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The Special Commission on Governmental Restructuring

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Final Report
December 15, 1991

Executive Summary

INTRODUCTION

The Special Commission on Governmental Restructuring, appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives, began its work in May of 1991. Public Law 1991, chapter 139, created the Commission and directed it to present to the Governor and Legislature a plan "to maximize citizen participation in public policy making, to use public resources more effectively and to consolidate and restructure State Government in such a way that efficiency is assured and cost savings result."

The Commission was conceived in a period of severe economic stress. The Commission strove to assist the people of Maine and their elected officials in grappling with questions about the role and scale of state government in difficult economic times. The Commission sought to produce recommendations to help Maine State Government work well in good times as well as bad.

The Commission found that, while there are ample opportunities for improvement in State Government, the fundamental soundness of Maine institutions and the quality of Maine's civil servants in all three branches is clear. The Commission acted not to recommend change simply for the sake of change, but to point the way toward improvements in how the State conducts its affairs.

As the Commission addressed its mandate, it developed five standards by which to judge any restructuring proposal. Such recommendations should be aimed at:

- increasing public participation in and access to public policy decisions;
- increasing the public accountability of government officials;
- improving the effectiveness of government programs;
- improving the cost efficiency of government programs; and
- reducing negative economic or social impacts of government programs.

Developed in accordance with these standards, the Commission's recommendations fall under the following subjects: the budget process, improving government management and operation, and organization of services.

THE BUDGET PROCESS

Maine State Government operates on a General Fund budget of approximately \$3 billion for a biennium. Revenues are projected and a budget, including recommendations for all three government branches, is proposed by the Executive Branch at the beginning of each biennium. The Legislature's Appropriations and Financial Affairs Committee reviews and amends the budget; the Taxation Committee proposes increasing or decreasing tax revenues as part of the final budget adjustments.

The Legislature's Audit and Program Review Committee conducts reviews of state government agencies and programs. The State Auditor audits financial records of state government.

Planning and budgeting. The funding of state government programs is input-driven, related to monies historically provided and currently available. Too little systematic attention is focused on establishing expected results for government programs, measuring the outcomes, and making funding choices based on outcomes.

Current state budgeting focuses too much on the short-term. Little scrutiny is given to long-term expenditure trends that may expose potential difficulties in relation to projected economic conditions.

Revenue forecasting is inherently inaccurate in public and private sectors. Revenue growth is erratic and unpredictable, and government spending that is ruled entirely by revenue flow is subject to the same erratic fluctuations and unpredictability.

In years of revenue growth, the current state budget structure promotes the status quo and concentrates critical attention on new and expanded programs only. Careful scrutiny of current programs is also essential for sound budgetary planning.

The Commission recommends:

- *Building state government budgets from strategic plans that establish expected outcomes and measurable performance objectives, and set existing and new program priorities.*
- *A strict limit on expenditures based on the long-term average growth rate in the real purchasing power of revenues.*
- *The clear identification in the budget of all expenditures for state programs, including federal funds, State General Fund expenditures for federally-funded programs, and tax exemptions.*
- *Depositing surplus funds collected into a reserve fund, to be appropriated in years of revenue shortfalls upon the Governor's recommendation and the Legislature's two-thirds vote. Funds would be surplus if they exceeded expenditure limits determined based on the long-term average growth rate in revenues.*
- *Making capital investments under a plan based on long-term cost/benefit analyses. The state budget document should be divided into an operating budget and a capital budget.*

Legislative/Executive interaction. Since 1977, total General Fund estimates as reported in the Governor's original biennial budget submission have varied from actual revenues no less than 2.3% and up to 14.9%. All economic forecasting is by nature imperfect. Wrangling between the Legislature and Executive as to the accuracy of the projections is counterproductive and diverts attention from central budgetary issues. A mechanism that would create a bridge between the two branches on the issue of revenue forecasting has the potential to increase the efficiency and effectiveness of the budget process by relieving political tensions.

The Commission recommends:

- *The formation of a Consensus Forecasting Committee by the Governor and Legislature. Members would have professional credentials in economic revenue forecasting. The committee would develop long-term macro-economic trend forecasts, and one-, two-, four-, and six-year economic and revenue forecasts. The Governor could include this latter forecast or one developed in the Executive Branch in the budget proposal. The Legislature could substitute the consensus forecast if it is not employed in the original budget proposal.*
 - *Within a newly merged Department of Finance and Administration, a budget planning and analysis office to provide the Governor with analysis of revenue and expenditure forecasts and budget and legislative proposals, prepare the biennial budget, and track program performance.*
-

Legislative review. Legislative review of the state government budget currently fails to address detailed program and policy issues within the context of overall spending priorities. The Appropriations and Taxation Committees must address two questions: What areas and levels of government services funding ought to exist given projected revenues and expenditure trends? What specific programs should be funded and to what extent?

In the 1991 legislative session, the special knowledge of the Legislature's policy committees was tapped for the appropriations process. This integration needs to be strengthened and formalized so that all legislative expertise is employed effectively in the budget process.

The present legislative audit and program review process has resulted in reorganizations, streamlining, and other changes that have increased the efficiency of state government, but the process can be improved significantly. In addition, the state auditing function must include a stronger management audit component.

The Commission recommends:

- *That the Appropriations Committee, using the Consensus Forecasting Committee's forecasts or those in the Governor's budget proposal, if different, develop four-year expenditure estimates, adjusted for biennial requirements.*
- *That the Appropriations Committee use policy and program analyses and budget expenditure recommendations prepared by the policy committees in revising appropriations bills.*
- *That the Taxation Committee use the Consensus Forecasting Committee reports and Appropriations Committee expenditure forecasts in developing revenue legislation.*
- *That the Taxation Committee review revenue performance and study relationships between revenue requirements and tax policies as they bear on issues of equity, economic climate, and other public policy concerns.*
- *That the policy committees be more fully integrated into the appropriations process through Appropriations Committee/policy committee subcommittees, assignment of appropriations review to policy committees, or assignment of Appropriations Committee members to policy committees for appropriations reviews.*
- *That the policy committees assume responsibility for more detailed program reviews. The policy committees should oversee departmental strategic plans and recommended programs, with outcome-oriented goals and measurable objectives, and budget goals.*
- *That the Audit and Program Review Committee be renamed as the Audit and Management Review Committee and focus on management reviews based on the work of the State Auditor and assignments from the Legislative Council.*
- *That the State Auditor be nominated by the Governor and elected by a two-thirds majority of the Legislature for a term of seven years. In addition to financial audits, the Auditor would conduct management performance audits and report to the Governor and Legislature.*

Judicial Department budget. The budget bill presented by the Governor includes the Governor's recommendation concerning the Judicial Department budget and not the request submitted by the Judiciary. This is an inappropriate method of presenting the budget of the Judicial Department, a separate branch of Government constitutionally equal in authority to the Legislative and Executive Departments. A similar problem exists with respect to the Legislature's budget.

The Commission recommends:

- *That, by statute, the Governor be required to include the Judicial Department budget request, without change, in addition to the Governor's recommendation, in the budget bill presented to the Legislature. The Legislature's budget should be treated similarly.*
-

IMPROVING GOVERNMENT MANAGEMENT AND OPERATION

As the 1980's were a decade of plenty, the 1990's promise to be a decade of scarcity. As plenty permitted the states to innovate, experiment, and extend the domestic policy agenda, so scarcity will force the states to focus on improved management and operations.

The 1990's demand that our institutions be entrepreneurial and not bureaucratic; that they be flexible and not rigid hierarchical structures; that they be results- and customer-oriented and not governed by arcane rules and budgeting procedures. These are the changes that are necessary in state government if we are to succeed in meeting the challenges of this decade.

Customer-oriented government. Perhaps the most significant managerial revolution in the private sector over the past decade has been the emphasis on total customer satisfaction, captured in the phrase "total quality management" or TQM. The customers of state government are the beneficiaries of state services and the internal customers, the state agencies that are served by other state agencies in areas such as purchasing, personnel, space, budgeting, and accounting. To ensure quality in both of these customer relationships, state agencies must know, understand, and respond to their customers' needs.

The Commission recommends:

- *That a senior staffperson reporting directly to the Governor develop and implement a plan for application of TQM principles and methods in the Executive Branch. The plan for introduction of TQM, including a description of its elements and a timetable for implementation, should be prepared and released by September 1, 1992.*
 - *That the Legislature and Judiciary adopt plans for the use of TQM in their operations by September 1992.*
 - *That all three branches begin implementing TQM by the end of 1992.*
-

Enhancing efficiency, innovation, quality, and performance. Maine State Government has not given adequate attention to the potential for using the talents, skills, experience, and commitment of its employees in improving organization, cost-efficiency, effectiveness, and quality of state services.

The Commission recommends:

- *Involving rank and file employees in development and implementation of TQM programs in state agencies.*
-

Expanding the choice of service delivery. State agencies currently engage in a variety of contracting activities. Advantages of service delivery choice concerning productivity, efficiency, and cost come from two sources. One source involves alternative provider expertise, flexible work regimes permitted outside of large bureaucracies, and different operating incentives for nongovernment firms. The other involves long-term technological change and other innovations derived from providing services in a more competitive environment.

The Commission recommends:

- *A balanced examination of the advantages and disadvantages of public and private sector nonprofit or for-profit service delivery for state services. The following criteria must be evaluated when a possible alternative service delivery is considered:*
 - *Is direct government control essential for public safety?*
 - *Will alternative delivery ensure access to services, will desired performance, quality, and price be ensured?*
 - *Will there be continuity in the availability of the alternative service delivery?*
 - *Will contracting for the service result in more effective or less expensive performance?*
 - *Is the service necessarily a state one or more appropriately a private sector service?*
- *Inclusion in state alternative delivery service contracts of performance requirements; guarantees of service access without discrimination; and provisions for service-related data collection and access to it, with appropriate confidentiality protection, for public policy purposes.*
- *Assisting state employees adversely affected by contracting with retraining, severance pay, portable or transitional benefits, and other assistance.*
- *Divestiture of state retail liquor sales to the private sector.*
- *Consideration of the following state service areas for private contracting: lottery operations; certain correctional and mental health facilities and services; certain laboratory facilities; buildings and grounds services; and certain bill processing, printing and publishing, and risk management operations.*

Application of technology and management information systems. While State Government has increased its utilization of technology over the past decade, it is not uncommon to find state employees working with ten-year old equipment, equipment a generation or two behind "state-of-the-art." This arises in part from an unawareness of the advantages of technology, but largely from state budgeting processes that do not account for technological depreciation.

The need for information technology planning will be increased substantially if the Commission's recommendations are adopted. Without appropriate information technology, it will be impossible to produce long-term strategic program planning, outcome-oriented goals for budgets, and performance accountability in program and budget reviews.

The Commission recommends:

- *That State Government use improved planning to explore every opportunity to employ new user-driven technologies in service delivery, including: greater use of the Interactive Television System within all levels of our educational system and for conducting government proceedings such as Legislative hearings and court conferences; enhanced computer technology for Medicaid claims, electronic funds transfers in providing financial assistance and retirement payments, and filing tax returns; and establishment of a computer bulletin board to provide information about state services and agencies.*
-

Office space and facilities. The State owns a large number of small, older facilities. The natural resource agencies alone own more than 900 facilities, 70% of which have a replacement value of less than \$50,000. Significant savings in facility construction, operation, and maintenance costs can be achieved by coordinated capital planning and systematic consolidation of facilities owned by the natural resource agencies.

State Government is encumbered with rents that are too high and property that is, or soon will be, surplus. The Bureau of Public Improvements should be more aggressive in requiring the co-location of leased regional offices. Creating a rational scheme for the use or disposition of the State's existing office space and facilities will provide immediate opportunities to save money.

The Commission recommends:

- *The creation by the Governor of a Facilities Consolidation Commission to oversee BPI's analysis of state facilities needs, rule on BPI recommendations for sale of state-owned properties, and report annually to the Governor and Legislature.*
-

Regionalization and decentralization. Fragmentation and confusion in the regional organization of state departments, agencies, and programs adds to the obstacles to citizen access to public services and the mechanisms of governance. That fragmentation is also an obstacle to effective organization of related state services and programs.

No single regional structure can fit all state department and agency needs. However, two broad categories of regions — human services and natural resources — would serve most of State Government's structural and operational needs.

The Commission recommends:

- *That the departments and agencies providing education, health, social, and employment services, and those in natural resources, work with the State Planning Office to plan consolidation of state government regions and co-location of service offices. The natural resources plan should revise regional boundaries to make them consistent with natural resources areas, such as major water sheds. These plans should be submitted to the Legislature in December, 1992.*
-

Advocacy and boards and commissions. A tension exists between the checks and balances provided by boards and commissions and advocacy services and the desire of public officials to control operations in their areas of responsibility. Needed citizen involvement should not be eliminated under the guise of efficiency. However, citizen boards must effectively perform an appropriate function, advocacy services must be cost-efficient and effective, and the life of a board or commission must not extend beyond its need.

Currently, 295 boards exist in statute. No central index exists for boards created by executive action. The absence of annual reports from 28% of all statutory boards, and the lack of any comprehensive data on boards created by the Executive Branch, make it difficult to draw conclusions about costs. It does appear that the direct cost savings from consolidation or elimination of boards would be modest. However, the indirect costs and other demands boards place on Executive Branch agencies are substantial and do warrant detailed review.

Advocacy services serve a critical function in State Government, providing a voice of people who would otherwise not be heard. These services are presently dispersed within and outside of state government and operate at various levels of effectiveness and efficiency. In times of fiscal stress they become vulnerable, even though their function is most critical when budgets are being cut.

The Commission recommends:

- *That the number of boards and commissions be reduced wherever possible to one such entity for each department. Applying consistent evaluation criteria, the Legislature should review all statutory boards and commissions and the Governor should direct reviews of all those created by executive action.*
- *The combination of all advocacy services in a State Office of Advocacy, located as a separate agency within the Executive Department. The Office would be governed by an eleven-member board; half of the members would be appointed by the Governor and half by the President of the Senate and Speaker of the House. The appointed members would choose a chair, and the Board would appoint an executive director.*

NOTE: A minority report related to this recommendation appears in Appendix F of the Commission's final report.

ORGANIZATION OF SERVICES

Early in its deliberations, the Commission decided for two reasons that structural reorganization would not be its exclusive focus. First, the structure of Maine State Government was substantially and successfully reorganized in the early 1970's, a structure that continues to define the way Maine government looks "on paper." Second, the academic literature and the experience of many Commission members indicate that redrawing the organizational chart rarely provides, by itself, the results sought by this Commission in the areas of accountability, effectiveness, and efficiency.

The Commission has identified a limited number of organizational changes that will complement its other recommendations. These changes will result in significant efficiency improvements and improve the effectiveness of the related programs. The Commission recommends the following timetable for implementation of the reorganization proposals

The Commission Recommends:

- *By April, 1992, the Legislature approves each of the basic reorganization proposals in principle, and mandates that the Executive Branch develop detailed recommendations, including statutory language.*
 - *By December, 1992, the Executive Branch submits the detailed recommendations for consideration by the 116th Legislature.*
 - *By May, 1993, the Legislature acts on the implementation for completing each proposed reorganization.*
-

Health and social services. The Commission recommends major organizational change in the areas of health and social services for the purpose of establishing effective communication and problem-solving mechanisms among services. Most consumers of these services have a variety of needs provided by more than one state agency. Despite good-faith efforts on the part of department heads, no interdepartmental coordinating mechanism exists that has the authority, staff, and budget to provide leadership for extensive coordination and collaboration.

Cutting across all health and social service areas are duplication and fragmentation that not only waste money but lead to conflicting expectations of service providers. Services developed around funding streams create formidable access problems for consumers who must face several eligibility processes in several agencies. Fragmentation has resulted in overlap of several services, including case management, information and referral, advocacy and abuse investigations, licensing, management information systems, planning, contracting and evaluation, and adult protective services.

The Commission recommends:

- *The creation of the Interdepartmental Council as an office of the Executive Department, with a director representing the Governor, an independent budget and staff, and authority to foster collaboration, allocate resources, and settle disputes among health and social service agencies.*
 - *The abolition of the Departments of Human Services and Mental Health and Mental Retardation, and the realignment of their functions into a Department of Children and Families and a Department of Health and Developmental Services.*
 - *The abolition of the Division of Community Services and redistribution of its functions to other agencies.*
 - *The consolidation of services for people who are homeless at the Maine State Housing Authority.*
 - *The placement of some rehabilitation services in the Department of Health and Developmental Services and some in the Department of Labor.*
 - *Study of whether juvenile correctional services should remain within the Department of Corrections or be moved to the Department of Children and Families.*
-

Education. Education presented one of the most complicated and difficult set of issues for the Commission. The Commission is not in a position to prescribe solutions for the State's educational organization dilemmas, but it has identified some of the major issues that can be resolved through further analysis and planning.

Planning within the four educational delivery systems (the University of Maine System, Maine Technical College System, Maine Maritime Academy, and the K-12 system) has become increasingly sophisticated in recent years. Still, the absence of consistent, formal communication links between these systems has delayed achievement of a fully coordinated education effort. Inefficiencies exist in curriculum overlap and untapped opportunities for resource sharing.

Obstacles to sustained reform in elementary and secondary education exist in the following areas. The State Board of Education makes some policy decisions, is charged with some regulatory functions, and serves in an advisory capacity to the Commissioner of Education. In each of these areas, other educational institutions and organizations have a greater ability to affect policies. A combination of factors causes school boards to focus on budget and management minutiae, rather than education policy. Education costs in Maine are kept high in part by the emphasis placed on local control of education; the existence of 283 separate school districts leads to inevitable economic results due to the costs of multiple teaching and administrative staffs and Department of Education support provided to each.

The growing demand for highly-trained workers in Maine and the positive impact a well-trained technical workforce will have on the state economy require the revitalization of secondary technical education programs. Also in these economic times, a heightened need exists within the University of Maine System to identify ways to consolidate services, eliminate academic and administrative overlap, and reduce expenditures. For example, while the regional benefits of the seven-campus system cannot be overstated, a review of costs of educating students at each campus raises cause for concern and suggests that some consolidation of campus programs could lead to savings.

Similarly, the cost to the State of operating the Maine Maritime Academy has become increasingly difficult to sustain: the Academy now relies on the State for approximately 50% of its revenues, and its full-time equivalent student cost is, on average, approximately 50% greater than that at the University. However, though many maritime academies have closed in recent years, the Maine Maritime Academy has actually increased enrollment with new ocean and marine science programs.

The Commission recommends:

- *That the Legislature create a Public Education Strategic Planning Council, with membership from each of the four educational delivery systems, the Department of Education, and the State Board of Education. The council's primary responsibility would be to create a long-term strategic plan for Maine public education.*
- *That the Maine Coalition for Excellence in Education review the governance and structure of the State's education system, including the State Board, the Department, regional education systems, regional and local school district governance, and the relationship between state and local school systems. In particular, the Coalition should consider strengthening the policy-making authority of the State Board.*
- *That, by July, 1992, the Coalition report to the Governor and Legislature on its review of promoting expenditure control through the school funding formula.*
- *That the State Board of Education and Public Education Strategic Planning Council develop ways of enhancing secondary technical education, coordinating secondary and post-secondary technical education, and using technical centers for expanded education opportunities.*

- *That the University of Maine System Board of Trustees undertake an intensive self-study of the present structure of the university system.*
 - *That the UMS Board and Maine Maritime Academy Board of Trustees, with advice from the Strategic Planning Council, examine options, including possible addition of the Academy to the campuses of UMS, to accomplish coordination, planning, and savings within and between the System and the Academy.*
-

Natural resources. The use of Maine's natural resources is promoted, managed, and regulated by five separate state agencies. Realignment of functions for improved efficiencies is necessitated given this fact: The natural resource area of state government has received a declining share of state resources over the past ten years. State expenditures for natural resource agencies comprised 4.3% of the state budget in 1981; that share sank to 3.6% in 1990.

Natural resource management efforts are undertaken by four of the five natural resource agencies (all except the Department of Environmental Protection). This fragmentation results in high administrative overhead. This structure also defeats the integrated management of natural resources on the basis of regional natural systems, such as watersheds. Though the consolidation of functions among these natural resource agencies would be an extremely complicated undertaking, State Government could benefit substantially from closer administrative coordination in those areas.

The major regulatory functions are located in three different agencies. Unlike for the other natural resource departments, expenditures for the DEP have increased in the past ten years due to new mandates, addressing chronic understaffing, and greater development activities in the 1980's. That growth placed new and significant demands upon the Department and Board of Environmental Protection that cannot be met with organizational structures established more than a decade ago.

The Commission recommends:

- *That the BEP be abolished and that the Commissioner of DEP assume all of the Board's responsibilities, with the exception of appeals. A three-member appeals board should be established.*
 - *Abolishing the existing DEP bureau structure and reorganizing it along the following functional lines: Licensing, Technical Services, and Enforcement.*
 - *The appointment of a Natural Resource Inter-Agency Task Force by the Governor to identify and implement cross-training and other cooperative programs.*
-

Economic development. Maine is in the midst of one of the most severe economic crises since the Great Depression. Economic activity in Maine has fallen disastrously in the past two years: more than 33,000 jobs have been lost; the unemployment rate is now 8.8%; more than 72 significant businesses have closed shop or radically reduced Maine operations.

Without the jobs that generate wages that produce income and sales tax revenues for the State, Maine cannot pay for essential public services. Maine will not automatically return to economic health when the nation and the region emerge from the current business cycle. Competition for investment, jobs, and economic growth activities will intensify.

Maine's business climate is perceived as being unattractive because of the cost of the workers' compensation system, taxes, the environmental regulatory process, and State Government spending. Maine is also commended as an attractive place to live and do business because of a productive work force, a concern for education, a good infrastructure, recreational opportunities in a protected environment, and caring social and health programs. The State needs a comprehensive economic development policy that balances Maine's economic weaknesses and strengths.

The Commission recommends:

- *The organization of the Department of Economic and Community Development around its functions of business retention and attraction; tourism; and research, information, and advocacy for existing and prospective businesses. The DECD should have an advisory board of directors comprised of leaders in business, finance, education, labor, and environment to assist in the creation of a long-term state economic development plan.*

Merger of Finance and Administration. The merger of the Departments of Finance and Administration will result in increased effectiveness and efficiency, and in significant dollar savings. The merger also provides an opportunity for decentralizing management decision-making in the Executive Branch. This has the potential for promoting intradepartmental quality control, quality management, and results-oriented management.

The Commission recommends:

- *The merger of the Departments of Finance and Administration, resulting in eight functional areas: budget planning and analysis, budget management and control, employee relations, general services, human resources, information services, liquor and lottery, and taxation.*

State Treasurer; Judiciary; Legislature. The Treasurer of State provides a number of services that relate to the day-to-day activities of various units within the current Department of Finance. The close interaction necessary to perform these functions is inhibited by the location of the Treasurer's Office outside of the Executive Branch and the Treasurer's election by the Legislature.

Maine's court system has developed without an overall management plan. This piecemeal growth has resulted in duplication and fragmentation of court administration and management. Adding to the duplication is a law requiring the Judicial Department to participate in administrative processes of the Executive Branch, as well as its own.

In the last decade the Legislature has made enormous strides in improving its operations through the development of professional staff, tightened committee operations, and rigorous legislative scheduling. At a time when the State is considering major changes in the Executive Branch, the Legislature should consider changes that can further strengthen its own capacity to deal with complex and formidable issues and challenges.

The Commission recommends:

- *The appointment of the State Treasurer by the Commissioner of the new Department of Finance and Administration. The Treasurer would serve at the Commissioner's pleasure. The Treasurer's Office would be located within the Department.*
- *The strengthening of the Court Administrator for the Judicial Department with expanded authority over the management of the court system under the direction of the Chief Justice of the Maine Supreme Judicial Court.*
- *A reduction in the size of the Legislature to no more than 35 Senate seats and 123 House seats and no less than 33 Senate seats and 99 House seats. The objectives of such a reduction are to strengthen the continuity between Senate and House seats, and to enhance the capacity of House members to work more closely together.*

NOTE A minority report relating to this recommendation appears in Appendix F of the Commission's final report.

Table of Contents

Executive Summary	i
1.0 Preface	1
2.0 Introduction	2
2.1 Mission of State Government	2
2.2 Separation of Powers	2
2.3 Context of the Commission's Work	2
2.4 Commission's Tasks	3
3.0 The Budget Process - Matching the Means to the Needs	6
3.1 General Discussion	6
3.2 Planning and Budgeting	7
3.3 Legislative/Executive Interaction	10
3.4 Legislative Review	14
3.5 Judicial Department Budget	18
4.0 Improving Overall Government Management and Operation	19
4.1 General Discussion	19
4.2 Customer-Oriented Government	21
4.3 Enhancing Efficiency, Innovation, Quality, and Performance	22
4.4 Expanding the Choice of Service Delivery	22
4.5 Application of Technology and Modern Management Information Systems	26
4.6 Office Space and Facilities	28
4.7 Regionalization and Decentralization	30
4.8 Participation, Partnerships, Advocacy, and Boards and Commissions	33
5.0 Organization of Services	43
5.1 General Discussion	43
5.2 Health and Social Services	45
5.3 Education and Cultural Services	53
5.4 Natural Resources	62
5.5 Economic Development	67
5.6 Finance and Administration	71
5.7 State Treasurer	74
5.8 Judiciary	75
5.9 Legislative Structure and Operation	77
5.10 Public Safety, Civil and Criminal Justice	78
6.0 Conclusion	79
Appendices	
A. Charge to the Commission	
B. Commission Membership	
C. Matrix of Health & Social Services	
D. List of Advisory Boards & Commissions	
E. Bibliography	
F. Minority Report	

1.0 Preface

The Special Commission on Governmental Restructuring began its work on May 30, 1991. Public Law 1991, chapter 139, created the Commission and directed it to present to the Governor and Legislature, by December 15, 1991, a plan "to maximize citizen participation in public policy making, to use public resources more effectively and to consolidate and restructure State Government in such a way that efficiency is assured and cost savings result."

The Commission consisted of twenty-two members, ten appointed jointly by the President of the Senate and the Speaker of the House of Representatives and ten appointed by the Governor. The Governor, President, and Speaker also jointly appointed two co-chairs. No person who served on the Commission is an official or employee of state government.

In fulfilling its charge, the Commission met 13 times. It also held public hearings on its draft report in Bangor, Portland, and Augusta, and, over the University of Maine System's Interactive Television network, in Fort Kent, Machias, and Presque Isle.

In organizing its work, the Commission divided its membership into six committees. The committees met on the days of full Commission meetings, and on many other days. In all, the committees held dozens of meetings with hundreds of people. Many government officials, state employees, interest groups, outside experts, and members of the public provided valuable information, suggestions, and reactions to the committees.

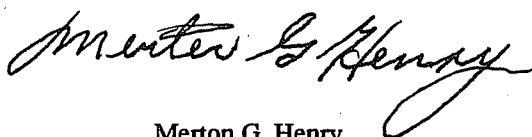
In the last two months of its work, the Commission discussed, considered public comments on, and refined findings and recommendations presented to it by each of its committees and the co-chairs. The Commission also incorporated the input it received at its public hearings in making its final recommendations.

This draft report contains six chapters, this preface being the first. The introduction presents the Commission's mandate in more detail and the approach the Commission took in fulfilling its duties. The third chapter discusses and presents recommendations for reforming the process of planning and creating state government budgets in Maine. The fourth chapter discusses management tools designed to improve the overall operation of state government. A fifth chapter suggests reorganized methods of delivering certain state government services. The sixth chapter concludes the report.

The Executive Department's State Planning Office and the Legislature's Office of Policy and Legal Analysis provided staffing for the Commission and its committees. We wish to express our deep appreciation to all of the members of these respective staffs who worked for the Commission and its committees. Throughout the entire process they provided the highest degree of staff support with objectivity and professionalism. Without their extraordinary commitment of time and resources it would have been impossible for the Commission to complete its work on schedule.

We also wish to express our deepest appreciation to our fellow members of the Commission who without hesitation committed their experience, knowledge, time, and energies to the Commission's work in untold hours of meetings, hearings, and conferences. We commend them for their dedication to public service and thank them for their extraordinary work and cooperation over the past six months.

Finally, we wish to thank the hundreds of citizens who attended public hearings during the week of November 18th and especially the ninety who testified at those hearings. Together with those citizens, government officials, and others who previously met with the Commission and its committees, they have collectively left an indelible imprint on this report.



Merton G. Henry
Co-chair



Donald E. Nicoll
Co-chair

2.0 Introduction

2.1

MISSION OF STATE GOVERNMENT

The mission of State Government is set forth in the Preamble to the Maine Constitution drafted in 1819: "to establish justice, insure tranquility, provide for our mutual defense, promote our common welfare, and secure to ourselves and our posterity the blessings of liberty."

In today's language, the fundamental concepts set forth in the Preamble might be rephrased to state as the mission of State Government the following: to assure the physical safety of its citizens, provide for those unable to care for themselves, educate its children and others, provide an adequate infrastructure, protect its natural resources, and minimize its intrusion on its citizens.

2.2

SEPARATION OF POWERS

The doctrine of separation of powers dates from the 17th and 18th centuries. It is embodied in the Maine Constitution in Article III, which states as follows:

Section 1. The powers of this government shall be divided into three distinct departments: the legislative, executive and judicial.

Section 2. No person or persons, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted.

Legislatures legislate, governors administer and execute the laws, and the judiciary interprets the laws. Successful implementation of the doctrine of separation of powers depends upon the mutual respect of each of the parties for the role of the others. Even the Maine Constitution itself blurs the distinction when it creates constitutional offices with executive responsibilities outside the Executive Department (i.e., Secretary of State, Treasurer, and Attorney General). Keeping in mind the fundamental soundness of the separation doctrine, this report endeavors to address the examples of erosion of the doctrine in such issues as the fiscal independence of the judiciary.

2.3

CONTEXT OF THE COMMISSION'S WORK

In *King Lear*, Shakespeare wrote "striving to better, oft we mar what's well."

