



# OPLA~Notes

Nonpartisan Quarterly Newsletter

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for the Maine State Legislature

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## Newsletter Greetings

Welcome to the first issue of OPLA~Notes, a quarterly publication of the Legislature's nonpartisan Office of Policy and Legal Analysis. In OPLA~Notes we will be covering selected topics of interest to the members of the joint standing committees of the Legislature and particularly information that may help committee members stay apprised of issues and events of significance in state and federal government. While the topics presented in OPLA~Notes may be of general interest to others, our intended audience is primarily committee members.

OPLA~Notes will contain articles on relevant court decisions, useful Internet sites, legislative publications, as well as a feature article on a legislative topic of interest. OPLA~Notes will be published quarterly and therefore the topics covered in the newsletter generally will not be "headline" news, but rather matters that will remain relevant over time. Due to our nonpartisan status, our articles will present the issues with a legislative perspective, but without making judgments or editorials.

Part of the mission of the Office of Policy and Legal Analysis is to provide information and analysis to committee members. During legislative sessions this is an easier task because committee members are meeting together regularly. This becomes more difficult when the Legislature is not in session--though the need for current information and analysis continues to exist. Committee staff communicate with committee members on an individual basis, during the interim, on matters that arise and are within a committee's purview; It is the intent of this newsletter approach to provide a more comprehensive and systematic way to help fulfill legislative information needs.

The focus of this issue of OPLA~Notes is on strategic planning and performance budgeting in state government. Agencies throughout state government are working on their strategic plans and pilot budgets. Legislative committees in the 118th Legislature will have responsibilities to review those agency plans and budgets and also help shape agency direction and goals. The next issue of the newsletter will discuss the newly enacted Government Evaluation Act requiring legislative review and approval of major substantive rules proposed by agencies.

We are hopeful this newsletter will be a useful approach to help the Legislature have accurate, relevant information on major issues and events in state and federal government. As we embark on this venture, we welcome your comments, and suggestions for topics to be discussed in a future issue of OPLA~Notes.

David E. Boulter  
Director

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## A New Frontier....Strategic Planning and Performance Budgeting

**W**ith the passage of LD 1790, “An Act to Implement Performance Budgeting in State Government” (Public Law 1995, chapter 705), the Legislature made a commitment to strategic planning and performance budgeting. The law provides for the development and full implementation of strategic planning and performance budgeting by 2000-2001 biennium for all departments, agencies and programs supported with state revenues.

The Commission on Performance Budgeting was created during the 117th Legislature to provide guidance and advice to both the Legislative and Executive branches regarding strategic planning and performance budgeting. The idea to initiate this system began in 1991 when the Special Commission on Governmental Restructuring recommended that the State of Maine implement strategic planning and a performance-based system of budgeting.

Performance budgeting ties the appropriation and allocation of state funding to clearly stated purposes and measurable outcomes. The goal of performance budgeting is to bring more accountability to state government and make better use of limited state funds.

