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CHAIR

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
January 27, 2011

CALL TO ORDER

Legislative Council Chair, Senate President Raye called the January 27, 2011 Legislative Council meeting to order at 1:54 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	President Raye, Senator Courtney, Senator Plowman, Senator Hobbins, Senator Alfond
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 Rose Breton, Legislative Finance Director Debra Olken, Human Resources Director Patrick Norton, Director, Office of Policy & 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

Senate President Raye convened the meeting at 1:54 P.M. with a quorum of members present.

SUMMARY OF DECEMBER 17, 2010 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of December 17, 2010 be accepted and placed on file. Motion by Representative Cushing. Second by Representative Cain. **Motion passed unanimous. (9-0;** Senator Courtney absent)

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

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

Economic Development Bus Tour

As part of the Legislative Council's orientation programs for the 125th Legislature, the Maine Development Foundation (MDF) arranged for an economic development bus tour of the mid-coast and Down East areas of Maine for all interested legislators. The bus tour took place from Wednesday, January 12, 2011 through Friday, January 14, 2011. They stopped at 9 locations. 67 legislators participated in the tour and their feedback has been very positive. Mr. Boulter acknowledged MDF's gratitude to the staff at Jasper's Restaurant in Ellsworth who made special arrangements to serve dinner to legislators during the winter storm.

Damage to Granite Bollard

Snow removal crews have damaged one of the granite bollards at the south entrance plaza at the State House. The estimated cost to repair or replace is $3500. The State's Risk Management Division is handling the claim and reimbursement process.

Dome Lighting

The last of the replacement lighting in the upper dome of the State House has been installed. LED and induction lighting were not feasible for this particular project, so metal halide lights were installed. The useful life of the lamps is increased by about 20% above that of the lamps they replace. The lights replace obsolete lamps that were installed in 1996.

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
December	$241.6	$237.3	($4.3)	-1.8%	$243.4	-2.5%
FYTD	$1,281.5	$1,283.5	$2.0	0.2%	$1,208.1	6.2%

General Fund revenue was $4.3 million (1.8%) under budget in December, but remained a positive variance for the first half of FY 2011 of $2.0 million (0.2%). The variances from budget reflect the increase of budgeted revenue in the December 2010 revenue forecast, which totaled $111.6 million in FY 2011. General Fund revenue performance reflects a 6.2% growth for the first half of FY 2011 over the same period in FY 2010.

The variance for the month of December reflects the catching up of tax relief program payments that had been lagging behind for the first 5 months of FY 2011 before December's surge, producing a negative variance for this category of $8.1 million. For the first half of FY 2011, this category was only modestly under budget.

Through the first half of FY 2011, the strong performers for the General Fund remain the Sales and Use Tax and Service Provider Tax combined (ahead of budget by $4.8 million) and the Corporate Income Tax (ahead of budget by $2.2 million). While Sales and Use Tax performed well, reflecting taxable sales through November, the potential remains for the recent increases in heating oil prices to significantly dampen taxable sales for the remainder of the winter months and beyond.

Some areas of concern through the first half of FY 2011 include fine revenue ($2.0 million or 12.5% under budget), lottery transfers ($1.4 million or 5.2% under budget), STA-CAP transfers ($1.5 million or 17.4% under budget) and Inland Fisheries and Wildlife revenue ($1.2 million or 11.2% under budget).

Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	$22.4	$22.7	$0.3	1.2%	$23.7	-4.3%
FYTD	$139.0	$140.0	$1.0	0.7%	$139.5	0.4%

Highway Fund revenue was over budget by $0.3 million (1.2%) in December and $1.0 million (0.7%) for the first half of FY 2011. This variance reflects the additional budgeted revenue included in the December 2010 revenue forecast. Although December's revenue performance reflected a decrease from December 2009, the first half of FY 2011 reflected modest growth for the Highway Fund over the same period in FY 2010.

Fuel Taxes remain the primary driver of the positive variance, with the performance of the Gasoline Tax leading the way with a positive variance for the first half of FY 2011 of $1.0 million. The recent increases in gasoline prices may negatively affect some of the positive variance over the remainder of the fiscal year.

Cash Balances

The average total cash pool balance for December was roughly $183 million higher than one year ago. At $513.1 million for December, the total cash is above December's recent historical average of $502.3 million (December 2001 to 2009). Average cash balances have shown improvement in virtually all of the groups broken out below. The improvement in the General Fund cash position is the primary contributor to this overall improvement. Reserve balances have improved but other factors, including constrained General Fund spending, have significantly reduced internal borrowing, which was $120 million less than a year ago in December.

