

MAINE STATE LEGISLATURE

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State of Maine
SPECIAL COMMISSION ON GOVERNMENTAL RESTRUCTURING

DRAFT FINAL REPORT - REVISIONS (11/04/91)

NOTE: THIS REVISION CONTAINS ONLY THE MAIN BODY OF THE DRAFT REPORT. IT DOES NOT CONTAIN THE PREFACE OR OTHER INTRODUCTORY MATERIAL. IT DOES NOT INCLUDE A "MISCELLANEOUS" SECTION THAT WILL CONTAIN A NUMBER OF RECOMMENDED CHANGES IN OPERATIONS (e.g., budget document improvements, elimination of PUC jurisdiction over Casco Bay Ferry and water districts, etc.). WHERE NEW LANGUAGE HAS BEEN ADDED SINCE THE LAST DRAFT, IT IS IN BOLD ITALICS. WHERE LANGUAGE FROM THE LAST DRAFT HAS BEEN DELETED, IT IS MARKED WITH STRIKEOUTS. SOME LANGUAGE HAS BEEN INCORPORATED FROM COMMITTEE WORKING PAPERS. THAT HAS NOT BEEN HIGHLIGHTED.

PLEASE REMEMBER THAT THIS IS STILL IN DRAFT FORM, CONTAINS ERRORS AND IS SUBJECT TO FURTHER ACTION BY THE COMMISSION.

3.0 The Budget Process - Matching the Means to the Needs

3.1 GENERAL DISCUSSION

Maine State Government operates on a budget of approximately \$3 billion for a biennium. At the beginning of each biennium, the Governor proposes a State Government budget based on the Executive Branch's projection of revenues for the next two fiscal years. This budget includes those prepared by the Legislature and by the Judiciary for operations of their branches of government. The Governor presents his budget to the Legislature for review and revision by the thirteen-member Joint Standing Committee on Appropriations and Financial Affairs. In the first year of the biennium, the Appropriations Committee considers and the Legislature enacts the Part I, or current services, budget. During the ***latter part of the session second-year***, the Appropriations Committee reviews and the Legislature passes the Part II, or new or expanded services or programs, budget.

The Appropriations Committee conducts the budget review

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

Related to the budgeting process is the work of the Legislature's Joint Standing Committee on Audit and Program Review. This committee reviews each state agency and its programs every eleven years on a schedule established in law.

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

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

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

3.2 PLANNING

Discussion

At present, State Government policies are developed and evaluated with primary regard to the amount of resources allocated to the various programs designed to implement those policies. This means that the funding of State Government programs is input-

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

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

There is inherent in revenue forecasting a certain degree of inaccuracy. This is particularly true for government which depends upon tax revenues; revenue projections must not only include prognostications concerning trends in the State's economy, but must attempt to forecast how these trends will relate to the State's various taxes. Inaccurate revenue projections may lead to particular problems when there are unforeseen shortfalls.

Government spending has tended to expand at a rate equal to the expansion of revenues. Revenue growth allows government to expand to respond to various needs expressed by the citizenry and to initiate new and creative programs. However, since revenue growth is erratic and unpredictable, government spending that is ruled entirely by revenue flow is subject to the same erratic fluctuations and unpredictability.

This may cause wrenching reassessments of government programs and services under time pressures and in contexts that do not allow for methodical consideration of funding alternatives. The result may be a considerable upsetting of citizen expectations with regard to government services and policies **and causes special hardship for the most needy and vulnerable members of society.** Start and stop approaches to funding programs also result in waste, inefficiency, and disruption of government policies.

Smoothing these fluctuations by forcing a more orderly

expenditure pattern would produce greater predictability and would allow for the development of significant reserve funds not tied to the biennial budgeting cycle. (The State presently has several reserve accounts -- e.g., the Rainy Day Fund -- but all are limited-use funds and have fairly low caps.) These counter-cyclical reserves would provide a certain degree of protection against revenue shortfalls and would thus obviate at least some of the need for drastic cuts in economic hard times. *This is not a new idea. It is at least as old as Joseph in ancient Egypt, with his plan for building up reserves of grain in the seven good years of harvest against the seven years of poor harvest. We, unfortunately, cannot count on predictable, seven year cycles.*

The Commission has identified a number of problems with the present budget that need correction. One of the more serious shortcomings is the absence of estimates of the cost of tax exemptions to the State. Those exemptions include such items as special exclusions, deductions and credits. Another difficulty is the limited review of federal expenditures that have substantial effects on state programs. There is no readily available estimate of total General Fund expenditures made to federally funded programs. That information is not generated in either the budget process or the state audit.

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

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

Findings

There is a need for strategic planning in State Government budget preparation involving:

- development of outcome-oriented goals for government programs and measurable objectives and performance standards for assessing those programs

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- long-range expenditure estimates
- *identification of State expenditures made through various forms of tax exemptions*
- *identification of federal expenditures for state programs and total General Fund expenditures for federally funded programs*
- capital budgeting
- systematic reevaluation of current programs
- *rigorous establishment of program priorities*
- provision for reserve funds to permit counter-cyclical expenditures

Recommendations

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

2. State Government should develop ~~six-year expenditure forecasts~~ *ten to twenty year expenditure projections tied to secular macro-economic trends*, expressed as a percentage of the estimated average gross state product, to be used in developing strategic plans *and annual expenditure targets*.

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

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

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include estimates of total federal funds and total General Fund expenditures for federally funded programs. Tax exemption figures should be treated as appropriations to the various groups that receive the tax benefit.

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

6. The Governor and Legislature should **develop a reserve fund to be used exclusively as a counter-cyclical tool to place 2% of the state budget each year, and any revenues that exceed the ceiling set in a six-year revenue forecast, in a reserve fund.** These reserves would be used in years of revenue shortfalls, and could be appropriated by a two-thirds vote of the Legislature upon the Governor's recommendation. (The existing Rainy Day Fund, established in 5 MRSA §1513, to fund some payments for General Fund bonds and major construction, should continue. However, the triggering event of excess revenues over estimates requiring the State Controller to transfer some General Fund surpluses into the Rainy Day Fund should be changed to accommodate the reserve fund establishment.)

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

- the creation of a capital pool, funded by specific and regular appropriations, from which agencies could borrow to finance capital improvements.
- increased use of lease-purchase agreements.
- use of bonds to finance capital improvements.

Cost/benefit analyses should be conducted to determine the appropriateness of individual capital improvements. The merged Department of Finance and Administration should have primary responsibility for developing steps to ensure that such mechanisms

are established and employed throughout State Government.

7. Finally, the State should ~~use full accrual accounting, i.e., accounting for income and liabilities when they occur. In operating under budgets and in making budget decisions, the Executive Branch and the Legislature should fund incurred liabilities.~~ **address the problem of unfunded liabilities, to insure accurate forecasts of program costs under strategic planning and budgeting.**

3.3 LEGISLATIVE/EXECUTIVE INTERACTION

Discussion

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

(Insert revenue actual/budgeted graphs)

While it may be that a more sophisticated process could be instituted that would result in more accurate revenue forecasts, all economic forecasting is by nature imperfect. This imperfection, ~~however,~~ may create excessive tension in the budgetary political climate between the Legislature and the Governor. ~~Excessive~~ Wrangling between the two branches as to the accuracy of the projections is counterproductive and diverts attention from central budgetary issues.

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

Findings

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

Recommendations

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

- be composed of five members, all with professional credentials in economic revenue forecasting. Two members should be appointed by the Legislature, two by the Governor. The fifth member should be appointed by these four members **and should chair the committee**. No member should be a legislator **or an employee of the Executive Branch**;
- develop **long term, ten to twenty year macro-economic secular trend forecasts** and one-, two-, four-, and six-year economic and revenue forecasts. If the Governor fails to incorporate into his budget exactly the revenue forecasts submitted by the Committee, the Legislature could employ the Consensus Forecasting Committee's majority recommendations rather than the Governor's revenue estimates in its review of the budget;
- review any subsequent revisions to revenues.

In addition, to aid the above and all budgeting efforts, the Executive Office of Management and Budget, discussed later in this chapter ~~(this section is not yet written - awaiting further information)~~, and the Legislative Office of Fiscal and Program Review should **continue to** pursue maximum integration of Executive (including departmental) and Legislative budget computer programs.

Proposed Office of Management and Budget (from Committee on Economic and Physical Infrastructure)

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The Office of Management and Budget would be established in the Executive Department, with staff positions transferred from the existing Departments of Finance and Administration, replacing the present Budget Office. It would be modeled on the federal Office of Management and Budget, and would place great emphasis on the regular, periodic evaluation of program performance. The OMB would provide the Governor with recommendations regarding budget proposals and relevant legislative enactments.

The OMB would provide macro-economic evaluation, program evaluation and coordination, recommendations on improvements in Executive Branch organization, and oversight on the development of information and management systems. The OMB would be responsible for leadership and support in implementation of quality management systems and the development of training and development programs for operating and executive personnel.

The proposed change in the role and function of the Budget Office and its transfer to the Executive Department is intended to improve the system of policy making and coordination, strengthen the capacity to forecast and administer the budget, and provide a more effective set of management tools. The functions of the Office would include:

1. designing a fiscal program and preparing the biennial budget;
2. managing budget administration;
3. conducting regular, periodic evaluations of the performance of Executive Branch programs and making those evaluations available to the Legislature;
4. Planning and implementing effective information systems to track program performance;
5. reviewing organizational structure and management procedures of the Executive Branch to determine if they have produced intended results;
6. developing efficient coordinating mechanisms that facilitate interagency cooperation and collaboration;
7. facilitating and supporting implementation of quality management programs and related training of operating and executive personnel;
8. evaluating and making recommendations to the Governor

regarding enacted legislation; and

9. developing proposals in such areas of concern as regulatory reform.

The State Planning Office would remain as a separate Executive Department Office, charged with responsibility for information gathering and analysis related to strategic planning for state government, facilitating planning in the several Executive Branch departments and agencies, and serving as a source of planning information for the Legislative and Judicial Branches and state advisory boards and commissions.

3.4 LEGISLATIVE REVIEW

Discussion

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

The various policy committees of the Legislature have specialized areas of jurisdiction that allow their members and staff to develop expertise with regard to the particulars and subtleties of the programs within those areas. This knowledge was tapped in the First Regular Session of the 115th Legislature: the Appropriations Committee asked each of the policy committees to review the budgets of the departments within their jurisdiction and to make recommendations with regard to those budgets. This type of integration of the policy committees into the Appropriations Committee process permitted a considerable body of knowledge and understanding of the various aspects of government to be brought to bear on policies proposed in the budget. This integration needs to be strengthened, formalized, and institutionalized.

The Legislature also conducts program reviews not tied to immediate state budget concerns. State Government is well served by well-organized, timely, efficient, and effective oversight and review of executive agencies and programs. Such review and oversight helps ensure accountability and reduce or better-target expenditures in State Government. It also allows for more informed establishment of policy priorities based on careful consideration

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of program success measured according to outcome-oriented goals and performance standards. In order for program evaluation to be successful, legislative expertise must be well utilized and evaluation schedules must ensure efficient use of limited legislative time. While the present program review process conducted by the Joint Standing Committee on Audit and Program Review has resulted in reorganizations, streamlining, and other changes that have increased the efficiency of state government, the process can be significantly improved.

