

# MAINE STATE LEGISLATURE

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REP. MICHAEL V. SAXL  
CHAIR

SEN. RICHARD A. BENNETT  
VICE-CHAIR



120<sup>th</sup> MAINE STATE LEGISLATURE  
LEGISLATIVE COUNCIL

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

**MEETING SUMMARY**  
**JANUARY 31, 2001**  
**APPROVED FEBRUARY 21, 2001**

**CALL TO ORDER**

The Chair, Speaker Saxl, called the Council meeting to order at 1:15 p.m. in the Legislative Council Chamber.

**ROLL CALL**

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

**MEETING SUMMARIES**

**Motion:** That the Summaries of December 19, 2000, and January 23, 2001 be accepted and placed on file. Motion by Sen. Bennett; second by Sen. Davis; unanimous).

## NEW BUSINESS

### Item #1: After Deadline Requests

After deadline requests were considered by the Legislative Council. The Council's action on these requests is included on the attached list.

### Item #2: Percent for Art Committee Update

Senator Abromson addressed the Council as the Senate member of the State House Renovations' "Percent for Art Committee". The item was before the Council in compliance with the Maine Arts Commission Rules which require that the contracting agency's approval for the Percent for Art Committee's recommendations be secured. Sen. Abromson informed the Council that they are the contracting agency and it is their job to select the artists and works of arts in accordance with the rules established under Section 458 in consultation with the Commission. Sen. Abromson referred members to: the 1 page summary of the committee process that had brought the committee to the selection decision; a list of the Committee members and the sequence of meetings; and the Maine Arts Commission fact sheet that briefly explains the Percent for Art law. He introduced people in the audience who support the Percent for Art Committee and who served on the Committee, who were also at the meeting for information. He introduced Rick Burt, the architect; Earle Shettleworth, Director, Maine Historic Preservation Commission; and Paul Faria, Public Art Associate with the Maine Arts Commission.

The Percent for Art Committee met 9 times. Under statute the Committee can have any number of kinds of competition for this job. The Committee elected to carry out an open competition to engender the widest possible participation among Maine's artistic community. They drafted a competition prospectus that described the project and stated the Committee's intent to consider works of art in all medial, styles, and formats appropriate to public settings. The goal was to consider work that would represent the graphic and cultural diversity of the State of Maine.

Following a statewide advertisement, 95 artists responded with letters of interest and proposals. The Committee, after reviewing all letters and slide of each artists, selected 10 to interview. Following the interviews, the Committee voted unanimously to request detailed proposals from 6 finalists. The 119<sup>th</sup> Legislative Council was kept informed about the Committee's process.

Sen. Abromson told members that later in the process the Committee will review the 5 finalists' proposals for the 1<sup>st</sup> floor areas in the West Wing. He asked Rick Burt to show the drawings and renderings to the Council members for the purpose of giving them an idea of what the areas were that was the job of the Percent for Art Committee to fill. Sen. Abromson said the area being discussed today, and requesting Council approval is the Committee's recommendation regarding Evan Haynes' proposal for the Connector. There are 4 or 5 areas that will be under future consideration.

Mr. Burt told Council members that the Committee determined the areas within the newly renovated building for the art should be considered would be limited to the new public entrance area. He had a floor plan of the new public entrance showing the areas

being considered for art include the very important views coming through the entrance, the inner lobby, Hall of Flags and also a recessed wall to the Computer Room. Mr. Burt pointed out to the Council members where Evan Haynes' work will be located.

Senator Abromson told members that Mr. Haynes' work will be in Deer Isle granite. The Council's approval of the first artist is a very critical step which is required prior to the Maine Arts Commission's approval in order for the process of creating and installing the art work to move forward with the progress of the construction.

Senator Small questioned the other type of art that would be presented from the group and who had final approval. Representative Watson explained that she and Sen. Abromson had been appointed to the Committee by Speaker Rowe and President Lawrence. Richard Entel, who resides in Manchester, is also on the Committee. He is a painter and sculptor. Sen. Abromson in response to Sen. Small's questions, yes the Percent for Art Committee makes the final selection and makes the recommendation to the Legislative Council for its approval. The Legislative Council is the contractor.

Speaker Saxl asked Sen. Abromson if he could tell the members how many pieces of art the Committee is looking at for the plan, what the time frame for acquisition is, and what the maximum price per piece would be. Sen. Abromson said that there is a general budget, which is 1% of the project. The particular piece that they are looking at today, will be in the vicinity of \$50,000. The overall budget is approximately \$240,000. There is no limit on a particular piece. Speaker Saxl asked if there was a plan so that the resources had been spread around so that all of the public showing spaces will have art. Sen. Abromson said that they cannot use all the public showing places, some are not part of the project, but the Committee has taken into account the prime viewing areas.

Rep. Watson said that during the meetings, the Committee's discussion had centered on several concerns regarding the appropriateness of the work to be chosen, the work would be compatible and resonate with the character and dignity of the State House. The Committee held that it was necessary for the work to bear relevance, not only to the building's design, but should be respectful to the importance of the activity that takes place, and to the significance that the State House represents. Also they wanted it to possess the aesthetics longevity corresponding to its physical permanence, timelessness and quality of design that would be sustained over time. The work needed to define a sense of space and would have to be an installation of the collective vision of the Committee and the artists. The Committee believes that the work by Evan Haynes fulfilled all of the criteria and had concluded that he presented art work that the Committee wanted for the Connector. Mr. Haynes' proposal connect with the themes of communication and Maine's ethnic and cultural roots, and he had done extensive research with the Committee in developing his work and has employed a very thorough process to consider the variety of interest groups to be considered.

