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REP. ROBERT W. NUTTING
VICE-CHAIR

EXECUTIVE DIRECTOR
DAVID E. BOULTER

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

125TH MAINE STATE LEGISLATURE

LEGISLATIVE COUNCIL

MEETING SUMMARY
April 28, 2011

CALL TO ORDER

Legislative Council Chair, Senate President Raye called the April 28, 2011 Legislative Council meeting to order at 1:43 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	President Raye, Senator Plowman Absent: Senators Courtney, Hobbins and Alfond (Senators Courtney and Hobbins arrived after start of the meeting)
Representatives:	Speaker Nutting, Representative Curtis, Representative Cushing, Representative Cain, Representative Hayes
Legislative Officers:	Joseph Carlton, Secretary of the Senate Heather Priest, Clerk of the House David E. Boulter, Executive Director of the Legislative Council 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 Rose Breton, Legislative Finance Director Debra Olken, Human Resources Director

Senate President Raye convened the meeting at 1:43 P.M. with a quorum of members present.

SUMMARY OF MARCH 24, 2011 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of March 24, 2011 be accepted and placed on file. Motion by Speaker Nutting. Second by Senator Plowman. **Motion passed unanimous. (8-0;** Senators Hobbins and Alfond absent)

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Chair Raye asked if there was any objection to taking one item out of order. There was no objection. The Chair then moved to **New Business, Item 1.**

NEW BUSINESS

Item #1: Consideration of After Deadline Bill Requests / Addendum

The Legislative Council then proceeded to consider and vote on the bill requests in accordance with the previously established protocol. Of the 18 bill requests, the council authorized 15 requests for introduction in the 1st Regular Session of the 125th Legislature, 0 failed to be authorized, and 3 were tabled until a future Legislative Council meeting. Of the 4 joint resolutions, the council authorized 2 requests for introduction in the 1st Regular Session of the 125th Legislature, 1 failed to be authorized, and 1 was tabled until a future Legislative Council meeting. The Legislative Council's actions on the requests are included on the attached list.

The Legislative Council then returned to the other items on its agenda.

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

David Boulter, Executive Director of the Legislative Council, reported on the following:

1. State House Security Update
   At its meeting in March, the Legislative Council authorized installation of metal detection and package screening equipment in the West entrance to the State House, as a security measure and to maintain them in a state of readiness. The metal detectors are being assembled and will be ready to be tested and deployed once the package screening equipment is serviceable. Because the package screening equipment utilizes x-ray technology the equipment is required to be recertified and made serviceable before it is deployed. Chief of Capitol Police Gauvin has arranged for the recertification and officer training on the use of the equipment, which is scheduled for next week. Chief Gauvin anticipates all equipment to be in place and officers trained in their use by the end of the week of May 9th. The Budget Subcommittee has, among its various charges, consideration of potential areas of savings to partially fund costs for security/screening personnel.

2. Welcome Back Day
   Welcome Back Day for former legislators is scheduled for Thursday, May 12, 2011. The day includes various activities and recognitions, including a luncheon in the Hall of Flags that will be provided by the culinary arts students at Southern Maine Community College in South Portland. Welcome Back Day is organized by the Clerk's Office and an internal host committee.

Fiscal Report

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

Revenue Update

Total General Fund Revenue - FY 2011 ($'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
March	$204.1	$203.9	($0.2)	-0.1%	$188.0	8.4%
FYTD	$1,863.0	$1,884.6	$21.7	1.2%	$1,741.9	8.2%

General Fund revenue was just slightly under budget in March with a negative variance of $0.2 million (0.1%), but remained over budget by $21.7 million (1.2%) for the fiscal year-to-date (FYTD). For the first 3 quarters of FY 2011, the General Fund revenue has grown 8.2% compared with the same period last fiscal year.

The growth of Individual Income Tax revenue has been the primary factor in the General Fund's strong growth through 3 quarters with a $22.2 million positive variance and 9.8% growth. While this category was under budget in March by $3.2 million, it was due largely to an offset of February's positive variance in refunds. March refunds were $12.2 million over budget for the month. Refunds were ahead of projections (a negative variance) by $6.6 million for the FYTD through March. However, strong withholding payments growth continued to fuel the overall positive variance for Individual Income Tax. Withholding payments were $21.1 million over budget for the FYTD and through 3 quarters of FY 2011 have grown 6.1% over the same period last fiscal year. April's income tax processing indicates that results for the 2010 tax year were very close to projections.

