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
June 28, 2011

CALL TO ORDER

Legislative Council Chair, Senate President Raye called the June 28, 2011 Legislative Council meeting to order at 12:48 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	President Raye, Senator Courtney, Senator Plowman and Senator Alfond Absent: Senator Hobbins (arrived after start of the meeting)
Representatives:	Speaker Nutting, Representative Curtis, Representative Cushing, Representative Cain, 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 Patrick Norton, 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 12:48 P.M. with a quorum of members present.

SUMMARY OF JUNE 16, 2011 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of June 16, 2011 be accepted and placed on file. Motion by Representative Cushing. Second by Senator Alfond. **Motion passed unanimous (9-0,** with Senator Hobbins absent**).**

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REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

No report.

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
May	$214.7	$233.4	$18.7	8.7%	$224.0	4.2%
FYTD	$2,467.1	$2,482.6	$15.5	0.6%	$2,310.5	7.4%

General Fund revenue was above budget projections by $18.7 million (8.7%) in May and was $15.5 million (0.6%) above projections for the Fiscal Year-to-date (FYTD). These positive variances reflected the May 2011 revenue forecast, which increased budgeted General Fund revenue projections by $12.1 million for FY 2011. General Fund revenue growth remained strong and through May was 7.4% higher than the same period during the last fiscal year. The strength of the sales and income tax collections remained major factors in the positive FYTD variance. It remains too early to identify the amount of the FY 2011 revenue surplus.

Through May, Individual Income Tax revenue was $10.1 million above projections and Corporate Income Tax was $2.7 million above projections. Corporate Income Tax revenue is expected to be above budget projections in June. Sales and Use Tax performed well in May, coming in $5.8 million above projections, but lower Service Provider Tax revenue offset some of this. Combined, these taxes are $2.9 million above the revised projections.

Revenue sharing transfers continue to exceed projections (a negative revenue variance) based on the performance of the income and sales tax categories and will end the year roughly $0.8 million above revised projections.

Fine revenue and Inland Fisheries and Wildlife revenue remained below projections despite downward adjustments in the May revenue forecast.

Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
May	$25.1	$23.4	($1.7)	-6.7%	$25.3	-7.4%
FYTD	$264.1	$263.3	($0.8)	-0.3%	$264.9	-0.6%

Highway Fund revenue was below projections by $1.7 million (6.7%) in May and was below projections for the FYTD through May by $0.8 million (0.3%). The May 2011 revenue revision increased Highway Fund budgeted revenue by $0.6 million in FY 2011.

Within the broader category of Fuel Taxes, Gasoline Tax collections were below projections for the month by $3.1 million due to an approximately $4 million refund of taxes collected in April on exempt sales. Through May, Gasoline Tax collections were below projections by $2.6 million. Other components of the Fuel Taxes category were faring well compared to the revised forecast, so that overall the Fuel Taxes category was below projections by $2.1 million through May. The Gasoline Tax monthly distribution was distorted by the $4 million refund, so June's revenues may help offset some of the negative variance.

The Motor Vehicle Registration and Fee category has performed well relative to the revised forecast and was above projections by $1.0 million in May and $1.3 million for the FYTD, further reducing the negative variance for the Highway Fund.

FY2011 "Cascade"

Presented below are the planned transfers from the uncommitted, unappropriated surplus of the General Fund at the close of this current fiscal year. It is uncertain whether the amounts available will fully fund the 3rd priority transfer to the Maine Budget Stabilization Fund, and based on preliminary June data, it seems unlikely that the amounts will fund other items.

Fixed Dollar Transfers	
Replenish Contingent Account up to $350,000 (5 MRSA §1507)	
Transfer to Loan Insurance Reserve up to $1,000,000 (5 MRSA §1511)	
Budget Stabilization Fund transfer up to $25,000,000 (PL 2011, c. 28, I-1)	
Health and Human Services, Bureau of Medical Services up to $5,000,000 (PL 2011, c. 28, I-2)	
Health Insurance Internal Services Fund up to $2,500,488 (PL 2001, c. 28, I-3)	
% Transfers After Fixed Dollar Transfers (5 MRSA §1536)	
Maine Budget Stabilization Fund	35%
Retirement Allowance Fund	20%
Reserve for General Fund Operating Capital	20%
Retiree Health Internal Service Fund	15%
Capital Construction & Improvements Reserve Fund	10%

Cash Balances

The average total cash pool balance for April was $571.4 million, $123.0 million higher than one year ago. General Fund internal cash flow borrowing was $88.7 million less than a year ago. The Maine Budget Stabilization Fund balance below does not yet reflect the $3.1 million budgeted increase at the close of FY 2011 and does not include a $50,000 deduction for a law enforcement officer death benefit payment.

