

MAINE STATE LEGISLATURE

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STATE OF MAINE

ONE HUNDRED AND SIXTH LEGISLATURE

COMMITTEE ON STATE GOVERNMENT

December 30, 1974

Legislative Council
106th Legislature
State House
Augusta, Maine 04330

Gentlemen:

In accordance with H.P. 1388, H.P. 2058 and H.P. 2066, Orders directing the Committee on State Government to study various aspects of the State personnel system and laws, I enclose herein the final report of the Committee.

Respectfully submitted,


JERROLD B. SPEERS, Chairman
Committee on State Government

REPORT OF
THE COMMITTEE ON STATE GOVERNMENT
ON
THE NECESSARY EVOLUTION OF THE STATE PERSONNEL SYSTEM

December 18, 1974

Senate

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I. INTRODUCTION

Don't assume...that the interests of employer and employee are necessarily hostile -- that what is good for one is necessarily bad for the other. The opposite is more apt to be the case. While they have different interests, they are likely to prosper or suffer together.

-- Justice Louis D. Brandeis

But I know of no way that we can have equal justice under law except we have some law.

-- Justice Robert H. Jackson

There are three guiding themes to the Committee on State Government study¹ of the state personnel merit system:

- a. employer, employee collective bargaining;
- b. equal opportunity through affirmative action;
- c. federal personnel standards such as the Fair Labor Standards Act (FLSA) and the Inter-governmental Personnel Act (IPA) of 1970.

¹Joint Order, "A Study of Greater Uniformity and Equity in State Personnel Laws", House Paper 1388, April 2, 1973; Joint Order, "A Study of Incentives for Managers and Assistant Managers of State Liquor Stores", House Paper 2066, March 20, 1974; Joint Order, "A Study of Longevity Increases to All Classified Employees", House Paper 2058, March 20, 1974. See Appendix A.

These programs are our guides not because they are the cause of the deficiencies in the personnel system -- they are not -- but rather because the demands they will make on our state personnel system will reveal the ever increasing weaknesses in a personnel system basically unchanged for more than twenty years.

If employee working conditions justify adjustments to hours, wages or working conditions, the collective bargaining program² will discuss them. If there are inequalities in hiring or in compensation and benefit schedules, the affirmative action plans³ will reveal them. If the standards of the state personnel system are below those set by federal legislation⁴ (in such areas as equal pay, overtime, political pressure, etc.), then class action suits and denied federal funding will be the grim harvest.

While these programs do not at this time apply to all state employees⁵, their philosophies -- mutual prosperity for the State

² 26 MRSA §979, State Employees Labor Relations Act. See Appendix B.

³ Executive Order No. 24, FY 73-74, Code of Fair Practices and Affirmative Action (March 20, 1974). See Appendix B.

⁴ Fair Labor Standards Act, 29 U.S.C. §201 et seq. (1970); Intergovernmental Personnel Act, 42 U.S.C. §4712 (1970).

⁵ The Fair Labor Standards Act does not apply to bona fide executives, administrative and professional employees. 26 MRSA §979-A(6) lists exceptions to the State Employees Labor Relations Act (collective bargaining). Affirmative action plans apply at this time only to Executive Department employees.

and its employees, equality in career opportunities -- will influence all future legislation implementing the necessary evolution of the Maine state personnel system.

Collective Bargaining

The 1974 Maine collective bargaining legislation, entitled the State Employees Labor Relations Act⁶, allows collective bargaining to begin January 1, 1975. Its purpose as stated in the bill is to improve the relationship between the State and its employees. Matters appropriate for collective bargaining include but are not limited to:

- a. wage and salary schedules to the extent they are inconsistent with rates prevailing in commerce and industry for comparable work within the state;
- b. work schedules relating to assigned hours and days of the week;
- c. use of vacation or sick leave, or both;
- d. general working conditions;
- e. overtime practices;
- f. rules and regulations for personnel administration (excepting non-discriminatory rules and regulations relating to applications for state employment and the probationary status of classified employees).⁷

Affirmative Action Plans

The affirmative action plans, which are designed to increase the number of minorities and women at all levels and in all

⁶ See also Municipal Public Employees Labor Relations Act, 26 MRSA §961-972.