Corporate Income Tax revenue was under budget in March by $1.8 million and fell below budget for the FYTD by $1.4 million (-1.0%). Estimated payments have been very volatile relative to budgeted amounts.

Sales and Use Tax revenue was ahead of projections in March, over by $1.0 million for the month and $12.9 million for the FYTD. However, Service Provider Tax revenue was below budget by $0.4 million in March and $2.6 million for the FYTD. Both of these categories are included in taxable sales data. The combined performance of these categories suggests that consumers have not reacted too negatively to the recent price increases in heating oil and gasoline.

With the strong performance of major taxes producing a combined positive variance of $31.1 million through March, revenue sharing transfers were $2.2 million higher than projected. March's negative variance for these major taxes will lower this positive variance to $2.0 million through April.

Estate Tax revenue rebounded in March with the receipt of a single estate tax payment of roughly $5.8 million in early March, erasing a negative variance in this category and ending March with a $4.3 positive variance.

There are several areas of concern that will likely be revised downward in the pending revenue forecast update. These include: Targeted Case Management revenue administered by the Department of Health and Human Services ($4.9 million or 27.5% under budget through March); fine revenue ($2.8 million or 10.7% under budget), lottery transfers ($2.1 million or 5.4% under budget) and STA-CAP transfers ($1.6 million or 12.9% under budget).

Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2011 ($'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
March	$22.5	$23.4	$0.8	3.8%	$22.6	3.4%
FYTD	$211.2	$214.2	$3.1	1.4%	$212.1	1.0%

Highway Fund revenue was over budget by $0.8 million (3.8%) in March, which increased the positive variance through 3 quarters of FY 2011 to $3.1 million (1.4%). Through March, Highway Fund revenue continued to reflect modest growth of 1.0% over the same period last fiscal year.

Fuel Tax revenues were below budget by $0.7 million in March. However, this negative variance was not driven by the gasoline tax as was the case in January and February but by the performance of Special Fuel and Road Use Taxes, which was under budget by $0.9 million. For the FYTD, the Fuel Tax category remained modestly over budget by $0.1 million (0.1%), due to positive variances that had accumulated through December.

The Motor Vehicle Registration and Fee revenue category was over budget by $1.9 million in March due solely to the early receipt of Long-term Trailer Registration Fees. Some element of this variance is a timing issue, but it is likely that this category will be revised upward in the next revenue forecast.

Cash Balances

The average total cash pool balance for March was $411.0 million, $117.6 million higher than one year ago. The recent historical average for March's cash balances is $450.8 million (March 2002 to 2010). Cash balances have shown improvement across the fund groups broken out below. Particularly important is the reduction in General Fund internal cash flow borrowing, more than $125 million less than a year ago.

Summary of Treasurer's Cash Pool
March Average Daily Balances (Millions of $'s)

	2010	2011
General Fund (GF) Total	$20.9	$5.1
General Fund (GF) Detail:		
Budget Stabilization Fund	$0.2	$25.4
Reserve for Operating Capital	$0.0	$11.2
Tax Anticipation Notes	$0.0	$0.0
Internal Borrowing	$380.8	$255.6
Other General Fund Cash	($360.1)	($287.2)
Other Spec. Rev. - Interest to GF	($2.1)	$16.5
Other State Funds - Interest to GF	$9.0	$17.4
Highway Fund	$32.0	$64.6
Other Spec. Rev. - Retaining Interest	$29.9	$31.4
Other State Funds	$104.4	$160.3
Independent Agency Funds	$99.2	$115.7
Total Cash Pool	**$293.4**	**$411.0**

Revenue Forecast Update

Summary of May 2011 Revenue Revisions
Millions of $'s
General Fund Summary

	FY10 Actual	FY11	FY12	FY13	FY14	FY15
Current Forecast	$2,755.7	$2,884.0	$2,945.3	$3,096.0	$3,289.7	$3,426.0
Annual % Growth	-2.0%	2.6%	6.9%	7.4%	11.7%	10.7%
Net Increase (Decrease)		$12.1	($4.8)	($42.2)	($85.7)	($84.1)
Revised Forecast	$2,755.7	$2,896.1	$2,940.6	$3,053.8	$3,203.9	$3,341.9
Annual % Growth	-2.0%	5.1%	1.5%	3.9%	4.9%	4.3%