Summary of Treasurer's Cash Pool May Average Daily Balances Millions of $'s		
	2010	**2011**
General Fund (GF) Total	$26.2	$58.3
General Fund (GF) Detail:		
Budget Stabilization Fund	$0.2	$25.5
Reserve for Operating Capital	$0.0	$11.2
Tax Anticipation Notes	$0.0	$0.0
Internal Borrowing	$199.7	$111.0
Other General Fund Cash	($173.7)	($89.5)
Other Spec. Rev. - Interest to GF	($3.7)	$53.9
Other State Funds - Interest to GF	$8.3	$18.2
Highway Fund	$42.2	$67.8
Other Spec. Rev. - Retaining Interest	$79.7	$27.2
Other State Funds	$204.8	$233.3
Independent Agency Funds	$91.0	$112.7
Total Cash Pool	**$448.4**	**$571.4**

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

President Raye, Chair of the Personnel Committee, reported that the Personnel Committee held a meeting earlier in the day, June 28, 2011 to consider an employee retirement incentive program for Legislative employees. The State biennial budget included authorization for the Commissioner of Administrative and Financial Services to establish a retirement incentive program for Executive Branch employees who are eligible to retire from State service and have reached their normal retirement age. The Personnel Committee voted to recommend a similar program but structured to meet Legislative Branch needs. The amount of the retirement incentive would be the same for the full-time employees as that for Executive Branch employees ($5,000) and a lesser amount for eligible part-time and session-only employees ($2,500). There would be no budgetary impact to the Legislature as the retirement incentive would be paid for through achieving savings in legislative accounts that would offset the costs of retirement incentives.

Legislative Council Chair Raye asked Mr. Boulter to summarize the key elements of the proposed incentive program which he did as follows.

The retirement incentive program is for Legislative employees who are eligible to retire from State service. Program components include:

- Having been an employee of the Legislature for a period of at least 5 years;
- Being eligible to retire from State service;

- Having reached normal retirement age as defined by Maine PERS (age 60 or 62 depending on when first employed);
- Amount of the incentive is $5,000 for eligible full-time employees and $2,500 for eligible part-time and session-only employees, with payment being made in a single, lump sum with applicable income tax withholdings. The payment would not be calculated as part of an employee's earnings for retirement purposes;
- Costs to fund the incentive program would be funded by achieving comparable, off-setting savings in the relevant legislative account, resulting in no net increase to the General Fund budget; and
- Effective date of the program would be October 1, 2011 and the program would terminate at the end of FY13 unless it is extended in the future by the Legislative Council.

President Raye commented that the members of the Personnel Committee felt that since changes to State employee benefits that affected other State employees negatively were also applied to Legislative employees, a retirement incentive program, though modest, should also be afforded to Legislative employees.

The committee further authorized recruitment for the OPLA Director position, being vacated this fall by Patrick Norton. Mr. Norton, the Director of the Office of Policy and Legal Analysis for the past 6 years, has announced that he will not be seeking reappointment and will leave State service following adjournment of the 1st Regular Session. The Personnel Committee voted to authorize the Executive Director's office to recruit for the OPLA Director position with a goal of having a new director on board by fall. No Legislative Council action is required at this time.

President Raye recognized Mr. Norton for his many years of outstanding service to the Maine Legislature, his high degree of professionalism and the outstanding manner in which he conducts himself. He further stated that the Legislature owes Mr. Norton an enormous debt of gratitude. The council members thanked Mr. Norton for his years of service and wished him well in his future endeavors.

President Raye then offered the following motion.

> **Motion:** That upon the unanimous recommendation of the Personnel Committee, the Legislative Council adopt a retirement incentive program for legislative employees consistent with the eligibility and other program parameters established by the Personnel Committee; and further that the Executive Director develop and administer the program, with an effective date of October 1, 2011. Motion by President Raye. Second by Senator Hobbins. **Motion passed unanimous (10-0).**

2. State House Facilities Committee

No report.

OLD BUSINESS

Item #1: Legislative Council Actions Taken by Ballot

There were no Legislative Council actions taken by ballot since its June 16, 2011 meeting. No further action by the Legislative Council is required.

