

MAINE STATE LEGISLATURE

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REP. JOHN RICHARDSON
CHAIR

SEN. BETH EDMONDS
VICE-CHAIR



122ND 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

LEGISLATIVE COUNCIL
June 19, 2006
1:00 p.m.
REVISED AGENDA

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	CALL TO ORDER	
	ROLL CALL	
1	SUMMARY OF THE MAY 22, 2006 COUNCIL MEETING	Decision
	REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS	
7	• Executive Director's Report (Mr. Boulter)	
8	• Fiscal Report (Mr. Pennoyer)	
9	• Information Technology Report (Mr. Mayotte)	
10	• Authorized Interim Study List (attached)	
	REPORTS FROM COUNCIL COMMITTEES	
	• Personnel Committee (Rep. Cummings, Chair)	Decision
	• State House Facilities Committee (Sen. Gagnon, Chair)	
	OLD BUSINESS	
12	Item #1: Council actions taken by ballot (No action required)	Information

NEW BUSINESS

Item #1: Re-appointment of Lynn E. Randall as State Law Librarian, Law & Decision
Legislative Reference Library

- 13 **Item #2:** Request by Rep. William J. Smith for reconsideration of earlier Decision.
Legislative Council decision regarding deadline for making 121st Legislative
Special Session payment

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

REP. JOHN RICHARDSON
CHAIR

SEN. BETH EDMONDS
VICE-CHAIR



122ND MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

1
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
May 22, 2006

CALL TO ORDER

In the absence of the chair, the vice-chair President Edmonds called the Legislative Council meeting to order at 1:25 p.m. in the Legislative Council Chamber.

ROLL CALL

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

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

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
Paul Mayotte, Director, Legislative Information Services

SUMMARY OF THE APRIL 24, 2006 COUNCIL MEETING

Motion: That the Meeting Summary of April 24, 2006 be accepted and placed on file. (Motion by Rep. Tardy, second by Rep. Duplessie, unanimous).

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

- **Executive Director's Report**

David Boulter, Executive Director reported the following:

The State YMCA of Maine expresses its appreciation to the Legislature for hosting its annual Youth in Government program at the State House again this year. Participant surveys consistently rate being in the State House as a prime enticement to participate in the program. The Y is requesting to hold its 2007 program on either March 30 – April 1 or April 13 - 15, 2007.

The Department of Administrative and Financial Services is developing a new accounting system to replace the current MFASIS computer system. Legislative accounts receivable and payable systems currently interface with MFASIS, and staff is working to assume a smooth transition to the new system, estimated to occur on October 1, 2006.

Investigation of the 3rd floor porch column by a structural engineer has revealed a stress fracture of the column capital. The crack should not lead to column failure or risk to the porch but needs to be repaired to prevent the damaged column capital from falling. President Edmonds asked if the porch remains usable and Mr. Boulter responded that it may continue to be used.

The rebuilding of Union Street awaits a decision by MDOT about cost sharing of placing utility lines underground. All other parties have committed to share in the costs.

- **Fiscal Report**

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

General Fund revenue was \$8.3 million over budget for the month of April, increasing the positive variance to \$40.9 million (+1.9%) for the fiscal year-to-date (FYTD). This variance reflects the March revenue revisions and all legislative changes enacted through the end of April. All major tax lines performed well in April. However, revenues collected by the Department of Health and Human Services and the Judicial Department were the only major continuing negative variances in the General Fund, \$8.0 million and \$3.5 million, respectively, under budget through April. Other negative variances in the service provider tax line and property tax - unorganized territory line represented timing issues and are expected to be offset by the end of the fiscal year.

Highway Fund revenue was under budget in April by \$2.6 million, increasing the negative variance for the FYTD to \$3.8 million (-1.5%). The fuel taxes line is the major reason for this negative variance. The negative FYTD variance for the fuel tax line increased to \$2.9 million (-1.7%). Higher fuel prices than anticipated in the economic forecast have lowered consumption and revenue below projections. This negative variance is expected to continue and grow.

