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A REPORT OF THE JOINT STANDING COMMITTEE ON AUDIT AND PROGRAM REVIEW

1982 Sunset Reviews of Group B-2 Departments & Independent Agencies

DEPARTMENT OF CORRECTIONS
DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION
DIVISION OF COMMUNITY SERVICES
MAINE STATE HOUSING AUTHORITY
HEALTH PROFESSION LICENSING BOARDS
OTHER INDEPENDENT AGENCIES

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STATE OF MAINE

ONE HUNDRED AND TENTH LEGISLATURE

COMMITTEE ON AUDIT AND PROGRAM REVIEW

December 23, 1982

Members of the Legislative Council:

Enclosed is the fourth report of the Joint Standing Committee on Audit and Program Review. In accordance with the Maine Sunset Law, the report briefly summarizes a great deal of factual information and careful deliberations, and presents a number of recommendations for consideration by the Legislature. Some of our major recommendations are highlighted on the blue pages at the front of the report. The complete list of recommendations are noted in the yellow pages behind the highlights, with explanations and detailed information found in the body of the report.


While the Committee has not recommended the automatic termination of any of the independent agencies listed in the Sunset Law, we have made 32 recommendations requiring legislative action and 15 recommendations that can be implemented administratively. Further, we recommend elimination of three programs within the departments reviewed, although an alternative to one of the three is suggested. The net fiscal impact of these changes represents a savings to the General Fund of \$258,733 in FY 1984 and \$222,210 in FY 1985. In addition, our administrative recommendations should result in \$34,500 in additional revenues to the General Fund.


It is important to remember, however, that Sunset is more than eliminating programs and saving dollars. Its purpose is to review program goals and objectives in order to determine if they are being met as effectively as possible. A relatively high percentage of our recommendations concern administrative matters. This reflects our focus this year on efficiency issues. We feel that the continuous legislative oversight inherent in the Sunset process is one of the most important parts of our work.

The Committee has asked many questions and collected a great deal of information from the departments under review. We expect this exchange of information to continue through the public hearing process in January. This kind of dialogue about overall program objectives and operations by itself is a promising development in the Legislature's exercise of its oversight role. We have generally had excellent cooperation with the agencies reviewed and we appreciate their assistance because it has made our task much easier.

The Committee recognizes that some of its recommendations may be controversial. However, we urge the full Legislature to consider these proposals carefully, with the understanding that they reflect many hours of study and discussion. Throughout the entire process our major objective has been to make state government more efficient and less costly while continuing to provide high levels of service to the citizens of Maine.

Sincerely,


GEORGETTE B. BERUBE
House Chairman


JAMES A. MCBREAIRTY
Senate Chairman

Enclosures

T A B L E O F C O N T E N T S

LETTER OF TRANSMITTAL	1
REPORT HIGHLIGHTS	5
SUMMARY OF RECOMMENDATIONS	7
COMMITTEE REPORT	
Department of Corrections	17
Department of Mental Health & Mental Retardation	33
Division of Community Services	47
Maine State Housing Authority	51
Health Profession Licensing Boards	53
Other Independent Agencies	57
Fiscal Impact of Committee Recommendations	61

R E P O R T H I G H L I G H T S

This report is making 47 recommendations for changes to the statutes and operations of the departments and agencies scheduled for Sunset review during 1982. Some are minor administrative or "housekeeping" matters; others reflect suggestions for significant policy changes which the Committee recommends the Legislature consider. Some of the major recommendations in this report are noted below.

Retirement benefits for new Prison employees. (Recommendation 9, page 24) Because of inequities in current retirement provisions for employees in correctional facilities, the Committee recommends that benefits for new Prison employees be reduced to match those currently provided to employees in other correctional institutions in the state.

Consolidation of Youth Center aftercare activities within the Division of Probation and Parole. (Recommendation 4, page 21) The Committee finds that bringing the Maine Youth Center aftercare workers into the Division of Probation and Parole will improve efficiency and result in some savings to the General Fund.

Prison Industries program. (Recommendations 11 and 12, page 25) The Committee is concerned about several aspects of the Prison's Industry program. Because of the fiscal impact of changes which may be necessary in the future, the Committee recommends that the Legislature continue to review this program carefully.

Bath Military and Naval Children's Home. (Recommendation 24, page 37) The Committee finds that when current operating costs are compared with the cost of foster care, the continued operation of the Home cannot be justified. The Committee recommends that the funds now used to maintain the Home be used instead to supplement payments for foster care placements.

Community Support Systems Project. (Recommendation 25, page 38) The Committee finds that this federally funded Project has served a useful function but that it should not become an on-going program when federal funding expires. Instead, given current constraints on the General Fund, any available dollars should be used to finance existing mental health services and programs rather than planners to develop new services.

Division of Community Services. (Recommendations 32 and 33, page 48) With the establishment of the Community Services Block Grant and the assumption of responsibility for the HEAP and Weatherization Programs, the Division of Community Services has become a major state agency. The Committee finds that the duties and responsibilities of the Division and the role of the state's community action agencies should be articulated by the Legislature and established in state statutes.

Youth Conservation Corps (Recommendation 34, page 49) The Committee recommends elimination of state financing for this program and supports in its place the concept of an income-tested program with a strong job training component.

Removal of restrictions on commercial practices of health professionals. (Recommendation 36, page 53) The Committee finds that restrictions on business practices of optometrists and podiatrists discourage alternative commercial arrangements which may result in less expensive health care for consumers. The Committee recommends that these restrictions be removed.

SUMMARY OF RECOMMENDATIONS

The Committee is making three types of recommendations: Statutory, Legislative and Administrative. Statutory changes are included in Part A of the proposed legislation. Legislative changes which affect funding levels are included in Parts B and C of the legislation. Administrative changes can be implemented by the departments and agencies without legislative action. In several instances, the Committee has also included Findings which require no further action but which highlight a particular situation.

<u>TYPE OF CHANGE</u>	<u>RECOMMENDATIONS</u>
<u>DEPARTMENT OF CORRECTIONS</u>	
<u>Central Administration</u>	
Statutory Secs.41-42 PART B	1. Eliminate the requirement that the Department prepare and distribute a plan relating to the prevention of juvenile crime because the plan does not serve any useful purpose. (p.19)
Administrative	2. Devote additional effort to developing inmate population projections in order to have a sound basis for planning future correctional services and facilities. (p.19)
Legislative PART B	3. Adopt the Department of Human Services' Medicaid payment schedule in order to reduce expenditures for outside medical services. (p.20)
<u>Probation and Parole</u>	
Statutory Sec.5 PARTS B and C	4. Combine the field staff of the Maine Youth Center aftercare program with the Division of Probation and Parole to equalize the treatment juveniles receive from the Department of Corrections, and eliminate two positions to take advantage of increased efficiency arising from the merger. (p.21)
<u>Institutions Statewide</u>	
Administrative Sec.40	5. Make information concerning inmate earnings available to the Department of Human Services and to the IRS to ensure that potential child support obligations are met and that appropriate taxes are paid. (p.21)

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| Administrative | 6. Increase the charge to inmates on work-release to \$35 per week for room and board. (p.22) |
| Administrative | 7. Ensure that charitable organizations benefiting from public restitution programs comply with the statutory mandate to pay guard per diem and inmate transportation costs. (p.23) |
| Administrative | 8. Ensure that the state statutes relating to staff housing are followed to assure that all employees are treated in an equitable manner. (p.23) |
| Statutory
Sec.4 | 9. Increase the 20 year retirement provision for Maine State Prison staff to 25 years for new employees to eliminate current inequities between Prison staff and other Corrections employees. (p.24) |

Maine State Prison

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| Administrative | 10. The Department and the Legislature should take steps to reduce excessive overtime expenditures at the Prison. (p.25) |
| Legislative
Sec.51 | 11. Conduct a thorough review of the Prison Industries Program and report findings and recommendations for corrective action no later than September 30, 1983. (p.26) |
| Administrative | 12. The Legislature should monitor the payment system for inmate work at the Prison. (p.27) |
| Administrative | 13. Eliminate any waste or mismanagement of food-stuff at the State Prison in order to bring costs there into line with those in other facilities. (p.28) |
| Legislative
Sec.52 | 14. Eliminate the dedicated account for transportation charges for work-release inmates at Bangor Pre-Release. (p.28) |
| Statutory
Sec.43 | 15. Change the requirement that the Warden of the Maine State Prison live within the precincts of the Prison to one that the Warden live within a reasonable distance of the Prison. (p.29) |
| Legislative
Sec.50 | 16. Use funds currently available from previously authorized bonds for General Fund debt service, if the 111th Legislature does not take action on further improvements to the East Wing. (p.29) |

Maine Correctional Center

- Statutory
Sec.44
17. Establish a dedicated industries account to cover supplies and equipment for the Center's vocational training activities. (p.30)

Maine Youth Center

- Legislative
PART B
18. Use remaining bond funds authorized for conversion of the heating system at the Youth Center for General Fund debt service because the conversion project has been halted.(p.30)

Correctional Advisory Commission

- Administrative
19. Ensure that the Commission's membership and activities conform to its statutory mandate. (p.31)

DEPARTMENT OF MENTAL HEALTH & MENTAL RETARDATION

Central Administration

- Legislative
PARTS B and C
20. Deappropriate funds from both AMHI and BMHI accounts and reappropriate these funds to other state agencies to ensure that the institutes' expenditures do not reflect the cost of services to other state agencies. (p.35)
- Statutory
Sec.39
21. Amend 34 MRSA §1 to require private, non-profit agencies housed within Department space, except where otherwise specified by state statute, to reimburse DMH&MR for its expenditures on space, phone, utilities, and supplies. (p.35)
- Administrative
22. Identify the working budget of the Committee on the Problems of the Mentally Retarded at the beginning of each fiscal year. (p.36)

Office of Children's Services

- Statutory
Sec.48
23. Formally establish the Office of Children's Services within the Department of Mental Health and Mental Retardation. (p.36)
- Statutory
Sec.45
PART B
24. Close the Bath Military and Naval Children's Home and use these funds to increase the foster care board rate. The Department of Human Services should assume responsibility for placement of the children currently residing at the Home. (p.37)

Bureau of Mental Health

Legislative
PART B

25. Discontinue the Community Support System Project and reappropriate funds to direct mental health services. (p.38)

Bangor Mental Health Institute

Administrative

26. The Legislature should not appropriate additional funds for renovations at Bangor Mental Health Institute for office space without receiving updated information on specific space plans, agencies to be housed, and financial impacts of proposed changes. (p.40)

Administrative

27. The Legislature should not appropriate additional funds for renovations at Bangor Mental Health Institute for Institute use without receiving information about specific short and long range space plans and impact on patient capacity. (p.40)

Augusta Mental Health Institute

Finding

The administration and staff at AMHI should be commended for the efforts which have culminated in the receipt of two national awards of recognition. (p.41)

Bureau of Mental Retardation

Administrative

28. The Department of Mental Health and Mental Retardation and the Department of Human Services should work with the providers of Intermediate Care Facilities for the Mentally Retarded to address problems concerning Medicaid reimbursement for these facilities. The Departments should report back their findings and conclusions to the Committee on Audit and Program Review before January 1, 1984. (p.42)

Finding

The Bureau of Mental Retardation is not in compliance with 34 MRSA §2654 which requires that an interdisciplinary team conduct a comprehensive evaluation of individuals applying for mental retardation services. (p.42)

Pineland Center

Finding

The administration and staff at Pineland Center should be commended for the outstanding achievement in meeting the stipulations of the Pineland Consent Decree. (p.43)

