SEN. KEVIN L. RAYE
CHAIR

REP. ROBERT W. NUTTING
VICE-CHAIR

EXECUTIVE DIRECTOR
DAVID E. BOULTER

125TH MAINE STATE LEGISLATURE

LEGISLATIVE COUNCIL

SEN. JONATHAN T. E. COURTNEY
SEN. BARRY J. HOBBINS
SEN. DEBRA D. PLOWMAN
SEN. JUSTIN L. ALFOND
REP. PHILIP A. CURTIS
REP. EMILY ANN CAIN
REP. ANDRE E. CUSHING III
REP. TERRY HAYES

MEETING SUMMARY
September 22, 2011

CALL TO ORDER

Legislative Council Chair, Senate President Raye called the September 22, 2011 Legislative Council meeting to order at 2:40 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Raye, Senator Courtney, Senator Hobbins and Senator Alfond

Absent: Senator Plowman (arrived after the start of the meeting)

Representatives: Speaker Nutting, Representative Curtis, Representative Cushing,

Absent: Representative Cain and Representative Hayes

Legislative Officers: Joseph Carleton, Secretary of the Senate
Heather Priest, Clerk of the House
David E. Boulter, Executive Director of the Legislative Council
Jon Clark, Deputy Director, Office of Policy and Legal Analysis
Grant Pennoyer, Director, Office of Fiscal and Program Review
Suzanne Gresser, Revisor of Statutes
Scott Clark, Director, Legislative Information Technology
John Barden, Director, Law and Legislative Reference Library
Beth Ashcroft, Director, Office of Program Evaluation and Government Accountability
Rose Breton, Legislative Finance Director
Debra Olken, Human Resources Director

Senate President Raye convened the meeting at 2:40 p.m. with a quorum of members present.

SUMMARY OF AUGUST 25, 2011 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of August 25, 2011 be accepted and placed on file. Motion by Senator Courtney. Second by Representative Nutting. **Motion passed unanimous (7-0,** with Senator Plowman, Representative Cain and Representative Hayes absent**).**

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REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

1. VoIP Telephone System
   Discussions with the vendor are on-going to prepare for installation of a VoIP telephone system in the Legislature. The proposed contract is currently under legal review. The anticipated completion date for installation of the system is prior to Thanksgiving.

2. Making Written Testimony Available Electronically and Developing a User-Friendly Webpage related to Committee Meetings and Events
   Staff is making progress to assess options and develop methodologies to make testimony available electronically and to improve access to committee information on the Legislature's webpage, in accordance with the Legislative Council's request last month.

3. House Chamber Desk Installation
   The House Chamber will be ready and the desks serviceable for the Special Session next week. Minor punch-list items will be completed in the days immediately following the session.

4. Passing of Reporter Mike Brown
   Mr. Boulter reported the sad news that long-time member of the State House Press Corps, Mike Brown, passed away unexpectedly on September 11, 2011 at the age of 81, at his home in Saturday Cove, Northport, Maine. He was the owner of Hometown News and Cove Writers, Inc. and reported on the issues and activities of State Government and the Legislature for many years. He also fished for lobsters, hauling as many as 100 traps each trip until his death. His presence in the State House will be sadly missed.

Fiscal Report

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

Revenue Update

Total General Fund Revenue - FY 2012 ($'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
August	$91.6	$98.9	$7.2	7.9%	$81.7	21.1%
FYTD	$316.0	$306.1	($9.9)	-3.1%	$298.4	2.6%

General Fund revenue was over budget by $7.2 million (7.9%) for August, which reduced the fiscal year-to-date (FYTD) negative variance to $9.9 million (3.1%). The 2.6% growth rate for the first 2 months of FY 2012 compared to the same period in the last fiscal year is above the nearly flat growth projected for all of FY 2012. August individual income tax withholding payments, the primary reason for the negative variance in July, were ahead of budget by $3.1 million, which reduced the negative variance for the first 2 months to $12.7 million. Corporate income tax revenue was above budget in August by $4.1 million and was above budget for the FYTD by $3.5 million. Taxable sales remained on target for the first 2 months. August's performance would have reduced the FYTD negative variance further but for an early payment under the BETR program that resulted in a $4.7 million negative variance in August that is a

timing issue only. There were also some improvements in some of the problem areas identified last month, but fine revenue and cigarette and tobacco tax revenue remain a concern.

Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2012 ($'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
August	$9.5	$9.3	($0.2)	-2.6%	$9.9	-6.6%
FYTD	$37.0	$36.0	($1.0)	-2.8%	$37.8	-4.6%

Highway Fund revenue was under budget by $0.2 million (2.6%) for the first month of FY 2012, which increased the negative variance for the FYTD to $1.0 million (2.8%). Highway Fund revenue for the FYTD reflected a decline of 4.6% compared with the first 2 months of FY 2010. Gasoline tax collections were $1.2 million under budget in August. The Fuel Tax category has had significant variability from budget, but there is no indication of a trend at this time.

Cash Balances

The average total cash pool balance for August was $554.5 million, $30.4 million higher than one year ago. General Fund internal cash flow borrowing was $76.8 million less than a year ago. Although this balance is below the 10-year August average of $600.5 million, balances remain healthy enough to avoid external borrowing in FY 2012 absent any significant variances in spending or revenue.

MaineCare Spending

The average weekly FY 2012 MaineCare spending of $43.6 million (state and federal dollars) through week 8 continues to be above average through the first five weeks of FY 2012 and greater than the FY2011 weekly average of $40.4 million. The sudden and significant increase in spending after week 5 of FY 2012 is currently unexplained. Anomalies in caseload data have yet to be explained or addressed. The Department of Health and Human Services (DHHS) indicated that this change is a trend that may result in a shortfall of $1.5 million per week.

Speaker Nutting asked if the MaineCare spending was due to an increase in the number of clients using the services. Mr. Pennoyer responded that consistent data are currently unavailable to compare due to a switch to a new program for tracking case load. DHHS is working on the issue and hopes to have the data soon.

Status of Legislative Studies

Jon Clark, Deputy Director of the Office of Policy and Legal Analysis, reported on the status of the legislative studies. Three studies (the Commission to Study Allocations of the Fund for a Healthy Maine, the Blue Ribbon Commission on Affordable Housing, and the Legislative Youth Advisory Council) are pending member appointments. The Right to Know Advisory Committee has held one meeting to date and has scheduled 3 additional meetings. The Committee to Review Issues Dealing with Regulatory Agendas is tentatively scheduled to meet on October 6, 2011. The Commission to Study Priorities and Timing of Judicial Proceedings in State Courts is scheduled to meet on October 12, 2011. The Citizen Trade Policy Commission has a meeting scheduled for November 3, 2011.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

President Raye, Chair of the Personnel Committee, reported that the Personnel Committee met September 22, 2011 to review the process and status for the recruitment of the OPLA Director. The committee reviewed the criteria for the OPLA Director position, established an interview team, and developed a tentative schedule for interviewing selected candidates for the position. The committee hopes to recommend a candidate for the director position by the Legislative Council's October or November meeting.

2. State House Facilities Committee

No report.

OLD BUSINESS

None

NEW BUSINESS

Item #1: OPEGA Biennial Work Plan for 2011-2012 (Status Report)

Beth Ashcroft, Director of the Office of Program Evaluation and Government Accountability (OPEGA), provided the Legislative Council with OPEGA's biennial workplan and an overview of the status of various projects being worked on by OPEGA staff. Ms. Ashcroft stated that OPEGA has issued two information briefs and two final reports. In addition, the Government Oversight Committee (GOC) undertook a review of the sale of State property in Thomaston, resulting in an additional project on the workplan, the project being a review of all sales of State real estate for the past 5 years. Of particular interest is the percentage of properties that were marketed publicly or had public notice of sale or were appraised prior to sale. OPEGA will present the results of its review at the October 18, 2011 meeting of the GOC.

