

MAINE STATE LEGISLATURE

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REP. MICHAEL V. SAXL
CHAIR

SEN. RICHARD A. BENNETT
VICE-CHAIR



SEN. BEVERLY C. DAGGETT
SEN. MARY E. SMALL
SEN. PAUL T. DAVIS, SR.
SEN. SHARON ANGLIN TREAT
REP. PATRICK COLWELL
REP. JOSEPH BRUNO
REP. WILLIAM S. NORBERT
REP. WILLIAM J. SCHNEIDER

JAMES A. CLAIR
EXECUTIVE DIRECTOR

120th MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

**MEETING SUMMARY
JANUARY 23, 2001
APPROVED JANUARY 31, 2001**

CALL TO ORDER

The Legislative Council meeting was called to order at 8:49 a.m. by the Chair, Speaker Saxl.

ROLL CALL

Senators:	Sen. Daggett, Sen. Treat, Sen. Bennett, Sen. Small Absent: Sen. Davis
Representatives:	Speaker Saxl, Rep Colwell, Rep. Norbert, Rep. Bruno, Rep. Schneider
Legislative Officers:	Joy O'Brien, Secretary of the Senate Pamela Cahill, Assistant Secretary of the Senate Millicent MacFarland, Clerk of the House David Shiah, Assistant Clerk of the House James A. Clair, Executive Director, Legislative Council Grant Pennoyer, Interim Director, Office of Fiscal and Program Review David Boulter, Director, Office of Policy and Legal Analysis Margaret Matheson, Revisor of Statutes Lynn Randall, State Law Librarian Paul Mayotte, Director, Legislative Information Services

**REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE
DIRECTORS**

Item was waived for the purpose of moving on to Item 1 of New Business.

REPORTS FROM COUNCIL COMMITTEES

None

OLD BUSINESS

None

NEW BUSINESS

Item #1: Legislative Emergency FY 01 Budget Request

James Clair was asked by the Chair to proceed. He referred members to the information in their package that described the status of the Legislative Budget. Rose Breton and he met a number of times last week and concluded on Friday, that absent any other changes, supplemental funding was needed in the magnitude of \$580,000 to actually a little over \$900,000 in the Legislative Budget this session, based on a new series of events. He had updated this Council's predecessors, back in September that warned of a million to \$1.2 million problem. We have been successful as an organization in lowering certain expenses through the first six months of the fiscal year. There are \$345,000 in available balances in other accounts, refer to third page. They are from numerous accounts, including the State House and Capitol Park Commission, that would leave a balance of approximately \$125,000, but they are balances that had accrued from previous years. There is some Legislative study money, about \$94,000, that is available. Were the Council to endorse taking monies from these balances, it would bring the budget problem down to a \$580,000 problem in this fiscal year. Recalling that the Migration Project contract was signed at \$4.5 million and the authorized amount was \$4.2. We are in the midst of negotiating with Compaq to get the contract down to the authorized \$4.2 million. If successful, the \$580,000 becomes a \$280,000 request. On pages 1 and 2 of the document, reflects what the amendment would look like were you to endorse a request in this emergency budget that is before the Legislature now for \$580,000. If you wanted to assume that we would be successful in lowering the Compaq contract, the \$300,000, would net that amount down to approximately \$280,000. Mr. Clair said he was prepared to take the members through pages 3, 4 and 5, the real detailed analysis. Speaker Saxl asked him to proceed. (See the analysis for details). To dissect how we got to \$848,000, you have to go back to the KPMG effort, the so-called process review, because you will see that those expenses in total were over one million dollars. We did not have an express appropriation to pay for that effort. We continued to have a modular lease payment issue and even though one of the modular units is gone, and we are still negotiating to get rid of more of them, we have additional projected costs of over a million dollars, such that what is shown as grand total projected expenditure of a little over fourteen million dollars. When we did the analysis of the Collective Bargaining Agreement last year, it was estimated that we would need, from what is called the salary plan, \$700,000. We are in the midst of getting the Budget Office to agree that is the number that is needed. Assuming that sum gets us down to the \$578,000 that was the amount we started out talking about.

Speaker Saxl asked if there were questions for Jim and Rep. Bruno asked how we had a \$100,000 shortfall in the Law Library payroll? Mr. Clair answered that when the

Collective Bargaining Agreement went through and the NCSL Compensation Study went through, monies were not specifically appropriated to the Law Library. For some reason, the supplemental appropriation went specifically to the big Legislative account and the Law Library is technically its own agency for budgeting purposes. That was a flaw. One hundred thousand dollar portion of that, should have been appropriated to the Law Library.