### New Process for Reviewing the Budget

Performance budgeting, when fully implemented,

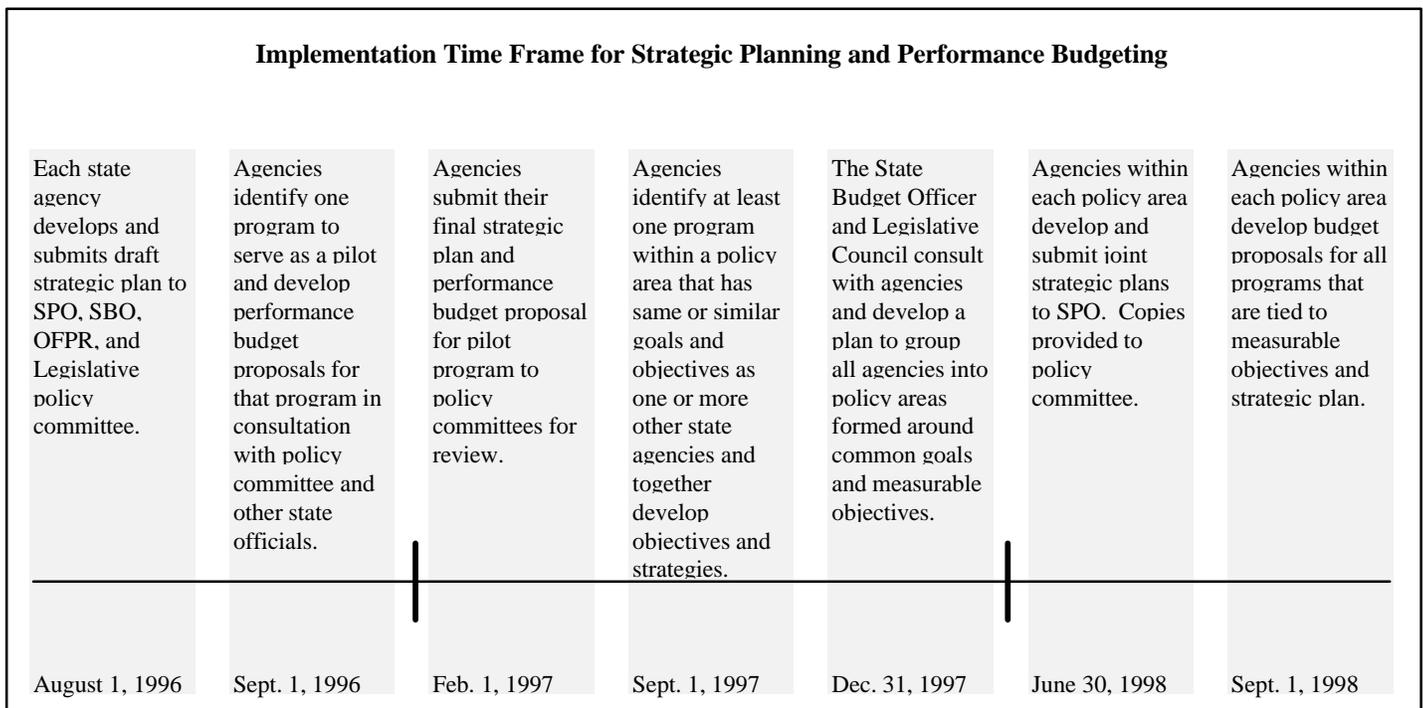
will present a new way of reviewing state agency budgets. The current budgeting method makes incremental changes to existing spending levels in order to develop a new budget. The current method takes the prior year’s budget and makes changes in the dollars appropriated and allocated to state agencies and other state-funded entities, adjusting for inflation and program changes. The budget reflects activities performed by state agencies and the level of effort expended by employees. Strategic planning is the process of developing a long-term, policy-oriented plan that links the present with a vision for the future. Strategic planning sets out an agency’s mission, goals, measurable objectives and strategies in order to provide direction for its operations. It provides a solid basis for making priority-based resource allocations and decisions.

The current budgeting method, however, does not spell out desired results to be achieved by the use of budgeted funds. Performance budgeting is intended to provide legislators with information to evaluate a budget according to specific policies and intended outcomes. The current method connects results to spending, so that taxes and other state revenues are directed toward results rather than efforts.

The process is underway for developing the format for Maine’s performance budget and for deciding how state budgeting will make the transition from the current method to the performance-based approach.

The State Planning Office (SPO), the Office of Training and the Bureau of the Budget are providing guidance to all state agencies on how to develop their strategic plans. Agencies are advised to involve many

### Implementation Time Frame for Strategic Planning and Performance Budgeting



different parties concerned with the agency's activities from the start of the strategic planning process and actively seek the comments of the "stakeholders".

These "stakeholders" include legislators, constituent and client groups, businesses, local government and others. Some legislative policy committees have established a three member sub-committee to attend executive agency strategic planning sessions. Committee staff have also been attending these strategic planning sessions. If you are interested in finding out about your committee's involvement in the agency strategic planning process, please contact your committee analysts at the Office of Policy and Legal Analysis, (207) 287-1670 or stop by Rooms 107/135 of the State House.