Evan Haynes was introduced and thanked the Percent for Art Committee. Mr. Haynes said that he was interested in creating work that responded specifically to the site, both where the physical characteristics of the connector and also the historical and cultural contexts of the State House and the functions of government. He tried to create an amenity that integrates well with the existing structure that Weinrich + Burt had designed, and that would not only add to the immediate visual experience of the space, but also something that would sustain an intellectual interest over time.

Mr. Haynes said that the source of the text that are shown on the plan, the excerpts are from dictionaries that were written back in the late 1600's and early 1700's by the French Jesuit Missionaries who came to Maine. They have been copied over time and most recently one had been translated into English. He was very interested in how they reflected the routes of Maine, at least part of it, and felt that the process of translating and looking at dictionaries revealed the commonalities that were shared by all. The Committee said that communication was a key element in government, and that was what he tried to work with. Mr. Haynes said that he had met both with Representatives Soctomah and Loring about the accuracy of the text and they both suggested that perhaps the work be modified to contemporize the language so that it be translated into Passamaquoddy and also Penobscot. That process is presently going on with the Maine Folk Life Center, and the Penobscot and Passamaquoddy Tribes. It represents the diversity of Maine, and also tries to emphasize the commonalities that is shared by all.

Rep. Colwell asked about the granite being used and Mr. Haynes referred to the sample that he brought to the meeting for the members to see. He said that the stone will not have a polished surface, except for a band on the top and one through the middle, approximately 5 1/2 inches. It is a rough texture, a thermal finish.

Rep. Norbert asked about the color. Mr. Haynes said that he was not applying any color to the granite. The lighting is critical for the work and the lighting runs along both edges of the connector, and the skylight is particularly helpful. The combination will provide sharp shadows. The work will be in the Connector where the Dioramas will also be located.

Sen. Bennett said that the Legislature had spent an inordinate amount of money on preserving the dioramas, that the project was already over budget. Experts on dioramas presented testimony to the Council about the artistic quality of the work of Klir Beck. He asked if of the cost of the Klir Beck work could also be incorporated and accommodated by the Percent for Art. It is money that has already been expended, it would not interfere with the work that is ongoing with the Committee or Commission, but he thought it was something that should be put on the table for consideration. Sen. Bennett asked Sen. Abromson if the Committee reviewed that at all, that we had spent \$1 million plus on preserving the dioramas, precisely because they are art. Sen. Abromson said that the more that is spent under the statute, the Committee had to spend a percentage. One of the problems is, that regardless of the bona fides of Klir Beck, that under the law it has to be a living Maine artist. The monies must be used for the work of living Maine artists. The other question, would it possible to spend that money for restorations and fixing up, one would think that could go through the whole State House, start restoring. Sen. Abromson did not think it was the intent of the law, but obviously it is open to discussion or interpretation. Paul Faria noted that restoration of existing works had specific exclusion under the law and rules. Sen. Bennett said he had read the statute and did not see any exclusion in the statutes. He requested that the Committee review that as a Committee, to satisfy his concerns.

Speaker Saxl thanked Mr. Haynes for joining the Council and the members appreciate the hard work that both he and the Committee have done. He said he believed what Sen. Bennett was requesting is to have the Committee prospectively report back to the Council whether they believed it appropriate, within their jurisdiction to adopt or change the rules under which they operate and chose the artist. It is not to deviate on your recommendation on this occasion, but whether there is the potential to change the rules and if there is consensus from other Council members, then will give them that charge.

Sen. Treat said that she did not necessarily agree with the premise in terms of where it is going, but did think all the information was needed to make a decision on it. Sounds that the Art Committee has looked at it and it needs to be put into a format for the next Council meeting, in writing, perhaps that just double checks their conclusion.

Sen. Daggett said that the proposed piece was beautiful and a wonderful idea for a variety of reasons. It was precisely why, might be statutory, but could be rule making, that the Percent for Arts has been put forward as it has been. The arts are a major way that children learn, and this is a place, where many children come and to have things at the State House that reach out to members of the public and particularly children, is an absolutely important gesture. She believes it is a bad area to scrimp, that we are making changes in this building that will last for many years.

Sen. Bennett said that when he raised the question, he did not mean to discuss at all the work before the Council today. The Legislature is spending a lot of money on the connector, it is appropriate to make the most of it aesthetically, and as a learning devise. He concurred with everything Sen. Daggett had said. They were the very arguments that were made in the previous Council for saving the dioramas. It was the artistic component of the dioramas that lead to the previous Council deciding to appropriate over \$1 million to save them. He also said he understood Sen. Abromson's point entirely, the whole building is a work of art. Architecture is great art and public buildings deserve, and particularly the central public building in the State, which the State House represents, ought to be place that is remarkable.

Rep. Bruno addressed Sen. Abromson's statement that they had received \$240,000 for the Percent for Art. As there are cost overruns, does the Committee get more money. Is it of the original price?

Rep. Colwell, said the members should focus on what is being talked about here today and should talk about the dioramas later. He asked what the bottom line price including the materials and the art would be. Sen. Abromson replied \$50,000. He said that granite does not stain, doesn't require maintenance, and once the piece is in place it will not require maintenance.

Speaker Saxl thanked the Percent for Art Committee stating they had done a tremendous job, concurred with everything that had been stated. It will be very enduring and is a wonderful piece of art.

**Motion:** To support the Percent for Art Committee's recommendation concerning the artwork of Evan Haynes that has been presented before us. (Motion by Sen. Treat, second by Sen. Daggett, 9-0 unanimous).

Rep. Watson asked for clarification for Sen. Abromson and herself, had Sen. Bennett asked them to come back to the Council with some information about the parameters that they are working under presently? Did he also ask for recommendations for changes? Speaker Saxl said that he believed the charge from the Council for the Percent for Art Committee is what kind of flexibility they have, whether they are restricted by rule or by statute and what their recommendation would be if they have any recommendations for changes.

## REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

- Executive Director's Report

James Clair, Executive Director of the Legislative Council, reported to the Council that they should be seeing their first quarterly budget reports in their offices. Attached to that report is a status report on the interim studies from the most recent interim. He said that it was disturbing that, although there was savings overall, some of the projects did go over budget. Rose Breton and he are working on an early warning system so that does not continue.

Mr. Clair said that he owed the Council drafts on a number of different policies. The most important draft is the security card policy.

The other item Mr. Clair had for the report was LD 169, a bill sponsored by Rep. Julie O'Brien, that would amend some statutes governing the Legislative Council's authority and the State House and Capitol Park Commission. The LD was being heard on Monday, February 5, 2001, before the State and Local Government Committee.

Sen. Treat asked what the current status was on the eating and drinking policies of committees. Mr. Clair said the Space Committee talked about that policy recently and their recommendation was that there be 2 rooms in the State House, the Council Chamber and the Appropriations Committee Room where food would be allowed at events. If someone needed a room for that type of function, those would be the rooms that would be reserved. In the Cross State Office Building, he was working with the Administration on whether there is opportunity to have functions like that on the 1<sup>st</sup> floor where there are meeting rooms and in the back part of the cafeteria. Rep. Colwell said that he is Chair of the Space Committee and did agree that current policy, as far as committee members and Legislators, using their committee rooms to eat lunch in was fine at the discretion of the Chairs. As far as the public, the Committee had hoped that they could limit public eating to the Council Chamber, the Appropriations Room and the larger function room in the Cross State Office Building, but they were willing to take the issue up again if it did not prove to be workable. Sen. Treat asked if it could be communicated to the membership, and to make sure at the Council's next meeting, that the policy is finalized.

Speaker Saxl asked if members could go back to the previous item, LD 169. It changes the powers to the Legislative Council and he thought the Council needed to take some kind of action to endorse, to oppose or affirmatively not testify either for or against. It was Speaker Saxl's understanding that the legislation would take the power from the Legislative Council to make changes to Capitol Park without actions by both the House and the Senate. He asked if that was right, and how it would impact the Council's oversight of Capitol Park. Mr. Clair stated that the bill proposed that any action that was endorsed by the Legislative Council had to be consistent with the Capitol Park plan that was developed in the 1920's. Speaker Saxl asked who determines if that is consistent. Mr. Clair said he did not know.

Sen. Daggett said that the genesis of the legislation had to do in part with the way the State House building project proceeded. There was a feeling that if what was going to happen was known, then there could be some degree of public input, or input from even other members of the Legislature. She said that she in fact had a friendly amendment to the LD, but in the interest in getting it printed, decided not to have it rewritten with that in it, but that there be notice of any changes or anything done to the Park, so anyone that has

a concern has an opportunity to raise it. As far as who makes the decision, the way she read the bill, that the Council, in making decisions about what will happen in the Park, would have those actions be consistent with the plan. Certainly if there is an interest by other members of the group as whole, to be involved in a way to protect the Park, that would be terrific.

Rep. Schneider said that he did not know why it would not subject the Legislative Council, perhaps to a lawsuit, if someone believed that the Legislative Council had taken action that was not consistent with the Olmstead Brothers design from 1920, seeking specific performance, a remedy that would require the Legislative Council to do that. Sen. Treat said that someone would have to have a standing to challenge it. Sen. Bennett said that, in the last Council, there were a number of issues that came before them that were not properly dealt with. It was unfortunate, the Council and the Legislature, overall felt a brunt of public concern they did not work very well with neighbors in the greater Augusta community, particularly concerning Capitol Park, but did believe that that Legislative Council learned from that experience and created some good mechanisms that furthered the comity between the host city and the Legislature. He thought this action as being a bit of an over reaction to those concerns. Sen. Bennett said that although he respected the plan that was developed by the Olmstead Brothers, believed that there was a better approach than amending statutes to put restrictions on the Legislative Council to address past grievances, and that the Council had a responsibility, not to be told by the Legislature with the Governor's signature that the Council behaved badly, and now needed a restriction to be placed upon us, but rather affirmatively move to, if appropriate, have some standards developed by the Council. Cannot bind future Legislatures, they could always amend, change it, but what we can do, is take responsibility for our own actions. He said that he would support that, in advance of supporting a motion which tells the Legislative Council they are not doing a good job and need oversight by the Executive Branch, as well as the rest of the Legislature. First should try to accommodate the concern before Council supports that kind of statute.

Speaker Saxl noted that there were many mistakes made that impacted the Capitol Park, one of notice, one of unilateral action, one of having no positive form of input. Sen. Daggett's friendly amendment seems the correct way to proceed, the question is what the correct vehicle to make that happen. There was an Advisory Committee of Augusta area, rules should be amended to have an Advisory Committee of the host community to the Council regarding the Park and the State House Complex. Should have public notice of any changes that are planned, regardless if they complicate or deviate from the Olmstead Plan. The question is whether it is the prerogative of the Council, and the responsibility of the body to make final decisions or whether the statutes are going too far. A decision has to be made on whether to oppose, support or offer an alternative and asked for comments.

Rep. Colwell said that there are two issues. First, looking at the Olmsted Plan, there are no plans for drainage at all. If we are going to be lock into Olmsted Plan, we are actually locking into something that is perhaps an inadequate plan. Second, why stop at Capitol Park. The State House is as much a treasurer as everything else. He said he did not think it was a good idea to limit themselves, it is about being responsible, understands that some decisions in the past were not, and understands why this legislation came forward, but perhaps a better position, and one that the Speaker was advocating, was an alternative that would insure greater sensitivity and responsibility on the part of the Council.

