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
August 25, 2011

CALL TO ORDER

Legislative Council Chair, Senate President Raye called the August 25, 2011 Legislative Council meeting to order at 1:45 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	President Raye, Senator Courtney, Senator Hobbins and Senator Alfond
	Absent: Senator Plowman
Representatives:	Speaker Nutting, Representative Curtis, Representative Cushing, Representative Cain
	Absent: Representative Hayes
Legislative Officers:	Joseph Carleton, Secretary of the Senate Shawn Roderick, Assistant 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 Rose Breton, Legislative Finance Director Debra Olken, Human Resources Director

Senate President Raye convened the meeting at 1:45 P.M. with a quorum of members present.

SUMMARY OF JUNE 28, 2011 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of June 28, 2011 be accepted and placed on file. Motion by Representative Cushing. Second by Representative Cain. **Motion passed unanimous (8-0,** with Senator Plowman and Representative Hayes absent**).**

Note: The Legislative Council did not meet in July.

115 STATE HOUSE STATION, AUGUSTA, MAINE 04333-0115
TELEPHONE (207) 287-1615 FAX (207) 287-1621

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

1. E-Filing of Rulemaking Notices

   State agencies may now file statutorily required notices of rulemaking electronically with the Legislature and notices will be sent to legislative committees electronically as well. Testing of the application this past session went well and the Executive Director's office will conclude offering agency training in the use of the e-filing application to all major departments and agencies this month. The notices will also be posted to the legislature's website beginning this fall.

2. Digitization of Library Materials

   Over the last 2 years, the Law and Legislative Reference Library has made a concerted effort to digitize legislative materials so they may be made available electronically. Included in the digitization project are joint standing committee master files and legislative documents and amendments. To date, the following have been digitized:

   - Over 7,000 committee-related items
   - Nearly 15,000 legislative documents and amendments
   - 33,000 pages of Laws of Maine
   - 20,000 pages of the Legislative Record
   - 14,000 pages of Revised Statutes (early editions)
   - Other materials such as Legislative Council materials and news clippings.

   The project is on-going.

3. Cloture Date Established

   By ballot vote, the Legislative Council has established Friday, September 30, 2011 at 4:00 PM as the date by when Legislators must file their bill requests for the second regular session and accompanying materials with the Office of the Revisor of Statutes.

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
July	$224.4	$207.2	($17.2)	-7.6%	$216.7	-4.4%
FYTD	$224.4	$207.2	($17.2)	-7.6%	$216.7	-4.4%

General Fund revenue was under budget by $17.2 million (7.6%) for the first month of FY 2012. This performance represented a decline of 4.4% compared with July 2010. A single month's variance is not a reliable indicator of a change in trend. July's variance appears to have been caused primarily by a $15.8 million variance in individual income tax withholding receipts. Some of this is a timing issue, but much of the variance is unexplained at this point. An additional $1.3 million of the negative variance was from revenue sharing transfers that were based on strong income and sales tax collections in June 2010.

There are some areas that merit closer scrutiny over the next few months including fine revenue, cigarette and tobacco tax revenue, racino revenue and lottery revenue. Inland Fisheries and Wildlife revenue was on budget for July, but requires monitoring after ending FY 2011 with a negative variance of $1.3 million. Sales tax collections may be a concern based on higher growth rate assumptions in FY 2012.

Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
July	$27.6	$26.8	($0.8)	-2.9%	$27.8	-3.9%
FYTD	$27.6	$26.8	($0.8)	-2.9%	$27.8	-3.9%

Highway Fund revenue was under budget by $0.8 million (2.9%) for the first month of FY 2012 and declined by 3.9% compared with July 2010. Mr. Pennoyer noted that it is too early to determine whether July's performance represents a negative trend. Fuel tax collections were modestly under budget and have been variable each month as receipts are due late in the month. Much of the remaining negative variance resulted from a variance in motor vehicle registration fees receipts, which is related to a delay in processing receipts this summer.

Cash Balances

The average total cash pool balance for July was $576.1 million, $90.1 million higher than one year ago. General Fund internal cash flow borrowing was $115.6 million less than a year ago, reflecting significant improvement in General Fund reserve balances. Some decline in the status of General Fund cash balances is expected over the course of FY 2012 as a result of interfund advance of $43 million in FY 2012 to be repaid in FY 2013. Absent any significant revenue or expenditure variances, the State appears to have a sufficiently strong cash position to avoid external borrowing in FY 2012. The last time the State issued a Tax Anticipation Note or borrowed externally for cash flow purposes was in FY 2006.