Throughout its work, the Special Commission on Governmental Restructuring found that Maine is indeed fortunate in the quality, devotion, and diligence of the individuals who make up all three branches of its government. While there are ample opportunities for improvement, the fundamental soundness of Maine institutions is clear.

One of the special qualities of Maine is the character of its government. Throughout its history, the State has been more committed than others to representativeness, to having a government close to the people, even as government has grown in size and complexity. At the beginning of this century the Executive Branch consisted of twenty-seven governing agencies; by mid-century over one hundred governing agencies existed; and twenty years ago almost two hundred separate agencies were consolidated into the departmental structure in place today (Palmer, 1990; Conant, 1988) (see Chart A).

Maine has been committed to having government close to the people

As the State reacts to with today's difficult economic times, the people of Maine and their elected officials grapple with questions about the role and scale of state government. Sorting out the needs and desires of Maine people will continue to be a challenging task for state officials as they struggle with the impact of economic difficulties on government finances.

The Special Commission on Governmental Restructuring was conceived in a period of severe economic stress and partisan controversy. The establishment of the Commission follows in the Maine tradition of contesting elections to the fullest measure, then closing ranks and striving to govern effectively. Thus, the Commission was charged with suggesting to elected authorities how government might perform its role more efficiently, economically, and responsively.

The Commission has striven not to recommend change simply for the sake of change lest "oft we mar what's well." Instead, the Commission's work points the way toward improvements in how the State conducts its affairs.

The legislation creating the Special Commission on Governmental Restructuring, Public Law 1991, chapter 139, assigns six tasks to the Commission under its general mandate to advise, consult with, and assist the Governor and the Legislature in designing a plan for restructuring government. These tasks required the Commission to:

- examine consolidating, restructuring, and streamlining governmental advisory groups;
- focus on government programs providing human services;
- explore consolidating, restructuring, and realigning government departments;
- examine streamlining administration and services through the functional integration of similar operations;
- investigate creating unified operating agencies to coordinate and consolidate the effective delivery of services to affected populations; and
- review reorganization and restructuring studies of the executive, judicial, and legislative branches of state government, including constitutional offices, conducted during the last five years.

In addition to the tasks initially assigned to the Commission, Public Law 1991, chapter 528, directs the Commission to consider six other matters:

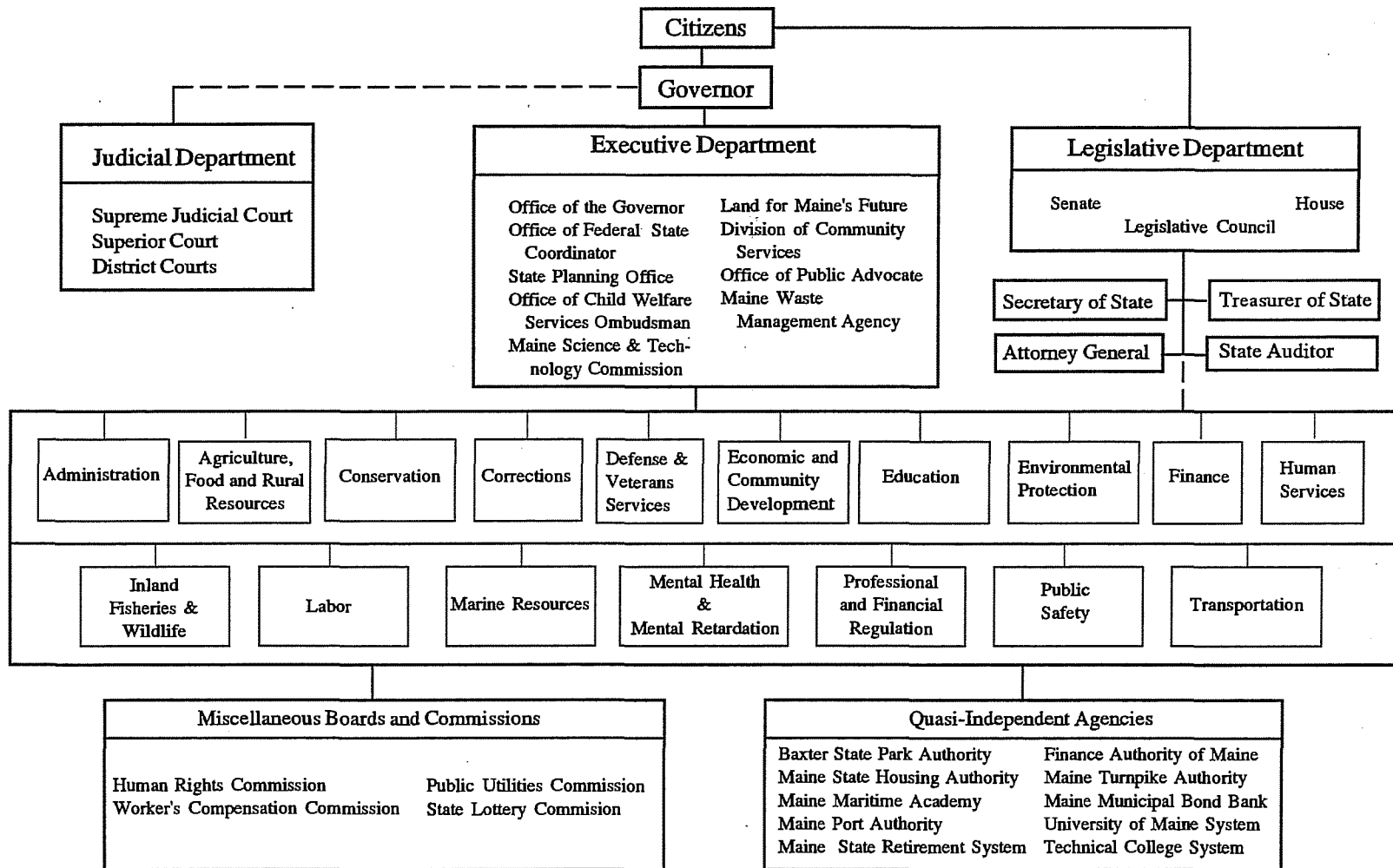
- any recommendations presented by the Commissioner of Finance and the Director of the Bureau of Alcoholic Beverages for closing at least ten more State Liquor Stores in 1992-93;
- any recommendations presented by the Commissioner of Finance, the Director of the Maine State Lottery, and the State Lottery Commission on the termination or continuation of Lotto*America and on any new lottery game;

2.4 *COMMISSION'S TASKS*

Chart A

STATE OF MAINE ORGANIZATION CHART OF STATE GOVERNMENT Based on Elective or Appointive Line of Authority

Major State Agencies



- the costs and need for boards, commissions, and other independent state entities identified by the Secretary of State;
- the management of the position of Special Investigation Manager within the Bureau of Income Maintenance in the Department of Human Services;
- the creation of a Department of Justice, a Department of Administration and Financial Services, and a Cultural Affairs Bureau; and
- any recommendations presented by the Governor upon receipt of the final report of the Governor's Task Force to Improve Services to Maine's Children, Youth and Families.

In addressing its mandate, the Commission articulated five emergent themes, which carried forward into the Commission's investigations and are woven into the discussions, findings, and recommendations in this final report. Thus, in compliance with the intent expressed in the legislation creating the Commission, and with an eye to Maine history and values, any restructuring proposal should be judged by standards aimed at:

- increasing public participation in and access to public policy decisions;
- increasing the public accountability of government officials;
- improving the effectiveness of government programs;
- improving the cost efficiency of government programs; and
- reducing negative economic or social impacts of government programs.

We have attempted to complete the tasks assigned, provide the advice and assistance asked, articulate standards to apply in making restructuring decisions, and provide processes for public officials to employ in making decisions about policy and funding priorities and managing government. The following chapters contain the results of our application of this approach to our mandate.

We hope this report will serve as a helpful guide to Maine people and their elected officials as they determine what government Maine citizens want, need, and are able and willing to afford. Of most importance, we hope that the Commission's report will help State Government do its work better in good times as well as bad.

3.0 The Budget Process: Matching the Means to the Needs

3.1

GENERAL DISCUSSION

Maine State Government operates on a General Fund budget of approximately \$3 billion for a biennium. At the beginning of each biennium, the Governor proposes a state government budget based on the Executive Branch's projection of revenues for the next two fiscal years. This budget includes funding recommendations for the Legislature and the Judiciary for operations of their branches of government. The Governor presents this budget to the Legislature for review and revision by the thirteen-member Joint Standing Committee on Appropriations and Financial Affairs. In the first year of the biennium, the Appropriations Committee considers and the Legislature enacts the Part I, or current services, budget. During the latter part of the same session, the Appropriations Committee reviews and the Legislature passes the Part II, or new or expanded services or programs, budget. Subsequent "supplemental" budget legislation is used to adjust spending up or down as needed during the remainder of the biennium.

The Appropriations Committee conducts the budget review through public hearings and work sessions at which Executive Branch administrators, representatives of the Legislature and Judiciary, and individual and organized recipients and providers of government services appear. Members of other joint standing committees of the Legislature, the policy committees, may participate informally in these hearings and work sessions as well. Negotiations with the Governor and department heads, legislative leaders, and the Judicial Department occur in public and behind the scenes as the Appropriations Committee compiles the final budget. The Joint Standing Committee on Taxation reviews tax policy and proposes increasing or decreasing tax revenues as part of the final budget adjustments.

Related to the budgeting process is the work of the Legislature's Joint Standing Committee on Audit and Program Review. This committee reviews each state agency and its programs at least every eleven years on a schedule established in law. Some agencies are reviewed more frequently based on the perceived need of either the Audit and Program Review Committee or legislative leadership.

The complexity of the role of modern Maine State Government and its pervasiveness in the social and economic life of Maine necessitate improvements in its planning and budget processes. In addition, increased volatility in the economy and reductions in federal programs have imposed substantial pressures on the State's fiscal capacity. Present budgeting procedures promote a number of avoidable difficulties. Present procedures:

- support no meaningful strategic planning;
- work against setting priorities in good and bad economic times;
- promote perverse and ineffective measures of accountability;
- lead to confusion and conflict with regard to revenue forecasts; and
- hamper the Executive, the Legislature, and the Judiciary in the performance of their responsibilities.

Careful restructuring needs to occur in order to produce a budget process that improves the priority-setting process and long-range planning, assuages unnecessary political tensions, respects the separation of governmental powers, increases overall governmental accountability, and promotes efficiency and effectiveness in State Government.

Discussion

At present, the funding of State Government programs is input-driven, related to monies historically provided and currently available. Too little systematic attention is focused on establishing expected results for government programs, measuring the results or outcomes, and making funding choices based on outcomes. Sound policy-making requires careful assessment of government programs based on outcome-oriented goals, measurable objectives, and performance standards. In short, good government requires regular and objective review of how well government is functioning, and organized strategic planning for how government functioning should be improved.

In addition, state budgeting must be informed by a long-term view. Current state budgeting focuses too much on the short term. Little scrutiny is given to the effect of the relationship between long-term expenditure trends and projected economic conditions. Government budgeting is presently almost entirely dependent upon biennial revenue forecasts. The Governor's revenue estimates for the coming biennium, developed by the Bureau of the Budget, are revised over time and are sometimes altered significantly as assumptions change according to evolving economic expectations.

Revenue forecasting is inherently inaccurate in public and private sectors. This is particularly true for government, which depends upon tax revenues; revenue projections must not only include informed guesses about trends in the State's economy, but also forecasts on these trends related to expected revenue from the State's various taxes. Inaccurate revenue projections mean unforeseen shortfalls and serious problems for the State.

Government spending has expanded at the same rate as revenues. Revenue growth spurs government to grow in response to citizen needs and desires by initiating new programs. Because revenue growth is erratic and unpredictable, government spending that is determined primarily by revenue flow is also unpredictable.

The result is crisis-driven, wrenching reassessments of government programs and services that do not allow methodical consideration of funding alternatives. Citizen expectations for government services and policies are upset and special hardship for the most needy and vulnerable members of society results. Abrupt starts and stops in funding programs result in waste, inefficiency, and disruption of orderly government.

It is essential to smooth these fluctuations through the discipline of a more orderly expenditure pattern to produce greater predictability and allow for the development of significant reserve funds not tied to the biennial budgeting cycle. (The State presently has several reserve accounts — e.g., the Rainy Day Fund — but all are limited-use funds and have fairly low caps.) These counter-cyclical reserves would provide a degree of protection against revenue shortfalls and would obviate some of the need for drastic cuts in economic hard times. The fiscal discipline offered by this approach could be difficult to maintain in the face of political pressure to spend the money in good times. A constitutional amendment may be required to resist those pressures.

3.2 PLANNING AND BUDGETING

*Too little attention is
focused on the results of
government programs*

*State budgeting must be
informed by a long-term view*

*Counter-cyclical
reserves would provide
a degree of protection
in hard times*

Laying aside the surplus as a reserve is not a new idea. It is at least as old as Joseph in ancient Egypt, with his plan for building up reserves of grain in the seven good years of harvest against the seven years of poor harvest. We, unfortunately, cannot count on predictable, seven-year cycles.

The Commission has identified a number of other problems with the present budget that need correction. One of the more serious shortcomings is the absence of estimates of the cost of tax exemptions to the State. These "tax expenditures" include such items as special exclusions, deductions, and credits.

Another difficulty is the limited review of federal expenditures that have substantial effects on state programs. There is no readily available estimate of total General Fund expenditures linked to federally-funded programs. That information is not generated in either the budget process or the state audit.

Careful scrutiny of current programs is also essential for sound budgetary planning. The present "Part 1/Part 2" budget structure is a hindrance to regular review of current programs. In years of revenue growth this structure promotes the status quo and concentrates critical attention on new and expanded programs only.

Sound governmental planning also requires careful evaluation of capital improvement needs. Capital investments, especially in new technologies, can bring more efficiency and effectiveness to government. Under present budgetary analysis, capital investments compete with other current budgetary needs. Vital capital planning cannot effectively occur in such a context. The result is an overly short-term analysis of capital needs, impeding investment in those items that will improve the overall, long-term management of state government.

Findings

There is a need for strategic planning in state government budget preparation involving:

- development of outcome-oriented goals for government programs, measurable objectives and performance standards for assessing those programs;
- rigorous establishment of program priorities;
- systematic reevaluation of current programs;
- biennial expenditure limitations based on a long-term average of expenditures;
- treatment of tax exemptions as appropriations, subject to careful review;
- identification of federal expenditures for state programs and total General Fund expenditures for federally-funded programs;
- provision for reserve funds to permit counter-cyclical expenditures; and
- capital budgeting.

The present "Part1/Part2" budget is a hindrance to regular program review

Recommendations

The Executive Branch should build state government budgets from strategic plans that establish expected outcomes and measurable performance objectives, and set program priorities. Similarly, in reviewing budgets the Legislature should attend to and articulate goals and performance measures to attach to funding decisions.

Strategic planning

State Government should institute a strict limit on expenditures based on the long-term (10-20 year) average growth rate in the real purchasing power of revenues.

Expenditure limit

The budget should be divided into an operating budget and a capital budget. The budget should include contingency funds to be used for unanticipated, emergency requirements. The budget should be based on strategic plans, performance evaluation, balanced assessment of existing programs and new initiatives, and clear establishment of program priorities. The problems inherent in the current "Part 1/Part 2" budget should be overcome, either by abolishing the present formula or by other corrective action.

Budget components: operating, capital, contingency, priorities

The budget document should include all expenditures for state programs, including General Fund appropriations, special and dedicated revenue allocations, federal expenditures, and tax exemptions, with identification of funding sources and the application of the funds.

Expenditures: General Fund, special and dedicated revenues, federal funds, tax exemptions

- The budget should include estimates of total federal funds and General Fund expenditures for federally-funded programs to determine the total cost of federal programs to the State and to permit analysis of whether available resources are being put to the best use.
- Tax exemptions, including special exclusions, deductions, credits, etc. (other than those that conform exactly to the federal tax system) should be treated in the budget document as appropriations. Revenue figures should include potential revenues lost due to tax exemptions.

The Consensus Forecasting Committee, described later in this chapter, should establish a mechanism that would correlate state government expenditures to an appropriate long-term secular economic expenditure trend analysis. This mechanism should provide a smooth growth curve for the purpose of setting state expenditures in a way that will avoid fluctuations caused by unpredictable biennial revenue undulations.

Long-term expenditure trend

The Governor and Legislature should develop a reserve fund to be used exclusively as a counter-cyclical tool in years of revenue shortfalls, appropriated by a two-thirds vote of the Legislature upon the Governor's recommendation. All revenues received by the State in excess of the expenditure levels described above should be deposited in the fund. (The existing Rainy Day Fund, established in 5 MRSA §1513 to fund some payments for General Fund bonds and major construction, should continue. The present arrangement, requiring the State Controller to transfer some General Fund surpluses into the Rainy Day Fund should be changed to accommodate the reserve fund establishment.)

Reserve fund

Public sector accounting conventions that require the expensing of capital items in the year purchased should not act as a deterrent to capital investment decisions based on sound cost/benefit analysis. The merged Department of Finance and Administration, discussed subsequently in this report, should develop mechanisms that will support capital budget planning and result in capital investments based on long-term cost/benefit analysis. Among the mechanisms that should be considered are:

Capital investment

- the creation of a capital pool, funded by specific and regular appropriations, from which agencies could borrow to finance capital improvements;
- increased use of lease-purchase agreements;
- use of bonds to finance planned and approved capital improvements; and
- cost/benefit analyses conducted to determine the appropriateness of individual capital improvements. The merged Department of Finance and Administration should have primary responsibility for developing steps to ensure that such mechanisms are established and employed throughout State Government.

Budget document form

An ad hoc group should be established to review the form and substance of the budget document and to make recommendations on how the document can be improved to make it more "user friendly." The group should include Executive Branch officials who develop the document, legislators, advocates who commonly use the document, and persons from the private sector who are experienced in designing and using corporate budgets.

Budget document figures

Figures listed in the budget document representing estimates of current fiscal year revenues or appropriations should be replaced with figures showing actual expenditures or revenues for the immediately preceding twelve-month period. This will be a more accurate and more useful figure for budgetary analysis.

Budget document narratives

The budget document should include short narratives that highlight justifications for any program changes contained in the budget.

Budget document organization charts

The budget document should include organization charts for each department and agency. This will facilitate understanding, particularly by public users, of the functions and structures of the departments whose budgets are discussed.

Projected budget outline

A projected budget outline for the biennium following the current biennium should be prepared by the Legislature's Office of Fiscal and Program Review. This outline should be issued at the close of each session, based on the cumulative fiscal impact of the bills passed by the Legislature during the session.

Unfunded liabilities

The State should recognize the problem of unfunded liabilities to insure accurate forecasts of program costs under strategic planning and budgeting.

3.3 LEGISLATIVE/ EXECUTIVE INTERACTION

Discussion

As noted in the preceding section, forecasting revenues is both difficult and imprecise. Since 1977, total General Fund estimates as reported in the Governor's original biennial budget submission have varied from actual revenues no less than 2.3% and up to 14.9%. Over-estimates have resulted in significant shortfalls: for example, in fiscal year 1991, the difference between the General Fund estimate reported in the Governor's original biennial budget submission and the actual revenues amounted to about \$212.4 million (see Chart B).

Wrangling over the accuracy of revenue projections is counter-productive

While it may be that a more sophisticated process could be instituted that would result in more accurate revenue forecasts, all economic forecasting is by nature imperfect. This imperfection may create excessive tension in the budgetary political

climate between the Legislature and the Governor. Wrangling between the two branches as to the accuracy of the projections is counterproductive and diverts attention from central budgetary issues.

At present the Executive is solely responsible for developing the state revenue forecasts. The State Budget Officer, in consultation with others, produces the estimates that form the basis for the Governor's budget submission and the Legislature's review and analysis. The Legislature has no independent capability to produce its own revenue projections. For the Legislature's Office of Fiscal and Program Review to produce revenue estimates on its own, a significant financial investment, including the hiring of several new staff, would be needed. While such an independent capability could provide another source of information for the Legislature to draw upon in reviewing the Governor's budget, it would not alleviate the tension between the branches with regard to revenue forecasts; indeed, it would likely exacerbate the tension if estimates significantly differed.

Maine's approach to revenue forecasting can be usefully contrasted with models in other states. In Florida, the legislative budget office, the Governor, and representatives of the budget office and executive agencies meet in "consensus forecasting conferences." Each party to the conference has veto authority: all parties must agree on the forecast before it becomes official. Any participant may call a new conference to propose forecast changes.

In Texas, the State Comptroller, who is popularly elected, prepares the revenue forecasts. Before an appropriation bill goes to the Governor for signature, the Comptroller must certify that there will be enough revenues to fund the bill. If the Comptroller does not so certify the bill, the bill is dead unless the lack of certification is over-turned by four-fifths of the Legislature. This is a provision of the Texas Constitution.

Findings

A mechanism that would create a bridge between the Executive and the Legislature on the issue of revenue forecasting, thereby relieving the political tension that the present process engenders, has the potential to increase the efficiency and effectiveness of the budget process. In addition, while present communications between the Executive Budget Office and various departments and the Legislature on budgetary matters is generally good, maximum integration of computer technologies allowing for rapid and accurate data flow is essential for effective and efficient Legislative/Executive cooperation in forming state budgets.

Recommendations

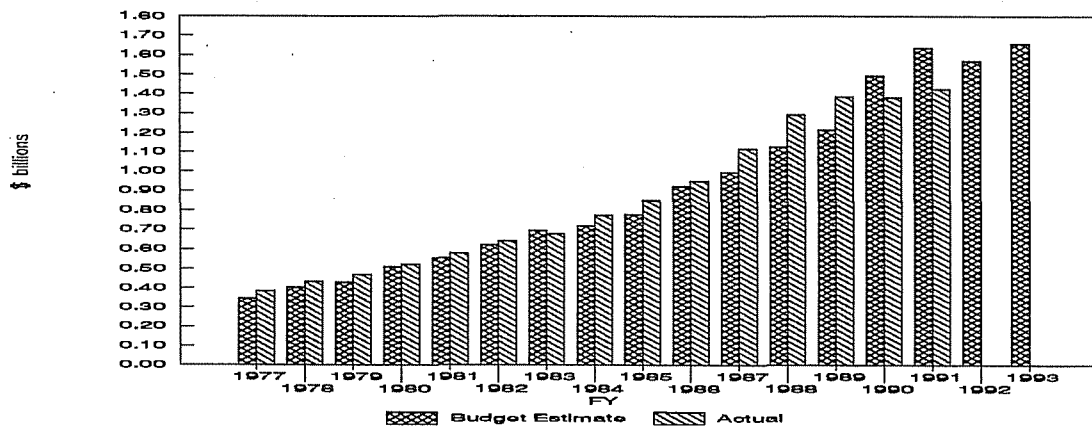
Economic and revenue forecasting should be an open and public process that, as much as possible, facilitates revenue estimate agreement between the Executive and the Legislature on revenue estimates. Toward this end, the Governor and Legislature should form a Consensus Forecasting Committee. The Committee should:

- be composed of five members, all with professional credentials in economic revenue forecasting. Two members should be appointed by the Legislature, two by the Governor. The fifth member should be appointed by these four members and should chair the committee. No member should be a legislator

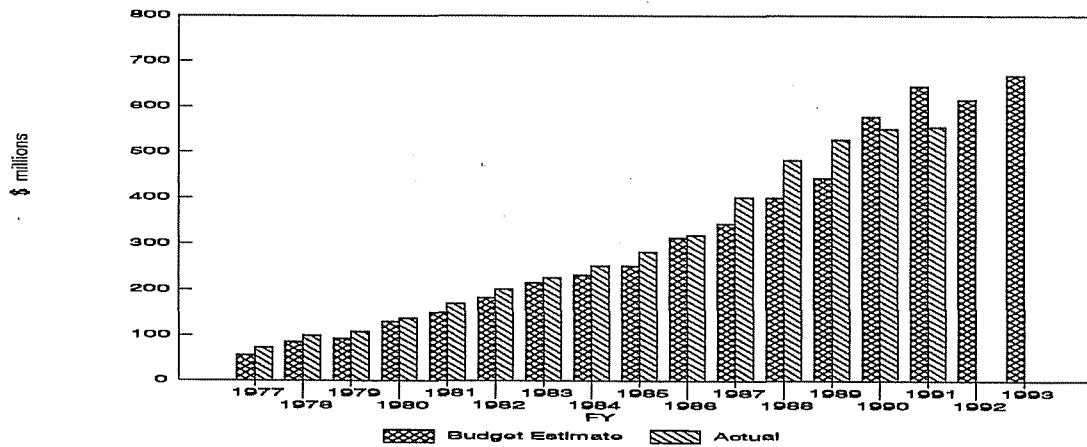
Consensus forecasting

Chart B

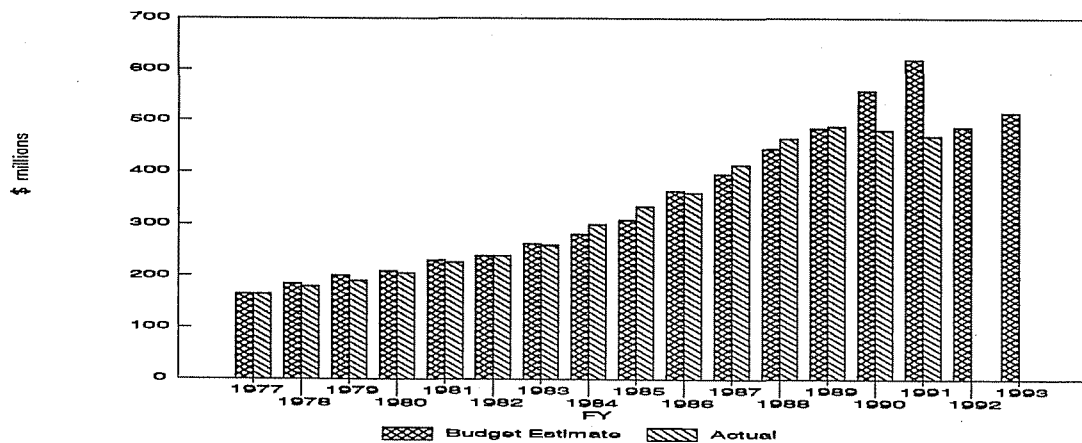
Total General Fund Revenues Fiscal Years 1977-1993



Individual Income Tax Revenue Fiscal Years 1977-1993



Sales Tax Revenue Fiscal Years 1977-1993



Prepared by the Office of Policy and Legal Analysis
for the Special Commission on Governmental Restructuring
Rev-tri.pm3

or an employee of the Executive Branch;

- develop long term, ten- to twenty-year macro-economic secular trend forecasts and one-, two-, four-, and six-year economic and revenue forecasts. If the Governor fails to incorporate into the budget proposal exactly the revenue forecasts submitted by the Committee, the Legislature could employ the Consensus Forecasting Committee's majority recommendations rather than the Governor's revenue estimates in its review of the budget; and
- review any subsequent revisions to revenues.

In addition, to aid the above and all budgeting efforts, the merged Department of Finance and Administration, discussed later in this report, and the Legislature's Office of Fiscal and Program Review should continue to pursue maximum integration of executive (including departmental) and legislative budget computer programs.

It is imperative that revenue and expenditure analysis be upgraded and given priority attention in the proposed new Department of Finance and Administration. A special unit should be established in the department for this purpose, providing direct staff support to the commissioner and the Governor. The budget planning and analysis office would provide the Governor with analysis and options evaluation regarding budget proposals and relevant legislative proposals and enactments. It would, working with the State Planning Office, state departments and agencies, legislative staff, and information systems specialists in the Department of Finance and Administration, provide leadership in the development of information and management systems. The budget planning and analysis office would not be responsible for regular budget management and control activities.

Budget planning and analysis

The proposed change in status, function, and responsibility of the budget planning and analysis office would improve and strengthen the system of budget policy-making and coordination. The functions of the office would include:

- economic and revenue forecasting in support of the Governor and the consensus forecasting process;
- providing the Governor with analysis and options evaluation regarding budget proposals and relevant legislative proposals and enactments;
- designing a fiscal program and preparing the biennial budget; and
- planning and implementing effective information systems to track program performance.

The State Planning Office should continue as a separate Executive Department Office, charged with responsibility for information-gathering and analysis related to strategic planning for State Government, facilitating planning in the several Executive Branch departments and agencies, and serving as a source of planning information for the Legislative and Judicial Branches and state advisory boards and commissions. The State Planning Office should not be assigned operating program responsibilities.

State Government planning

3.4

LEGISLATIVE REVIEW

The Legislature needs to make better use of the skills of its members and staff in reviewing program performance and budget priorities

The effectiveness, flexibility, and timeliness of the "sunset review" process can be significantly improved

Discussion

The present legislative budget review process promotes excessive detailed review of new or expanded programs at the expense of careful, routine analysis of broad functional expenditure priorities and critical review of current programs. The consequence, as we have witnessed in recent years, is severe policy and program reevaluations in years of revenue decline and less rigorous review in times of surplus revenues. This results in a context and an atmosphere least conducive to rational governmental structuring and operations.

The various policy committees of the Legislature have specialized areas of jurisdiction that allow their members and staff to develop expertise with regard to the particulars and subtleties of the programs within those areas. This knowledge was tapped in the First Regular Session of the 115th Legislature: the Appropriations Committee asked each of the policy committees to review the budgets of the departments within their jurisdiction and to make recommendations with regard to those budgets. The process was not universally successful, but that type of integration of the policy committees into the Appropriations Committee process permitted a considerable body of knowledge and understanding of the various aspects of government to be brought to bear on policies proposed in the budget. That integration needs to be strengthened, formalized, and institutionalized.

