HHS Committee on Dept structure to be scheduled
12	<b>Health Care System and Health Security Board</b> (PL 2001, Part ZZZ)	IFS	10/20/2001	Continuing	12/7/05 to IFS	20	17	OPLA staffing	Meeting expected in October
13	<b>Freedom of Access Advisory Committee</b> (Resolve 2005, c. 123)	JUD	10/2/2005	Not later than 10/1/05	12/7/05 to LC, JUD and Governor	13	2	OPLA staffing	Awaiting completion of appointments
14	<b>Study State Compliance with Federal Indian Child Welfare Act of 1978</b> (Resolve 2005, c. 118)	JUD	7/21/2005	Not later than 8/1/05	12/7/05 to LC & JUD	12	4	OPLA staffing	Awaiting completion of appointments
15	<b>Study Commission Regarding Livable Wages</b> (Resolve 2005, c. 118)	LAB	10/17/2005	Not later than 10/1/05	12/7/05 to Legislature	12	3	OPLA staffing	Awaiting completion of appointments
16	<b>Task Force on Substance Abuse Testing and Treatment</b> (PL 2005, c. 443)	LAB	Not specified	Not specified	12/7/05 to LAB	None		Department of Labor	N/A
17	<b>Citizen Trade Policy Commission</b> (PL 2003, c. 699)	LAB	Not specified	Continuing	Annually to Legislature, Gov and others	17	17	OPLA staffing	Draft of first annual report being circulated for comments.
18	<b>Commission to Arrange for a Monument Honoring Women Veterans of Maine</b> (Resolve 2005, c. 116)	LVA	10/17/2005	No later than 8/1/2005	1/2/06 and 3/1/06 to Capitol Planning Commission	8	1	OPLA staffing	Awaiting completion of appointments
19	<b>Commission to Study Alternative Voting Procedures, and Citizen Initiative Process and Minor Party Ballot Access</b> (Resolve 2005, c. 127)	LVA	10/17/2005	No later than 8/1/05	12/7/05 to Legislature	11	3	OPLA staffing	Awaiting completion of appointments

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(as of August 18, 2005)

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20	<b>Study of State Regulation of Groundwater Withdrawal</b> (PL 2005, c. 452)	NAT	Not specified	No later than 10/1/05	11/1/07 to NAT	None		Maine Geological Survey	Ongoing by MGS
21	<b>Committee to Establish a Memorial for Emergency Medical Services Personnel</b> (Resolve 2005, c. 124)	SLG	10/17/2005	Within 15 days of all appointments	1/15/06 to SLG; 3/15/06 to SLG and Capitol Planning Commission	9	2	DAFS	Awaiting completion of appointments
22	<b>Commission to Study the Cost of Providing Certain Services in the Unorganized Territories</b> (Resolve 2005, c. 125)	TAX	7/23/2005	No later than 8/1/05	12/7/05 to Legislature	17	7	OFPR	Awaiting completion of appointments

### Appointment Summary

Number of appointed positions	192
Appointments made as of 8/18/05	82
Percent of appointments complete	42.7%

### Study Activity Summary

Studies awaiting appointments	12
Initial activity/research started	6
Other (no activity or expected to start soon)	4
	22