In April, the total Cash Pool average balance and General Fund average balances were lower than balances a year ago, but are higher than the average of the last 4 fiscal years.

MaineCare interim payment recovery performance has adversely affected General Fund cash balances and the total Cash Pool. As a result, General Fund internal borrowing from Other Special Revenue Funds increased up to \$83.5 million in the early part of April. With the collection of April tax revenue, General Fund internal borrowing ceased during the last week in April.

Highway Fund cash balances have begun to recover over the last 3 months after dropping significantly earlier this fiscal year as a result of the budget issues within the Department of Transportation. This recovery may be shortened by the additional demands on Highway Fund resources as a result of the road damage caused by flooding in southern Maine.

- **Office of Information Services' Report**

Paul Mayotte, Director, Legislative Information Services, reported the following:

SPAM Filtering (follow up)

Mr. Mayotte reported that incoming SPAM volumes continue to increase. The SPAM filters are monitored for proper operation, and improvement to the filtering process will be made after the session ends.

Bill Drafting System

The Revisor's and Information Service's offices are in the process of using and evaluating all MELD functions during the warranty period. Issues are being reported to HP as they are identified. HP has resolved several bill type issues with the most current software release. A new software release will be installed later this month. Mr. Mayotte stated that it unlikely that HP would complete the correction of all warranty items by the end of the warranty period but that HP is bound to correct the deficiencies even after the warranty period. Mr. Mayotte also stated that post session work schedules are being finalized for both Wang and MELD updates.

President Edmonds asked Mr. Mayotte if the Wang system would be discontinued by January 2007. Mr. Mayotte responded that the Wang system would no longer be used for drafting by the next session.

Data Backup

All computer data backups are current and are being performed to established procedure. The procedures and technologies for the backup and recovery of legislative data are being reviewed and revised to ensure current and future needs can be adequately supported. Several improvements will be recommended to the Executive Director to improve the reliability and performance of the process.

- **Office of Policy and Legal Analysis Report**

Pat Norton, Director, Office of Policy and Legal Analysis reported the following:

Review of Legislative Studies Process

Mr. Norton briefed Legislative Council members on the progress being made on the Legislative Council's request to work with the Executive Director and others to review study guidelines with the goal of making the study proposals submitted to the Council more consistent in format. He stated that his first step was to review how other states develop and present study proposals, and he is gathering that data. Once collection and review of data are complete, Mr. Norton will seek further guidance from the Legislative Council about a process for offices and the House and the Senate to review the information and develop proposals to the Council that will improve the process.

PERSONNEL COMMITTEE

Rep. Cummings said that the Personnel Committee did not have a report since the Committee had not met since the last Legislative Council meeting.

REPORTS FROM COUNCIL COMMITTEES

Sen. Gagnon said that the State House Facilities Committee had not met since the meeting of April 24, 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 its May 22, 2006 meeting is attached. No further action by the Legislative Council was required.

NEW BUSINESS

Item #1: Consideration of After Deadline Bill Requests

Two after deadline bill requests were considered by the Legislative Council. The Council's actions on these requests are included on the attached list.

Item #2: Task Force to Study Maine's Homeland Security Needs request for a Joint Resolution Memorializing the Congress and President of the United States

Sen. Ethan Strimling presented the Task Force to Study Maine's Homeland Security request for a Joint Resolution memorializing Congress to support equitable disbursement of Homeland Security funds. He explained that the joint resolution supports a Senate bill sponsored by Senator Susan Collins. (Motion to approve by Sen. Gagnon, second by President Edmonds, Approved 7-1, Rep. Bowles opposed).

Item #2: Maine Development Foundation request for regarding legislative training as part of the Policy Leaders' Academy

Laurie Lachance, President of the Maine Development Foundation, presented MDF's request to the Legislative Council and briefly explained MDF's offer to assist in planning a legislative training session and bus tours for the incoming legislature. She stated that the University of Maine System including its 2 public policy schools, the Maine Community College System and MDF would like to formalize their partnership with the Legislature for developing and delivering programs tailored to the needs of the Legislature. Formalizing the partnership and obtaining the Legislative Council's endorsement early on will allow time to: develop a thoughtful and comprehensive training program; arrange for national level presenters; and raise the necessary funding to support the training effort.

