

MAINE STATE LEGISLATURE

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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. HOBBS
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, 2012
Approved October 5, 2012

CALL TO ORDER

Legislative Council Chair, Senate President Raye called the June 28, 2012 Legislative Council meeting to order at 1:45 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Raye, Senator Courtney, Senator Hobbins and Senator Alfond

Absent: Senator Plowman

Representatives: Speaker Nutting, Representative Curtis and Representative Cain

Absent: Representative Cushing and Representative Hayes

Legislative Officers: Heather Priest, Clerk of the House
Joseph Carleton Jr., Secretary of the Senate
David E. Boulter, Executive Director
Rose Breton, 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 1:45 p.m. with a quorum of members present.

SUMMARY OF APRIL 24, 2012 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of April 24, 2012 be accepted and placed on file. Motion by Senator Alfond. Second by Representative Emily Cain. **Motion passed (7-0-0-3,** with Senator Plowman, Representatives Cushing and Hayes absent).

President Raye recognized Rose Marie Breton, Legislative Finance Director, who is retiring after 37 years of State employment, 20 years of which have been with the Legislature, as a dedicated public employee who has been invaluable to the Legislature. On behalf of the entire Legislative Council, President Raye thanked her for her excellent work for the Legislature over many years, expressed that Ms. Breton will be sorely missed and extended the Council's best wishes to her in her retirement.

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

David Boulter, Executive Director, reported on the following:

1. Staff Retirements

Several long-term members of the nonpartisan staff are retiring.

Jill Ippoliti, a Legislative Analyst in the Office of Policy and Legal Analysis, is retiring after more than 22 years with the Legislature. Jill has staffed or co-staffed various joint standing committees and study commissions, including the Joint Standing Committee on Agriculture, Conservation & Forestry Committee which she staffed for more than a decade. She is retiring effective August 1st.

Charlene Cunningham, a Senior Secretary, also in the Office of Policy and Legal Analysis, is retiring after almost 24 years with the Legislature, all of which she spent working for OPLA. She served with 5 office directors and contributed greatly to administrative functions in OPLA. She is retiring effective July 1st.

As mentioned earlier by Legislative Council Chair President Raye, Rose Marie Breton, Legislative Finance Director in the Office of the Executive Director, is retiring after 37 years of State service, including 20 years with the Legislature. During her tenure, Ms. Breton worked in the Office of Fiscal & Program Review as well as in the Executive Director's office. As Legislative Finance Director, Rose oversaw all functions of the Legislature's budgets and accounts. She is retiring effective August 1st.

2. Appointment of Legislative Finance Director

Mr. Boulter reported that he has appointed Dawna J. Lopatosky of Augusta as Legislative Finance Director, effective July 9, 2012, replacing Ms. Breton who is retiring. With her educational background and work experience in the budget office and other departments, Ms. Lopatosky is well suited to the position. Ms. Lopatosky is the current State Budget Officer with the Department of Administrative and Financial Services. She comes highly recommended and should be a strong asset to legislative operations.

3. Legislative Publications

The Office of Policy & Legal Analysis and the Office of Fiscal & Program Review have completed this session's compilation of enacted laws and bill summaries. A copy of the enacted law digest is being distributed to each Legislative Council member this week and the document will be posted on the Legislature's website for convenient access by legislators and the public.

The Revisor's office is preparing the *Laws of Maine* for the Second Regular Session of the 125th Legislature. It is under review now and should be available for paper distribution in early August. The *Laws of Maine*, when completed, will also be posted on the Legislature's website on or before the August distribution date.

4. Legislative Employee Recognition Picnic

This year's legislative employee recognition picnic is scheduled for Wednesday, September 5th in Capitol Park. Legislative Council members and all legislative employees are invited to the picnic.

Fiscal Report

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

Revenue Update

Total General Fund Revenue - FY 2012 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
May	\$238.7	\$254.4	\$15.7	6.6%	\$233.4	9.0%
FYTD	\$2,521.0	\$2,545.8	\$24.9	1.0%	\$2,482.6	2.5%

General Fund revenue was \$15.7 million (6.6%) above budget projections in May and was \$24.9 million above budget projections for FY2012 with just one month remaining in the fiscal year. General Fund revenue growth for FY 2012 through May was 2.5% compared to the same period last fiscal year. Budgeted growth for FY 2012 was forecasted to be 1.7%.

