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
March 24, 2011

CALL TO ORDER

Legislative Council Chair, Senate President Raye called the March 24, 2011 Legislative Council meeting to order at 1:43 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	President Raye, Senator Courtney, Senator Hobbins
	Absent: Senators Plowman and Alfond (both arrived after start)
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 Beth Ashcroft, Director, OPEGA 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 3, 2011 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of March 3, 2011 be accepted and placed on file. Motion by Senator Courtney. Second by Representative Cushing. **Motion passed unanimous. (8-0;** Senators Plowman and Alfond absent)

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

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

Retirement of Robert Michaud

Robert (Bob) Michaud, Associate Law Librarian in the Law and Legislative Reference Library is retiring after 28 years of service to the Legislature. Bob will retire on March 31, 2011. Bob's skills in legal research and compiling legislative histories and his helpfulness to all who had occasion to use the library have made him an invaluable member of the legislature's nonpartisan staff. A retirement celebration for Bob will be held in the library on Wednesday, March 30th from 2:00 to 3:00 PM and legislators and staff are welcome to stop by and wish Bob well in his retirement.

The Legislative Council recognized Mr. Michaud who was in the audience and congratulated him on his years of service and wished him well in his retirement.

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
February	$114.3	$131.1	$16.8	14.7%	$102.5	28.0%
FYTD	$1,658.9	$1,680.7	$21.8	1.3%	$1,553.9	8.2%

General Fund revenue was $16.8 million (14.7%) over budget in February and was $21.8 million (1.3%) over budget for the fiscal year-to-date (FYTD). Compared with the same period last fiscal year, General Fund revenue has grown 8.2% for the 8 months through February of FY 2011.

February's positive variance was driven by Individual Income Tax refunds falling $13.0 million below projections and withholding payments running ahead of projections by $4.6 million. The performance of refunds and withholding was offset slightly by estimated tax payments falling $0.6 million below projections so that overall Individual Income Tax had a positive variance of $17.2 million for February. Individual Income Tax is $25.3 million ahead of budget through February with growth of 9.7% over the same period in the prior fiscal year. The May 1st reporting deadline of the Revenue Forecasting Committee now allows the capture of this data for the mid-session revenue update.

Corporate Income Tax recovered in February, coming in $3.9 million over budget for the month and was $0.4 million ahead of budget for the FYTD through February.

Sales and Use Tax also came in ahead of projections in February, over by $1.0 million for the month and $12.0 million for the FYTD. However, the Service Provider Tax was below budget by $0.5 million in February and $2.2 million for the FYTD. Both of these categories

are included in taxable sales data. The combined performance of these categories seems to indicate that consumer spending has not been too badly affected by the recent price increases in heating oil and gasoline.

With the strong performance of these major taxes, a combined positive variance of $35.5 million through February, revenue sharing transfers were $1.1 million higher than projected.

The Other Revenue category was again under budget in February. February's negative $1.4 million variance increased the FYTD negative variance to $9.7 million (36.4%). Within this category, Targeted Case Management revenue administered by the Department of Health and Human Services was the major factor in this negative variance, falling below projections by $6.7 million through February. This shortfall is related to an information technology issue that is now nearly resolved. Other significant negative variances in this category included $0.9 million from a shortfall in a $1.5 million budgeted sale of state properties and $0.8 from other Department of Health and Human Services revenue sources.

Some areas of continuing concern through February of FY 2011 include fine revenue ($2.3 million or 10.7% under budget), lottery transfers ($2.3 million or 6.5% under budget) and STA-CAP transfers ($1.8 million or 16.1% under budget). These areas will likely be revised downward in the next revenue forecast due May 1st.

Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
February	$25.6	$25.1	($0.4)	-1.6%	$25.0	0.6%
FYTD	$188.6	$190.9	$2.2	1.2%	$189.5	0.7%

Highway Fund revenue was under budget by $0.4 million (1.6%) in February, which lowered the positive variance for the FYTD through February to $2.2 million (1.2%). Through February, Highway Fund revenue continued to reflect modest growth of 0.7% over the same period last fiscal year. Fuel Taxes fell slightly below budget in February due to the negative variance for the Gasoline Tax, very likely affected by recent price increases.

Cash Balances

The average total cash pool balance for February was $513.6 million, more than $150 million higher than one year ago. The recent historical average for February's cash balances is $541.0 million (February 2002 to 2010). Cash balances have shown improvement across the fund groups broken out below. The General Fund internal cash flow borrowing is $137.7 million less than a year ago. General Fund major reserve fund balances (the Maine Budget Stabilization Fund and the Reserve for Operating Capital) are $36.4 million more than last year. An additional $3.2 million is budgeted for transfer into the Budget Stabilization Fund at the close of FY 2011, which will increase the total General Fund reserves to nearly $40 million ($39.6 million).

Summary of Treasurer's Cash Pool February Average Daily Balances Millions of $'s	2010	2011
General Fund (GF) Total	$10.0	$21.7
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	$303.2	$165.5
Other General Fund Cash	($293.4)	($180.4)
Other Spec. Rev. - Interest to GF	$2.5	$31.1
Other State Funds - Interest to GF	$10.5	$17.8
Highway Fund	$22.8	$60.3
Other Spec. Rev. - Retaining Interest	$43.0	$54.0
Other State Funds	$172.1	$215.9
Independent Agency Funds	$96.0	$112.8
Total Cash Pool	**$356.8**	**$513.6**

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

President Raye, Chair of the Personnel Committee, reported that the Personnel Committee held a meeting earlier today, March 24, 2011 to consider the appointment of Beth Ashcroft to a 2nd term as Director of the Office of Program Evaluation and Government Accountability. The committee felt that Beth had performed well in her 1st term as director that began in January 2005. The committee voted unanimously to recommend that the Legislative Council appoint her to a second term as the director of OPEGA at Step 9.

Motion: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council appoint Beth Ashcroft to a new 5-year term as Director of the Office of Program Evaluation and Government Accountability at salary Step 9, the date of her appointment being retroactive to January 17, 2010. Motion by President Raye. Second by Senator Hobbins. **Motion passed unanimous. (10-0)**

Chair Raye recognized Ms. Ashcroft who was in the audience and on behalf of the Legislative Council offered congratulations to her on her reappointment.

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 14 bill requests, the council authorized 12 requests for introduction in the 1st Regular Session of the 125th Legislature, 1 failed to be authorized, and 1 remained tabled until a future Legislative Council meeting. Of the 6 joint resolutions, the council authorized 3 requests for introduction in the 1st Regular Session of the 125th Legislature, 2 failed to be authorized, and 1 remained 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 COUNCIL COMMITTEES

2. State House Facilities Committee

Senator Courtney, Chair of the State House Facilities Committee reported on the committee meeting held on March 16, 2011.

On March 16, 2011, the State House Facilities Committee met to discuss the feasibility of broadcasting sessions of the House and Senate throughout the state on cable television.

The committee invited a representative from Time Warner Cable, Melinda Poore, Vice President of Government and Public Affairs, to the meeting. Ms. Poore indicated that Time Warner now provides cable television service to 85% of Maine's cable subscribers and with agreements with other cable providers it could reach 97% to 100% of cable subscribers.

Time Warner Cable has offered to provide 2 cable channels dedicated to the Legislature as a public service with no cost to the Legislature or to subscribers for the express purpose of broadcasting House and Senate sessions and providing limited legislative information and legislator profiles. Time Warner would broadcast or rebroadcast the proceedings but would not provide programming services.

The committee was encouraged by the discussion and asked Mr. Boulter to take the next step of working with Time Warner to draft a use agreement for review. Following discussion and resolution of various logistical aspects, the committee plans to present the matter to the full Legislative Council for consideration at a Legislative Council meeting in the near future. No Legislative Council action is required at this time.