The Legislature also conducts program reviews not tied to immediate state budget concerns. State Government is well served by well-organized, timely, efficient, and effective oversight and review of executive agencies and programs. Such review and oversight helps ensure accountability and reduce or better target expenditures in State Government. It also allows for more informed establishment of policy priorities based on careful consideration of program success measured according to outcome-oriented goals and performance standards. In order for program evaluation to be successful, legislative expertise must be well-utilized and evaluation schedules must ensure efficient use of limited legislative time. The present program review process conducted by the Joint Standing Committee on Audit and Program Review has resulted in reorganizations, streamlining, and other changes that have increased the efficiency of state government, but the process can be improved significantly.

The Maine Sunset Act, 3 M.R.S.A. §921 et seq., requires the committee to review all agencies of State Government according to the schedule established in the Act. "Agencies" (e.g., the Office of the Treasurer, Bureau of the Budget within the Department of Finance, the Finance Authority of Maine) are reviewed by the committee, but are not subject to automatic termination. "Independent agencies" (e.g., Seed Potato Board, State Lottery Commission, State Planning Office) are subject to review by the committee and automatic termination unless continued by Act of the Legislature. The law also authorizes the Committee to review any agency on its own initiative, but the present time-consuming and inflexible process (each agency review takes about two years to complete) is largely insensitive to current issues of more significant concern to the Legislature.

The State Auditor, elected by the Legislature, is responsible for financial audits of agencies. Under the federal Single Audit Act, the Auditor provides post audits of all accounts and other financial records of the state government. In addition, the State Auditor, under the federal Single Audit Act, ensures program compliance on federally-funded projects. The Auditor's reports contain management letters.

Some of the problems attributed to the existing auditing and program review processes include:

- the eleven-year cycle of regular agency review mandated in the legislation tends to limit the capacity of the Audit Committee: dysfunctional programs wait for review until their "turn" in the review process;
- because of staffing and time constraints, the review process is dependent upon program managers for the assessment of their programs. This arrangement can lead to a slanted assessment that justifies the continuance of a program; and
- the financial and programmatic function review are inadequately related and marked by gaps in information flow.

The process is structured so that it cannot possibly meet the expectations of the law. Falling through the cracks of both the Audit and Program Review Committee's process and the State Auditor's efforts is any type of management, performance, or systems review.

The program operations review process can be made significantly more focused and responsive to legislative needs by accelerating the present slow and cumbersome cyclic review process and by broadening the role of the State Auditor to include management performance audits. The more flexible and targeted the process, the more useful and relevant will be the product.

In addition to program reviews, the Legislature also prepares short-term fiscal reviews of legislation. As discussed previously, short-term financial planning without consideration of longer-term eventualities may result in unnecessary and unpleasant surprises. While biennial budgeting highlights the period on which primary financial focus must be placed, considerations beyond the biennium provide instructive perspective and may allow future biennial difficulties to be foreseen and avoided.

*Fiscal assessment of bills
needs to include longer-
term implications*

At present, bills considered by the Legislature include fiscal notes developed by the Office of Fiscal and Program Review. A fiscal note provides an assessment of the fiscal impact (costs or savings) that will result from the passage of the bill. Although an attempt is made to provide, where possible, general estimates of longer-term fiscal impacts, the emphasis is on impacts within the biennium.

Findings

Legislative review of the state government budget currently fails to address detailed program and policy issues within the context of overall spending priorities. In considering budgets, the Legislature must address the following two questions in the following order:

- What broad areas of government services ought to be funded and at what levels given projected revenues and expenditure trends?
- Within these broad service expenditure levels, what programs should be funded and to what extent?

All legislative expertise is not currently effectively employed in developing answers to these questions. Greater and more efficient integration of the various policy committees of the Legislature into the budget process needs to occur.

The current audit and program review process is not as effective as it needs to be for both the Legislature and the executive agencies reviewed. The expertise and different perspectives of the various policy committees and the Appropriations Committee need to be exploited and carefully communicated in order to provide meaningful program review. The state auditing function must also include a stronger management audit component. In addition, the audit and program review process needs to be more closely integrated with the appropriations process so that recommendations from the Audit Committee can be used by the Legislature in setting budget priorities.

The Legislature also needs before it, when it considers any bill, the projected fiscal impact of the bill through the next biennium. The Legislature needs ready access to a projected budget outline for the next biennium showing the cumulative impact of the bills considered and passed during the session. In addition, sound long-term planning by the Legislature requires that it develop and make use of long-term revenue projections that may affect current and new program expenditure trends.

Recommendations

Expenditure review

The Joint Standing Committee on Appropriations and Financial Affairs should have responsibility to:

- develop, revise, and correct four-year average expenditure estimates, adjusted for biennial requirements. The committee could use the recommendations of the Governor or the Consensus Forecasting Committee;
- building from the Governor's budget, develop total biennial operating and capital budget proposals and proposed major functional category expenditures;
- review policy and program analyses and budget expenditure recommendations prepared by the policy committees in revising appropriations bills;
- recommend the final budget proposals to the full Legislature; and
- compare state expenditures with those of other appropriate states as a proportion of total economic activity in the state. This should occur both at the level of individual programs and the overall budget.

Tax policy review

The Joint Standing Committee on Taxation should have responsibility to:

- use the work of the Consensus Forecasting Committee and expenditure forecasts developed by the Appropriations Committee in developing proposals for revenue legislation;
- review revenue performance and study relationships between revenue requirements and tax policies as they bear on issues of equity, economic climate, and other public policy concerns;
- develop proposed revisions in revenue and tax policies; and
- compare the State's revenue and tax policies with other states.

The policy committees of the Legislature should be more fully integrated in the appropriations process, building on the experience of the 1991 legislative session. Several proposals have been made for achieving that goal, including the creation of special Appropriations Subcommittees that have membership drawn from the Appropriations Committee and the relevant policy committees, assignment of appropriations review responsibility to the relevant policy committees, and assignment of Appropriations Committee members to sit on policy committees and participate in those committees' review of appropriations. Whatever approach is taken, the process should avoid duplicative appropriations hearings.

Policy and appropriations integration

In addition, the various policy committees of the Legislature should assume responsibility for more detailed program review. These reviews should include:

Program review

- oversight of departmental strategic plans and recommended programs, including outcome-oriented goals and measurable objectives; and
- making recommendations on budget goals, objectives, and expenditures.

The present Audit and Program Review Committee process should be reformed to focus on management reviews, based on the work of the State Auditor and program review and other assignments from the Legislative Council. The committee name should be changed to the Audit and Management Review Committee to reflect its responsibilities. Its reviews should make use of the knowledge and perspective of the relevant policy committees, Appropriations and other committees, and expertise from outside the Legislature.

Management review

Following from this new process, the appointment and role of the State Auditor should be revised, as follows:

- The Auditor would be nominated by the Governor and elected by a two-thirds majority of the Legislature for a term of seven years;
- The Auditor would be responsible for regular financial audits in the Executive, Legislative, and Judicial branches;
- The Auditor would be responsible for management performance audits (not program audits), and would have authority to contract with outside agencies for such audits; and
- The Auditor would report to the Governor, the Legislative Council, the Audit and Management Review Committee, the Appropriations Committee, and as appropriate - to the joint standing committee with jurisdiction in an area covered by a financial or management performance audit.

For more informative fiscal review, each bill considered by the Legislature should include a fiscal note providing an estimate of the fiscal impact of the bill over both the current biennium and over the following biennium. Also, a projected budget outline for the biennium following the current biennium should be prepared by the Office of Fiscal and Program Review. This outline should be completed at the close of each session and should be based on the cumulative fiscal impact of the bills passed by the Legislature during the session.

Fiscal review

Implementation

The Legislature should take practical steps immediately to implement the above. In 1992, the Legislature should adopt a plan to:

- Create the Consensus Forecasting Committee;
- Through the Legislative Council, create a special legislative task force, including a cross section of senior and junior members of the Legislature from both parties, plus legislative nonpartisan staff, to make recommendations for revisions in committee responsibilities and legislative operations, consistent with the recommendations in this report. The recommendations should be submitted for consideration and action in the First Regular Session of the 116th Legislature;
- Revise the statutes governing the responsibilities, term, and election of the Auditor, with the initial election to take place in December 1992;
- Adopt a tentative, six-year expenditure and revenue forecast in March 1993;
- Mandate departmental development of six-year, outcome-oriented plans for submission by November 15, 1993; and
- Initiate the first round of the new budget process in the First Regular Session of the 116th Legislature.

3.5

JUDICIAL DEPARTMENT BUDGET

Discussion

The process for submitting the Judicial Department budget request to the Legislature denies the Judicial Department control over its finances. Current law (4 MRSA §24) requires the Judicial Department to submit its budget request to the State Budget Office, and requires the Governor to "include in the budget submission the judicial budget without revision but with such recommendations as he may deem proper." In practice, although the Judicial Department's request appears in budget documents, it is the Governor's "recommendation" in the form of the budget bill that receives primary attention in the appropriations process. That bill contains no reference to the Judicial Department request. This is an inappropriate method of presenting the budget of the Judicial Department. The Maine Constitution creates the Judicial Department as a branch of government equal in authority and importance to the Legislative and Executive Departments. Giving the Executive Department authority to reject portions of the Judicial Department budget request before it is presented to the Legislature denies the Judicial Department the opportunity to have its true budget needs presented directly to the Legislature.

According to testimony of Judicial Department representatives, the budget submission statute was intended to protect the interests of the Judicial Department by requiring the Governor to pass the budget request intact to the Legislature. Implementation of the statute is not consistent with that intent.

Finding

Since the middle 1970's, the process by which the Governor submits the Judicial Department budget to the Legislature has violated the spirit if not the terms of the separation of powers doctrine of the Maine Constitution. A similar problem exists with respect to the Legislature's budget.

Recommendation

The statute governing the submission of the judicial budget to the Legislature should be amended to require the Governor to include the Judicial Department budget request, without change, in addition to the Governor's recommendation, in the budget bill presented to the Legislature. We also recommend that the budget bill contain the legislative budget, as submitted by the Legislature, as well as the Governor's recommendation. This would not interfere with the Governor's responsibility to provide a balanced budget, but would present the Judicial and Legislative Department budget requests in the budget bill where they could be directly compared with the Governor's recommendations.

Budget bill

4.0 *Improving Overall Government Management and Operation*

4.1

GENERAL DISCUSSION

The 1980's has been called the "golden age of the states," a decade in which state revenues grew and state government became a major force in setting the domestic policy agenda in this country. In areas as widely different as welfare and education reform, as public housing and environmental protection, state government filled the policy vacuum left by a federal government strapped with mounting budget deficits.

As quickly as states have emerged as leading players in domestic policy, they have found themselves confronting desperate financial situations. As the '80's were a decade of plenty, the '90's promise to be a decade of scarcity. And as plenty permitted the states to innovate, experiment, and extend the domestic policy agenda, so scarcity will force the states to focus on management and operations. The problem is simple - it is one of having to do more with less, and as state after state confronts this new reality it learns that it cannot be business as usual. States must find new and better ways to deliver services to our citizens both more effectively, efficiently, and economically.

As the '80's were a decade of plenty, the '90's promise to be a decade of scarcity

States are trying to innovate within dysfunctional systems. Whether the services and programs are in education, welfare, Medicaid, resource protection, or infrastructure development, the systems for delivering those services are characterized by perverse incentives, by wrong operating guidelines, and by the lack of performance-based outcome measures and accountability standards. We have created within our state governments large centralized systems characterized by command and control accountability structures that are legally sanctioned and protected monopolies, facing no competitive pressures to improve either effectiveness or efficiency.

At the same time, the 1990's demand of our institutions that they be entrepreneurial and not bureaucratic; that they be flexible and not rigid hierarchical structures; that they be results- and customer-oriented and not governed by arcane rules and mechanistic budgeting procedures. These are the changes that are necessary in state government if we are to succeed in meeting the challenges of the 1990's. These are also the changes that organizational theorists emphasize when they speak of the "white spaces" in organizational charts. The great efficiencies in large bureaucratic organizations come less from realigning the boxes within the organizational structures and much more from restructuring the rules and operating procedures that direct and govern the actions and relations of organizations and their subcomponents.

As we look at Maine State Government there are a number of areas ripe for reform. Some of these, such as the planning and budgeting process, are addressed in other chapters of the report. This chapter focuses on seven general areas:

- a customer-oriented focus for state government;
- enhancing flexibility, innovation, quality, and efficiency in the operation of state agencies, including fostering opportunities for creative performance by rank and file employees;
- increasing and expanding the choice of service delivery vehicles, including regional and local public agencies, nonprofit institutions and agencies, for-profit corporations and individuals;
- increasing the utilization of technology and modern information management techniques;
- coordinated use of and cost-effective lease or purchase of space and facilities;
- development of consistent regional systems for service delivery and decentralized mechanisms for decision-making; and
- participation, partnerships, advocacy, and boards and commissions.

The first two sections of this chapter deal with the concept of "total quality management," which in turn relates to the Commission's recommendations for reform in State Government's planning, budgeting, and operations. The Commission has recommended that the State transform its planning from a short-term, process-oriented planning and control system to strategic, results-oriented planning, based on clear understandings of citizens' needs. That kind of planning will enable the State to identify and define its problems and opportunities, set priorities, determine expected results in designing programs, and evaluate outcomes. Outcome or performance assessments will make it possible to correct programs, and to expand or reduce programs based on the lessons of the assessments. That process will mean continuous improvement and effective cost control.

Total quality management in State Government will not be easy to achieve. It will require much better and more complete information bases than the State now maintains. It will require much more attention- continuously- to citizen needs, changing state problems and opportunities, and the results of program outcome evaluations. It will demand different ways of thinking about the roles of leaders and supervisors and the roles and responsibilities of rank and file workers. Total quality management will demand commitment and support from the Governor, Legislature, Judiciary, and senior officials, and meaningful participation in deciding as well as doing by frontline employees.

CUSTOMER ORIENTED GOVERNMENT

Discussion

Perhaps the most significant managerial revolution in the private sector over the past decade has been the emphasis on the customer and the attempt to achieve total customer satisfaction in both the products manufactured and the services delivered. The techniques for achieving this outcome go by a variety of headings, but generally are captured in the phrase "total quality management" or TQM. The private sector has learned that emphasis on quality improves a company's bottom line by increasing customer satisfaction and by reducing the cost of doing business. In manufacturing processes, if it costs \$1 to prevent product defects, it costs \$10 to correct those defects in the production process and \$100 to remedy the defects once the product is sold. Building quality into processes at the outset cuts significantly the cost of producing the products or providing the services.

*Including quality at the outset
significantly cuts the cost of
providing services*

The first step in ensuring quality is in knowing, understanding, and responding to the needs of customers.

Findings

Frequently, when we think of the customers of state government, we think of the recipients or beneficiaries of state services. It is not, however, just the external customers of government that are important. Certainly travelers' needs are important to the Department of Transportation, business needs to the Department of Education, and family needs to social welfare agencies. But just as important from a cost-effective perspective are the internal customers of government, that is, the relationships among agencies within State Government. Many of our most costly and inefficient government processes and organizations do not serve the general public but serve other agencies. Our internal purchasing, personnel, space, budgeting, and accounting systems all serve the needs of state agencies and all must be improved to respond more effectively to state agency needs so that those agencies may conduct their operations more efficiently.

Recommendations

A senior staffperson reporting directly to the Governor should develop and implement a plan for application of TQM principles and methods in the Executive Branch. The plan for introduction of TQM, including a description of its elements and a timetable for implementation, should be prepared and released by September 1, 1992. The plan should include the TQM essentials, in that it should be customer-driven; based on results-oriented strategic plans; use pertinent data; seek continuous improvement; and emphasize rank and file employee participation, as discussed in greater detail in Section 4.3.

TQM in the Executive Branch

The Legislature and Judiciary should adopt plans by September 1992 for the use of TQM in their operations.

*TQM in the Legislature
and Judiciary*

All three branches of government should begin implementing TQM by the end of 1992.

Implementation

4.3 ENHANCING EFFICIENCY, INNOVATION, QUALITY AND PERFORMANCE

State Government has not given adequate attention to the potential of its employees to improve the quality of state services

Employee involvement in TQM

4.4 EXPANDING THE CHOICE OF SERVICE DELIVERY

Alternative modes of service delivery offer advantages in flexibility and choice

Discussion

The "total quality management" program emphasizes the importance of front line, rank and file workers in the improvement of any production or service organization. The obstacles to performance are frequently hierarchical structures that give little or no support or opportunity for those employees to innovate, improve quality, and increase the efficiency of operations. There is growing evidence that governments can benefit from involvement of workers in design of the workplace, development and maintenance of quality improvement systems, and cost-cutting operations.

Findings

Maine State Government has not given adequate attention to the potential for using the talents, skills, experience, and commitment of its employees in improving the organization, cost-efficient and effective operations, and quality of state services. State employees are also in a position to identify customer concerns and provide practical advice in making State Government more responsive to its customers' needs.

Recommendation

The State should involve rank and file employees in development and implementation of "total quality management" programs in the several state departments and agencies, improving internal operations and making state operations less bureaucratic, more customer-oriented, and more competitive with the private sectors.

Discussion

It has long been recognized that government need not be the only supplier of services provided by the public sector. Indeed, the use of such vehicles as quasi-public authorities, franchise agreements, and contractual relationships have long characterized the delivery of public services in such areas as highway and other infrastructure activities, economic development assistance, solid waste collection and disposal, treatment of persons with mental illness, and caring for indigent populations. More recently, governments have looked to the private nonprofit and for-profit sectors of our economy to provide an ever-increasing array of services traditionally provided by government agencies. It is a trend that parallels moves by private corporations to look outside their firms to obtain certain products or services to support their business operations.

The advantages of flexibility and choice in service delivery come from two sources. First, alternative providers may have cost advantages in delivering certain types of services. These advantages can derive from specialized expertise and knowledge that will improve productivity and effectiveness, and from more flexible work regimes that come from operating outside large central bureaucracies. In addition, advantages may derive from better management, and from efficiencies possible as a result of different operating incentives for agencies or firms outside of government.

Second, and even more important over the long-term, cost differentials may grow over time as a result of innovation and technological change made possible by having many nonprofit and for-profit providers involved in delivering a service. By providing services within a more competitive environment, states may see more innovation and

more experimentation with different ways of providing the services. Over time, that can lead to higher levels of productivity, improved service delivery, and lower costs. In the same way that states now learn from each other what works and does not work, so, too, do nonprofit agencies and for-profit firms learn from each other as they compete and experiment with different ways of providing services and meeting the objective set forth by the contracting agency.

Findings

Maine State Government and its various agencies currently engage in a wide array of contracting activities. For example, our foster home program in the Human Service area is operated entirely by private individuals under contract with the Department of Human Services. Similarly, our Medicaid program, which provides health care and nursing home services to our indigent populations, relies almost exclusively on private sector providers.

The selection of additional areas for use of contracted services in carrying out state responsibilities, or divesting the State of traditional service activities, will require careful evaluation to determine those circumstances where such contracting or divestiture is appropriate and desirable in the public interest.

Recommendations

The State should move from the present tendency to rule out private sector contracting, unless it can prove its effectiveness in advance, to a balanced examination of the advantages and disadvantages of public and private sector nonprofit or for-profit service delivery.

Service delivery criteria

Rigorous application of criteria for selection of public or private sector service delivery mechanisms should be linked with performance measures and evaluation methods tied to the State's outcome-oriented goals and measurable objectives for programs and operations. Some of the criteria that could be applied in such evaluations can be phrased in the following questions:

- Is the service one where direct government control or supervision is essential for protection of public safety?
- Will selection of nonprofit or for-profit contractors insure access to needed services and include requirements and incentives to insure desired performance, quality, and price?
- Is there a reasonable prospect of continuity in the availability of the service?
- Would contracting result in more effective or less expensive performance of the service?
- In considering whether the State should be responsible for the service, is the service an essential or necessary state service, or would it be more appropriately performed in the private sector?

Contract provisions

State service contracts with other public agencies, nonprofit agencies, or for-profit firms must include:

- performance requirements;
- guarantees of access without discrimination for essential services; and
- provisions for service-related data collection, consistent with state requirements, access to that data for public policy purposes, and appropriate protection of confidentiality.

Employee impact

As noted above, and in several sections below, there are opportunities for improved efficiency and more competitive operations within State Government. At the same time, changes in vehicles for service delivery inside or outside State Government will inevitably result in adverse effects for some state employees. As the state contemplates the possibility of contracting with more nonprofit and for-profit agencies and corporations for delivery of state services, it should insure that it meets its moral obligations to state employees, providing support for those who may be adversely affected. Retraining, severance pay allowances, portable or transitional benefits, and other ways of assisting state employees should be explored, developed, and implemented.

Liquor sales

The State should develop a plan for the phase out of its 70 remaining retail liquor stores over the next two years, planning so as to minimize employee hardship, its legal obligations for termination of leases, and the costs of winding up its business operations. During this phase out period, it would be in the State's best interests to try to retain personnel experienced in the management of the system to maximize the value of its assets in the liquidation process.

To realize the maximum return from its retail store system, the State should consider putting the right to own and operate each existing location out to bid, including the remaining obligations, the current inventory and the exclusive right to operate a franchise territory for a specified period of time, with appropriate limitations on dominant system ownership by any one franchisee.

The State should initially operate its privatized business through a system of agency stores. During the two year phase-out period the State should evaluate the experience of other states with an entirely free enterprise retail system, under which anyone could enter the market, subject to financial, liability and character standards.

After the phase out of the state's involvement in retail liquor sales, the State should reevaluate the need for the Liquor Commission.

The State should retain its wholesale operations for the time being, as the current system provides legal assurance Maine will receive the lowest wholesale rates available nationally, and the current wholesale system produces significant profits for the State. During the two year phase out period, however, alternatives to the wholesale monopoly should be explored.

Contracting areas

The Commission has also identified a number of areas as potentials for regional or local public agency, nonprofit agency or institution, or for-profit corporation contracting. These areas include lottery operations; laboratory facilities, institutional services; building and grounds maintenance; state motor vehicle acquisition, maintenance, and operations; printing and publishing; and other such services. A description of some of these potential areas follows. Each of the areas should be examined

carefully, using criteria such as the Commission suggests, before any decisions are made on contracts. Standard performance-based contracts should be developed and approved under rule-making authority, pursuant to state statute.

The State's Lottery could be operated under contract by a private firm.

The Lottery

The State should explore the opportunity of operating its minimum security facilities, including pre-release and detention centers, and portions of the juvenile services, under contractual arrangements with private entities. In addition, certain services provided throughout the correctional system, such as health care services, could be provided under contractual arrangements with private sector providers.

*Institutional services:
correctional facilities*

The State is embarked on a policy of providing care for those affected by mental illness in the least restrictive settings, consistent with the Augusta Mental Health Institute Consent Decree and the recommendations of the Systems Assessment Commission. That policy means using ambulatory settings, agencies, and institutions close to patient/client home communities, and it reinforces the potential for contracts with nonprofit and for-profit entities and individuals for outpatient, inpatient, and support services. It also reinforces the importance of performance-based contracts, insurance of equal access, and the other criteria suggested by this Commission in connection with the changes in the delivery of such services.

*Institutional services: mental
health and related institutions*

The State will continue to be responsible for those individuals affected by mental illness who are a danger to themselves or others and need care in highly protective settings. It is certain the State must retain direct responsibility for forensic patients. It is likely that, for reasons of quality assurance, the State will continue to be directly responsible for a small group of nonforensic patients with continuing, very severe problems. In considering those responsibilities and the future of state involvement in mental health institutional care, attention must be given to the state's role in providing leadership and support for research and application of improved approaches to diagnosis and treatment for those with persistent and severe mental illness. The State should explore the options of contract or partnership with the private sector for services to those individuals, or development of the Mental Health Advancement Program, as recommended by the Systems Assessment Commission.

Consideration should also be given to contracting developmental services now provided through such state institutions and agencies as Pineland, the Levinson Center, the Bath Children's Home, and the Aroostook Residential Center.

This past year the Department of Environmental Protection combined its laboratory facilities with those of the Department of Human Services. This was a very useful step, but it could be carried further. The State should explore contracting for all laboratory services in areas such as marine resources, water quality testing, agricultural products and other public health areas. Should the State move to substantial dependence on private laboratories, it will be essential to make arrangements for quality control through such means as contracts with reference laboratories.

Laboratory facilities

Property management offers an opportunity to encourage greater efficiencies, improved quality and savings through the involvement of rank and file employees in a "total quality management" program in the Bureau of Public Improvements Property Management Division. State employees should be supported in efforts to match or exceed the performance standards of private sector competitors, while the State is considering the possibility of a bidding process for services in state office buildings and other facilities.

Buildings and grounds

*Oversight, management,
and operation of selected
services*

4.5 APPLICATION OF TECHNOLOGY AND MODERN MANAGEMENT INFORMATION SYSTEMS

*Investment in information
technology must support and
be driven by users and long-
term planning needs*

The State should consider establishing competitive bidding processes for a wide range of services it currently performs, including the operation of the state Medicaid bills processing system, and the State's printing and publishing services and Risk Management operations. As in the above recommendation, existing state agencies should be encouraged to compete in any bidding processes, involving state employees in the redesign and improvement of agency operations.

Discussion

Thoughtful integration of computers and other new or enhanced technologies into the workplace can increase productivity, enhance the exchange of information among agencies, improve efficiency, and provide management access to current and accurate information. The use of technology has been shown time and time again, both in the private and public sectors, to result in improved efficiency, higher quality products, or more effective service delivery, and significant cost savings.

It is important, however, to give priority attention to the policy considerations and user needs that should drive planning for information systems and operations. The purposes of collecting, storing, retrieving, and making available information must be clear and consistent with the priorities of state government. In this area, as in others, long-term strategic planning should be used in making decisions on needed information bases, the integration of different information bases, analytic needs, and the information technologies most appropriate to support the priority information systems.

Findings

While State Government has increased its utilization of technology over the past decade in such areas as Geographic Information Systems, computerization, and telecommunications, it is not uncommon to find instances in which state employees are saddled with equipment well in excess of ten years old, frequently two or more generations behind "state-of-the-art." In part, this situation results from an unawareness and lack of appreciation of the advantages of technology. In large measure, however, it results from the budgeting processes used in State Government that fail to account for technological depreciation. It is clear that, in a number of areas in particular, the utilization of new or enhanced technologies can result in substantial and immediate savings.

Significant efforts have been made in improving the applications and use of information technology, but the greatest weakness in the State's approach to information uses has been in the area of developing long-term strategic plans for setting priorities in the acquisition and integration of information bases that will support public policy deliberations. The need for such information technology planning will be increased substantially if the recommendations of this Commission are adopted. Without appropriate information technology, it will be impossible to conduct meaningful long term strategic program planning, outcome oriented goals in budgets, or performance accountability in program review and budget revision. Cost/benefit analyses will require more extensive and accurate information bases. It will also be important to use cost/benefit analysis in developing information systems, using such techniques as marginal pay-off analysis.

Recommendations

As a matter of general principle, State Government and its various agencies should explore every opportunity to employ new technologies in the delivery of services. The State should institute continuing, user-driven planning for selection, development, and use of technologies for improvements in the economy, efficiency, and effectiveness of state government operations. Some examples of present opportunities are:

Technology opportunities

Interactive television

- The State should work in partnership with the University of Maine System to expand use of the University's ITV System. Access to the ITV system should be assured for all elementary and secondary schools, campuses of the Maine Technical College System, and the Maine Maritime Academy. That system should be utilized to support enhanced opportunities for distance learning, including access to a wider array of educational curricula and course offerings, and further cooperation and shared programs among local school districts and the campuses of our institutions of higher education.
- The State should expand its use of the ITV System for employee education and training programs.
- The agencies of State Government, including the courts and the Legislature, should increase their utilization of the ITV system for conducting public hearings, remote processing of records, off-site hearings before the various boards and commissions of the state, personnel briefings, and conferences.

Information processing

- The Department of Human Services should participate in a federal program that provides a 90% federal match for the acquisition of enhanced computer technology in the Medicaid program to eliminate paper claims and simultaneously create a data base for timely analysis. In the income maintenance area, a 90% federal match is available to automate eligibility functions. This would reduce the error rate, improve productivity, and enable the State to move toward a single eligibility process for all of its assistance programs.
- The Department of Human Services should initiate a system adopted recently in Maryland and Massachusetts, among other states, to utilize electronic funds transfers in lieu of mailing checks to recipients of all of its transfer payment and other financial assistance programs.
- Electronic funds transfers should be utilized by the State for its own payroll, by the Maine State Retirement System for all of its payments to retired employees, and for any and all payments for services or products made to vendors or contractors. The Retirement System now offers retirees the option of electronic funds transfers; about 45% of them use the service. The State should require that within two years all such payments be made by electronic funds transfers and that no checks be printed or distributed for any purpose after that time.
- The Maine Bureau of Taxation has recently begun to permit taxpayers to file returns electronically, thereby saving both paperwork and processing time. This effort should be expanded by requiring large corporate taxpayers and by encouraging other taxpayers to file electronically.

Natural resource management and physical infrastructure

- The State should continue its investment in the Geographic Information System (GIS) to ensure that the full potential of the system can be realized by all agencies of government and by the private sector.
- The enabling legislation of the Office of Information Services (OIS) must be reviewed to ensure that it includes sufficient statutory authority to permit computerization by the natural resource and related agencies in a manner that promotes the exchange of information and interdepartmental communication.

Information services

The State should establish an online computer information bulletin board that would include:

- statistics and other information about the State and its various political subdivisions;
- directories of the various agencies of state government;
- economic development assistance programs such as financial and technical assistance programs, tourism programs, industrial parks, and small business information;
- regulatory and licensing information and application permits and forms;
- notices of hearings, events, or other activities;
- other information.

The bulletin board should be accessed through a toll-free line and should be available twenty-four hours a day with technical assistance available during regular business hours. All information should be able to be downloaded by users.

