

Statement of Eric Epstein: The Legislative Audit Advisory Commission's Approval of a "Slush Fund"

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Every year the Legislature budgets more taxpayer money than it needs, and creates an artificial surplus which it refunds to itself. The unspent funds from the "non-lapsing" accounts roll-over into discretionary slush funds.

According to last year's audit, the slush fund surplus was \$100,374,253. The government shutdown should have drained the reserves. Any balance or increase in the slush funds warrants an independent audit. Of course the usually chorus of fiscal conservatives will absent themselves from this abuse of power, and will likely allow this mandated scam to continue.

State law requires unspent program moneys to "lapse" or return to the Commonwealth of Pennsylvania at the end of the fiscal year. The only exception is if a waiver is granted by the Governor's Budget Secretary. It's time for Governor Wolf to intervene and refuse to grant the waiver.

These slush funds have been used to pay for alcohol, "floral purchases," "continuing education," meals, Starbucks; and in 2005, lawmakers underwrote an illegal midterm pay raise using "surplus funds."

To date, no caucus has created an internal policy that caps the size of the surplus or says how large it should be, even though the Legislature's own auditor makes the very same recommendation on an annual basis.

The surplus' stated purpose - as expounded by the Commission and its chairmen - is to maintain the Legislature's financial independence during a budget standoff. Frankly, this argument has not been justifiable since 2009. At that time, lawmakers used surplus money to pay staff during a 101-day budget impasse with then-Gov. Ed Rendell.

However, the Treasury Department interpreted a December 2009 Supreme Court decision to allow on-time and uninterrupted payroll payments to lawmakers and legislative employees in a budget impasse.

Clearly all four caucuses were able to make payroll in 2015, and the House Democrats were awarded an advance by the Department of Treasury.

The Department's legal opinion stated:

Without the ability to pay its employees, the General Assembly would be unable to enact laws related to the promotion and preservation of the general welfare — including the enactment of a budget. Therefore, just as it is necessary to pay executive and judicial branch employees who perform essential functions, it is necessary to pay legislative employees who perform the essential functions of the General Assembly.

Additionally, it is the position of the Treasurer that all state employees, including those in the legislative branch, have an absolute right to be paid for [work] performed. As a result, Treasury plans to continue to make payments when presented with a properly executed payroll request as it has since the beginning of the budget impasse.

Rock the Capital supports the elimination of the surplus in lieu of recent developments that clearly demonstrate legislators - and the largest staff in the nation - will be compensated during “budget impasses.”

The perk, per diem, and pension train ran on time during the budget shut down. Not one legislator missed a meal, paycheck or round of golf. In the real world, people don't stash a slush fund in their back pockets and reward themselves for not doing their job. It's time for the legislature to live in the real world. They should abolish automatic COLAs, unaffordable pensions and shut down the slush funds.

Recommendations to Avoid Future Budget Impasses:

Rock the Capital is recommending a six step plan to avert future budget impasses:

- Hold legislators' pay in escrow until the budget is signed into law.
- Hold the Governor's and cabinet members' pay in escrow until the budget is signed into law.
- Compel legislators to pay 100% of their health care until the budget is completed; at which time, they will be reimbursed in kind.
- Compel the Governor and cabinet members to pay 100% of their health care until the budget is completed; at which time, they will be reimbursed in kind.
- All days in which the budget is not signed into law after July 1 will not be counted, credited or factored for pension calculation purposes.
- Prohibit legislators and members of the executive branch - including the Governor - from being reimbursed for travel and lodging until the budget is signed into law.