Other

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| Statutory
Sec.6 | 29. Amend 18-A MRSA §5-303 to broaden the definition of examiner to include "or psychological examiner" because a psychologist may be more appropriate in situations where the person is mentally retarded or mentally ill. (p.44) |
| Statutory
Sec.46 | 30. Repeal 34 MRSA chapter 255, as it is no longer necessary. (p.45) |
| Statutory
Sec.47 | 31. Repeal 34 MRSA chapter 257, as it is outdated. (p.45) |

DIVISION OF COMMUNITY SERVICES

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| Statutory
Sec.3 | 32. Define the objectives, programs and operations of the Division of Community Services in Maine statute to involve the Legislature in basic responsibility for this state agency. (p.48) |
| Statutory
Sec.3 | 33. Create an Advisory Council to review the policies and programs of the Division of Community Services. (p.48) |
| Legislative
PART B | 34. Eliminate the Youth Conservation Corps program operated by the Division of Community Services because it is similar to a pilot program operated by the Departments of Conservation and Labor. (p.49) |

MAINE STATE HOUSING AUTHORITY

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| Administrative | 35. Streamline administrative and paperwork requirements for the Single Family Mortgage Program, taking into account the view of other parties involved in the process. (p.51) |
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HEALTH PROFESSION LICENSING BOARDS

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| Statutory
Secs.20-24,
34 and 36 | 36. Remove certain restrictions on how optometrists and podiatrists may organize the business aspects of their practices and limit the powers of their respective boards to create these restrictions by rule to increase competition in the health care market. (p.53) |
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| Statutory
Secs.9, 12-18,
25-30, 35 and 37 | 37. Grant licensing boards the power to refuse to renew a license so that they have some intermediate powers. (p.54) |
| Statutory
Sec.11, 19,
and 33 | 38. Allow the Governor to consider nominations for board membership from professional associations and from other sources to encourage a full range of viewpoints in the nomination process. (p.54) |
| Statutory
Sec.10 | 39. Require that an applicant for licensure by the Board of Chiropractic Examiners graduate from a chiropractic college accredited by an approved accrediting agency. (p.55) |
| Administrative | 40. Change the way the Attorney General's Office charges dedicated accounts for legal services to reflect with greater accuracy the work it does for each account in a year. (p.55) |
| Statutory
Sec.38 | 41. Repeal Title 32, Chapter 53, "Practice of Healing Art or Science", because it is unnecessary. (p.56) |
| Statutory
Sec.31 | 42. Enlarge the Board of Registration of Medicine by adding one physician and one public member to increase public representation on the Board and to provide the Board with a greater pool of members from which to draw a quorum. (p.56) |
| Statutory
Sec.32 | 43. Delete from the Medical Practice Act the remaining reference to a physician's duty to report colleagues for alcohol or drug abuse or for mental illness to make the statutes consistent. (p.57) |

OTHER INDEPENDENT BOARDS

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| Statutory
Sec.7, 8,
and 49 | 44. Update and strengthen the current legislation as it relates to the operation and duties of the Governor's Committee on Employment of the Handicapped. (p.57) |
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Statutory
Sec.1

45. Continue the following independent agencies with or without legislative or administrative change under the provisions of the Maine Sunset Laws: (p.58)
- Board of Chiropractic Examination and Registration;
 - Board of Dental Examiners;
 - State Board of Licensure of Administrators of Medical Care Facilities other than Hospitals;
 - Board of Registration in Medicine;
 - State Board of Nursing;
 - State Board of Optometry;
 - Board of Osteopathic Examination and Registration;
 - Board of Commissioners of the Profession of Pharmacy;
 - Examiners of Podiatrists;
 - Maine Health Facilities Cost Review Board;
 - Maine Medical Laboratory Commission;
 - State Planning and Advisory Council on Developmental Disabilities;
 - Maine Committee on Problems of the Mentally Retarded;
 - Governor's Committee on Employment of the Handicapped; and
 - Division of Community Services

GENERAL RECOMMENDATIONS

Statutory
Sec.2

46. Require future General Fund bond authorizations to stipulate that issued but unspent bond monies shall lapse to the Treasurer's debt service account no later than ten years after the bond is approved by the voters. (p.59)

Administrative

47. The Legislature should support the establishment of a central roster and the concept of a central office to focus on reducing the cost of workers' compensation to state employees. (p.59)

During 1982, the Audit and Program Review Committee was charged under the Maine Sunset Law with reviewing the work of the Departments of Corrections and Mental Health and Mental Retardation and seventeen independent agencies. The Committee's Sunset review process is summarized below:

October 1981. The departments and agencies scheduled for review submitted a justification report for each of the 55 programs to be reviewed. These reports are available upon request.

January-March 1982. The Committee conducted 13 public hearings covering each of the justification reports submitted.

April-December 1982. The Committee visited 8 facilities and held 4 full committee meetings and 16 sub-committee meetings to develop the recommendations contained in this report.

The Committee conducted mail surveys of the Office of Children's Services' contract agencies, community action agencies and HEAP providers and MSHA single family mortgage lenders.

The Committee conducted telephone surveys of mental health providers and a sample of MSHA project managers.

The Committee reviewed overtime records at various state institutions in considerable detail.

Because of time and staff limitations, the Committee has not been able to review all 55 programs in depth. Consequently, the absence of findings or recommendations about a departmental program does not necessarily mean that the Committee found that program to be operating efficiently and effectively.

The following report represents the majority opinion of the Committee with respect to each program reviewed, based on information received by the Committee to date. Public hearings covering each segment of the accompanying "ACT Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law" and each administrative recommendation are planned after the bill is referred back to the Committee in January.

The opinions of individual Committee members on each of the recommendations included in this report will be indicated when the Committee reports the bill back to the full Legislature after these hearings.

DEPARTMENT OF CORRECTIONS

DESCRIPTION

The Department of Corrections is charged with supervising, guiding, and planning adult and juvenile correctional institutions and programs within the state. This includes operating six correctional facilities, overseeing adults on probation or parole and juvenile offenders under the supervision of the juvenile intake system and funding a variety of community services for correctional clients.

In FY 1982, Corrections had a total budget of \$21.6 million. Most of this is state funding with less than 3% from federal sources. More than 81% of all department expenditures went toward operating the six correctional facilities. Likewise, 87% of the Department's 846 employees work in the institutions.

The major responsibilities of the Department of Corrections are summarized below.

Central Office Operations. The Central Office staff of 18 oversees all departmental operations and provides centralized fiscal, personnel, planning and management services. The Central Office also contracts with 23 local, non-profit agencies to provide community services for departmental clients. These contracts amount to \$964,000 in FY 1982, or approximately one half of the total office budget of \$1.8 million.

Probation and Parole. The Division of Probation and Parole (P&P) supervises 3,500 probationers and parolees through 18 offices in 5 districts throughout the state. Each P&P client has regular contact with an assigned probation officer. In addition, about 4,500 youths are referred to the juvenile intake system each year for supervision by intake workers even though they may not be charged with an offense. P&P staff also spend a substantial amount of time doing research and background checks for the court system. Between P&P and Juvenile Intake there is a combined staff of 92 and an annual budget of \$2.22 million.

Maine State Prison. The Maine State Prison in Thomaston is a 400 bed maximum security prison with a staff of 250. It is generally used for the incarceration of males with sentences of more than five years. The prison warden also has administrative supervision of the Bolduc Unit in South Warren and the Pre-Release Center in Bangor. Bolduc has 72 beds and a staff of 12. Bangor with 35 beds has a staff of ten. The total expenditures for the three facilities was \$7.47 million in FY 1982.

Maine Correctional Center. The Correctional Center is located in South Windham. The main facility has a capacity of 159 male and 15 female inmates. There are also pre-release program facilities which can accommodate another 30 male and five female clients. The Correctional Center has a staff of 172 and a total annual budget of \$4.03 million. The Superintendent of MCC is also administratively responsible for the Charleston Correctional Facility and the Central Maine Pre-Release Center, though these facilities have separate appropriations.

Charleston Correctional Facility. The Charleston Correctional Facility, located between Bangor and Dover-Foxcroft, is the state's newest correctional institution. Opened in 1981 with 28 beds, it was expanded this past year by another 28 beds. Charleston now has a staff of 35.5 and a current annual budget of \$812,900.

Central Maine Pre-Release Center (CMP-R). Located in Hallowell in a part of the old Stevens School complex, CMP-R has a staff of 17.5 and annual expenditures of \$379,500 in FY 1982. It can accommodate 30 inmates, many of whom are assigned to work crews in various state-owned buildings in the Augusta area.

Maine Youth Center (MYC). The Maine Youth Center is the state's facility for youths institutionalized by the Court. The Youth Center has 249 beds and a staff of 239 which includes teaching staff for the Arthur R. Gould School, an integral part of the facility. The Youth Center had expenditures of \$5.06 million in FY 1982.

RECOMMENDATIONS - DEPARTMENT OF CORRECTIONS

CENTRAL ADMINISTRATION

RECOMMENDATION 1: Eliminate the requirement that the Department prepare and distribute a plan relating to the prevention of juvenile crime because the plan does not serve any useful purpose.

When the 108th Legislature enacted the Juvenile Code, it included a requirement that the Department of Mental Health and Corrections prepare an annual plan "for identifying, evaluating and meeting the service needs for prevention of juvenile crime and rehabilitation of juveniles adjudicated as having committed juvenile crimes". The statute prescribes a list of items that the Department must include in the report. The Department publishes its evaluation and plan each January and provides copies to the Governor, Legislature and Judicial Department.

The Committee finds that the report is not used as a basis for legislative decisions about juvenile services. It also finds that preparing the report is routine, time-consuming, and does not enhance the Department's internal management of its juvenile justice services.

The Committee recommends that the Legislature relieve the Department of its charge to publish and distribute the report. This recommendation will save approximately \$3,000 annually in the direct costs of preparing the report. Department planners will have more time to devote to other planning needs, particularly projecting the future needs of correctional facilities. (See Recommendation 2)

RECOMMENDATION 2: Devote additional effort to developing inmate population projections in order to have a sound basis for planning future correctional services and facilities.

In Maine, the number of inmates in the correctional system has risen rapidly since the end of 1980 and is now straining the capacity of this system. National experts suggest that population increases since 1975 have been influenced by the baby-boom, thereby increasing the number of people in the young adult "crime-prone" age group. As a result, general declines in population levels are anticipated in the future.

The Maine Criminal Justice Data Center had developed a state population model which seemed to be accurate in projecting quarterly inmate population levels for the period from October 1979 to October 1981. Since then, however, those projections have been considerably below the actual number of inmates. The Data Center had made several efforts to correct its model, but these attempts have been limited for two reasons. First, much of the data which has been used in projections in other states (sentencing information, for example) is not immediately available. Second, the Data Center, which became a responsibility of the Department of Corrections in July, devoted less than one third of a person's time to working on this problem between February and August 1982..

Sound legislative decisions about additional bed space must address whether such space is temporary or permanent, maximum or minimum security, and to house male or female inmates. Reliable estimates of future population levels would help to answer these kinds of questions. The Committee finds that the Department does not have such estimates now. The Committee recommends that the Department make its population projection work a higher priority. Specifically, it recommends that, at a minimum, the personnel resources previously devoted to the Juvenile Code Report be applied to efforts to improving methods for projecting the future needs for various correctional services.

RECOMMENDATION 3: Adopt the Department of Human Services' Medicaid payment schedule in order to reduce expenditures for outside medical services.