Sen. Daggett said that she chaired the Advisory Committee from citizens in the area and said it was a valid thing to have. A number of issues that came before the Committee were after the fact and were simply informational after the direction, everything had already happened. She believed that one of the problems was we, as a group, had not been "we" in the past. The unpredictability of the Council, who is going to be on it, and the difficulty at this time of institutional memory, leads her to see something that is statutory. It says consistent with, does not say identical to, and would certainly consider, for example, drainage to be consistent with the Olmsted Plan. She said that is why she was leaning toward the direction of notice before something would happen, not that necessarily prevented that from happening, but an opportunity to hear from people who might have a sensitivity to the Park. Sen. Daggett said that this was the second Capitol Park issue that she had been involved with. The first was back in the late 80's and involved having the Supreme Judicial Court being put at end of the Park. Speaker Saxl asked if Sen. Daggett had a recommendation as to how the Council should proceed. She said that she was not opposed to putting something in statute, maybe not being as restrictive, something softer about the Olmsted Plan as guidance. She considered herself quite open, but would like to see something statutory, even though that does not always guarantee that we get what we want, but thinks it would be more permanent than a guideline.

Sen. Treat said she agreed. She would not want to have a letter that said the bill was opposed, but maybe a better approach would be to say that the bill is a response to legitimate concerns, that consistency with the Olmsted Plan is certainly one of a number of considerations that the Council should take into consideration and there may be other issues, such as notice and having some involvement of the local community on a continuing basis, advising the Legislative Council. She has faith in the committee process to take a look at a bill, give certain amount of input and public testimony and come out with a bill that is not identical to what went in, therefore would like to see the Council take a positive approach towards giving them suggestions. Rep. Saxl asked if there was authority to make changes in Capitol Park by one chamber or the other chamber. Mr. Clair said he did not believe so. Mr. Clair said the present statute certainly vests the authority with the Legislative Council.

Rep. Bruno said that he did not understand the one chamber thing, asked if there was order passed in the Senate alone?

Sen. Daggett said that Earle Shettleworth, Chair of the State House and Capitol Commission, had given his blessing to that plan, being the group that was to be involved. She believed that part of that revolved around the fact that it was not a permanent change and there was some feeling that it was a temporary solution and usage and therefore was okay. It was not a permanent change and the drainage would be a part of it in the final analysis. For many who had looked at the plans early on, the modulars were originally to be where they are now, another temporary change was they would be put on the lawn close to the building and then the bulldozers were working in the Park. We are just trying to make sure it does not happen again, the first thing you see is the bulldozer in the Park.

Sen. Bennett said that he thought it was a management problem, and thought that the bill overreacts and tells us to solve a problem in statute, thinking we can solve the problem, when we can't. He said that he cannot support the bill and hoped the Council did not. If there are ways of giving comfort and improving our process, we ought to take those up directly. He said if the question of whether the Council should support this bill, or not, take no position on it, his vote would be to oppose the bill. He said that he would like to review the rules and see if there are ways to improve the relationship with the host city.

Rep. Colwell said that he though the Speaker's recommendations made a better point. He said that whenever you bring any kind of legislative action, it goes through a process of notification, public hearing, public input and then it would be worked. Rep. Colwell thought the same standards should be applied to any attempt to modify Capitol Park. He believed that would address Senators Daggett and Treat's concerns. He asked if that was what the Speaker was suggesting. The Speaker said yes. Rep. Colwell said that he could support that.

Sen. Daggett said that it was her understanding that the Chair was willing to make that statutory as opposed to just rules of this Council. Speaker Saxl said that his suggestion was two part. One part which would clarify that any temporary or permanent change to the Park must be approved by the entire Legislative Council, and that in the rules it would require public notification and that we adopt a permanent standing advisory committee to the Legislative Council for public input on what we do in organized fashion.

Sen. Treat said it was unclear to her, who this was going to, and if the bill was off on its own track, when we do something here, or if this part of a communication that goes to that committee concerning the bill. She said that she would be more comfortable instead of writing off the bill having a statement saying the language is confining and too narrow and would like to have the legitimate concerns at rest in the ways you have outlined.

Sen. Daggett said she believe it did and did not think there was any need to put something in statute that is severely limiting. She thinks the public notice piece and in writing a letter, there does not need to be any mention of anything in the past, but just to look to the future.

**Motion:** That the Legislative Council send a letter to the State and Local Government Committee recognizing that we appreciate the concern that has been identified that any change to Capitol Park has to be done by the full Legislative Council; that the Council will amend its rules to create a standing, advisory committee for the Capitol Park area; and that the Council adopt rules for public notice provisions before any change is considered to invite public comment about those changes. (Motion by Speaker Saxl; second by Rep. Norbert; 8-0 unanimous).

Mr. Clair said he had one more item: the interim eating and drinking policy. We are in the midst of trying to finalize something. Mr. Clair said that he had suggested to the Chair and Vice-Chair earlier that if there was another meeting in the near future, a number of these policy issues will be before the Council and will be able to move forward, security cards, eating and drinking, hopefully the Fine Arts policy that Earle Shettleworth and J.R. Phillips are working on. Mr. Clair was directed to bring these policy drafts to the next meeting.

- Renovations: Status Report

Stan Fairservice gave a renovations update. Odds and ends of work in the building will be done over the next month. The plan was to open the corridor, ladies and men's restroom on the first floor on Tuesday, February 6, 2001. Also, work was continuing in the Connector. Mr. Fairservice said that he had asked Granger to work with him on putting together a plan that would show work from both the State House toward the CSOB and also work coming back from where the work had stopped in the tunnel. The schedule reflects a completion date of April 30<sup>th</sup>. The process was being slowed down approximately two weeks with the Percent for Art, so could be an opening of May 15<sup>th</sup>. He said there was something before the Council as to which plan they would prefer to go with, the April 30<sup>th</sup> or May 15<sup>th</sup> opening date.