Ms. Ashcroft stated that the other projects being worked on are: child development services; and Department of Corrections prisoner and health care services costs. She indicated that the BETR, BETE and TIF evaluations are on hold pending receipt of certain data. Several bills related to two reviews completed this year are being drafted.

In response to a question, Ms. Ashcroft stated that OPEGA undertook a rapid response review on the Maine Green Energy Alliance, completing its assessment in 3 months. In response to an inquiry, Ms. Ashcroft offered to provide the Legislative Council members with the GOC "on deck" or in queue projects to be considered for evaluation by OPEGA in the future.

President Raye thanked Ms. Ashcroft for her status report.

Item #2: Acceptance of Private Contribution from the Maine Affordable Housing Coalition to Support the Blue Ribbon Commission on Affordable Housing

The Blue Ribbon Commission on Affordable Housing was authorized by the Legislature conditional upon receipt of funding from private sources to fully fund the cost of the study. The Maine Affordable Housing Coalition (MAHC) has proposed to provide funding to support the commission in the amount of $4,630, and has submitted a disclosure in support of its contribution.

Mr. Boulter explained that under the guidelines adopted by the Legislative Council relating to legislative studies, acceptance of private contributions to fund a study is subject to approval by the council. Mr. Boulter provided the relevant section of the adopted guidelines, emphasizing that the donor must demonstrate to the satisfaction of the Legislative Council that the donor has no pecuniary or other vested interest in the outcome of the study.

Senator Plowman asked about the legal relationship between the Maine Affordable Housing Coalition and Avesta Housing who is identified on the disclosure as the fiscal sponsor. Senator Alfond responded that, as a member of the board of directors of Avesta Housing, he is familiar with the relationship. He explained that Avesta Housing is a member of the Maine Affordable Housing Coalition and is acting as fiscal sponsor for the study because the Maine Affordable Housing Coalition is a coalition of several organizations, including banks and financial nonprofit organizations, having an interest in affordable housing or financing affordable housing projects, is not a 501(c)3 organization under the U.S. tax code and in all likelihood does not have a federal identification number. He noted that Avesta Housing is a not-for-profit organization that operates in Maine and New Hampshire on affordable housing projects. It also is property manager for 50 to 75 buildings it owns or manages in central and southern Maine and in New Hampshire.

Motion: That the Legislative Council accept the private contribution from the Maine Affordable Housing Coalition in the amount of $4,630 to support costs of the Blue Ribbon Commission on Affordable Housing. Motion by Senator Hobbins. Second by Representative Curtis. **Motion passed (8-0,** with Representative Cain and Representative Hayes absent**).**

Item #3: Collective Bargaining Matters (EXECUTIVE SESSION)

Motion: That, in accordance with 1 MRSA section 405, subsection 6, the Legislative Council enter into an executive session for the purposes of discussing collective bargaining negotiations between the employee representative for the Administrative Unit of Legislative Employees and the Legislative Council. Motion by Representative Cushing. Second by Speaker Nutting. **Motion passed unanimous (8-0**, with Representative Cain and Representative Hayes absent**).**

The council entered into an executive session at 3:00 p.m. At the conclusion of the executive session, on a motion by Representative Cushing, seconded by Speaker Nutting, with Representative Cain and Representative Hayes absent, the Legislative Council voted unanimously to end its executive session at 3:27 p.m. The meeting then resumed.

ANNOUNCEMENTS AND REMARKS

Representative Cushing inquired about the status of the renovation to Parking Lot G. Mr. Boulter responded that the parking lot has been paved with a base coat of asphalt and will be available for Leadership parking for the Special Session next Tuesday. The parking lot work will resume following adjournment of the Special Session, including application of final coat of pavement shortly thereafter.

The Legislative Council meeting was adjourned at 3:28 p.m. on a motion by Representative Cushing, seconded by Representative Curtis. **Motion passed (8-0,** with Representative Cain and Representative Hayes absent**).**