The Department of Corrections spent an estimated \$421,500 in FY 1982 for medical services from hospitals and private providers. The Department is billed for these services at the same rates the general public pays.

The Department of Human Services pays for medical services for its clients through a variety of programs, the largest of which is Medicaid. All payments, however, are based on DHS's Medicaid rate schedule which is established by departmental rule. Payments under this schedule are often substantially lower than comparable charges to the general public.

The Committee finds that there is no reason for one department to be paying more than another for the same service and recommends that the Department of Corrections take the appropriate administrative steps to adopt the same rate schedule as that used by Human Services. This recommendation should lower the rates for hospital services the Department of Corrections now pays by an estimated 5% and reduce costs for other medical services by an estimated 40%. Complying with this recommendation will save the Department more than \$82,000 in FY 1984.

DIVISION OF PROBATION AND PAROLE

RECOMMENDATION 4: Combine the field staff of the Maine Youth Center aftercare program with the Division of Probation and Parole to equalize the treatment juveniles receive from the Department of Corrections, and eliminate two positions to take advantage of increased efficiency arising from the merger.

Currently, probation and parole officers (PPO's) in the Division of Probation and Parole monitor adjudicated juveniles sentenced to probation. On the other hand, the staff of eight aftercare workers from the Maine Youth Center monitor juveniles sentenced to the Center and then released, on leave or entrustment, into the community.

The services the two programs offer are roughly similar; both monitor the juvenile's behavior and steer him or her to help in the community. However, the average caseloads of the aftercare workers are considerably smaller than those of PPO's. The aftercare workers monitor approximately 225 clients in the community and provide other services for 230 clients residing in the Center, an average caseload of 57. The 44 PPO's monitor about 3,500 probationers, including about 700 juveniles, an average caseload of 80. Furthermore, these eight aftercare workers are spread thinly over the entire state; they spend almost 20% of their time traveling. PPO's are assigned to smaller districts and average less than 12% of their time on the road.

The Committee finds that combining these two programs will provide the same degree of service to all adjudicated juveniles. This merger provides the Division of Probation and Parole with greater flexibility to distribute its employees efficiently and reduces costs by reducing the total amount of travel required. Furthermore, the Legislature can eliminate two positions and still lower the current PPO average caseload to 79.

The Committee recommends that the Legislature combine the aftercare program with the Division of Probation and Parole and eliminate two positions. This will result in an annual savings of approximately \$24,000.

INSTITUTIONS STATEWIDE

RECOMMENDATION 5: Make information concerning inmate earnings available to the Department of Human Services and to the IRS to ensure that potential child support obligations are met and that appropriate taxes are paid.

Inmates on work-release status hold jobs in the community and are paid at least the minimum wage. Inmates at the Maine State Prison can earn money working in the Industries or Crafts programs.

The Support Enforcement and Location Unit (SELU) in the Department of Human Services (DHS) operates a statewide program to recoup AFDC payments from absent parents who have income but who are not providing child support for their children. In determining the amount of support payments an individual must pay, SELU takes into account an individual's income and other expenses. DHS officials note that without specific information from the Department of Corrections it is unlikely that they will be made aware of inmate earnings.

The Committee finds that anyone with child support obligations should make an effort to meet those obligations. It notes that recent legislation provides for the attachment of unemployment compensation for child support payments. The Committee also finds that anyone with taxable income has a responsibility to pay appropriate taxes.

Therefore, the Committee recommends that the Department of Corrections make timely reports of inmates on work-release status to DHS for the purpose of recouping child support payments. The Committee further recommends that records from the Industries and Crafts programs be maintained to facilitate reporting of earnings to both the IRS and DHS. Corrections should work with DHS to develop a system for providing DHS with relevant information on Industries and Crafts earnings. Finally, the Committee also recommends that the statutes be amended to exclude earnings information from inmate files which are protected as confidential information.

RECOMMENDATION 6: Increase the charge to inmates on work-release to \$35 per week for room and board.

An estimated 80-90 inmates are on work-release status at any given time. These inmates hold jobs in the community but return to custody each night and on weekends. Bangor Pre-Release and the Pre-Release Center at MCC are the two major housing units for work-release inmates but some are assigned to other pre-release centers and to county jails.

All inmates on work-release status have jobs which earn at least the minimum wage. Since January 1980, the Department has charged work-release inmates \$14 a week for room and board and \$2 a day for transportation to and from work. The Committee notes that county jails generally charge their inmates \$35 a week for room and board.

The Committee finds that the current \$14 room and board charge is unreasonably low. It neither covers the costs to the state for feeding and housing the inmate, nor approximates what a person would need to pay to live in the community. Since these inmates are earning at least the minimum wage, the Committee finds that the room and board charge should be increased to \$35 per week.

RECOMMENDATION 7: Ensure that charitable organizations benefiting from public restitution programs comply with the statutory mandate to pay guard per diem and inmate transportation costs.

Work crews from Charleston, Bolduc, Bangor, Central and Southern Maine Pre-Release Centers are active in public restitution projects. These projects generally involve construction, painting and repair of buildings and other property owned by the state, local and county governments, and private nonprofit organization. The total value of this work in FY 1982 amounted to \$230,664. More than half of this work was for the state, about 30% was for local government and the remaining \$31,000 (13%) was for nonprofit groups. In 1982, these nonprofit groups included: Maine Coast Artists Assoc., the Salvation Army, Shaker Village, Camp Gregory, the Portland YMCA, and the Auburn SPCA.

The statutes (34 MRSA §5) provide that when inmates are used to improve property owned by charitable organizations, those organizations should pay for inmate and guard transportation to and from the work site and per diem compensation for the guards. The Department does not now impose these charges.

The Committee finds that nonprofit organizations who use inmate labor receive a considerable benefit and should pay for a part of that benefit. Such charges are comparable to a local match requirement and will contribute a small part toward the state's cost of operating its correctional facilities. Consequently, the Committee recommends that the Department adhere to the current statute and assess these charges when inmates assist nonprofit organizations. Compliance with this statute in FY 1982 would have generated \$8,500 in revenues to the General Fund, assuming a \$30 per diem.

RECOMMENDATION 8: Ensure that the state statutes relating to staff housing are followed to assure that all employees are treated in an equitable manner.

The statutes (5 MRSA §8-B) provide that, except when residence in state housing is a condition of employment, a rental charge shall be made to cover the total operating cost of the

housing unit. This includes, but is not limited to, the cost of water, electricity, heat, telephone, furnishings and other maintenance costs.

The Department of Corrections currently provides 32 units of staff housing for its employees. Only in one instance is residence in state housing a condition of employment. At some facilities utilities are included and employees pay no rent. At other facilities, employees pay rent which more or less covers utilities. In still other cases, the employee's rent covers utilities plus an amount for maintenance.

The Committee notes that collective bargaining agreements at the Maine State Prison run counter to legislative intent. It is also concerned that current housing policy is not being applied equitably to corrections employees at other facilities. Therefore, the Committee recommends that the state take steps to bring all corrections housing units into conformance with the statutes at the earliest appropriate opportunity.

RECOMMENDATION 9: Increase the 20 year retirement provision for Maine State Prison staff to 25 years for new employees to eliminate current inequities between Prison staff and other Corrections employees.

Maine law provides for 20 year retirement benefits for state police, game and marine wardens and employees of the Maine State Prison (MSP) who are "employed as a guard or engaged in any management of prisoners, or as the supervising officers of any such guards or employees." There is no age requirement for State Police or the Wardens--there is a 50 year age minimum for Maine State Prison employees. Other corrections employees get full retirement benefits only at age 60 or after 25 years of service.

This difference results in substantial inequities. For example, guards at the Prison who have no inmate contact, psychologists, boiler operators, cooks, social workers, and the librarian at Thomaston all have 20 year retirement as do the guards at Bolduc and the Bangor Pre-Release Center. Yet guards at the Correctional Center, Central Maine Pre-Release, and Charleston, and training school counselors at the Youth Center only have 25 year benefits. In some cases their work may be more stressful and dangerous than that of some Prison employees. This inconsistency may make it difficult to centralize administration of pre-release centers and raises questions about what benefits guards who oversee female MSP prisoners at the Correctional Center are entitled to.

The Committee estimates that in 1982 it would have cost the General Fund \$390,400 in additional payments to the state retirement system if all correctional facility employees had 20 year

benefits. Converting all current employees to a 20 year benefit would, of course, require a much larger one-time appropriation.

The Committee finds that the cost of both the one-time lump sum payment and the additional ongoing expense necessary to provide all correctional employees with 20 year benefits is unacceptable. It is also unfair to have employees at facilities other than the Prison who may work under more stressful conditions than some employees at the Prison eligible for a lower benefit program. Consequently, the Committee recommends that all new Prison employees be eligible for full retirement benefits only after 25 years of service. Current Prison employees would remain under the 20 year program.

This recommendation, if in full effect, would have reduced state retirement contributions by \$262,200 in 1982. Since it will only apply to new employees, however, savings in the first few years will be small. This recommendation will, nevertheless, result in substantial savings in the future.

MAINE STATE PRISON

RECOMMENDATION 10: The Department and the Legislature should take steps to reduce excessive overtime expenditures at the Prison.

In 1982, expenditures for overtime at the Maine State Prison (MSP) amounted to \$1,130,000, 21% of total personal services costs at the Prison. Some overtime is expected in institutions which operate on a 24-hour basis. In addition, many correctional employees are guaranteed 2.7 hours of overtime work each week under current collective bargaining agreements. These guaranteed hours, however, amounted to only 24% of total overtime at MSP in 1982. If unscheduled overtime was eliminated by hiring additional staff, total costs would be reduced by one third, a potential savings of \$286,800 for 1982.

Overall, guards averaged nearly 11 hours of overtime each week for the entire year. Nine guards averaged more than 20 hours a week for the entire year and one individual averaged 36 hours of overtime each week. In addition to financial costs, the effects of substantial overtime on employee performance should be considered; employee performance is particularly important when public safety is at stake.

Since 1981, the Legislature has authorized an additional 61 positions for MSP, yet the overtime expenditures remain high. The Committee has reviewed the Prison's Staff Plan and the history of recent departmental requests and legislative responses for additional personnel at the Prison in considerable detail.

The Committee finds that the Department has relied heavily on its Staff Plan in making requests for new positions. Once positions are approved, however, there is often considerable difference between the Plan and positions actually created and filled. The Department was not forthcoming about the shortages in its Industries account which created a need for additional General Fund positions. The Department also chose to add a major new program (night recreation) without prior approval from the Legislature.

The Committee finds that unplanned overtime expenditures can and should be reduced. There should be a full review of programs currently in operation at the Prison and the staff needed to run these programs. Sufficient staff should be provided to cover authorized programs without requiring overtime. Programs not authorized by the Legislature should be eliminated.

Specific fiscal impacts of this recommendation depend upon the level of programs authorized by the Legislature through the appropriations process. However, if all programs had been approved and fully staffed and all overtime had been eliminated the state would have realized a savings of \$387,900 in FY 1982.

RECOMMENDATION 11: Conduct a thorough review of the Prison Industries Program and report findings and recommendations for corrective action no later than September 30, 1983.

The Prison Industries Program employs inmates in the wood-working, printing and upholstery shops. Industry products are sold either to the general public through the Prison store or to state agencies. While the program has some incidental job training aspects, the Department sees it primarily as a means for keeping inmates occupied and providing them with a small income. About 32% of all MSP inmates work in this program for 2.5 hours each day.