Rep. Norbert asked why the two week delay and Mr. Fairservice said it was the two weeks for the installation of art work that had been discussed earlier in the Council meeting. Rep. Saxl said that he would like to see what the original time line was.

Mr. Fairservice continued with his update and told members that 7 of the 8 committee tables had been installed in the State Office Building, a lot have been wired, are sound active now. There is one more to go in and would expect within the next 2 weeks every hearing room in the State House and the CSOB to be able to project sound through the entire system, and also within the next 2 weeks will have the exterior malt box ready for the live trucks.

No Council action was required.

- Fiscal Update

Grant Pennoyer, Interim Director, Office of Fiscal and Program Review, drew members attention to the fiscal update package provided earlier. He said that he had attached the General Fund revenue and Highway Fund revenue for December, and was not sure why the Executive's report had not been received as of yet, but the Commissioner said it was forthcoming. Mr. Pennoyer told members he believed the budget information they had received is consistent with the numbers the Executive Department will present. He said the general fund was up \$2.4 million overall for the month of December, the year to date however, are still down \$2.3 million. The major lines that have negative variances are the sales tax line, \$3.4 million down and the estate tax line. Remembering from the previous Council meeting, corporate income tax was down significantly by \$4.6 million, that have almost completely reversed that negative variance, it was just a timing issue, they are only \$.8 million down year to date, and talking to Revenue Services earlier today, said January looked very good for corporate income tax. The sales and inheritance taxes are the areas where there are negative variances. The Highway Fund was up \$2.8 million year to date through the end of December, and a 1.7 positive variance overall for the month of December. Mr. Pennoyer wanted the Council to know that the Revenue Forecasting Committee will be meeting February 26, at 10 a.m. at the State Planning Office. He also said that the Consensus Economic Forecasting Commission, when it did the more detailed forecast, reforecast the personal income growth, for not only calendar year 2001, but they also reprojected the calendar year 2000 base by the same 1/2% reduction in the growth. That will represent even a greater effect on what will be presented by Maine Revenue Services when they run it through the model. Mr. Pennoyer said they thought that when the detailed projections are run through the model, that it has the potential to reverse the amount of the upper reprojected that was done in November and December of last year. Their recommendations are just one thing that the Revenue Forecasting Committee will be looking at. Looking at the revenue sheets, there does not appear to be any problems to date, other than sales tax.

Speaker Saxl asked Mr. Pennoyer the status of getting the performance based budget information from the Executive Branch and he said that part of the December 19, 2000 motion, the Council authorized Fiscal and Program Review to produce the current services bills, the Highway Fund bill will also be produced in the traditional format, however the Council was silent with respect to other bills, such as the Part II bill and how will they be drafting other appropriation and allocation section throughout the 1<sup>st</sup> Regular Session of the 120<sup>th</sup> Legislature. He said that they have had fairly good luck in turning

around from the spreadsheets that were presented by the Executive, were able to produce those in LD 300. Part B of LD 300 is a slightly modified format of the old traditional format.

**Motion:** Concerning the drafting of appropriation and allocation section for performance budgeting purposes, that the Legislative staff is directed to produce all appropriation and allocation sections for the 120<sup>th</sup> Legislature's 1<sup>st</sup> Regular Session in the traditional format to receive what ever other performance budgeting data that the Governor may wish to transmit and further that the State Budget Officer be directed to submit budget data in a format that can be produced in the Wang format. (Speaker Saxl)

**Discussion:** Margaret Matheson said that when they did Part B, it did appear to be in a slightly different format. It was not in the old format as known, it did have a different look for folks dealing with it. When Mr. Pennoyer spoke earlier about getting a spreadsheet and then getting that to convert over, that was the format that was used, it was not what we were used to seeing prior to this point, but it is more like that than the whole performance based budget. She inquired if that was what the Speaker's motion entailed? Speaker Saxl said that the motion was brought by the Executive Director on behalf of the Office of Fiscal and Program Review. The intention is to make sure that the Executive cooperates with the Legislative Branch, so that the computer system we have now in as traditional a format as possible in order to produce the budget document. It is not to under mine your existing efforts to accommodate the Executive to a degree, but only to request that they collaborate and cooperate with you in getting out a budget document that can be read effectively and be manipulated by the Office of Fiscal and Program Review. Speaker Saxl asked for comments.

Mr. Pennoyer said that since the modified traditional formatting that is used to produce the Part B was the quickest way that we could produce it from the spreadsheets that were received. Macros were used to eliminate certain items, and was able to be produced as close to the old format as they could get it. There are some modifications in the way where you affectionately refer to as the "blippie" where that appears is now called the new initiative, but has the same substance. All the key elements are there of the traditional format, it just appears a little differently. He was not sure if the motion needed to be amended to clarify that it would encompass a modified traditional format. Speaker Saxl asked the Executive Director to comment. Mr. Clair asked if he could try to rephrase the motion.

Speaker Saxl withdrew the original motion.

**Motion:** Concerning the drafting of appropriation and allocation sections for Performance Budgeting purposes, the Legislative staff is directed to produce all appropriation and allocation sections for the 120<sup>th</sup> Legislature's 1<sup>st</sup> Regular Session in a format compatible with the Wang system and to receive what ever other performance budgeting data that the Governor may wish to transmit and further that the State Budget Officer be directed to submit budget data in a format that can be produced in the Wang format. (Motion by Speaker Saxl, second by Sen. Bennett, 8-0 unanimous).

