

Committee to Study Appropriate Funding of the State Police
Monday, September 24, 2007
MEETING SUMMARY

Members in attendance: Senator Dennis Damon (co-chair), Representative Anne Haskell (co-chair), Senator Bill Diamond, Senator Karl Turner, Rep. Ann Peoples, Rep. Bill Browne, Rep. Margaret Craven, Rep. Stanley Gerzofsky, Rep. Richard Sykes, Rep. Ed Mazurek, Rep. Gary Plummer, and Rep. Kimberley Rosen.

Members absent: Rep. Patrick Flood

1. Review of S.P. 725 – Duties of the Committee:

The Committee shall:

- Examine the formulas for funding the Department of Public Safety, Bureau of State Police from the General Fund (GF) and the Highway Fund (HF).
- Examine the final report of the Office of Program Evaluation and Government Accountability (OPEGA) issued in February 2007 entitled, “Highway Fund Eligibility at the Department of Public Safety – an Analysis of Select Departmental Activities” and any other information the Committee determines appropriate.
- Develop recommendations for appropriate funding for the Department of Public Safety (DPS), Bureau of State Police.

2. Brief Background

Office of Policy and Legal Analysis (OPLA) staff provided a brief chronology regarding both the constitutional and statutory limitations on the use of Highway Funds. OPLA also summarized events which led to the establishment of the State Police Funding Study.

3. Public Comment Period General Discussion

The Chairs provided an opportunity for members of the public to provide comment. No members of the public testified.

4. OPEGA Presentation

OPEGA Analyst Jennifer Reichenbach presented February 2007 report entitled, “Highway Fund Eligibility at the Department of Public Safety – an Analysis of Select Departmental Activities.” Beth Ashcroft, Director of OPEGA, was also present.

The study’s main purpose was to determine which DPS costs are eligible to be paid from the State’s Highway Fund. The study focused on three appropriation programs: 0088 (Administration – Public Safety); 0291 (State Police); and 0457 (Highway Safety DPS).

OPEGA discussed the study’s key limitations:

- The study is a snapshot of a point in time: SFY 05-06.
- Activities funded by federal dollars were not considered.
- The study did not encompass all DPS or all Maine State Police activities.

Under the following appropriation programs (APs), OPEGA estimated the percentage of activities that are HF eligible:

- 17 – 34 % of State Police AP (0291)
- 82 – 100% of Bureau of Highway Safety AP (0457)
- 29 – 41 % of DPS Administration AP (0088)

In FY 05-06:

- The State Police AP received approximately 65% of its State Funds from the HF;
- The Bureau of Highway Safety AP received 100% of its State Funds from the HF and other Special Revenue Funds; and
- DPS Administration AP received 64% of its State Funds from the HF.

OPEGA indicated that it is impossible to determine exactly what portion of DPS costs are eligible to be paid from the Highway Fund for two reasons:

- reliable activity data is not available; and
- a clear definition of Highway Fund eligibility does not exist.

5. Department of Public Safety, Bureau of State Police Remarks Regarding OPEGA Report

Janet Richards from the DPS Commissioner's Office and Lt. Colonel Bob Williams from the Bureau of State Police were present. DPS indicated that "they have no issues" with OPEGA's findings. Prior to the completion of the OPEGA study, DPS estimated that approximately 30 % of State Police activities are Highway Fund eligible.

DPS explained the difficulty of tracking activity data over the course of a State trooper's day. Law enforcement is largely response-oriented. It is not uncommon for a traffic stop to become a criminal investigation. Initiatives are currently underway to improve collection of activity data.

6. Office of the Attorney General Presentation of July 2007 Opinion Regarding Constitutional Requirements With Respect to Allocation of HF to the Maine State Police

Linda Pistner, Chief Deputy of the Office of the Attorney General, presented the July 5, 2007 AG opinion. The opinion indicates that, "the Legislature has a responsibility to make a good faith, fact-based determination as to the uses of the Highway Fund money that comply with the limitations of Article IX, section 19 of the Maine Constitution."

Linda noted that it is up to the Legislature to determine the information it needs and how reliable any particular information is; once it makes its determination of the facts, it must make a good faith determination of what activities qualify for constitutionally protected funds. It would be acceptable, she indicated, for the Legislature to come up with a range of funding levels that it believed to be reasonable and then to allocate funding within that range.

Linda also mentioned that, as noted in the opinion, certain fines and forfeitures that now go into the Highway Fund are not protected under the constitution.

7. Information requests for next meeting

Department of Public Safety, Bureau of State Police follow-up:

- a) Further information about electronic activity reports. What are the five general areas of activity data and the definitions of each area? What are the activities covered under each general area?
- b) For traffic-related activities, what is the difference between fines levied versus fine collected?
- c) DPS indicated that the Maine State Police collects approximately \$5 million in fines each fiscal year. What portion of that total (in dollars and in percentages) are commercial vehicle fines?
- d) Lt. Colonel Williams estimated that approximately 25% of all traffic stops are OUI-related. The Committee requested more information regarding the number of OUI traffic stops and OUI-related road and highway crashes.

Accounting and Fiscal Information:

- a) List of all sources of revenue that go into the HF (last 10 years).
- b) All sources of revenue and amounts that go to the Bureau of State Police (last 10 years), if possible to break out.
- c) List (last 5 years, SFY 03-07) of federal funds that go to the Bureau of State Police, if possible to break out.
- d) Listing of historical transfers from the HF to the GF and vice versa.
- e) Breakdown of funding sources (in dollars and percentages) for the Bureau of State Police, if possible to break out.
- f) What happens to unencumbered or unexpended HFs? Do they lapse to the GF? Can they be “swept” into another fund?

Other

- a) In addition to July 2007 AG opinion, all other relevant AG opinions or court opinions or decisions.

8. Next Steps

Representative Haskell posed three questions:

- If the funding split is based on budget needs and negotiations, what is the value of having a separate Highway Fund?
- Should the committee
 - Define the eligible activities and live with the consequences? or
 - Define a percentage and live with those consequences?

Future Meeting Dates
<ul style="list-style-type: none">• Monday, October 22, 2007, Room 126, State House, Augusta• Monday, November 5, 2007, Room 126, State House, Augusta

Staff:

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