The Maine Sunset Act, 3 M.R.S.A. §921 et seq., authorizes the committee to review any agency on its own initiative. The law requires the committee to review all agencies of State Government according to the schedule established in the Act. "Agencies" (e.g., the Office of the Treasurer, Bureau of the Budget within the Department of Finance, the Finance Authority of Maine) are reviewed by the committee, but are not subject to automatic termination. "Independent agencies" (e.g., Seed Potato Board, State Lottery Commission, State Planning Office) are subject to review by the committee and automatic termination unless continued by Act of the Legislature.

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

~~While both of these functions are important, there are two levels of criticism which could be brought against the operations of the functions: (1) given the placement in the political system and the audit functions employed it is very difficult to ensure an effective review and (2) the audit functions would be more effective if the financial, management and programmatic functions were executed together.~~

Some of the **criticisms of the existing process** speculated ~~reasons for this ineffectiveness~~ include:

- the process is in the political arena and therefore has interest group concerns imposed on the decision-making process;
- the eleven-year cycle causes an artificial review process which examines programs that are performing well and ignores dysfunctional programs until their "turn" in the review process;

- because of staffing and time constraints, the review process is dependent upon program managers for the assessment of their programs. This arrangement often leads to a slanted assessment which justifies the continuance of a program; and
- the financial and programmatic functions are reviewed by separate entities and are never related ~~back together~~.

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

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

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

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

Findings

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

- What broad areas of government services ought to be funded and at what levels given projected revenues and expenditure

trends?

- Within these broad service expenditure levels, what programs should be funded and to what extent?

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

The current audit and program review process is inefficient, ineffective and time-consuming for both the Legislature and the Executive agencies reviewed. The expertise of the various policy committees **and the Appropriations Committee** needs to be exploited and carefully directed in order to provide meaningful program review. The state auditing function must also include a management audit component.

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

Recommendations

The Joint Standing Committee on Taxation should **have be** ~~assigned~~ responsibility:

- to ~~develop six year forecasts of average annual revenue requirements, based on~~ **use** the work of the Consensus Forecasting Committee and expenditure forecasts developed by the Appropriations Committee **in developing proposals for revenue legislation.**
- to review revenue performance and study relationships between revenue requirements and tax policies as they bear on issues of equity, economic climate, and other public policy concerns.
- to develop proposed revisions in revenue and tax policies.

The Joint Standing Committee on Appropriations and Financial Affairs should **have be** ~~assigned~~ responsibility:

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- to develop, revise, and correct ~~six-year~~ **four-year** average expenditure estimates, adjusted for biennial requirements. The committee should use the recommendations of the Consensus Forecasting Committee.
- using information provided in the Governor's budget, to develop total biennial operating and capital budget proposals and proposed major functional category expenditures. ~~The Appropriations Committee should distribute these proposals to the other joint standing committees, the policy committees, by February 15.~~
- to review policy and program analyses prepared, and review and revise any budget expenditures recommended, by the policy committees. ~~Eventually, the policy committees should be required to submit budget expenditure recommendations to the Appropriations Committee. The policy committees should submit their proposals to the Appropriations Committee by April 1, or earlier for the Second Regular Session.~~
- to recommend the final budget proposals to the full Legislature. ~~The Legislature should be required to enact the budget by June 1.~~

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

In addition, the various policy committees of the Legislature should ~~be assigned~~ **assume** responsibility for more detailed program review. ~~during the interim between legislative sessions.~~ These reviews should include:

- oversight of departmental **strategic** plans and recommending program authorizations, including outcome-oriented goals and measurable objectives.
- making recommendations on budget goals, objectives, and expenditures. ~~The review of plans, goals, objectives and expenditures should occur during the month immediately after~~

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~~the Legislature adjourns.~~

- ~~• reviewing and evaluating specific functional areas. Topics for evaluation should be assigned by the Legislative Council no later than June 1. Topics assignments after that date should occur only by 2/3 vote of the Council. The assignment of other studies to the policy committees should be balanced against the assignment of these program evaluations.~~

The present program review process should be reformed to focus on management reviews, based on the work of the State Auditor and assignments from the Legislative Council. The reviews should make use of the knowledge and perspective of the relevant policy committees, supplemented by expertise from the Appropriations and other committees. One approach to this process would be to create a bipartisan management audit subcommittee in each policy committee, supplemented by bipartisan membership from the Appropriations Committee or other committees considered pertinent by the Legislative Council.

Following from this new process, the Audit and Program Review Committee should be abolished, and the role of the State Auditor revised, as follows:

- the auditor would be nominated by the Governor and elected by the Legislature for a term of 7 years.
- the auditor would be responsible for regular financial audits in the executive, legislative, and judicial branches.
- the auditor would be responsible for management performance audits (not program audits), and would have authority to contract with outside agencies for such audits.
- the auditor would report to the Legislative Council, the Appropriations Committee, and -- as appropriate -- to the joint standing committee with jurisdiction in an area covered by a financial or management performance audit.

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

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

- create the Consensus Forecasting Committee.
- through the Legislative Council, ~~with input from committee members and assistance from the Executive Director of the Legislative Council and legislative staff office directors, revise statements of committee responsibilities to recommend to the 116th Legislature.~~ **create a special legislative task force, including a cross section of senior and junior members of the Legislature from both parties, plus legislative non-partisan staff, to make recommendations for revisions in committee responsibilities and legislative operations, consistent with the recommendations in this report. The recommendations should be submitted for consideration and action in the first regular session of the 116th Legislature.**
- revise the statutes governing the responsibilities, term, and election of the Auditor, with the initial election to take place in January 1993.
- adopt a tentative, six year expenditure and revenue forecast in March 1993.
- mandate departmental development of six year, outcome-oriented plans for submission by November 15, 1993.
- initiate the first round of the new budget process in the first regular session of the 116th Legislature.

3.5 JUDICIAL DEPARTMENT BUDGET

Discussion

The process for submitting the Judicial Department budget request to the Legislature denies the Judicial Department control over its finances. Current law (4 MRSA §24) requires the Judicial Department to submit its budget request to the State Budget Office, and requires the Governor to "include in the budget submission the judicial budget without revision but with such recommendations as he may deem proper." In practice, although the Judicial Department's request appears in budget documents, it is the Governor's "recommendation" in the form of the budget bill that receives primary attention in the appropriations process. **That bill contains no reference to the Judicial Department request.**

This is an inappropriate method of presenting the budget of the Judicial Department. The Maine Constitution creates the Judicial Department as a branch of government equal in authority and importance to the Legislative and Executive Departments. Giving the Executive Department authority to reject portions of the Judicial Department budget request before it is presented to the Legislature denies the Judicial Department the opportunity to have its true budget needs presented directly to the Legislature.

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

Finding

We find that the process by which the Governor submits the Judicial Department budget to the Legislature violates the spirit if not the terms of the separation of powers doctrine of the Maine Constitution. *We find that a similar problem exists with respect to the Legislative budget.*

Recommendation

We recommend that the statute governing the submission of the judicial budget to the Legislature be amended to require the Governor to include the Judicial Department budget **request**, without change, *in addition to the Governor's recommendation*, in the budget bill presented to the Legislature. *We also recommend that the budget bill contain the Legislative budget, as submitted by the Legislature, as well as the Governor's recommendation.*

4.0 IMPROVING OVERALL GOVERNMENT MANAGEMENT & OPERATION

4.1 INTRODUCTION

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

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

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

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

As we look at state government there are a number of areas which are ripe for reform. Some of these, such as the budget process and personnel systems are addressed in other sections of the report. In this section we focus on ~~six~~ **seven** general areas:

1. A customer oriented focus for state government.
2. **Enhancing flexibility, innovation, quality and efficiency in the operation of State agencies, including fostering**

opportunities for creative performance by rank and file employees.

3. Increasing and expanding the choice of service delivery vehicles, including *privatization regional and local public agencies, non-profit institutions and agencies, for-profit corporations and individuals.*
4. Increasing the utilization of technology and modern information management techniques.
5. Coordinated use of and cost effective lease or purchase of space and facilities.
6. Development of consistent regional systems for service delivery and decentralized mechanisms for decision - making.
7. Boards and Commissions.

4.2 CUSTOMER ORIENTED GOVERNMENT

Discussion

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

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

Findings

Frequently, when we think of the customers of state government, we think of the recipients or beneficiaries of state services. It is not, however, just the external customers of government which are important. Certainly ~~motorists~~ *travelers'* needs are important to the Department of Transportation, business needs to the Department of Education, and family needs to social

welfare agencies. But just as important from a cost effective perspective are the internal customers of government, that is, the relationships among agencies within state government. The fact is that many of our most costly and inefficient government processes and organizations do not serve the general public but rather serve other agencies. Our internal purchasing, personnel, space, budgeting, and accounting systems all serve the needs of state agencies and all must be improved to respond more effectively to state agency needs so that those agencies may conduct their operations more efficiently.

Recommendations

State Government should initiate a program throughout its agencies of total quality management and resources should be identified to support this effort and ensure its success. The Governor should establish a high-level team **through the proposed Office of Management and Budget**, drawing upon the full resources of the State and of private organizations which ~~that~~ have initiated Total Quality Management (TQM) programs. This team should report directly to the Governor and should be charged with the development of a TQM strategy to be initiated on a statewide basis throughout the many agencies of State Government. **The quality management program should also be used by the Legislature in a continuing improvement of its operations. The Commission recommends that explicit support for quality management in all branches of government be provided in legislation and that a plan for initiation and expansion of the program be adopted by the three branches before the end of the 1992 regular legislative session.**

4.3 ENHANCING EFFICIENCY, INNOVATION, QUALITY AND PERFORMANCE

Discussion

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

Findings

Maine State government has not given adequate attention to the potential for using the talents, skills, experience and commitment

of its employees in improving the organization, cost efficient and effective operations, and quality of state services. State employees are also in a position to identify customer concerns and provide practical advice in making state government more responsive to its customer needs.

Recommendation

The State should involve employees in development and implementation of Total Quality Management programs in the several State departments and agencies, improving internal operations and making state operations less bureaucratic, more customer oriented, and more competitive with the private sectors.

4.3 EXPANDING THE CHOICE OF SERVICE DELIVERY

Discussion

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

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

~~Second, and even more important over the long-term, cost differentials may exist and grow over time as a result of innovation and technological change made possible by having many providers involved in delivering the service. It is generally acknowledged that large centralized bureaucracies inhibit risk taking, innovation and entrepreneurial behavior. At the same time, they impose uniformity on those units involved in delivering services. By providing services outside the scope of the bureaucracy and within a more competitive environment, States may see more innovation and more experimentation with different ways of providing the services and over time higher levels of productivity. In turn, this will translate into improved service delivery and lower costs. In the same way that states now learn from each other what works and what doesn't work, so too do firms learn from each other as they compete and experiment with different ways of providing services and meeting the objectives set forth by the contracting agency.~~

Second, and even more important over the long-term, cost differentials may grow over time as a result of innovation and technological change made possible by having many non-profit and for-profit providers involved in delivering a service. By providing services within a more competitive environment, States may see more innovation and more experimentation with different ways of providing the services. Over time that can lead to higher levels of productivity, improved service delivery and lower costs. In the same way that states now learn from each other what works and doesn't work, so too do non-profit agencies and for-profit firms learn from each other as they compete and experiment with different ways of providing services and meeting the objective set forth by the contracting agency.