While Individual Income Tax revenues were below budget projections by \$4.6 million in May due to increased tax refund activity, there were few other negative variances. Large positive variances in Corporate Income Tax and Estate Tax revenues, along with a one-time receipt of the General Fund share of the national mortgage foreclosure settlement, more than offset the negative variances. A \$5.4 million positive variance in May from the mortgage settlement was budgeted for June, so May's positive variance is overstated by that amount.

Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2012 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
May	\$27.1	\$27.0	(\$0.2)	-0.6%	\$23.4	15.2%
FYTD	\$269.0	\$270.8	\$1.8	0.7%	\$263.3	2.8%

Highway Fund revenue was \$0.2 million under budget in May, but remained \$1.8 million (0.7%) over budget for the fiscal year-to-date with one month remaining in the fiscal year. Fuel Taxes were modestly below the revised projections.

Cash Update

The average balance in the State's cash pool was \$68 million less in May than a year ago. However, the cash pool remains sufficiently healthy to support General Fund internal borrowing which was \$42.7 million higher than in May 2011.

MaineCare Spending Update

MaineCare weekly cycle payments remain volatile. The latest 2 weeks reported, weeks #48 and #49, were below \$40 million, which lowered the average weekly payment for this fiscal year to \$44.6 million. The Department of Health and Human Services notified the Appropriations Committee and service providers that despite its best efforts to identify and transfer resources to fully fund the final cycle payments, it is likely that the final weekly cycles will need to be capped, meaning payments to some providers would be delayed by one week, in order to stay within available resources.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

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

The Personnel Committee met on the morning of June 28, 2012 to discuss several provisions of the personnel policies for legislative employees and to consider a few changes that might bring them more in line with current benefit standards and practices elsewhere in the public and private sectors and be cost-effective. No decision or recommendation was made at this time and no action by the Legislative Council is required at this time.

2. State House Facilities Committee

Senator Courtney, Chair of the State House Facilities Committee, presented the following report.

The State House Facilities Committee met on the morning of June 28, 2012 to continue its review of proposed standards and guidelines for the use of Capitol Park. Most of the use standards in the proposed policy reflect long-standing practices, with new provisions added as appropriate.

While for many years, the informality of administering the use policies of Capitol Park has worked well, it appears appropriate and necessary now to establish acceptable uses and prohibitions for the park more formally so that users of the park more clearly understand and adhere to the use standards for Capitol Park.

After review, the committee recommended that the proposed policy be adopted by the Legislative Council with several minor changes with respect to allowed uses or prohibitions; these changes related to ball toss and kite flying in the park. The proposed policy with these changes is in the Legislative Council's revised packet of materials.

Motion: That upon the unanimous recommendation of the State House Facilities Committee, the Legislative Council adopt the Legislative Council Policy on the Use of Capitol Park as amended by the facilities committee and authorize its Executive Director to administer the policy and to transmit an official copy to the Chief of the Bureau of Capitol Police. Motion by Senator Courtney. Second by Representative Nutting. **Motion passed (7-0-0-3,** with Senator Plowman, Representatives Cushing and Hayes absent).

OLD BUSINESS**Item #1: Policy on Security Screening Protocols for Maine State House**

A copy of the *Policy on Security Screening Protocols for Maine State House* 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.

Although this matter was not on the council's agenda as an action item or item for public comment, Legislative Council Chair President Raye recognized Mr. Severin Beliveau of Augusta, an area attorney and lobbyist, who asked to address the Legislative Council. Mr. Beliveau requested that the council reconsider its current security screening policy to allow "registered" lobbyists to bypass security screening measures when entering the State House. His rationale was that registered lobbyists are in the building frequently and also are required to file reports to the State's ethics commission. He said that lobbyists who are not registered should be required to undergo security screening measures. Mr. Beliveau commented that some other states make special provisions for lobbyists. President Raye noted that the Legislative Council will be reviewing the security screening policy before the convening of the 126th Legislature and he asked Mr. Boulter to research security practices in other states regarding lobbyists for future reference when the council reviews the policy this fall.

Item #2: Request to Display Fenway Park Banner on State House

The Legislative Council resumed its discussion that it began at its last meeting on the request by Portland attorney John Delahanty to display a 100th anniversary of Fenway Park banner on the State House. The Boston Red Sox is celebrating the 100th anniversary of Fenway Park this year. President Raye invited Mr. Delahanty, representing the Red Sox ownership group, to address the council. Mr. Delahanty asked the council to consider hanging the banner on the State House as a way to recognize an historic, nationally recognized venue commemorating its centennial anniversary. He suggested that the Legislative Council could move forward with approval of the request on the basis that it be limited to a commemorative purpose, celebrating a centennial or greater anniversary of a regionally or nationally recognized important and historic structure and that the banner be displayed for a limited period. He noted that the state of Rhode Island is displaying the banner for 2 weeks. He also expressed his appreciation for the joint resolution that was passed by the Legislature earlier this year. Mr. Boulter explained the size of the banner and how it would hang from the 3rd floor balcony given its large size (25' x 28').