NEW BUSINESS

Item #1: Consideration of Proposed Legislative Study and Related Funding

The Council considered the proposed commission to reapportion Maine's Congressional districts, along with proposed funding to support the commission's activities. Mr. Boulter reminded members that by earlier action, the Legislative Council had authorized $280,000 for reapportionment activities. That amount was included in the biennial budget that was recently passed. At that time, reapportionment of the Congressional districts was envisioned to occur at the same time the House and Senate districts were reapportioned, not separately. Consequently, the funds were all budgeted in FY13. In order to fund reapportionment of Congressional districts this year, supporting funds need to be transferred from FY13 to FY12.

Speaker Nutting noted that his bill (LR 2217) to provide the funding proposes transferring $40,000 from the appropriated $280,000. Upon further consultation and consideration, Speaker Nutting felt a more appropriate amount is $60,000. He commented that some equipment such as computers and printers as well as software purchased for the Congressional district reapportionment can be reused for the House and Senate district reapportionment the following year.

President Raye asked whether an amount greater than $4,000 would need to be calculated for Personal Services. After consulting with Ms. Breton, Mr. Boulter responded that since the Personal Services is to pay per diem costs for the public members of the commission, $4,000 should remain sufficient. The additional $20,000 would be under the All Other line. The 15 members of the commission are entitled to expenses, charged against the All Other line.

Senator Hobbins expressed concern that the remaining $220,000 may be insufficient to carry out the second reapportionment.

Speaker Nutting commented that he felt the amount would be adequate but if it is not, the matter could be addressed at a later date.

> **Motion:** That the Legislative Council authorize the Commission to reapportion Maine's Congressional districts and to authorize introduction of LR 2217 as amended to transfer $60,000 in the Apportionment Commission account from fiscal year 2013 to fiscal year 2012 for the purpose of paying authorized expenses of the commission, $4,000 of which is in the Personal Services line and $56,000 of which is in the All Other line, with any balance to be equally divided between the major political parties after having paid all costs of the commission; and further that equipment and software purchased using these funds be made available to the commission to reapportion Maine's House and Senate districts following completion of the commission's work on Congressional districts. Motion by Representative Nutting. Second by Representative Cain. **Motion passed (9-0,** with Senator Alfond 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 $5,000 of unexpended funds for the purpose of conducting a biennial assessment in FY12 of the impact of international trade agreements on Maine's state and local laws, business environment and working conditions, pursuant to Public Law 2007, chapter 266, and to carry over all other unexpended funds remaining at the end of FY11 to FY12 to allow the commission to conduct those activities

required under Public Law 2003, chapter 699. Approximately $21,800 remains unexpended to date. The assessment is expected to cost $10,000.

Ms. Breton noted that the commission's budget for FY12 and FY13 includes funding of $12,370 each year to pay the per diem and expenses of commission members, the assessment and any public hearings that may be held. In response to a question by President Raye, Ms. Breton stated that there is separate legislation to appropriate $12,000 to the commission in FY13 for staff support. This would be in addition to the $12,370 already budgeted for commission activities.

Speaker Nutting stated that he would be comfortable authorizing $5,000 in unspent funds in FY11 being carried over to FY12 so the commission may conduct the assessment and considering carry over of other unspent funds at a later date after having provided the chairs of the commission an opportunity to explain to the Legislative Council the necessity for and proposed use of the remaining funds in FY12. The other members generally agreed to this approach.

Motion: That the Legislative Council approve the request by the Citizen Trade Policy Commission to carry over $5,000 from FY11 to FY12 for the purpose of conducting an assessment required by law; and further to defer action on the request to carry over additional funds until a future meeting of the council. Motion by Representative Nutting. Second by Representative Cushing. **Motion passed (9-0,** with Senator Alfond absent**).**

Item #3: Consideration of After Deadline Bill Requests / Addendum

The Legislative Council took action on the after deadline request by Speaker Nutting , LR 2217, under New Business Item #1, authorizing the request as amended for introduction in the 1st Regular Session of the 125th Legislature. Three requests remained tabled with no additional action taken by the Legislative Council. The Legislative Council's action on the requests are included on the attached list.

ANNOUNCEMENTS AND REMARKS

President Raye announced that since the Legislative Council had met 3 times in June, it would not be necessary to hold a Legislative Council meeting in July. Therefore, the next council meeting will be held in August on its regularly scheduled date.

The Legislative Council meeting was adjourned at 1:17 P.M. on a motion by Representative Curtis, seconded by Senator Courtney. **Motion passed (9-0,** with Senator Alfond absent**).**