### **The Policy Committee's Role**

The Legislature's oversight of an agency strategic plan is an integral part in the strategic planning process. In the short term, the statute directs the agencies to consult with and receive comments from the legislative policy committee on the draft strategic plan and on the selection of the pilot program for performance budgeting. An agency must submit its final strategic plan and the pilot program budget to the policy committee early in the First Regular Session of the 118th Legislature.

The legislative policy committee's role is to ensure that the agency's mission and goals accurately reflect the purpose and statutory mandate of the agency and the priority issues confronting the agency. The committee should also consider whether the agency has identified relevant measurable objectives and whether the strategies for achieving those objectives are appropriate.

In the long term, the policy committee will be periodically evaluating the strategic plan to ensure that it continues to reflect the statutory purpose of the agency and the priority issues facing the state. The policy committee will also be reviewing the effectiveness of the various strategies in meeting the objectives and will be reviewing the budget based on this performance.

### **The Legislature's Strategic Plan**

As a state entity that receives a direct appropriation in the budget, the Legislative Branch is also subject to the requirements of LD 1790, "An Act to Implement Performance Budgeting in State Government" (Public Law 1995, chapter 705). The 117th Legislative Council appointed a subcommittee made up of Sen. Jane Amero, Rep. Elizabeth Mitchell and Rep. Dan Gwadosky to guide the development of a strategic plan for the Legislature. The full strategic planning work group consisted of the subcommittee, representatives from each of the non-partisan staff offices, the Clerk of the House and the Sec-

retary of the Senate. The Strategic Planning work group drafted each element of the strategic plan and has sought review and comments on them before presenting the plan to the 118th Legislative Council for approval.

The work group has developed a draft mission statement, goals, objectives and strategies. The Legislature's draft mission, broad goal statements and objectives are below.

#### **Draft Mission Statement**

The legislative branch, as directly elected representatives of Maine people, openly establishes policy and allocates resources in the public interest, responsibly, fairly and independently; promotes the public health, safety and well-being of Maine people; and ensures the rights and liberties guaranteed by the Constitution of Maine.



#### **Draft Broad Goals and Objectives**

**Goal A.** Foster the public trust by ensuring an open and fair process for the enactment of laws.

**Objective 1.** By the year 2000, increase public confidence in the state legislative process by 20% from the 1997 baseline.

**Objective 2.** By the year 2000, increase public access to the state legislative process by 20% from the 1997 rate of utilization.

**Goal B.** Ensure the institutional independence of the Legislature as a separate branch of government.

**Objective 1:** By the year 2000, legislative members will indicate a 20% increase in the capacity of the legislature for independent information analysis, policy formulation and decision-making, from the 1997 baseline.

**Objective 2:** By the year 2000, 80% of the legislative members will indicate that they have sufficient resources to fully carry out their functions as an independent branch of government.

**Goal C.** Provide leadership in the formulation of informed and coherent policy.

**Objective 1:** By the year 1998, ensure that at least 60% of agency-related bills are directly connected with and cite the appropriate agency's strategic plan.

**Objective 2:** By the year 2000, 98% of all legislation favorably reported out of committee and having a fiscal impact on a state agency will include measurable outcomes and relate to the appropriate agency's strategic plan and performance budget.

**Objective 3:** By the year 2000, 90% of committee members will indicate that bills favorably reported out of their committee have contributed to an informed and coherent policy.

**Goal D.** Ensure that the state's policies as enacted into law are responsibly administered.

**Objective 1:** By the year 1997, increase to 100% from the 1996 baseline, the number of major substantive rules that are reviewed and decided, in accordance with the statute governing legislative oversight of agency rule-making.

**Objective 2:** By the year 1998, increase to 95% the number of agencies that, when reviewed, will be found in substantial compliance with the laws governing the agencies (including rule-making requirements) and stated legislative policy direction.

**Objective 3:** By the year 2000, increase to 70% from the 1997 baseline, the percentage of Maine people who indicate the state's policies as enacted into law are being responsibly administered.

