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
May 26, 2011

CALL TO ORDER

Legislative Council Chair, Senate President Raye called the May 26, 2011 Legislative Council meeting to order at 3:55 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	President Raye, Senator Courtney and Senator Alfond Absent: Senators Plowman and Hobbins (Senators Plowman and Hobbins arrived after start of the meeting)
Representatives:	Speaker Nutting, Representative Curtis, Representative Cushing, Representative Cain, Representative Hayes
Legislative Officers:	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 3:55 P.M. with a quorum of members present.

SUMMARY OF APRIL 28, 2011 MEETING OF LEGISLATIVE COUNCIL

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

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.**

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

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 8 bill requests, the council authorized 1 request for introduction in the 1st Regular Session of the 125th Legislature, 4 failed to be authorized, and 3 were tabled until a future Legislative Council meeting. Of the 3 joint resolutions, the council authorized 2 requests for introduction in the 1st Regular Session of the 125th Legislature and 1 failed to be authorized. 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. Online Filing of Rulemaking Notices
   After programming and extensive testing, the legislature's computer application for online filing of agency rulemaking notices is operational. With this new system, agencies who propose new or amended rules may file their required notices and fact sheets electronically with the Legislature. Once received and reviewed, the agency notices are sent to legislative committee members via email. In addition to rulemaking notices, agencies can also file their statutorily required regulatory agendas. To date about 12 agencies have received training on the online filing procedures, with more agencies being scheduled for training. This application will result in time efficiencies and reduction in paper use for both the Legislature and rulemaking agencies.

2. VoIP Telephone System Proposals – Update
   During the past month, 3 firms who submitted proposals to install a VoIP telephone system in the Legislature were invited to make presentations to technical and user groups. Vendors were given a building walk-through and an opportunity to ask and answer questions to clarify and refine their proposals. The Office of Information Technology is currently reviewing client references for the firms which should be concluded by the end of the month. A further presentation will be made by the bidders to narrow the list to 1 or 2 top vendors. Once the information has been fully gathered and assessed, the matter will be presented to the Legislative Council for consideration as to whether to proceed with a VoIP system for the Legislature.

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
April	$354.8	$364.5	$9.7	2.7%	$344.6	5.8%
FYTD	$2,217.8	$2,249.2	$31.4	1.4%	$2,086.5	7.8%

General Fund revenue was over budget by $9.7 million (2.7%) in April, increasing the positive variance for the fiscal year-to-date (FYTD) to $31.4 million based on the forecast prior to the May 2011 revisions, which increased the revenue forecast by $12.1 million. General Fund revenue growth through April was 7.8%, which is well ahead of the 5.1% growth assumption of the May 2011 revenue forecast. With just 2 months remaining in the fiscal year and with some preliminary indications of May's performance, it now appears that the General Fund revenue has a sufficient cushion to absorb the increase in the May 2011 revenue forecast and end the year with a revenue surplus.

Individual Income Tax revenue was $26.5 million above the previous forecast through April. This category was increased by $27.3 million in FY 2011, thus requiring only modest revenue improvement over the previous forecast to exceed the new benchmark.

Corporate Income Tax had a strong month in April offsetting a negative variance and building up a cushion of $6.1 million based on the previous forecast. The May 2011 forecast revises Corporate Income Tax revenue downward by $7.3 million, largely due to some large refunds to be paid out in the remaining months of FY 2011. Even with the downward revision, this category appears to be in good position to end the year with a positive variance.

Sales and Use Tax and Service Provider Tax revenue fell below budget in April and appears to be the result of high gasoline prices. Combined, these 2 categories were $8.5 million over budget for the FYTD through April. The May 2011 revenue forecast increases these categories by $9.3 million.

Revenue sharing transfers based on the performance of the income and sales tax categories have been ahead of projections by $2.1 million through April, which does yet include the excess transfers above projections from the positive variances of April's tax collections that would add roughly $0.5 million to the amount above projections. The May 2011 revenue forecast increased the budgeted amounts for these transfers by $2.0 million.

April's Estate Tax collections, which rebounded in March with the receipt of a single estate tax payment of roughly $5.8 million, added to this positive variance and has built up a cushion of $3.5 million after deducting the $2.1 million May 2011 upward revenue revision for this category.

The April performance of lottery transfers is another positive revenue development. These transfers were very close to budget for the month and are under budget by only $2.1 million through April. Absent some major negative variances over the last 2 months, this category should exceed the revised amounts in the May 2011 revenue forecast, which reduced this category by $3.0 million in FY 2011.

Some areas of concern include cigarette and tobacco tax collections, which was under budget by $1.7 million in April and $1.9 million for the FYTD, and Inland Fisheries and Wildlife revenue, which was under budget by $1.2 million in April and for the FYTD. These may be temporary negative variances related to timing and accounting issues.

Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
April	$27.0	$25.7	($1.4)	-5.0%	$27.5	-6.5%
FYTD	$238.2	$239.9	$1.7	0.7%	$239.6	0.1%

Highway Fund revenue was under budget by $1.4 million (5.0%) in April, but it remained over the budget for the FYTD through April by $1.7 million. The May 2011 revenue revision increases Highway Fund budgeted revenue by $0.6 million in FY 2011, thus leaving a surplus of more than $1 million with 2 month remaining in FY 2011.

Fuel Taxes were above budget by $0.3 million in April and was $0.4 million for the FYTD through April. The May 2011 revenue forecast lowers the projected revenue from this category by $0.3 million in FY 2011, largely from gasoline tax collections.

The Motor Vehicle Registration and Fee category was under budget by $2.0 million in April, but it remained over budget for the FYTD by $1.2 million. Much of April's negative variance and the positive FYTD variance were related to Long-term Trailer Registration Fees. The May 2011 revenue forecast increases by $1.0 million the revenue from these fees.

Tobacco Settlement Payments Update

In the May 2011 Revenue Forecasting Committee (RFC) report, the RFC had noted a potential significant risk to Maine's April 2012 tobacco settlement payments as a result of a pending legal proceeding under the Master Settlement Agreement (MSA) with tobacco manufacturers. On May 23rd, an Arbitration Panel reached a decision regarding the Non-participating Manufacturer (NPM) adjustment under the MSA for sales year 2003. The Participating Manufacturers (PMs) claimed that the Independent Auditor should have applied the NPM adjustment, which would have reduced their payment liability for that year. The panel's ruling denied that claim. As the Office of the Attorney General noted, this is a significant victory for the states.

While the panel's ruling only addresses 2003 and does not address subsequent years or limit challenges to individual states that they have not diligently enforced the MSA, it does avoid the immediate risk to April 2012 payments. If the States had not prevailed in this dispute, Maine's potential loss could have amounted to between $2.98 million (the credit due back for 2003 only) and $28.5 million (the credit for all of 2003-2009). Those credits would have been applied in addition to a reduction in payments per the NPM Adjustment amount for all future years as well.

This ruling does not affect budgeted revenue to the Fund for a Healthy Maine from tobacco settlement payments; it reduces the most significant risk in the current revenue forecast.

Cash Balances

The average total cash pool balance for April was $448.4 million, $105.5 million higher than one year ago. The recent historical average for April's cash balances is $482.4 million (April 2002 to 2010). Cash balances continue to show improvement across all the fund groups broken out below. Particularly important is the reduction in General Fund internal cash flow borrowing, $64.5 million less than a year ago.

Summary of Treasurer's Cash Pool April Average Daily Balances Millions of $'s		
	2010	**2011**
General Fund (GF) Total	$33.7	$50.5
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	$341.2	$276.7
Other General Fund Cash	($307.7)	($262.8)
Other Spec. Rev. - Interest to GF	($3.9)	$32.0
Other State Funds - Interest to GF	$8.0	$17.0
Highway Fund	$52.4	$71.8
Other Spec. Rev. - Retaining Interest	$29.9	$30.9
Other State Funds	$126.1	$130.1
Independent Agency Funds	$96.5	$115.9
Total Cash Pool	**$342.8**	**$448.4**

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

President Raye, Chair of the Personnel Committee, reported that the Personnel Committee held a meeting earlier today, May 26, 2011 to consider a request by the Director of the Law and Legislative Reference Library to reorganize the library which would result in consolidation of various functions, increased operational efficiency and managerial accountability, and a revised allocation of duties among the job classifications. President Raye noted that this reorganization, when fully implemented, will result in a savings of approximately $47,000 per year. The Personnel Committee unanimously recommended approval of the proposed plan for reorganization.

The committee also considered a request from a legislative employee for temporary disability income benefits. The request was 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 employee's director and the Executive Director, the committee voted unanimously to approve the request. No action by the Legislative Council was required on this matter.

The committee further discussed but took no formal action on a personnel matter relating to an incident involving a legislative employee.

President Raye then offered the following motion.

Motion: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council adopt the director's proposed reorganization of the Law and Legislative

Reference Library to improve operations, increase efficiencies and improve delivery of library services, including reclassifying a principal law librarian position to a deputy director position, downgrading principal librarian position to an associate law librarian position, replacing the current class title of associate law librarian with senior law librarian and a lower level associate law librarian position, and revising related job descriptions; further that the changes be achieved within the existing number of authorized positions; and further that the Director of the Law and Legislative Reference Library work with the Executive Director to implement the reorganization plan. Motion by President Raye. Second by Representative Cain. **Motion passed. (9-0**, with Senator Hobbins absent**)**

2. Budget Subcommittee

Speaker Nutting, Chair of the Budget Subcommittee, reported on the following:

The Budget Subcommittee met several times this month, including Wednesday, May 25th, to review the proposed budget for the Legislature for the 2012-2013 biennium. At the meeting, members discussed the tentative budget submitted by the previous Legislative Council, the Governor's proposal for the Legislature and areas of potential savings in the Legislative budget.