Ms. Lachance requested the following from Council members:

- 1) That the Legislative Council members offer feedback as to whether and how the MDF/university/community college partnership would best assist in legislative training programs;
- 2) That the Legislative Council consider appointing legislative staff, including the Executive Director and the legislative Chiefs of Staff (6) to work with MDF et al to help develop a suggested comprehensive legislative training program that would be presented to the council for its consideration; and
- 3) That the Legislative Council appoint a bipartisan subcommittee of legislators comprised of 4 or so legislators to guide the planning process and shape the curriculum to best suit the needs and interests of the Legislature.

Ms. Lachance concluded by saying that the group would like to begin the planning process in early June, and would report back to the Legislative Council on its progress at a subsequent Legislative Council meeting.

President Edmonds thanked Ms. Lachance for her presentation and stated that she supported the development of a more comprehensive legislative training program, especially in an era of legislative term limits. The council members then began a brief discussion of the proposal and discussed several issues. The members generally supported developing a better and more comprehensive training program for legislators.

Rep. Bowles expressed a concern that the university's Margaret Chase Smith Policy Center and the Muskie School of Public Service have not always been viewed in the past as nonpartisan or even bipartisan. He felt that if the schools were to participate that their role be carefully defined and not drive the policy presentations. Others generally agreed that the institutions could provide helpful resources and information but that MDF, working with the legislature, should develop the curriculum and shape the training session. The council's subcommittee and legislative staff involvement will also help mitigate any concerns and keep a nonpartisan focus to the presentations. Members also agreed that while there is need for training on partisan aspects of the legislative process, this is not the appropriate forum for such training.

The members also agreed that holding the training fairly early in the new legislative session would be helpful as many of the policy issues are complex and will emerge during the session.

President Edmonds then suggested that a bipartisan subcommittee of 4 legislators be established, with one legislator being recommended by each caucus. Council members agreed, and agreed to submit names soon, which then will be forwarded to MDF. Ms. Lachance indicated that once the subcommittee is established, work would begin right away so that one or more proposals could be prepared by late June or July. At this time she anticipates that two forums would be held during the first week in December and bus tours would be conducted in January 2007.

Rep. Cumming suggested that the training session might include a presentation on the results of a study being conducted by the Brookings Institute on certain Maine issues. He noted that the Brookings Institute has a reputation for being strictly nonpartisan.

President Edmonds asked the members if the approaches discussed were acceptable and whether MDF should proceed accordingly. The members agreed. President Edmonds concluded by requesting that MDF proceed, and further indicating that the Legislative Council will be looking forward to reviewing the proposed training program when it has been developed.

ANNOUNCEMENTS AND REMARKS

Rep. Cummings asked Mr. Boulter about the status of a Legislative Council ballot sponsored by Rep. Mills. Mr. Boulter said that the ballot has been authorized to be circulated to Legislative Council members but it had not yet been returned to the Executive Director's Office. [Note: the signed ballot was returned shortly after the council meeting and was sent to the Revisor's Office.]

ADJOURNMENT

The Legislative Council meeting was adjourned at 2:03 p.m. (Motion by Rep. Bowles, second by Rep. Cummings, unanimous).

**Legislative Council
Executive Director's Report
June 19, 2006**

1. New Hires

A. The Law and Legislative Reference Library has hired Ms. Diane Vorpapel 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 (Gannet 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. I will be attending a meeting with DOT on Monday, June 19 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 is invited, once members have been selected.

Fiscal Briefing for the Legislative Council

Legislative Council Meeting
June 19, 2006

*Prepared by the
Office of Fiscal & Program Review*

Executive Summary

1. General Fund and Highway Fund Revenue Update (See Attachment A)

- 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 previous months'.

2. Cash Pool and Cash Balance Trends (See Attachment B)

- 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 spiked up 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 precipitously 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 (See Attachment C)

- 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.