Summary of Treasurer's Cash Pool
December Average Daily Balances
Millions of $'s

	2009	2010
General Fund (GF) Total	$16.3	$28.0
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	$300.0	$180.0
Other General Fund Cash	($283.9)	($188.6)
Other Spec. Rev. - Interest to GF	($17.2)	$12.4
Other State Funds - Interest to GF	$15.1	$14.8
Highway Fund	$20.4	$55.5
Other Spec. Rev. - Retaining Interest	$40.0	$55.3
Other State Funds	$152.4	$234.1
Independent Agency Funds	$103.2	$113.0
Total Cash Pool	**$330.2**	**$513.1**

Status of Legislative Studies

Mr. Boulter reported that all legislative studies have all been completed.

REPORTS FROM COUNCIL COMMITTEES

1. **Personnel Committee**

The Personnel Committee held its initial meeting earlier today, January 27, 2011 to consider 3 matters:

1. Reappointment of John R. Barden as Director of the Legislature's Law and Legislative Reference Library to a new 3 year term. The committee reviewed Mr. Barden's performance over the past 3 years and felt that the management and direction provided by Mr. Barden during that period have significantly improved the library's service to the Legislature, the Judiciary and others, improved responsiveness and moved the library toward much greater use of technology and digitization of resource materials. The committee felt that Mr. Barden performed very well as director since his appointment. The committee voted unanimously to recommend that Mr. Barden be reappointed to a new term at Step 5.

   Motion: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council reappoint John R. Barden to a new 3 year term as Director of the Legislature's Law and Legislative Reference Library, at Salary Step 5, the date of his reappointment being retroactive to January 2, 2011. Motion by Speaker Nutting. Second by Representative Cain. **Motion passed unanimous. (10-0)**

2. Reappointment of Beth Ashcroft as Director of the Office of Program Evaluation and Government Accountability to a new 5 year term. The committee began its review of Ms. Ashcroft's performance during the past 6 years. The committee had a very good discussion with Ms. Ashcroft but voted to table its recommendation until it offered the Government Oversight Committee an opportunity to make a recommendation as provided by law. The Personnel Committee will make a recommendation at its February meeting.

3. Request for Unpaid Leave of Absence. The committee considered a request by a Legislative employee for an unpaid leave of absence for a period following adjournment sine die of the 1st Regular Session and ending prior to convening of the 2nd Regular Session. The request is consistent with the provisions for unpaid leave under the Legislative Council's personnel policies and guidelines and the applicable provisions of the collective bargaining agreement. Upon the recommendation of the employee's director and the Executive Director, the committee voted unanimously to approve the request. No Legislative Council action is required.

2. **State House Facilities Committee**

The State House Facilities Committee held its initial meeting on January 12, 2011 and a second meeting on January 20, 2011. The topic at both meetings was consideration of additional security measures in and around the State House.

The committee reviewed a comprehensive Report on Capitol Security prepared by the Legislative Council's State House Facilities Committee in August 2006. The committee invited the participation of Russell Gauvin, Chief of Capitol Police. The committee requested Chief Gauvin to develop 4 options for security in the State House for consideration by the full Legislative Council. The options range from no substantial change (status quo) to increasing the number of law enforcement personnel assigned to Legislative areas and use of metal detectors and package

screening. The committee made no recommendation on the four options and presented them for consideration by the Legislative Council.

The Legislative Council briefly discussed security matters, noting that more than half of the states provide metal detection/screening of persons entering their state house. President Raye stated that he believed the council can find the right balance of increasing safety and security of people who work in the State House and the public that has a right to feel safe when visiting without instituting unduly burdensome security measures. Capitol Police Chief Gauvin then outlined 4 options for security measures to the Legislative Council.

In response to a question about funds used to purchase the council's existing security equipment (metal detectors and package screening devices), Mr. Boulter responded that the equipment was obtained using Homeland Security grant funds, with the understanding that the equipment was to be used for the State House. After further discussion, the council generally felt that because of the implications of a decision on the level of security in the State House, further consideration and a recommendation by the facilities committee would be beneficial.

Motion: To table the matter and direct the State House Facilities Committee to review various security options and make a recommendation to the Legislative Council at its February meeting. Motion by Senator Courtney. Second by Senator Alfond. **Motion passed unanimous. (10-0)**

OLD BUSINESS

ITEM 1: Legislative Council Actions Taken by Ballot

There were no Legislative Council actions taken by ballot since its December 17, 2010 meeting. No further action by the Legislative Council is required.