**4.6
OFFICE SPACE
AND FACILITIES**

Discussion

Five factors conspire today to make the issue of office space and facilities ripe for top to bottom review:

- Government grew significantly over the past decade and with this growth came new office buildings, additional regional facilities, and a near explosion of leased space arrangements. As State Government downsizes and is restructured, the space requirements in Augusta and the many regional centers across the State will be reduced.
- The State owns a very large number of relatively small, older facilities. The natural resource agencies alone own more than 900 facilities, 70% of which have an insured replacement value of less than \$50,000. These include small occupied facilities such as ranger houses and watchman camps, as well as unoccupied garages, storage facilities, woodsheds, polebarns, and radio

shacks. Because these are generally older facilities, the State incurs high maintenance costs.

- The growth of state government and the increase in the need for additional office space and other facilities coincided with an unprecedented increase in rents and the market value of real estate. During the current economic recession, real estate has been especially hard hit, and high quality office space is now going for deeply discounted prices.
- As a result of changes in the law which occurred in the supplemental budget for fiscal year 1991 (PL 1991, c. 9, pt. L, §2), the Bureau of Public Improvements (BPI), within the Department of Administration, now holds all real property leases of state government for the purpose of ensuring that these are managed to the best economic advantage of the State. Since passage of this law, BPI has been examining the State's leases with the intent to consolidate regional office space. A regional center established in Farmington provides space for the District Court, Corrections, Conservation, and Human Services. Limited regional centers are operating in Skowhegan and Calais.
- The Special Committee for the New Capitol Area Master Plan made a preliminary finding that over the long term it is in the interest of the State to own facilities, but a detailed financial analysis, which includes consideration of tax issues, flexibility needs, building management costs, inflation trends and rental rates, limitations on current funds, and other relevant issues has not been done. The State currently spends about \$13 million a year on leases.

As a result of these factors, State Government now finds itself encumbered with rents that are too high, in many instances on property or facilities that are, or will soon be, surplus. Among the many opportunities for saving money, there are few with the immediate potential offered by rationalizing existing office space and facilities.

Findings

Significant savings in facility construction, operation, and maintenance costs can be achieved by coordinated capital planning and systematic consolidation of facilities owned by the natural resource agencies.

Historically, state agencies have acquired or constructed facilities without the benefit of formal interdepartmental planning mechanisms to ensure efficiency in capital expenditures and avoid duplication. It appears likely that overall facility operation and maintenance costs can be reduced significantly through the consolidation, lease, or sale of duplicative or unnecessary facilities.

Overall facility operation and maintenance costs can be reduced significantly

While the present law authorizes the Bureau of Public Improvements to require the co-location of leased regional offices, BPI could be more aggressive in pursuing such co-location. There are three central parameters that ought to guide co-location efforts: increased efficiency, cost savings, and increased public accessibility. In addition, there has been no complete analysis of the feasibility and appropriateness of converting leased space into owned space. This issue is related to the issue of co-location of offices and must be examined in the context of regionalization in order to maximize the effectiveness of both efforts.

Existing state budgeting procedures that require revenue from the sale of capital assets to revert to the General Fund may be removing incentives for efficient financial management of capital assets. Permitting the agencies to retain, and reinvest, a portion

of the revenues derived from the sale of capital assets may, in the short term, create direct incentives for managers to identify and sell obsolete or unnecessary facilities, and may, in the longer term, create savings through more efficient capital planning.

Recommendations

BPI facilities analysis

The Bureau of Public Improvements should prepare an analysis of state government facilities needs, identify facilities that could be sold as part of a consolidation of space at statewide and regional levels, and recommend a plan for consolidation and improved use of space. The BPI should contract for the necessary expertise taking care to avoid potential conflicts of interest. The effort should include a complete and thorough analysis of existing state office space and facilities, the development of a strategy to rationalize such space and facilities through consolidation, purchase, liquidation, or construction, and the identification of specific state-owned facilities best suited for sale. This analysis should be conducted in phases so that any final space and facilities plan reflects the result of restructuring efforts initiated during the upcoming legislative session.

As part of its ongoing responsibilities, BPI should develop a model for assessing the cost advantages of owning versus leasing facilities. In addition, BPI should develop a space and facilities plan that complements the regionalization of the restructured agencies, maximizes co-locations of different state agencies, maximizes cost savings to the state, and promotes public accessibility.

State facilities sales

A Facilities Consolidation Commission, appointed by the Governor, should be established to oversee this process and to receive and rule on recommendations from BPI for the sale of state-owned facilities. The commission should report annually to the Governor and the Legislature on its recommendations and on the sales executed during the prior year. The commission's mandate should include specific targets for facility liquidation. The Governor should be authorized, wherever is not already the case, to sell surplus facilities identified through this process. The commission's first report and accompanying facilities sales recommendations should be submitted to the Legislature by December 15, 1992.

4.7

REGIONALIZATION AND DECENTRALIZATION

Discussion

The commission's mandate calls for recommendations that will lead to more efficient, more effective, less costly, and more responsive State Government. That mandate could be seen as internally inconsistent, if we held to the view that traditional, hierarchical structures are most efficient and that citizen participation and professional public administration are incompatible. The Commission does not support that view. This is a time of escalating complexity of social problems, a more volatile economy, and increasing pressures on state and local governments to resolve the issues of public service demands and limited economic resources. In this time, it is imperative that public policies have the knowledgeable support of citizens. Citizens engage in the development of those policies through their elected representatives and executives, and through supplying advice in the crafting of legislation and implementation of programs.

Findings

Achieving informed citizen participation in policy development is a difficult task in any state. The problem in Maine is complicated by the State's relatively low population density and the absence of intermediate governance structures between state and local governments. The fragmentation and confusion in the regional organization of state departments, agencies, and programs adds to the obstacles to citizen access to public services and the mechanisms of governance. That fragmentation is also an obstacle to effective organization of related state services and programs, across the spectrum of health and human services, conservation and resource management, the administration of regulatory and public safety programs, and support for government infrastructure.

Fragmentation of programs is an obstacle to citizen access to services and the mechanisms of government

A review of the reports from Governor Longley's Task Force on Regional and District Organizations, which completed its work more than a decade ago, reveals a lack of any significant gains in rationalization of state services and operations at the regional level. It also reinforces the impression that little headway has been made in strengthening the capacity of regional and local organizations to work together effectively outside the arena of land use planning.

The Commission does not have a mandate to examine the roles, responsibilities, and relationships of regional, county, and municipal agencies. It has reached some conclusions, however, with respect to the direction in which State Government should move in decentralizing responsibilities for planning, program initiatives, and resource allocations, especially in education, health, and social services. It has also concluded that the State must move to rationalize its own regional organization to support regional and local citizen participation in policy-making and program implementation, oversight, and revision.

The Commission has concluded that no single regional structure can fit all state department and agency needs. Different combinations of localities or geographic areas must be arranged to deal with different issues. In some cases, for example, rivers divide communities or areas. In other instances, communities in watersheds must work together in making policy decisions about the use and management of common resources. It is possible, however, to conceive of two broad categories of regions that would serve State Government's structural and operational needs. Those categories are human services and natural resources. A third category, which might be termed government infrastructure, may also be necessary, but that is less clear.

No single regional structure can fit all state department and agency needs

The development of consistent regional boundaries in human service and natural resource areas would, in the Commission's view, support the development of fewer and more effective regional advisory groups that could support coordinated and cooperative planning, resource allocation, program evaluation, and change. Citizen participation and input could be enhanced. That, in turn, should support more timely planning for education, health, human services, economic development, transportation, conservation, and environmental protection, reducing the risk of last minute, destructive controversy. Regional advisory groups could also support statewide advisory boards and commissions that could address broad issues of public policy.

Recommendations

There is minimum consistency in the boundaries of regions organized by the departments of Education, Human Services, Mental Health and Retardation, Labor, and the smaller agencies that deal with the education, health, social service, and employment needs of our individual citizens, public and private agencies, and corporations. The lack of regional consistency and the absence of consolidated

Health and social service

regional state offices exacerbates the fragmentation of services and resources imposed by categorical grants, variations in program eligibility, and divided responsibility for service oversight and delivery.

The human service departments and agencies, with the assistance of the State Planning Office and the advice of the Legislature, community and regional leaders and individual citizens, should develop detailed plans for consolidation of state government regions and co-location of state human service offices, consistent with the following general criteria:

- State Government human service regions should be small enough to foster access to services and participation in governance at the regional level. At the same time, these regions must have a sufficient population base and infrastructure to support effective regional policy-making, oversight and improvement in programs and services; and
- State Government human service regions should be organized around natural market areas that can be determined by the patterns of retail trade, employment, health and human service delivery, educational districts, and transportation systems.

Plans for the revised regional boundaries should be completed in time for submission to the Legislature by December 15, 1992. The 116th Legislature should complete action on the proposed boundaries by February 15, 1993, and the new regional arrangements should be implemented by December 31, 1993.

There is virtually no consistency between the regions designated by the different natural resource agencies, even within single departments. No convincing arguments have been advanced that there is a rational basis for the boundaries. History, the accidents of individual assignments, and the accretion of institutional identification and turf have fixed boundaries that, in most cases, bear no relationship to the natural features of the land, the distribution of different species of flora and fauna, or the flow of waters. Similar deficiencies exist with respect to transportation systems and potential shared use of personnel.

The natural resource departments and agencies, with assistance from the State Planning Office and the advice of the Legislature, regional and local agencies and private citizens, should revise the boundaries of the state's natural resource agencies to make them consistent with natural resources areas such as the major watersheds of the State. Planning for those redefined regions should also include arrangements for co-location of facilities and support structures. Natural resource area based regions should support more effective and coordinated planning and management of forest, land, and water resources, including fish and wildlife in inland and coastal areas.

Plans for the revised regional boundaries should be completed in time for submission to the Legislature by December 15, 1992. The 116th Legislature should complete action on the proposed boundaries by February 15, 1993, and the new regional arrangements should be implemented by December 31, 1993.

Natural resources

4.8
**PARTICIPATION,
PARTNERSHIPS, ADVOCACY,
AND BOARDS AND
COMMISSIONS**

4.8.1
General Discussion

The legislation creating the Commission (P.L. 1991, c. 528) directed it to develop a plan that would, among other things, "maximize citizen participation in public policy making." We have suggested, in the sections dealing with regionalization, moves to bring government decision-making and service delivery closer to individual citizens in their home communities. We have also suggested in several sections of the report the development of partnerships between state government and the private nonprofit and for-profit sectors. Citizen boards and commissions and advocacy functions are ways of enhancing public participation in public policy development. They also provide ways of making public officials more accountable and public services more accessible.

The enabling legislation also charged the Commission to review "each board and commission ... to determine the continuing need for the board or commission and to weigh the need against the staffing and other operating costs ..."

The question we have been asked to address is: how does the State strike a balance between citizen participation in public policy making, improved access to needed services and government accountability on the one hand and efficiency and economy, especially in times of limited resources, on the other?

There is a tension between the checks and balances provided by boards and commissions and advocacy services and the desire of public officials to control operations in their areas of responsibility. It is important that we not eliminate needed citizen involvement and essential checks and balances between the governors and the governed under the guise of "efficiency." At the same time, we need to insure that citizen boards and commissions are performing appropriate functions in an effective manner, that advocacy services are cost-efficient as well as effective, and that the life of a board or commission does not extend beyond its need.

*Needed citizen involvement
should not be eliminated under
the guise of "efficiency"*

The Commission undertook its review of boards and commissions with the assistance of the Secretary of State and with advice from a number of interested citizens and groups. The large number of boards and commissions and the wide range of their roles and importance precluded individual review of each board and commission, given the other demands on the limited time available to the Commission. Therefore, the Commission examined the broad categories of boards and commissions, their roles and responsibilities, and the State's mechanisms for managing its boards and commissions.

The Commission examined several kinds of advocacy services that are aimed at insuring access and equity to groups and individuals. The types of advocacy services include those state employees provide through their departments, those the state funds through contract agencies, and those special boards and commissions offer.

The Commission's recommendations are designed to reduce redundancy, achieve cost savings, insure careful attention to clear statements of board and commission responsibilities, and provide for regular review and revision of board and commission structures. Recommendations dealing with advocacy services are aimed at insuring independence and effectiveness in protecting the rights and insuring attention to the needs of individuals and groups in our society who need access to essential services, support or protection by State government.

4.8.2

Boards and Commissions

Discussion

The Commission has identified five functional types of boards and commissions:

- regulatory/administrative, such as the Maine Health Care Finance Commission, the Public Utilities Commission and the Board of Environmental Protection;
- licensing boards;
- oversight and advisory, such as the Maine Health Policy Advisory Council and the Critical Areas Advisory Board;
- advocacy, such as the Committee on Aging and the Commission for Women; and
- special study, such as the Special Commission on Governmental Restructuring and the Commission on Children and Families.

It should be noted that some oversight and advisory boards and commissions, such as the Human Development Commission and the Commission on Mental Health, are also involved in informal and formal advocacy services. Other boards and commissions that are classified as advocacy groups, such as the Committee on Aging and the Commission for Women, also serve as oversight and advisory organizations, with the broader mission of planning and education.

There are three ways in which governmental boards are created:

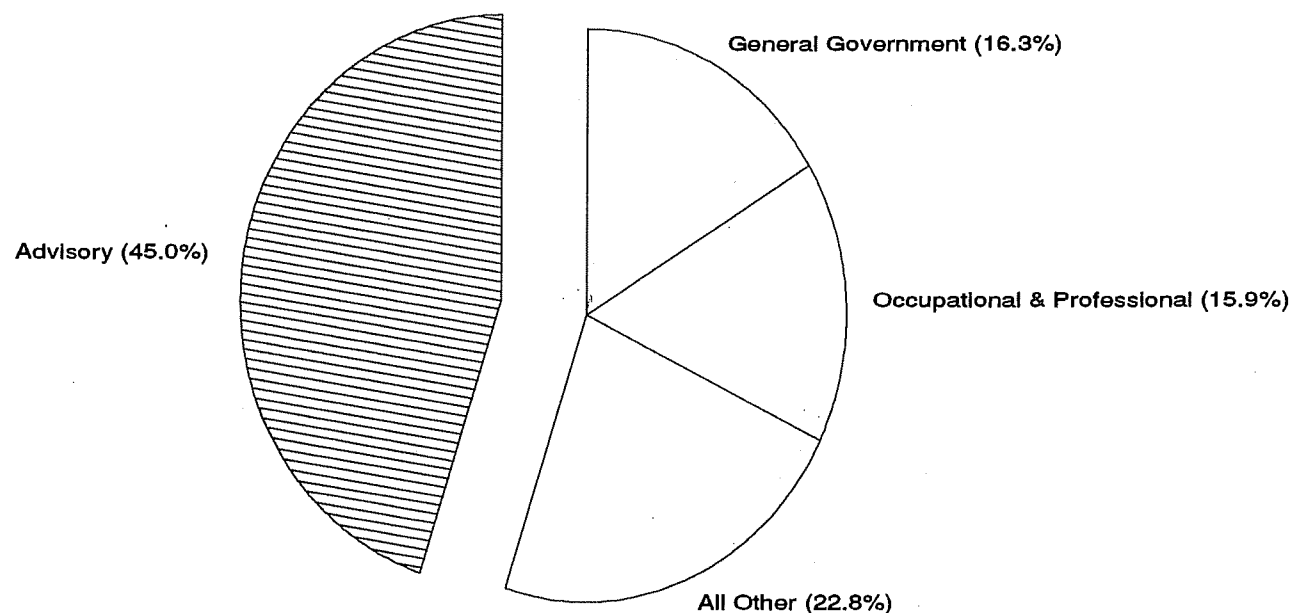
- Statutory enactment - generally established and described in the Maine Revised Statutes Annotated, typically with a reference in 5 MSRA §12001 et seq. Establishment in unallocated public or private and special law is also possible.
- Other legislative action - established by resolve, joint order or action by the Legislative Council.
- Executive action - established by executive order or bureaucratic initiative.

Boards of the first type (statutory) have codified descriptions, missions and procedures. There are currently 289 boards listed in the statutory inventory found at 5 MSRA 12004-A et seq. Commission staff identified an additional six boards in statute without reference to these provisions of Title 5, for a total of 295 statutory boards. By comparison, there were 196 and 242 statutory boards in 1983 and 1987 respectively. There may be a small number of statutory boards not found by the staff's research in other statutes or in unallocated provisions of public or private and special laws. Amendment or the termination of statutory boards requires actions by both the Legislature and the Governor.

The statutory inventory provides twelve categories of boards ranging from "occupational and professional" boards to advisory boards with minimal authority." As illustrated in Chart C, fully 45% of the boards are advisory in nature.

Chart C

Types of Statutory Boards and Commissions



Source : Maine Revised Statutes Annotated

While the boards in the second category (other legislative action) may vary widely in their permanence and authority, these boards tend to be temporary in duration and focussed on finite tasks. Most typical of this group are study commissions given a one- to two-year charge and a specific reporting date. The Legislative Council has adopted a set of policies to ensure that the boards it creates of this type are staffed appropriately, have reasonably well-defined goals and have specific schedules, reporting, and termination dates. There are ten to fifteen of those entities at any given time. They are not treated further here, because they exist for limited lengths of time.

The final category of boards (executive action) presents a more difficult inventory problem. There is not a central index and the lists that do exist frequently mingle this type with the others, resulting in a substantial level of confusion. In general, however, these boards are created by the Governor or a departmental executive to advise the Executive Branch on some aspect of its operations. It is impossible to give a precise estimate of the number of active boards in this category, but it could be as large a group as the statutory boards. The role and continued existence of boards in this category is entirely within the control of the executive branch.

Current status of administration of boards. As noted earlier, the Secretary of State administers a system to track appointments to and activities of statutory boards. All entities listed in 5 MSRA §12004-A through §12004-L are required to report a variety of information regarding meetings, membership and expenditures to the Secretary of State. Under 5 MSRA §12006, members of boards that fail to report are not eligible to receive any compensation or reimbursement of expenses. The Secretary of State provides a list of all non-reporting boards to the Commissioner of Finance who, in turn, must contact these boards to collect the necessary information. A board's failure to respond after these efforts constitutes "unwillingness to fulfill a public purpose" and, under 5 MSRA §12006, triggers abolition of the board by the Commissioner of Finance. The Secretary of State provides an annual report on all boards to the Governor and the joint standing committee of the Legislature having jurisdiction over state government.

In 1990, almost 90 statutory boards, primarily advisory, did not report to the Secretary of State. The Secretary of State does not appear to have sought reports from these boards. In some instances the boards have claimed an exemption from the reporting requirements. The legal basis for such an exemption is not apparent. In other instances the Secretary of State staff reported that, acting on past suggestions from the Commissioner of Finance's office, the Secretary of State's office has used the Annual Report of State Government rather than the Title 5 inventory as the source of the list of boards required to report.

Purposes and costs. As noted earlier, boards and commissions today can be described as regulatory/administrative, licensing, oversight and advisory, advocacy and special study. Because the oversight and advisory boards and commissions is the largest single group, and because the Commission interprets its mandate to focus on this type, further discussion concentrates on this group.

All advisory boards and commissions were created for purposes that, at the time, were viewed as important to the operation of a particular piece of state government. The start-up of a new agency program is frequently accompanied by the creation of one or more advisory boards to oversee implementation. Frequently, these boards are also seen as having a continuing role in the operation of the new program. Some of these boards and commissions are mandated by federal statutes. In other situations, a judgment is made that an existing program would benefit from an advisory board. In all of these situations, five objectives are sought that form the basis of evaluative criteria recommended by the Commission.

- Provide public input into governmental decision-making beyond that occurring informally or as part of various rule-making procedures.
- Provide a higher level of independent oversight of governmental actions, particularly for controversial programs.

All advisory boards and commissions were created for purposes that were viewed as important to state government

- Provide a forum for the mediation and discussion of controversial aspects of a governmental action.
- Provide a source of organized public support for a program.
- Provide access to specific expertise unavailable within state government.

While advisory boards perform many useful functions, they are not without their costs. Keeping in mind that these costs may all be justifiable in any given circumstance, the costs can be broken into three groups:

- Direct financial costs. Most advisory board members receive minimal, if any, per diem payments along with expense reimbursement for attendance at board meetings. These types of direct costs do not exceed \$100,000 annually.
- Administrative costs. The Secretary of State, the Department of Finance and the various appointing authorities (most frequently the Governor) must keep track of the administrative details of the boards, including maintenance of membership and tracking of expenses. This activity obviously requires staff effort.
- Interaction costs. The agency that is paired with the advisory board incurs staff costs in its relation to the board. While some of these are relatively insignificant, such as arranging meetings, collecting expense vouchers and the like, other staffing requirements may be more significant. The agency may have to prepare and respond to the substantive agenda of an advisory board. In controversial situations, an advisory board may be the source of public pressure for an agency to change its actions in ways that will incur costs. Some government officials, by virtue of their position, are ex-officio members of many boards, thus creating a drain on their time.

Because there is no central administration of all boards and commissions, it is not possible to estimate costs with any degree of precision. The direct financial outlay of roughly \$560,900 reported as the compensation and direct expenses of all boards (\$87,600 for advisory boards) gives a rough indication of the magnitude of these costs. As noted earlier, almost 90 boards, mostly advisory, did not report in 1990. In addition, some boards have staff allocated directly to them. Those costs are not reported here. Thus, these figures underestimate total direct financial costs.

Findings

The absence of annual reports from 28% of all statutory boards makes it difficult to draw conclusions from available data on costs and level of activity. In addition, the existence of statutory boards with no reference in the Title 5 inventory and the lack of any comprehensive data on boards created by the executive branch further clouds the picture.

Despite the system and procedures laid out in statute, there remains a great deal of confusion over the reporting responsibilities of boards and procedural responsibilities of the Secretary of State and Commissioner of Finance. Commission staff found no occurrence of board abolition due to non-reporting, although a small number of boards have been denied reimbursement of expenses due to reporting delays. Given the high level of non-reporting, this indicates that the existing mechanism for winnowing out inactive or non-responsive boards is ineffective. Further, it is also unclear that the existing procedures are not designed to identify and eliminate unnecessary boards.

It appears that direct cost savings resulting from consolidation or elimination of boards would be modest

While cost data are incomplete, it does appear that direct cost savings resulting from consolidation or elimination of boards would be modest in the overall context of the state budget. The indirect costs and other demands boards place on executive branch agencies are substantial and do warrant detailed review, particularly in the advisory area.

The Commission has not reviewed the occupational and professional licensing boards in detail, but there appears to be some potential for consolidation or elimination of some of those boards. The Commission notes the existence in statute of a sound set of criteria that could be used in a concerted review of those boards.

The number of regulatory/administrative boards is limited. Nevertheless, it is appropriate to review those boards on a regular basis to determine whether their functions are still needed and, if so, to determine whether those functions should still be carried out by a board rather than an administrative agency. In another section of this report the Commission is recommending that the Board of Environmental Protection be abolished and replaced with an appeals board.

The issue of advocacy boards is addressed in the next section of the report dealing with advocacy services.

Recommendations

The Commission recommends, as a general approach, that the number of advisory and oversight boards and commissions be reduced wherever possible to one such board or commission for each department. Advisory and oversight boards and commissions should be linked with regional advisory committees, through cross membership or by regular meetings on issues of mutual interest and concern. There are specific recommendations on this question in relation to the health and social service departments in Section 5.2.2 of this report.

Given the level of confusion and non-reporting in the tracking system administered by the Secretary of State, the Commission recommends the following actions:

Consolidation and elimination

- With an effective date of July 1, 1993, enact a repeal of all 130 advisory boards referenced in Title 5 along with other statutory references.
- All statutory advisory boards should be reviewed by the legislative committees of jurisdiction over the next 18 months to retain them, consolidate their functions or to confirm their repeal. Those boards retained or consolidated should have inserted in their enabling statutes a statutory repealer clause to force future review after a period not to exceed five years.
- The Legislature should adopt, by joint rule, a review policy that would be applied by the joint standing committees of the Legislature over the next 18 months. The policy should incorporate the criteria discussed below. Legislative committees should be required to issue written reports justifying the retention of any boards or commissions.
- The Governor should conduct a review of all boards created by executive order for possible consolidation or elimination.

- The Governor should direct all commissioners and other agency heads to conduct a review of all informally-created boards for possible consolidation or elimination.
- The Governor should adopt by executive order standards for the establishment and periodic re-justification of ad hoc boards and commissions.
- The Legislature and the Governor should employ the following criteria for evaluating the boards affected by the preceding recommendations:
 1. Is the area of the agency's responsibility sufficiently important and/or controversial so as to require a formal advisory function through a statutorily created board as a matter of good government? Is the independence of such an advisory board of sufficient importance to warrant the provision of independent staff to the board?
 2. Is the board required by federal law?
 3. If the board was intended as a source of expertise and/or public input during the start-up of a new program and the program is implemented, is the board still necessary?
 4. Is it likely that the agency will obtain adequate public input and access to special expertise through other channels, thus obviating the need for the board? NOTE: The flexibility of an informal group should be balanced with the possibility that the commissioner being "advised" may be disinclined or otherwise less likely to hear dissenting opinions coming from an informal group.
 5. Does the board undertake actions or have responsibilities that are redundant with those of the agency or that violate sound management principles?
 6. Can one board assume the responsibilities and authority of one or more other boards that are redundant with or overlapping with its own?
 7. Can qualified board members be recruited on a regular basis?
 8. Is the board's level of activity sufficient to fulfill its purposes? Frequency and length of meetings and level of member attendance should be considered. Some boards may need to meet frequently and/or regularly, while others may only serve intermittent needs.
 9. Is the compensation policy being appropriately applied?
 10. Should the commission in question be formally established to ensure the procedural safeguards of the Maine Freedom of Access law (notice, public access to meetings and documents)?

Partnerships

- The State should explore the possibility of developing joint ventures with private foundations for the establishment of independent advisory bodies that can reflect a broad spectrum of expertise, interests and opinions, can provide independent sources of advice and information for the Executive and Legislative Branches and can attract private funding for special research and public education programs. Such groups could, in some cases, fulfill functions now performed by state advisory boards and commissions.

Administrative

- The Revisor of Statutes and the Secretary of State should review statutes to locate any statutory boards for which there is not a reference in the Title 5 inventory. These parties should submit legislation incorporating the appropriate references to the joint standing committee having jurisdiction over State Government.
- The Secretary of State should seek reports from all boards referenced in 5 MRSA et seq and should not use the Annual Report of State Government as its primary source. The Secretary of State should refer exemption requests to the Legislature for further consideration.
- The Secretary of State should introduce legislation on or before March 2 in the first regular session of each biennium to repeal all boards that did not report in the prior calendar years.
- The provisions requiring the Commissioner of Finance to abolish non-reporting boards should be repealed. The provision that prohibits the Commissioner of Finance from authorizing the payment of compensation or expense reimbursements to members of non-reporting boards should be retained.
- The Commissioner of Professional and Financial Regulation should conduct an assessment of the potential for consolidating or eliminating any of the professional regulatory boards within that department's jurisdiction. Those recommendations should be reviewed and acted on by the appropriate joint standing committees of the Legislature.

4.8.3 Advocacy

Discussion

A broad range of advocacy services are provided within and outside State government, offering a variety of services. Some are focused on the needs of individuals who are dependent on the state for services or protection against mistreatment or denial of essential services. Some address the needs of groups and individuals for service or protection. Some address the general interests of consumers. And some promote the general interests of groups regarding equity, access or support before legislative and administrative bodies.

The State employs some advocates in existing agencies, such as the advocacy offices in the Department of Corrections and the Department of Mental Health and Mental Retardation. The State contracts for some advocacy services through external agencies such as Pine Tree Legal and Maine Advocacy Services. Staff for some State boards and commissions, such as the Committee on Aging and the Commission for

Women, function as advocates on behalf of specific groups. As noted earlier, other commissions and their staffs, such as the Commission on Human Development and the Commission on Mental Health, act as advocates as well as oversight and advisory bodies.

The nature of the agency responsible for a set of advocacy services affects the way in which the services are delivered. For example, the advocacy offices within State departments tend to emphasize working with department personnel to correct problems and change approaches. Challenge and confrontation occur, but they are not the prevailing style in those offices. External organizations like Pine Tree Legal and Maine Advocacy Services are charged with acting on behalf of one or more individuals seeking redress of specific grievances. Their responsibilities include the investigation and litigation of alleged abuses of individual rights. Challenge and confrontation are more characteristic of the style of those agencies, although they also use persuasion and cooperative efforts to affect change. The boards and commissions that act as advisory, oversight and advocacy organizations have a broader mandate to serve constituencies with needs for access to services and equity in treatment. Because they are closely linked to their constituent bases, those organizations play a unique role in working with policy makers to enhance planning, program implementation and legislative initiatives. They are also often involved in educational activities, within and outside State government.

Persuasion, cooperation, challenge, and confrontation are all legitimate tools of advocacy

Any effective advocacy service or collection of services should incorporate all of the characteristics noted above. Wherever possible, education and persuasion should be used to correct problems. At times, however, challenge, confrontation and even litigation may be required. At all times there must be attention to the need for planning and modification in public policies to insure equity in access to essential services and protection against abuse. An absolute requirement for advocacy services is independence for advocates, within the framework of their mandate, and protection against reprisal for representation of their clients.

There are three concerns in addressing the potential for improving the effectiveness, efficiency and economy of advocacy services provided or supported by state government: cost, duplication and fragmentation, and continuity.

There are concerns over the cost duplication and continuity of advocacy services

At the present time there are two kinds of cost problems inherent in the state's mix of advocacy services. The services provided within departments use departmental space and furniture, telephones, computers, copying equipment and clerical assistance to support their activities. It is almost impossible to calculate the actual costs of their services. The state boards and commissions that serve as advocates are relatively small and have administrative expenses that, because of their size, are large relative to program costs. The smallest organization needs office space and furniture, telephones, copying equipment, word processors or computers, and support staff. When boards or commissions are involved there are additional costs associated with travel, meals and other expenses. Within the past year several of those organizations have co-located to share equipment and support. They have indicated plans to undertake additional cost sharing. There are, however, limits to their savings so long as they maintain separate supervisory staff and office arrangements. Duplication and fragmentation affect effectiveness, efficiency and economy. Advocacy is designed to help those who cannot help themselves. Client groups served by one advocacy agency are often served by two or more others. This is especially true for women, children at risk, low income families and older citizens. As a result, staff spend a great deal of time attending each others' meetings, competing for funds and duplicating efforts.