**Goal E.** Ensure the preservation, maintenance, and appropriate use of the State House and grounds as an act of the public trust granted to the Legislature by the People of Maine.

A copy of the Legislature's full draft strategic plan, including mission, goals, objectives, and strategies can be obtained by contacting the Office of Policy and Legal Analysis at 287-1670 or the Office of Fiscal and Program Review at 287-1635.

# Recent Legal Developments



## Justices Respond to Legal Questions Raised by Proposal for a Possible Competing Measure to Forest Practices Citizen Initiative

In an advisory opinion released July 24, 1996, the Justices of the Maine Supreme Judicial Court responded to three questions presented by Governor Angus King concerning competing ballot measures. The Governor called the Legislature into Special Session on September 5th to consider L.D. 1892, a proposal for a possible competing measure to the citizen-initiated forest practices measure that was scheduled to appear on last November's ballot. As the justices noted, its advisory opinions "are not binding decisions."

The first question was "Does the Maine Legislature have the authority to enact a 'true competing measure' at a future Special Session and refer that competing measure for consideration by the electors in the November 1996 general election under Article IV, Part 3, § 18?" The Justices found nothing in the citizen initiative section of the Constitution (Art. IV, Pt.3, sec. 18) that would limit the authority of the Legislature to enact a competing measure during a special session. The Justices indicated that their opinion was based on the assumption that the timing of the legislative enactment of a competing measure "would not interfere with the orderly printing and distribution of ballots."

The second question was "whether the Legislature may convene in Special Session to enact legislation dealing with the same subject matter treated in the [initiated measure], to become effective only in the event that the referendum fails, without referring that "fade-away" measure to the electors?" The Justices pointed out that the issue of whether a measure enacted by the Legislature is a "competing measure" is not determined by the desire or intent of the Legislature but by the substance of the measure. If a measure meets the constitutional test for a competing measure, the Constitution requires that it be submitted to the voters as a competing

measure. The Justices were asked to assume that the so-called “fade-away measure” would meet the test and be a competing measure. Using the logic of prior judicial precedent, the Justices concluded that “both measures (would be required) to be submitted to referendum vote.” “Use of a ‘fade-away’ measure, without referral to referendum...would frustrate the right of the people to vote on both.”

The last question propounded to the Justices was “Whether the Legislature may convene in Special Session to enact emergency legislation without referring that legislation to the electors as a competing measure?” Although the Justices suggested that the mere pendency of the November clearcutting referendum did not constitute an emergency within the meaning of the Constitution, they also suggested that in situations where the Legislature is “confronted with emergencies that require immediate action to avoid injury to the state” the Legislature may enact emergency legislation “amending laws falling within the scope of an initiated measure and effective when approved by the Governor without interfering with the pending initiative process.”

## Internet Intersection

The Internet contains a vast collection of information which is available within a matter of seconds. The most challenging part of the Internet is accessing relevant, useful and reliable information for your particular interests. This takes practice and some patience but in no time at all you will be surfing the “Web” like a pro. A useful starting point is the Maine State homepage (<http://www.state.me.us>) which lists resources around the state and has search engines listed for further inquiries on the net. Another useful starting point is an introduction to the WWW from the University of Northern Iowa. It provides a good overview of the “Web” and also includes a Glossary of World Wide Web Jargon. (<http://www.uni.edu/isccsus/document/wwwfaq>).



### Policy and Government

## Did You Know?.....

The first book of poetry published in Maine was written by Enoch Lincoln, Maine’s sixth governor. The poem, *The Village*, is 2000 lines and was written by Lincoln while he was living in Fryeburg and working as a lawyer.



One account of the origin of the name Augusta is that the city was named in honor of Pamela Augusta Dearborn, a daughter of General Henry Dearborn, the prominent Revolutionary soldier who was elected Representative to the Continental Congress from the Kennebec District in 1783.

**Census Bureau Home Page:** Provides access to census information.

<http://www.census.gov/>

**National Conference of State Legislatures:** Provides hypertext links to state legislative sites and other government resources.