OLD BUSINESS

ITEM 1: Legislative Council Actions Taken by Ballot

A. LR 2101 **Resolve. Directing the Maine Community College System to Extinguish Certain Easements**

Submitted by: Senator Kevin Raye
Accepted: March 10, 2011 Vote: 10 – 0 in favor

Item #2: Consideration of Increased Security in State House

Mr. Boulter reminded the Legislative Council members that this matter had been tabled at the last council meeting. The State House Facilities Committee had considered recommendations by Capitol Police Chief Gauvin for various levels of increased security in the State House and the Chief had identified 4 options. President Raye expressed his support for Option 3 that would provide for installation of enhanced security equipment and periodic screening of individuals entering the State House. He noted that the security level decision needs to be made in the context of the overall legislative budget and the Legislative Council's ability to identify savings to fund the periodic screening.

Senator Plowman asked that the meeting summary reflect that the issue of enhanced building security was raised prior to the attempted assassination of Congresswoman Gifford in Arizona, not following as suggested by Chief Gauvin's memo of January 26, 2011. She further stated that she was encouraged by President Raye's interest in enhancing security.

Senator Alfond inquired about the cost of conducting a security threat analysis of the building as had been raised by Senator Plowman earlier. He also asked when the last security assessment had been conducted.

Chief Gauvin responded that three security threat assessments of the capitol have been conducted in the past decade. The first, conducted prior to 9/11/01, in late 1999 or early 2000, was a very comprehensive one that took several months to complete. The assessment was conducted by a private contractor and cost about $75,000 to $85,000. A second assessment was conducted in 2003 that was performed by the Maine State Police. A third assessment was conducted in 2006 and released on August 21st of that year. That assessment was conducted by a panel of people including the Chief of the City of Augusta Police Department. The 1st study made 91 different recommendations, and the 2nd and 3rd ones made 17 or 18 recommendations. The majority of the no-cost recommendations have been accomplished. Many of the recommendations having costs have not been accomplished due to a lack of funding. Chief Gauvin said an informal assessment could not be conducted during the Legislative session due to resource constraints, and although he checked with outside firms he did not pursue them because they sought an up-front commitment, and the cost would be high.

Speaker Nutting said he supported security planning efforts but he felt that another study was unnecessary. It is already known what measures are recommended. He supported President Raye's suggestion that Option 2 be adopted and seek money in the Legislative budget to go beyond Option 2.

Senator Plowman asked Chief Gauvin which of his recommendations most closely matches recommendations made in the latest threat assessment. Chief Gauvin replied that all 3 studies recommend the equivalent of Option 4 with full-time screening in order to have a secure environment.

Representative Hayes stated that she favors Option 1 because she has not felt that security is lacking and has not felt threatened. She also noted that the other options do not address the issue of providing security in the Cross Building.

Senator Plowman stated that the Legislative Council has a responsibility to provide a safe work environment for employees and others who work in the State House. She reiterated that the Legislative Council has a duty to provide a safe environment as with any other employer.

Representative Cain indicated that she is looking forward to the discussion on what security can be afforded; she expressed concerned about installing equipment but not using it, thereby giving people a false sense of security. President Raye asked if Capitol Police would have any resources for occasional screening. Chief Gauvin replied that there would be resources essentially only for training purposes or screening on a very, very limited basis.

In response to a question by Senator Plowman, Chief Gauvin said that Option 2 is essentially increased preparedness rather than an increased security option. Senator Plowman asked about the availability of reports of violence or suspicious activity. Chief Gauvin responded that he maintains reports but they are largely confidential. He offered to provide summary statistics.