The Industries Program operates as an enterprise account--a method for accounting for a program which is supposed to operate like a self-sufficient business. Before the lockdown, inmates working in the Industry Program did not receive any wages. This meant that inmates greatly preferred to work in the Crafts Program where they were able to earn money for the same kind of work. Since the lockdown, the Department has instituted a system in which inmates receive a share of the profits from the Industry Program. Under the new system, inmates working in Industries are paid on a piecework basis as each item is completed. Payment comes from the Industry Fund which generates revenues from sales. The system thus depends on maintaining sales at the same level as production to avoid a cash flow problem. Current inventories are up substantially from a year ago and the program appears to have serious financial problems.

The Committee finds that there should be a thorough review of the Industries Program for several reasons. It questions the financial viability of the current program and why some costs, such as bookkeeping and some utilities associated with the program, are not charged to the Industries Account. The Committee notes that the state itself represents an important market for industry goods. That market is being underutilized at least partly because of quality control problems. Finally, the Committee notes that similar programs in other states are more diversified and appear to be more profitable.

The Committee recommends that the Department conduct a review of this program and report its findings no later than September 30, 1983 so that the Legislature has adequate time to consider the implications of recommended changes. This review shall include: an examination of the basic philosophy and purpose of the program; an analysis of recent expenditures and sales data; a review of costs which are not now charged to the program; ways in which state purchases can be increased; and possible diversification of the program, including projected costs and sales for new activities.

RECOMMENDATION 12: The Legislature should monitor the payment system for inmate work at the Prison.

An inmate's daily routine at the Prison is divided into two parts. Half his time is spent in work assigned to him by the Prison Classification Committee. The other half is spent in activities of his choice, for example in various recreation programs, the library, the craft shop or time in his cell. Work assignments include the kitchen, laundry, commissary, various cleaning and maintenance crews and the Industries Program which produces goods to be sold to the general public and state agencies. All inmates who carry out their work assignments satisfactorily earn good time for that work--an additional two days per month served off their sentence.

The Committee notes that the inmates who are assigned to the Industries Program (30-35% of all inmates) are paid on a piecework basis for their work in addition to the good time. Other inmates are not paid for their work. The Committee questions the appropriateness of such differential treatment and has requested that the Attorney General review present policy.

The Committee recommends that the Attorney General report his findings both to the Commissioner and to the Committee. If some corrective action is necessary, the Legislature should be in a position to review various options and take an active role in any program changes which might be necessary.

RECOMMENDATION 13: Eliminate any waste or mismanagement of foodstuff at the State Prison in order to bring costs there into line with those in other facilities.

Daily expenditures for food per bed at various correctional facilities are shown below.

	<u>FY'81</u>	<u>FY'82</u>
Youth Center	\$2.08	\$2.08
Correctional Center	\$1.89	\$2.50
Central Maine Pre-Release		\$3.11
Charleston	\$2.76	\$3.21
State Prison	\$3.27	\$3.41

These costs are for foodstuff only. Labor and other related expenses are not included. Costs at the State Prison are 30%-60% higher than at the Youth Center or the Correctional Center which are comparable facilities in terms of expected economies of scale in purchasing and operations. If the Prison had been able to operate at the same expenditure level as the Correctional Center last year, total costs would have been reduced by \$156,400.

The Committee notes that the Department is now aware of these differences. The Committee finds that the Department should be working vigorously to explain and reduce these discrepancies. The Committee intends to review food expenditures at all correctional facilities in 1984 to ensure that improvements have been made.

RECOMMENDATION 14: Eliminate the dedicated account for transportation charges for work-release inmates at Bangor Pre-Release.

Currently, the Department of Corrections charges inmates on work release status \$2 per day for transportation to and from work. Revenue from this charge for MCC inmates is deposited in the General Fund. On the other hand, revenue from Bangor Pre-Release inmates is deposited into a dedicated account for maintenance of the van used to transport inmates.

The Committee notes the inconsistencies in the way these funds are handled. While the Committee finds that a charge for transportation is quite appropriate, it also finds that transportation of work-release inmates is part of the state's general responsibility to supervise these inmates. The Legislature should appropriate funds to provide inmate transportation. Consequently, the Committee recommends that the dedicated transportation account be eliminated and all revenues for inmate transportation be deposited in the General Fund. It further recommends that in the future the Department establish dedicated accounts covering operational costs only when specifically authorized by the Legislature.

RECOMMENDATION 15: Change the requirement that the Warden of the Maine State Prison live within the precincts of the Prison to one that the Warden live within a reasonable distance of the Prison.

Maine statutes now require the Warden of the State Prison to live within the precincts of the Prison. The purpose of this requirement is to ensure that the Warden can respond to emergencies at the Prison at any hour. However, modern transportation and communication systems eliminate the need for the Warden to live at the Prison.

The Committee finds that the current restriction is an undue burden on the Warden and the Warden's family. The Committee also recognizes, however, that even with modern transportation the Warden needs to be able to reach the Prison in a reasonable time to respond to emergencies. Therefore, the Committee recommends that the Legislature require only that the Warden live within a reasonable distance from the State Prison.

RECOMMENDATION 16: Use funds currently available from previously authorized bonds for General Fund debt service, if the 111th Legislature does not take action on further improvements to the East Wing.

In 1971, Maine citizens authorized expenditure of \$355,100 in bond funds for ventilation improvements and window replacements throughout the Prison and new locks in the East Wing. All work has been completed except for improved ventilation in the East Wing. No substantial expenditures have been made from this account in the past four years. The Department reports that the East Wing ventilation work has not been done because there may be a need for major renovations there. Any improvements now would thus be temporary and would have to be redone. A balance of \$131,741 remains in this account as of November 3, 1982.

The Attorney General has ruled that bond funds can be used only for the purpose for which they were authorized. The Committee notes that these funds have been available to the Prison for ten years and that no substantial projects have been undertaken from this account in recent years. It finds, therefore, that these funds are unlikely to be used unless additional funds are authorized for major alterations. Consequently, the Committee recommends that the remaining balances from the 1971 authorization be used for debt service during 1984 unless the 111th Legislature authorizes additional renovations by the end of the second regular session. If the 111th Legislature authorizes no further capital improvements, this recommendation would result in a one-time savings of \$131,000 to the General Fund in 1984.

MAINE CORRECTIONAL CENTER

RECOMMENDATION 17: Establish a dedicated industries account to cover supplies and equipment for the Center's vocational training activities.

Inmates at the Maine Correctional Center (MCC) work in various shops at the Center to learn a trade which they can use when released. They produce clothing, work at metal or carpentry projects and repair various kinds of mechanical equipment. All materials and equipment used in these shops are currently purchased from MCC's General Fund appropriation. This has meant that supplies and equipment have been so limited that it is sometimes hard to initiate new work projects.

Many of the items produced, and much of the repair work done at MCC, can be sold. For example, the auto repair shop could do repairs for private individuals and the small equipment sheds built in the carpentry shop appear to have a ready market. A charge for materials and a modest overhead could finance the purchase of new materials and equipment necessary to start new projects and maintain a steady supply of work for the inmates.

The Committee recommends that a dedicated "industries" account be created for MCC to receive revenues from charges for materials and overhead. Funds from this account should be used to purchase equipment and materials only. The Committee is very conscious of the past and current deficiencies in the Industries Program at the Maine State Prison. Because of those problems, the Committee specifically recommends that no funds from the Industries account at MCC be used either for inmate or staff salaries.

MAINE YOUTH CENTER

RECOMMENDATION 18: Use remaining bond funds authorized for conversion of the heating system at the Youth Center for General Fund debt service because the conversion project has been halted.

In 1971, Maine citizens authorized expenditures of \$100,000 to convert the heating system at the Maine Youth Center. Nearly \$40,000 of this amount was spent on the steam distribution system, but the remaining work was not economically feasible.

The Attorney General has ruled in various opinions related to expenditures of bond monies that when authorized funds cannot be used for the projects for which they were appropriated, these funds may be used for debt service. The Committee recommends that

the balance in the Youth Center heating system account be used for debt service because these funds cannot be used for the heating system. The Committee further recommends that the Treasurer's General Fund debt service appropriation be reduced accordingly.

This recommendation will result in a one-time General Fund savings of \$60,000.

CORRECTIONAL ADVISORY COMMISSION

RECOMMENDATION 19: Ensure that the Commission's membership and activities conform to its statutory mandate.

The Maine Correctional Advisory Commission was created in 1975 to advise the executive, legislative and judicial branches of government about correctional policies. The Commission is composed of 12 members which should include one Representative, one Senator, one full-time nonadministrative employee of the correctional system, and one former inmate. The Commission is charged with issuing a "report containing the results of its studies to the Legislature, the Governor, and the Commissioner on December 31st of each year."

The Commission membership does not currently include a State Senator. While the Commission reports that it made an informal, oral report to the legislative leadership, it has not issued a written report in the past several years.

The Committee finds that if the Legislature and the public are to benefit from the Commission's existence, its findings should be available in written form. Also, Commission membership should conform with its enabling legislation. The Committee recommends that the membership be modified to meet statutory requirements and that the Commission recognize its basic mandate to provide the Legislature, Governor, and Commissioner with a written annual report of its findings.

DEPARTMENT OF
MENTAL HEALTH AND MENTAL RETARDATION

DESCRIPTION

The Department of Mental Health and Mental Retardation (DMH&MR) is charged with assuring that appropriate statewide services are provided to those who are handicapped as a result of mental illness, mental retardation and developmental disabilities. DMH&MR has supervisory responsibility for the grounds, buildings, employees, and clients of the Augusta Mental Health Institute, the Bangor Mental Health Institute, Pineland Center, Elizabeth Levinson Center, Aroostook Residential Center, the Infant Development Center, and the Bath Military and Naval Children's Home. In addition to the institutions under its administration, the Department operates six regional mental retardation offices.

The Department can be divided into four main groupings: Central Administration, the Office of Children's Services, the Bureau of Mental Health, and the Bureau of Mental Retardation. In 1982, DMH&MR's total expenditures were \$55,182,887. Roughly, 2% of this was expended by Central Administration, 3% by the Office of Children's Services, 53% by the Bureau of Mental Health, and the remaining 43% by the Bureau of Mental Retardation. Included in the Department's total expenditures is nearly \$10 million contracted to community agencies. Through third party reimbursement, the Department returned \$12,890,000 to the General Fund in FY 1982. Therefore, funding for departmental services is approximately 73% General Fund, 23% from third party billings (both federal and private), 3% from federal funds, and the remaining 1% from dedicated revenues.

The Department has over 2,000 employees and is responsible for about 1,000 residents in its facilities. These facilities are currently operating at maximum capacity. Throughout the Department, the main emphasis is to provide services in the least restrictive environment. To this end, the Department currently works or contracts with nearly 100 community agencies who provide services to additional clients. The four main administrative units are briefly described below.

Central Department Administration. Central Administration is narrowly defined to include the office of the Commissioner and two Associate Commissioners, financial services, central office personnel, the office of information and public affairs, the staff development office, the affirmative action office, and the central office of advocacy. In FY 1982, expenditures for these administrative services were \$865,313 and supported 35 positions.

The Office of Children's Services. The Office of Children's Services (OCS) coordinates, plans, and develops programs for the mental health needs of children, ages 0-18. This office contracts with residential treatment centers and nonresidential programs to provide mental health services for children. The Office of Children's Services has administrative responsibility for the Bath Military and Naval Children's Home. In addition, the Interdepartmental Coordinating Committee is housed within OCS. For FY 1982, the expenditures for the Office of Children's Services totaled \$1,738,762 and funded 18 staff positions.