122nd MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL
Technology Report
June 19, 2006

SPAM Filtering: (follow up)

- The Office of Legislative Information Services has taken measures to block repeating items of SPAM from legislative computers.

Bill Drafting System:

- HP did not complete all the warranty corrections by the end of the warranty period.
- HP has committed in writing to complete its warranty work
- The Revisor's Office and LIS did complete a MELD evaluation cycle before the end of the warranty period which resulted in a number of additional warranty items
- The Legislature and HP met for three days during the week of June 12th to working close open warranty items
- A software release has been scheduled for the week of June 26th
- Post session WANG and MELD update processing is underway

Data Backup Processing:

- All backups are current and being performed to the established procedure
- An upgrade to a tape backup unit is underway

Authorized Interim Studies List - 2006

Chapter	Study Name	Policy Area	Purpose	Start Date	Report Date(s) / Report To
Public Law 2005, Chapter 598	Commission to Study the Henderson Brook Bridge in the Allagash Wilderness Waterway	ACF	Make recommendations on the design of a bridge to replace the existing Henderson Brook Bridge within the Allagash Wilderness Waterway	Within 15 days after the completion of appointments	Preliminary Report November 1, 2006 Agriculture, Conservation and Forestry Committee Final Report January 15, 2007 Agriculture, Conservation and Forestry Committee
Public Law 2005, Chapter 614	Maine Food Policy Council	ACF	Develop a food policy for the state and a strategic plan for the implementation of the state food policy	Not specified	Odd-numbered years by December 15 ACF Committee
Joint Order, SP 847	Joint Select Committee on Research, Economic Development and the Innovation Economy	BRED	Review the current status of state efforts to address research and economic development and develop recommendations for future legislative action to expand research and economic development activities in the State	Not specified	December 6, 2006 1st Regular Session, 123rd Legislature
Resolve 2005, Chapter 126	Task Force to Study Maine's Homeland Security Needs	CRJ	Review Maine's homeland security needs in areas including law enforcement, emergency preparedness, public health, port and airport security and review ways to improve the flow of information to the Legislature and the general public about Maine's homeland security needs and preparedness	Continuation	November 1, 2006 (Final Report)
Public Law 2005, Chapter 662, Part C	Subcommittee to Study Early Childhood Special Education	EDU	Study early childhood special education programs and services provided for infants and young children from birth to age 8	15 days following completion of appointments	Date due not specified Commissioner of DOE and DHHS January 31, 2007 EDU Committee January 31, 2007 HHS Committee
Resolve 2005, c. 188	Department of Health and Human Services Development of a Model for Community-based Therapeutic Living Settings for Adults with Mental Illness	HHS	Requires the Office of Fiscal and Program Review to assist DHS with the development of a per-unit comparison of residential placements	Not specified	November 1, 2006 Health and Human Services Committee