The issue of continuity is especially important during hard economic times.

Many of the smaller advocacy organizations, although critically important, consistently become the target for budget cutters. They are vulnerable because they can be characterized as organizations with high administrative costs, overlapping responsibilities and wasteful duplication of efforts. As a group they are subject to attack by those who are concerned that the dispersed nature of the services make it difficult to determine what the state is spending for advocacy. The issue is not whether those descriptions are wholly accurate, but whether the organizations can justify themselves in terms of cost-effectiveness. That leads to a more insidious problem. Agencies constantly living on the financial edge spend too much of their time justifying their existence, and not enough time fulfilling their mission.

Findings

Advocacy organizations serve a critical function in State Government. They provide a voice for individuals and groups of people who would otherwise not be heard. Advocacy organizations are presently dispersed within and outside State government and operate at various levels of effectiveness and efficiency. In these times of fiscal stress, they have become vulnerable, even though their function is most critical when budgets are being cut.

The Commission has concluded that consolidation and integration of advocacy services would strengthen and protect advocacy, result in more effective service delivery and achieve some cost savings. Consolidation and integration must be carried out in such a way that it protects the independence of advocacy services and insures continuity in the variety of styles and techniques so essential to support the interests and needs of those requiring those services. That means maintaining a variety of service delivery mechanisms, insuring constituency participation in governance of the program, and linkages with strengthened and focused regional and state advisory and oversight committees, boards and commissions.

Recommendations

To the greatest extent allowable under federal law, combine advocacy services in a State Office of Advocacy, located as a separate agency within the Executive Department. The Office should be governed by an eleven member board. Membership should reflect the several consumer interests served by the Office. Members would represent specific constituencies, but would also participate in coordinated and integrated efforts on behalf of the agency's broader base. Board members would serve staggered, three-year terms. The Governor should appoint five members. The President of the Senate and the Speaker of the House of Representatives should jointly appoint five members. Those ten members should select the eleventh member who shall serve as the chair. The Board would appoint the executive director, who would serve at the pleasure of the Board.

The Office of Advocacy would provide advocacy services through its own staff and through contracts with private agencies. Advocates now employed by state departments and agencies, including boards or commissions, should be transferred to the Office of Advocacy, unless such changes are prohibited by federal law. Staff in specific focus areas would be responsible for seeking constituency input from a variety of sources. Advocates employed by the Office should be protected against reprisals for effective representation of their clients. External advocacy services now funded by direct appropriations should be supported through contracts managed by the Office.

Consolidation and integration must protect the independence of advocacy services

Office of Advocacy

To the extent allowable under federal law, the advocacy functions of existing state boards and commissions should be assumed by the Board of the Office of Advocacy. The advisory and oversight functions of those boards and commissions should be assigned to appropriate boards and commissions created or modified in accordance with the Commission's recommendations.

NOTE: A minority report has been prepared as an alternative to the foregoing recommendations regarding advocacy services. The minority report is found in Appendix F.

Minority Report

5.0 Organization of Services

5.1

GENERAL DISCUSSION

Efforts to improve the effectiveness and efficiency of government have traditionally concentrated on the organizational structure of the departments and agencies that make up the government. The orthodox view of public administration stresses six elements of an effective governmental structure:

- concentration of authority and responsibility;
- departmentalization and functional integration;
- the undesirability of boards for purely administrative work;
- coordination of staff services for administration;
- independent financial audit capability; and
- recognition of the Governor's cabinet.

(Conant, J.K., 1988)

Early in its deliberations, the Commission decided that structural reorganization would not be its exclusive focus for two reasons. First, the structure of Maine State Government was substantially and successfully reorganized in the early 1970's; a structure that continues to define the way Maine government looks "on paper." At that time, sweeping changes were made that cut the number of agencies and departments from about 200 to 15 with a majority of these controlled directly through the Governor's cabinet (Conant, J.K., 1988; SPO, 1971). Though the number has since grown to approximately twenty major state agencies, and certainly some efficiencies can still be realized, the current overall structure still generally satisfies the requisites of the criteria listed above.

Second, the academic literature and the experience of many Commission members indicate that redrawing the organizational chart rarely provides, by itself, the results sought by this Commission in the areas of accountability, effectiveness, and efficiency. Indeed, the "political realist" school of public administration views traditional reorganizations as opportunities to enhance or decrease a governor's power, insulate or expose a governmental function to the influence of special interests, get rid of unpopular individuals, influence political appointments, or influence substantive public policy (South Carolina State Reorganization Commission, 1991). Thus, while

the Commission does recommend the reorganization of certain governmental functions, it has concentrated on improving the processes of government as discussed elsewhere in this report.

The Governor and the Legislature did explicitly direct the Commission to examine certain specific organizational issues. These include:

- creation of a Department of Families and Children;
- creation of a Department of Justice;
- consolidation of the Departments of Finance and Administration;
- establishment of a Cultural Affairs Bureau; and
- establishment of an Office of Advocacy (see previous Section 4.8.2).

The Commission also had before it proposals to consolidate the natural resource departments and agencies.

In addition to these, the Commission has identified a very limited number of organizational changes that will complement its other recommendations. Each of these additional proposals has been the subject of substantial public discussion over the past several years. Those discussions have greatly informed the recommendations made here.

If implemented, these recommendations will result in significant efficiency improvements and will improve the effectiveness of the related programs. Clients of state services will benefit, state resources will be better managed, and some cost-saving should result both in the short and long term. The Commission cannot emphasize enough, however, the importance of moving beyond the simple consolidation or relocation of existing bureaus, divisions, and offices of departments and agencies. Improved service, innovation, quality, cost efficiency, and effectiveness, can only be achieved if the reorganization is matched with "flattening" the hierarchical organization charts, eliminating unnecessary fragmentation of functions within departments, eliminating unnecessary supervisory positions and management superstructures, and introducing "total quality management" principles.

In each case, the Commission recommends a timetable for implementation of the reorganization proposals, as follows:

- By April 1, 1992, the Legislature should approve each of the basic reorganization proposals in principle, and mandate the Executive Branch to develop detailed recommendations, including statutory language on the departmental mission, principles on how the department will operate, revision of basic statutes governing department responsibilities, and a general description of the departmental organization;
- By December 1, 1992, the detailed recommendations should be submitted to the Legislature, for consideration by the 116th Legislature; and
- By May 1, 1993, the Legislature should act on the implementation for completing the proposed reorganization.

Effective reorganization is more important than simple consolidation or relocation of existing bureaus, divisions, and offices

Discussion

5.2.1 Coordination

The Commission recommends major organizational change in the areas of health and social services. Three existing state agencies are abolished and replaced with two new ones. The Commission recommends this, however, with a keen awareness that the objective is not to rearrange the boxes, but to improve the effectiveness and efficiency of service delivery. To the degree that moving services will be a means to that end, we recommend it, but of paramount importance is the establishment of an effective communication and problem-solving mechanism among services, regardless of their locations. Short of creating a billion dollar "mega-department," (which we reject as unwieldy) interrelated health and social services will continue to be offered by more than one state agency. An entity with authority is needed to foster collaboration that leads to more efficient and effective programs and to act on behalf of the Governor to settle disagreements among the agencies.

The present coordinating mechanism, the Interdepartmental Council (IDC), has had some successes but has relied on a consensus process that effectively gives veto power to any single participating agency. For example, if the four major departments (Human Services, Mental Health and Mental Retardation, Corrections and Education) are working out a fragile funding compromise that relies on contributions from each department, the agreement falls apart if one department withdraws its support. The chairmanship of the IDC rotates among agency heads, with the effectiveness of the chair depending upon that person's ability to persuade fellow IDC members. It is perhaps an indication of frustration with the present IDC process that staffing was reduced from four positions to one in the current biennial budget.

Finding

Regardless of the organization of state government, most consumers of health and social services have a variety of needs provided by more than one state agency, requiring high-level coordination among agencies. Despite good-faith efforts on the part of department heads, no interdepartmental coordinating mechanism exists that has the authority, staff, and budget to provide leadership for extensive coordination and collaboration.

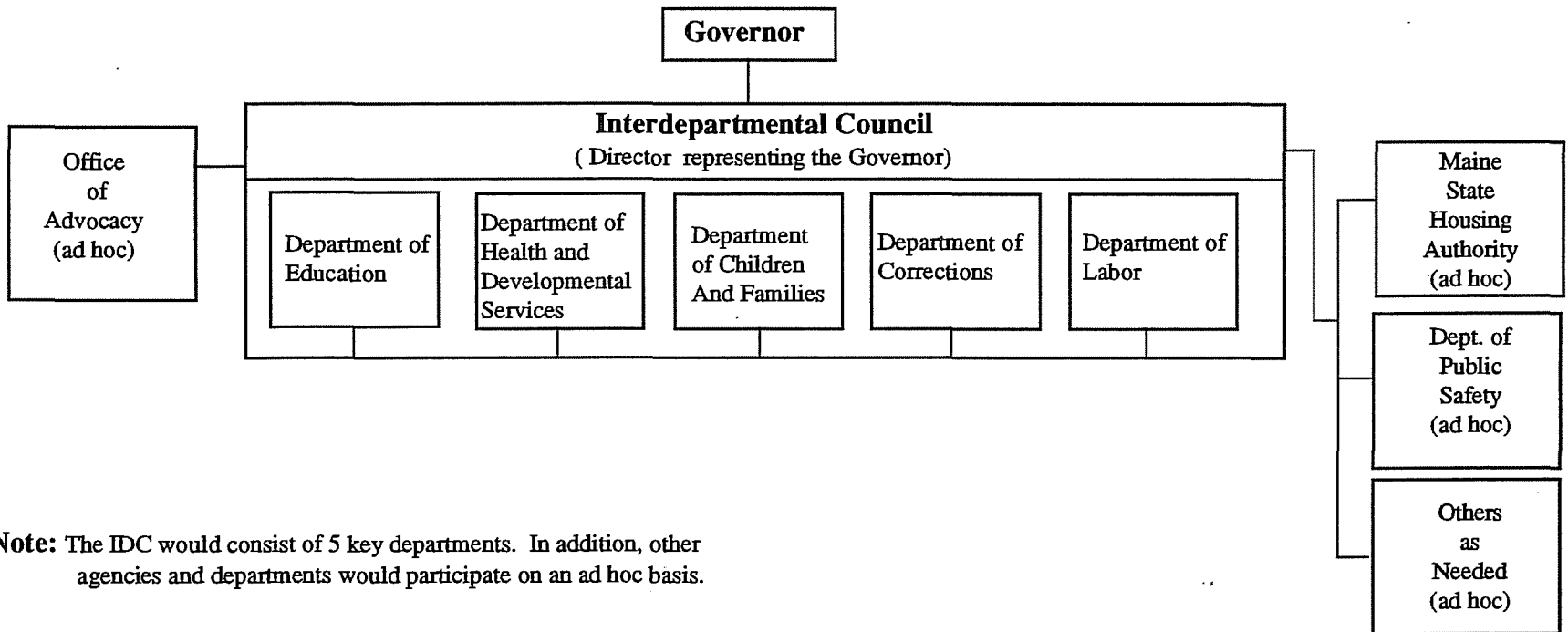
Recommendation

State government should raise coordination and collaboration in health and social services to priority status. The state should use some of the savings found through the reorganization of health and social services to reconstitute the Interdepartmental Council (IDC) into an office of the Executive Department, with a director representing the Governor, an independent budget and staff, and authority to foster collaboration among departments and, when necessary, to represent the Governor in settling disputes and allocating resources among departments. This should be done regardless of the organization of state agencies. Examples of the collaboration envisioned for the IDC include three tasks given to them in this report: studying juvenile corrections issues, identifying ways to make funding more flexible, and identifying new public-private partnerships in the health and social services area. (See Chart D). The Legislature should review the effectiveness of the newly strengthened IDC by January, 1994.

IDC

CHART D

The Interdepartmental Council Process



Note: The IDC would consist of 5 key departments. In addition, other agencies and departments would participate on an ad hoc basis.

Discussion

Fragmentation and duplication have been identified as major problems in the areas of health and social services dating at least as far back as the early 1970's when Governor Curtis proposed major changes in the organization of state government. More recent studies have identified these problems in everything from children and family services (President's and Speaker's Blue Ribbon Commission on Children and Families, 1991; Governor's Task Force to Improve Services for Maine's Children, Youth and Families, final report pending, 1991) to long-term care (Commission to Study the Level of Services for Maine's Elderly Citizens, 1990) to housing (Inter-agency Task Force on Homelessness and Housing Opportunities, 1991) to mental health services (Systems Assessment Commission, 1991). Cutting across all service areas are duplication and fragmentation in licensing, contracting, and evaluation, which not only waste money but lead to conflicting expectations of service providers. Duplication and fragmentation are inefficient, reduce the effectiveness of services, and create a nightmare of access problems for consumers. These symptoms lead to frustration and anger on the part of taxpayers, undermining support for critical services.

Categorical funding streams bear significant responsibility for creating these problems, but they need not be insurmountable barriers to solving them. Grouping related funding streams into single agencies for allocation will at least assure that one hand knows what the other is doing.

In attempting to study the area of health and social services, it quickly becomes clear that the sheer mass of needs and programs makes it very easy for them to overlap or fragment in different parts of the system. If one examines services from the perspective of existing organizational structures, it is easy to fall prey to the very fragmentation and duplication that one is trying to address. In an attempt to avoid that trap, the Commission identified the major consumer groups that receive health and social services and conducted its analysis from the point of view of consumers, rather than around existing departments or programs. Those groups are:

- Children, Youth and Families;
- People Who Abuse Substances;
- People Who are Homeless or Inadequately Housed;
- People Who are Unemployed or Underemployed;
- Older People;
- Abused and Neglected Adults;
- People with Mental Illness;
- People with Mental Disabilities;
- People with Physical Disabilities;
- People with Chronic Illness; and
- Consumers of Acute Care, Public Health and Disease Prevention Services.

Next, the Commission identified the services that are currently offered to each consumer group, as well as gaps that exist in the service delivery systems. The resulting matrix (See Appendix C) offers a visual representation of where services overlap, duplicate one another, or do not exist.

Finding

Fragmented eligibility requirements and overlapping service programs create inefficiencies and obstacles for consumers

As services evolve, they become fragmented and less responsive to consumers. This appears to be attributable in large part to categorical funding streams. Services are developed around those streams, creating formidable access problems for consumers who must face several eligibility processes in several agencies. This is most apparent for children and families, who may be receiving services from six or more major state agencies. Fragmentation has resulted in duplication or overlap of several services and functions, including case management, information and referral, advocacy and abuse investigations, licensing, management information systems, planning, contracting and evaluation, and adult protective services. Despite the duplication that exists in some areas, significant gaps exist in others, suggesting that a realignment of some functions will free resources for reallocation to unmet service needs.

Recommendations

Uniform information system

State Government should develop a uniform information and referral system for all health, social, and educational services. (See chart E)

New departments

The Department of Human Services and the Department of Mental Health and Mental Retardation should be abolished. Services should be realigned into a Department of Children and Families and a Department of Health and Developmental Services. Within each department, services should be organized along consumer lines to break down categorical barriers and facilitate access. (See Charts F and G)

Case management

The State should establish uniform case management, intake, contracting, licensing and evaluation systems within both of the new departments.

DCS

The Division of Community Services (DCS) should be abolished and its functions moved to other state agencies that already provide similar services. The Community Services Block Grant "pass through" to Community Action Agencies should be administered through the contracting unit in the Department of Child and Family Services. (See Chart H).

Homeless services

The State should consolidate services for people who are homeless or at risk of homelessness at the Maine State Housing Authority. These include homelessness and heating assistance programs presently at the Division of Community Services, as well as homelessness programs presently at the Department of Economic and Community Development.

Rehabilitation service

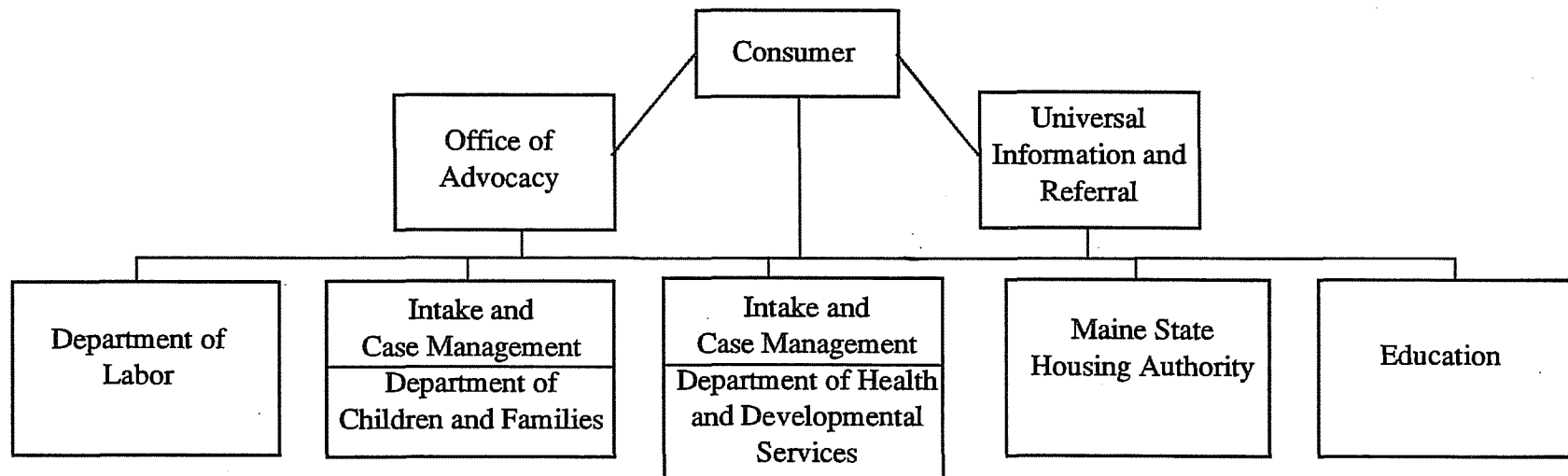
Bureau of Rehabilitation services that relate to disabilities should be moved to the Department of Health and Developmental Services. Bureau of Rehabilitation job training and placement functions should be moved to the Department of Labor. At the same time, rehabilitation services and programs offered as part of the Workers' Injury Compensation system should be integrated with the overall system of rehabilitation services and not sustained as a separate program.

Juvenile correctional services

The IDC should convene a task force to determine whether juvenile correctional services should remain part of the Department of Corrections or should be moved to the Department of Children and Families, recommend strategies to improve services for consumers of juvenile correctional services, and increase the eligibility of these clients for third party payment for services. The task force should include representatives from the Executive and Legislative Branches and should last no longer than three months. Juvenile correctional services include juvenile detention, probation and parole, the Maine Youth Center, and community-based programs.

CHART E

Uniform Information and Referral System; Uniform Intake and Case Management for Each Department



October 21, 1991

Prepared by the Office of Policy and Legal Analysis and State Planning Office
for the Commission on Governmental Restructuring

Univ.PM3

CHART F

Department of Children and Families Functional Clusters

Economic Security
<ul style="list-style-type: none"> •Income Maintenance •Transitional Support •Child Support

Child Protective, Foster Care
<ul style="list-style-type: none"> •Child Protective •Foster Care •Residential Treatment •Group Homes •Adolescent Shelters

Family Support and Development
<ul style="list-style-type: none"> •Prevention and Early Intervention: •Child Development •Family Support and Crisis Services

CHART G

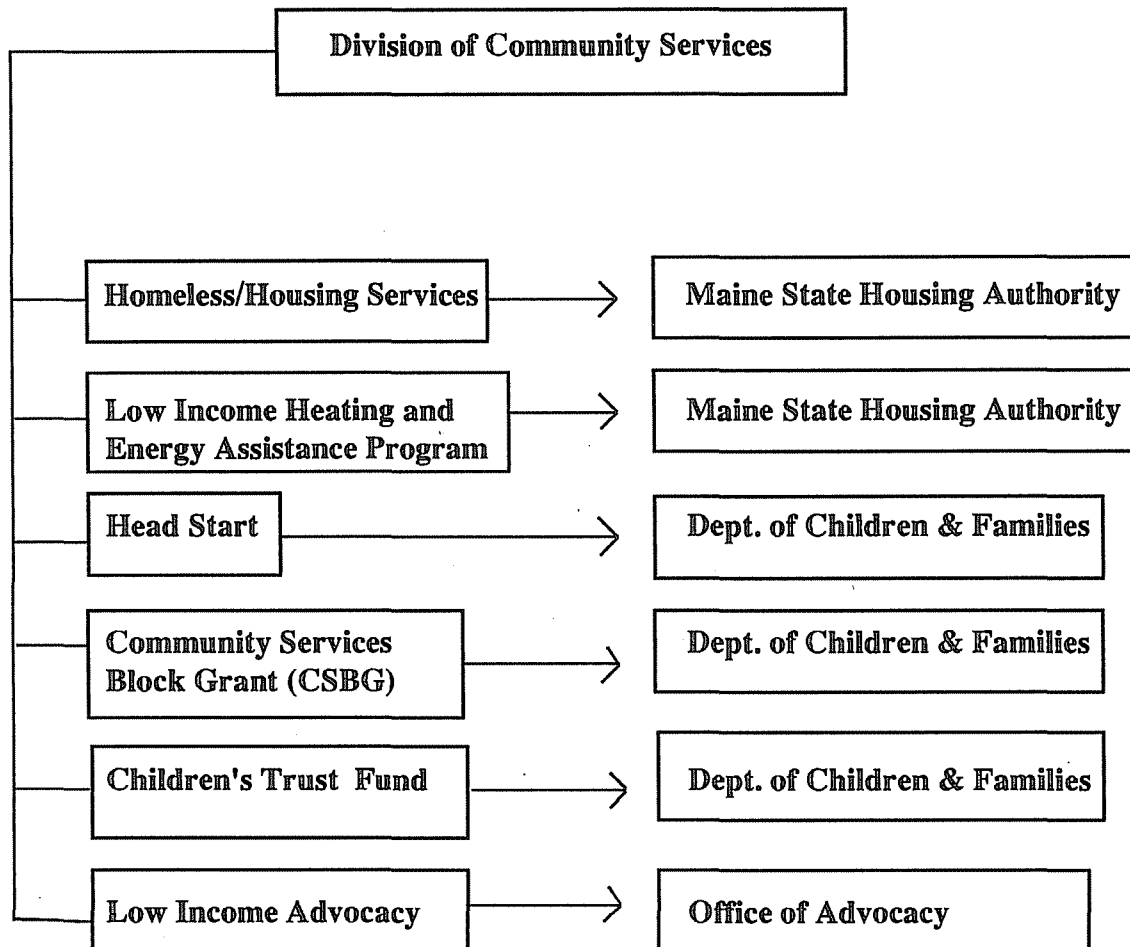
Department of Health and Developmental Services Functional Clusters

Public Health	Medical Care Finance	Substance Abuse	Mental Health	Developmental Services & Physical Disability	Aging
<ul style="list-style-type: none">•Health Planning•Vital Statistics•Health Eng. and Lab Services	<ul style="list-style-type: none">•Medical Assistance•Nursing Care	<ul style="list-style-type: none">•Prevention•Early Interv.•Assessment•Treatment	<ul style="list-style-type: none">•Institutional Services•Community Services	<ul style="list-style-type: none">•Community Services•Institutional	<ul style="list-style-type: none">•Community Services•Adult Protection & Guardianship

November 12, 1991
Prepared by the Office of Policy and Legal Analysis
for the Commission on Governmental Restructuring
Health2.PM3

CHART H

Transfer of Programs



October 21, 1991
Prepared by the Office of Policy and Legal Analysis and State Planning Office
for the Commission on Governmental Restructuring
DCS-TRF.PM3

To the extent allowed under federal law or any current court order, advisory and oversight commissions should be created for the Departments of Health and Developmental Services and Children and Family Services, assuming pertinent advisory and oversight responsibilities now exercised by the Maine Health Policy Advisory Council, the Commission on Mental Health, the Committee on Aging, the Commission on Women, the Commission on Human Development and other advisory boards and committees. Consideration should be given to providing independent staff for such commissions. Consideration should also be given to the possibility of public-private partnerships in the formation and operation of such commissions, as suggested in Section 4.8 of this report. The IDC should take advantage of the resources of such commissions, consulting with them, encouraging and facilitating joint meetings of the commissions, and facilitating the integration of commission work with that of regional advisory committees and boards serving IDC related departments.

Boards and Commissions

The Commission was directed to examine the role and function of the Special Investigations Manager in the Department of Human Services. The effectiveness of the Special Investigations Unit is unknown at this time. The results of an ongoing federal Inspector General's audit will provide information critical to assessing the Unit's effectiveness. If the Inspector General's audit concludes that the function of the Special Investigations Unit is valuable and effective, the function should be expanded to all areas and State government and not be limited to welfare programs.

Special investigations unit

5.3 EDUCATION AND CULTURAL SERVICES

5.3.1 Introduction

Education has presented one of the most complicated and difficult set of structural, organizational, operational, and policy issues for the Commission. As much as we may espouse the concept of lifelong education, and as much as we may desire to integrate state education policies for elementary, secondary, and post-secondary education, we find ourselves dealing with different institutions and agencies possessing different degrees of independence and responsibilities. Furthermore, we are examining issues related to restructuring the governance and management of the State's education programs at a time of wide ranging societal debate over the restructuring of education itself.

Maine's Constitution assigns responsibility for elementary and secondary education to its towns and cities. But, over the years the State has assumed a larger and larger responsibility for directing, supervising, regulating, and funding public education. The evolution of school unions and school administrative districts has further clouded responsibility for policy-making and governance. There are also questions about the role and true responsibilities of the State Board of Education. State budget shortfalls, uncertainty about State aid to education, and local property tax disputes further exacerbate the debate over funding formulas and state education mandates.

*Responsibility for education
policy-making and govern-
ance is unclear*

In higher education, the State has invested heavily in the University of Maine System, the Maine Technical College System, and the Maine Maritime Academy. Each is governed by a Board of Trustees. There are some apparent overlaps in programs and, increasingly, there are even gray areas between some aspects of secondary and post-secondary education.

The Commission is not in a position to prescribe solutions for the State's educational organization dilemmas, but it has identified some of the major issues and is recommending mechanisms for further analysis, planning, and the development of proposals to resolve those issues.

5.3.2 Strategic Planning

Government has a fundamental responsibility to provide a quality education

Discussion

As the Commission notes throughout this report, strategic planning is an essential component of sound policy development and priority setting. Given the paramount importance of education at all levels, government has a fundamental responsibility to establish policies and set priorities that enable educational systems to provide a quality education with the greatest efficiency. Long term strategic planning at the state-wide level and within individual education systems plays an integral role in the development of sensible education policy. Each of Maine's educational delivery systems (the University of Maine System, Maine Technical College System, Maine Maritime Academy, and the K-12 system) already employ strategic planning. The Executive and Legislative Branches of government both make significant contributions to education policy, but they have until now treated the different education systems largely as discrete entities for purposes of planning and funding.

Finding

There is an opportunity for greater coordination and planning among the State's educational delivery systems. There is also a need for continued commitment to planning within individual systems. Although planning within each system has become increasingly sophisticated in recent years, the absence of consistent, formal communication links between the four systems and opportunities to jointly discuss and promote policy priorities has delayed achievement of a fully coordinated and efficient education effort. The absence of full coordination is evidenced by instances of curriculum overlap and untapped opportunities for resource sharing.

Recommendation

The Legislature should create a Public Education Strategic Planning Council. The council's membership should include the Chancellor of the University of Maine System, the President of the Maine Technical College System, the President of the Maine Maritime Academy, the Commissioner of Education, one member from each higher education institution's board of trustees, and one member from the State Board of Education. The council's primary responsibility should be to create and maintain a long-term, strategic plan for Maine public education. The council should present annually to the Governor and the Legislature a report that outlines proposed adjustments in the plan along with recommendations for funding needs. The council should:

- assess Maine's elementary, secondary, and post-secondary education needs and examine whether current programs meet those needs;
- ensure that the educational missions of the university campuses, technical colleges, maritime academy, and K-12 system are consistent and do not overlap unnecessarily;
- establish a five-year strategic plan for education state-wide;

Public education plan

- stress collaboration and collective use of education resources among the education systems with a particular emphasis on physical facilities;
- review and recommend optimal program location for new education programs;
- develop plans for increased transferability of comparable academic credit between post-secondary institutions; and
- promote the use of technology in academic curricula and for information exchange.

Discussion

There are, as noted earlier, several issues that present obstacles to sustained reform in elementary and secondary education. They include lack of clarity about the roles and responsibilities of the State Board of Education and school boards, weaknesses in the regional organization of school districts, and disputes over state responsibilities and funding formulas.

At a time when debate over public education policies is intensifying, the natural forum for examination and resolution of state responsibilities in providing education leadership appears to be in a weak position. The State Board of Education has had a reduced role in developing and implementing education policy during recent years. Traditionally, state boards of education are charged with certain policy-making functions and the commissioner of education with administration. In Maine, the Board makes some policy decisions (in vocational education, for instance), is charged with some regulatory functions (certification of teachers, for instance), and serves in an advisory capacity to the Commissioner. In all three areas the board bumps up against institutions and organizations that control resources and information that give them greater clout in affecting policies in those areas.

Similar problems afflict local school boards. There a combination of limited resources, multiple state mandates and regulations, accumulated administrative practices, and labor contracts have tended to focus boards' attention on budgets and management minutiae rather than education policy. Those problems are particularly difficult where school systems, whether in single municipalities or in regional arrangements, are small and isolated.