Rep. Colwell asked about the \$848,000 amount. He wanted to know if that was the maximum need to finish that project? Mr. Clair said that it was probably fair to say that the Migration Project, when taking into account the bill drafting system, that had to migrate off the Wang, the fiscal note system, that had to migrate off the Wang, the Chamber work that had to migrate off the Wang and be updated, will get the Legislature to a certain level. Whether people are going to be satisfied with the performance of that system is an open question, and think that probably Mr. Mayotte and others are prepared to tell you that they envision a Part II request. In fact, part of that has been made, and had been forwarded to you back in December, 2000.

Speaker Saxl asked Mr. Mayotte to address Migration issues. He wanted to make a note on the \$300,000 contract reduction that Mr. Clair had referred to. Mr. Mayotte said we are in negotiations with Compaq presently and have a \$300,000 cost reduction proposal that Compaq is reviewing and will get back to us Friday, January 26, on whether or not it is a go or not. We do not want to sound over confident, but feel that there is a high likelihood in the success of bringing that to a successful negotiation and getting the contract value down to \$4.2 million. The \$848,000 Rep. Colwell was referring to, does include the three hundred thousand added to that number. So if successful, it would bring it down to five hundred and forty eight. There are several issues, part of which goes back to the 118th Legislature where money was budgeted, through several processings, lapsed and got rolled over into lapsed accounts. There were some bookkeeping problems there as well.

Rep. Colwell asked even rolling out the \$300,000, are there estimates about the anticipated total cost. Mr. Mayotte answered that from a scope point of view, unfunded at this time are the efforts to automate the committee process further, bill status needs additional pieces of work, there is \$364,000 allocated for a budgeting fiscal note process that is unspent and uncommitted at this time and the risk, based on what has been seen in other budget efforts in the State, that might be a very conservative estimate for the cost. Can he give a ballpark estimate on how much additional? He would feel very uncomfortable doing that. He did not believe that he full has all the different pieces of scope finalized.

Rep. Bruno asked Mr. Mayotte if the total appropriations for the Migration Project is \$6.2 million. Mr. Mayotte answered in the affirmative. Rep. Bruno asked if we spent \$1 million on Peat Marwick just to have consulting work done? He replied yes. Doesn't it seem excessive that we spent a million dollars on consultant work on the Migration Project. Mr. Mayotte would not disagree.

Sen. Bennett apologized for arriving late, but had questions relating to the Law Library. What would happen if did not appropriate the one hundred thousand dollars. Lynn Randall understood that there would not be enough money to meet payroll? He asked if Mr. Clair would review again why it was not properly administered. Mr. Clair said that when the NCSL study was approved and funded, all the money went to the main Legislative Account, it was not broken out among the Law Library and the main

Legislative Account, so technically the \$100,000 amount to fund the compensation increases for the Library should have been broken out and appropriated accordingly. Unclear as to why it did not happen.

Speaker Saxl asked Sen. Bennett, as chair of the Subcommittee on Migration, about how he came up with the \$4.2 million figure and the original amount, \$8 or \$9 million for the Migration Project, what he say out of the 4 million plus dollars that was eliminated from the original proposal. How crucial do you think those are and what kind of time limit, so we can have an understanding of how to go forward.

Sen. Bennett said for the record he was not on the Migration Committee; he only chaired the ad hoc Migration Budget Committee to finalize a cost proposal for the full 119th Legislative Council. We made some substantial changes to the work when assessing that number. Also squeezed out more value than we thought we were getting for the money, really think the Legislative Council needs to have a block of time to fully discuss the Migration questions, let the new Council see where we are and do a reality check on whether we want to move forward and invest the remaining money. For the present time I would think we would deappropriate \$300,000 from this request. Let that be used as a negotiation with Compaq. He did not see why we would be appropriating \$300,000, which he had no intention of spending, and would not be voting for it, because essentially it is saying this Council thinks it is okay to spend \$4.5 million rather than \$4.2 million.

Speaker Saxl proposed that the Council have a motion to request \$578,327 from the Appropriations Committee in the Emergency Budget and further direct to Mr. Mayotte and Mr. Clair to continue with their negotiations to reduce the cost of the Compaq contract by three hundred thousand dollars.