Bureau of Mental Health. The Bureau of Mental Health is charged with responsibility for the promotion and guidance of mental health services throughout the state. To this end, the Bureau staff oversees the direct administration of mental health services provided by the Augusta Mental Health Institute and the Bangor Mental Health Institute, and monitors 29 licensed community mental health facilities. At any one time, the mental health institutes together provide care and treatment to approximately 650 residents. The Bureau also administers the Community Support Systems Project.

Bureau staff contract with a number of private, nonprofit agencies for the provision of mental health services. In FY 1982, the programs and institutes under the jurisdiction of the Bureau employed a staff of about 1,150 and expenditures totaled \$29,420,732.

Bureau of Mental Retardation. The Bureau of Mental Retardation is responsible for assuring the provision of services to mentally retarded or developmentally delayed persons. The Bureau is assigned administrative responsibility for the supervision of Pineland Center, the Aroostook Residential Center, the Elizabeth Levinson Center, and the Infant Development Center. At any given time, the resident population totals about 380, most of whom (95%) are severely and profoundly retarded. The Bureau serves as guardian for 275 mentally retarded individuals, conservator for 161 individuals and representative payee for another 680 individuals.

To facilitate the provision of services for the mentally retarded, the Bureau operates six regional offices and contracts with a number of local providers for home health services, day programs, and residential services. The regional offices employ a staff of 141.

Since 1978, the Bureau of Mental Retardation has had the major responsibility of meeting the stipulations of the Pineland Consent Decree both in terms of the standards for Pineland Center itself and the standards for community care. Bureau expenditures in FY 1982 totaled \$23,158,080 and funded approximately 980 staff positions.

RECOMMENDATIONS - MENTAL HEALTH AND MENTAL RETARDATION

CENTRAL ADMINISTRATION

RECOMMENDATION 20: Deappropriate funds from both AMHI and BMHI accounts and reappropriate these funds to other state agencies to ensure that the institutes' expenditures do not reflect the cost of services to other state agencies.

As the Augusta Mental Health Institute (AMHI) and the Bangor Mental Health Institute (BMHI) have decreased their patient populations over the past years, vacated buildings have been renovated for use by other state departments. The Departments of Conservation, Agriculture, Labor, Environmental Protection, Educational and Cultural Services, and Public Safety, along with Archives and the Workers' Compensation Commission now occupy approximately 50% of the building space at the AMHI complex. Inland Fisheries and Wildlife and the Department of Corrections utilize building space at the Bangor campus.

During this transition, DMH&MR has retained responsibility for providing some space-related services to these state agencies. These services primarily include heat and external building and grounds maintenance. When combined, these responsibilities result in a minimum unreimbursed annual cost to the Department of Mental Health and Mental Retardation of \$232,000, in effect overstating departmental expenditures by this amount while understating the other departments' expenditures.

To correct this inequity, the Committee recommends that funds be deappropriated from both AMHI and BMHI and reappropriated to other state agencies to ensure that the institutes' expenditures do not reflect the cost of services to other state agencies. These agencies, in turn, should reimburse AMHI and BMHI for the cost of services provided. It is the Committee's intent that DMH&MR should assume full responsibility for billings and collections. In addition, the Department of Mental Health and Mental Retardation should develop, with input from the various state agencies affected, a formula for assessing the actual cost of these services prior to the next biennium.

RECOMMENDATION 21: Amend 34 MRSA §1 to require private, nonprofit agencies housed within Department space, except where otherwise specified by state statute, to reimburse DMH&MR for its expenditures on space, phone, utilities, and supplies.

Presently, DMH&MR provides a combination of space, utilities and other support services to six different nonprofit agencies at a minimum cost to the state of \$24,500. These agencies include: the Sunshine Center in Pownal, the Supervisory Administrative District #16 in Hallowell, and the Kennebec Valley Association for Retarded Citizens, Central Senior Citizens, Southern Kennebec Child Development Corp., and the Community Shelter in Augusta. The Committee finds that it is inequitable to provide services in this manner to some nonprofit agencies and not to others. Therefore, the Committee recommends that 34 MRSA §1 be amended to require private, nonprofit agencies housed within Department space, except where otherwise specified by state statute, to reimburse DMH&MR for its expenditures on space, phone, utilities and supplies.

RECOMMENDATION 22: Identify the working budget of the Committee on the Problems of the Mentally Retarded at the beginning of each fiscal year.

The Maine Committee on Problems of the Mentally Retarded was established in 1965 to act in an advisory capacity to the Commissioner of DMH&MR and the Director of the Bureau of Mental Retardation. The Committee is composed of 12 members: one member from the House, one member from the Senate, one member from the Maine Association for Retarded Citizens, and nine representative citizens appointed by the Governor.

Committee members meet monthly and work with the Bureau of Mental Retardation to develop plans for meeting the needs of the mentally retarded. Members have been active in seeing that the Pineland Consent Decree is met, providing a vehicle for public concern and assisting in the development of group homes.

As an advisory committee to DMH&MR, clerical and staff support is provided through the Bureau of Mental Retardation. The estimated annual expenditures of the Committee for FY 1982 were \$4,500. Members receive reimbursement for travel only.

Presently, the Committee's operating funds are not identified in advance of the fiscal year. To enable the Committee on Problems of the Mentally Retarded to plan for the coming year, the Committee on Audit and Program Review recommends that prior to the beginning of a new fiscal year DMH&MR identify an estimated working budget for the Committee on Problems of the Mentally Retarded.

OFFICE OF CHILDREN'S SERVICES

RECOMMENDATION 23: Formally establish the Office of Children's Services within the Department of Mental Health and Mental Retardation.

The Office of Children's Services was established within DMH&MR for the purpose of coordinating, planning, and developing programs for the mental health needs of children, ages 0-18. Having a separate Office of Children's Services emphasizes the needs of this particular population and facilitates interdepartmental coordination of services to children. Even though the Office has been in existence since 1977 and issues contracts valued at approximately \$1.7 million, there is no formal reference in state statutes.

The Committee surveyed 31 agencies which contract and work with the Office of Children's Services to assess the desirability and effectiveness of this Office. These agencies reported that it was helpful to have a separate office concerned with children's services. The Committee, therefore, recommends that legislation be enacted to formally establish the Office of Children's Services and to identify its purpose.

RECOMMENDATION 24: Close the Bath Military and Naval Children's Home and use these funds to increase the foster care board rate. The Department of Human Services should assume responsibility for placement of the children currently residing at the Home.

The Military and Naval Children's Home was founded in 1864 as an orphanage for children of veterans. Today it provides shelter and care for children from Maine who are in need due to lack of appropriate alternative shelter and care, situations of neglect, and family crisis. Children placed in the facility cannot have any serious behavioral or emotional problems because the Home is not equipped to be a treatment center.

The Home's capacity has been set at 20 by the Commissioner of DMH&MR but the number of children residing in the Home varies. The Committee reviewed placements at the Home and found that in FY 1982 an equivalent of 15 children were housed on a daily basis. During that period, 26 different children were actually placed there.

The Home employed 13 full-time staff and two part-time staff in FY 1982 and expended approximately \$248,000. With a capacity of 20, the average annual cost per bed in FY 1982 was \$12,400. Estimates of FY 1984 expenditures for the Home total \$290,400, thus increasing the average cost per bed to \$14,520.

The Children's Home was established prior to the existence of the current network of foster care homes, residential treatment centers, and group homes. Given the availability of these other resources, the Committee finds that the Home is comparatively expensive. For example, with 15 children residing there, the annual

cost per child at the Home is \$16,533 versus an average of approximately \$5,330 per child in family foster care, a difference of \$11,203 per child. Even at full capacity, the difference between the cost of the Home per bed and an average cost per bed for foster care is \$7,070.

Included in the average annual cost per child in foster home placement is \$1,565 for social services. The Home's budget has not included any counseling staff, whereas the foster care system has an extensive social services staff to assist with problems and family unification. The Committee, therefore, finds that more comprehensive service is available for fewer dollars through the foster home placement system.

The Committee recognizes that the Home has been unique in its ability to house large sibling groups. However, the Committee finds that with a special recruitment effort the Department of Human Services (DHS) can locate homes to accommodate sibling groups for temporary placement.

In addition, the Children's Home serves as a long-term voluntary placement facility because there are no statutory or policy limitations on length of stay. The DHS foster care system, on the other hand, has a policy which limits the voluntary placement of a child by the parent to six months. After this time, either the parent resumes care or the state assumes custody. The Committee finds that these practices are inconsistent. Finally, the Committee notes that the Home primarily serves a localized area.

For these reasons, the Committee recommends that the Military and Naval Children's Home be closed, that the authorizing legislation be repealed and that the children currently residing there be placed in appropriate homes by DHS. Further, the Committee recommends that the General Fund appropriations of \$290,400 in FY 1984 and of \$296,200 in FY 1985 be used instead to increase the state's share of the current foster care board rate. This will, in turn, increase the federal match and have a positive impact on 1,580 placements statewide. The specific results of this recommendation include the relocation of children presently in the Home, elimination of 16 staff positions, and an increase in foster care board rates by 17 1/2%. For example, in FY 1984 the rate will increase from \$152 per month for a normal child in foster care to \$178 per month.

BUREAU OF MENTAL HEALTH

RECOMMENDATION 25: Discontinue the Community Support System Project and reappropriate funds to direct mental health services.

The Community Support Systems Project (CSSP) was established in DMH&MR by a federal project grant in 1978. Project staff has

increased from six in the first year to a current funded level of 13. This includes five central office staff and eight regional planners. The project budget for federal 1983 is \$345,000, \$56,000 of which is funded from General Fund appropriations.

The purpose of CSSP is to promote the development of comprehensive community support systems to meet the needs of chronically mentally ill adults. To this end, project staff spent the first year and one half on needs assessment. Since that time, CSSP staff have assisted in the development of five family support groups, a client support group, four transitional employment programs, three psychosocial clubs, and a mobile crisis intervention program.

Federal funding for this project has decreased during the current project year and DMH&MR anticipates that by August 31, 1983 all federal project funds will terminate. In order to maintain the project, General Fund dollars are required at a time when priorities for limited funds need to be established.

While recognizing past efforts of the Project, the Committee finds that the rest of the mental health system has adequate resources to continue the responsibilities of CSSP. That system includes eight major mental health organizations which are responsible for delivering comprehensive mental health services throughout the state. Together their budgets exceed \$13 million and they employ over 555 staff. The application process for state funds requires mental health centers to do needs assessment as well as develop program goals. Numerous other provider agencies, advisory groups and professional associations address the concerns of the mentally ill. The mental health institutes themselves have some responsibility for ensuring appropriate community placement with ongoing support. In addition, DMH&MR's Division of Planning has a staff of seven and the Bureau of Mental Health's central office staff of six includes four professionals.

Given the need to establish state funding priorities, the availability of other mental health resources and the fact that CSSP will have had five years to identify community needs and formulate an action plan for the Department's use, the Committee recommends that CSSP be discontinued after August 31, 1983. The Committee further recommends that any funds which were to be appropriated from the General Fund be used instead to fund direct mental health services. This recommendation will eliminate up to 13 staff positions and make available up to \$288,000 in FY 1984 and \$354,670 in FY 1985 for additional direct mental health services.