Authorized Interim Studies List - 2006

Chapter	Study Name	Policy Area	Purpose	Start Date	Report Date(s) / Report To
Resolve 2005, Chapter 192	Development of a Joint Strategic Plan to Improve Quality and Access to Mental Health Care	HHS	Department of Health and Human Services and other participants will develop a joint strategic plan to improve quality and access to mental health care	Not specified	March 15, 2007 Health and Human Services Committee
Resolve 2005, Chapter 200	Human Trafficking Task Force	JUD	Study human trafficking and make recommendations to combat the trafficking of human beings across state borders and into the State for sexual and labor exploitation	Within 15 days of completion of appointments and attainment of funding	November 30, 2006 1st Regular Session, 123rd Legislature
P.L. 2005, Chapter 631	Right to Know Advisory Committee	JUD	Serve as a resource for ensuring compliance with the Freedom of Access Law and upholding the integrity of the law as it applies to all public entities in the conduct of the public's business	Not specified	Annually beginning January 15, 2007 JUD Comm., Governor, Council & Chief Justice
Resolve 2005, Chapter 181	Commission to Study Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers	LAB	Study the issue of whether corrections officers and mental health workers should receive uniform benefits and be eligible to retire after 25 years of service without a reduction in benefits regardless of age	No later than September 1, 2006	November 1, 2006 Legislative Council November 1, 2006 Labor Committee
Resolve 2005, Chapter 116	Commission to Arrange for a Monument Honoring Women Veterans of Maine	LVA	Develop recommendations for a design and a location and other matters relating to installation of a monument honoring women veterans of Maine	No later than August 1, 2005	September 1, 2006 Capitol Planning Commission December 7, 2006 - Final Report Capitol Planning Commission
Resolve 2005, Chapter 207	Blue Ribbon Commission on Solid Waste Management	NAT	Comprehensive review of the management of solid waste in Maine	No later than July 30, 2006	January 1, 2007 Natural Resources Committee
Public Law 2005, Chapter 677, Part D	Maine Energy Council	UTE	Monitor and evaluate matters affecting electricity supply and costs to consumers in Maine and make recommendations regarding these matters; conduct an examination of the feasibility and appropriate means of studying the impacts of electric industry restructuring in Maine	Within 15 days following completion of appointments	January 15, 2007 for feasibility study Utilities Committee

Actions Taken by Ballot by
The Legislative Council Since
Since May 16, 2006

1. Request For Introduction of Legislation

A. LR 3295 **An Act Relating to the Handling of Firearms Confiscated by Law Enforcement Officers Pursuant to a Court Order**

Submitted by: Rep. Janet Mills
Accepted: May 16, 2006, 10 - 0

B.. LR 3296 **An Act To Protect Victims of Domestic Violence**

Submitted by: Sen. Ethan Strimling
Accepted: May 16, 2006, 7 - 0 - 0 - 3

C. LR 3292 **An Act to Amend the Charter of the Starboard Water District**

Submitted by: Sen. Kevin Raye
Accepted: 6 - 0 - 0 - 4

D. LD 3293 **An Act to Clarify the Town Boundaries Between Old Orchard Authority Beach and Saco**

Submitted by: Sen. Barry Hobbins
Accepted: 6 - 0 - 0 - 4

E. LR 3300 **An Act To Provide Funding for Infrastructure for a New Downtown in the Town of Canton**

Submitted by: Sen. Bruce Bryant
Accepted 10 - 0

6. LR 3299 **Joint Resolution Encouraging the President and United States Congress To Establish Satellite Voting for Displaced Residents of Hurricane Katrina**

Submitted by: Rep. Craven
Accepted: 7 - 3



HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002
EXECUTIVE DIRECTOR'S OFFICE
(207) 287-1400

TTY: (207) 287-4469
2006 JUN 12 A 11: 12

William J. Smith

P. O. Box 7
Van Buren, ME 04785
Residence: (207) 868-3418
Business: (207) 868-5248
Fax: (207) 868-5249
E-Mail: wjsmithlo@verizon.net

June 9, 2006

David E. Boulter
Executive Director
Maine State Legislature
115 State House Station
Augusta, ME 04333-0115

RE: Special Session Pay-121st Legislature

Dear Mr. Boulter:

Thank you for your letter of June 6, 2006 regarding my request for payment of \$3,300 in Special Session pay for the 121st Legislature.

I must disagree with the refusal to honor my request. Please bring this to the attention of the Legislative Council for consideration.

I ask that they consider the following:

1. The right of legislators to receive special session pay for the 121st legislature was established by decision of Kennebec Superior Court in W. Tom Sawyer et al v. Legislative Council, Docket No: CV-04-97.

In this case the Court specifically ruled that 3 M.R.S.A. § 2 provided for compensation of \$100 a day for each day's attendance after the first and second regular session.

June 9, 2006

The Court further ruled that the Joint Order of January 30, 2004 was ineffective to deny legislators 100 for each day's attendance at the second special session (page 9); that the amendment of 3 M.R.S.A. § 2 was not retroactive; that the legislators' right to the pay was vested; and that legislators had a contractual right to this pay which was not extinguished by the amendment.