Findings

Maine state government and its various agencies currently engage in a wide array of contracting activities. For example, our foster home program in the Human Service area is operated entirely by private individuals under contract with the Department of Human Services. Similarly, our Medicaid program, which provides health care and nursing home services to our indigent populations, relies almost exclusively on private sector providers. In fact, during FY90, the State Controller's Report indicates that fully __% of our total General Fund, or \$__ million, was spent on contracted services. Further, of a total state budget from all sources of funds, __% or \$__ million was spent for contracted services.

The selection of additional areas for use of contracted services in carrying out state responsibilities, or divesting the

state of traditional service activities, will require careful evaluation to determine those circumstances where such contracting or divestiture is appropriate and desirable in the public interest.

Recommendations

~~As a general principle, we should require justification of public sector provision, rather than the current situation where we require private sector provision to prove its effectiveness. This is especially relevant where the private sector capacity already exists, where it is providing comparable services to either government or non government clients, and where there are no compelling issues of health or safety or restrictive quality control standards which must be met. Thus, for example, laboratory facilities, mental institutions, minimum security detention and rehabilitation centers, building and grounds maintenance, vehicle rental and motor pool operations, printing and publishing and other such services should be provided under contract or franchise agreement with private sector firms, except where circumstances or situations clearly show that such arrangements are either less effective or more expensive than public sector provisions.~~

~~More specifically, the following areas offer significant potential for efficiency gains and cost savings from increasing private sector participation in the delivery of public services:~~

The state should move from the present tendency to rule out private sector contracting, unless it can prove its effectiveness in advance, to a balanced examination of the advantages and disadvantages of public and private sector non-profit or for-profit service delivery. Rigorous application of criteria for selection of public or private sector service delivery mechanisms should be linked with performance measures and evaluation methods tied to the state's outcome oriented goals and measurable objectives for programs and operations. Some of the criteria that could be applied in such evaluations can be phrased in the following questions:

- Is the service one where direct government control or supervision is essential for protection of public safety?
- Will selection of non-profit and/or for-profit contractors insure access to needed services and include requirements and incentives to insure desired performance, quality and price?
- Would contracting result in more effective or less expensive performance of the service?

- In considering whether the state should be responsible for the service: is the service an essential or necessary state service, or would it be more appropriately performed in the private sector?

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

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

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

The Commission has identified a number of areas as potentials for regional or local public agency, non-profit agency or institution, or for-profit corporation contracting or assumption of hitherto government agency responsibilities. Those areas include retail and wholesale liquor sales, laboratory facilities, mental health centers, building and grounds maintenance, state motor vehicle acquisition, maintenance and operations, printing and publishing and other such services. A detailed list of those potential areas follows. Each of the areas should be examined carefully, using criteria such as the Commission suggests, before any decisions are made on contracts or divestiture. Standard, performance based contracts should be developed and approved under rule-making authority, pursuant to state statute.

1. Wholesale and Retail Liquor Sales Stores

NOTE: THIS SECTION WILL BE REWRITTEN,
BASED ON THE COMMISSION'S NOVEMBER 1
DISCUSSION AND NEW INFORMATION BEING
OBTAINED.

The
State
~~should~~ **could** divest itself of the retail liquor sales business. It is estimated that the state spends in excess of \$_____ million annually to provide this service rather than licensing agency stores to sell liquor. This past year the State has closed a number of its least profitable retail sales outlets and in the process realized in excess of a \$_____ million a year in savings. ~~This year the state should complete that process by closing its remaining retail liquor store outlets and establishing, through licensing agreements, relationships with agency stores to sell liquor. A special effort should be made to ensure that these agency stores are located in close proximity to the State liquor stores which they are replacing.~~

2. The Lottery

The State's Lottery ~~should~~ **could** be operated under contract by a private firm. ~~Since adequate safeguards can be built into any such contractual arrangement and since monitoring the operations of a private firm operating in this industry is a straightforward matter, there is simply no compelling reason for the State to operate its Lottery system. In addition, If the Liquor and Lottery Commissions should be~~ **were** eliminated, and a new Bureau of Liquor and Lotteries in the Department of Finance and Administration (see Chapter 5) ~~should~~ **could** oversee both operations. It is estimated that contracting the Lottery and elimination of the two Commissions will save \$ _____ million annually.

3. Institutional Services

a. Prison Facilities

The State should explore the opportunity of operating its minimum security facilities, including pre-release and detention centers, under contractual arrangements with private entities. In addition, certain services provided throughout the correctional system, such as health care services, ~~should~~ **could** be provided ~~wherever possible~~ under contractual arrangements with private sector providers. Based upon estimates of savings in other states from similar kinds of

arrangements, we estimate the potential of realizing savings in excess of \$x million annually.

b. Mental Health and Related Institutions

~~The State should operate its two major mental health institutions, the Augusta and Bangor Mental Health Institutions, under contractual arrangements with a private provider. At present, it costs \$x per day to maintain a patient in these institutions as compared to \$y per day to maintain similar patients in private institutions within Maine and \$z per day, on average, throughout the rest of New England. And, in these alternative settings the quality of care is arguably at least as good, and quite possibly better than that found in the State institutions. If, through private sector operations of these two facilities, we can reduce the cost to the average statewide among other private institutions, the State will save \$x million per year.~~

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

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

to those individuals, or development of the Mental Health Advancement Program, as recommended by the Systems Assessment Commission.

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

5. Laboratory Facilities

This past year the Department of Environmental Protection combined its laboratory facilities with those of the Department of Human Services and in the process saved \$x per year. This was a very useful step, but we believe it ~~should~~ could be carried further. The State should explore contracting for any and all laboratory services in areas such as marine resources, water quality testing, agricultural products and other public health areas. ~~Most of the tests which are currently performed in these fields are routine. In addition, many are required of private individuals for permitting or compliance purposes and as a result private sector facilities exist throughout the state to provide similar kinds of services as those provided by State labs. Unless there is a compelling reason to the contrary the State should divest itself of all laboratory facilities and rely upon the private sector to provide those services. Should the State move to~~ substantial dependence on private laboratories, it will be essential to make arrangements for quality control through such means as contracts with reference laboratories.

6. Buildings and Grounds

~~The Property Management Division within the Bureau of Public Improvements should be made to compete through a bidding process with private sector contractors to provide services for all State office buildings and other facilities. In establishing this bidding process, BPI should be freed from all existing State government operating and management rules and regulations and be accorded maximum flexibility and opportunity to match or exceed the performance standards of private sector competitors. This bidding process may be initiated on a pilot basis for specific facilities and the results evaluated over a one or two year period before initiating it statewide.~~

Property management offers an opportunity to encourage greater efficiencies, improved quality and savings through the involvement

of rank and file employees in a Total Quality Management program in the Bureau of Public Improvements Property Management Division. State employees should be supported in efforts to match or exceed the performance standards of private sector competitors, while the state is considering the possibility of a bidding process for services in State office buildings and other facilities.

7. Oversight, Management and Operation of Selected Services

The State should *consider* establishing competitive bidding processes for a wide range of services it currently performs, including the management and operation of the State's Workers Compensation ~~System program for its employees~~, the operation of the state Medicaid bills processing system, and the State's printing and publishing services and Risk Management operations. As in the above recommendation, existing State agencies should be encouraged to compete in any bidding processes, ~~and, where they choose to do so, those agencies should be given relief from existing operating and management rules, regulations, and procedures. involving state employees in the redesign and improvement of agency operations.~~

4.4 APPLICATION OF TECHNOLOGY AND MODERN MANAGEMENT INFORMATION SYSTEMS

Discussion

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

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

Findings

While State Government has increased its utilization of technology over the past decade in such areas as Geographic Information Systems, computerization, and telecommunications, it is not uncommon to find instances in which state employees are saddled with equipment well in excess of 10 years old, frequently two or more generations behind "state-of-the-art." In part, this situation results from an unawareness and lack of appreciation of the advantages of technology. In large measure, however, it results from the budgeting processes used in State Government which fail to account for technological depreciation. Regardless, it is clear that, in a number of areas in particular, the utilization of new or enhanced technologies can result in substantial and immediate savings.

Significant efforts have been made in improving the applications and use of information technology, but the greatest weakness in the State's approach to information uses has been in the area of developing long term, strategic plans for setting priorities in the acquisition and integration of information bases that will support public policy deliberations. The need for such planning will be increased substantially if the recommendations of this commission are adopted. It will be impossible to conduct meaningful long term strategic program planning, outcome oriented goals in budgets, or performance accountability in program review and budget revision. Cost benefit analyses will require more extensive and accurate information bases.

It will also be important to use cost benefit analysis in developing information systems, using such techniques as marginal pay-off analysis.

Recommendations

NOTE: THIS NEEDS FURTHER
REORGANIZATION AND EXPANSION
TO CONFORM WITH THE
DISCUSSION AND FINDINGS.

As a matter of general principle, State Government and its various agencies should be directed to explore every opportunity to

employ new technologies in the delivery of services. More specifically, the following actions should be undertaken:

1. Interactive Television

a. Access to the ITV system must be assured for all elementary and secondary schools, campuses of the Maine Technical College System and the Maine Maritime Academy. That system should be utilized to support enhanced opportunities for distance learning, including access to a wider array of educational curricula and course offerings, and further cooperation and consolidation among local school districts and the campuses of our institutions of higher education.

b. The agencies of State Government, including the Courts and the Legislature, should increase their utilization of the ITV system for conducting public hearings, remote processing of records, and off-site hearings before the various boards and commissions of the State. (Reference S. Carolina savings.)

2. Information Processing

a. The Department of Human Services should participate in a federal program which provides a 90% federal match for the acquisition of enhanced computer technology in the Medicaid program to eliminate paper claims and simultaneously create a data base for timely analysis. In the income maintenance area, a 90% federal match is available to automate eligibility functions. This would reduce the error rate, improve productivity and enable the State to move toward a single eligibility process for all of its assistance programs.

b. The Department of Human Services should initiate a system adopted recently in Maryland and Massachusetts, among other states, to utilize electronic funds transfers in lieu of mailing checks to recipients of all of its transfer payment and other financial assistance programs. It currently costs \$_____ per check mailed in contrast to electronic funds transfer which costs only \$_____ per transaction. Since DHS processes approximately _____ checks per year, this would result in an immediate savings of \$_____ per year.

c. Electronic funds transfers should be utilized by the State for its own payroll, by the Maine State Retirement System for all of its payments to retired employees, and for any and all payments for services or products made to vendors or contractors. The State should require that within two years all such payments be made by electronic funds transfers and that no checks be printed or distributed for any purpose after that time. Based upon a cost

differential of \$____ per transaction, such a requirement will save the State \$____ and the Retirement System \$____ per year.

d. The Maine Bureau of Taxation has recently begun to permit taxpayers to file returns electronically, thereby saving both paperwork and processing time. This effort should be expanded by requiring large corporate taxpayers and by encouraging other taxpayers to file electronically.

3. Natural Resource Management

a. The State should continue its investment in the Geographic Information System (GIS) to ensure that the full potential of the system can be realized by all agencies of government and by the private sector.

b. The enabling legislation of the Office of Information Services (OIS) must be reviewed to ensure that it includes sufficient statutory authority to permit computerization by the natural resource agencies in a manner that promotes the exchange of information and inter-departmental communication.

