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
October 5, 2012

CALL TO ORDER

Legislative Council Chair, Senate President Raye called the October 5, 2012 Legislative Council meeting to order at 1:59 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	President Raye, Senator Courtney, Senator Plowman, Senator Hobbins and Senator Alfond
Representatives:	Speaker Nutting, Representative Curtis, Representative Cushing, Representative Cain and Representative Hayes
Legislative Officers:	Heather Priest, Clerk of the House Joseph Carleton Jr., Secretary of the Senate David E. Boulter, Executive Director Dawna Lopatosky, Legislative Finance Director Debra Olken, Human Resources Director Marion Hylan Barr, Director, Office of Policy and Legal Analysis Grant Pennoyer, Director, Office of Fiscal and Program Review Suzanne Gresser, Revisor of Statutes John Barden, Director, Law and Legislative Reference Library Scott Clark, Director, Legislative Information Technology

Senate President Raye convened the meeting at 1:59 p.m. with a quorum of members present.

SUMMARY OF JUNE 28, 2012 MEETING OF LEGISLATIVE COUNCIL

As the Legislative Council members were reviewing the meeting summary for the June Legislative Council meeting, Mr. Boulter mentioned that the discussion about Senator Mitchell's many accomplishments, reflected in the meeting summary, included some points that did not accurately reflect the historical content of Senator Mitchell's service. Specifically, Senator Mitchell, was one of two Senators from Maine [not the only one] to serve as Majority Leader, and secondly, Senator Mitchell, along with Rep. Thomas Brackett Reed and Rep. James Blaine [not only Rep. Reed], were elected officials from Maine to lead one of the Houses of the U.S. Congress. The Legislative Council

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members concurred that the meeting summary should accurately reflect the Congressional history and the inaccurate references should be stricken.

> **Motion:** That the Meeting Summary of June 28, 2012 be accepted as amended to correct the historical context of Senator Mitchell's service in the U.S. Congress and placed on file. Motion by Representative Cain. Second by Senator Plowman. **Motion passed (9-0-1,** with Representative Hayes abstaining).

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

David Boulter, Executive Director, reported on the following:

1. Tentative legislative budget for FY2014 – 2015

   In accordance with law, Mr. Boulter will be developing and submitting a tentative consolidated budget request for FY2014 – 2015 necessary to the operation of the legislative branch to the State Budget Officer. As in the past, the new Legislative Council will review the tentative budget for the next biennium, revising and increasing or decreasing the budget as it deems necessary at that time.

2. Legislator Orientation preparations

   Legislative offices are preparing materials for the New Member Orientation and Pre-Legislative Conference for the 126th Legislature. Once the agendas have been tentatively developed, a draft will be distributed to Legislative Council members for their review. New Member Orientation will be held on Thursday, November 15, 2012 and the Pre-Legislative Conference will be held on December 3 – 6, 2012.

3. Capitol Park restoration

   This summer's work to restore Capitol Park is completed. Restoration activities included improved and relocated walking paths, a low stone sitting wall, benches and picnic tables, park entrance piers, tree plantings and trimming, and an ADA-compliance entrance to the Vietnam Veterans memorial. Service entrances, catch basins and other infrastructure were also installed. Initial reaction to the improvements by park visitors has been very favorable. The plan is for drainage issues to be addressed next year.

4. Security area layout improvements

   A design to improve the West entrance to the State House to better accommodate security screening, improve flow and decrease wait times, and improve aesthetics is underway. The goal is to have the modifications in place before January 2013.

5. House Chamber

   A rather extensive water leak and plaster damage appeared on the north and east walls near the ceiling in the House Chamber recently. Investigation and repairs will begin next week. The leak appears related to the roof that is in need of full replacement in the near future.

Senator Plowman inquired as to whether the water damage to the House would be covered under the State's insurance policy. Mr. Boulter answered that he will inquire as to whether coverage is afforded for the damage, but that initial payment will be made from legislative accounts. Representative Cushing asked whether the 2012 multi-year plan for State House improvements included a budget for House Chamber improvements. Mr. Boulter answered that it did not include House Chamber work, but roof repairs (the apparent source of the leak) are contemplated for 2013.

6. Council Photographs

Mr. Boulter commented that the group photograph of the 125th Legislative Council will be distributed to each member at the conclusion of the meeting.

Fiscal Report

Grant Pennoyer, Director, Office of Fiscal and Program Review, reported on the following:

Revenue Update

Total General Fund Revenue - FY 2013 ($'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
August	$103.3	$84.3	($19.0)	-18.4%	$98.9	-14.7%
FYTD	$308.5	$303.7	($4.8)	-1.5%	$306.1	-0.8%

General Fund revenue was $19.0 million (18.4%) under budget in August and roughly $22 million under budget in September (based on preliminary data). General Fund revenue was under budget roughly $27 million for the 1st quarter of FY2013.