The driving force behind education reform in Maine cannot be the Department of Education, the Legislature, or any state organization. It is parents, community members, businesses, and other groups at the local level who must unite to identify learning outcomes for their children and commit themselves to achieving the goals that will produce those outcomes. While those charged with delivery of public education services have made profoundly positive contributions to elementary and secondary education, they cannot by themselves improve education statewide. The task lies in the hands of local communities, with financing, technical support, outside advice, and leadership at the state level.

Since educating the State's children is every citizen's business, the Department of Education should make every effort to assist parents, community members,

5.3.3 Elementary and Secondary Education: Governance and Structure

*Local school boards are
consumed by manage-
ment minutiae rather
than educational policy*

businesses, and other groups in participating in education. In particular, the Department should work to open up the education process to new groups and new and innovative approaches to education. Similarly, local school districts should encourage participation of the same variety at the local level.

An important reason for the high cost of education in Maine is the emphasis placed on local control of education. The existence of 283 separate school districts leads to inevitable economic results: the necessity of operating 283 school districts, supporting the teaching and administrative staff that run them, and providing the Department of Education support to operate each district. The State's commitment to small class sizes further compounds the costs. According to national education statistics, only four states have smaller class sizes than Maine, where average school enrollments cannot exceed 25 and no class can exceed 30. The average class size in Maine in 1990-91 was 13.6, down from 16.8 in 1980-81. That class size is 14.5% below the national average.

The increase in efficiency and quality that can result from regionalizing education services has long been recognized in Maine. The successful effort in the 1960's to consolidate schools into school administrative districts and the creation of an interactive television system in the 1980's to deliver education services to every corner of the State are just two examples of Maine's commitment to regionalism. While both efforts have been complex and sometimes difficult processes, and while neither solve all the difficulties faced by education, they have created opportunities for Maine students and savings for Maine taxpayers that would otherwise not have been possible.

Finding

The substantial education policy, funding, and structural issues that confront the State require a fundamental review of the State's current K-12 education policy-making and governance apparatus at the state, regional and local level. It is a review that must include grass roots as well as state leadership. It is a review that must be structured and implemented so that its results will be taken seriously at the local, regional, and state level.

Recommendation

Advice to State Government

The Maine Coalition for Excellence in Education, a public/private partnership supported by the Maine Development Foundation, should expand its work to include several additional areas of special importance to the future of elementary and secondary education in Maine. The Coalition is representative of a wide range of business and educational interests. The quality of its membership and its demonstrated capacity to obtain and organize resources make it a valuable source of assistance and advice to State Government at a time when education issues need prompt and comprehensive attention. The Commission suggests that the Coalition broaden its representation to include low-income and other groups with special needs, if it is willing to take on responsibility for addressing the questions raised by the following recommendations.

Governance and structure

The Coalition should review and make recommendations on the governance and structure of the State's education system, including the State Board of Education, the Department of Education, regional education systems, regional and local school district governance, and the relationship between state and local school systems. Findings and recommendations should be submitted to the Governor and the Legislature by December 15, 1992.

The Coalition should examine the functions of the State Board of Education, which has limited policy-making responsibilities because of weaknesses in the existing structure. There is a need to strengthen the Board of Education as a policy-making body.

State Board functions

The Coalition should consider whether the State should revise the roles of the Department to require that the Department establish (building on the "common core of learning" program) standard outcome/achievement goals for students and tests to measure their achievement. Consideration should also be given to whether the Department should fund the administration, analysis, and publication of the tests and results. Such testing should include provision for determining achievements by students with special needs.

Achievement goals and tests

In examining the roles of school districts, the Coalition should consider whether the State should assign school districts responsibility for developing curriculum changes to help students learn and achieve, meeting the goals set by the Department. It should also consider whether the University of Maine System and other educational organizations should play a leadership role in curriculum development and improvement, and in the education and training (entry level and continuing education) for teachers. The Department — for a test period — could provide grants to school districts, with incentives for consolidated or collaborating districts, to obtain technical assistance from sources of their choosing to help improve curriculum and teacher performance.

Curriculum and teacher performance

The Coalition should examine the role, responsibility, organization, structure, geographic regions, and governance of local school districts. Particular attention should be paid to the possibility of creating new School Administrative Districts (SAD).

School districts

While studying consolidation, the Coalition should consider, at a minimum, the following issues:

Other issues

- revision of the General Purpose Aid formula to promote expenditure control, equity of educational opportunity, performance based measures, taxpayer equity, flexibility in the state share based on availability of revenues and whether the State should continue to pay teacher retirement system contributions. The school funding issue is very important and should be addressed as quickly as possible, with a report being submitted to the Governor and the Legislature by July 1, 1992;
- possible changes in current law concerning SADs and other school organizations;
- incentives for formation of SADs;
- possible changes in the rating system for school construction that might encourage consolidation;
- disincentives for dissolution of SADs;
- incentives for greater emphasis on regional resource sharing, including joint use of faculty for teaching fine arts, language, special education, and other subjects where individual schools or districts are unable to support them independently;

- incentives for use of school space for appropriate health and social services to pre-school students and K-12 students and their families, and for use of schools as year-round community centers;
- the possibility of eliminating many current mandates and regulatory requirements;
- alternatives for teacher certification; and
- the length of the school year and the structure of the school day.

5.3.4

Technical College System and the Secondary Education Vocational Technical Centers

Discussion

The Department of Education provides administrative oversight for secondary education vocational technical centers. The centers are designed to provide technical and vocational training that prepare students for employment or further technical training following graduation. While there are successful secondary technical education centers around the state, technical education has always taken a back seat to "academic" education in the high schools. There is a persistent view that technical education lacks academic rigor and fails to adequately prepare students for either employment or post-secondary technical training. The Department of Education must necessarily focus its support on traditional academic programs. Although its efforts to refine and promote technical education have been substantial, its other obligations and the historic absence of coordination between secondary and post-secondary technical education programs have made full development of secondary technical education programs impossible.

Finding

The growing demand for highly trained technical workers in Maine and the positive impact a well-trained technical workforce will have on the state economy require that secondary technical education programs be revitalized. The Maine Technical College System has the expertise, public support, and leadership to contribute substantially to a vital and well-coordinated technical education system. Closer coordination of secondary and post-secondary technical education with the Technical College System could produce a more unified technical education system, increase the academic strength of secondary programs, and promote substantially increased coordination in the use of technical facilities. Better coordination of the two systems could also permit the delivery of expanded post-secondary technical education programs around the state. Concerns have been expressed that the ultimate form of coordination, merger of the technical education systems, could undermine efforts to eliminate the two-track approach that short-changes students in "general" secondary education.

Recommendation

Technical education

The State Board of Education, with advice and counsel from the Public Education Strategic Planning Council, should examine the issue of technical education in secondary schools and consider options for enhancing those programs, coordinating secondary and post-secondary technical education, and making better use of existing technical centers for expanded education opportunities.

Discussion

Maine citizens have expressed a strong commitment to providing higher education programs statewide. That commitment has been challenged by the State's widely dispersed population and geographic expanse. While the seven-campus University of Maine System is largely successful in providing post secondary education opportunities statewide, there is a heightened need to identify ways to consolidate services, eliminate academic and administrative overlap, and reduce expenditures. In particular, in a period of declining state support for all services, it is more important than ever to carefully review expenses for the various campuses in an effort to identify opportunities for consolidation and efficiency.

Finding

Impending reductions in state funding to the University and the likelihood of layoffs and weakening of program offerings argue forcefully for a fundamental reexamination of the need for each of the University's programs and services. The structure of the University of Maine System offers the potential for reducing isolation through mutual cooperation and use of facilities, systems, faculty and staff that has not yet been fully realized.

The system has undertaken a substantial strategic planning effort, developed an interactive television system for delivery of education programs in remote areas of the state, established an electronic library catalog (URSUS) for the entire system, and now provides a variety of system services to the seven campuses.

The regional benefits derived from the placement of the seven campuses of the system cannot be overstated. They not only contribute to the education of Maine citizens, but they contribute substantially to the economic, cultural, and social welfare of the state.

The potential for coordinated and collaborative use of campus resources has not been fully realized. Our review of the costs of educating students at each campus raises cause for some concern. While it is appropriate that the highest cost per full-time equivalent student should occur at the System's land-grant, sea-grant, graduate degree granting University of Maine, we are troubled that costs per full-time equivalent student vary dramatically among campuses. Thus, some consolidation of campus programs, while not likely to produce dramatic reduction in per student cost, could provide resource sharing that could lead to substantial savings and reduce academic isolation.

The potential for coordinated and collaborative use of campus resources has not been fully realized

A review of the University's structure and offerings should include, at a minimum, study of the following issues:

- duplication of academic programs in the system;
- possible reductions in administrative positions;
- increased cooperation and coordination between campuses; and

- wider use of the Interactive Television System (ITV) to deliver programs.

Recommendation

The University of Maine System Board of Trustees should, as part of its recently initiated strategic planning program, undertake an intensive self-study of the present structure of the university system. The Trustees should look toward possible consolidation to reduce administrative overhead and increase opportunities for faculty and staff sharing. The Trustees should take advantage of ITV, URSUS and other information technologies in expanding educational opportunities for individuals in the more remote areas of the state, building on the advances the System has already made in those areas.

5.3.6

Maine Maritime Academy and the University of Maine System

Discussion

The need to maintain the Maine Maritime Academy at Castine has been questioned, given the decline in the United States' maritime industry and the high cost of providing maritime education. Bringing Maine Maritime Academy under the administrative auspices of the University of Maine System has been proposed as a means of eliminating the expense of maintaining a separate administrative structure, reducing educational isolation, and strengthening academic programs through resource sharing with the University.

Finding

The Maritime Academy currently operates as an independent college on Maine's coast and enrolls approximately 600 students each year in a variety of ocean- and marine-oriented academic programs. The Academy is governed by a board of trustees who employ the president to direct campus operations. The Academy relies on state appropriations for approximately 50% of its total annual revenues of \$12.9 million.

The cost to the State of operating an independent public college for 600 students in marine and ocean sciences has become increasingly difficult to sustain. The cost of educating Maine Maritime Academy students is significantly higher than educating those at the University of Maine System or the Maine Technical College System. The full-time equivalent student cost at the Academy is \$17,589, compared to a system average of \$8,463 for the University and \$6,495 at the Technical Colleges. Reasons for the increased costs include the small number of students, emphasis on hands-on training, need for sophisticated equipment and facilities, and the approximately ten-month school year (opposed to the eight-month school year at the University and Technical Colleges.)

Maritime academies throughout the country have closed in recent years. Maine Maritime Academy has actually increased enrollments, expanding its curriculum to include new ocean and marine programs not historically part of traditional maritime studies. The popularity of these new programs and a revived interest in similar programs within the University of Maine System suggest that substantial advantages could result from the University and the Academy integrating ocean and marine programs.

Recommendation

The Boards of the Maine Maritime Academy and the University of Maine System, with advice and counsel from the Public Education Strategic Council, should examine options, including possible addition of the Academy to the campuses of the University of Maine System, to accomplish greater coordination of services, cooperation, long-term academic planning, and significant savings. The trustees should also investigate possible ways of using the University's and Academy's resources to strengthen Maine's ocean-oriented academic programs and take maximum advantage of the gains that have been made in the educational programs at the Academy.

coordination

5.3.7

State Cultural Bureau

Discussion

The Commission's enabling legislation directed it to consider the establishment of a state bureau to provide administrative support and to coordinate the activities of the Maine Arts Commission, the Maine Historic Preservation Commission, the Maine Library Commission, and the Maine State Museum Commission.

Prior to 1990, Maine's four cultural affairs agencies were placed within the organizational jurisdiction of the Department of Education and Cultural Affairs. In response to concerns that this structure no longer served the needs of the cultural agencies, a Special Commission to Study the Organization of the State's Cultural Agencies recommended that the cultural agencies be removed from the Department of Education and function independently under the auspices of the Maine State Cultural Affairs Council. The council consists of members from the four cultural agencies. The Legislature agreed to the recommendation of the Special Commission and passed legislation in 1990 that separated the agencies from the department and established the Cultural Affairs Council.

Finding

There appears to be general support for the current configuration of the four cultural commissions under the administrative umbrella of the Maine State Cultural Affairs Council, which has been in place for about one year. The Commission has not been presented any evidence that the present arrangement involves unnecessary duplication or excessive overhead expenditures. Chronic underfunding of the cultural agencies does argue strongly, however, for the establishment of a new mechanism to better coordinate and leverage fund-raising efforts. The Commission also recognizes that some economies might be found through further co-location of offices, and sharing of logistical support and staff.

Recommendation

The Maine Cultural Foundation should be established as a private/public partnership to develop stronger support for the cultural heritage of the State. The Maine Development Foundation provides a useful and successful model of the application of private sector expertise and support to public policy issues. The Maine Cultural Foundation should have a board composed of the members of the Cultural Affairs Council, members appointed from the four commissions by the Governor, the President of the Senate and the Speaker of the House of Representatives, and members elected by private incorporators. Appointments and elections to the foundation's board should incorporate representation from the interests currently represented in the four cultural commissions. The Legislature should establish a matching funds formula to provide incentives for more aggressive fund-raising efforts.

Private sector support

The Cultural Affairs Council should explore means of furthering economies in their operations through sharing space, staff, and equipment.

5.4

NATURAL RESOURCES

Discussion

The use of Maine's natural resources is promoted, managed, and regulated by five separate state agencies. While some division of responsibilities makes sense from the perspectives of effectiveness and good government, it is clear that significant efficiencies, related cost-savings, and improved effectiveness of some programs could be obtained through a realignment of functions.

The share of state resources devoted to natural resources has declined despite strong public support

The importance of undertaking such an effort is best illuminated by the fact that this area of state government has received a declining share of state resources over the past 10 years. State expenditures for natural resource agencies comprised 4.3% of the state budget in 1981. That share sank to 3.6% in 1990, a decline of over 15%. The purchasing power of the amount budgeted to natural resource agencies has only increased slightly over the past ten years despite significant increases in public interest in environmental protection and natural resource management, and despite the implementation of many new programs. (see Charts I & J)

To put these statistics into more meaningful terms, State Government spends about a \$1.50 a week on behalf of each citizen to manage and protect resources. In an era of shrinking state budgets and hard economic times, this money must be used as efficiently as possible.

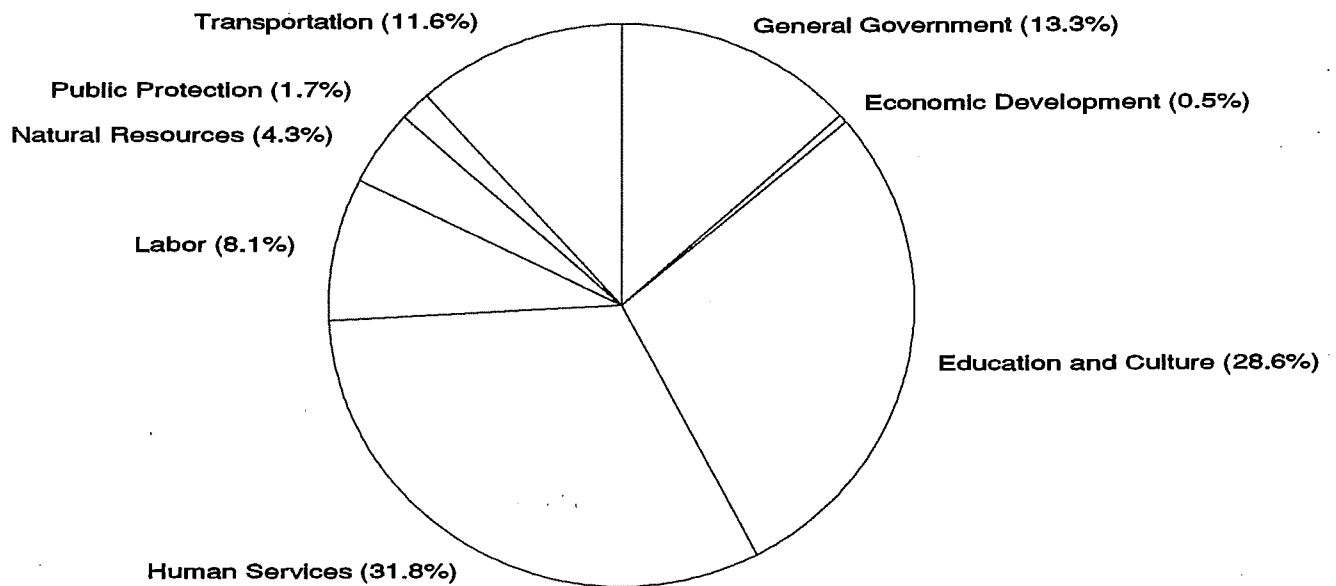
Natural resource management efforts are undertaken by four of the five natural resources agencies (the Department of Environmental Protection is the only exception). Several examples of the fragmentation of efforts serve as useful illustrations:

- Management of fish and wildlife is undertaken by both the Department of Inland Fisheries and Wildlife and the Department of Marine Resources. Each department maintains separate law enforcement services.
- While the management of the State's forests probably has the most direct effect on fish and wildlife, state government activities in this area are located in a third agency, the Maine Forest Service, located in the Department of Conservation.
- Because anadromous fish pass between the fresh and marine environments, yet another entity, the Atlantic Salmon Commission, exists to coordinate the activities of state government in this area.
- State efforts to identify, assess, and register unique and endangered natural resources are located in two separate programs, the Natural Heritage Program and the Critical Areas Program, neither of which is located in a natural resource agency. In addition, protection of endangered species and management of non-game wildlife is located in a third agency.
- Management of state-owned natural and recreational resources is spread over numerous locations.

Chart I

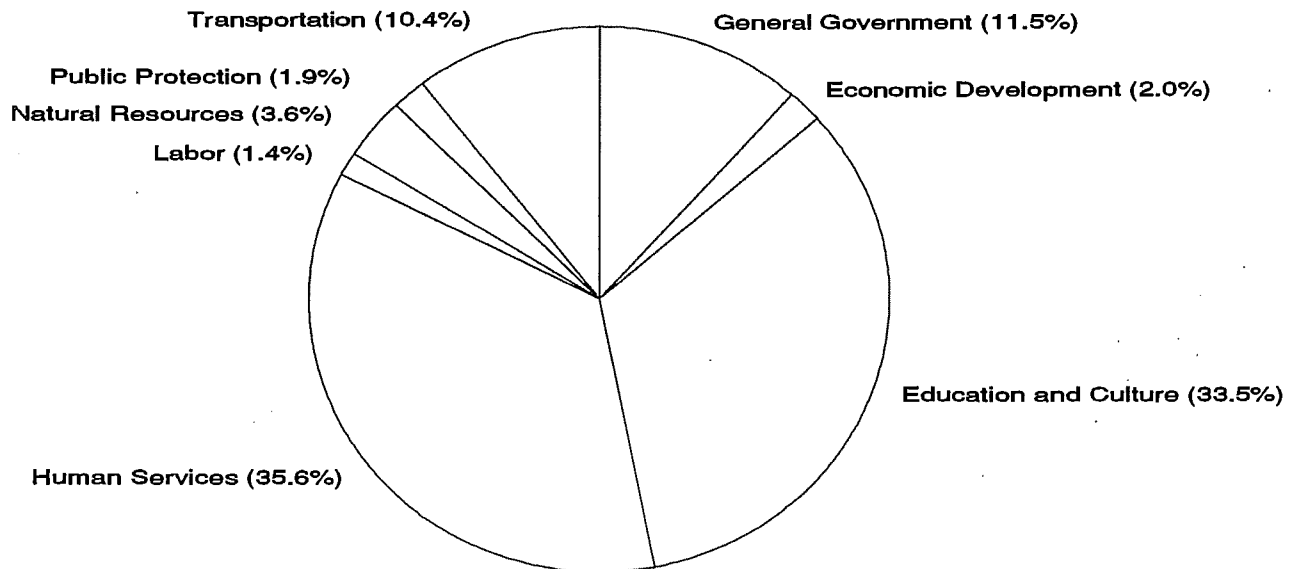
FY'81 State Expenditures by Policy Area

(All funds = \$1.24 Billion)



FY'90 State Expenditures by Policy Area

(All funds = \$2.65 Billion)



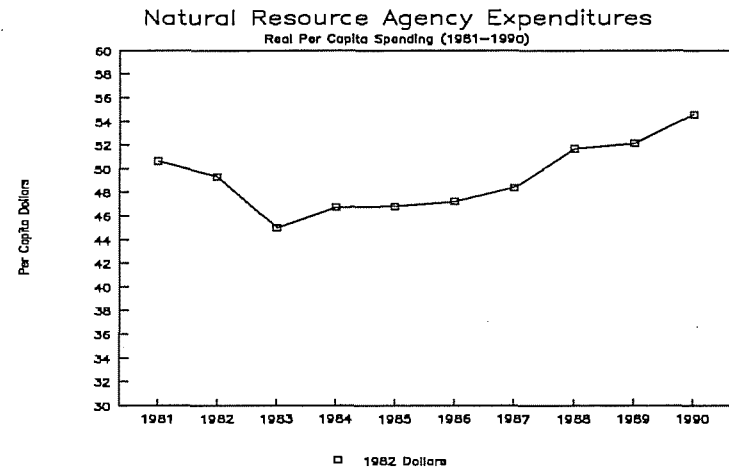
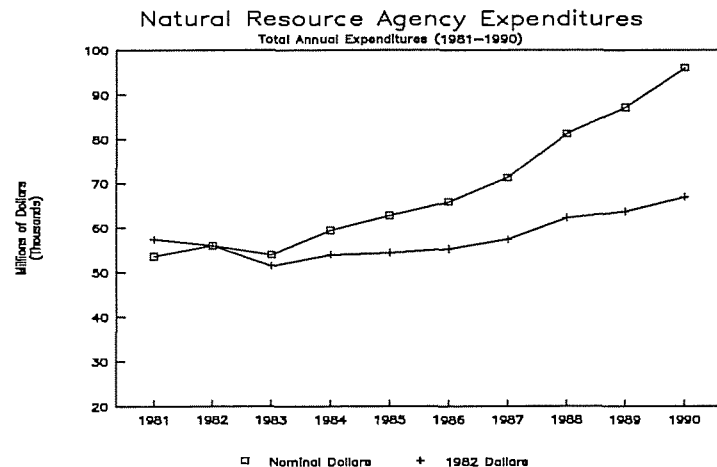
Source: Derived by the Office of Policy and Legal Analysis
from FY90 State Financial Report, Department of Finance

Chart J

Expenditures by the Natural Resource Agencies: 1981-1990

(DAFRR, DEP, DOC, IF&W and DMR)

Nominal Dollars (Thousands)					Real Dollars (1982) (Thousands)				Total Real per cap. Spending	Percent of Total State Spending
Fiscal Year	General Fund	Special Revenues	Bond Revenues	Total	General Fund	Special Revenues	Bond Revenues	Total		
1981	\$17,965	\$29,130	\$6,560	\$53,655	\$19,214	\$31,155	\$7,016	\$57,385	\$50.65	4.35 %
1982	\$18,800	\$31,219	\$5,990	\$56,010	\$18,800	\$31,219	\$5,990	\$56,010	\$49.30	4.26 %
1983	\$19,909	\$27,849	\$6,268	\$54,025	\$18,997	\$26,573	\$5,981	\$51,551	\$44.98	4.02 %
1984	\$21,455	\$30,066	\$7,954	\$59,475	\$19,487	\$27,308	\$7,224	\$54,019	\$46.73	4.14 %
1985	\$24,971	\$32,630	\$5,202	\$62,803	\$21,657	\$28,300	\$4,511	\$54,469	\$46.79	3.94 %
1986	\$26,954	\$32,285	\$6,664	\$65,903	\$22,613	\$27,084	\$5,591	\$55,288	\$47.21	3.75 %
1987	\$28,402	\$32,331	\$10,607	\$71,340	\$22,850	\$26,011	\$8,533	\$57,394	\$48.39	3.70 %
1988	\$30,714	\$38,822	\$11,671	\$81,208	\$23,553	\$29,772	\$8,951	\$62,276	\$51.68	3.85 %
1989	\$34,909	\$40,547	\$11,630	\$87,086	\$25,537	\$29,661	\$8,508	\$63,706	\$52.13	3.60 %
1990	\$37,957	\$45,968	\$12,013	\$95,938	\$26,488	\$32,078	\$8,383	\$66,949	\$54.56	3.62 %



Notes:

- * Nominal dollar expenditures derived from the Maine Department of Finance's Annual Financial Reports for Fiscal Years 1981-1990.
- * Other Special Revenue Funds include license fees, federal block grant funds, and other dedicated revenues.
- * Real 1982 dollars derived using the Fixed Weighted Price Index for purchase of goods and services by State and Local Government.
- * Per Capita expenditures derived using State population statistics from US Dept. of Commerce; Current Population Report, Series P-25.

One result of this fragmentation is a high level of administrative overhead. Another, perhaps equally important, result is that planning and management of the State's natural resources is not undertaken systematically. The very structure of state government defeats the integrated management of natural resources on the basis of regional natural systems. Ecosystem management, perhaps along the general lines of watersheds, offers numerous advantages for more effective natural resource management. Not the least of these advantages is that the very limited financial resources and personnel available in these agencies today could be used much more effectively and give Maine citizens a better return on their weekly dollar. However, such a management model is impossible in State Government as it is organized today.

*Planning and management
of the State's natural
resources is not under-
taken systematically*

The Commission undertook a limited review of the consolidation and cross-training potential for all job classifications in the Division of Forest Fire Control in the Department of Conservation and the Game Warden Services in the Department of Inland Fisheries and Wildlife. The consolidation of functions among the natural resource agencies would be an extremely complicated undertaking, involving individual review of job classifications, salary requirements, job authority, and responsibilities. Many opportunities do exist, however, for efficiency savings through cross-training, coordination or consolidation. Although wholesale consolidation of the forest ranger, game warden, and marine patrol officer functions does not appear realistic in the short term, for the reasons noted above, State Government could benefit substantially from closer administrative coordination in those areas.

The major environmental regulatory functions are located in three different agencies, the Department of Agriculture, Food and Rural Resources - Board of Pesticides Control; the Department of Conservation - Land Use Regulation Commission; and the Department of Environmental Protection. The independent Maine Waste Management Agency has responsibilities for the promotion of solid waste reduction and recycling activities in addition to its responsibility for siting waste disposal capacity.

Unlike the other natural resource departments, the Department of Environmental Protection has shown substantial real expenditure growth, with total real expenditures increasing by more than 70% over the past ten years. That growth can be attributed, at least in part, to increasing mandates imposed on the DEP by the Legislature, efforts to address a chronic understaffing situation, and the significant increases in development activity that occurred during the 1980's.

The presence of large increases in real expenditure growth is not necessarily an indication of inefficiency in a department, particularly in a department such as the DEP that has experienced expansion of its statutory mandate. That growth has, however, placed new and significant demands upon the Department and the Board of Environmental Protection that cannot be met by organizational structures established more than a decade ago. The present media organizational structure of the Department (air, water and land) and the ten-member citizen BEP are no longer sufficient to address the increasingly complicated problems of environmental protection.

The fact that decisions of the Board of Pesticides Control affect environmental quality and public health concerns beyond the agricultural sector raises serious questions about the compatibility of the Board with its present location in the Department of Agriculture, Food and Rural Resources. In 1972, Congress transferred federal pesticide regulatory authority from the Department of Agriculture to the Environmental Protection Agency in recognition of the fact that pesticide laws had

shifted from a focus on protecting the farmer to broader societal issues of environmental quality and protection of public health. That transfer appears to have been appropriate at the federal level. Several past studies in Maine have raised questions about the Board's current location and suggested transferring its responsibilities to the Department of Environmental Protection.

The Land Use Regulation Commission fills a unique comprehensive planning and zoning role with regard to the State's unorganized townships in addition to its regulatory control over the impact of development on a series of natural resources. This regulatory scheme is intended to be essentially equivalent to the regulatory efforts of the Department of Environmental Protection in the organized half of the state. While there are situations in which a development activity is subject to the regulatory jurisdictions of both agencies, LURC and DEP have successfully coordinated their efforts in a number of areas, most notably hydropower and mining.

Finding

The natural resource agencies face a future of reduced funding and increased resource utilization. These complex and competing trends are expected to be long-term and, as such, agencies must exercise flexibility and innovation in natural resource management. Fewer resources will require personnel to be cross-trained, and will place substantially more importance on sharing of resources and responsibilities. Where feasible, the management, promotion, and regulation of Maine's natural resources should be organized along functional lines in order to achieve administrative economies, a higher degree of program effectiveness, and a higher level of integrated ecosystem management.

Recommendations

The existing Board should be abolished. The Commissioner should assume all of the current duties of the Board with the exception of appeals. A three-member appeals board should be established. The Board members would be appointed by the Governor subject to confirmation by the Legislature. The members must be knowledgeable in issues pertaining to environmental regulation. Members should be adequately compensated, although the Commission expects that the appeals board will be a part-time commitment. Appeals of the Commissioner's decisions should be taken initially to the Board. Appeals of Board decisions would be taken to Superior Court.

The Department of Environmental Protection should be restructured by abolishing the existing bureau structure and reorganizing the Department along functional lines: Licensing, Technical Services, and Enforcement. The Board of Environmental Protection would establish clear criteria for project review. The new administrative officer would ensure that each application is shepherded through the licensing process by assigning a team of individual staff members to each application.

While staff specialization would clearly be required to match technical needs and possibly some federal funding requirements, the Department should make every effort to ensure that overall consideration of the environmental impacts of proposed projects and any enforcement actions be comprehensive in scope and not narrowly limited to specific environmental media. The Legislature should establish the goal of increasing staff professionalism through sustained commitment to training and a competitive salary structure. The financial resources for this effort should be drawn from reductions in staff levels.

The Governor should appoint a Natural Resource Inter-Agency Task Force to identify and implement appropriate cross training programs and other cooperative ventures. The task force should include management representatives from the Department of Conservation, the Department of Inland Fisheries and Wildlife and the Department of Marine Resources, as well as employee representatives. The task force should seek to apply "total quality management" practices to the appropriate functions of those agencies, including such practices as "pay for knowledge". All natural resource programs will be affected by the trends towards less funding and increased resource utilization, and managers must push for continuous improvement in all areas. Efforts such as these will become increasingly important, particularly in the areas of natural resource management and law enforcement.