4. Information Services

The State should establish and operate an on-line computer information bulletin board (1-800-PHONE ME.) which would include:

a. Statistics and other information about the State and its various political subdivisions.

b. Directories of the various agencies of State Government.

c. Economic development assistance programs such as financial and technical assistance programs, tourism programs, industrial parks, and small business information.

d. Regulatory and licensing information and application permits and forms.

e. Notices of hearings, events, or other activities.

f. Other information.

The bulletin board should be accessed through a toll-free line and should be available 24 hours a day with technical assistance available during regular business hours. Information contained on the bulletin board should be maintained by the agency of jurisdiction under the overall direction of a lead (host) agency. All information should be able to be downloaded by users.

4.5 OFFICE SPACE AND FACILITIES

Discussion

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

1. Government grew significantly over the past decade and with this growth came new office buildings, additional regional facilities, and a near explosion of leased space arrangements. As State Government downsizes and is restructured, the space requirements in Augusta and the many regional centers across the State will be reduced.
2. The growth of State Government and the increase in the need for additional office space and other facilities coincided with an unprecedented increase in rents and the market value of real estate. During the current economic recession, real estate has been especially hard hit, and high quality office space is now going for deeply discounted prices.
3. As a result of changes in the law which occurred in the Supplemental Budget for fiscal year 1991 (PL 1991, Ch. 9, Sec. L.2) the Bureau of Public Improvements (BPI), within the Department of Administration, now holds all real property leases of State Government for the purpose of ensuring that these are managed to the best economic advantage of the State. Since passage of this law, BPI has been examining the State's leases with the intent to consolidate regional office space. A regional center has been established in Farmington which provides space for the District Court, Corrections, Conservation and Human Services. Limited regional centers are operating in Skowhegan and Calais.
4. The Special Committee for the New Capitol Area Master Plan made a preliminary finding that over the long term it is in the interest of the State to own facilities. However, a detailed financial analysis which includes consideration of tax issues, flexibility needs, building management costs, inflation trends and rental rates, limitations on current funds and other relevant issues has not been done. The State currently spends about \$13 million a year on leases.

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

Findings

While the present law authorizes the Bureau of Public Improvements to require the co-location of leased regional offices, BPI could be more aggressive in pursuing such co-location. There are three central parameters which ought to guide co-location efforts: 1) increased efficiency, 2) cost savings and 3) increased public accessibility. In addition, there has been no complete analysis of the feasibility and appropriateness of converting leased space into owned space. This issue is related to the issue of co-location of offices and must be examined in connection with the context of regionalization in order to maximize the effectiveness of both efforts.

Recommendations

The Bureau of Public Improvements should initiate a Request for Proposals and set aside resources to hire ~~a firm~~ **individuals or firms** with substantial real estate experience and statewide exposure **to prepare an analysis of state government facilities needs, consolidation of space at statewide and regional levels, and to recommend a plan for consolidation and improved use of space. In selecting the individuals or firms, care must be taken to avoid potential conflicts of interest.** The RFP should specify a complete and thorough analysis of existing state office space and facilities and the development of a strategy to rationalize such space and facilities through consolidation, purchase, liquidation, or construction. This analysis should be conducted in phases so that any final space and facilities plan reflects the result of restructuring efforts initiated during the upcoming legislative session.

During the first phase of the study, BPI should work with the contractor to develop a model for assessing the cost advantages of owning versus leasing facilities. In addition, BPI should prepare for the contractor a complete inventory of all existing office space and facilities currently utilized by the State.

During the second phase, the contractor should develop a space and facilities plan which complements the regionalization of the restructured agencies, maximizes co-locations of different state agencies, maximizes cost savings to the State and promotes public accessibility.

BPI, in concert with the contractors, should develop a system for encouraging and supporting more effective use of existing and new space by state departments and agencies.

The first stage recommendations for a space and facilities plan should be submitted to the Legislature by December 15, 1992, and the second stage should be completed by June 1, 1993. If the Bureau of Public Improvements is unable to complete the tasks in the time assigned, the Legislature should create a special independent commission to oversee the task and file a report no later than December 15, 1993.

4.6. REGIONALIZATION AND DECENTRALIZATION

Discussion

The mandate to the Commission called for recommendations that will lead to more efficient, more effective, less costly and more responsive state government. That mandate could be seen as internally inconsistent, if we held to the view that traditional, hierarchical structures are most efficient and that citizen participation and professional public administration are incompatible. We do not support those views. At a time when the complexity of social problems is escalating, when the economy is more volatile, and with the pressures on state and local governments to resolve the issues of public service demands and limited economic resources, it is imperative that public policies have the knowledgeable support of citizens engaged in the development of those policies through their elected representatives and executives and through their advice in the crafting of legislation and implementation of programs.

Findings

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

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

land use planning.

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

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

HEALTH & SOCIAL SERVICES

There is minimum consistency in the boundaries of regions organized by the departments of Education, Human Services, Mental Health and Retardation, Labor, and the smaller agencies that deal with the education, health, social service and employment needs of our individual citizens, public and private agencies and corporations. The lack of regional consistency and the absence of consolidated regional state offices exacerbates the fragmentation of services and resources imposed by categorical grants, variations in program eligibility, and divided responsibility for service oversight and delivery.

Recommendations

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

1. state government human service regions should be small

enough to foster access to services and participation in governance at the regional level; a countervailing balance that assures a sufficient population base and infrastructure to support effective regional policy-making, oversight and improvement in programs and services should also have considerable weight in setting regional sizes; and

2. state government human service regions should be organized around natural market areas that can be determined by the patterns of retail trade, employment, health and human service delivery, educational districts, and transportation systems.

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

NATURAL RESOURCES

There is virtually no consistency between the regions designated by the different natural resource agencies, even within single departments. No convincing arguments have been advanced **that there is for** a rational basis for the boundaries. History, the accidents of individual assignments, and the accretion of institutional identification and turf have fixed boundaries that, in most cases, bear no relationship to the natural features of the land or the flow of waters.

Recommendations

We recommend that the natural resource departments and agencies of state government, with assistance from the State Planning Office and the advice of the Legislature, regional and local agencies and private citizens, revise the boundaries of the state's natural resource agencies to make them consistent with **natural resources areas such as** the major watersheds of the state. Planning for those redefined regions should also include arrangements for co-location of facilities and support structures.

Natural resource area Watershed-based regions should support more effective and coordinated planning and management of forest, land and water resources, including fish and wildlife in inland and coastal areas.

Plans for the revised regional boundaries should be completed in

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

ADVISORY COMMITTEES AND COMMISSIONS

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

4.7 BOARDS AND COMMISSIONS

Discussion

Introduction:

The Commission is charged by its enabling legislation to review "each board and commission ... to determine the continuing need for the board or commission and to weigh the need against the staffing and other operating costs..." (P.L. 1991, c.528). With the assistance of the Secretary of State, the Commission undertook this review subject to the limits of available time and other resources. The large number of boards and the very wide range of their roles and importance in conjunction with the Commission's other responsibilities precluded individual review of each board and commission. Rather, the Commission reviewed the state's mechanisms for managing its boards and commissions and makes recommendations to improve that system along with a proposal to force substantive review of the numerous advisory panels over a two-year period.

Categories:

Based on the mechanism for creation, there are three types of governmental board:

1. Statutory enactment- generally established and described

in the Maine Revised Statutes Annotated, typically with a reference in 5 MRSA §12001 et seq. Establishment in unallocated public or private and special law is also possible.

2. Other legislative action- established by resolve, joint order or action by the Legislative Council.
3. Executive action - established by executive order or bureaucratic initiative.

Boards of the first type (statutory) have codified descriptions, missions and procedures. There are currently 289 boards listed in the statutory inventory found at 5 MRSA §12001 et seq. Commission staff identified an additional ____ boards in statute without reference to these provisions of Title 5 for a total of ____ statutory boards. By comparison, there were 196 and 242 statutory boards in 1983 and 1987 respectively. There may be a small number of statutory boards not found by the staff's research in other statutes or in unallocated provisions of public or private and special laws. Amendment or the termination of statutory boards requires actions by both the Legislature and the Governor.

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

While the boards in the second category (other legislative action), may vary widely in their permanence and authority, these boards tend to be temporary in duration and focussed on specific finite tasks. Most typical of this group are study commissions given a one to two year charge and a specific reporting date. The Legislative Council has adopted a set of policies to ensure that the boards it creates of this type are staffed appropriately, have reasonably well-defined goals and have specific schedules and reporting (termination) dates. At any given time there may be 10 to 15 of these entities. Because they are largely self-extinguishing they are not treated further here.

The final category of boards (executive action) presents a more difficult inventory problem than that of the other types. There is not a central inventory and the lists that do exist frequently mingle this type with the others resulting in a substantial level of confusion. In general however, these boards are created by the Governor or a departmental executive to advise the executive branch on some aspect of its operations. The legal limits on the delegation of executive authority to such entities have not been explored. While it is impossible to give any precise

estimate of the number of active boards in this category, it could be as large a group as the statutory boards based on a review of information submitted by several of the larger departments. The role and continued existence of boards in the category is entirely within the control of the executive branch.

Current status of administration of boards:

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

In 1990, 82 statutory boards, primarily advisory, did not report to the Secretary of State. As best as can be determined, the Secretary of State did not seek reports from these boards. In some instances, the boards have claimed an exemption from the reporting requirements. The legal basis for such an exemption is not apparent. In other instances, the Secretary of State staff report that, upon the past suggestion of the Commissioner of Finance's office, they use the Annual Report of State Government rather than the Title 5 MRSA inventory as the source of the list of boards required to report.

Purposes and costs:

As can be seen from the large number of types of boards created in statute, these entities can serve many purposes. Since the last major reorganization of state government (1970-73) and during the intervening period, the purely administrative role of boards has been greatly reduced. Most boards today can be described as regulatory or policy setting, coordinating, or advisory. Because the advisory category is the largest single group and because the Commission interprets its mandate to focus on this type, further discussion, with the noted exceptions, concentrates on this group.

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

1. Provide public input into governmental decision making beyond that occurring informally or as part of various rule-making procedures.
2. Provide a higher level of independent oversight of governmental actions. Closely related to #1 but frequently given as the objective for controversial programs.
3. Provide a forum for the mediation/discussion of controversial aspects of a governmental action. Again, closely related to #1 & 2.
4. Provide a source of organized public support for a program.
5. Provide access to specific expertise unavailable within state government.

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

1. Direct financial costs. These are relatively minor since most advisory board members receive minimal, if any, per diem payments along with expense reimbursements for attendance at board meetings.
2. Administrative costs. The Secretary of State, the Department of Finance and the various appointing authorities (most frequently the Governor) must keep track of the administrative details of the boards, including maintenance of membership and tracking of expenses. This activity obviously requires some staff effort although, for any given board, the level of this effort is generally low.
3. Interaction costs. The agency that is paired with the advisory board incurs staff costs in its relation to the board. While some of these are relatively insignificant, such as arranging meetings, collecting expense vouchers

and the like, other staffing requirements may be more significant. The agency may have to prepare and respond to substantive agenda of an advisory board. In controversial situations, an advisory board may be the source of public pressure for an agency to change its actions in ways that will incur costs. Some government officials, by virtue of their position, are ex-officio members of many boards thus creating a substantial drain on their time.