Revenue Forecasting Committee and Consensus Economic Forecasting Commission

The Revenue Forecasting Committee and the Consensus Economic Forecasting Commission met in a joint retreat last week. It was noted that though unemployment figures are decreasing, it is likely due to those who are leaving the labor market.

There was a vacancy on the Consensus Economic Forecasting Commission as a result of a resignation of one of the members. A new member, Michael Lavert, former state economist, was appointed to fill that vacancy.

Status of Legislative Studies

Jon Clark, Deputy Director of the Office of Policy and Legal Analysis, reported on the status of the legislative studies. Legislation authorizing three studies (Commission to Study Allocations of the Fund for a Healthy Maine, Commission to Study Priorities and Timing of Judicial Proceedings in State Court, and the Blue Ribbon Commission on Affordable Housing) takes effect on September 28, 2011. Two studies (Franco-American Task Force and the Legislative Youth Advisory Council) have not convened; they are pending member

appointments. The Right to Know Advisory Committee has held one meeting so far. The Citizen Trade Policy Commission has a meeting scheduled for September 16, 2011.

The Franco-American Task Force was authorized conditionally on obtaining private funding within 30 days to support the task force. Funding was not obtained so the task force will not be established. Legislation is planned to be introduced in the second regular session to authorize the task force for one rather than two years. It is anticipated that sufficient funds may be raised to support a one year study.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

No report.

2. State House Facilities Committee

No report.

OLD BUSINESS

Item #1: Legislative Council Actions Taken by Ballot

Legislative Council Decision:

That, pursuant to Joint Rule 203, the Legislative Council establish a cloture date of Friday, September 30, 2011 at 4:00 PM for submission of legislation by Legislators to the Revisor of Statutes for the Second Regular Session of the 125th Legislature, with the various procedures and scheduling to be established by the Legislative Council at a future meeting.

Motion by: Senator Kevin Raye
Second by: Representative Robert Nutting
Approved: August 16, 2011 Vote: 10-0 in favor

Item #2: Voice Over Internet Protocol (VoIP) Telephone System

Scott Clark, Director of the Office of Legislative Information Technology presented his report and recommendation regarding a proposed Voice Over Internet Protocol Telephone System for all legislative offices. Based on the outcome of the 3 phases of review of the proposals received, Mr. Clark, with input from various legislative proposal review groups, concluded that of the six proposals received the OTT Communications proposal is the one that would that best meet the Legislature's needs for telephone services. Mr. Clark recommended that the Legislative Council accept the proposal from OTT Communications and authorize the Executive Director to contract for installation and operation of a VoIP System for the Legislature this year.

Mr. Clark noted that the internal proposal review included a management team, a group of users that reviewed features and functionality and a technical team that evaluated the technical aspects of the proposed system. Mr. Clark said that OTT Communications' proposal is for a fully hosted

system and met the Legislature's requirements in all aspects. Mr. Clark drew Legislative Council members' attention to information in the packet that included a summary and side-by-side comparative information of the top two proposals, information about OTT Communications and cost information, including estimated 5-year costs for both a lease/purchase option and a direct purchase option.

President Raye inquired about initial costs. Mr. Boulter responded by referencing information in the cost summary. Upfront costs with the direct capital purchase option would be about $121,000, the preferred option. With a lease/purchase option, the capital costs would be built into the monthly rate, spread over 5 years (with interest). President Raye asked if there would be sufficient funds within the Legislative budget to pay the upfront purchase costs. Mr. Boulter responded by saying there are sufficient funds as long as the legislature can structure the payments properly with the vendor.

In response to a question, Mr. Clark explained that the system equipment is warranted for 5 years, the proposed contract period. Mr. Boulter added that the OTT proposal does not call for installation and use of proprietary equipment so after the initial 5 year period the legislature could seek a new vendor without having to replace installed equipment, giving the legislature greater flexibility to seek competitive pricing in the future.

Representative Cushing reminded the Legislative Council that he would be abstaining from participating in deliberations or voting on the proposal because he has a family member that is associated with a firm that is seeking the VoIP contract.

In response to a question about advantages of replacing the current telephone system, Mr. Clark responded that the current system is obsolete, being 25 years old. The new equipment utilizes current technologies, has increased functionality and features, including conference calling, reception functions, and visual voice mail, and will result in decreased costs to the legislature. Mr. Clark noted that the legislature will be the largest entity of state government to date, though not the first, to install a VoIP system.

Speaker Nutting asked about system redundancy in the event the Internet service is disrupted. Mr. Clark responded that OTT Communications will provide 2 separate Internet feeds from 2 different locations. Furthermore, if both OTT systems failed, the telephone system would be operational using the Legislature's current Internet Service Provider. A fourth and final backup would be a limited number of traditional (copper) land lines that would be available for use until full service could be restored.