Representative Cain expressed her concerns regarding setting a precedent for banner placement on the State House. She noted that LL Bean, Inc. is celebrating its 100th anniversary as a Maine business and that others may want to display banners for religious or political purposes which could result in unanticipated consequences for the Legislature.

Speaker Nutting restated his earlier objections to the proposal but said he would not stand in the way of approval if other Legislative Council members want to approve the request as long as it is an exception, recognizing an historic landmark, not a person or an organization.

President Raye stated that he felt that this request is unique in terms of what Fenway Park means to the people of Maine. He said that it cuts across every political, socio-economic sector in terms of a beloved past-time, and generations of Mainers have been Red Sox fans. Three other New England states have approved a similar proposal and therefore, he supported approval. President Raye

commented that “Maine Day” at Fenway Park would be an appropriate time for the banner to hang at the State House.

Motion: That the Legislative Council recess for five minutes. Motion by Senator Hobbins. Second by Senator Courtney. **Motion passed unanimously.**

After a short recess, President Raye reconvened the meeting. Representative Cain asked for a clarification of the parameters of the motion being discussed and further asked whether this was a one-time exemption or a policy change. Mr. Boulter clarified that this was a one-time exception to the long-standing practice of not hanging banners from the State House and would not constitute a new policy direction.

Motion: That the Legislative Council approve the request by the Red Sox Group to display the Fenway Park 100th anniversary banner from the 3rd floor porch of the State House for a period of up to 3 days in recognition of the historical and cultural significance of Fenway Park in Boston on the occasion of its 100th anniversary, representing a facility and national pastime that crosses all socio-economic, geographic and political boundaries in the State of Maine and in light of 3 of the New England states having authorized a display of the banner on their State House; and that this approval is a one-time exception to the general prohibition on banner displays by allowing the banner to be displayed from Friday to Monday of the weekend of Maine Day [August 26, 2012]. Motion by Senator Courtney. Second by Senator Hobbins. **Motion passed (6-0-1-3,** with Representative Curtis opposed, and Senator Plowman, Representatives Cushing and Hayes absent).

NEW BUSINESS

Item #1: Selection of Dates for New Member Orientation, 126th Legislature

Mr. Boulter reminded the Legislative Council members that following the General Election and prior to each Pre-Legislative Conference, an initial legislative orientation session is traditionally held for members who have been newly elected to the legislature. This New Member Orientation acquaints new members with information on legislator salary and benefits, security procedures, legislative resources that are available to them, committee structure and jurisdiction, the procedure for filing legislation and other aspects of the legislative process. Mr. Boulter reviewed the advantages and disadvantages of the potential dates for the New Member Orientation for the 126th Legislature in November. He identified 3 feasible dates:

- Thursday or Friday, November 15 or 16
- Monday or Tuesday, November 19 or 20
- Monday or Tuesday, November 26 or 27

Mr. Boulter recommended that New Member Orientation be held on either the November 15th or 16th. Speaker Nutting asked whether a November 16th date would conflict with the YMCA’s Youth in Government Program. Mr. Boulter confirmed that the event is scheduled for November 16th; he indicated, however, that both events could be accommodated without room or other conflicts.

Motion: That the Legislative Council approve the date for holding a New Member Orientation for the 126th Legislature of either Thursday November 15, 2012 or Friday, November 16, 2012 as program scheduling best permits. Motion by Representative Curtis. Second by Representative Cain. **Motion passed (6-0-0-4,** with Senators Courtney and Plowman, Representatives Cushing and Hayes absent).

Item #2: Legislator Orientation Program: Policy Forum and Economic Bus Tour

Mr. Boulter and Ms. Cheryl Miller, Senior Program Director for the Maine Development Foundation, presented the Legislative Council with the MDF's request for approval of its participation in the upcoming Legislator orientation program, specifically to conduct an economic development bus tour of Maine in January 2013, a legislator policy forum as part of the Pre-Legislative Conference and selected breakfast policy forums. These orientation sessions, termed "Policy Leaders Academy" by MDF is a long-standing program for Maine Legislators. This year's proposed theme is "Creating and Retaining a Productive Workforce." As with past programs, MDF will work closely with the Executive Director's office to develop the program.