<http://www.ncsl.org/>

**Thomas:** Federal legislation from 1973 to present as well as links to other governmental information.

<http://thomas.loc.gov/>

Provides links to “hot” topics in government by subject.

<http://thomas.loc.gov/home/hot-subj.html>

**Library of Congress:** Ultimate library catalog. Can help obtain obscure books.

<http://lcweb.loc.gov/homepage/lchp.html>

**Government Accounting Office:** Provides access to full text of its reports on a variety of topics.

<http://www.gao.gov/>

**The Federal Web Locator:** Government information compiled by Villanova Center for Information Law & Policy. Extensive listings categorized by government branch.

<http://www.law.vill.ed/Fed-Agency>



### Maine State Legislature

Currently provides access to House and Senate member information, staff offices, and calendar of events. In the future, will provide access to bill information.

<http://www.state.me.us/legis>

**Office of Policy & Legal Analysis:** Provides access to Legislative reports, bill summaries, study commission information.

<http://www.state.me.us/legis/opla>

**Law and Legislative Reference Library:** Provides access to URSUS catalog, collections information, reference information, Legislative History instructions and interlibrary loan information.

<http://www.state.me.us/legis/lawlib>



### Maine Judicial Branch

Directory of Maine courts, Law Court decisions, court publications, schedule of court fees and links to other legal sites.

<http://www.courts.state.me.us>



### News

**Top of the News**

<http://www.usatoday.com/>

**Newslink:** More than 3,000 links to news oriented sites.

<http://www.newslink.org>



### Interesting & Fun

**The Electronic Postcard:** MIT Media Lab site lets you choose a postcard from its collection, add a personal message complete with links and images and send it off to the

destination of your choice.

<http://persona.www.media.mit.edu/Postcards/>



You can access state information by going to the Maine State homepage and selecting the link to "Other States' Web Servers" near the bottom of the page. The National Conference of State Legislatures homepage can also provide connection to these sites.

### **State Statutes (26 states)**

- Alaska
- Arizona
- California
- Colorado
- Florida
- Idaho
- Indiana
- Iowa
- Kentucky
- Louisiana
- Maryland
- Minnesota
- Missouri
- Montana
- Nebraska
- New York
- North Carolina
- Oregon
- South Dakota
- Rhode Island
- Vermont
- Utah
- Virginia
- Washington
- Wisconsin
- Wyoming

### **Bill Text and Status Information (35 states)**

- Alaska
- Arizona
- California
- Colorado
- Florida
- Georgia
- Hawaii
- Idaho
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maryland
- Massachusetts
- Minnesota
- Missouri
- Montana
- Nebraska
- New Hampshire
- New Jersey
- New Mexico
- New York
- North Carolina
- Oregon
- Rhode Island
- South Carolina
- South Dakota
- Texas
- Utah
- Vermont
- Virginia
- Washington
- Wisconsin
- Wyoming



## OPLA PUBLICATIONS

- A listing of past reports of legislative committees and commissions categorized by year is available from OPLA. The following current publications are now available:
- **Summaries of Bills from the 117th Legislature Second Regular Session and Second Special Session**

Summarizes all legislation considered by the 15 OPLA-staffed Joint Standing Committees of the Legislature and describes bills, committee amendments, other relevant amendments and the final action taken on each bill. There are also copies of bill summaries for each individual joint standing committee available. Bill summaries are also available on the Internet at <http://www.state.me.us/legis/opla>.

- **Strategic Planning and Performance Budgeting: A Guide for Legislators**

Provides overview of new system of strategic planning and budgeting established in law and outlines roles of both legislative policy committees and state departments and agencies in the process.

- **Report of the Commission to Study Poverty Among Working Parents**

Final report and recommendations of 21 member commission that studied the extent to which poverty exists among working families or underemployed parents with children, and economic development efforts and other public and private sector initiatives that could reduce poverty (available through the Internet at <http://www.state.me.us/legis/opla/reports.htm>).