⁷ 26 MRSA §979-D.

segments of the work force where imbalances exist, was scheduled to be fully implemented in the Executive Branch by October 15, 1974. Governor Kenneth M. Curtis expresses well the concerns of the Maine Code of Fair Practices:

Affirmative Action reinforces merit employment concepts by assuring that all segments of our society have an opportunity to enter public service on the basis of their relative ability. This is accomplished partly by doing away with barriers such as inadequate publicity about job openings, discriminatory job requirements, tests which lack adequate validity, and insufficient opportunity for promotion and partly through positive attempts to recruit and promote persons from minority or handicapped groups.⁸

Federal Standards

Finally, the Fair Labor Standards Act mandates minimum wage, equal pay, maximum hours, overtime pay, record keeping and child labor standards. Section 2 of the Intergovernmental Personnel Act of 1970 requires that a state personnel system embody certain merit principles or be denied much federal funding⁹. Standards implementing this act have been promulgated by the United States Department of Health, Education and Welfare, Labor and Defense:

⁸ Executive Order No. 24, FY 73-74, Code of Fair Practices and Affirmative Action, page 2. (March 24, 1974).

⁹ See Appendix B for a listing of federally funded programs affected by violation of the IPA merit principles.

[Personnel programs should] provide for analyzing and classifying jobs; establishing adequate and equitable salary, fringe benefit, and retirement plans; projecting manpower needs and planning to meet them; developing effective recruitment, selection, placement, training, employee evaluation, and promotion programs; assuring equal opportunity and providing affirmative action programs to achieve that end; protecting employees from discrimination, arbitrary removal, and political pressures; conducting positive employee-management relations and communications; providing research to improve personnel methods. Personnel programs must be planned and administered in a timely, expeditious manner to meet effectively program and merit system objectives.

While the collective bargaining program, the affirmative action plans and the federal personnel standards (FLSA and IPA) will forcefully point out the continuing weaknesses in our personnel system, they cannot be expected to cure them. It is true that many of the recommendations made in this study will immediately strengthen the state personnel system. But only for a time. Our personnel system was designed for needs long past and only a complete analysis and restructuring of it will insure efficient state government in the years ahead.

II. GENERAL FINDINGS

In examining the possible deficiencies present in the state personnel system, three problem areas evolved:

- a. statutory inequities among classified employees;
- b. re-organization of the Department of Personnel;
- c. structural problems, including the necessity of a management consultant study of our classification and personnel systems, the importance of having affirmative action programs exist in all state agencies, restrictions on dedicated revenues, wages, hours and working conditions of the unclassified service, statutory reform, nepotism and the need for automation planning.

These three areas involve directly this study's three guiding themes of equal opportunity through affirmative action, the demands of collective bargaining and the federal standards for personnel systems.

Statutory Inequities Among Classified Employees

The committee finds that the personnel system has not evolved with the needs of its proliferating employees. This has allowed the passage of often narrowly specialized legislation that catered to the desires of only a select few. This situation tends to create merit system inequities and is antithetical to the initial stages of collective bargaining.

Re-organization of the Department of Personnel

The committee finds that the organization of the Department of Personnel has failed to evolve in the face of such fundamental personnel system developments as the increased need in Maine for decentralized "field" personnel decisions and the passage of federal standards for job specifications, job examinations and job classifications.

Structural Problems

The committee finds that as the family of the state employees has multiplied, the personnel system is similar to a small house with suddenly too many people. Simply rearranging the furniture -- ad hoc revisions to the personnel laws, rules and regulations -- will not do. The structure itself needs renovation. The foundations of such a structural evolution should be an outside management consultant study of the entire personnel system and the mandatory establishment of affirmative action plans in all state financed or state related agencies.