BANGOR MENTAL HEALTH INSTITUTE

RECOMMENDATION 26: The Legislature should not appropriate additional funds for renovations at Bangor Mental Health Institute for office space without receiving updated information on specific space plans, agencies to be housed, and financial impacts of proposed changes.

Extensive renovations are in process at BMHI which involve the relocation of patient wards and the renovation of the Institute buildings into state office space. The intent is twofold; to consolidate patient services while upgrading the facility, and to develop a central state complex in the Bangor area.

The Bureau of Public Improvements has received an appropriation of \$462,000 to substantially renovate one building, including parking, entryway and road access and the installation of an elevator. Though some of this space will be available for occupancy in the spring, it is uncertain at this time which state agencies will be relocated. BPI is in the process of contacting each state agency to determine interest and space needs. Some state agencies have indicated their unwillingness to relocate.

Past estimates of savings from renovations were based on the assumption that certain agencies such as the District Court would relocate. In addition, the estimates did not provide a detailed comparison between various alternatives. Furthermore, the base data is now outdated. For these reasons, new renovations should not be undertaken without additional analysis.

Without well developed plans, the Committee recommends that the Legislature not appropriate any additional funds to the Bureau of Public Improvements for renovations at BMHI for office space. These plans should include a detailed analysis of various alternatives, the long range plans for these renovations, and a list of state agencies that have agreed to occupy the space.

RECOMMENDATION 27: The Legislature should not appropriate additional funds for renovations at Bangor Mental Health Institute for Institute use without receiving information about specific short and long run space plans and impact on patient capacity.

The renovations presently planned for at BMHI through FY 1985 involve the relocation of patient wards and administrative offices. During the review of these proposed plans, the Committee noted that one outcome will be a reduction of ten beds in the Program on Aging.

Another six beds will be converted to an "Independent Living Program". The patient reduction will be accomplished through attrition, limiting admissions into the Program on Aging, and transferring residents between programs.

The Committee finds that such changes and their effects should be clearly articulated to the Legislature. Therefore, the Committee recommends that the Legislature not appropriate additional funds for renovations at BMHI for Institute use without receiving information about specific short and long run space plans, and impact on patient capacity.

AUGUSTA MENTAL HEALTH INSTITUTE

FINDING: The administration and staff of AMHI should be commended for the efforts which have culminated in the receipt of two national awards of recognition.

The Augusta Mental Health Institute (AMHI), established in 1840, provides intensive 24-hour psychiatric treatment to adults from southern and western Maine. In addition, the Institute provides inpatient psychiatric treatment to adolescents from throughout the state. AMHI presently has a staff of 580 to provide care and treatment to a maximum of 331 patients at any one time. On an annual basis, the Institute provides services to over 1,000 different individuals.

In the early 1970's the facility began a dramatic decline in patient census, changing from a large 1,600 bed custodial institution to a modern psychiatric hospital. The past ten years have seen development of strong linkages between AMHI and many community mental health programs so that the mentally ill can receive assistance in the least restrictive environment.

During the Committee's review, AMHI has been recognized twice for outstanding programming. In October of 1982, The American Psychiatric Association awarded the Institute a Certificate of Significant Achievement. More recently, AMHI received three year accreditation with the highest grades possible from the Joint Commission on Accreditation of Hospitals. The accreditation process itself is an extensive review of the operation and treatment provided by the Institute to ensure that detailed quality standards are met.

The Committee on Audit and Program Review finds that the administration and staff of AMHI should be commended for the efforts and quality of programming which has culminated in the receipt of two national awards.

BUREAU OF MENTAL RETARDATION

RECOMMENDATION 28: The Departments of Mental Health and Mental Retardation and Human Services should work with the providers of Intermediate Care Facilities for the Mentally Retarded to address problems concerning Medicaid reimbursement for these facilities. The Departments should report back their findings and conclusions to the Committee on Audit and Program Review before January 1, 1984.

During the review of DMH&MR, the Committee received testimony from the Association of Intermediate Care Facilities for the Mentally retarded (ICF/MR's). Their testimony indicated that ICF/MR providers are dissatisfied with the present system of working with two departments (Mental Health and Mental Retardation and Human Services). The Association suggested that authority over Medicaid payments for ICF/MR's be given to DMH&MR.

Problem areas cited by ICF/MR providers include: the establishment by DHS of licensing and certification regulations which are inappropriate to the operation of ICF/MR's; the establishment of Medicaid reimbursement rates which are inadequate to meet program costs; DHS placements of Medicaid eligible clients which conflict with the individual program planning process for the mentally retarded; and generally answering to two departments and different sets of rules.

The state Medicaid system presently involves four separate bureaus within DHS and oversight by the federal government. Modifications to that system may be complicated and expensive. The Committee finds that every effort should be made to resolve problems within the context of the current system. If problems cannot be resolved, then changes should be considered.

The Committee recommends that DMH&MR and DHS should work with the providers to address their concerns regarding Medicaid reimbursement. The Departments should report back their findings to the Committee on Audit and Program Review before January 1, 1984.

FINDING: The Bureau of Mental Retardation is not in compliance with 34 MRSA §2654 which requires that an interdisciplinary team conduct a comprehensive evaluation of individuals applying for mental retardation services.

To obtain services from the Bureau of Mental Retardation, an application is submitted through one of six regional offices. Within five working days the Department must make a preliminary assessment of the client's abilities and needs. After the initial

assessment and within 30 days of application, the Department is required to conduct a comprehensive evaluation which is to be carried out by an interdisciplinary team (IDT). This team is responsible for determining if the client is retarded or, in the case of children ages 0-5, developmentally delayed. Based on the findings of the IDT, a prescriptive program plan, individually tailored to the client's needs, is then required if the client is mentally retarded or developmentally delayed.

Client data recently compiled by the Bureau of Mental Retardation indicated that out of 2,436 clients, 554 (23%) had never been assessed by an IDT and needed to be. In addition, there is another group of 183 clients without an IDT assessment for whom the IDT process itself may not be necessary given their single service needs. Of the 554 clients needing an IDT assessment, 550 were nonclass members and represented 30% of the Bureau's nonclass member caseload. (A nonclass member is a mentally retarded person not covered by the Pineland Consent Decree.) This data reflects the dual system of services which exists for class and nonclass members; nonclass members are not receiving equal service.

Even though there may be reasons for the current situation, the Committee finds that the Bureau is not in compliance with 34 MRSA §2654 requiring that an IDT conduct a comprehensive evaluation of individuals applying for mental retardation services. The Committee further finds that the Bureau should take corrective action which may include the submission of legislation to modify the statutes which govern the IDT and prescriptive program planning process. Finally, the Committee finds that the Department should work to alleviate the inequity in service between class and nonclass members.

PINELAND CENTER

FINDING: The administration and staff at Pineland Center should be commended for outstanding achievement in meeting the stipulations of the Pineland Consent Decree.

Pineland Center, established in 1907, is a comprehensive center for the developmentally disabled which provides training, education, care and treatment for the severely and profoundly mentally retarded. The resident population has been reduced from an estimated 1,500 residents in 1955 to under 350. In addition to its resident population, Pineland provides outpatient services to over 1,000 individuals each year. The Center employs a staff of 736.

In 1978, a class action suit charging that the State of Maine was providing substandard care for the retarded at Pineland Center and in the community resulted in the Pineland Consent Decree.

Appendix A of the Consent Decree contains 315 individual standards with which the Center must comply. These standards govern environmental conditions, staffing, treatment and the hours and type of programming residents must receive.

Over the past ten years, the United States District Courts have issued 22 decrees throughout the country to raise the quality of care for the mentally retarded. In January 1981, Pineland Center became the first state institution to win discharge from Court jurisdiction imposed by the consent decree. The Committee recognizes the intensive effort that went into improving conditions at Pineland over so short a time period. The Committee on Audit and Program Review commends the administration and the staff of Pineland Center for outstanding achievement in meeting the stipulations of the Pineland Consent Decree and in serving as a model for other states.

In addition, the Committee recognizes that Pineland Center has also met the educational, environmental, medical, health, safety and staffing requirements of federal and state regulations governing the licensure of ICF/MR's. Through certification as an ICF/MR, Pineland Center returned \$8,415,852 to the General Fund in 1982.

OTHER

RECOMMENDATION 29: Amend 18-A MRSA §5-303 to broaden the definition of examiner to include "or psychological examiner" because a psychologist may be more appropriate in situations where the person is mentally retarded or mentally ill.

Title 18-A MRSA §5-303 outlines the procedure for court appointment of a guardian for an incapacitated person. According to statute, an incapacitated person or any person interested in his welfare may petition for a finding of incapacity and the appointment of a guardian. Upon filing such a petition, a court hearing on the issue of incapacity is held. The person alleged to be incapacitated is then examined by a "physician" acceptable to the Court who submits a written report to the Court. The Court then rules on the person's incapacity and need for a guardian.

Discussions with staff of Adult Protective Services (DHS) and the Bureau of Mental Retardation (DMH&MR) indicate that the word "physician" is limiting. In many circumstances, especially with mentally ill or mentally retarded persons, a psychologist may be more appropriate and less expensive. Therefore, the Committee on Audit and Program Review recommends that 18-A MRSA §5-303 be broadened to include the phrase "physician or psychological examiner".

RECOMMENDATION 30: Repeal 34 MRSA Chapter 255, as it is no longer necessary.

Title 34 MRSA Chapter 255 mandates that the state, through DHS, maintain one or more sanitariums for the care and treatment of persons affected with tuberculosis. At one point, the state operated at least four sanitariums; the last sanitarium, located in Fairfield, was closed in 1971. The Committee recommends that 34 MRSA Chapter 255 be repealed because it requires that the Department of Human Services provide unnecessary services.

RECOMMENDATION 31: Repeal 34 MRSA Chapter 257, as it is outdated.

Title 34 MRSA Chapter 257 was enacted in 1975 to give the then Department of Mental Health and Corrections control over the facility formerly known as the Stevens School located in Hallowell. The legislation empowered the Department to use the Stevens School to establish a residential facility providing a broad range of services for children with emotional, mental and behavioral disturbances. Such a facility was never established at the Stevens School and DMH&MR does not directly operate any programs there.

The Committee therefore recommends that 34 MRSA Chapter 257 be repealed as it is outdated and that the Bureau of Public Improvements assume responsibility for the Stevens School complex.

DIVISION OF
COMMUNITY SERVICES

DESCRIPTION

The Division of Community Services (DCS) was created by Executive Order in 1964 to provide technical assistance to agencies which support new approaches in meeting the problems of low income people. DCS currently has a staff of 38 and a total budget of \$29.7 million. Only about 4% of that amount is spent directly by DCS. The remainder (\$28.5 million) is passed through to local Community Action Agencies (CAA's) and towns who administer DCS programs. These programs are described below.

In 1982, the Community Services Block Grant of \$1.8 million replaced funds that previously went directly from the federal government to Maine's 12 CAA's. These funds are used to meet a broad federal mandate to provide a wide range of services for poor people. The traditional focus of CAA's nationwide has been to help the poor to organize themselves and to work toward improving access to services provided by other state agencies. Under the block grant, DCS distributes this money to the CAA's and monitors the programs these funds support.

The Home Energy Assistance Program (HEAP) has been funded under various names by the federal government since 1977. In FY 1982 Maine received a total of \$25,165,478 in federal HEAP funds in a base and a supplemental grant. Fifteen percent (\$3.5 million) of the base grant was set aside by the Legislature for use in the Weatherization Program. Of the remainder, 10% was used for HEAP administration and 3% for crisis situations. The balance, \$19.2 million, was used to provide benefits ranging from \$245 to \$445 for 44,683 low income households. The average payment was \$400. The HEAP program is administered by the 12 CAA agencies, the Penobscot National Tribal Administration, and by 18 towns.