Mr. Boulter reiterated that the capital costs would be about $121,000 with a monthly service charge of $6,300. Mr. Clark concluded by mentioning that the proposal includes on-site and online training in the use of the new system. Installation would take about 3 weeks, beginning in October.

> **Motion:** That the Legislative Council authorize the the Executive Director to enter into a contract with OTT Communications for the installation and operation of a VoIP telephone system for the Legislature. Motion by Representative Cain. Second by Representative Nutting. **Motion passed (7-0-1-0,** with Senator Plowman and Representative Hayes absent, and with Representative Cushing abstaining from voting**).**

NEW BUSINESS

Item #1: Establish Cloture and Related Dates for Filing Legislative Bill Requests

Suzanne Gresser, Revisor of Statutes, presented a proposed schedule that establishes dates and dealines for events related to cloture for legislator bill requests for the second regular session. By earlier vote, the Legislative Council established a cloture date of September 30, 2011 at 4:00 pm. Ms. Gresser proposed the following dates relating to the cloture and the Legislative Council action on bill requests:

- Thursday, October 27, 2011 – Legislative Council meeting for consideration of Legislators' requests
- Monday, October 31, 2011 – Notification of Council's action mailed to sponsors
- Monday, November 7, 2011 – Deadline for filing appeals
- Thursday, November 17, 2011 – Legislative Council meeting to consider appeals
- Thursday, December 15, 2011 – Bill Signing Day
- Wednesday, January 4, 2012 – Legislature reconvenes

Ms. Gresser explained that the purpose of a bill signing day is to allow the members to meet with their peers to get their bills signed and turned in, which then allows the Revisor's office the opportunity to complete and print the bills so that they are finalized and printed by the time the Legislature convenes in January. Speaker Nutting asked what the Legislators receive for compensation for a bill signing day. Mr. Boulter responded that legislators are paid expenses, but no per diem.

Senator Courtney noted that he had a scheduling conflict with the October Council meeting date. President Raye suggested changing the October Legislative Council meeting from the October 27th to the 31st, the notification date from October 31st to November 3rd and the deadline for filing appeals from November 7th to November 8th. The other members generally agreed with those changes.

Motion: That the Legislative Council approve the proposed cloture schedule as amended by the date changes to the October meeting, notification date and deadline for filing appeals. Motion by Representative Cushing. Second by Representative Cain. **Motion passed (8-0,** with Senator Plowman and Representative Hayes absent**).**

Item #2: Request to Carry Over Funds from FY11 to FY 12 (Citizen Trade Policy Commission)

The Citizen Trade Policy Commission requested approval to carry over $16,040 of unexpended funds that remained at the end of FY11 to FY12 to allow the commission to conduct those activities required under Public Law 2003, chapter 699 and to contract for staffing support. The commission intends to hold 10 meetings between September 2011 and July 2012, including 2 public hearings in separate locations in the state.

Speaker Nutting suggested that the commission could carry out its work with fewer than 10 meetings, and a reduction in the number of authorized meetings would be consistent with earlier council action on other studies. Senator Courtney suggested that the commission combine its public hearings with its business meetings on the same days.

President Raye proposed that the commission be authorized to meet up to 8 times to conduct its business, thus reducing commission expenses by $2,260.

Motion: That the Legislative Council authorize $13,780 to be carried forward from FY11 to FY12 for the purposes of providing additional funding to the Citizen Trade Policy Commission to hold up to 8 meetings in order to carry out its statutory duties. Motion by Representative Cain. Second by Representative Cushing. **Motion passed (8-0,** with Senator Plowman and Representative Hayes absent**).**

Item #3: Request for After Hours Use of the Hall of Flags for Reception and Educational Purposes on September 16, 2011

The Friends of the Blaine House requested approval to hold an after-hours reception in the Hall of Flags in the evening of Friday, September 16, 2011. The event, sponsored by the Friends of the Blaine House, will be a live broadcast of a program produced by C-SPAN featuring James G. Blaine as part of its "The Contenders" history series. C-SPAN is working in conjunction with Time Warner Cable to film the program at the Blaine House for broadcast that evening. Attendance at the reception will be by invitation only, for up to 100 invitees. Light refreshments will be served. The event will conclude by 10:00 PM. Costs of the event will be borne by the Friends of the Blaine House.