Highway Fund Summary

	FY10 Actual	FY11	FY12	FY13	FY14	FY15
Current Forecast	$311.2	$307.7	$315.0	$320.4	$326.9	$333.0
Annual % Growth	-4.0%	-5.1%	1.2%	4.1%	3.8%	4.0%
Net Increase (Decrease)		$0.6	$1.3	$3.3	$2.3	$0.8
Revised Forecast	$311.2	$308.3	$316.4	$323.6	$329.2	$333.9
Annual % Growth	-4.0%	-0.9%	2.6%	2.3%	1.7%	1.4%

Fund for a Healthy Maine Summary

	FY10 Actual	FY11	FY12	FY13	FY14	FY15
Current Forecast	$57.6	$52.8	$53.5	$54.6	$60.5	$60.1
Annual % Growth	-15.9%	-8.3%	1.3%	2.1%	10.8%	-0.5%
Net Increase (Decrease)		$1.6	$0.0	($0.2)	($0.3)	($0.3)
Revised Forecast	$57.6	$54.4	$53.5	$54.4	$60.2	$59.9
Annual % Growth	-15.9%	-5.5%	-1.7%	1.7%	10.8%	-0.6%

Medicaid/MaineCare Dedicated Revenue Taxes Summary

	FY10 Actual	FY11	FY12	FY13	FY14	FY15
Current Forecast	$140.0	$151.3	$151.3	$151.3	$151.3	$151.3
Annual % Growth	1.4%	8.0%	0.0%	0.0%	0.0%	0.0%
Net Increase (Decrease)		($3.4)	$0.0	$0.0	$0.0	$0.0
Revised Forecast	$140.0	$147.9	$151.3	$151.3	$151.3	$151.3
Annual % Growth	1.4%	5.6%	2.3%	0.0%	0.0%	0.0%

The General Fund revenue forecast, with a new underlying economic forecast that assumes a slower recovery than previously projected, reduces budgeted resources available for the 2012-2013 Biennial Budget by just under $35 million. This amount reflects the increase of the FY 2011 balance forward by $12.1 million. In addition to the effects of the economic forecast, the following revenue sources were major factors and reduced budgeted General Fund revenue over the 3-year current budget period by:

- Targeted Case Management revenue - $25.8 million;
- Fines, Forfeits and Penalties revenue - $7.1 million; and
- Lottery Revenue - $6.4 million.

Budgeted revenue estimates for the Highway Fund and the Fund for a Healthy Maine were increased modestly, but the dedicated revenue taxes used to support the MaineCare program were revised downward on a one-time basis in the current fiscal year.

The most substantial risks to this forecast relate to the assumptions about oil prices. The underlying economic forecast assumes that oil prices, and subsequently energy prices, will recede from their current peaks. In addition, the Tobacco Settlement Payments may be significantly reduced next fiscal year depending on the outcome of legal proceedings on disputed payments related to the Non-participating Manufacturers Adjustment.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

President Raye, Chair of the Personnel Committee, reported that the Personnel Committee held a meeting earlier today, April 28, 2011 to consider requests by two legislative employees for temporary disability income benefits. Both requests were consistent with the provisions for temporary disability income benefits under the Legislative Council's personnel policies and guidelines and the applicable provisions of the collective bargaining agreement. Upon the recommendation of the employees' directors and the Executive Director, the committee voted unanimously to approve the requests. No Legislative Council action is required.

2. State House Facilities Committee

In the absence of Senator Courtney, Committee Chair, Senator Plowman reported on the committee meeting held on April 26, 2011.

The State House Facilities Committee met on April 26, 2011 to review the State House Facilities and Grounds improvement plan for 2011. After reviewing the proposed projects, the committee concluded the projects were appropriate and constitute health and safety improvements or will prevent more costly repairs to facility infrastructure in the future. Key projects include: interior plaster repair and paint; roofing and safety equipment inspections; repairs to the west wing entry stairs; north parking lot, sidewalk and crosswalk improvements; pedestrian path and grounds restoration in Capitol Park; and installation of an additional member desk in the House Chamber. The committee felt that further review should occur before authorizing installation of video broadcast cameras in the Appropriations committee room and recommended deferring action on that project until 2012. The committee also asked the Executive Director to explore potential options for an illuminated crosswalk to and from the state parking garage with MDOT or city officials. The committee voted unanimously to recommend approval of the plan with the two noted adjustments.