2. Since the Superior Court decided that the Legislative Council could not, by Joint Order, extinguish a right to special session pay, the Legislative Council certainly cannot subsequently extinguish the right to the special session pay by an arbitrary deadline.

3. You will find attached, copies of your memo of May 16, 2005 and the calculation/refusal form. Please note the language which appears on both:

"If you do not refuse payment, payment will be sent to you."

or
"Note unless this option (Refusal) is chosen on this form is not returned, payment WILL be made to you."

I did not refuse, I simply did not respond. Having now applied, payment is in order.

I thank the Legislative Council for their consideration. Please advise when it will be considered and if I might be heard by telephone conference call.

Very Truly Yours,



William J. Smith

WJS/ag
Enc.

File copy



DAVID E. BOULTER
EXECUTIVE DIRECTOR
OF THE LEGISLATIVE COUNCIL

MAINE STATE LEGISLATURE
OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

June 6, 2006

State Representative William J. Smith
P.O. Box 7
Van Buren, Maine 04785

Re: Request for Special Session Pay

Dear Representative Smith:

Thank you for your letter of May 16th requesting payment of \$3,300 in Special Session payment for legislative service during the 121st Legislature. Unfortunately, your request cannot be honored because the deadline for making the request for payment passed nearly a year ago. When the Legislative Council decided the issue of special payment for Legislators in April 2005, it established a deadline and directed the office to make authorized payments to Legislators no later than June 30, 2005. The Legislative Council did not authorize exceptions. You were notified in 2005 that you would not receive the Special Session payment, along with other Legislators who also did not file a request by the deadline. Since you made your request well after the filing deadline, this office is not authorized to make payment.

If you have any questions, please feel free to contact Rose Breton or me at 287-1615. If after review, you feel you want to pursue this further with the Legislative Council, please let me know and I will place this matter on the Legislative Council agenda for its consideration.

Thank you.

Sincerely,

David E. Boulter
Executive Director

cc: Speaker John Richardson, Chair, Legislative Council
President Beth Edmonds, Vice-chair, Legislative Council
Rose Breton

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HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002
(207) 287-1400
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EXECUTIVE DIRECTOR'S
OFFICE

2006 MAY 17 A 8:03

William J. Smith

P. O. Box 7
Van Buren, ME 04785
Residence: (207) 868-3418
Business: (207) 868-5248
Fax: (207) 868-5249
E-Mail: wjsmithlo@verizon.net

May 16, 2006

David Boulter
Executive Director
Legislative Council
115 State House Station
Augusta, ME 04333-0115

RE: Second Special Session Pay 121st Legislature

Dear Mr. Boulter:

I enclosed the signed special pay calculation form indicating my acceptance of the pay.

Kindly advise if any questions.

Very truly yours,


William J. Smith

WJS/tln
Enc.

122nd Maine State Legislature
Legislative Council

Special Session Pay Calculation/Refusal Form
For Legislative Pay for the Second Special Session of the 121st Legislature

Name of Legislator: William J. Smith

Session Days Attended (@\$100/day): 33

Committee/Leadership (non-session) Days Attended (@\$55/day): 0

Total Amount to be paid for the days in attendance: \$3,300.00

You must check one of the following:

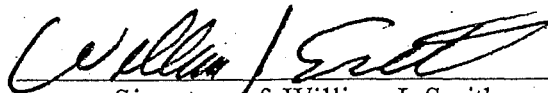
1. I concur with the calculation of session and committee/leadership days attended, and the resulting total amount to be paid to me. I understand that my acceptance of payment constitutes a release from claims or other causes of action I may have regarding special session pay.

2. I disagree with the calculation of session and committee/leadership days attended or the resulting total amount to be paid. I request a review of the calculation. I disagree for the reason(s) explained below. *[You must explain in detail why you disagree.]* I understand that my acceptance of payment constitutes a release from claims or other causes of action I may have regarding special session pay.