Because there is no central administration of all boards and commissions it is not possible to estimate costs with any degree of precision. The direct financial outlay of roughly \$560,900 reported as the compensation and direct expenses of all boards (\$87,600 for advisory boards) gives a rough indication of the magnitude of these costs. As noted earlier, some 82 boards, mostly advisory, did not report in 1990. In addition, some boards have staff allocated directly to them. These costs are not reported here. Thus, these figures underestimate total direct financial costs.

Findings

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

Despite the system and procedures laid out in statute, there remains a great deal of confusion over the reporting responsibilities of boards and procedural responsibilities of the Secretary of State and Commissioner of Finance. Commission staff found no occurrence of board abolition due to non-reporting. Given the high level of non-reporting, this indicates that the existing mechanism for winnowing out inactive or non-responsive boards is ineffective.

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

For example in the general area of human resources, the State supports over 400 advisory boards and commissions. Those bodies generally referred to as "advisory" actually fall into 3 distinct

categories, as follows:

- . Those whose primary function is advocacy;
- . Those that are technical or regulatory in nature, offering expert advice, adopting rules, etc. These serve particular functions that are needed, but it may be possible to consolidate their functions into fewer boards; and
- . Those that oversee or assist with the development or administration of a program or service. These are purely advisory in nature, are the greatest in number, and offer the greatest potential for cost savings through elimination or consolidation. Advisory boards are generally formed in response to a problem or an identified need for greater citizen participation. Often, the boards continue to exist long after the problem is resolved, but they become difficult to abolish because they represent specific constituencies which interpret abolishment as an attack on the worth of their programs or needs.

While the Commission has not reviewed the occupational and professional licensing boards in detail, there appears to be at least some potential for consolidation or elimination of these boards. The Commission notes the existence in statute of a sound set of criteria that could be used in such an effort.

Recommendations

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

Consolidation and elimination

- With an effective date of July 1, 1993, enact a repeal of all 1?? advisory boards referenced in Title 5 MRSA along with all other statutory references.
- All statutory advisory boards should be reviewed by the legislative committees of jurisdiction over the next 18 months to assess the need and potential for consolidation or elimination. Those boards retained or consolidated should have inserted in their enabling statutes a codified (statutory) repealer clause to force future review after some period not to exceed 5 years.
- The Legislature should adopt, by joint rule, a review policy that would be applied by the joint standing committees of the Legislature over the next 18 months. The policy should incorporate the criteria discussed below. Legislative committees should be required to issue written reports

justifying the retention of any

- The Governor should conduct a review of all boards created by executive order for possible consolidation or elimination.
- The Governor should direct all Commissioners and other agency heads to conduct a review of all informally-created boards for possible consolidation or elimination.
- The Governor should adopt by executive order standards for the establishment and periodic re-justification of ad-hoc boards & commissions.
- The Legislature and the Governor should employ the following criteria for evaluating the boards affected by the preceding recommendations:
 1. Is the board required by federal law?
 2. If the board was intended a source of expertise and/or public input during the start-up of a new program and the program is implemented, is the board still necessary?
 3. Is it likely that the agency will obtain adequate public input and access to special expertise through other channels, thus obviating the need for the board?

NOTE: The flexibility of an informal group should be balanced with the possibility that the commissioner being "advised" may be disinclined or otherwise less likely to hear dissenting opinions coming from an informal group.

4. Related to #3, is the area of the agency's responsibility sufficiently important and/or controversial so as to require a formal advisory function through a statutorily-created board as a matter of good government?
5. Does the board undertake actions or have responsibilities that are redundant with those of the agency or that violate sound management principles?
6. Can one board assume the responsibilities and authority of another board that are redundant with its own?
7. Can qualified board members be recruited on a regular basis?
8. Is the board's level of activity sufficient to fulfill its purposes? Frequency and length of meetings; level of member attendance. Note that some boards may need to meet frequently and/or regularly while others may only serve intermittent needs.
9. Is the compensation policy being consistently applied?

NOTE: Maine law provides, generally, that members of advisory boards should not receive more than \$25 per day of

compensation in addition to reimbursement of expenses. Since this policy was adopted, however, nine exceptions have been made.

10. Are the issues under consideration by the board of sufficient public interest or importance to warrant the procedural safeguards of the Maine Freedom of Access law (notice, public access to meetings and documents)?

Administrative

- The Revisor of Statutes and the Secretary of State should review statutes to locate any statutory boards for which there is not a reference in the Title 5 MRSA inventory. These parties should submit legislation incorporating the appropriate references to the joint standing committee having jurisdiction over state government.
- The Secretary of State should seek reports from all boards referenced in 5 MRSA §12001 et seq and should not use the Annual Report of State Government as its primary source. The Secretary of State should refer exemption requests to the Legislature for further consideration.
- The Secretary of State should introduce legislation on or before March 1 in the first regular session of each biennium to repeal all boards that did not report in prior calendar year.
- The provisions requiring the Commissioner of Finance to abolish non-reporting boards should be repealed. The provision that prohibits the Commissioner of Finance from authorizing the payment of compensation or expense reimbursements to members of non-reporting boards should be retained.
- Direct the Commissioner of Professional and Financial Regulation to conduct an assessment of the potential for consolidating or eliminating any of the professional regulatory boards with that Department's jurisdiction.

5.0 Organization of Services

5.1 BACKGROUND

Efforts to improve the effectiveness and efficiency of government have traditionally concentrated on the organizational structure of the departments and agencies that make up the

government. The orthodox view of public administration stresses six elements of an effective governmental structure:

- Concentration of authority and responsibility;
- Departmentalization and functional integration;
- The undesirability of boards for purely administrative work;
- Coordination of staff services for administration;
- Independent financial audit capability; and
- Recognition of the Governor's cabinet.

(Conant, J.K., 1988)

Early in its deliberations, the Commission decided that structural reorganization would not be its exclusive focus for two reasons. First, the structure of Maine's state government was substantially and successfully reorganized in the early 1970's; a structure that continues to define the way Maine government looks "on paper". At that time, sweeping changes were made that cut the number of agencies and departments from about 200 to 15 with majority of these controlled directly through the Governor's cabinet (Conant, J.K., 1988; SPO, 1971). Though the number has since grown to approximately 20 major state agencies and certainly some efficiencies can still be realized, the current overall structure still generally satisfies the requisites of the criteria listed above. Table ____ provides an overview of the current structure of state government in Maine.

Second, the academic literature and the experience of many Commission members indicates that redrawing the organizational chart rarely provides, by itself, the results sought by this Commission in the areas of accountability, effectiveness and efficiency. Indeed, the "political realist" school of public administration views traditional reorganizations as opportunities to enhance or decrease a governor's power, insulate or expose a governmental function to the influence of special interests, get rid of unpopular individuals, influence political appointments or influence substantive public policy (South Carolina State Reorganization Commission, 1991). Thus, while the Commission does recommend the reorganization of certain governmental functions, it has concentrated on improving the processes of government as discussed elsewhere in this report (see Chapter IV).

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

- creation of a Department of Families and Children;
- creation of a Department of Justice;

- consolidation of the Departments of Finance and Administration
- establishment of a Cultural Affairs Bureau; and
- establishment of an Office of Advocacy.

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

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

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

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

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

5.2 HEALTH AND SOCIAL SERVICES

5.2.1 Coordination

Discussion

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

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

Finding

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

Recommendation

Raise coordination and collaboration to priority status. Use some of the savings found through the reorganization of health and social services to reconstitute the Interdepartmental Council (IDC) into an office of the Executive Department, with a director representing the Governor, an independent budget and staff, and authority to foster collaboration among departments and, when necessary, to represent the Governor to settle disputes and allocate resources among departments. This should be done regardless of the organization of State agencies. Examples of the collaboration envisioned for the IDC include three tasks given to them in this report: studying juvenile corrections issues, identifying ways to make funding more flexible, and identifying new public-private partnerships in the health and social services area. (See Chart A) (Legislation required)

INSERT CHART A on IDC

5.2.2 Fragmentation, Duplication and Responsiveness to Consumer Needs

Discussion

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

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

knows what the other is doing.

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

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

Next, the Commission identified the services that are currently offered to each consumer group, as well as gaps that exist in the service delivery systems. The resulting matrix (See appendix 1 not yet included) offers a visual representation of where services overlap, duplicate one another or do not exist.

Finding

As services evolve, they become fragmented and less responsive to consumers. This appears to be attributable in large part to categorical funding streams. Services are developed around those streams, creating formidable access problems for consumers who must face several eligibility processes in several agencies. This is most apparent for children and families, who may be receiving services from 6 or more major State agencies. Fragmentation has resulted in duplication or overlap of several services and functions, including case management, information and referral, advocacy and abuse investigations, licensing, management information systems, planning, contracting and evaluation, and adult protective services. Despite the duplication that exists in some areas, significant gaps exist in others, suggesting that a

realignment of some functions will free resources for reallocation to unmet service needs.

Recommendations

Develop a unified information and referral system for all health, social, and educational services. (See chart B) (Legislation required)

Abolish the Department of Human Services and the Department of Mental Health and Mental Retardation. Realign services into a Department of Children and Families and a Department of Health and Developmental Services. Within each department, organize services along consumer lines to break down categorical barriers and facilitate access. (See Charts C and D) (Legislation required)

Establish unified case management, intake, contracting, licensing and evaluation systems within both of the new departments.

Abolish the Division of Community Services and move its functions to other State agencies that already provide similar services, for administrative savings of approximately \$250,000 per year. Administer the Community Services Block Grant "pass through" to Community Action Agencies through the contracting unit in the Department of Child and Family Services. (See chart E) (Legislation required)

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

Move Bureau of Rehabilitation services that relate to disabilities to the Department of Health and Developmental Services. Move Bureau of Rehabilitation job training and placement functions to the Department of Labor. (Legislation required)

The IDC should convene a task force to determine whether juvenile correctional services should remain part of the Department of Corrections or should be moved to the Department of Children and Families, and to recommend strategies to improve services for consumers of juvenile correctional services. The task force should include representatives from the Executive and Legislative branches and should last no longer than three months. Juvenile correctional services include juvenile detention, probation and parole, the

Maine Youth Center, and community-based programs. (Legislation required)

INSERT CHART B,C,D,E

5.2.3 Consolidation of Advocacy Services

Discussion

Advocacy organizations are presently sprinkled within and outside of State government, offering a variety of services at different levels of quality. Some are within State departments and receive their funds through the departments (e.g. Department of Corrections, Office of Advocacy), some are independent State agencies that receive an appropriation in their own right (Maine Committee on Aging), some receive federal funds (Long-term Care Ombudsman), some are non-profit organizations that contract with State agencies to provide advocacy (Legal Services for the Elderly) and others are non-profit organizations that receive direct appropriations from the Legislature (Pine Tree Legal Assistance). Size ranges from quite large (Pine Tree Legal Assistance) to single-person staffs (Maine Commission on Mental Health). Most include a board or commission that sets policy in its area.