Sen. Bennett asked if only the critical issues left on the agenda be dealt with at the meeting.

## NEW BUSINESS

### Item #4: Request for an Extension of Reporting Deadline

- Committee to Study Access to Public and Private Lands in Maine

**Motion:** Move that the Extension request be granted. (Motion by Speaker Saxl, second by Sen. Davis, unanimous).

### Item #2: Legislature's FY 2002-2003 "Part I" Budget Request

Mr. Clair said that as a function of the Joint Rules, you will meet in a joint public hearing with the Appropriation's Committee on Wednesday, February 7, at 9:00 a.m. We had submitted in September 2000, based on a vote by the 119<sup>th</sup> Legislative Council the information that the Governor needed with which to submit a recommendation for the Legislative budget. It was in the members' packets, and he said he would like to go through it with the members quickly. Pages 2 - 5 have the highlights. Rose Breton, Richard Sawyer and he, going back to August, pulled together the Part I budget requests, due by September 1<sup>st</sup>, submitted September 30<sup>th</sup> including all motions that had been made previously by the Legislative Council, including orders, rules, House, Senate or joint, etc., including the statutory deadline for adjournment. Page 2 shows the reasons why the numbers yielded an increase for the biennium of approximately \$7 million. The lion's share of that \$6.2 million are in personal services items. The biggest ticket items, are in four areas: the collective bargaining agreement that was enacted 2 years ago and extended to all Legislative employees; the NCSL Compensation Study implementing that study was approximately \$1 million for the biennium; health insurance costs and their projected increase, using data from the administration of about \$1.8 million; and increases in retirement costs of approximately \$1 million. In addition there are the lesser items, merit increases to members' salaries, etc. but wanted to give Council members some sense of where the budget was going. Sen. Treat asked if Mr. Clair knew or had the information of what percentage of the healthcare was related to prescription drugs? He said that he did not have it available, but would be asking the State Employee Health Insurance Commission. Sen. Treat said she would like that information at some point. She said that the Legislature was probably the same as other state employees and Mr. Clair said that we were paying the same rate, it is a universal coverage, paying a per person rate. Page 3 showed an overview summary, 4<sup>th</sup> column in total FY 2000-2001 biennium, comparing it to the proposed biennium request, \$47 million is in the budget presently that was the appropriation. We think that the projected costs are \$41.7 million. If you remove the major 1 time items, including the migration costs and the State House renovation supplemental appropriation, then compare a \$34.2 million present budget to a \$41.2 million estimate, that was the \$7 million on the previous page. It shows how it breaks down to major accounts and other commissions and subgroups. Everything else is just the nitty-gritty of how everything else comes together. We have been requested by the Appropriations Committee to provide them with series of background pieces, including the B forms, expense data, etc., and are in the midst of preparing it and will have it ready for the public hearing.

Sen. Bennett said that he would want to review the information before supporting it or act upon it and would like to put the budget in context, both to understand it, the amount of increase in this budget as it relates to increases in the general fund overall and also to see the Legislature's budget overall that is proposed in this document as it

relates to the average of other states and the cost of the Legislature is part of the general fund in other states, so we can have a bench mark to see whether our cost, which are growing rapidly, are inline what is being seen elsewhere.

Rep. Bruno said that a 20% increase in the Legislative budget, seems steep on a comparative basis and wanted to know the procedure to go through line by line or does the Council just accept the \$41 million and say that is the budget. Speaker Saxl said they would be given choices including accepting the costs the last Council adopted for your staff people or cut their pay, eliminate or achieve savings, and other ways you can achieve substantial savings.

Sen. Bennett wanted to know why the retirement costs were going up \$1 million. Mr. Clair said that with the amortization schedule as it was, the ability of that change to be implemented in FY 01 was largely due to the favorable returns received, but the projected costs for the remaining period of the schedule divided out in a way that is done on a percentage basis for each employee yields that number. Sen. Bennett said it was a lot of money and asked how many employees. Mr. Clair answered a little over 200. Sen. Bennett said that the Legislature was paying, over the biennium, an increase cost of about \$5,000. per employee, and that is just the margin of increase. Mr. Clair said yes. Sen. Treat said that the \$1 million is related to change in the amortization schedule so that we are paying shorter periods of time, so it is front loading the expenses. It is just not the Legislature, it is the same issue that is in the Governor's budget that he wants to change to a longer period of spending it out? Mr. Clair said the amounts in the budget meet the lower amortization schedule. It is not only to help the insurance issue, it is every state employee is being charged that rate, regardless if it is for retirement or health insurance. Rep. Colwell said that he would think that the Compensation Study and the Collective Bargaining would also impact the increase for retirement costs. Mr. Clair clarified that it does: to increase staff salaries increases our retirement costs.

Speaker Saxl talked about the costs of new hires, NCSL Compensation Study, collective bargaining, retirement costs and health care. Said what he would advise is that to have time to reflect on this, meet again before the Council take any formal action. Sen. Bennett said that he had served on the Council and had also served on the Appropriations Committee, this goes to extraordinary circumstances to other agency proposals, because the Legislature is a separate branch of government, and in the past, this budget document is the product of the previous Council's work and he thought it could be presented to the Appropriations Committee and inform them that the Council is reviewing it. He did not think any member would be advocating more money, so the solution would be to identify savings and given that, present it to the Committee and tell them it is a product of the old Council and the new Council is looking at it and welcomes input from the Appropriations Committee. Speaker Saxl said that no one advocates increasing the spending.

Mr. Clair said that to Rep. Colwell's point, he was right, it was not the new amortization schedule per se; it is the normal component of the retirement costs applied to budgeted salaries.