Sen. Bennett said he would say we had to reduce that by \$300,000, was not there for the discussion why the other two hundred and seventy eight thousand was necessary for the Migration Project. He wanted to know why the additional five hundred and seventy eight thousand dollars. Mr. Mayotte said that Mr. Clair had gone through the various components, the Library - \$100,000, the modulars, the \$278,000 includes more than just Migration. He again wanted to know why was that amount requested for the Migration Project. Mr. Clair responded it is really on pages 3 and 4 that get to the sum of the numbers. Sen. Treat said she believed the question was subtracting the \$300,000 still leaves \$280,000 associated with the Migration Project. Mr. Clair said that they thought it was the most accurate way to do the budgeting, without going into the history of the project in any more detail, the fact is if did not have Migration budget problems right now, we might just be asking for the one hundred thousand dollar transfer from the Legislative Account to the Law Library. In a cost center approach, we are trying to track what the costs are for Migration, think that is the best way if we appropriated for that program, called Legislature Branch wide, which is capturing the appropriations for Migration issues. Speaker Saxl said Migration costs are up to \$848,172, subtract out of that \$300,000 brings down to \$548,172. He thought the question to the Council is why there is an additional shortfall beyond the \$4.2 million that was appropriated to the Migration project.

Mr. Clair explained that although there is a danger in over simplifying it, there are really two central issues on the Migration budget problems. One is that the contract was signed for \$300,000 more than it should have. Trying to get it back to the authorized amount. Hope to have a clear answer by the end of the week, or early next week. Two, the Compaq effort that Rep. Bruno asked about, the KPMG study and leading to some final solution, was never budgeted. It was an effort underway without

a clear way for the Legislative budget to absorb those new costs. It was all paid for, and something has to give, there was not plan, if you will, on how to get to that. It is those two items in total, that gets to the \$1.3 million, some of which have been able to absorb from other savings in the Legislative budget. It still leaves what we think of the net issue for migration of \$848,000, or \$578,000 after applying possible savings, and in context with all the other budget issues, should it be modular leases, Law Library or Migration issues that gets it to, what we think to be a net \$280,000 or so.

Rep. Bruno asked if KPMG was not budgeted, how did it get paid. Did they have a contract? Mr. Mayotte said they did. On an hourly basis, was there a number. Mr. Mayotte said there was a contract with a complete scope of work and a price for that scope of work. To expand further on what Mr. Clair was talking of, the Legislative Council for the 118th Legislature, approved it, believing over \$1 million in funding for that effort and that funding came from several different sources within the Legislature's budget. One was suppose to be a transfer from the Reserve Fund Account to the Migration Fund Project plus there were several favorable balances, thinks might have been personal services balance, that were also suppose to have been transferred to the Migration budget. At the end of the fiscal year that applied, the Governor in reviewing the use of the Reserve Fund determined that moving money from it to the migration project was not an appropriate use of those monies by statute. Second, the accounts that were suppose to be transferred were allowed to lapse, and believe the budget went back into the general fund. Asked about the lapsed monies Mr. Clair answered that the monies did not lapse, but were used elsewhere. Speaker Saxl wanted to make it clear that the Council was not informed of that on the forms they were shown. They were not shown the deficit of the original expenditure after the monies were expended, they were used for two purposes, committee short fall and renovations of the State House and for the Migration Project. Mr. Clair said that Mr. Mayotte was reminding him that there was a plan at some point, but implementing the plan was a problem. Implementation did not really take place. Mr. Mayotte said just to summarize, the numbers that they were using for Sen. Bennett's special committee, that they were using for budget were overstated. We thought we had more money than what we really did. When Mr. Clair did an accounting it was determined that we did not have those monies. Rep. Bruno said he had a hard time with this, new in leadership and we have to bail someone out again. We have spent a whole lot of money on consulting work, \$6.2 million spent on consulting is way out of control for the scope of the project, and said he may not be able to support the request.

Speaker Saxl asked if Rep. Bruno had alternatives. Rep. Bruno replied that he would have to think about that, he had just gotten the information that morning, he did not have the time to have a new plan. There was not enough oversight. Speaker Saxl said that Sen. Bennett and himself got the information yesterday afternoon and decided that we should have a Council meeting this morning so that everybody could be part of it, no one has had access to the information until this morning from the Council.

Sen. Treat said that other members of the Council are in the same position that Rep. Bruno is in, it is very difficult to look at something that decisions were made without their oversight and they were expected to pick up the pieces. She said we have to continue the Migration Project if this Legislature is going to function. Cannot continue to work on the Wang system that limps along, don't even have spare parts for it, can't fix. Have to get down to two hundred thousand or so difference, need to look at the whole issue of computer migration project, and how it works.