> **Motion:** That the Legislative Council adopt the building security measures identified as Option 2 by the Chief of Capitol Police and direct its Budget Subcommittee to seek budgetary resources to implement Option 3 if it is feasible following the budget review. Motion by Senator Courtney. Second by Representative Nutting. **Motion passed. (6-4,** with Senator Hobbins, Senator Alfond, Representative Cain and Representative Hayes opposed**)**

NEW BUSINESS

Item #2: Request by the Joint Standing Committee on the Environment and Natural Resources to establish a Legislative Committee Facebook page and presence

The Legislative Council members discussed the committee's proposal and while members expressed interest in increased use of technology to provide greater accessibility to Legislative proceedings, they did not support the request. Members noted that there is a great deal of legislative information that is already available and readily accessible through the Internet and the Legislature's website. With applications such as Facebook, accountability for the information, dialogue posts, and private messages, and the monitoring of them, are issues of concern. In addition, Facebook posts would represent the committee, and there is an issue about who can "speak" for the committee. It was suggested that a more appropriate mechanism for increasing accessibility would be to provide better access to committee information within the existing information systems.

> **Motion:** That the Legislative Council deny the request by the Joint Standing Committee on the Environment and Natural Resources to establish a legislative committee Facebook page and presence on the Internet. Motion by Representative Nutting. Second by Senator Plowman. **Motion passed unanimous. (10-0)**

Item #3: VoIP Proposal for Telephone System Replacement

Information Technology Director Clark presented background information on the Legislative Council's authorization in 2010 to solicit proposals to replace the legislature's aging telephone system with an Internet-based Voice-over Internet Protocol (VoIP) system, and his recommendation to proceed to the next level of review of the proposals received.

Mr. Clark stated that in October 2010, the Legislative Council authorized the release of a Request for Proposals (RFP) for a legislative VoIP system. Six proposals were received and a listing of the responding firms was included in the Legislative Council's packet of information along with the RFP. After the Information Technology office concluded its technical review, the review team identified 3 top proposals. He stated that among the review criteria were consideration of proposal completeness, features, functionality, training and support, technical implementation plan, network considerations and cost.

Mr. Clark recommended that the Legislative Council authorize the staff to continue its review, invite oral presentations by the bidder finalists and convene an internal team of 6-8 individuals to assist in evaluating the proposals.

President Raye asked about potential cost savings by installing a VoIP telecommunications system. Mr. Clark estimated the savings to be between $30,000 and $40,000 annually based on his initial assessment. President Raye noted that Mr. Clark's memo to Mr. Boulter dated March 16, 2011 indicated that review might also lead the Legislative Council to conclude that it should not proceed for cost or other reasons, so favorable action on Mr. Clark's recommendation at this time would not commit the Legislative Council to accepting a proposal and installing a VoIP system.

Senator Plowman expressed concern that some telephone features such as visual voicemail may subject the Legislature to Freedom of Access requests. Mr. Clark noted that various features could be activated or not depending on what the organization determines is appropriate.

Representative Cushing stated that he intends to abstain from deliberations or voting on this matter because he has an immediate family member who is an employee of one of the firms who submitted a bid for the project.

> **Motion:** That the Legislative Council continue its review of proposals received for providing a VoIP telecommunications system for the Legislature including inviting presentations by the top 3 bidders selected by the Director of Information Technology and evaluating the proposals using an internal review team; and further, that the results of that review be presented to the Legislative Council for its consideration. Motion by Senator Plowman. Second by Senator Alfond. **Motion passed. (7-0-1-2,** with Senator Courtney and Representative Cain absent, and Representative Cushing abstaining)

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 Curtis. **Motion passed unanimous. (8-0**, with Senator Courtney and Representative Cain absent)

The council entered into an executive session at 2:50 PM. At the conclusion of the executive session, on a motion by Representative Curtis, seconded by Senator Hobbins, with Senator Courtney absent, the Legislative Council voted unanimously to end its executive session at 3:20 PM.

ANNOUNCEMENTS AND REMARKS

The Legislative Council meeting was adjourned at 3:21 P.M. on a motion Senator Alfond, seconded by Representative Cain. **Motion passed unanimous (9-0,** with Senator Courtney absent).