The three major taxes were all substantially under budget in August and September, based on preliminary results. Individual Income Tax revenue was $10.7 million under budget for August and roughly $6 million in September, falling more than $4 million under budget for the 1st quarter of FY2013. Corporate Income Tax revenue was under budget by $8.6 million in August and $5.7 million in September. Sales and Use Tax revenue was under by $6.7 million in August, but was closer to budget in September, being within less than $1 million.

Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2013 ($'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
August	$9.2	$8.7	($0.5)	-5.7%	$9.3	-6.0%
FYTD	$36.1	$37.2	$1.0	2.9%	$36.0	3.2%

Highway Fund revenue was $0.5 million under budget in August, but was $0.9 million over budget in September (based on preliminary data). Highway Fund revenue has built up a $2.0 million positive variance through the 1st quarter of FY2013. Fuel Taxes continue to exhibit significant variability from budget month to month. The positive variance through the 1st quarter was due to the strength of collections for motor vehicle registration and fees collected by the Bureau of Motor Vehicles.

Cash Update

The average balance in the cash pool in August was $70 million less than a year ago. However, the total cash pool remains sufficiently healthy to support General Fund internal borrowing that was $71.8 million higher than last August. General Fund appropriations were approved at amounts below budgeted revenue to accommodate repayment of the $91 million borrowing in FY2012 from Other Special Revenue Funds. As a result, General Fund cash position should show improvement over FY2013 absent any significant adverse revenue or spending variances.

MaineCare Spending Update

MaineCare weekly cycle payments through the first 11 weeks of FY2013 averaged $44.7 million. This amount is tracking very closely with weekly cycle payments in the same period last year. The FY2013 MaineCare budget assumes that overall MaineCare spending will be below the FY2012 level, which had a weekly cycle average of $44.9 million.

Status of Legislative Studies and Committees

Marion Hylan Barr, Director, Office of Policy and Legal Analysis, reported on the following to supplement her written status report:

The Citizen Trade Policy Commission, the Right to Know Advisory Commission and its sub-committees, the Judicial Compensation Commission and the Franco-American Task Force have all been meeting this summer and fall and are scheduled to meet again in the near future. Several commissions have not yet convened since they are still awaiting appointments. The Joint Standing Committee on Agriculture, Conservation and Forestry has met once and is planning to meet again next month. The Joint Standing Committee on Veterans and Legal Affairs does not plan to meet since it handled the Presidential Primary issue when it met earlier for confirmation hearings. The Joint Standing Committee on Education and Cultural Affairs met once and will meet again this fall.

Senator Courtney inquired as to which commissions were awaiting appointment of members. Ms. Hylan Barr responded that the Commission to Develop a Competitive Bidding Process for the Operation of Additional Casinos or Slot Machines, staffed by the Department of Administrative and Financial Services, has 7 of its19 appointments, and the Task Force on Prevention of Sexual Abuse of Children has only 6 of 13 appointments made to date.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

President Raye, Chair of the Personnel Committee, presented the following report.

The Personnel Committee held a meeting earlier today, October 5, 2012 to consider the following matters:

1. Request for Temporary Disability Income Benefits for a Partisan Staff Member

   The committee considered a request by 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. Upon the recommendation of the Executive Director, the committee voted unanimously to approve the request. No Legislative Council action was required.

2. Review of Personnel Policies

   The committee discussed several provisions of the personnel policies for legislative employees and considered revisions to bring them more in line with current benefit standards and practices and be cost-effective, including modifications to group health and group dental insurance for session-only employees, group life insurance, early release of employees, overtime compensation, and a one-time payment to employees.

3. Proposed Restructuring of the Office of the Revisor of Statutes

   Revisor of Statutes Ms. Gresser, working with Mr. Boulter, proposed changes to the organization of the Office of the Revisor of Statutes that would result in improved operations, increased efficiencies and improved delivery of bill drafting services, and included a reclassification of a principal attorney position to a deputy director position, reassignment of managerial responsibility and revision of associated job descriptions. The Personnel Committee supported Ms. Gresser's proposal.

   Motion: That upon the recommendation of the Personnel Committee, the Legislative Council adopt the proposed reorganization of the Office of the Revisor of Statutes to improve operations, increase efficiencies and improve delivery of bill drafting services, including reclassifying a principal attorney position to a deputy director position, reassigning managerial responsibility, and revising associated job descriptions; further that the changes be achieved within the existing number of authorized positions and budgetary resources; and further that the Revisor work with the Executive Director to implement the reorganization plan. Motion by President Raye. Second by Representative Cain. **Motion passed (9-0-0-1,** with Senator Plowman absent).