*Consolidate management
function*

The functional responsibilities of the Natural Heritage Program, the Critical Areas Program, the Endangered Species and Non-game Wildlife Program together with the staff and budgets of these programs should be reassigned to a separate unit of the Department of Conservation. The Critical Areas Advisory Board should be reconstituted (and renamed) to serve a advisory function to all three programs.

Close coordination of waste reduction and recycling efforts with parallel efforts to site much-needed disposal capacity is required. The Maine Waste Management Agency should retain its responsibility for integrated and comprehensive planning and management of the State's solid waste.

The Board of Pesticides Control should remain in the Department of Agriculture, Food and Rural Resources until such time as it can be demonstrated that the Department of Environmental Protection is capable of assuming these additional responsibilities.

*Consolidate regulatory
functions*

The Land Use Regulation Commission should remain attached to the existing Department of Conservation. LURC should maintain its comprehensive planning and zoning program and should investigate further measures to coordinate or eliminate areas of regulatory overlap with the DEP.

Seafood inspection is currently done by two departments. Inspectors from the Department of Agriculture, Food and Rural Resources have responsibility for onsite inspection of processed wholesale seafood products, while the Department of Marine Resources is primarily responsible for the inspection of fresh seafood products. The Department of Marine Resource should be given sole responsibility for the inspection of fresh and processed seafood.

Discussion

Economic development has been a matter of public concern since the earliest days of our State. In his January 1870 message to the Legislature, Governor Joshua L. Chamberlain stated government must "encourage good, point out improvements, open roads of prosperity and infuse light into right enterprises." Government policies and programs have a direct impact on the economic growth climate of the State, and the State has a major role in either fostering or adversely impacting economic growth. For the last fifty or more years, the proper role and responsibility of state government in the economic development arena has been the subject of continuing and sometimes intense debate.

5.5 ECONOMIC DEVELOPMENT

*The proper role of state
government in economic
development has been the
subject of continuing debate*

Maine is in the midst of one of its most severe economic crises since the Great Depression. Economic activity in Maine has fallen disastrously in the past two years, with the Maine Business Index dropping over 30 points. We have lost more than 33,000 jobs over the past 24 months. Our unemployment rate is now 8.8%. More than 72 significant businesses closed shop outright or radically reduced their Maine operations in 1990. Tax revenues have declined for nearly 24 straight months except for a brief upturn during the past summer's tourist season. The scheduled shutdown of Loring Air Force Base in 1994 will have a first year cost of some 7,900 jobs and a state-wide income loss of \$150 million that year.

Erosion of the State's tax base has set off the vicious cycle of declining revenues with imperatives to either increase taxes or cut essential programs. This has nearly paralyzed State Government for the past year. Without the jobs that generate wages that produce income and sales tax revenues, the State cannot pay for education, income maintenance and other essential services. The establishment of a state counter-cyclical fund as set forth in Section 3.2 of this report is imperative to avoid a repetition of this budget crises.

Maine will not automatically return to economic health when the nation and the region emerge from the current business cycle. There is strong evidence that there will be continuing dramatic changes in international and national economic conditions. Competition for investment, jobs, and economic growth activities will intensify in the years ahead. Maine must evaluate its policies and programs in comparison with those states with whom we compete for jobs. Maine must learn to act competitively in response to the changes in the global economy and purposefully if we are to reverse our decline. By aggressively addressing the shortcomings in the State's business climate and by building on the State's historic economic strengths, the current economic trends can be reversed. That means, however, adopting a coherent, long-range economic development strategy which must be a cooperative effort by the Executive and Legislative Departments.

Competition for investment, jobs, and economic growth will intensify

Findings

Maine's business climate is perceived as being unattractive to new and existing businesses, especially with lower trade barriers, sophisticated communications, and an increasingly global economy. The Commission's Committee on Economic and Physical Infrastructure heard testimony that the following factors have combined to foster this perception:

- the cost of the worker's compensation system, which is the second highest in the United States. After several years of attempted reforms, it still consumes over \$500 million annually or 2% of Maine's gross state product (GSP);
- the cost of taxes, now among the ten highest in the nation while personal income is twenty-ninth;
- the complexity, cost, and time delays involved in Maine's environmental regulatory process; and
- the cost of State Government general fund spending which now amounts to \$1.5 billion annually or 6.2% of Maine's GSP.

Maine has many strengths that commend it as an attractive place in which to live and to do business:

- a labor force attuned to productivity;
- an open and cohesive society that prizes initiative and personal growth;
- a concern for quality education program from kindergarten through higher education, with a growing emphasis on vocational education;
- an infrastructure as good as most states;
- a cherished and protected environment that provides unique recreational opportunities within easy distances;
- a growing cultural awareness with programs fostered primarily by private philanthropy, but encouraged also by limited local, state, and federal funds;
- social and health programs that care for those unable to care for themselves, and that seek to help all Maine citizens achieve their full potential; and
- a strategic geographic location in relation to Canada and Europe.

The balancing of the strengths and weaknesses of Maine's economic development climate into a coherent economic development policy to retain existing businesses and encourage new high value-added industries must be the immediate top priority of state government. Jobs and only jobs will generate the tax revenues to permit the State to build on its existing strengths and create a better society in the twenty-first century. Any comprehensive economic development strategy must address:

- the high cost of doing business in Maine compared to other states;
- the need for adequate education and job training to compete in the world economy;
- the need for adequate transportation, energy, communications, water, and waste infrastructure;
- a tax policy that encourages investment in Maine;
- an environmental policy that protects the environment without placing unnecessary roadblocks in the path of legitimate economic growth; and
- a coherent system of assistance to business in furtherance of the goal of creating jobs for Maine people, including applied research and economic analysis.

Recommendations

The mission statement of the Department of Economic and Community Development (DECD) should be refined to its central mission of job retention and focussed job creation. The DECD should be organized around functions it provides that are central to its job's mission, including business retention and attraction; tourism; and research, information, and advocacy for existing and prospective businesses.

DECD Ombudsman

The DECD should function as a business ombudsman with special recognition that Maine has many small businesses and that encouragement of entrepreneurship should be one of its major objectives. DECD should fully support local, regional, and private economic development activities. Special attention should be paid to tourism, of which many of the small businesses in the State are a part. An advisory board of directors comprised of leaders in the fields of business, finance, education, labor, and environment, should be established to assist DECD in prioritizing its programs and to assist in development of a long-term state economic development plan.

FAME

The Finance Authority of Maine (FAME) should remain as an independent agency to preserve its integrity and apolitical role in support of the State's economic development program. FAME should reduce the twenty separate loan guarantee programs it now maintains to a more manageable number in order to reduce administrative costs and increase efficiency.

MWTA

The Board of Directors of the Maine World Trade Association (MWTA) should be reduced and should include only two state department heads. In addition, since it provides a service of increasing importance as the economy becomes more international, the MWTA should be funded on a longer-term basis through a multi-year contract with DECD with specified levels of funding and private sector matching requirements.

DEP

The reorganization of the Department of Environmental Protection (DEP), as proposed in section 5.4 of this report, should be implemented as expeditiously as possible.

Workers' Compensation

The workers' compensation system review by the special committee established by the Legislature should be expedited. The study committee should recognize the judicial function of the Worker's Compensation Commission and should consider relieving the commissioners of the extra-judicial administrative functions with which the system is burdened.

Tax policy

The Legislature's Joint Standing Committee on Taxation, under its expanded role envisioned in section 3.4 of this report, should review state tax policies in light of the impact of those policies on economic development. The Committee's review should include the levels of taxation, dedicated revenues, the personal property tax on new and used equipment utilized in production, and the alternative minimum tax. The objective of the review should be to make Maine's tax burden competitive with the tax burden of other states with which we compete for jobs.

Energy policy

The Commission on Comprehensive Energy Planning should focus its attention on energy policy and program issues that relate to economic development, including the retention of existing businesses and the attraction of new businesses.

PUC

The Public Utilities Commission (PUC) should be authorized to reduce its costs by eliminating the regulation of water districts governed by publicly elected or appointed citizen boards.

Education

In recognition of the important relationship between education and economic development, the recommendations concerning education in section 5.3 of this report should be pursued aggressively.

State budget process

The overhaul of the State's budget process set forth in section 3.0 of this report must be a priority to restore confidence in the State's ability to manage its finances.

The State should develop a plan for the State Planning Office, University of Maine System, and private colleges to develop the capacity to provide the public and private sectors with timely, meaningful, and in-depth economic and technology information and analysis for strategic planning in economic development. The Maine Science and Technology Commission should be linked with that effort in a way that will reduce overhead costs, but not lose the advantage of independent expertise now available through that commission.

Economic analysis

Capital investment in state, regional, and local physical infrastructure is essential to economic growth, protection of the environment and the well-being of the citizen's of the state. Broader options for capital sources for infrastructure investment should be explored. Greater integration of the Maine Turnpike Authority with the Department of Transportation should be considered. This integration should include joint purchasing, employment, maintenance facilities, and administrative services.

Infrastructure

The functions of the Maine-Canadian Legislative Advisory Office should be transferred to the reorganized DECD and that office should be abolished.

Maine-Canadian Office

Implementation of the foregoing recommendations, many of which cut across various sections of this report, should go far to reestablish and reemphasize the fundamental importance of job retention and creation to the future of the State. This is the cornerstone on which all else rests. Without jobs to generate tax revenues, the State will not be able to meet its fundamental obligations in education, social services, and public safety. Economic development, however, cannot be left to the state alone. It requires a public private partnership each step of the way if we are to assure economic viability in the years ahead.

General implementation

Discussion

The functions of the Departments of Finance and Administration were joined into a single department in 1971 during Governor Curtis's administration. In 1986, the departments were divided into the departments as they now exist. This Commission has been given specific direction by the Legislature to examine the possibility of a re-merger of the departments.

In consultation with the Commission, representatives of both departments have worked to develop a proposal for this merger which would result in the greatest economy, efficiency and effectiveness possible. Several principles guided the approach to the merger: 1) the need to strike a balance between service and control functions of the new department; 2) the need to strike the correct balance between the internal and external responsibilities of the new department; 3) the need to achieve actual savings in the short term and greater efficiencies over the long term; and 4) the need to coordinate similar functions while assuring intradepartmental access to vital decision-making tools. While the Commission largely agrees with and has adopted the proposal submitted by the departments, certain changes have been recommended in the areas of budget planning and analysis, liquor and lottery and property management practices, including leasing.

5.6 FINANCE AND ADMINISTRATION

Findings

The merger of the Departments of Finance and Administration will result in increased effectiveness and efficiency, and in significant dollar savings. The merger of the departments provides an opportunity for instituting a program for decentralizing management decision-making in the Executive Branch. At present, management decision-making is largely centralized; for instance, departments must seek approval from the Bureau of the Budget for all work programs, quarterly allotments, and changes in the same. The creation of an internal control mechanism that would allow for blanket approvals of budget orders, provided certain management standards were met, has the potential for promoting intradepartmental quality control, quality management, and results-oriented management.

Recommendations

Merger

The Departments of Finance and Administration should be merged (see Chart K). The merger should result in eight functional areas as follows: budget planning and analysis, budget management and control, employee relations, general services, human resources, information services, liquor and lotteries, and taxation.

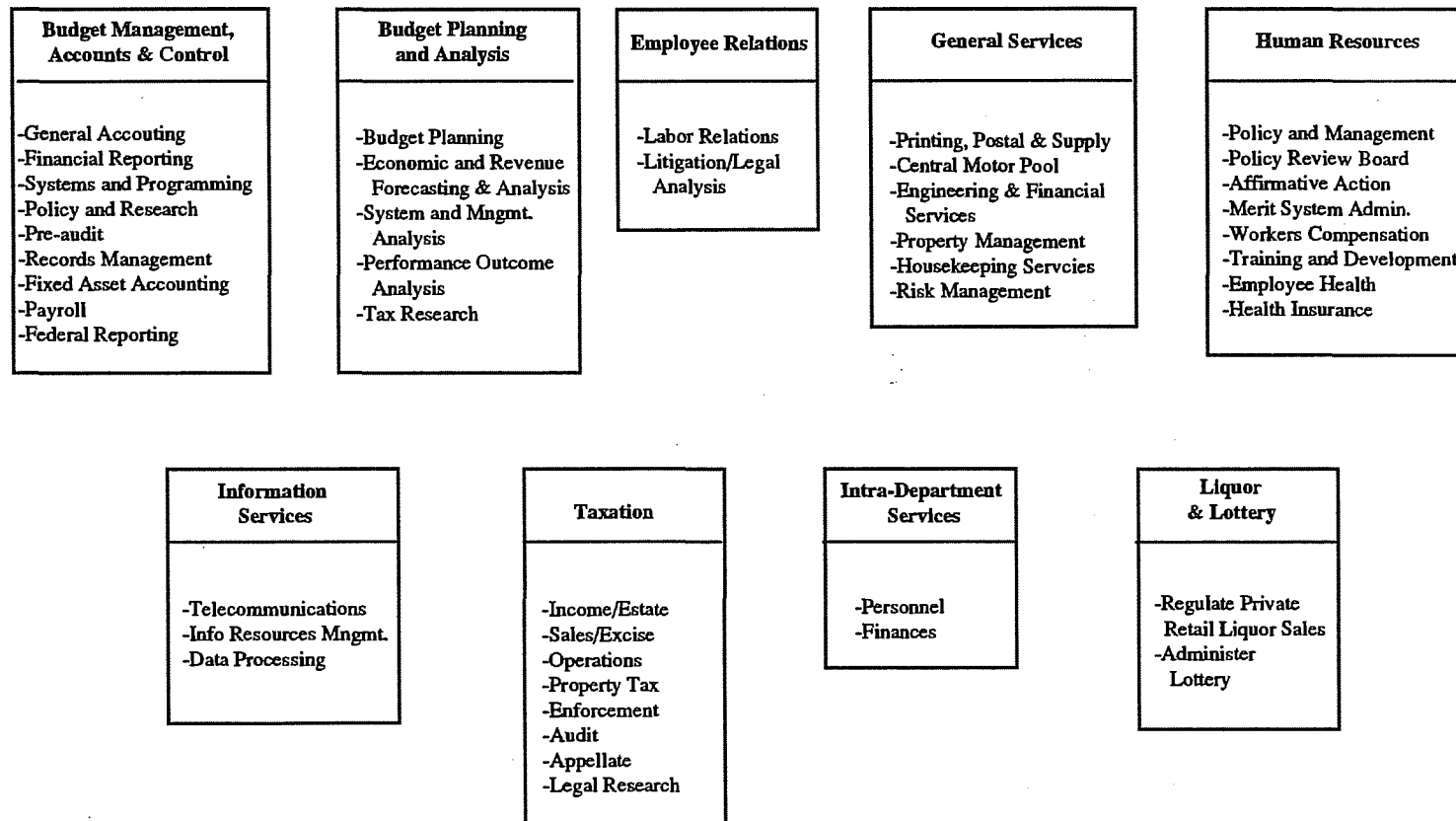
- Several existing bureaus should remain functionally unchanged: the Bureau of Employee Relations, the Bureau of Human Resources, the Bureau of Information Services (presently it is an "Office", but this organizational change is not accompanied by functional changes), and the Bureau of Taxation.
 - As described earlier in section 3.3, the responsibilities of the present Bureau of Budget that relate to budget planning and analysis, including revenue forecasting and analysis of revenue/tax policies, would be upgraded and separated from the day-to-day responsibilities of general budget management. A special unit should be established in the department for this purpose, providing direct staff support to the commissioner and the Governor in policy analysis, budget preparation and evaluation of program performance.
 - Routine budget management responsibilities should be combined with the current duties of the Bureau of Accounts and Control along with a new internal control division. The internal control division should function to decentralize financial and administrative control by providing for blanket approval of all budget orders submitted by departments demonstrate adequate administrative and financial internal control mechanisms.
 - The general services functions would incorporate the current responsibilities of the Bureau of Public Improvements, the Bureau of Purchases and the Division of Risk Management. This combination will allow the sharing of resources and information between these functionally similar units. As discussed previously in this report, the new bureau should incorporate competitive bidding procedures for the services it now provides directly.
- Detailed plans for the reorganization should be submitted to the Legislature by March 1, 1992.

Capital management

There is insufficient oversight of the state's capital planning, leasing and debt financing. In complement to the recommendations contained in Section 3.2 the Department should determine the mix and level of financing methods for all capital

Chart K

Department of Finance and Administration



Prepared by the Office of Policy and Legal Analysis for the Special
Commission on Governmental Restructuring (December 2, 1991)
Admin2.PM3

investments (debt, general obligation debt, leases and other financial vehicles such as certificates of performance). The Department should also have responsibility for management of the debt, so that it can make decisions on refinancing when that is appropriate.

Risk reduction

The state should consolidate in the Department its management and defense of worker's compensation claims brought against the State and set explicit goals for reductions in the number of personal injuries, motor vehicle accidents, and the costs of individual claims. The managers of departments should be evaluated, in part, on the basis of their success in these efforts.

5.7

STATE TREASURER

Discussion

The Treasurer of State is elected biennially by joint ballot of both Houses of the Legislature. The Office performs a number of functions, including cash management, investment management, debt management, and abandoned property. In addition, the Office administers the State's revenue-sharing program, which distributes 5.1% of all income and sales tax revenues collected by the State to municipalities.

The State Treasurer serves on many boards of independent agencies that operate programs or accounts involving debt management. Included among these are the Maine Municipal Bond Bank, Maine Higher Education Loan Authority, Maine School Building Authority, Maine State Retirement System, and the Maine Court Facilities Authority.

Findings

The Treasurer of State provides a number of services that relate to the day to day activities of various units within the Department of Finance. The close interaction necessary to perform these functions is inhibited by the location of the Office outside of the Executive Branch, and by the fact that the State Treasurer is elected by the legislature.

The investment management function of the Office is an especially important function since the size of the so-called "Treasurer's cash pool" has increased significantly over the past two decades. On an average day, there are millions of dollars in the pool. The pool is invested and the proceeds returned to their respective funds to provide additional services. As a result, small reductions or increases in yields on these invested funds can result in substantial changes in the amount of resources available to the State. Recently, states have begun to contract the management of their cash pools to private money managers and increase the average yields. For example, Florida gave eight fund managers \$100 million each to invest in competition with each other. Thus far, they have increased Florida's rate of return by a full three basis points above what it had been able to achieve on its internally managed money. Vermont has undertaken a performance based contract in which the compensation to the private money manager is based on the earnings the manager is able to generate for the state.

Recommendations

Location

The Office of the Treasurer of State should be located within a newly combined Department of Finance and Administration and its functions and activities coordinated with those of the other bureaus and divisions responsible for the financial management of Maine State Government.

The Treasurer of State should be appointed by the Commissioner of the Department of Finance and Administration and should serve at the Commissioner's pleasure.

Appointment

The Treasurer of State should explore contracting for investment management services with compensation based upon performance.

Investment services

5.8 JUDICIARY

Discussion

5.8.1

Court Administration

Maine's three-tier court system has developed over the years in response to the growing needs of the State without an overall management plan. This piecemeal growth has resulted in duplication and fragmentation of court administration and management. Adding to the duplication is a law requiring the Judicial Department to participate in the administrative processes of Executive Branch central service agencies as well as its own.

Chief Justice McKusick appointed a Volunteer Business Committee in the winter of 1991 to review and recommend improvements in administration and management of the court system. In its report, that committee made numerous recommendations for the improvement of administration and management of the Judicial Department, some of which have already been implemented. We also note that there is in progress a very comprehensive review of the Judiciary by the Commission on the Future of Maine's Courts, which was established by statute in 1990 and which will submit its recommendations in the winter of 1993.

Currently, the District Court and the Superior Court systems each have a Chief Judge and administrative staff. The Administrative Office of the Courts presently has somewhat limited authority over the individual court systems. In addition, each court in the State has staff to collect fees and fines, and to process bail and escrow accounts; each court has bank accounts to handle these multiple small transactions.

Finding

Fragmented administration, decentralized financial processing systems and redundant administrative requirements result in inefficiencies in the court system.

Recommendations

The Commission endorses the recommendations in the report of the Volunteer Business Committee. First and foremost, the statute creating the Office of State Court Administrator (4 MRSA §§15-17) should be amended to expand the authority of the court administrator over management of the court systems under the direction of the Chief Justice. Consolidation of authority in a strong administrator, who will act in a capacity similar to that of the chief operating officer of a private corporation, will permit coordination of management and better long-range planning capabilities for the system with increased accountability.

Chief operating officer

The Judicial Department should centralize the collection of fees and fines, and the receipt and disbursement of bail and escrow deposits. This would allow staff in the courts to use their time more productively performing other duties. Merging several bank accounts into a few larger accounts may also enable the court system to maximize interest earnings and minimize bank processing fees.

Money transaction

Expenditure management

To avoid duplication and to give the Judicial Department authority to manage its own expenditures, after the position of Chief Operating Officer has been established, the statute requiring the Judicial Department to use the services of the Departments of Finance and Administration (4 MRSA §26) should be repealed. This would eliminate inconsistent and duplicative procedures. The Judicial Department would still be subject to financial and management audits by the State Auditor.

5.8.2

Criminal Justice Commission

Discussion

If we are to make more efficient use of criminal justice resources, we must coordinate the actions of the many agencies, organizations and individuals interested in criminal justice. Criminal justice resources — the corrections system, law enforcement agencies, the courts — are affected by the actions and interests of the Legislature, prosecutors, law enforcement officials, crime victims, the courts, social service providers, the public and others. There is no single forum for these parties to discuss the interplay of their actions on an ongoing basis.

Perhaps the greatest improvement in the use of criminal justice resources would come from coordination of corrections resources and the making and implementation of sentencing policy. When laws are passed to criminalize actions or to increase sentences for certain crimes, the primary concern of policymakers is for crime victims. The ability of the corrections system to implement the sentence, and the willingness of the public to commit additional resources to the corrections system to enable it to implement the sentence are not taken into consideration. Sentencing laws and policies must be developed only after full consideration of the effects of the policies and full consideration of the sentencing options available.

We considered the question of whether law enforcement services in the state should be consolidated or regionalized. We found that there are reasons to continue the current three-tiered system. Preventive law enforcement programs work best on the local level, where program providers know the people, the problems and the resources. Regionalization would diminish the benefits of local knowledge. Further, some of the benefits of regionalization such as economies of scale and specialization, have been achieved by centralization of crime laboratories and other resources and creation of specialized police units. Although regionalization is not advisable, we believe greater communication among the three levels of law enforcement would be beneficial in assuring efficient use of resources and sharing of information.

Findings:

We find that there is a critical need to coordinate criminal justice policy and planning, and that the Criminal Justice Commission, created by the Legislature in 1991, would provide that coordination. Unfortunately, no funds were appropriated to operate the Commission. We further find that regionalization or consolidation of law enforcement agencies would not provide significant benefits, and would diminish the effectiveness of law enforcement.

Recommendations:

We recommend that the Legislature fund the Criminal Justice Commission and that the following duties be added to those of the Commission:

Reactivate Criminal Justice Commission

- Review mandatory sentencing under current law, its relationship to the Criminal Code, and recommend methods of reducing the use of mandatory sentencing. This would allow abolition of the Criminal Law Advisory Commission which currently performs these tasks.
- Review the current law regarding eligibility for intensive supervision, determine the barriers to greater use of intensive supervision as an alternative to incarceration, and recommend ways to remove those barriers to expand the use of intensive supervision where appropriate.
- Develop a spectrum of sentencing alternatives for more efficient and effective use of correctional resources.
- Develop a method of educating the public and the participants in the criminal justice system of the needs and interrelated nature of the system.

Discussion & Findings

In the last decade the Legislature has made enormous strides in improving its operations. It has developed an admirable, non-partisan, professional staff. It has tightened its committee operations and its legislative schedule. At a time when the State is considering major changes in the Executive Branch, it would be well for the Legislature to consider changes that can further strengthen its own capacity to deal with the complex and formidable challenges that will face it in the coming decades. We believe these changes can be made without undermining the character of the citizen legislature.

Recommendations related to the Legislature are also found in the planning, budget and government operations sections of section 3.0 of this report.

Recommendations

The Legislature should be reduced in size to no more than 35 Senate and 123 House seats and no less than 33 Senate and 99 House seats. The objectives of such a reduction are to strengthen the continuity between Senate and House seats, and to enhance the capacity of House members to work more closely together. Some of the savings from a reduced House size should be applied to increased staff for legislative work. Other savings should be used to help members deal with increased pressures for constituent services. The constituent support services could include staff and expanded availability of telecommunications technology.

Size

NOTE: A minority report has been prepared as an alternative to the foregoing recommendation. The report can be found in Appendix F.

Minority report

5.9 LEGISLATIVE STRUCTURE AND OPERATION

5.10

Public Safety, Civil and Criminal Justice

Discussion

The Commission was charged to consider a proposed Department of Justice. The Committee on Public Safety and Health spent considerable time reviewing suggestions for reorganization of public safety and justice agencies and gubernatorial appointment of the Attorney General. The Committee reported the results of its deliberations to the full Commission, noting that it did not receive information on estimated cost savings related to the recommendations. The Commission discussed the issue at length and took testimony on the proposition from present and former Attorneys General and from a representative of the Governor's office. The Governor's representative indicated in his testimony that the proposed reorganization would save approximately \$300,000. No documentation was submitted.

In the course of the Commission's discussions it became apparent that there are a number of complicated and important issues bound up in any proposal to reorganize the public safety, criminal justice and civil justice functions of state government. They include the coordination and integration of public safety activities at the local, county and state level, the relationship of state and federal law enforcement activities, oversight of law enforcement programs, the relationship of the Attorney General's office to state legal services in the Executive Branch, at the state and district level, the relationship of the Attorney General to the Executive and Legislative Branches, the options for appointment or election of the Attorney General and their effect on a range of public interests, and perceived problems in the way the present selection process operates. There is great concern that the integrity of the system for leading and managing the public safety and justice functions of the state and the provision of legal advice to the Executive and Legislative Branches of state government be insured under the present structure or under any reorganization.

Findings

The Commission concluded that it did not receive a sufficiently detailed proposal for reorganization of public safety, criminal justice and civil justice functions on which it could make a recommendation. It could not, with the limited time available to it and in the absence of an extended and in depth examination of the issues that emerged in its deliberations, make a definitive recommendation on either the creation of a Department of Justice or the appointment of the Attorney General.

The Commission did find concern that the emerging pattern of political fund-raising activity connected with the legislative election of the Attorney General presents a potential for conflict of interest. The Commission believes that potential should be forestalled.

Recommendation

The Commission recommends that an in-depth, objective examination and structured public discussion of the state government's public safety and civil and criminal justice system be undertaken before any proposals for creation of a Department of Justice or related reorganization are considered by the Legislature. The review and discussion should include examination of the present and prospective methods of electing or appointing the Attorney General, with attention to the problems associated with political contributions made during the course of campaigns for that office.

We believe such an examination could be carried out under the leadership of the University of Maine School of Law. If possible, the results of such examination and discussion should be presented to the Governor and the Legislature by February 1, 1993.

Review of public safety and criminal and civil justice systems

6.0 Conclusion

The Special Commission on Governmental Restructuring has undertaken the first comprehensive review of the structure of Maine State Government since the early 1970's. It is clear to the Commission that such reviews should be performed more frequently - perhaps every ten years - rather than every twenty years. With a decade between reviews it would be possible to concentrate on a few major areas, rather than looking at the entire spectrum of state government. This would permit more detailed analysis and recommendations than this Commission has been able to pursue in its limited time frame.

State Government is never a stagnant institution; it evolves as needs and resources change. Nothing in this report is a permanent prescription. This report is a working, planning document offered as a guide to the Executive Department, the Legislature, and the Judiciary in their joint efforts to better serve the citizens of Maine.

Special Commission on Governmental Restructuring

APPENDIX A:
Charge to the Commission

Charge to the Commission

The primary charge to the Special Commission on Governmental Restructuring is found in P.L. 1991, c. 139. Additions were made in P.L. 1991, c. 591 (as noted in text). The following text is drawn verbatim from these two public laws. Minor format changes are made to present the overall charge more coherently.

Special Commission on Governmental Restructuring established. The Special Commission on Governmental Restructuring is established as an independent commission that shall advise, consult and assist the executive and legislative branches of State Government with designing a plan for the restructuring of government. The commission shall develop and present to the Governor and the Legislature by December 15, 1991 a final plan to maximize citizen participation in public policy making, to use public resources more effectively and to consolidate and restructure State Government in such a way that efficiency is assured and cost savings result.

It is the intent of the Legislature that the plan include a proposal to obtain this objective by consolidating, restructuring and streamlining existing advisory groups that provide advice and input to government. It is also the intent of the Legislature that the plan include a special focus on those programs and services of government related to the provision of human services.

1. The commission consists of no more than 22 members. The Governor shall appoint 10 members. The President of the Senate and the Speaker of the House of Representatives shall jointly appoint 10 members. The Governor, the President of the Senate and the Speaker of the House of Representatives shall together choose 2 additional members to serve as cochair of the commission. No member of the commission may be an official, employee, consultant or any other individual employed or retained by the executive branch or a current member of the Legislature. Members must be appointed within 48 hours of the effective date of this Act. The first meeting of the commission must be called by the cochair within 16 days after the effective date of this Act.

2. Resources and compensation are available to the commission as follows.

A. Any balances of funds appropriated to the commission remaining at the end of a fiscal year do not lapse but are carried forward from year to year to be expended for the same purposes.

B. In addition to funds appropriated for the purposes of this Act and funds otherwise available, the State Planning Office and the Office of the Executive Director of the Legislative Council shall, to the extent possible, jointly provide staff and administrative assistance to support the activities of the commission.