III. SUMMARY OF RECOMMENDATIONS

A. Statutory Inequalities Among Classified Employees

1. AD-HOC STATUTES MANDATING COMPENSATION LEVELS AND BENEFITS FOR ONLY CERTAIN CLASSES OF EMPLOYEES SHOULD BE REPEALED. EMPLOYEES CURRENTLY BENEFITING FROM SUCH LEGISLATION SHOULD CONTINUE TO ENJOY SUCH COMPENSATION OR BENEFITS UNTIL THEIR EMPLOYMENT BY THE STATE CEASES.* 11
2. PROPOSED LEGISLATION ESTABLISHING PERFORMANCE INCENTIVES FOR MANAGERS AND ASSISTANT MANAGERS OF STATE LIQUOR STORES SHOULD BE ABANDONED. INSTEAD NEW STANDARDS AND PROCEDURES SHOULD BE DEVELOPED WHEREBY ALL DESERVING EMPLOYEES ARE GRANTED MERIT INCREASES BASED ON SUPERIOR PERFORMANCE. 14
3. INCENTIVES TO RETAIN NEEDED STATE EMPLOYEES SHOULD NOT BE PASSED PIECEMEAL; INSTEAD THEY SHOULD BE ESTABLISHED THROUGH JOB RECLASSIFICATION ARRIVED AT BY COLLECTIVE BARGAINING OR A GENERAL REVIEW OF THE CLASSIFICATION SYSTEM. 15
4. ARMED FORCES VETERAN'S PREFERENCES IN THE JOB APPLICATION, APPOINTMENT AND RETENTION PROCESSES SHOULD NOT BE AVAILABLE TO THOSE WHO HAVE MADE A CAREER OF MILITARY SERVICE AND WHO ARE CURRENTLY RECEIVING RETIREMENT BENEFITS.* 16

* For draft legislation implementing these Recommendations, see Appendix G.

B. Reorganization of the Personnel Department

1. THE PERSONNEL DEPARTMENT SHOULD BE THE CENTRALIZED AUTHORITY FOR THE ADMINISTRATION OF THE PERSONNEL LAWS, RULES AND REGULATIONS; YET ALSO, MANY OF ITS TASKS AND DECISIONS SHOULD BE DECENTRALIZED. THE EXACT DEGREE OF CENTRALIZED AUTHORITY AND DECENTRALIZED TASKS SHOULD BE DETERMINED BY AN OUTSIDE MANAGEMENT CONSULTANT STUDY. 17
2. THE SIZE OF THE DEPARTMENT OF PERSONNEL SHOULD BE SUFFICIENTLY INCREASED TO ALLOW A CONTINUING UPDATING OF JOB SPECIFICATIONS, JOB EXAMINATIONS AND JOB CLASSIFICATIONS. 21
3. THE STATE PERSONNEL BOARD IS IN NEED OF REORGANIZATION: ALL FIVE MEMBERS SHOULD BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE EXECUTIVE COUNCIL; MEMBERS' SALARIES SHOULD BE MADE COMMENSURATE WITH THEIR DUTIES AND HOURS SPENT. * 27

C. Structural Problems

1. THE STATE MERIT SYSTEM, INCLUDING THE CLASSIFICATION AND PAY SYSTEM, THE PERFORMANCE EVALUATION SYSTEM, TEST VALIDATIONS, THE UNCLASSIFIED SERVICE AND THE ORGANIZATION OF THE DEPARTMENT OF PERSONNEL ITSELF, SHOULD BE ANALYZED AND REDESIGNED BY MANAGEMENT CONSULTANTS. * 29
2. THE EXECUTIVE DEPARTMENT'S AFFIRMATIVE ACTION PROGRAM SHOULD BY LAW APPLY TO ALL STATE FINANCED AGENCIES. * 36
3. DEDICATED REVENUE AGENCIES SHOULD BE SUBJECT TO THE SAME RESTRICTIONS REGARDING TOTAL EMPLOYEE COUNT AND RECLASSIFICATION AS ARE GENERAL FUND AGENCIES. 38

* For draft legislation and a draft joint order implementing these Recommendations, see Appendix G.