2. State House Facilities Committee

No report

OLD BUSINESS

Item #1: Policy on Use of Capitol Park

A copy of the *Legislative Council Policy on Use of Capitol Park* adopted by the Legislative Council was distributed to members of the Legislative Council for informational purposes only. No action by the Legislative Council was required.

Item #2: Request to Accept Commissioned Portrait of Former U.S. Senator George Mitchell and Place on Display in the State House

Mr. Boulter reminded the Legislative Council members that at the last Legislative Council meeting, a request was made to accept a to-be-commissioned portrait of former U.S. Senator George J. Mitchell into the State House Portrait Collection and authorize its display in the State House. At that time, the Legislative Council asked for further information about the proposal. Mr. Boulter provided the following update:

The anticipated cost of the portrait is $15,000 plus international shipping and insurance costs, all of which is proposed to be paid for through private donations. No legislative or other State funds would be used to obtain the portrait. A group, the Friends of U.S. Senator George J. Mitchell ("Friends"), will be soliciting funds and donating them to the Friends of the Maine State Museum, for use to purchase the portrait from the artist. The artist is James Hanley, a painter living in Dublin, Ireland. Mr. Boulter referred to information in the council's packet that provides a biographical summary of the artist and his works.

Mr. Boulter indicated that he has spoken with the State Museum which would be charged with maintaining the portrait, if accepted into the museum collection, and the museum is actively working with a representative of the Friends group.

Speaker Nutting asked if a location for the portrait has been selected and if there is any requirement for exhibiting the portrait for a particular period of time. Mr. Boulter said that the location would be determined in consultation with the museum's curator, but it is likely to be on the 2nd floor of the State House near portraits of Senator Margaret Chase Smith and other U.S. Senators, and there is no minimum period during which the portrait must be displayed.

> **Motion:** That the Legislative Council accept the portrait of U.S. Senator George J. Mitchell to be commissioned by James Hanley of Dublin, Ireland into the State House Portrait Collection; further authorize its exhibit in the State House; and further that this acceptance and authorization be conditional upon the Maine State Museum Commission's acceptance of the portrait into the museum collection upon the portrait's completion and donation to the State. Motion by Senator Hobbins. Second by Senator Courtney. **Motion passed unanimously (10-0).**

NEW BUSINESS

Item #1: Request to Hold an Off-site Meeting of a Legislative Study

The legislatively-authorized study group, the Task Force on Franco-Americans, requested approval from the Legislative Council to hold an off-site meeting of the task force at the Franco-American Center at the University of Maine in Orono on Wednesday, October 24, 2012. Funds for the increased costs would come from the task force's existing budget.

> **Motion:** That the Legislative Council approve the request from the Task Force on Franco-Americans to hold a meeting at the Franco-American Center at the University of Maine in Orono on Wednesday, October 24, 2012. Motion by Senator Courtney. Second by Representative Cain. **Motion passed unanimously (10-0).**

Item #2: Proposed Document Service Fee Schedule for 126th Legislature, First Regular Session

Mr. Boulter introduced the proposal by Clerk of the House Heather Priest for a Document Service Fee schedule for the 126th Legislature, First Regular Session. Mr. Boulter explained that the Clerk has indicated that the proposed fee schedule is the same one approved for the First Regular Session of the 125th Legislature.

> **Motion:** That the Legislative Council approve the Document Service Fee schedule for the 126th Legislature, First Regular Session as proposed by the Clerk of the House. Motion by Representative Curtis. Second by Representative Cain. **Motion passed unanimously (10-0).**

Item #3: Notice of Audit of State Budget for FY 2012

By letter, the State Department of Audit has notified the Legislative Council that it is performing the Single Audit of the State of Maine for the year ending June 30, 2012. No action by the Legislative Council was required.

Item #4: Request to Authorize Funding for Purchasing Software and Computers for Senate Chamber Information Automation

Secretary of the Senate Carleton presented his proposal to automate the Senate Chamber by providing a computer system for accessing and displaying Senate calendars and papers and other information electronically. Currently, Senators are provided 3-ring binders at their Senate desks for Senate calendars and papers, all of which is in paper format. Mr. Carleton explained that the proposal has two components: entering into a contract to purchase software specially developed for displaying Chamber information electronically, similar to that used in the House Chamber; and purchase of computers to display the information. The computers are proposed to be stationary and remain at Senators' desks.

Mr. Carleton drew Legislative Council members' attention to the cost summary in the council packet of information. Representative Hayes inquired as to what the Legislative Council is being asked to approve. Mr. Carleton responded that the Legislative Council is being requested only to authorize funding from legislative accounts in FY13 for entering into a contract and purchasing a chamber automation system. Authority for deciding issues of system installation, including system components, in the Senate rests with the Senate President.