The committee voted on numerous items, with only one item outstanding; the resulting savings to be achieved totals approximately $8.3 million. Included in the subcommittee's budget adjustment is a proposed appropriation to the Bureau of Capitol Police to enhance security in the State House. Once the Appropriations Committee has decided on measures relating to health insurance and retirement, the Budget Subcommittee will present its recommendations to the full Legislative Council for a decision so those budget decisions can be incorporated into the Appropriations Committee budget amendment. Speaker Nutting noted that there may be some adjustments depending on how the Appropriations Committee modifies the Governor's proposed budget, but in any event the savings in the Legislative budget will be significant.

President Raye noted that these proposed savings represent approximately 14% of the budget for which the Legislature can be proud. President Raye further noted that the Legislative Council will vote on the final Legislative budget recommendations at a Legislative Council meeting to be scheduled in the near future.

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 2162 **Resolution Proposing an Amendment to the Constitution of Maine, to Provide for the Popular Election of the Secretary of State, Attorney General, Treasurer of State and State Auditor**

Submitted by: Senator Debra Plowman
Approved: April 29, 2011 Vote: 9 - 1 in favor

B. LR 2163 **An Act to Amend the Laws Governing Workers' Compensation**

Submitted by: Representative Andre E. Cushing III
Approved: May 3, 2011 Vote: 10 – 0 in favor

C. LR 2165 **An Act Relating to State Valuation of the Town of East Millinocket and the Town of Millinocket**

Submitted by: Representative Herbert Clark
Approved: May 11, 2011 Vote: 10 – 0 in favor

D. LR 2171 **Joint Resolution Memorializing the Maine Congressional Delegation to Insist on Open and Objective Evaluation by the United States Air Force Concerning Certain Basing Decisions**

Submitted by: Representative Kenneth Fredette
Approved: May 11, 2011 Vote: 10 – 0 in favor

E. LR 2172 **An Act to Amend the Winthrop Utilities District Charter**

Submitted by: Representative Patrick Flood
Approved: May 13, 2011 Vote: 10 – 0 in favor

F. LR 2173 **An Act to Further Improve Maine's Health Insurance Law**

Submitted by: Senator Rodney Whittemore
Approved: May 23, 2011 Vote: 8 – 2 in favor

Item #2: Maine State House & Grounds Multi-Year Plan for Maintenance & Improvements

The pending matter is consideration of the State House Facilities Committee's recommendation of a facility maintenance and improvement plan for 2011. The committee's recommendation was discussed but not acted upon by the Legislative Council at its April meeting.

By way of background, 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 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 paths and restoration in Capitol Park, and installation of an additional member desk in the House Chamber. However, the committee was not comfortable recommending 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 with MDOT or city officials to an illuminated crosswalk to and from the state parking garage that would be more cost-effective but still be functional. The committee voted unanimously to recommend approval of the plan with those noted adjustments. Since the last Legislative Council meeting, the committee's recommendation was reviewed by the Budget Subcommittee and after discussion, that committee was comfortable with the recommendation.

Motion: That upon the unanimous recommendation of the State House Facilities Committee, the Legislative Council authorize maintenance and improvements to the State House and Grounds as described in the 2011 revision of the Multi-Year Plan, except that Project 11.4 relating to technology enhancements to a committee room be deferred and reconsidered in 2012, and further authorize the Executive Director to take all necessary measures to implement the plan in accordance with the schedules contained in the plan, and to work with

the Maine Department of Transportation and the City of Augusta to evaluate various cost-effective crosswalk devices related to Project 11.5. Motion by Senator Courtney. Second by Speaker Nutting. **Motion passed unanimous. (10-0)**

NEW BUSINESS

Item #2: Costs of Providing Health Insurance to Legislators and Cost Saving Options

This matter has been under discussion by the Budget Subcommittee. During its budget review, the Budget Subcommittee noted that Legislators receive state-paid health insurance, and some Legislators have access to alternative health insurance or retain pre-existing coverage as well. The subcommittee felt that the Legislative Council could explore potential options for budget savings on legislator health insurance costs through an opt-out provision or similar policy. The subcommittee felt that referral to the Personnel Committee for its review later this year would be appropriate.

Motion: That the Legislative Council refer the matter of identifying and evaluating options to reduce costs of providing group health insurance to Legislators to the Personnel Committee for its review and recommendation to the Legislative Council. Motion by Representative Cain. Second by Senator Alfond. **Motion passed unanimous. (10-0)**

ANNOUNCEMENTS AND REMARKS

The Legislative Council meeting was adjourned at 4:43 P.M. on a motion by Speaker Nutting, seconded by Representative Cain. **Motion passed unanimous (10-0)**.