4. AN ON-GOING STUDY SHOULD BE INSTITUTED TO REVIEW THE HOURS, WAGES AND WORKING CONDITIONS OF THE EMPLOYEES IN THE UNCLASSIFIED SERVICE. THIS STUDY SHOULD BE A FUNCTION OF THE PERSONNEL BOARD. * 40
5. WITH THE ADVENT OF COLLECTIVE BARGAINING AND AFFIRMATIVE ACTION PLANS, IT IS IMPORTANT THAT STATUTORY AUTHORITY FOR THE STATE CLASSIFICATION AND PAY SYSTEM, PERFORMANCE EVALUATION SYSTEM AND EMPLOYEE ETHICAL RESTRAINTS BE CLEARLY DELINEATED. 41
6. NO SUPERVISOR, CLASSIFIED OR UNCLASSIFIED, SHOULD BE PUT IN THE POSITION OF BEING ABLE TO HIRE OR PROMOTE MEMBERS OF HIS OR HER EXTENDED FAMILY.* 42
7. THE AUTOMATION OF PERSONNEL DEPARTMENT PROCEDURES SHOULD BE ENCOURAGED. 43

*For draft legislation implementing these Recommendations, see Appendix G.

IV RECOMMENDATIONS AND DISCUSSION

A. Statutory Inequalities Among Classified Employees

1. AD-HOC STATUTES MANDATING COMPENSATION LEVELS AND BENEFITS FOR ONLY CERTAIN CLASSES OF EMPLOYEES SHOULD BE REPEALED. EMPLOYEES CURRENTLY BENEFITING FROM SUCH LEGISLATION SHOULD CONTINUE TO ENJOY SUCH COMPENSATION OR BENEFITS UNTIL THEIR EMPLOYMENT BY THE STATE CEASES.

While the committee is in sympathy with many of these pieces of special preference legislation, the Joint Order authorizing this study¹⁰ expressed well the dangers of such legislation: "...such amendmants may tend to conflict with established principles and policies of the merit system,¹¹ to create inequities in the employee compensation schedules and benefit plans and to encourage fragmentation and competition among employees...."

10 Joint Order, "A Study of Greater Uniformity and Equity in State Personnel Laws", House Paper 1388, April 2, 1973; see Appendix A.

11 See State of Maine Personnel Rules, Rule 5, the Compensation Plan; see also Appendix C.

The ad-hoc statutes mandating preferential compensation levels that should be considered for repeal are:

- a. 5 MRSA § 634 permits the Department of Mental Health and Corrections to pay physicians, psychologists and psychiatric social workers up to 25% above Step E of their ranges in the compensation plan. (Reclassification of these jobs might make unnecessary the need for special allowances.)
- b. 5 MRSA § 634 permits the employing authority to pay advanced professional, technical and administrative personnel above the maximum levels established in the compensation plan. (Again, reclassification might eliminate any need for special treatment.)
- c. 5 MRSA § 634 grants certified Professional Secretaries a one step pay increase upon completion of the certification requirements.
- d. 12 MRSA § 2001 links compensation of Inland Fisheries and Game Wardens to not more than one step below that of State Troopers; also allows Commissioner latitude in appointing wardens.
- e. 12 MRSA § 3651 links compensation of Marine Resources wardens to not more than one step below that of State Troopers; also allows Commissioner latitude in hiring.
- f. Chapter 142, Private and Special Laws, 1971 grants vacation credits to Highway Maintenance men (classifications, I, II, II₂, III, IV) for overtime work.

The ad-hoc statutes mandating preferential benefit levels that should be considered for repeal are:

- a. 5 MRSA § 680 waives charges against sick leave credits for job related injuries suffered by Inland Fisheries and Game and Coastal Wardens.
- b. 25 MRSA § 1506 waives charges against sick leave credits for job related incapacities suffered by State Troopers.