The Weatherization Program, which began in 1973, currently provides an average of \$1,350 worth of materials and labor for weatherizing the homes of 4,500 eligible individuals each year. Eligibility requirements are the same as those for the HEAP program. State statutes provide that households receiving HEAP benefits have first priority for weatherization services. Total expenditures for weatherization this year amount to \$6.8 million. This included the federal DOE weatherization grant, \$3.5 million of HEAP funds, and \$1 million from the General Fund. Weatherization funds are distributed to each CAA on the basis of a formula which reflects both need and past performance of the CAA's weatherization program.

DCS manages several other small programs: the Citizen's Assistance Telephone Service, the state Ombudsman Program, the Youth Conservation Corps (YCC) and, most recently, distribution of surplus cheese provided by the USDA. Distribution of surplus food has been through the CAA's while the other programs are operated directly by DCS.

RECOMMENDATIONS - DIVISION OF COMMUNITY SERVICES

RECOMMENDATION 32: Define the objectives, programs and operations of the Division of Community Services in Maine statute to involve the Legislature in basic responsibility for this state agency.

When DCS was first established in response to federal mandates, it was a limited planning and coordinating agency for programs to assist low income people. It received modest funding from the Office of Economic Opportunity for this purpose. It was also a repository for other small programs and services affecting low income citizens. With the coming of the Weatherization and HEAP programs, and later the Community Services Block Grant, however, the Division became a major state agency with a \$29.7 million budget and significant line responsibility for administering several large state programs.

With the exception of a mandate that HEAP recipients receive priority for weatherization services and some passing references in other sections, no state statute governs DCS's operations. The Committee finds that the Division's current responsibility should be undertaken within a framework approved by the Legislature. Consequently, the Committee recommends that enabling legislation governing DCS's operations be enacted.

In considering the content of this legislation, the Committee reviewed the current balance of authority between the CAA's as independent local agencies and DCS which is ultimately responsible for the programs it operates. The Committee finds that the current balance of authority is generally appropriate. With the exception of a new Advisory Council (see Recommendation 33), the Committee recommends that the current de facto relationship between DCS and the CAA's be established statutorily.

RECOMMENDATION 33: Create an Advisory Council to review the policies and programs of the Division of Community Services.

Like DCS, the state's 12 community action agencies (CAA's) were established as a mechanism for organizing the poor and helping them to achieve greater self-sufficiency. They provide a link in delivering DCS program services.

Maine's CAA's are independent, nonprofit agencies governed by boards of directors that include representatives of the public and private sectors and low income people in the area they serve. CAA's are designed to maximize independence and flexibility in meeting locally defined needs.

The Committee supports the CAA's as independent local bodies which are specially equipped to provide direct services to low income people. Because they play such an important role in delivering DCS services, the Committee finds that they should have a formal mechanism for commenting on DCS programs and policies. Consequently, the Committee recommends that an Advisory Council be established to review and comment on DCS activities. The Council should consist of three executive directors of CAA's, two CAA board members, two members of the public who receive services from the DCS or a CAA, one Senator, one Representative, and the Director of DCS as an ex-officio member.

RECOMMENDATION 34: Eliminate the Youth Conservation Corps Program operated by the Division of Community Services because it is similar to a pilot program operated by the Departments of Conservation and Labor.

The Youth Conservation Corps (YCC) is a summer work program for teenagers. Forty youths, ages 15-18, are chosen by random drawing from about 500 applicants to work for seven weeks at Baxter State Park. The participants and 11 YCC staff live and work at the Park. The youths work 30 hours per week maintaining trails and campsites for minimum wages and receive Environmental Awareness training for ten hours each week.

YCC was federally funded until this year when the federal money was eliminated and the General Fund provided \$68,422 to run the program. In addition, about 42% of one person's time at DCS is spent on this program at an estimated General Fund cost of \$8,900.

The Baxter Park Superintendent reports that the program has been quite useful. He has used YCC workers to do extra projects which the regular trail crews do not have time for and he estimates that last summer YCC did about 35-40% of all the Park's trail work.

The Departments of Conservation and Labor also operated a pilot work program for 11 youths (ages 17-21) for nine weeks this past summer. This program was different from YCC in that the participants were slightly older and were income-tested (they had to be CETA eligible) and in that it was not a residential camp. CETA selected the participants, provided several basic job training sessions and provided funds to pay minimum wages for 30 hours per week. The Department of Conservation provided a supervisor, a worksite, tools and materials. Total estimated program cost was about \$18,000 of which nearly 55% was federal CETA funds.

The Departments of Conservation and Labor are likely to propose expansion of this program to the 111th Legislature. Such an expansion would be funded partly with federal dollars, although at present there is no definite projection on the amount of available federal funds.

The Committee strongly supports the concept of a summer work program for low income youths, particularly one which involves young people in projects on public lands. On the other hand, the Committee recognizes that with major cut-backs of federal funds for many important programs, the state must carefully scrutinize each activity which is picked up by the General Fund.

The Committee finds that the pilot program being developed by Conservation and Labor is attractive for several reasons. It is specifically targeted for low income youths and has a strong job training focus. It produces improvements on state owned and managed land. It is less expensive overall (approximately \$182/youth/week compared with \$257) because it is a day program and a substantial portion of the total cost is paid from federal funds.

Consequently, the Committee recommends that the YCC program run by DCS be eliminated. The Committee recognizes that the YCC program has in the past provided a useful experience for young people in the state. It finds, however, that a new, more focused approach should now be pursued.

MAINE STATE HOUSING AUTHORITY

DESCRIPTION

The Maine State Housing Authority (MSHA) is the state's housing finance and development agency. The Authority sells tax-exempt revenue bonds to finance mortgages for single family and multi-family housing and for other housing related loans. It also works with federal housing programs and receives and administers, on behalf of the state, federal housing subsidies. This includes overseeing over 4,500 units of rental housing.

The Authority operated without legislative appropriations until 1982. At that time, the Legislature appropriated \$4.25 million so the Authority could issue tax-exempt bonds under the conditions imposed by the federal government in 1980. Since its inception in 1969, the Authority has issued bonds totalling approximately \$300 million and has assisted in the purchase or rental of nearly 10,000 units of housing. MSHA has about 55 employees.

RECOMMENDATION 35: Streamline administrative requirements for the Single Family Mortgage Program, taking into account the views of other parties involved in the process.

As part of its review of the Maine State Housing Authority, the Committee conducted a survey of lending institutions that participate in the Single Family Mortgage Program. Respondents to this survey repeatedly voiced their concern that administrative requirements and paperwork associated with this program were burdensome.

The Committee understands that much of this burden arises from the many requirements of the federal government, state statute, and the bond market. Even so, the Committee recommends that the Authority do all it can to lighten the administrative load.

The Committee further recommends that the Authority communicate with financial institutions and realtors participating in the program; MSHA should consider their perspectives in its efforts to streamline administration of this program.

HEALTH PROFESSION LICENSING BOARDS

DESCRIPTION

The Audit and Program Review Committee reviewed nine health profession licensing boards in 1982. They included the State Board of Licensure of Administrators of Medical Care Facilities other than Hospitals, the Board of Chiropractic Examination and Registration, the Board of Dental Examiners, the State Board of Nursing, the State Board of Optometry, the Board of Osteopathic Examination and Registration, the Board of Commissioners of the Profession of Pharmacy, the Board of Registration in Medicine, and the Examiners of Podiatrists.

These boards are charged with ensuring the practitioners of their respective health professions are licensed and competent. The boards examine applicants for licensure, ensure that licenses remain current and discipline practitioners who violate the standards of practice spelled out in the statutes. Some boards perform other functions related to health professions such as approving professional education programs or educating the public on health matters.

All nine boards report to the Commissioner of Human Services but in fact operate mostly independently. Fees from license applications and renewals support the boards; they receive no General Fund money. The number of licensees each board has varies from about 30 to over 10,000. The smallest boards have no employees and are operated by the members themselves from their homes. The largest boards have several full-time employees and their own office space.

RECOMMENDATION 36: Remove certain restrictions on how optometrists and podiatrists may organize the business aspects of their practices and limit the powers of their respective boards to impose these restrictions by rule in order to increase competition in the health care market.

Currently, the optometry and podiatry statutes restrict business relationships under which a professional may practice. Both generally prohibit practice in association with any entity not licensed in a health profession. In addition, the optometry statutes limit the number of offices an optometrist may maintain, the location of the practice, and referrals from optical firms.

The Committee finds that the purpose of health profession licensing is to ensure that practitioners are competent. Licensing statutes should contain standards and restrictions that clearly bear on a professional's competence to practice. At the same time,

the state should not limit competition in the marketplace by regulating health professionals in other ways. Studies have indicated that removing business restrictions should lower the price of health care to consumers, save them money and perhaps encourage more to seek out health care. Furthermore, lifting the limit on branch offices might improve access to optometry in rural areas.

The Committee recommends that the Legislature remove these restrictions from the optometry and podiatry statutes. The state should have a strong interest in allowing innovative, possibly more efficient, health care delivery systems to develop. Also, to ensure that legislative intent is clear, the Committee recommends that the Legislature limit the power of the optometry and podiatry boards to regulate the business aspects of professional practice.

The Committee emphasizes that only professionals qualified by their boards will be able to practice, whether or not these restrictions exist. One federal study shows that the overall quality of eye care in markets without restrictions was no worse than in those with restrictions. Also, in markets without restrictions, the consumer has a choice between traditional private practice and other forms of health care services.

RECOMMENDATION 37: Grant licensing boards the power to refuse to renew a license so that they have some intermediate powers.

Currently, the sanctions that boards can use against errant licensees vary. All boards use informal methods of resolving complaints about practitioners. However, some boards have no other sanctions short of filing a complaint against licensees in Administrative Court, a long and expensive process.

The Committee recognizes that intermediate sanctions are appropriate in certain cases, provide a board with more leverage in informal settlements and save time and money. The Committee recommends that all boards be given the authority to refuse to renew a license. Once refused, a practitioner could not reapply for 30 days.

This recommendation will affect the boards of dentistry, nursing, osteopathy, pharmacy and podiatry. The chiropractic statute will also be clarified.

RECOMMENDATION 38: Allow the Governor to consider nominations for board membership from professional associations and from other sources to encourage a full range of viewpoints in the nomination process.

Under current statutes, the role of professional associations in the nomination of board members varies from profession to profession. Some statutes, those for the boards of Medicine, Osteopathy,

Optometry, Chiropractic, and Nursing Home Administration, provide that the Governor shall nominate members. The Nursing, Dentistry, and Podiatry statutes require the Governor to select members from lists submitted by particular professional associations. The Board of Pharmacy statutes require the Governor to solicit nominations from the Maine Pharmaceutical Association and other professional organizations.

The Committee finds that professional associations' knowledge is valuable in the nomination process but also finds that taking advantage of this knowledge does not require granting the association the sole authority to nominate board members. Furthermore, the membership of a particular association may change in numbers and outlook over time.

The Committee recommends that the Legislature modify the health profession licensing board statutes to enable the Governor to accept nominations from other sources as well as professional associations. This will provide the Governor with the widest range of viewpoints on potential nominees.

RECOMMENDATION 39: Require that an applicant for licensure by the Board of Chiropractic Examiners graduate from a chiropractic college accredited by an approved accrediting agency.