Functionally, the organizations can be grouped into 2 major categories. One group serves a civil rights function. Organizations in this group are generally charged with the protection of individual rights, and have authority to investigate alleged violations (e.g. Maine Human Rights Commission). The other group serves a broader consumer advocacy function, and works to advance the causes of broad classes of people. Activities of this group often include public education, departmental oversight and lobbying (e.g. Commission on Mental Health).

Two major concerns need to be addressed in this area. First, most of these organizations have administrative expenses that, because of their size, are large relative to their program costs. A one-person organization needs an office, telephone, copying machine, etc. Many have boards that must be supported with staff time as well as funds for travel, meals, and other expenses. Joining several of them into an independent State agency (similar to the Finance Authority of Maine or the Maine Health Care Finance Commission) governed by a single representative policy board would sharply reduce administrative costs. It would also give greater autonomy to advocacy organizations that are presently within a department, such as the Office of Advocacy in the Department of Mental Health and Mental Retardation. For many consumers, this consolidation of resources would enhance rather than reduce

advocacy efforts.

Secondly, many of the smaller organizations, though critically important, have become the target of budget cutters. Many are extremely vulnerable because they are perceived to be unnecessary frills with high administrative costs, and the number of them causes people to think that they are overlapping and wasteful. Ironically, many of them are most important to their constituents when budgets are being cut. Also, concerns have been expressed that the dispersed nature of the organizations makes it very difficult to gauge how much the State is spending on the function of advocacy. The Commission believes that consolidation is a win-win proposal because it will strengthen and protect advocacy and reduce costs.

Finding

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

Recommendation

To the greatest extent allowed under federal law, combine advocacy services into an independent State Office of Advocacy organized into a civil rights division and a consumer advocacy division. Eliminate existing advocacy boards and transfer staff to the Office of Advocacy. Transfer the Office of Volunteerism from the Executive Department to the Office of Advocacy to encourage volunteerism to benefit all consumer groups. The Office should be governed by an 11 member board that reflects the various consumer interests represented in the Office. Board members should serve staggered 3 year terms. (See chart F) (Legislation required)

insert Chart F

5.3 EDUCATION AND CULTURAL SERVICES

Discussion

Education has presented one of the most complicated and

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

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

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

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

STRATEGIC PLANNING

As the Commission notes throughout this report, strategic planning is an essential component of sound policy development and priority setting. Given the paramount importance of education at all levels, government has a fundamental responsibility to establish policies and set priorities that enable educational systems to provide a quality education with the greatest efficiency. Long term strategic planning at the state-wide level and within individual education systems plays an integral role in the development of sensible education policy. Each of Maine's educational delivery systems (the University of Maine System, Maine

Technical College System, Maine Maritime Academy and the K-12 system) already employ strategic planning to one extent or another. The executive and legislative branches of government both make significant contributions to education policy, but they have until now treated the different education systems largely as discrete entities for purposes of planning and funding.

Finding

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

Recommendation

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

- Assess Maine's elementary, secondary and post-secondary education needs and examine whether current programs meet those needs;
- Ensure that the educational missions of the university campuses, technical colleges, maritime academy and K-12 system are consistent and do not overlap ***unnecessarily***;
- Establish a 5 year strategic plan for education state-wide;

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- Stress collaboration and collective use of education resources between the education systems with a particular emphasis on physical facilities;
- Review and recommend optimal program location for new education programs;
- Develop plans for full transferability of academic credit between post-secondary institutions;
- Promote the use of technology in academic curricula and for information exchange.

There are two significant issues that the council should examine and resolve in its first round of planning:

Maine Maritime Academy and the University of Maine System

Discussion

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

Finding

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

The cost to the State of operating an independent public college for 600 students in marine and ocean sciences has become increasingly difficult to sustain. The cost of educating Maine Maritime Academy students is significantly higher than educating those at the University of Maine System or the Maine Technical College System. The full time equivalent student cost at the Academy is \$17,589, compared to a system average of \$8,463 for the University and \$6,495 at the technical colleges (see Appendix B).

Reasons for the increased costs include the small number of students, emphasis on hands-on training, need for sophisticated equipment and facilities, and the approximately 10 month school year (opposed to the 8 month school year at the university and technical colleges.)

~~Along with the high cost of operating an independent marine college, there has been a sustained decline in the national marine industry and a corresponding drop in the need for graduates of traditional maritime academies. As a result,~~ **Maritime** academies throughout the country have closed in recent years. Maine Maritime Academy has actually increased enrollments in recent years, in part as a result of **President Curtis' leadership** in expanding its curriculum to include new ocean and marine programs not historically part of traditional maritime studies. The popularity of these new programs and a revived interest in similar programs within the University of Maine System suggest that substantial advantages ~~may~~ **could** result from the University and the Academy combining to offer ocean and marine programs.

Recommendation

That the proposed Public Education Strategic Planning Council examine options, including possible addition of the Academy to the campuses of the University of Maine System, to ~~To accomplish greater coordination of services, cooperation, long term academic planning, and significant savings. from eliminating a separate administrative structure, the Legislature should include the Maine Maritime Academy within the University of Maine System. The Academy would maintain a president who reports to the University Board of Trustees. In addition to providing appropriate maritime academic programs, the Board of Trustees should~~ **The council should also investigate possible ways of using the University's and Academy's resources to strengthen Maine's ocean oriented academic programs and take maximum advantage of the gains that have been made in the educational programs at the Academy under President Curtis.**

TECHNICAL COLLEGE SYSTEM AND THE SECONDARY EDUCATION VOCATIONAL TECHNICAL CENTERS

Discussion

The Department of Education provides administrative oversight for secondary education vocational technical centers. The centers are designed to provide technical and vocational training that prepare students for employment or further technical training

following graduation. ~~With the successful blending of the post-secondary vocational technical institutes in the Maine Technical College System and establishment of a coordinated plan for delivering post-secondary technical education programs, there is an opportunity for further consolidating and systematizing technical education by granting responsibility for secondary level programs to the technical college system.~~ While there are successful secondary technical education centers around the state, technical education has always taken a back seat to "academic" education in the high schools. There is a persistent view that technical education lacks academic rigor and fails to adequately prepare students for either employment or post-secondary technical training. ~~Unfortunately, this view is true in too many cases.~~ The Department of Education must necessarily focus its support on traditional academic programs. Although its efforts to refine and promote technical education have been substantial, its other obligations and the historic absence of coordination between secondary and post-secondary technical education programs has made full development of secondary technical education programs impossible. **There have been suggestions that the regional vocational technical centers be transferred to the Technical College System.**

Finding

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

Recommendation

The Public Education Strategic Planning Council should examine the issue of technical education in secondary schools and consider options for enhancing those programs, coordinating secondary and

post-secondary technical education, and making better use of existing technical centers for expanded education opportunities. The options considered should include possible transfer of responsibility Responsibility for governing the secondary technical education centers ~~should be transferred~~ from the Department of Education to the Maine Technical College System.

THE UNIVERSITY OF MAINE SYSTEM

Discussion

Maine citizens have expressed a strong commitment to providing higher education programs statewide. That commitment has been challenged by the State's widely dispersed population and geographic expanse. While the 7 campus University of Maine System is largely successful in providing post secondary education opportunities statewide, there is a heightened need to identify ways to consolidate services, eliminate academic and administrative overlap and reduce expenditures. In particular, in a period of declining state support for all services, it is more important than ever to carefully review expenses for the various campuses in an effort to identify opportunities for consolidation and efficiency.

Finding

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

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

However, our review of the costs of educating students at each campus does raise cause for some concern. While it is appropriate that the highest cost per full-time equivalent student should occur at the system's land-grant, sea-grant, graduate degree granting University of Maine, we are troubled that the University of Maine at Fort Kent, the smallest institution in the system, has the second highest cost per full-time equivalent student. (Appendix B)

Because of the small size of its student body, Fort Kent cannot benefit from the economies of scale that are usual on the other regional campuses. Thus, some consolidation of campuses, while not likely to produce dramatic reduction in per student cost, could provide resource sharing that could lead to substantial savings and reduce academic isolation.

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

- The need for maintaining each of the campuses;
- Consolidation of UMS campuses *administrations*, particularly in Northern Maine;
- Duplication of academic programs in the system;
- Possible reductions in administrative positions;
- Increased cooperation and coordination between campuses;
- Wider use of the interactive television system (ITV) to deliver programs.

Recommendation

The commission also recommends that the University of Maine System Board of Trustees undertake an intensive self-study of the present structure of the university system, looking toward possible consolidation of the administration of the smaller campuses in eastern and northern Maine to reduce administrative overhead, increase opportunities for faculty and staff sharing and take advantage of the interactive television system and other information technologies in expanding educational opportunities for individuals in the more remote areas of the state, building on the advances the System has already made in those areas.

ELEMENTARY AND SECONDARY EDUCATION: GOVERNANCE AND STRUCTURE

Discussion

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

disputes over State responsibilities and funding formulas.

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

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

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

Finding

~~The board's present responsibilities are at best far flung, prevent it from sharply focusing on important issues, and are inconsistent with any well conceived model of administration. Although the lack of coherence in board functions is one reason for its declining authority, it may also be argued that the changing landscape of education policy and the inclusion of new citizen and business groups in education decision making has removed the need~~

~~for a state board of education. The relationship between state and local education systems is complex and the role the state board has played in that relationship has been important. A decision to continue or abolish the board can best be made by undertaking a fundamental review of the State's current K-12 education policy making and governance apparatus.~~

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

Recommendation

~~The Governor, President of the Senate, and Speaker of the House of Representatives should appoint a small group of distinguished Maine citizens who are knowledgeable in, but not employed in, elementary or secondary education to study the usefulness of continuing the State Board of Education. The group should report its findings to the Governor and the Legislature by March 1, 1992. We recommend that this "Blue Ribbon Commission" of citizens, including some members of the State Board of Education, examine the appropriate roles of the department, the board of education or its replacement, and school districts in the development of a new structure for setting and implementing K-12 policies.~~

The Governor, President of the Senate, and Speaker of the House of Representatives should appoint a "Blue Ribbon Commission" of citizens, including some members of the State Board of Education to review and make recommendations on the governance and structure of the state's education system, including the State Board of Education, the Department of Education, regional education systems, regional and local school district governance, and the relationship between state and local school systems. The commission should report its findings and recommendations to the Governor and the Legislature by December 15, 1992.

The "Blue Ribbon Commission" should, among other things, consider revising the roles of the department to require that the department should establish (building on the "core of knowledge" program) standard outcome/achievement goals for students and tests

to measure their achievement. The *commission should consider whether the* department should fund the administration, analysis and publication of the tests and results. ~~Such testing~~ Testing should include provision for determining achievements by students with special needs.

In examining the roles of school districts, the "Blue Ribbon Commission" should consider assigning school districts responsibility for developing curriculum changes to help students learn and achieve, meeting the goals set by the department-, *and whether the* The University of Maine System should play a leadership role in curriculum development and improvement and in the education and training (entry level and continuing education) for teachers. The department -- for a test period -- could provide grants to school districts, with incentives for consolidated or collaborating district, to obtain technical assistance from sources of their choosing to help improve curriculum and teacher performance. Funds for this program could be taken from the department consultant program, which would be eliminated.