Motion: That the Legislative Council authorize the Maine Development Foundation's participation in the Legislator orientation program for the 126th Legislature: authorizing a Legislator Policy Forum on December 6, 2012; an economic bus tour of Maine on January 9-11, 2013, and breakfast forums on February 6, 2013, February 20, 2013, March 6, 2013 and March 20, 2013. Motion by Representative Cain. Second by Representative Curtis. **Motion passed (7-0-0-3**, with Senator Plowman, Representatives Cushing and Hayes absent).

Item #3: Request to accept commissioned portrait of former U.S. Senator George Mitchell and place on display in State House

Senator Hobbins presented a request from the "Friends of Senator George Mitchell" that the Legislative Council accept a yet to be commissioned portrait of former U.S. Senator George J. Mitchell and place it on display in the State House in honor of Senator Mitchell. Senator Hobbins presented a summary of Senator Mitchell's many and historic achievements during his many years of public service. By way of example, he noted that in the history of the United States Senate, Senator Mitchell has been the only person from Maine ever to serve as Majority Leader, and that he and Thomas Brackett Reed are the only Maine elected officials to lead one of the Houses of the U.S. Congress. Other former U.S. Senators from Maine and other public officials have portraits that hang in the State House. The portrait of Senator Mitchell would be paid for and commissioned by "Friends of George Mitchell" with no expense to the State of Maine or to the Legislature. Senator Hobbins acknowledged that there is an established procedure for State House portraits. Mr. Boulter explained the procedures for including a portrait in the State House Portrait Collection which involve assessing the public official's contributions to Maine or the Nation and assessing the artistic suitability of the portrait for inclusion. The Maine State Museum is the official custodian of the State House Portrait Collection and the Maine Arts Commission assists in determining artistic suitability. President Raye stated that Senator Mitchell is an appropriate figure to be honored in this manner. The Legislative Council members felt that the next step is to research the artist and the artwork itself to gain a better understanding of the proposal before the Legislative Council decides the request.

Motion: That the Legislative Council authorize the Executive Director to research the portrait that is to be commissioned and its artist to determine the appropriateness of such a portrait to hang in the State House and be included in the State House Portrait Collection, and make a recommendation at the next Legislative Council meeting. Motion by Senator Courtney. Second by Senator Alford. **Motion passed (7-0-0-3**, with Senator Plowman, Representatives Cushing and Hayes absent).

Item #4: Legislative Council Policy on the Use of Capitol Park

The Legislative Council took action on this item earlier in the meeting under “Reports from Council Committees.” No further action was required.

Item #5: Submission of Annual Report to the Legislature for the Year 2011

The Maine Bureau of Insurance, Consumer Health Care Division, submitted its *Annual Report to the Legislature for the Year 2011* for review and acceptance by the Legislative Council.

Motion: That the Legislative Council accept the *Annual Report to the Legislature for the Year 2011* submitted by the Maine Bureau of Insurance, Consumer Health Care Division, and place it on file. Motion by Senator Courtney. Second by Representative Cain. **Motion passed (7-0-0-3**, with Senator Plowman, Representatives Cushing and Hayes absent).

Item #6: Submission of State of Maine Audit Management Letter for the Year 2011

The State Department of Audit, submitted its *State of Maine Management Letter for the Year 2011* for review and acceptance by the Legislative Council.

Motion: That the Legislative Council accept the *State of Maine Management Letter for the Year 2011* submitted by the State Department of Audit, and place it on file. Motion by Senator Courtney. Second by Representative Curtis. **Motion passed (7-0-0-3**, with Senator Plowman, Representatives Cushing and Hayes absent).

Item #7: 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 Senator Courtney. **Motion passed (7-0-0-3**, with Senator Plowman, Representatives Cushing and Hayes absent).

The council entered into an executive session at approximately 2:41 p.m. At the conclusion of its executive session, on a motion by Representative Cain, seconded by Senator Alfond, with Senator Plowman, Representatives Cushing and Hayes absent, the Legislative Council voted unanimously to end its executive session at approximately 3:09 p.m. and reconvene its regular meeting.

ANNOUNCEMENTS AND REMARKS

None

The Legislative Council meeting was adjourned at 3:11 p.m. on a motion by Senator Courtney, seconded by Representative Curtis. **Motion passed (7-0-0-3**, with Senator Plowman, Representatives Cushing and Hayes absent).