Sen. Bennett said that there is no question that the Legislative Budget has been a disaster. The Legislative budget is a little unique because you have different spending

authorities, categories of spending. The budget is two dimensional, and he is very confident now that Mr. Clair is the Executive Director, members are going to get hands around that problem. That is one of the reasons that Mr. Clair is the Executive Director, to do that. He thinks that what needs to be done now is figure out, to the best of our ability, how much money we need to close out this fiscal year. In the mean time, I am also confident that our receiving supplemental money does not necessarily mean that we have to spend all that money, that we can come up with better solutions over the next two or three months, that says we handle legitimate management function of the Legislature, may uncover some savings in this fiscal year, which might bring the number down further. Our job now is to figure out what the amount is we need now to get us out of the problem.

Rep. Bruno asked what the chances were of doing away with the modulars. Mr. Clair said that there 4 modular units that the contract was extended through December 31, 2001 when the North Wing was done because a number of the North Wing Offices have to move into them. The other 4 were suppose to be gone by December 31, 2000. Of those 4, 1 is gone, leaving 3 monthly lease payments. He has had numerous conversations with Schiavi and they have been terrific. He said that he had been talking with other State Departments, and transferred one to DOT, but Schiavi has also been trying to sell them. The problem being right now is a slow sale and lease time for them, but as spring arrives, and schools know what their projected enrollment might be for the following year, they are in the process of trying to get modulars. Schiavi said the modulars we have are nice ones, could be purchased at a fairly good rate because they are used. The President of the Company is convinced we will be able to get rid of them, but we now have six months worth of expenditures in this fiscal year and six months next year that really were not budgeted.

Speaker Saxl asked Mr. Clair about some kind of release or sales agreement with the Department of Transportation. Mr. Clair said that was the one that was sold, the press unit was sold to DOT. He then asked if Mr. Clair would continue to work on reducing those costs. Mr. Clair said that his arrangement with Schiavi, if he learns of anything will call them immediately and visa versa. Their President, Mr. Weems, is convinced we will be able to get rid of them before December, if not in this fiscal year. The Space Committee meets Thursday and one of the discussion items will be starting the move out planning process and how many of those units we will need for the July - December renovation period of the North Wing. It is 5, maybe 6 of those units.

Rep. Bruno asked why the modular leases were never budgeted? Didn't the Legislature know they were going to get the modulars but someone never budgeted for them? Mr. Clair said that what he had tried to do, trying to go back and recreate the financial history. Specifically tried to find in all the work papers, where the items were budgeted and can not find where they were. To us, we can identify all the other costs, staff, fringe benefit, printing, whatever, the normal legislative budget activities are. The things that are renovation costs, have come up with a way to figure out where most of these items have been budgeted or unbudgeted in some cases, and what Mr. Fairservice and he do on a routine basis is have discussions on where we can trim back to stay within that budgeted resource. Some of the times, we have been absorbing that into the budget, so earlier when asked if had million dollars in KPMG cost and there was some plan that was never implemented, and where might that money have gone? That is a small example of how we have had to pay for that somewhere.

Rep. Bruno wanted to know why had the same budget amount for next fiscal year if you are going to use some for the modulars? Mr. Clair said that they plan is to remove some of the modulars. You have them budgeted, just in case? Mr. Clair replied yes.

Rep. Saxl asked that, as you go through budgeting process, to try to avoid surprises for the Council and that each of us as leaders are all facing decisions in dealing with issues that you did not create. The question is to make sure that this building operates on its own and continues to meet the needs of the Legislators and to make sure that we are accessible to the public and that information about bills and documents are available to the public so it is a difficult situation and he appreciates that. Went back to Sen. Bennett's comments earlier about hiring Mr. Clair. As some from the first meeting will recall, Mr. Clair asked that an Audit be done. Need to make this a simple and accessible process and be provided with the policy information that is needed. Having served on the Council, related to the previous budgets, it is distasteful to have to deal with a mistake that someone made in negotiating a lease agreement over modulars or disappointed to hear that they were not budgeted properly after you asked repeatedly at Space Committee meetings, what these costs will be, etc. was very frustrating for those who served on the Council, as well as those of you who have inherited the problems. The question now is how to move forward.

Sen. Bennett said he knows that Legislature is entering the last five months were the expenditures are the most constrained because we are here doing our business, have staff needs, etc. but the question is, are there any other places, Mr. Clair, where we could tighten our belts in the Legislature to come up with more of this money. Have you looked at any other areas. Mr. Clair said that he knew it was going to sound a bit awkward, but that the obligation now is to avoid any new costs. As a result of the way the 120th is organized, there are new costs that were never budgeted as well. What you have before is a projection of the staffing relationship for what ever has happened in the 120th, the appointments that have been made, are included here, and have projected those costs forward. A memo will be going forward concerning new PC's, printers, equipment that committees want, etc. Don't have the exact amount, but that could be another \$40,000 to \$50,000. At a minimum he thinks we have to avoid any of those new costs and at least live within this. Know that it is a painful option, but at this point, to do further reductions to live within the budget, as we know it now, before any emergency needs, we would have to start thinking about reducing staff costs as, it is the highest cost center we have.