Representative Hayes asked whether the proposed hardware is unique in some way, noting that House members access House Chamber information using their personal laptop computers. Mr. Carleton explained that the proposal is for uniform computer equipment for Senate members but Senators could access the information using personal laptop computers if they wanted to do so.

President Raye suggested that perhaps 2 or 3 laptops could be purchased for use by Senators who do not have a laptop computer. He noted that most Senators have their own laptop. It was noted that the House makes available 6 laptop computers for use by Representatives on an as needed basis.

Representative Cain commented that she was impressed with the system used in the House Chamber and that use of a touch screen monitor as proposed for the Senate would be convenient. She further commented that having a separate monitor for Chamber information would be very helpful so members who use their personal laptops for other legislative work in the chamber would not have to keep flipping back and forth to access chamber information. Mr. Carleton mentioned that the proposed chamber computers would be fully functional, for writing and reading email and documents.

Senator Plowman asked if the proposed software would be compatible with Mac-based iPads and Windows-based tablets. A brief discussion ensued. Mr. Carleton and LIT Director Scott Clark answered the question by saying that the software is a browser-based application and will work with Microsoft Internet Explorer, Firefox and on Mac devices having a Safari browser. Because the software was not specifically designed for use with the Safari browser, there may be some very minor limitations arising periodically, but it would still provide full functionality.

Representative Hayes recollected that with the House Chamber system, House members were asked to purchase their own computer with their constituent services allowance or other funds. For that reason, she was not supportive of authorizing funding for computer purchases at this time.

Senator Alfond then made a motion to authorize funding for the software and purchase of up to 3 laptop computers for use by the Senate. See motion below.

Mr. Carleton concluded the discussion by saying that while the goal is to eliminate distribution of all paper documents in the Senate Chamber, it is not feasible in the near future since some interest remains in having paper documents, such as calendars, that can be carried around or notated. However, this proposal would be a positive step, in an appropriate and measured way, to automating access to chamber information.

Motion: That the Legislative Council authorize funding from appropriate legislative accounts in FY13 and enter into a contract to purchase software for electronic access and display of legislative information in the Senate Chamber and for the purchase of up to 3 laptop computers for use by the Senate. Motion by Senator Alfond. Second by Representative Curtis. **Motion passed (9-0-0-1,** with Representative Cushing absent).

Item #5: 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 and discussing collective bargaining negotiations between the employee representative for the Independent Association of Nonpartisan Legislative Professionals and the Legislative Council. Motion by Representative Nutting. Second by Representative Curtis. **Motion passed (9-0-0-1,** with Representative Cushing absent).

The council entered into an executive session at 2:57 p.m. At the conclusion of its executive session, on a motion by Representative Nutting, seconded by Representative Cain, the Legislative Council voted unanimously to end its executive session at 3:05 p.m. and reconvene its regular meeting.

Item #6: Ratification of Tentative Agreement with Administrative Unit of Legislative Employees and Changes to Personnel Policies and Guidelines for Legislative Employees

Motion: That pursuant to its authority under 26 MRSA, Section 979-A, subsection 5, the Legislative Council of the 125th Legislature ratify the collective bargaining agreement for the period October 1, 2011 through September 30, 2013 that was negotiated and tentatively agreed to by the authorized representatives of the Legislative Council and the Maine State Employees Association-SEIU Local 1989 on behalf of the Administrative Unit of Legislative Employees on June 28, 2012, and ratified by its represented members on August 20, 2012; further, that the Legislative Council authorize the Executive Director to take all necessary steps to carry out the terms of this Agreement; further, that the Legislative Council modify its

personnel policies and guidelines for all legislative employees to apply personnel policies and benefit provisions relating to group health insurance, group dental insurance, group life insurance, and early release provisions for employees that are comparable to those contained in the collective bargaining agreement ratified by the Legislative Council and the MSEA-SEIU, and direct its Executive Director to incorporate as appropriate and administer those provisions; and further that a one-time payment in an amount comparable to that provided in the aforementioned collective bargaining agreement be provided to legislative employees who are not represented by a collective bargaining agent, such payment to be made by December 1, 2012. Motion by Representative Nutting. Second by Senator Alfond. **Motion passed (9-0-0-1,** with Representative Cushing absent).

ANNOUNCEMENTS AND REMARKS

President Raye welcomed Ms. Dawna Lopatosky, Legislative Finance Director, to her first Legislative Council meeting following her appointment to the position in July.

The Legislative Council meeting was adjourned at 3:07 p.m. on a motion by Representative Curtis, seconded by Senator Courtney. **Motion passed (9-0-0-1,** Representative Cushing absent).

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