Mr. Clair said the request also does not include any of the organizational changes that were made in the 120<sup>th</sup>. Rose and he are looking at that and prior to Wednesday, if you would like, or certainly after the hearing, the Council will want to have some sense of saying that there are some incremental costs affiliated with it and how you want to handle it is an open question.

Speaker Saxl asked if there was agreement to adjourn without changes and then get back together briefly on Monday, we will continue to review this document, identify savings.

No Council action required.

## **ANNOUNCEMENTS AND REMARKS**

None

## **ADJOURNMENT**

Speaker Saxl moved that the Council adjourn at 4:56 p.m., second by Rep. Colwell, unanimous.

**CORRECTED COPY**  
**LEGISLATIVE COUNCIL**  
**ACTION ON REQUESTS TO INTRODUCE LEGISLATION**  
**January 31, 2001**

|                 |   |                  |
|-----------------|---|------------------|
| <b>SPONSOR:</b> | <b>Sen. Carpenter, David L.</b>   | <b>FAILED</b>    |
| LR 2357         | An Act to Create a Special License Plate for the Rotary Club                            |                  |
| <br>            |   |                  |
| <b>SPONSOR:</b> | <b>Sen. Carpenter, David L.</b>   | <b>WITHDRAWN</b> |
| LR 2395         | An Act to Allow Nonresidents to Hunt Deer on the Opening Day of Deer Season             |                  |
| <br>            |   |                  |
| <b>SPONSOR:</b> | <b>Rep. Carr, Roderick W.</b>   | <b>FAILED</b>    |
| LR 2427         | An Act to Require Consumer Reporting Agencies to Verify Property Tax Lien Discharges    |                  |
| <br>            |   |                  |
| <b>SPONSOR:</b> | <b>Rep. Dorr, Susan</b>   | <b>ACCEPTED</b>  |
| LR 2366         | An Act to Amend the Calculation for Annual County Tax Assessments                       |                  |
| <br>            |   |                  |
| <b>SPONSOR:</b> | <b>Rep. Duplessie, Robert W.</b>  | <b>FAILED</b>    |
| LR 2350         | An Act to Restrict Excessive Rental Fees and Penalties                                  |                  |
| <br>            |   |                  |
| <b>SPONSOR:</b> | <b>Rep. Duplessie, Robert W.</b>  | <b>FAILED</b>    |
| LR 2393         | An Act to Impose Strict Liability on Owners of Vehicles Involved in High Speed Pursuits |                  |
| <br>            |   |                  |
| <b>SPONSOR:</b> | <b>Sen. Ferguson, Jr., Norman K.</b>  | <b>FAILED</b>    |
| LR 2390         | An Act to Allow the Use of Cash in Games of Chance at Agricultural Fairs                |                  |

## Action

**SPONSOR:** Rep. Gooley, Walter R.

**FAILED**

LR 2391 An Act Concerning Funding for the State of Maine Building  
Big E Upgrade Project

**SPONSOR:** Rep. Green, Bonnie

**FAILED**

LR 2359 An Act to Permanently Fund the Maine Writing Project

**SPONSOR:** Rep. Kane, Thomas J.

**FAILED**

LR 2408 An Act to Clarify the Tax Deductibility of Long-term  
Care Insurance Policies

**SPONSOR:** Sen. Lemont, Kenneth F.

**FAILED**

LR 2385 An Act to Amend the Laws Governing the Reporting of  
Child Abuse

**SPONSOR:** Rep. Lessard, Paul J.

**ACCEPTED**

LR 2396 An Act to Increase the Indebtedness of the Topsham  
Sewer District

**SPONSOR:** Rep. Lessard, Paul J.

**WITHDRAWN**

LR 2397 An Act to Require that Prescriptions Be Printed or  
Typed Legibly

**SPONSOR:** Sen. Longley, Susan W.

**ACCEPTED**

LR 2403 An Act Concerning the State Court Library System

**SPONSOR:** Rep. Mailhot, Richard H.

**ACCEPTED**

LR 2413 Resolve, to Amend Certain Dates for the Issuance of Bonds

**SPONSOR:** Sen. Martin, John L.

**ACCEPTED**

LR 2414 An Act to Restore a Working Compensation Hearing Officer  
Position in Aroostook County

|          |  | Action                            |
|----------|--|-----------------------------------|
| SPONSOR: | Rep. Mayo III, Arthur F.   | WITHDRAWN                         |
| LR 2360  | An Act to Require that County Registers of Deeds be Appointed by County Commissioners            |                                   |
| SPONSOR: | Rep. McGlocklin, Monica  | ACCEPTED                          |
| LR 2405  | An Act to Ensure Adequate Funding for School Construction Costs                                  |                                   |
| SPONSOR: | Rep. Norbert, William S.   | ACCEPTED                          |
| LR 2346  | An Act Requiring Reimbursement to Counties for Courthouse Facilities                             |                                   |
| SPONSOR: | Rep. O'Brien, Julie Ann  | ACCEPTED                          |
| LR 2398  | An Act Concerning the Formation of the Central Maine Regional Public Safety Communication Center |                                   |
| SPONSOR: | Rep. Povich, Edward J.   | WITHDRAWN                         |
| LR 2358  | An Act to Repeal the Sales Tax on Bottled Water  |                                   |
| SPONSOR: | Sen. Shorey, Kevin L.  | ACCEPTED                          |
| LR 2367  | An Act to Increase the Debt Limit of the Calais School District Trustees                         |                                   |
| SPONSOR: | Rep. Tracy, Richard H.C.   | ACCEPTED<br>BY BALLOT<br>01/30/01 |
| LR 2406  | An Act to Appropriate Funds for Special Testing at Norridgewock Landfills                        |                                   |
| SPONSOR: | Rep. Watson, Elizabeth   | FAILED                            |
| LR 2416  | An Act to Amend the Clean Car Incentives Pilot Program   |                                   |