The council discussed the committee's recommendations, noting that two of the projects have already received approval by a previous Legislative Council. Several members asked for an explanation of costs relating to professional architectural, engineering and code compliance services. Mr. Boulter explained that the general conditions budget is comparable to anticipated costs for similar projects having similar scopes of work and costs for architectural services are significantly less than which would be experienced for other comparable state projects using the standard BGS cost formula. Representative Hayes commented that most of the projects constituted maintenance needs and improvements related to health and safety, with the exception of installation of video broadcasting capability in the committee rooms (recommended to be postponed until 2012), and not doing the projects may result in increased project costs in the future. Senator Raye commented that it may be appropriate that the committee share its recommendation with the council's budget subcommittee. The discussion concluded with several members commenting that more time is needed to review the plan and the facilities committee recommendation. Mr. Boulter indicated that lead time is needed to prepare technical drawings and construction-related work, but a short postponement to May should not be problematic.

The Legislative Council postponed action on the matter.

3. Budget Subcommittee

Speaker Nutting, Chair of the Budget Subcommittee, reported on the meeting held on April 12, 2011.

The Budget Subcommittee met on April 12th to review the proposed budget for the Legislature for the 2012-2013 biennium. At the meeting, members discussed the tentative budget submitted by the Legislative Council of the 124th Legislature and the Governor's budget proposal for the Legislature. The subcommittee will be meeting again on Monday, May 2nd to hear from the National Conference of State Legislatures (NCSL) representatives regarding the advantages of membership to NCSL and the services they provide to member states.

At a future meeting, the subcommittee will continue its budget discussions and vote on specific budget provisions affecting the Legislature. The Legislative Council members were reminded that the Council is charged with the responsibility for the Legislative budget, and once the subcommittee makes its recommendations to the full Legislative Council, the Legislative Council will convey its budget decisions to the Appropriations Committee so those budget adjustments will be incorporated into the Appropriations Committee budget amendment.

OLD BUSINESS

ITEM 1: Legislative Council Actions Taken by Ballot

The following actions were taken by ballot by the Legislative Council since the last meeting.

A. LR 2125 **An Act to Clarify the Scope of Practice of Licensed Alcohol and Drug Counselors Regarding Tobacco Use**

Submitted by: Representative Emily Cain
Approved: April 7, 2011 Vote: 10 – 0 in favor

B. LR 2131 **Resolve, Directing the Department of Marine Resources to Contract for an Independent Review of the Limited Entry Lobster Fishing System**

Submitted by: Representative Dianne Tilton
Approved: April 13, 2011 Vote: 10 – 0 in favor

NEW BUSINESS

Item #2: Notice of Audit of State Budget for the year ending June 30, 2011

The Maine Department of Audit sent a letter notifying the Legislative Council that it is performing the Single Audit of the State of Maine for the year ending June 30, 2011. No Legislative Council action is required.

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 Speaker Nutting. Second by Representative Cain. **Motion passed. (8-0**, with Senators Courtney and Alfond absent)

The council entered into an executive session at 2:45 PM. At the conclusion of the executive session, on a motion by Representative Cushing, seconded by Senator Hobbins, the Legislative Council voted (**7-0**, with Senators Courtney, Plowman and Alfond absent) to end its executive session at 2:59 PM.

Speaker Nutting offered the following motion:

Motion: That pursuant to its authority under 26 MRSA, Section 979-A, subsection 5, the Legislative Council of the 125th Legislature ratify the collective bargaining agreement for the period October 1, 2009 through September 30, 2011 that was negotiated and tentatively agreed to by the authorized representatives of the Legislative Council and the Maine State Employees Association-SEIU Local 1989 on behalf of the Administrative Unit of Legislative Employees on March 3, 2011, and ratified by its represented members on March 30, 2011;

Further, that the Legislative Council authorize its Executive Director to take all necessary steps to carry out the terms of this Agreement;

Further, that the Legislative Council apply personnel policies and benefit provisions relating to group health insurance, step increases, longevity stipends and political and partisan activity that are comparable to those contained in the collective bargaining agreement ratified by the Legislative Council and the MSEA-SEIU to legislative employees who are not represented by a collective bargaining agent, and direct its Executive Director to incorporate and administer those provisions; and

Further, that the Legislative Council authorize its Executive Director to enter into negotiations with the bargaining agent for the Independent Association of Nonpartisan Legislative Professionals (IANLP) over terms and conditions of employment for legislative employees in the IANLP bargaining unit. **Motion passed. (7-0**, with Senators Courtney, Plowman and Alfond absent)

ANNOUNCEMENTS AND REMARKS

The Legislative Council meeting was adjourned at 3:03 P.M. on a motion Senator Alfond, seconded by Representative Cain. **Motion passed unanimous (7-0,** with Senators Courtney, Plowman and Alfond absent).