Speaker Saxl said one thing that had not been discussed was the position counts. Are there savings there? Where are those positions? Do we have the money to refund those positions? Mr. Clair referred Council members to the information sheet that shows the Legislative Account reads 5.5. That is to reflect the changes that have taken in the new organization of the 120th. The minus 6.123 are eliminating the positions that, in many cases, were upgraded. If a position was 24 hours a week and it was made to 40 hours a week, we are now eliminating that position and rolling it to a legislative account, which is somebody being here 40 hours a week, 52 weeks a year. You can consider that a technical adjustment to get the position count squared away to the reorganization that was done. Speaker Saxl then asked if there were positions in the Minority and Majority Offices last Legislative Session where both held vacant positions, that were filled this session in both the Offices, but specifically would those positions be eliminated under this, those 2 positions. Speaker Saxl clarified that the only change here is that some of the positions that were part time positions were made full time positions so you created a full time position and eliminated the part time position? That was the only change? Mr. Clair said yes. He said that Ms. Breton and he had a listing of all the ins and outs and how got to the numbers, if anyone wanted to take a look at that, but it is really coordinating the counts where they should be for the budget rules of the state with the way the people are actually employed now. Speaker Saxl said he would like to see that.

Sen. Bennett asked that if they vote today, to appropriate a certain sum of money, asked if Mr. Clair was confident that there will be no need for any further request between now and the end of the year. Mr. Clair said that if no other new costs are incurred, he was confident. Asked if he had concerns about new costs might be incurred? Yes, construction costs, buying new pc's. Do you think those items could arise as an emergency basis prior to the consideration of the biennial budget? Yes, think some of the issues are small in the scheme of things. To your point earlier, in the second half of the fiscal year is when the lion's share of our expenses hit. We had a number of spare positions where we could put people, temporarily while the mechanics were being worked out. Should there be some significant savings initiatives, session ending sooner, that sort of thing, that would be a help, but there are still those expenses that are still there that are new, think will come due before June 30th if they are authorized. Sen. Bennett asked within this budget, when was the Session to end and was told a week early, June 12 or 13 rather than June 20th. Speaker Saxl said that he thought it was the goal of the Legislature to adjourn early. Sen. Bennett how much was saved a week and Speaker Saxl replied twenty thousand dollars. Mr. Clair concurred.

Sen. Small asked if there were some other accounts we don't see there, where there might be some flexibility. Mr. Clair referring back to the third page, the 2nd through the 8th lines, balance forward from other accounts, that is where have identified \$345,000 in "savings" that we don't think is needed and that is how got down from what otherwise could have been a \$900,000 request. Are there more monies that were appropriated in this fiscal year that might be available. Yes, there might be. Probably the largest one in this listing is the State House and Capitol Park Commission. That Commission has been somewhat inactive, they are gearing up again, and he will be talking to the Chair, Earle Shettleworth, about the issue. It still leaves \$100,000 plus in that program for the fiscal year and the commission in getting active may have designs on that money, so you are not stripping it bare, but leaving some amount of money. We tried to do that kind of analysis in making this recommendation to you.

Sen. Bennet asked about the salary plan. Mr. Clair said that when the Collective Bargaining Agreement was enacted and when there is language in those agreements or a Council motion that extends those same increases to legislative staff, we go through some amount of a projection of how it is increasing the salary costs in the Legislature. The policy of the Executive Branch is the Legislature have appropriates the sum of money to that salary plan for collective bargaining purposes. Agencies are asked to absorb as much of that as possible. We think that we will be able to absorb a certain sum and then something like the last one or two payrolls will have to paid for out of the salary plan, just like many other agencies. Those are the calculations that were done a year ago or two years ago. What we are trying to confirm from the Budget Office, is whether they acknowledge that that is the magnitude of what we will need. If they say, there are other designs on that money already, we would have a real problem.

Sen. Bennett asked if we had an assurance from the Appropriations Committee and the Administration about our need from the Salary Plan? Mr. Clair said that he did not, what they would do now is specifically talk to the State Budget Officer about the analysis and see if we can't get that kind of agreement.

Motion: That the Council request an "emergency FY 01 appropriation" per the attached, proposed amendment for \$287,327. (Motion by Rep. Bruno, second by Sen. Treat, unanimous).

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

Speaker Saxl moved that the Council adjourn at 10:39 a.m. second by Sen. Bennett.

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