C. All expenditures must be approved by the cochair.

D. Members are entitled to compensation for their expenses according to the Maine Revised Statutes, Title 5, chapter 379.

3. It is the intent of the Legislature to consolidate, restructure and realign functions of the departments of government. It is further the intent of the Legislature to streamline administration and services through functional integration of similar operations. It is further the intent of the Legislature to create unified and functionally integrated operating agencies to coordinate and consolidate the effective delivery of services to affected populations.

3-A. It is further the intent of the Legislature that each board and commission, including but not limited to each advisory council, council and other independent entity that is established by state law,

must be reviewed to determine the continuing need for the board or commission and to weigh the need against the staffing and other operating costs of the board or commission, regardless of funding sources. Upon request, the Secretary of State shall provide the commission with a report on these boards and commissions. (P.L. 1991, c.591, Part FF)

4. It is further the intent of the Legislature that the commission, before making final recommendations, shall review any studies of the executive, judicial and legislative branches, including the constitutional offices, conducted in the last 5 years that examined the structure, restructuring or reorganization of State Government.

5. The Special Commission on Governmental Restructuring shall submit, by June 15, 1991, a report that details the process and the time line the commission has established to conduct its investigation, an interim report on September 15, 1991 and a final report by December 15, 1991. The commission's reports and final plan for the restructuring of government must be submitted to the Joint Standing Committee on State and Local Government and the Joint Standing Committee on Appropriations and Financial Affairs.

Further additions from P.L. 1991, c.591:

Governmental Restructuring. (Sec. III-28) It is the intent of the Legislature that the following proposals for reorganization and consolidation of state government agencies be submitted for further analysis to the Special Commission on Governmental Restructuring established pursuant to Public Law 1991, chapter 139, and that they be considered for inclusion in the plan for restructuring of government due December 15, 1991.

1. Department of Justice. The Department of Public Safety, the Department of Corrections, the Department of Defense and Veterans Services and the Office of the Attorney General must be combined to form the Department of Justice. The Attorney General shall become the Commissioner of Justice and a member of the Governor's cabinet and must be appointed by the Governor and confirmed by the Legislature. Approval of this provision requires a constitutional amendment. The department must consist of 5 bureaus with the following components:

A. The Bureau of Public Safety, including the functions of State Police, the Criminal Justice Academy, the Bureau of Liquor Enforcement, the Fire Marshal, the Bureau of Intergovernmental Drug Enforcement, the Bureau of Capitol Security and the Maine Emergency Management Agency;

B. Bureau of Corrections, including the functions of probation and parole, juvenile corrections, maximum security corrections, medium security corrections, minimum security corrections and the Office of Advocacy;

C. Bureau of Attorney General, including the functions of consumer and antitrust, general government, criminal, human services, litigation, natural resources, Opinions Counsel, District Attorneys and the Chief Medical Examiner;

D. Bureau of the National Guard, headed by an Adjutant General, including Air Guard, Army Guard and Veterans Affairs; and

E. Bureau of Administration, including personnel, accounts, public information and planning.

2. Department of Administrative and Financial Services. The Department of Administration must be eliminated, with its functions combined with those of the Department of Finance. A new Department of Administrative and Financial Services must be headed by the Commissioner of Finance, with the following units:

- A. Deputy Commissioner of Administration to oversee administrative functions within the department;
- B. Accounts and Control, headed by a state controller;
- C. Budget, headed by the State Budget Officer;
- D. Bureau of Public Improvement, including risk management, headed by a director;
- E. Employee relations, headed by a director;
- F. Human resources, including employee health and health insurance, headed by a director;
- G. Information services, headed by a director;
- H. Purchases, headed by the State Purchasing Agent; and
- I. Revenue, including lottery, liquor and taxation, headed by the State Tax Assessor.

3. Cultural Affairs Bureau. The fiscal and other administrative support services of the 4 cultural agencies defined in the Maine Revised Statutes, Title 27, section 551, subsection 1, must be centralized and placed within the Cultural Affairs Bureau. The 4 cultural agencies must become standing committees of the Cultural Affairs Council, exercising their responsibilities as appointing authorities for the cultural agency directors within the council structure. Supervision of the administrative support staff rotates among the 4 agency directors.

4. Children and Family Services. The Governor's Task Force to Improve Services to Maine's Children, Youth and Families shall make a final report to the Governor by June 30, 1991, after which the Governor shall submit recommendations to the Special Commission on Governmental Restructuring.

State liquor sales. (Sec. B-5) The commissioner, director and State Liquor Commission are authorized to present a plan to the Second Regular Session of the 115th Legislature for the closing of 10 or more additional State Liquor Stores in 1992-93. The commissioner and director shall also present recommendations to the Special Commission on Governmental Restructuring and the Joint Standing Committee on Legal Affairs on or before January 15, 1992 with specific plans for achieving these deallocations. This deallocation increases undedicated revenue by \$500,000 in fiscal year 1991-92 and by \$1,000,000 in fiscal year 1992-93.

Lotto*America. (Sec. B-6) The commissioner, director and State Lottery Commission are directed to review the operations of Lotto*America and present a status report with recommendations for the continuation or termination of this game along with recommendations for other new games, such as Cash Lottery, and to present those recommendations along with other plans for achieving greater efficiencies in operations and maximizing profits to the General Fund to the Special Commission on Governmental Restructuring and the Joint Standing Committee on Legal Affairs on or before January 15, 1992. This deallocation increases undedicated revenue by \$500,000 in fiscal year 1991-92 and by \$1,000,000 in fiscal year 1992-93.

Special Investigation Manager. (Part FFF, bottom of pg 482) This position (special investigation manager - DHS) should be examined by the Special Commission on Governmental Restructuring, established by Public Law 1991, chapter 139, in order to determine how to best manage this function.

Appropriation.(from P.L.1991, c.139) The following funds are appropriated from the General Fund to carry out the purposes of this Act.

EXECUTIVE DEPARTMENT

1990-91

Special Commission on Governmental Restructuring

All Other

\$25,000

Provides funding for members' expenses and other expenses of the Special Commission on Governmental Restructuring. These funds may not lapse but are carried forward from year to year to be expended for the same purposes.

EXECUTIVE DEPARTMENT TOTAL

\$25,000

Special Commission on Governmental Restructuring

APPENDIX B:
Commission Membership

Membership
Special Commission on Governmental Restructuring

Merton G. Henry, Co-Chair

Donald E. Nicoll, Co-Chair

Jane Amero
Richard Anderson
Rosalyne S. Bernstein
Weston L. Bonney
Russell Brace
Roland Caron
Robert D. Cope
David T. Flanagan
Roger Hare
Linwood M. Higgins
Roy P. Hibyan
Charlene Kinnelly
Betsy Levenson
John Lisnik
Jean Mattimore
Patrick K. McGowan
Bonnie Post
John Rosser
James A. Storer
N. Laurence Willey

Working Committees of the Commission

Committee on Health, Social Services and Economic Security

Committee on Education and Cultural Resources

Committee on the Protection of Public Health and Safety

Committee on Economic and Physical Infrastructure

Committee on Physical Resources

Committee on Governmental Process and Relations

Special Commission on Governmental Restructuring
membership & staffing

Co-Chairs: Mr. Henry and Mr. Nicoll

staff: Martha Freeman (OPLA) Richard Silkman (SPO)
Tim Glidden (OPLA) Carol Michel (SPO)

Committees:

I. Committee on Health, Social Services and Economic Security

Ms. Bernstein and Mr. Rosser, co-chairs

Ms. Levenson

Mr. Caron

staff: Paul Saucier (OPLA)
Joyce Benson (SPO)

II. Committee on Education and Cultural Services

Ms. Amero and Mr. Storer, co-chairs

Mr. Hibyan

staff: Michael Higgins (OPLA)
Richard Sherwood (SPO)

III. Committee on Protection of Public Safety and Health

Ms. Kinnelly and Mr. Willey, co-chairs

Mr. Hare

staff: Deborah Friedman (OPLA)
Mike Montagna (SPO)

IV. Committee on Economic and Physical Infrastructure

Mr. Flanagan and Ms. Mattimore, co-chairs

Mr. Brace

staff: Karen Hruby (OPLA)
Steve Adams (SPO)

V. Committee on Physical Resources

Mr. McGowan and Mr. Cope, co-chairs

Mr. Anderson

staff: Patrick Norton (OPLA)
Mark Dawson (SPO)

VI. Committee on Governmental Relations and Process

Mr. Bonney and Ms. Post, co-chairs

Mr. Higgins

Mr. John Lisnik

staff: Jon Clark (OPLA)
Carol Michel (SPO)

Note: OPLA Research Assistants are Mila Dwelley, Roy Lenardson & Bret Preston.

Special Commission on Governmental Restructuring

APPENDIX C:
Matrix of Health and Social Services

Abbreviations on Health, Social Services & Economic Security

MATRIX

1. AAAs - Area Agencies on Aging
2. BCFS - Bureau of Child and Family Services
3. BCSN - Bureau of Children with Special Needs
4. BEAS - Bureau of Elder and Adult Services
5. BH - Bureau of Health
6. BIM - Bureau of Income Maintenance
7. BMH - Bureau of Mental Health
8. BMR - Bureau of Mental Retardation
9. BMS - Bureau of Medical Services
10. BR - Bureau of Rehabilitation
11. BT - Bureau of Taxation
12. CDBG - Community Development Block Grant
13. CDS - Child Development Services
14. DCS - Division of Community Services
15. DDVS - Department of Defense and Veterans Services
16. DECD - Department of Economic and Community Development
17. DHS - Department of Human Services
18. DMHMR - Department of Mental Health & Mental Retardation
19. DOA - Department of Agriculture
20. DOC - Department of Corrections
21. DOE - Department of Education
22. DOL - Department of Labor
23. DOT - Department of Transportation
24. FADE - Fetal Alcohol and Drug Effects
25. FAME - Finance Authority of Maine
26. GA - General Assistance
27. HBC - Home-Based Care Program
28. MAS - Maine Advocacy Services
29. MCOA - Maine Committee on Aging
30. MHCFC - Maine Health Care Finance Commission
31. MSHA - Maine State Housing Authority
32. NF - Nursing Facility
33. OoA - Office of Advocacy
34. OSA - Office of Substance Abuse
35. VR - Vocational Rehabilitation

#3010LHS

Selected Services Available to Identified Consumer Groups

	1 Children & Families	2 Substance Abusers	3 Homeless, Inadequately Housed	4 Unemployed, Underemployed	5 Older People	6 Abused & Neglected Adults	7 Mentally Ill	8 Mentally Disabled	9 Physically Disabled	10 Chronically Ill	11 Consumers of Acute Care, Public Health
A. Case Management	BCSN BMR:6-21 BR:Vis., Hear. Imp. BCFS:child prot. BMS:medicaid DOC:adjud. youth BIM:teen JOBS			BIM:JOBS ASPIRE	BEAS:AAA's BMS:Medicaid DMHMR:Older MI	BEAS:Adult Prot., Grdshp. DMHMR: For MI Prot., Grdshp. for MR	BMH:Adults BCSN:Children	BMR BCSN: 0-5	BR	BEAS:AAA's BMS:Medicaid BH:AIDS	
B. Intake, Information & Referral, Outreach	BCSN, BH, BMR, DCS, BR, DOE, BCFS, OSA, DOC, BIM	OSA:Clearing- house DMHMR:Dual diagnosis BEAS & MSHA: Elderly	MSHA DECD DCS	DOL BIM:JOBS ASPIRE BR:Cont.	BEAS:AAA's BMS:Medicaid DMHMR:Older MI BIM:Eligib.	BEAS BMR BMH BCFS:Rape Crisis Hotline Cont.	BMH BCSN BEAS:Adult Prot.	BMR BCSN BR	BR	BEAS:AAA's BIM:Eligib. BMS:Classif. BH:AIDS	
C. Contracting	BCSN, BH, BMR, DCS, BR, DOE, BCFS, OSA, DOC, BIM	DMHMR:Dual diagnosis OSA DOC	MSHA DCS DECD	BIM:JOBS ASPIRE BR DOL:Job Training	BEAS:AAA's DMHMR: Geriatric MH	BCFS BEAS BMR BMH	DMHMR BEAS BCFS BR	BMR BCSN BR	BR BCFS	BEAS BH BCFS	BH
D. Licensing, Regulations	BMS:LTC Facils., Medicaid Regs. BCFS:Foster, Daycare OSA:sub. abuse fac.	OSA	MSHA?	DOL:Emp. Standards	BMS:LTC Facils., Medicaid Regs.		BMS:LTC Facils., Medicaid Regs. DMHMR:Prog. Reg	BMS:LTC Facils. Medicaid Regs. DMHMR:Medicaid Regs. for MR, Prog. Regs.	?	BMS:LTC Facils. Medicaid Regs. BEAS:HBC Regs.	BMS:Hosp. MHCFC:Fin. Regs. BH:Pub. Hlth. Regs. & Inspects.
E. Cash or Voucher Payments to Individuals	BIM:AFDC, Foodstamps, Child sup. BCFS:child care BH:WIC MSHA:Sec. 8 DCS:LIHEAP BMR:Fam. Support			DOL:Unemp.	BIM:Foodstamps BT:Tax/Rent Refund BIM:SSI Supp.		BIM:SSI Supp.	BMR:Fam. Supp. Vouchers BIM:SSI Supp.	BIM:SSI Supp.	BH:AIDS Meds., Child Meds., Prog. Eye Dis. BIM:SSI Supp.	

Selected Services Available to Identified Consumer Groups

	1 Children & Families	2 Substance Abusers	3 Homeless, Inadequately Housed	4 Unemployed, Underemployed	5 Older People	6 Abused & Neglected Adults	7 Mentally Ill	8 Mentally Disabled	9 Physically Disabled	10 Chronically Ill	11 Consumers of Acute Care, Public Health
F. Residential, Housing	BCSN,BMR, BMH,BCFS, BMS,OSA, DOC,MSHA	OSA:Cont. BMS:Medicaid DMHMR:Cont.	MSHA:Shelters by contract		BEAS:Congreg., BHs,Altz. MSHA:Congreg., ELderly Housing DMHMR:ICFs at Instits. DDVS:Veterans homes	BCFS:Emerg. Shelts.	Institu. & Conts. MSHA:MI bond BEAS:Conts. for Grdnshp. BMS:Medicaid	BMR:Institu. and Conts. BCSN: Institu. and Conts. BMS:Medicaid	MSHA:Adapt. homes	BMS:Medicaid	
G. Day Treatment					BEAS:Adult daycare		DMHMR:At institu. and Conts. BEAS:Adult day- care	BMR:Conts. BCSN:Conts. BMS:Medicaid	BR:ILS Conts. BCFS:Skills Conts.		
H. Nutrition	DOA:Surplus BCFS:Day care food BH:WIC DOE:School food		Soup Kitchens?		BEAS:AAAs:Meals on Wheels, Meal sites						BH:WIC
I. Employment	DOL:Summer Youth BIM:Teen JOBS			DOL:STAR, JTPA MTI, Displ. Homemakers BIM:JOBS, ASPIRE BR:Cont. FAME:Self-emp.	DOL:Elderly JTPA BEAS:Foster grand., RSVP	BCFS:Conts. emp. Emp. Couns.	BR:Conts. BMH:Conts.	BR:Conts. BMR:Conts.	BR:Conts. DOL:Under Conts. with BR		
J. Prevention, Early Intervention	BH:PH nurses, Disease prev. DOE:Alc/Drug DMHMR:FADE BMS:Medicaid for EPSDT	DOE:Alc/Drug	DCS:Homeless Prevention					DMHMR:FADE BCSN:Preschool Early Interven.	DMHMR:FADE	BH:Prenatal Ed. for Diabets.	BH:Health Screen. and Promo., Prevent. Nursing, Pregnancy Prev., Disease Survell.

Selected Services Available to Identified Consumer Groups

	1 Children & Families	2 Substance Abusers	3 Homeless, Inadequately Housed	4 Unemployed, Underemployed	5 Older People	6 Abused & Neglected Adults	7 Mentally Ill	8 Mentally Disabled	9 Physically Disabled	10 Chronically Ill	11 Consumers of Acute Care, Public Health
K. Advocacy, Investigation	DMHMR:OoA DOC: OoA BH:Adv. for AIDS families BMS:LTC Facils. Investigations BCFS:Foster Care invest.		Me. Coal. for Homeless		MCOA:LTC Ombud BMS:LTC Facils. Investigations	BEAS:Adult Prot. Investigations MCOA:LTC Ombu DMHMR:OoA BCFS:Conts.	DMHMR:OoA BEAS:Adult Prot. AD	DMHMR:OoA AD	?	MCOA:LTC Ombu BMS:LTC Facils. Invests.	BH:Pub. Health Investigations
L. Transportation	BCFS, BMR BCSN, BMS			BIM:JOBS, ASPIRE	DOT:Conts. BEAS:AAAs BMS:Medicaid BCFS:Conts.	BCFS:Conts. BMS:Medicaid DMHMR:Conts.	BCFS BMH BR BEAS	BMR:Conts. BMS:Medicaid BR:Conts.	BR:Conts. DOT:Funds for Vehicles BCFS:Conts.	BMS:Medicaid BH:Pediatric AIDS	BMS:Medicaid
M. Home-Based Support	DCS:Home Head Start BCFS:Homemaker, family couns. BH:PH Nursing, Pediatric Aides BMS:Medicaid				BEAS:HBC, Waiver BCFS:Homemaker DMHMR:Geriatric MH BMS:Medicaid	BCFS:Homemaker	BMH BEAS:HBC BCFS:Homemaker BCSN:Fam. Servs.	BMR:Respite BCSN:Respite, Fam. Svs.	BR:PCAs, Adapt. Equip. BMS:Medicaid BEAS:HBC BCFS:Homemaker	BEAS:HBC BMS:Medicaid BH:AIDS	BMS:Medicaid
N. Out-patient	BCSN:Couns. BMR:Couns. BCFS:Couns. BMS:Medicaid BR:Couns. DOC:Couns. OSA:Couns.	OSA:Cont. BMS:Medicaid DMHMR:Cont.				BCFS:Couns. BMS:Medicaid	BMH:Conts. BCFS:Conts. BMS:Medicaid	BMS:Medicaid	BR:Conts.	BH:Conts.	BMS:Medicaid
O. Medical Payments	BMS:Medicaid, MHP	BMS:Detox.	BMS:Medicaid MHP		BMS:Medicaid, MHP BEAS:AAAs:HBC	BMS:Medicaid, MHP	DMHMR:Institu. Care BMS:Medicaid, MHP	BMS:Medicaid, MHP	BMS:Medicaid, MHP	BMS:Medicaid, MHP	BMS:Medicaid, MHP

Special Commission on Governmental Restructuring

APPENDIX D:

List of Advisory Boards and Commissions

Advisory Boards: Minimal Authority Title 5 MRSA Sec. 12004-I

NATURAL RESOURCES & ENERGY

Commission on Biotechnology & Genetic Engineering
Citizens' Forestry Advisory Council
Advisory Council on Energy Efficiency Building Performance Standards
Environmental Health Advisory Committee
Forest Fire Advisory Council
Junior Maine Guides & Trip Leaders Curriculum Advisory Board
Advisory Board for the Licensing of Guides
Advisory Board for the Licensing of Taxidermists
Lobster Advisory Council
Maine Agricultural Viability Advisory Committee
Planning Advisory Council
Scientific Advisory Panel
Toxics Reduction Advisory Council
Waste Management Advisory Council
Whitewater Safety Committee

FINANCE, ADMIN. & GEN. GOVERNMENT

Capitol Planning Commission
Community Services Advisory Board
Council of Advisors on Consumer Credit
Advisory Council on Deferred Compensation Plans
Board of Emergency Municipal Finance
Local Government Records Board
Maine Critical Areas Advisory Board
Maine Veterans' Small Business Loan Board
Natural Resource Financing & Marketing Board
Participating Local District Advisory Board
Regional Council of Governments
Advisory Committee on Single State Audits
Standardization Committee
State Capitol Commission
State Compensation Commission
State Government Internship Program Advisory Committee
State House & Capitol Park Commission

**HUMAN SERVICES,
HOUSING & MENTAL HEALTH/MENTAL RETARDATION**

Committee to Advise the Department of Human Services on AIDS
Cancer Prevention & Control Advisory Committee
Certificate of Need Advisory Committee
Child Welfare Advisory Committee
Maine Advisory Committee on Children with Special Needs
State Planning & Advisory Council on Developmental Disabilities
Advisory Committee to Division of Deafness
Advisory Committee on Home Health
Hospital Advisory Committee
Advisory Board for Licensure of Water Treatment Plant Operators
Maine Hospice Council
Advisory Board to the Maine State Housing Authority
Medical Specialty Advisory Committee on Anesthesiology
Medical Specialty Advisory Committee on Emergency Medicine
Medical Specialty Advisory Committee on Obstetrics and Gynecology
Mental Health Rights Advisory Board
Maine Advisory Committee on Mental Retardation
Maine Aid to Families with Dependent Children Coordinating Committee
Advisory Council to Maine Aid to Families with Dependent Children
Coordinating Committee
Maine Council on Alcohol & Drug Abuse Prevention & Treatment
Maine Dental Health Council
Maine Health Policy Advisory Council

**HUMAN SERVICES,
HOUSING & MENTAL HEALTH/
MENTAL RETARDATION (continued)**

Maine Health Program Advisory Committee
Maine Suspected Child Abuse & Neglect Council
Passamaquoddy Indian Housing Authority - Pleasant Point
Passamaquoddy Indian Housing Authority - Indian Township
Payor Advisory Committee
Penobscot Tribal Reservation Housing Authority
Professional Advisory Committee
Radiological Emergency Preparedness Committee
Release Review Advisory Committee
Residential Treatment Centers Advisory Group
Advisory Board on Rights of Children in Need of Services
Sterilization Procedures Review Committee

**GENERAL BUSINESS,
ECONOMIC DEVELOPMENT & LABOR**

Adjuster License Advisory Board
Apportionment Review Panel
Commission on Job Opportunity Zones
Continuing Education Advisory Committee
Continuing Education Committee
Displaced Homemakers Advisory Council
Employment Rehabilitation Advisory Board
Fire Sprinkler Advisory Council
General Lines Agent Examination Advisory Board
Commission on Investment Capital
Life Agent Examination Advisory Board
Maine State Film Commission
Maine Tourism Commission
Mandated Benefits Advisory Commission
Nursing Education Mobility Advisory Group
Professional Malpractice Advisory Board
State Advisory Council
Advisory Committee on State Telecommunications
Telecommunications Relay Services Advisory
Council

Advisory Boards: Minimal Authority (cont.) Title 5 MRSA Sec. 12004-I

TRANSPORTATION

Maine Aeronautical Advisory Board
Maine Highway Safety Commissio
Maine State Ferry Advisory Board
Maine Transportation Capital Improvement Planning Commission
Medical Advisory Board (Licensing of Drivers)
Travel Information Advisory Council

LAW, PUBLIC SAFETY & CORRECTIONS

Board of Visitors - (for each institutin under the department)
Community Liaison Advisory Board
Criminal Law Advisory Commission
Maine Commission on Domestic Abuse
E-9-1-1 Advisory Committee
Judicial Council
Maine Correctional Advisory Commission

EDUCATION & CULTURAL AFFAIRS

Archives Advisory Board
Advisory Committee on Early Elementary Education
Educational Leave Advisory Board
Advisory Committee (Truants & Dropouts)
Maine Choice Advisory Board
Maine Education Assistance Board
Maine Education Council
Advisory Committee on Medical Education
Policy Review Board
Advisory Committee on Student Assessment
Committee for the Training of Firefighters
Interdepartmental Committee on Transition

Independent Advisory Boards Title 5 MRSA Sec. 12004-I

NATURAL RESOURCES & ENERGY

Maine-New Hampshire Boundary Commission
Radioactive Waste Advisory Commission

FINANCE, ADMIN. & GEN. GOVERNMENT

Maine Commission for Women

**HUMAN SERVICES,
HOUSING & MENTAL HEALTH/MENTAL RETARDATION**

Maine Committee on Aging
Maine Human Development Commission
Maine Commission on Mental Health
Commission on Vietnam & Atomic Veterans

**GENERAL BUSINESS,
ECONOMIC DEVELOPMENT & LABOR**

Governor's Committee on Employment of People with Disabilities

Special Commission on Governmental Restructuring

APPENDIX E:
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Special Commission on Governmental Restructuring

APPENDIX F:
Minority Report

MINORITY REPORT

SECTION 4.8 PARTICIPATION, PARTNERSHIPS, ADVOCACY AND BOARDS AND COMMISSIONS

The signatories to the minority report concur in large part with Section 4.8: Participation, Partnerships, Advocacy and Boards and Commissions, but take major exceptions to the recommendations for the State Office of Advocacy.

We believe that the majority's recommendations compromise the principles that promote effective advocacy within State Government as practiced by several boards and commissions. We would point out that advocacy is both direct services to clients as well as working with the Legislature and state agencies through education and direct intervention on behalf of constituents. The principles that underlie effective advocacy are:

- that agencies are established as independent entities, outside of the Executive Branch of government, with staff accountable only to constituent boards;
- that appointments to all state boards and commissions are made by both the Executive and Legislative Branches; and
- that boards are composed of individuals with expertise in, direct experience with, and affected by issues and policies under consideration.

As a result of the above, we believe that the following principles must be the foundation for the development of a successful Office of Advocacy:

- boards and staff must continue effective advocacy through independent functioning;
- each board and staff must retain their specific client-based focus; and
- state board and commission members should be equally appointed by the Executive and Legislative Branches.

We propose that an Office of Advocacy be composed of individual boards and commissions sharing common administrative support. A board should be created to provide for the internal functioning of the Office. This board would be comprised of the chairs and vice-chairs of the various boards and commissions. The board would hire an office manager who would be responsible for the management of the support functions of the Office.

Among the other functions of the administrative board would be:

- identifying savings to be found in the management of the Office;
- identifying overlapping areas of responsibility and promoting joint activities of the boards and commissions; and
- identifying other unrepresented groups that may need a voice.

- Errata -

Cost savings would be found in the modification of the existing advocacy boards and commissions in the following manner:

- membership of all boards and commissions could be reduced to 7 from the current range of 15 to 23, thus decreasing travel costs, meeting costs, and per diem costs;
- all members of the Office of Advocacy could share administrative and support costs, thus eliminating duplication of effort; and
- publications such as Federal Registers and legislative documents could be shared, reducing costs.

It should be noted that this model would continue to have staff to the boards and commissions employed by and accountable to the constituent boards, promoting effective representation of and advocacy for consumers of the applicable services. This proposal retains the effective model of advocacy provided by small, independent, expert, policy-focused, and constituency-based organizations, with a minimum of bureaucracy and hierarchy.

We, furthermore, do not agree with the majority report concerning operating contracted advocacy services through an Executive Department based agency. It would not be more cost effective, not more cost efficient, and certainly not promote citizen participation in public policy-making.

The current contractual arrangement with one such organization, Pine Tree Legal Assistance, can be utilized as an example to explain this situation. Pine Tree Legal Assistance is governed by a 36-member board of directors composed of attorneys appointed by the Maine State Bar Association and of eligible clients representing low income organizations in accord with regulations of the (Federal) Legal Services Corporation and the Legal Services Corporation Act. The Legal Services Corporation provided 67% of Pine Tree's total budget in 1990 and requires extensive oversight, documentation, auditing, and monitoring of services to ensure compliance with federal regulations.

The present method of the state's contribution through a direct appropriation representing approximately 6% of this agency's budget has been extremely cost-effective for both the State and Pine Tree, permitting the State, in effect, to benefit from federal monitoring and compliance activities without duplicating those costs and ensuring the maximum dollars available for direct services. The same is true for other agencies who receive direct appropriations.

The majority's recommendation to divert the present direct appropriations for advocacy services through a new Executive Department based Office of Advocacy would mean a new layer of bureaucracy to put a contract out to bid and monitor its compliance, and the need to coordinate the policy directions of the proposed Office of Advocacy Board and the contracting agencies' boards.

The legal representation provided by these contracts, including the representation in legislative and administrative policy-making proceedings of low-income individuals and groups, is not duplicated by any other advocacy functions and is most efficiently provided by the current direct appropriations. For these reasons, the minority recommend that such direct appropriations continue and not be subordinated to a new Office of Advocacy.

Submitted by:

David Flanagan
Roger Hare
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Appendix F-2

MINORITY REPORT

5.9 LEGISLATIVE STRUCTURE AND OPERATION

The goals of the Restructuring Commission are to identify ways to maximize citizen participation in public policy-making, to use public resources more effectively, and to consolidate and restructure State Government in such a way that efficiency is assured and costs savings result. While acknowledging that reducing the size of the Legislature has considerable political and popular appeal, it meets none of these criteria. In fact, this step would greatly reduce citizen participation in public policy deliberations, particularly for those in and representing small rural communities. Many legislators currently represent large districts comprised of eight to fifteen communities. Mailing legislative documents to and communicating with municipal officials and school board and planning board members is a major, time-consuming task.

Yet people living in these rural communities need representation as much as those living in larger towns that may be represented by three or four representatives. Perhaps they need it even more so since municipal officials are very part-time employees who struggle to cope with the same state requirements and stipulations as their full-time counterparts in urban towns.

If the size of the House is significantly reduced, one of two things will happen to the small rural communities. They may be placed in legislative districts with larger towns. In these cases their needs, which are not as likely to be similar to those of the towns with the larger population bases, may go unmet. It is very difficult for one person to represent the interests of widely divergent communities.

The other alternative is for many more small communities to be grouped together in legislative districts. This would make it extremely difficult, if not impossible, for part-time legislators to maintain contact with the people living in these communities need and deserve.

The majority report does not suggest that reducing the size of the Legislature will save money. Either legislators will become full-time and paid a higher salary or more professional staff will be hired to carry out the activities they currently perform. What is more likely to happen is what occurs in other states. Both will likely take place, resulting in a Legislature that is less accessible and more expensive.

Submitted by:

Bonnie Post