## Action

**SPONSOR: DEPARTMENT OF ATTORNEY GENERAL REQUESTS ACCEPTED**

LR 2417 An Act to Control the Abuse of Designer "Club Drugs" by Adding MDMA, "Ecstasy", and Related Drugs to the List of Schedule W Drugs and GHB, Ketamine and AET to the List of Schedule X Drugs

**SPONSOR: DEPARTMENT OF ATTORNEY GENERAL REQUESTS ACCEPTED**

LR 2418 An Act to Prevent Interstate and International Smuggling of Illegal Drugs Into the State by Creating the Crime of Illegal Importation of Scheduled Drugs

**SPONSOR: DEPARTMENT OF ATTORNEY GENERAL REQUESTS ACCEPTED**

LR 2419 An Act to Control the Illegal Diversion and Abuse of Prescription Narcotic Drugs

**SPONSOR: DEPARTMENT OF ATTORNEY GENERAL REQUESTS ACCEPTED**

LR 2420 An Act to Allow the Chief Medical Examiner to Assume the Responsibility for the Disposition of Certain Dead Bodies

**SPONSOR: DEPARTMENT OF ATTORNEY GENERAL REQUESTS ACCEPTED**

LR 2421 An Act to Address Confidentiality of Records in the Medical Examiner Act

**SPONSOR: DEPARTMENT OF ATTORNEY GENERAL REQUESTS ACCEPTED**

LR 2422 An Act to Allow Expressly Authorized Persons to Conduct Investigations for the Chief Medical Examiner

**SPONSOR: DEPARTMENT OF ATTORNEY GENERAL REQUESTS ACCEPTED**

LR 2423 An Act to Make Certain Technical and Clarifying Changes to the Medical Examiner Act

## Action

SPONSOR: DEPARTMENT OF ATTORNEY GENERAL REQUESTS ACCEPTED

LR 2424 An Act to Clarify the law Regarding Access to Documents  
in a Proceeding Under the Unfair Trade Practices Act

SPONSOR: DEPARTMENT OF ATTORNEY GENERAL REQUESTS WITHDRAWN

LR 2425 An Act Relating to Registration of Home Contractors

SPONSOR: DEPARTMENT OF ATTORNEY GENERAL REQUESTS ACCEPTED

LR 2426 An Act Concerning the Crime of Endangering the Welfare  
of a Child

## JOINT RESOLUTIONS

SPONSOR: Sen. Bennett, Richard A. ACCEPTED

LR 2431 JOINT RESOLUTION, MEMORIALIZING CONGRESS AND THE UNITED  
STATES DEPARTMENT OF TRANSPORTATION TO STUDY THE  
SUFFICIENCY OF EAST-WEST TRANSPORTATION LINKS

SPONSOR: Rep. Clark, Joseph E. ACCEPTED  
COMBINED WITH  
LR 234

LR 0629 JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE  
UNITED STATES NOT TO CONDUCT THE FEASIBILITY STUDY  
FOR THE NATIONAL PARK IN NORTHERN MAINE

SPONSOR: Rep. Estes, Stephen C. ACCEPTED

LR 1469 JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE  
UNITED STATES AND THE CONGRESS OF THE UNITED STATES  
TO FULFILL THE ORIGINAL INTENT TO FUND 40% OF THE  
COSTS OF SPECIAL EDUCATION MANDATES TO THE STATES  
UNDER THE AMERICANS WITH DISABILITIES ACT

SPONSOR: Rep. Glynn, Kevin J.

ACCEPTED

LR 0367 JOINT RESOLUTION MEMORIALIZING CONGRESS TO ALLOW  
MEDICARE SUPPLEMENT POLICIES OFFERING PRESCRIPTION  
DRUG COVERAGE

SPONSOR: Rep. Tracy, Richard H.C.

COMBINED WITH  
LR 629

LR 0234 JOINT RESOLUTION, MEMORIALIZING CONGRESS TO ABANDON  
PLANS FOR A NATIONAL PARK IN MAINE NORTH WOODS

## TABLED

|          |   |                    |
|----------|---|--------------------|
| SPONSOR: | Rep. Bryant, Bruce S.   | TABLED<br>01/31/01 |
| LR 2415  | An Act to Ensure Public Participation in the Waiver Process for Certificate of Need Review            |                    |
| SPONSOR: | Sen. Douglass, Neria R.   | TABLED<br>01/31/01 |
| LR 2344  | An Act Regarding Dismissal of Municipal Employees for Cause   |                    |
| SPONSOR: | Rep. Gooley, Walter R.  | TABLED<br>01/31/01 |
| LR 2392  | An Act to Decrease the BETR Reimbursement by the Amount Received under a TIF Agreement                |                    |
| SPONSOR: | Rep. Green, Bonnie  | TABLED<br>01/31/01 |
| LR 2389  | An Act to Promote Fair and Expeditionous Resolution of Cases Before the Maine Human Rights Commission |                    |
| SPONSOR: | Rep. Matthews, Zachary E.   | TABLED<br>01/31/01 |
| LR 2361  | An Act to Create a Tax Amnesty Day  |                    |
| SPONSOR: | Rep. Tuttle, Jr., John L.   | TABLED<br>01/31/01 |
| LR 2383  | Resolve, Directing the State Auditor to Simplify the Reporting Form for Candidates                    |                    |

## JOINT RESOLUTION

|          |   |                    |
|----------|---|--------------------|
| SPONSOR: | Sen. Douglass, Neria R.   | TABLED<br>01/31/01 |
| LR 2342  | JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO RECOGNIZE THE YEARS 2000 TO 2010 AS THE BONE AND JOINT DECADE |                    |