The "Blue Ribbon Commission" should also examine the role, responsibility, organization, structure, geographic regions and governance of local school districts. ~~(This should be tied to the language in the committee proposal.) School districts should be encouraged to be innovative in their organization of schools and in their use of other mechanisms for delivering education programs. Funding formulas should encourage further consolidation and collaboration by school districts.~~ Particular attention should be paid to the possibility of creating new school administrative districts. While studying consolidation, the ~~State Board~~ *commission* should consider, at a minimum, the following issues:

- Possible changes in current law concerning SADs;
- Incentives for formation of SADs;
- Possible changes in the rating system for school construction that might encourage consolidation;
- Disincentives for dissolution of SADs;
- *Incentives for greater emphasis on regional resource sharing, including joint use of faculty for teaching fine arts, language, special education and other subjects where individual schools or districts are unable to support them independently;*
- *Incentives for use of school space for appropriate health and*

social services to pre-school students, K-12 students and their families, and for use of schools as year round community centers;

- The ~~"Blue Ribbon Commission", in its work, should consider the possibility of eliminating many current mandates and regulatory requirements, including teacher certification.~~

STATE CULTURAL BUREAU

Discussion

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

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

Finding

There appears to be general support for the current configuration of the four cultural commissions under the administrative umbrella of the Maine State Cultural Affairs Council. However, the chronic underfunding of the cultural agencies does argue strongly for the establishment of a new mechanism to better coordinate and leverage fund-raising efforts.

Recommendation

The Maine Cultural Foundation should be established as a private-public partnership to develop stronger support for the cultural heritage of the state. The Maine Development Foundation provides a useful and successful model of the application of private sector expertise and support to public policy issues. The

Maine Cultural Foundation should replace the four cultural commissions as the policy setting body. The foundation's board should incorporate representation from the interests currently represented in the four cultural commissions. The Legislature should establish a matching funds formula to provide incentives for more aggressive fund-raising efforts.

5.4 NATURAL RESOURCES

Discussion

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

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

To put these statistics into more meaningful terms, state government spends about a dollar a week on behalf of each citizen to manage and protect their natural resources. In an era of shrinking state budgets and hard economic times, that dollar must be used as efficiently as possible.

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

- Management of fish and wildlife is undertaken by both the Department of Inland Fisheries and Wildlife and the

Department of Marine Resources. Each department maintains separate law enforcement services.

- While the management of the state's forests probably has the most direct effect on fish and wildlife, state government activities in this area are located in a third agency, the Maine Forest Service located Department of Conservation.
- Because anadromous fish pass between the fresh and marine environments, yet another entity, the Atlantic Salmon Commission exists to coordinate the activities of state government in this area.
- State efforts to identify, assess and register unique and endangered natural resources are located in two separate programs, the Natural Heritage Program and the Critical Areas Program, neither of which is even located in a natural resource agency.
- Management of state-owned natural and recreational resources is spread over numerous locations.

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

The major environmental regulatory functions are located in three different agencies, the Department of Agriculture, Food and Rural Resources - Board of Pesticides Control; the Department of Conservation - Land Use Regulation Commission; and the Department of Environmental Protection. The reason for this division of responsibility is primarily an artifact of the political failures of past efforts to consolidate related regulatory functions. The extra administrative overhead and difficulties of coordinating the overlapping impact of these agencies cannot be justified in the current economic climate.

Unlike the other natural resource departments, the Department of Environmental Protection has shown substantial real expenditure growth, with total real expenditures increasing by more than 70% over the past 10 years. That growth can be attributed, at least in part, to increasing mandates imposed on the department by the Legislature, efforts to address a chronic understaffing situation and the significant increases in development activity that occurred during the 1980's.

The presence of large increases in real expenditure growth is not necessarily an indication of inefficiency in a department, particularly in a department such as the DEP that has experienced expansion of its statutory mandate. That growth has, however, placed new and significant demands upon the department and the BEP that cannot be met by organizational structures established more than a decade ago. The present media organizational structure of the department (air, water and land) and the 10 member citizen Board of Environmental Protection is no longer sufficient to address the increasingly complicated problems of environmental regulation.

The fact that decisions of the Board of Pesticides Control implicate environmental quality and public health concerns beyond the agricultural sector raises serious questions about the compatibility of the Board with its present location in the Department of Agriculture, Food and Rural Resources. In 1972, Congress transferred federal pesticide regulatory authority from the Department of Agriculture to the Environmental Protection Agency in recognition of the fact that pesticide laws had shifted from a focus on protecting the farmer to broader societal issues of environmental quality and protection of the public health. That transfer appears to have been appropriate at the federal level. Several past studies in Maine have raised questions about the Board's current location and suggested transferring its responsibilities to the Department of Environmental Protection.

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

Finding

The management, promotion and regulation of Maine's natural resources should be organized along functional lines in order to achieve administrative economies, a higher degree of program effectiveness and a higher level of integrated ecosystem management.

Recommendations

Restructure the DEP

Restructure the Department of Environmental Protection by abolishing the existing Bureau structure and replacing it with 3 new bureaus, organized along functional lines: a Bureau of Licensing, a Bureau of Enforcement and a Bureau of Technical Services. The Board of Environmental Protection would establish clear criteria for project review by the department. The Commissioner would ensure that each application is shepherded through the Bureau of Licensing by assigning a team of individual staff members to each application. Applicants would be responsible for all costs associated with ensuring that a project complies with the criteria. In addition, the permit-by-rule procedures would be expanded, to allow a larger percentage of small or routine applications to be processed quickly.

Restructure the BEP

Abolish the existing Board and replace it with a full-time, 3-member professional Board. The Commissioner of Environmental Protection would be the chair of the Board. The other 2 members would be appointed by the Governor subject to confirmation by the Legislature. The members must be skilled and knowledgeable in technical issues pertaining to environmental regulation. The new Board would decide upon permit and license applications that were not processed by the Department through the permit-by-rule procedures or directly by the Commissioner. Appeals of Board or Commissioner decisions would be taken directly to the Courts.

Consolidate regulatory functions

The responsibilities of the Board of Pesticides Control should be transferred to the Department of Environmental Protection. The line staff of the Board should also be transferred while the administrative and unessential management staff should be eliminated. The BPC membership should be abolished and its duties assumed by the restructured Board of Environmental Protection.

The Land Use Regulation Commission should be attached to the

new Department of Natural Resources (see below) as an independent agency receiving ~~only for~~ necessary administrative support services from the Department. The Commission should maintain its comprehensive planning and zoning program and should investigate further measures to coordinate and/or eliminate areas of regulatory overlap with the DEP.

Consolidate management functions

The Department of Agriculture, Food and Rural Resources, minus the Board of Pesticides Control, should continue its primary mission of marketing and technical assistance for the state's agricultural sector.

The Departments of Inland Fisheries and Wildlife, Marine Resources and Conservation should be consolidated into a single Department of Natural Resources. The management of state-owned natural resources should be undertaken by a single bureau within the new department. All wildlife sanctuaries, state parks, public lands, submerged lands and other, related state properties should be managed in a coordinated manner while respecting the special status of some of these properties, most notably the public reserved lands ("public lots").

The law enforcement arms of the merged agencies should also be consolidated into a single bureau of enforcement. While the need for some specialization in certain areas of law enforcement may remain, significant savings should be available by "flattening out" the hierarchy of the current command structure and eliminating redundant managerial and administrative personnel. Further attention should be given to coordinating and perhaps integrating the fire control and law enforcement programs where those two functions result in overlapping responsibilities and staffing requirements.

The new department would also provide a logical home for a single program with responsibility for all registration and licensing of watercraft, recreational vehicles and resource utilization (eg hunters, anglers, commercial fishing, etc). Department of Natural Resources. This program, with only its existing staff, should assume the identification, assessment and registry functions of the Critical Areas program currently located in the State Planning Office. The Critical Areas Program and its advisory board should be abolished.

5.12 DEPARTMENT OF JUSTICE

Deferred pending receipt of further cost data

5.7 MERGER OF FINANCE AND ADMINISTRATION

[NOTE: There is an inconsistency between this section's recommendation of a Bureau of Budget Management and the suggested Office of Management and Budget in the Executive Department. This requires Commission review and discussion.]

Discussion

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

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

Findings

The merger of the Departments of Finance and Administration will result in increased effectiveness, efficiency and in significant dollar savings. The annual General Fund cost savings are estimated at about \$750,000, exclusive of any savings associated with the recommendations to change liquor and lottery operations and the operation of the Bureau of Public Improvement.

The merger of the departments provides an opportunity for instituting a program for decentralizing management decision-making

in the Executive Branch. At present, management decision-making is largely centralized; for instance, departments must seek approval from the Bureau of the Budget for all work programs, quarterly allotments and changes in the same. The creation of an internal control mechanism which would allow for blanket approvals of budget orders, provided certain management standards were met, has the potential for promoting intra-departmental quality control, quality management and results-oriented management.

Recommendations

The departments of Finance and Administration should be merged (see organizational/functional chart).

The merger should result in:

- Eight bureaus as follows: Bureau of Accounts and Controls, Bureau of Budget Management, Bureau of Employee Relations, Bureau of General Services, Bureau of Human Resources, Bureau of Information Services, Bureau of Liquor and Lotteries, and the Bureau of Taxation.

Several bureaus should remain functionally unchanged: the Bureau of Accounts and Control, the Bureau of Employee Relations, the Bureau of Human Resources, the Bureau of Information Services (presently it is an "Office", but this organizational change is not accompanied by functional changes), and the Bureau of Taxation.

The functions/activities of the present Bureau of Budget should be expanded to create a new Bureau of Budget Management: revenue forecasting processes should include analysis of revenue/tax policies and a new internal control division should be established. The internal control division should function to decentralize financial and administrative control by providing for blanket approval of all budget orders submitted by departments which demonstrate adequate administrative and financial internal control mechanisms.

The new Bureau of General Services would arise from a consolidation of the Bureau of Public Improvements, the Bureau of Purchases and the Division of Risk Management. This combination will allow the sharing of resources and information

between these functionally similar units. As discussed earlier (see chapter 4) the bureau should incorporate competitive bidding procedures for the services it now provides directly.

The new Bureau of Liquor and Lotteries would oversee regulation of the private sale of liquor including the private takeover of the state's liquor store system. This bureau would also oversee the state's contractor(s) for the management and operation of the state lotteries.

- Two divisions responsible directly to the Commissioner: Division of Financial Services and Division of Personnel Services.

These Divisions should perform all internal financial and personnel functions which are now performed by the Administrative Services Division within the Department of Finance and by the Commissioner's Office within the Department of Administration.

- A position of Deputy Commissioner to assist the Commissioner of the new department. Also, a new position of Assistant Controller should be created to assist in the management of the Bureau of Accounts and Control.
- Funding for the Director of the Bureau of Information Services should be drawn from the Internal Services Fund and not from the General Fund.

5.6 TRANSPORTATION

Deferred pending further discussion

5.5 ECONOMIC DEVELOPMENT PROGRAMS

Discussion

Economic growth in Maine in the 1990's will be much slower than during the 1980's. At the same time, the state will face intensifying competition both from within the U.S. and from abroad. Maine is presently experiencing an economic downturn and increased

unemployment. In part, these conditions are due to the national recession, which has influenced New England most heavily. Other factors, over which the state has greater control, have also contributed to our present economic condition.