If such special interest legislation were repealed, the collective bargaining agents, employer and employee, would be able to start with relatively clean slates. No doubt, many of the repealed special preferences will be tested by the process of collective bargaining and found justified. Further, by repealing such legislation with the proviso that current recipients of such compensations and benefits be allowed to retain these extras until their employment by the State ceased, unjust deprivation of benefits would be avoided.

The act would not take effect until 18 months after passage, thereby providing not only time for collective bargaining but the opportunity for a much needed reevaluation of the entire classification system. For example, if justified the special treatment afforded certain advanced professions (see above 5 MRSA §634) could be formalized by a new classification. The need for an outside management consultant study of the entire classification system will be further discussed in Chapter IV, Sec. C, Structural Problems, Recommendation #1, page 29.

2. PROPOSED LEGISLATION ESTABLISHING PERFORMANCE INCENTIVES FOR MANAGERS AND ASSISTANT MANAGERS OF THE STATE LIQUOR STORES SHOULD BE ABANDONED. INSTEAD, NEW STANDARDS AND PROCEDURES SHOULD BE DEVELOPED WHEREBY ALL DESERVING EMPLOYEES ARE GRANTED MERIT INCREASES BASED ON SUPERIOR PERFORMANCES.

The Maine Management and Cost Survey (MMCS) recommended the establishment of an incentive system for liquor store managers¹² and legislation to that end was unsuccessfully introduced.¹³ The Committee on State Government was then asked to further study this matter.¹⁴

Such a law would seem clearly counterproductive. The proposed legislation would have introduced special and unnecessary treatment of liquor store personnel. The Department has long operated an incentive and evaluation system¹⁵ which, if properly administered, might be the equivalent of the proposed MMCS incentive system. Unfortunately, salary increases are now almost automatic and offer little in incentives. The possibility of an effective incentive and evaluation system, designed by outside management consultants, will be further discussed in Chapter IV, Sec. C, General Structural Problems, Recommendation #1, page 29 .

12 Maine Management and Cost Survey, page 36 (September 1973).

13 L.D. 2354, "AN ACT to Establish Pay Scales for Managers and Assistant Managers in State Liquor Stores".

14 Joint Order, "A Study of Incentives for Managers and Assistant Managers of State Liquor Stores", House Paper 2066, March 20, 1974; see Appendix A.

15 See State of Maine Personnel Rules, Rule 5, the Compensation Plan; see also Appendix D.

3. INCENTIVES TO RETAIN NEEDED STATE EMPLOYEES SHOULD NOT BE PASSED PIECEMEAL; INSTEAD, THEY SHOULD BE ESTABLISHED THROUGH JOB RECLASSIFICATION ARRIVED AT BY COLLECTIVE BARGAINING OR A GENERAL REVIEW OF THE CLASSIFICATION SYSTEM.

During the 106 Special Session legislation entitled, "AN ACT to Provide Additional Longevity Steps for Employees of the Bureau of Corrections"¹⁶ was submitted as a strategem to retain experienced people in potentially hazardous positions. This was questioned by other state employees who also felt deserving of longevity increases. The predictable result was a Joint Order¹⁷ authorizing a study of the feasibility of granting longevity increases to all state employees. This sequence illustrates the "snowball" psychology such piecemeal legislation fosters. The more proper solution should be a reclassification of the billets of deserving Bureau of Corrections employees. Such a reclassification should be arrived at by a general review of all job classifications or, if necessary, through collective bargaining. The necessity of an outside management consultant review of all job classifications will be more fully discussed in Chapter IV, Section C, Structural Problems, Recommendation #1, page 29.

16 Legislative Document No. 2173.

17 House Paper 2058, "A Study of Longevity Increases to All Classified Employees", March 20, 1974 See Appendix B.

4. ARMED FORCES VETERAN'S PREFERENCES¹⁸ IN THE JOB APPLICATION, APPOINTMENT AND RETENTION PROCESSES SHOULD NOT BE AVAILABLE TO THOSE WHO HAVE MADE A CAREER OF MILITARY SERVICE AND WHO ARE CURRENTLY RECEIVING RETIREMENT BENEFITS.