Motion: That the Legislative Council approve the request by the Friends of the Blaine House, for the use of the Hall of Flags in the evening of September 16, 2011. Motion by Representative Cushing. Second by Representative Cain. **Motion passed (8-0,** with Senator Plowman and Representative Hayes absent**).**

Item #4: Request for Approval of MDF Legislative Bus Tour Date and Breakfast Policy Forums

The Maine Development Foundation proposed two potential dates to conduct the second of two bus tours in January 2012: January 11-13 or January 18-20. In addition, MDF is requesting approval to hold a limited number of policy forum breakfasts for legislators during the second regular session that will cover some key topics that will not be covered as part of the bus tour. The bus tour and legislative policy forums are part of a continuing orientation program for legislators. MDF will work with the Executive Director's office on programming and scheduling, with the specific dates for the legislative policy forums subject to approval by the presiding officers.

Motion: That the Legislative Council approve the request by the Maine Development Foundation to conduct an educational bus tour for legislators from Wednesday, January 11, 2012 through Friday, January 13, 2012 and to hold several legislative policy forum breakfasts during the early part of the second regular session. Motion by Representative Cushing. Second by Representative Cain. **Motion passed (8-0,** with Senator Plowman and Representative Hayes absent**).**

Item #5: Proposed Staff Study of Feasibility of Making Written Materials Presented to Committees Available Electronically for Public Access

President Raye explained his desire that written testimony presented to joint standing committees during public hearings be available electronically for public access. He felt this measure would increase transparency to the legislative process and allow the media as well as members of the general public to keep abreast of legislative public hearings and work sessions. He suggested that a

group of staff could be assembled to develop a proposal for making the information available electronically.

Mr. Boulter noted that the legislature already has document scanners available, and the issue will be one of resources and logistics. Developing a uniform system for gathering the materials, scanning them and posting to the legislature's website would increase efficiency of operation. A brief discussion on various options followed.

Motion: That the Legislative Council request Executive Director Boulter to convene a group to develop a proposal for making testimony and other materials presented to legislative committees available electronically for public review and report back to the Legislative Council. Motion by Representative Nutting. Second by Representative Cushing. **Motion passed (8-0,** with Senator Plowman and Representative Hayes absent**).**

Item #6: Potential for Consolidating Multiple Website Information Links into Single, Searchable Point of Reference for Committee Information relating to Committee Activities

President Raye explained his concern that website information about legislative public meetings is not particularly user friendly. He felt that locating committee information such as public hearings and work sessions in one location and making it searchable would improve the website usefulness. President Raye invited Alison Sucy, Chief of Staff to the Speaker, to offer her suggestions. Ms. Sucy suggested that a calendar of all daily legislative events be posted on the legislature's website. Representative Cain suggested that a group representing various offices, including the Secretary of the Senate and the Clerk of the House, provide input in what key information should be consolidated and made searchable.

Motion: That the Legislative Council direct the Director of the Office of Legislative Information Technology to coordinate a work group of legislative staff representing various offices for the purpose of revising and consolidating presentation of committee meeting information and other committee activities into a common location on the legislature's website for ease of reference and searchability. Motion by Representative Cain. Second by Representative Curtis. **Motion passed (8-0,** with Senator Plowman and Representative Hayes absent**).**

Item #7: Review of Policies and System for Legislative Employees and Legislators to Remotely Access Email, Contact Lists and Calendars

President Raye explained that this is an issue raised by staff and Members who have had difficulty viewing their calendars and contacts using Microsoft Office remotely.

Mr. Clark commented that the current difficulty is due to the version of Microsoft Outlook (Office 2003) now in use that limits ease of access remotely. He stated that the planned upgrade of Microsoft Office software to Office 2010 should remedy the problem. Some training on the use of the upgraded software would be helpful, especially for legislators. Representative Cain suggested that a training session be held for interested Members on bill signing day. [Note: legislative staff will be offered training at the time the software is installed in their offices.]

Mr. Clark reiterated that he felt the difficulty of using applications remotely involves email, calendars and contacts in Outlook, not access to other resources on the Internet or inside the legislative network. Office 2010 should resolve the issues related to format and usability of those functions when accessing them remotely.

Legislative Council Chair President Raye concluded the discussion by stating that no Legislative Council action on this matter is necessary at this time since the scheduled software upgrade should resolve the issue satisfactorily. Mr. Clark will advise the Legislative Council following the upgrade if there are any steps the Legislative Council needs to take.

ANNOUNCEMENTS AND REMARKS

The Legislative Council meeting was adjourned at 3:03 P.M. on a motion by Representative Cain, seconded by Representative Curtis. **Motion passed (8-0,** with Senator Plowman and Representative Hayes absent**)**.