3. I REFUSE Special Session Payment. In making this choice, I affirm that I have fully reviewed the information provided to me about payment to Legislators for attendance during the Second Special Session of the 121st Legislature and choose not to seek payment. **Note: Unless this option is chosen or this form is not returned, payment WILL be made to you.**

I understand that there may be a federal or state income tax liability or both as a result of acceptance or refusal of payment and that it is my responsibility to comply with all relevant tax requirements.

5/15/06
Date


Signature of William J. Smith

• RETURN FORM TO EXECUTIVE DIRECTOR'S OFFICE BY TUESDAY, MAY 31, 2005. •

Memo



DAVID E. BOULTER
EXECUTIVE DIRECTOR
OF THE LEGISLATIVE COUNCIL

MAINE STATE LEGISLATURE
OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

Memo

To: Representative William Smith, Legislator

From: *D.B.* Dave Boulter, Executive Director

Date: June 1, 2005

Re: Important Notice; Special Session Pay

This memo is to notify you that this office has not received a completed and signed Special Pay Calculation/Refusal Form from you. Because the form was not returned, you will not receive any special session payment as described in my earlier memo to you.

If the form was misplaced or you believe an error was made, please contact the Executive Director's office immediately at 287-1615 or stop by Room 103.

A copy of the form that was sent to you is attached.

Thank you.

Attachment

G:\special session pay lawsuit\form not recd memo 6-1-05.doc

DAVID E. BOULTER
EXECUTIVE DIRECTOR
OF THE LEGISLATIVE COUNCIL



MAINE STATE LEGISLATURE

OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

Memo

To: Legislators of the 121st Legislature
From: *Dave*
Dave Boulter, Executive Director
Date: May 16, 2005
Re: Special Payment for 2nd Special Session, 121st Legislature

This memo is a follow-up to my memo to you of May 4, 2005. As I mentioned in that memo, the Legislative Council has determined that legislators who attended the Second Special Session of the 121st Legislature are entitled to certain payments, based upon their attendance. This means that Legislators may be paid \$100 for each session day attended, and \$55 for each day of authorized committee work (or leadership day for Leaders) when the House or the Senate was not in session, during the period February 1, 2004 through April 21, 2004. Because the amounts are based on actual attendance, the amounts to be paid vary for each legislator. Legislators have already been paid for all session and committee days after April 21st. Legislators may but are not obligated to accept the payment offered. The payment is considered income and as such, is subject to applicable tax and retirement system withholdings. You are advised to consult with your tax adviser about the potential tax implications of accepting or refusing payment.

The Legislative Council's decision is in response to the decision of the Superior Court in the matter of W. Tom Sawyer, Jr., et al v. Legislative Council, et al., a lawsuit filed by four legislators regarding legislative pay during the special session. The Legislative Council is taking this action to resolve a dispute over legislative pay and preclude other lawsuits over this matter. **As such, acceptance of the payment will constitute a release from claims or other causes of actions relating to payment of legislative pay during the Second Special Session.**

The Executive Director's Office has reviewed legislative records and calculated the amounts due to you based on your attendance during the Second Special Session. Attached is a Special Session Pay Calculation/Refusal Form that you must complete and return. The form summarizes the days in attendance and the total amount to which you are entitled. Please review the information carefully and verify its accuracy based on your own records.

The Special Session Pay Calculation/Refusal Form gives you 3 options, and you must select one of those options:

1. you agree with the calculation and total amount due;
2. you disagree with the calculation or total amount due, explaining why you disagree; or
3. you refuse Special Session Payment, in which case you will not receive any payment. If you do not refuse payment, payment will be sent to you.

Notice of Special Session Pay Options
May 10, 2005
Page 2

Once you select an option, you must sign and date the form and return it to the Office of the Executive Director so it is received no later than the close of business on Tuesday, May 31, 2005. Processing of payment requests will begin once all forms are returned and accepted. Payments will be issued before the end of this fiscal year (June 30, 2005).

Please note that you will not receive payment if:

- 1- you refuse the payment; or
- 2- the Special Session Pay Calculation/Refusal form is not fully completed, signed and returned to this office by May 31st.