- **A Legislator's Guide to Maine's Marine Resources Law**

A quick reference manual summarizing Maine's marine resource laws including aquaculture leases, Maine Department of Marine Resources' administration and an appendix listing types of licenses and associated fees.

- **A Legislator's Guide to Maine's Major Natural Resource and Environmental Laws**

A quick reference manual summarizing Maine's natural resource and environmental laws relating to air, forest practices, land, oil, waste and water.

- **Compilation of Executive Summaries of Studies**

A compilation of executive summaries from interim legislative studies of the 117th Legislature First Regular Session staffed by OPLA.

For printed copies of these publications, please contact the Office of Policy and Legal Analysis at 13 State House Station, Augusta, Maine 04333 (287-1670) or stop by Rooms 101/107 of the State House. Legislators and members of the public may request a copy at no charge. Additional copies of the publications are available at nominal cost. Most of these publications are also available on the OPLA website at:

<http://www.state.me.us/legis/opla>

## Interim Studies of Note



### Studies

### Reporting Date

Task Force on Production and Issuance of License Plates (P.L. 1995, Chapter 645, sec. C-15)	1/1/97 to Transportation Committee and Council
Advisory Committee on Gambling (Executive Order #8, FY 1995-96)	118th 1st Regular to Governor, Presiding Officers and LVA Committee
Advisory Commission to Assist in Management of State Employee Workers' Compensation Costs (Resolves 1995, Chapter 63)	2/1/97 to Governor, LAB & SLG Committees
Study Group to Review and Make Recommendations on School Construction Issues (P.L. 1995, Chapter 632)	12/1/96 to Education Committee

# A Word About Ourselves

The Office of Policy and Legal Analysis (OPLA) is one of several nonpartisan offices of the Maine State Legislature. It operates under the auspices of the Legislative Council. The office provides professional staff assistance to the joint standing and select committees, including provision of policy and legal research and analysis, coordination of the committee process, drafting of bills and amendments, statutory analysis of budget bills in cooperation with the Office of Fiscal and Program Review and preparation of legislative proposals, reports and recommendations. Following is the mission of the office:

Task Force on Lead Poisoning Liability and Insurance (P.L. 1995, Chapter 572)	11/1/98 to Council, JUD and HHS Committees
Committee to Study Disability Retirement (P.L. 1995, Chapter 643)	2/15/97 to Committee of jurisdiction; Committee may introduce legislation
Task Force on Paperwork Reduction in Nursing Facilities (Resolve 1995, Chapter 71)	7/15/96 Interim 11/15/96 Final to HHS Committee
Family Law Advisory Commission (P.L. 1995, Chapter 694, sec. A-16)	12/15/96 to JUD Committee
Select Committee to Study the Health Effects of Reformulated Gasoline	No established reporting date
Study Committee on Motor Carrier Training (P.L. 1995, Chapter 376)	1/31/97 to Ex. Director and TRA Committee
Commission on the Economic Impact of Time-Limited Aid For Families with Dependent Children Benefits (P.L. 1995, Chapter 418, Part D)	2/1/97
Maine Harness Racing Task Force (Executive Order #6, FY 1995-96)	2/15/97
Select Committee to Study Nursing Home Costs (Authorized by Presiding Officers)	8/1/96
Health & Human Services Committee Study of Mental Health Delivery and the Department of Mental Health	9/1/96
Judicial Compensation Commission (Title 4, chapter 38)	12/1/96 to JUD and AFA Committees
TQM Subcommittee on Rules	TQM Committee and Legislative Council

## OPLA Mission

The Office of Policy and Legal Analysis assists, in a nonpartisan and responsive manner, the Maine Legislature, its committees and its members in fulfilling the Legislature's mission by providing objective information, impartial legal and policy analysis, and assisting in formulating and drafting legislative proposals, reports and recommendations.

## OPLA~Notes

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We welcome your comments and suggestions. Contact the Office of Policy and Legal Analysis by writing to 13 State House Station, Augusta, Maine 04333; calling 287-1670; or stopping by Rooms 101/107/135 of the State House.



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