Currently, the statutes governing chiropractic practice require that an applicant for licensure either be a graduate of a chiropractic college accredited by an approved accrediting agency or be a diplomate of the National Board of Chiropractic Examiners. Hence, a graduate of a chiropractic college that is not properly accredited can obtain a license in Maine.

The Committee recognizes the value of national accrediting agencies in assessing the training required to become a competent health professional. The Committee recommends that all future applicants for a chiropractic license be graduates of chiropractic colleges accredited by an approved accrediting agency. This will help ensure that the education of chiropractors in the state meets standards necessary to protect the public health.

RECOMMENDATION 40: Change the way the Attorney General's Office charges dedicated accounts for legal services to reflect with greater accuracy the work it does for each account in a year.

The Attorney General's Office now charges each health profession licensing board a flat fee for a year's legal service, regardless of how much service that board receives in a year. The

board's legal bill is based roughly on service provided in the past.

The Committee finds that in a given year some boards with low demands for service subsidize boards with high demands. The Committee recommends that the Attorney General bill each dedicated account for the legal services it actually uses in a year.

In addition, some boards have expressed both a desire for more service from the Attorney General and the willingness to pay for it. The Committee finds that the Attorney General should provide that service.

RECOMMENDATION 41: Repeal 32 MRSA Chapter 53, "Practice of Healing Art or Science", because it is unnecessary.

Title 32 MRSA Chapter 53 provides that no one shall practice a healing art or science unless he or she is licensed by a health care profession licensing board, is a faith healer, or practiced the healing art or science before January 1, 1931. In the last case, the practitioner must register with the clerk of the municipality where he or she resides.

The Committee recommends that the Legislature repeal 32 MRSA Chapter 53 from the statutes because it is no longer necessary. Most of these provisions are covered elsewhere. The practice acts of the health care professions require that practitioners hold licenses. Faith healers will still be able to practice under the Medical Practice Act. Finally, the grandfather clause probably applies to no one by now but, if it does, those to whom it applies should obtain standard licenses to ensure that the public is fully protected.

RECOMMENDATION 42: Enlarge the Board of Registration in Medicine by adding one physician and one public member to increase public representation on the Board and to provide the Board with a greater pool of members from which to draw a quorum.

The Board of Registration in Medicine currently has seven members; six physicians and one public member. The Board reports that it occasionally has difficulty obtaining a quorum to do business and has a growing workload.

The Committee recommends that the Legislature increase the number of Board members from seven to nine by adding one physician and one public member. This should not only enable the Board to obtain a quorum more easily but will increase the proportion of public members on the Board.

This recommendation may increase Board expenses for per diem and travel, but will not affect the General Fund.

RECOMMENDATION 43: Delete from the Medical Practice Act the remaining reference to a physician's duty to report colleagues for alcohol or drug abuse or for mental illness to make the statutes consistent.

The 110th Legislature, in its second regular session, deleted from 32 MRSA §3286 the requirement that physicians report to the Board of Medicine treatment of another physician for alcohol or drug abuse or mental illness. A reference to this duty to report remains in 32 MRSA §3282.

The Committee recommends that the Legislature change the Medical Practice Act to conform to the intent of the 110th Legislature.

OTHER INDEPENDENT BOARDS

RECOMMENDATION 44: Update and strengthen the current legislation relating to the operation and duties of the Governor's Committee on Employment of the Handicapped.

The Governor's Committee on Employment of the Handicapped was established in 1968 to promote the employment of Maine citizens with physical or mental limitations. Present legislation requires that the Committee have a minimum of 15 members appointed by the Governor; the Committee currently has a membership of 25. The Committee is physically housed within the Bureau of Vocational Rehabilitation, has one part-time staff position and has an estimated annual budget of \$25,000.

The Committee on Employment of the Handicapped is active and meets regularly. Members assist employers with questions about hiring the handicapped and architectural barriers. In addition, the Committee holds public forums and is working with sheltered workshops to assist them with their job programs.

Current statutes do not adequately identify the operation and duties of the Committee. Members therefore suggested changes to update the authorizing legislation. These changes are substantive; they clarify and strengthen the Committee's role in an effort to increase effectiveness. The Audit and Program Review Committee recommends that these changes be adopted.

RECOMMENDATION 45: Continue the following independent agencies with or without legislative or administrative change under the provisions of the Maine Sunset Laws:

- Board of Chiropractic Examination and Registration;
- Board of Dental Examiners;
- State Board of Licensure of Administrators of Medical Care Facilities other than Hospitals;
- Board of Registration in Medicine;
- State Board of Nursing;
- State Board of Optometry;
- Board of Osteopathic Examination and Registration;
- Board of Commissioners of the Profession of Pharmacy;
- Examiners of Podiatrists;
- Maine Health Facilities Cost Review Board;
- Maine Medical Laboratory Commission;
- State Planning and Advisory Council on Developmental Disabilities;
- Maine Committee on Problems of the Mentally Retarded;
- Governor's Committee on Employment of the Handicapped; and
- Division of Community Services

The Maine Sunset Law provides that specified independent state agencies will automatically terminate according to a set schedule unless continued by the Legislature. The agencies listed above are scheduled to terminate June 30, 1983.

The Committee has received justification reports and supporting information from each of the above agencies which describe their operation in considerable detail. It has reviewed these reports and held a public hearing on each agency. The Committee finds that each of these agencies meets a public need which is not duplicated by any other agency. It also finds that with the exception of the recommendations made in this report each agency is operating satisfactorily. Consequently, the Committee recommends that each of these agencies be continued.

GENERAL RECOMMENDATIONS

RECOMMENDATION 46: Require future General Fund bond authorizations to stipulate that issued but unspent bond monies shall lapse to the Treasurer's debt service account no later than ten years after the bond is approved by the voters.

Over the past four years, the Committee has reviewed various capital improvement accounts funded from bond authorizations. The Committee has found a number of instances in which authorized projects were either never undertaken or were completed for less than the amount of funding authorized by the voters.

The Attorney General has ruled that such funds can be used only for the projects for which they are authorized. The departments involved, however, have little or no incentive to "turn in" this unspent money. Consequently, the funds are sitting idle in departmental accounts with no real prospect of being spent.

The Committee finds that projects sufficiently important to warrant approval by the people of Maine should be completed within ten years of approval by the voters. The Committee thus recommends that all future bond authorizations contain language which stipulates that any funds remaining after ten years should lapse to the Treasurer's debt service account. This should ensure that projects are completed in a timely fashion, thus minimizing cost increases due to inflation. It will also reduce the amount of the annual General Fund appropriation for debt service by ensuring that unused monies are more promptly transferred for that purpose,

RECOMMENDATION 47: The Legislature should support the establishment of a central personnel roster and the concept of a central office to focus on reducing the cost of workers' compensation to state employees.

As an employer, the State of Maine is statutorily mandated to provide workers' compensation benefits in the event of employee work-related injuries. In FY 1982, there were an estimated 1,500 new claims against the state and expenditures by all state departments for disability compensation and medical and hospital compensation totaled \$2,763,400. The state departments which have the largest share of these expenditures are the Departments of Transportation and Mental Health and Mental Retardation. The state's current estimated obligation for future payments under workers' compensation is over \$20 million.

Prior to 1980, the Department of Transportation was responsible for screening and negotiating compensation claims for the state as a whole. A private firm now reviews and investigates all reports of injury, recommends settlement amounts to the state, assists the Attorney General with litigation, maintains claimant files, and compiles data and statistical reports for the state. This service costs the state \$100,000 annually.

State departments have begun to explore the development of alternative job positions to reduce or eliminate workers' compensation payments by employing disabled employees in another capacity. The Department of Personnel currently is seeking an Attorney General's opinion concerning the state's right to create new positions or transfer disabled persons to new job classifications without opening these positions up for competitive hiring. Given a positive ruling by the Attorney General, the Committee would strongly support the development of alternative job positions designed for disabled employees and the creation of a central personnel roster from which disabled workers would be hired.

Presently, no mechanism other than individual departmental motivation ensures that appropriate safety measures are undertaken to reduce future injuries. In addition, no one agent is responsible for closely monitoring ongoing claims to determine if claimants' situations have changed and for developing appropriate case plans to facilitate reemployment.

Many private industries have established safety offices specifically to address accident prevention. In addition, large private employers often work with the disabled employee from the initial identification of a work-related injury through the adjustment period. The Office of Personnel has submitted to the Governor a Part II request for the creation of a four person office to focus on workers' compensation. The Committee recommends that the Legislature support the concept of a central office responsible for reducing the cost of workers' compensation.

FISCAL IMPACT OF COMMITTEE RECOMMENDATIONS

The Committee has made recommendations which will save the General Fund \$257,233 in FY 1984 and \$220,710 in FY 1985. Additional revenue to the General Fund should be \$1,500 annually with the potential of another \$34,500 annually as a result of Recommendations 14, 6, and 7. The known impact of the Committee's Report, as shown in Table A, is \$258,733 in FY 1984 and \$222,210 in FY 1985.

The Committee has also made several recommendations which will transfer funds from one program to another. The recommendation to close the Bath Home (Recommendation 24) will shift \$290,400 in FY 1984 and \$296,204 in FY 1985 in General Fund money to increase foster care board rates. This shift should draw down an additional \$237,160 in FY 1984 and \$241,899 in FY 1985 in federal funds. The effect will thus be to increase the current foster care board rate by about 17 1/2%. In addition, another Committee recommendation (Recommendation 25) could shift up to \$288,008 in FY 1984 and up to \$354,663 in FY 1985 for additional direct mental health services.

TABLE A

ESTIMATED GENERAL FUND IMPACT

<u>REC.#</u>	<u>NET DEAPPROPRIATIONS</u>	<u>IMPACT</u>	
		<u>1984</u>	<u>1985</u>
1	Eliminate juvenile crime prevention report	\$ 3,000	\$ 3,000
3	Adopt Medicaid payment schedule	82,400	88,967
4	Combine field staff of Maine Youth Center with Div.of Probation & Parole	24,170	26,480
18	Use available bond funds for General Fund debt service	61,300	--
20	Transfer funds from AMHI and BMHI to ensure that state agency accounts reflect their cost of operation	16,805	17,558
37	Eliminate the Youth Conservation Corps	69,558	84,705
		<u>\$257,233</u>	<u>\$220,710</u>

NET REVENUE INCREASES

14	Eliminate the dedicated account for transportation charges	\$ 1,500	\$ 1,500
		<u>\$258,733</u>	<u>\$222,210</u>
NET SAVINGS FROM COMMITTEE'S RECOMMENDATIONS			

TABLE B

OTHER FISCAL IMPACTS - ADDITIONAL SERVICES

<u>REC. #</u>	<u>FUNDS SHIFTED TO OTHER SERVICES</u>	<u>1983-84</u>	<u>1984-85</u>
24	Eliminate the Bath Military and Naval Children's Home and use funds instead to increase the board rate for foster care	\$290,400	\$296,204
25	Eliminate CSSP and use funds for direct mental health services*	46,667	56,000

ADDITIONAL "DRAW-DOWN" OF FEDERAL FUNDS

24	Eliminate the Bath Military and Naval Children's Home and use funds instead to increase the board rate for foster care	<u>237,160</u>	<u>241,899</u>
TOTAL VALUE OF ADDITIONAL IMPACT		\$574,227	\$594,103

*Depending upon the Governor's proposed budget, this amount could be increased to \$288,008 in FY 1984 and \$354,663 in FY 1985.