If you have any questions at all regarding this matter and your options, please feel free to contact either Rose Breton or me at 287-1615.

Thank you.

Attachment

Cc: Legislative Council Members

G:\special session pay lawsuit\special session pay 121-IS notice w-form (5-9-05).doc (May 9, 2005 6:07:00 PM)

122nd Maine State Legislature
Legislative Council

Special Session Pay Calculation/Refusal Form
For Legislative Pay for the Second Special Session of the 121st Legislature

Name of Legislator: William J. Smith

Session Days Attended (@\$100/day): 33

Committee/Leadership (non-session) Days Attended (@\$55/day): 0

Total Amount to be paid for the days in attendance: \$3,300.00

You must check one of the following:

1. I concur with the calculation of session and committee/leadership days attended, and the resulting total amount to be paid to me. I understand that my acceptance of payment constitutes a release from claims or other causes of action I may have regarding special session pay.

2. I disagree with the calculation of session and committee/leadership days attended or the resulting total amount to be paid. I request a review of the calculation. I disagree for the reason(s) explained below. *[You must explain in detail why you disagree.]* I understand that my acceptance of payment constitutes a release from claims or other causes of action I may have regarding special session pay.

3. **I REFUSE** Special Session Payment. In making this choice, I affirm that I have fully reviewed the information provided to me about payment to Legislators for attendance during the Second Special Session of the 121st Legislature and choose not to seek payment. **Note: Unless this option is chosen or this form is not returned, payment WILL be made to you.**

I understand that there may be a federal or state income tax liability or both as a result of acceptance or refusal of payment and that it is my responsibility to comply with all relevant tax requirements.

Date

Signature of William J. Smith

◀ RETURN FORM TO EXECUTIVE DIRECTOR'S OFFICE BY TUESDAY, MAY 31, 2005. ▶

RECESS

The Legislative Council recessed at 3:16 pm. on the motion of the Chair.

RECONVENED

The Chair reconvened the meeting at 3:45 p.m. and continued with the remaining items on the agenda.

→ **Item #3: W. Tom Sawyer, Jr., et al v. Legislative Council et. al (CV-04-97) con't**

Speaker Richardson said the Council should decide on payment to legislators of the 121st Legislature who were not parties to the lawsuit and under what conditions payment would be made. The Chair's recommendation is that the Legislative Council pay members of the 121st Legislature and do so by sending letters asking if they wish to receive payment. The letter should include information about tax consequences, advising that they should consult with their tax preparer. Rep. Bowles asked whether implicit in the Motion was a requirement that the letter would include a date certain by which legislators must respond. The answer was yes. The Executive Director would be authorized to make payments to anyone who has responded and not refused the payment.

Motion: That the Legislative Council has determined that members of the 121st Legislature who were in attendance during the 2nd Special Session are entitled to certain legislative payments, consistent with the recent Superior Court decision regarding legislative pay. The Legislative Council directs the Executive Director to take all appropriate steps to notify Legislators, calculate payments due and to process final payments to eligible Legislators before the end of this fiscal year by notifying eligible members in writing, and making appropriate payment unless they refuse payment or fail to respond. (Motion by Sen. Gagnon, second by President Edmonds, unanimous).

New Item

Sen. Weston requested permission to address the Council regarding an item not on the agenda, but from a previous Council meeting. She indicated that she is interested in having the Legislative Council fund the Youth Advisory Council in the amount of \$12,000. The Chair indicated that he would be favorably disposed to such a request and asked Executive Director Boulter to place the matter on the May 26, 2005 Legislative Council agenda.

Item #4: NCSL Study of Legislative Operations Proposal

Motion: That the Legislative Council enter into a contract with National Council of State Legislatures with a change to #4 under the Study Overview of the NCSL proposal section and authorize the Executive Director to negotiate and administer the contract. (Motion by Rep. Duplessie, second by President Edmonds).

A member questioned who would have control over the study. After discussion, the members generally agreed that the Executive Director would sign and administer the contract but that substantive matters and policy issues would come back to the full Legislative Council through the Executive Director for its consideration and guidance.