NEW BUSINESS

Item #1: Consideration of After Deadline Bill Requests

The Legislative Council considered 12 after deadline bill requests. Of the 12 requests, the council authorized 7 requests for introduction in the 1st regular session of the 125th Legislature, 1 failed to be authorized, 1 was withdrawn by the sponsor, and 3 were tabled until a future Legislative Council meeting. The Legislative Council's actions on the requests are included on the attached list.

Item #2: Establish Dates for 2011 Youth in Government Program

The State YMCA of Maine which organizes the Annual Youth in Government Program requested approval to hold the program for 2011 on November 18-20, 2011. In response to a question, Mr. Boulter indicated that a fall date (rather than spring date) for the program seems to work well for both the Legislature and the program, with fewer scheduling conflicts and a better predictability of program dates.

Motion: That the Legislative Council approve the request by the State YMCA of Maine to hold its 2011 Youth in Government Program in the State House on November 18-20, 2011. Motion by Representative Cain. Second by Representative Hayes. **Motion passed unanimous. (10-0)**

Item #3: Potential for Broadcasting Legislative Sessions via Cable Television

President Raye indicated that he would like the Legislative Council to explore the feasibility of broadcasting House and Senate sessions on cable television in Maine.

> **Motion:** That the Legislative Council refer the matter to the State House Facilities Committee for its consideration and recommendation to the council. Motion by Speaker Nutting. Second by Representative Cain. **Motion passed. (8-2, Senator Courtney and Representative Curtis opposed)**

Item #4: Request to Open the State House to Public on Saturdays

The Office of the Governor requested approval from the Legislative Council to open the State House to the public on Saturdays for a period of 6 months. The Governor's office proposed a protocol for constituent appointments with the Governor on Saturdays that include prior appointment, Capitol Police presence, background checks, and escorts to and from the Governor's office. Constituents would request appointments through the Governor's office.

> **Motion:** That the Legislative Council approve the request by the Governor to open the State House to the public on Saturdays on a limited basis for a period of 6 months. Motion by Representative Cain. Second by Representative Cushing. **Motion passed unanimous. (10-0)**

Item #5: Payment of CSG/ERC 2010 Annual Meeting Expenses

In August 2010, Maine hosted the Annual Meeting of the Council of State Governments, Eastern Regional Conference. Mr. Boulter explained that while the Legislative Council of the 124th Legislature had attempted to raise all funds needed to fulfill Maine obligations for the social program through private donations, it was not able to do so completely. About 2/3 of the costs were covered by $102,950 in funds received. Two obligations remain outstanding: payment to the Council's consultant for the event, Mr. John Hennessy, in the amount of $11,800 and reimbursement to CSG/ERC for expenses in the amount of $25,500. No outstanding pledges are expected to be received. Mr. Boulter recommended that the Legislative Council authorize payment of the outstanding amounts so that it remain in good standing with its contractors and membership organizations. The payment would be made from unexpended funds in the legislative accounts achieved through various savings measures, including advertising contracts and printing costs.

> **Motion:** That the Legislative Council authorize payment to the Council of State Governments/Eastern Regional Conference and to Mr. Hennessy in the amounts of $25,500 and $11,800 respectively as recommended by Executive Director Boulter. Motion by Representative Curtis. Second by Senator Alfond. **Motion passed unanimous. (10-0)**

Item #6: 2010 Annual Report of Midcoast Regional Development Authority

The Midcoast Regional Development Authority has submitted its Annual Report for 2010 for acceptance by the Council.

> **Motion:** To accept the 2010 Annual Report of the Midcoast Regional Development Authority and place it on file. Motion by Representative Hayes. Second by Representative Cushing. **Motion passed unanimous. (10-0)**

Item #7: Maine State Planning Office: *2011 Report on Poverty*

The Maine State Planning Office has submitted its report entitled *2011 Report on Poverty* for acceptance by the Council.

> **Motion:** To accept the *2011 Report on Poverty* from the Maine State Planning Office and place it on file. Motion by Speaker Nutting. Second by Representative Cain. **Motion passed unanimous. (10-0)**

Item #8: 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 Senator Alfond. **Motion passed unanimous. (10-0)**

The council entered into an executive session at 3:20 PM. At the conclusion of the executive session, on a motion by Representative Cushing, seconded by Representative Cain, with Senator Courtney absent, the Legislative Council voted unanimously to end its executive session at 3:40 PM.

ANNOUNCEMENTS AND REMARKS

The Legislative Council meeting was adjourned at 3:42 P.M. on a motion by Representative Cushing, seconded by Representative Cain. **Motion passed unanimous (9-0,** with Senator Courtney absent).