The state's economic climate, which includes the adequacy of economic and infrastructure development, is an important factor influencing the well being of Maine people. Improving the standard of living of Maine's citizens will depend upon improving the competitive position of its industry, and developing an economic environment that is conducive to job creation. If the state is going to move forward, it will have to take action in both of these areas.

Currently the state offers a variety of economic and infrastructure development services including small business assistance; export and foreign investment promotion; product marketing; technology development; financing for infrastructure, business development, housing and education; tourism promotion; worker training and business regulation. Those services are offered by at least eighteen programs and agencies including, but not limited to: Department of Economic and Community Development; Small Business Development Centers; FAME; MSHA; Maine World Trade Association; Maine Science and Technology Commission; Maine Development Foundation; Maine Bond Bank; Maine Waste Management Agency; the Maine University and Technical College systems; and the Executive Branch departments of Agriculture, Labor, Environmental Protection, Marine Resources, Professional and Financial Regulation, Conservation and Inland Fisheries and Wildlife.

Finding

DECD's focus for economic development services is unclear, its organization has been changed frequently and its performance is not easily measured.

Recommendations

The Executive and Legislative branches should agree upon and support a unified strategy for economic development in Maine.

The focus of economic development services must be on job creation and retention both from outside and inside the state with special attention given to existing Maine businesses. The DECD mission statement must be refined to indicate this focus. The Department should be held accountable by the governor and the ~~board~~ **Legislature** for the outcomes attained.

Create one Board of Directors ~~comprised solely of business leaders~~ for DECD; eliminate all other existing boards¹ dealing with business development services. The public/private nature of economic development must be emphasized. This board should be jointly appointed by the Governor and the Legislature and report to them annually.

Finding

The lines of coordination and distribution of economic development service responsibilities need to be clarified.

Recommendations

Adopt a unified, coordinated approach to economic development services that acknowledges that there are certain functions best performed by the state and other functions best performed by regional and local economic development agencies. In that unified approach the state services should include:

- providing a clearinghouse on state regulations, programs and grants for businesses;
- the ability to work with people through the system including fulfilling the roles of counselor, advocate, facilitator and expeditor for businesses in their efforts to comply with state regulations, participate in programs, and apply for grants;
- advocating responsible business development legislation;
- assisting regional economic development personnel;
- subcontracting with the private sector (through performance based contracting) business attraction functions; and
- providing research and development services.

Common goals and similar programs among DECD and regional and local economic development organizations should be identified and used in ways that avoid duplication of services and an overlap of effort, cost and accountability. Liaisons should be identified at several levels.

Finding

Assisting communities with the growth management plans has diverted a significant portion of DECD's resources away from economic development services, despite the fact that we have been experiencing a chronically recessionary environment.

Recommendation

Reassign the responsibility for providing growth management technical assistance to DEP or at least reduce DECD's involvement in growth management activities.

Finding

State economic development services are fragmented. These factors have resulted in economic development efforts which are incomplete and have redundant administrative costs.

Recommendations

FAME, its functions, personnel, budget and board of directors should be incorporated into DECD. This would permit financing to be an integral part of business development activities.

- duplicate administrative personnel should be eliminated.²
- the responsibilities of the new DECD commissioner should be revised to include financing responsibilities and a salary appropriate to these increases in responsibility.

DECD should be reorganized around the functions it provides.

- job creation, including business financing, attraction and promotion;
- tourism;
- research and development; and
- limited growth management assistance (if not eliminated).

The Maine World Trade Association should revert to its former status with DECD as a contracted service put out for bid on a performance based contract. The MWT advisory board should be disbanded.

~~The functions of the Maine Science and Technology Commission should be incorporated into DECD. Administration of those functions should be accomplished by DECD. The MS&TC advisory boards should be disbanded.~~

Reallocate the \$600,000 currently budgeted for SBDC to business assistance programs.

5.13 CONSTITUTIONAL OFFICERS

5.13.1 Secretary of State

Discussion

The Office of the Secretary of State is responsible for a number of functions including Elections, **the Administrative Procedures Act**, Motor Vehicle Registration, Registration of Corporations, and maintenance of the State Archives. Two of these functions -- Elections and State Archives -- are constitutional responsibilities.

The Secretary of State is elected to the position by vote of the Maine State Legislature as set forth in the constitution. Maine is only one of ___ states in which the legislature elects the Secretary of State. The majority of states rely upon statewide election, although in some instances the secretary of state is appointed by the governor and confirmed by the legislature.

Findings

The constitutional functions of the Office of the Secretary of State require the ability to conduct the affairs of the Office in a strictly non-partisan fashion.

Several functions of the Office of the Secretary of State represent registration activities and need not be located within that office. Motor Vehicles registration and corporations are only two of a wide variety of activities which are registered with the State of Maine, most of which are conducted through the executive branch agency assigned that general area of policy and management responsibility. In that way, registration can be integrated with other related services such as regulation, oversight, and provision of public services.

Recommendations

We make the following recommendations with respect to the Secretary of State:

1. The Office of the Secretary of State should be restructured to include only elections, commissions, and archives. The Division of Motor Vehicles should be transferred to the Department of Transportation. That part of the Bureau of Corporations, Elections, and Commissions which deals with the registration of corporations should be transferred to the Department of

Professional and Financial Regulation.

2. The Secretary of State should be nominated by the governor and confirmed by legislature and should serve a single term for a period of seven (7) years.

5.13.2 State Treasurer

Discussion

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

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

Findings

The Treasurer of State provides a number of services which interface with the day to day activities of various units within the Department of Finance. The close interaction necessary to perform these functions is inhibited by the location of the Office within the legislative branch of government and by the fact that the State Treasurer is elected by the legislature.

The investment management function of the Office is an especially important function since the size of the so-called "Treasurer's cash pool" has increased significantly over the past two decades. On an average day, there is \$_____ million in the pool which is invested and the proceeds returned to their respective funds to provide additional services. As a result, small reductions or increases in yields on these invested funds can result in substantial changes in the amount of resources available to the State. Recently, states have begun to contract the management of their cash pools to private money managers and increased the average yields. For example, Florida gave eight fund managers \$100 million each to invest in competition with each other. Thus far, they have increased their rate of return by a

full 3 percentage points above what it had been able to achieve on its internally managed money. Vermont has undertaken a performance based contract in which the compensation to the private money manager is based on the earnings it is able to generate for the state.

Recommendations

We make the following recommendations with regard to the Treasurer of State:

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

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

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

5.14 JUDICIARY

5.14.1 Fragmentation and Duplication of Services in the Judiciary

Discussion

Maine's three-tier court system has developed over the years in response to the growing needs of the state, without an overall management plan. This piece-meal growth has resulted in duplication and fragmentation of court administration and management. Adding to the duplication is a law requiring the Judicial Department to participate in the administrative processes of executive branch central service agencies as well as their own. Chief Justice McKusick recently appointed a committee to review and recommend improvements in administration and management of the court system. That committee, the Volunteer Business Committee, made numerous recommendations, some of which we endorse and adopt below.

Currently, each court system in the state (the District Courts, the Superior Courts, and the Supreme Judicial Court) has an administrative officer, and the Administrative Office of the Courts

has an administrative officer with limited authority over all the court systems. In addition, each court in the State has staff to collect fees and fines, and to process bail and escrow accounts; each court has bank accounts to handle these multiple small transactions.

Finally, the Judicial Department is required by law (4 MRSA §26) to use the services of and be included in systems established by the Department of Finance and Administration, including systems for processing budget expenditures. This results in inconsistent and duplicative processes, since the Judicial Department has processing systems and management systems specifically designed for the needs of the Judicial Department.

Finding

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

Recommendations

The statute creating the office of State Court Administrator (4 MRSA §§15-17) should be amended to create the position of Chief Operating Officer of the Court, with expanded authority over management of the courts. Consolidation of authority in the Chief Operating Officer would permit coordination of management and better long-range planning capabilities for the system.

The Judicial Department should centralize the collection of fees and fines, and the receipt and disbursement of bail and escrow deposits.

This would allow staff in the courts to use their time more productively performing other duties. Merging several bank accounts into fewer larger accounts may also enable the court system to maximize interest earnings and minimize bank processing fees.

To avoid duplication, and to give the Judicial Department the authority it should have to manage its own expenditures, the statute requiring the Judicial Department to use the services of the Departments of Finance and Administration (4 MRSA §26) should be repealed.

5.15 LEGISLATIVE STRUCTURE AND OPERATION

Discussion & Findings

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

Some of the Commission's recommendations related to the Legislature are found in the planning, budget and government operations sections above. Three categories of additional changes follow: (a) the size of the Legislature; (b) rule-making authority; and (c) committee assignments and leadership.

Recommendation 1

We recommend the Legislature take steps to reduce its size to 33 Senate seats and 99 House seats, to insure continuity between Senate and House Seats (three House districts within a Senate District), and to enhance the capacity of House members to work more closely together. Some of the savings from a reduced House size should be applied to increased staff for legislative work. Other savings should be used to help members deal with increased pressures for constituent services. The constituent support services could include staff and expanded availability of telecommunications technology.

The Legislature may also wish to consider the possibility of a unicameral legislature. The present arrangement of Joint Standing Committees already makes much of the legislative work of the two bodies the equivalent of a single house. The traditional rationale of two houses should be examined carefully in light of the change to the one person one vote rule for representation in both the House and the Senate.

The Commission further recommends, whatever the decision on the size of the Legislature, that change be made in the way minority members are appointed to committees. The present system, in which the President and the Senate make the appointments -- even with recommendations from the minority leadership -- maintains an unnecessary irritant that can sometimes interfere with a much needed cooperative atmosphere in the legislature.

Recommendation 2

As the demands of public policy have become more complicated, the Legislature has delegated more and more responsibility to Executive Branch agencies for delineation of public policy through rule-making. It is impossible in legislation to anticipate every circumstance and every requirement for fulfilling legislative intent. The pattern of general legislation and delegated rule-making authority has become so pervasive at the state and federal level that it is sometimes forgotten that Executive Branch agencies are, in the rule-making process, actually carrying out a legislative responsibility delegated to them. Rule-making is not an inherent Executive Branch power.

The Commission has heard repeated complaints about the perceived failure of Executive Branch agencies to fulfill legislative intent in promulgating rules and regulations. There is frustration on the part of legislators. There is also concern and some evidence of costly disputes resulting from disagreements over the degree to which rules and regulations actually reflect the law and legislative intent. Part of the problem stems from policy disagreements between the two branches. Part of it stems from the limited public record on Maine legislative intent. Unlike the federal congress, for example, the Maine Legislature does not issue detailed committee reports with legislation that would provide documentation of legislative intent.

The Commission recommends that the Legislature clarify the relationship between the two branches on rule-making authority and reduce the likelihood of unnecessary disputes over rules and regulations by requiring that Executive Branch agencies submit proposed rules and regulations to the standing committees of jurisdiction for review before they are promulgated. Those rules or regulations approved by the committee would take effect promptly. Those rules or regulations rejected by a committee would be held to the next session of the Legislature for consideration by the whole Legislature.

Recommendation 3

Finally, since it is our intent to strengthen the Legislature as an equal branch of State Government, we recommend that the presiding officers of the House and Senate have term limits comparable to the eight year limit imposed on the office of Governor. We recommend that the limit apply to terms beginning after the effective date of the change.