Because a veteran who has chosen to make a career out of the military service has not suffered from dislocation from civilian life and its attendant missed opportunities, it is not fair to favor his state job application, appointment and retention above others.

18 See 5 M RSA § 674, Veterans preference.

B. Reorganization of the Personnel Department

1. THE PERSONNEL DEPARTMENT SHOULD BE THE CENTRALIZED AUTHORITY FOR THE ADMINISTRATION OF THE PERSONNEL LAWS, RULES AND REGULATIONS; YET ALSO, MANY OF ITS TASKS AND DECISIONS SHOULD BE DECENTRALIZED. THE EXACT DEGREE OF CENTRALIZED AUTHORITY AND DECENTRALIZED TASKS SHOULD BE DETERMINED BY AN OUTSIDE MANAGEMENT CONSULTANT STUDY.

The committee has long debated and studied this question of whether or not to centralize¹⁹ the Personnel Department.

It has heard from one side the Personnel Department arguing that centralization would insure unbiased and correct administration of all personnel laws, rules and regulations²⁰.

This Personnel Department argument seems correct. The State is faced with collective bargaining, affirmative action and the Fair Labor Standards Act; all employees and prospective employees must be treated consistently and in order to do this the Personnel Department should be as centralized as possible.

But from the debate's other side the committee has heard various state agencies argue for decentralization, claiming

19. Centralization of the Personnel Department is taken to mean the transfer to the Department of authority over all personnel officers in the classified service not already part of the Personnel Department, all personnel in other agencies who mainly handle personnel transactions for their agencies, a minimum number of supporting clerical positions and a proportionate amount of "all other" and "capital" funds.

20 See Memorandum to Committee on State Government on State Government by State Personnel Director Nicholas L. Caraganis, July 19, 1974.

that there is often a three to six month wait before the Personnel Department would fill a vacancy and that the specific requirements of the many disparate agencies are so complex that an agency cannot rely on the Personnel Department to comprehend let alone act on its needs.²¹

And surely these agency arguments also seem correct. State government is too large and complex to allow a single department to dictate all it's agencies' personnel needs.

Indeed, therein lies the confusion: both arguments have merit. The authority over the personnel laws should be centralized in the Personnel Department; yet so also should many of the tasks currently performed by the Personnel Department be decentralized and placed with personnel officers stationed in the field.

Such a centralized/decentralized personnel system was advocated both in the 1967 Cresap, McCormack and Paget (management consultants) study of the Maine personnel system and in the 1973 Maine Management Cost Survey (MMCS). "Personnel

21 See Statement to the Committee on State Government, Commissioner McGary, Department of Educational and Cultural Services, August 7, 1974.

management should be decentralized to the maximum extent feasible", said the Cresap study, "with the central Personnel Department offering assistance as necessary, developing policy, appraising personnel operations and performing those functions which cannot be decentralized effectively or cannot be lodged with all departments because of limitations in departmental resources."²²The MMCS was equally emphatic in favoring a centralized/decentralized system:

In general, for the present, personnel functions and management should be centralized. Decentralization of classification, recruitment, examination and placement will take time. Agencies, whose staffs are large enough to warrant an employee relations representative, will require instruction from the department on matters not performed by them. ²³

However, the highly technical problem remains as to the degree of centralized authority and the specific tasks that would be decentralized. This problem, the committee feels, is best solved by an outside management consultant study which would, in addition to exploring other facets of the personnel system (e.g. a thorough classification - pay study) would analyze and restructure the organization of the Personnel

22 Cresap, McCormick and Paget, "Proposed Organization and Policies For State Personnel Administration", page II-9 (January 1967).

23 Maine Management and Cost Survey, page 41 (September 1973).

Department itself. The importance of such a study is further discussed in Chapter IV, Sec. C, Structural Problems, Recommendation #1, page 29.

2. THE SIZE OF THE DEPARTMENT OF PERSONNEL SHOULD BE SUFFICIENTLY INCREASED TO ALLOW A CONTINUING UPDATING OF JOB SPECIFICATIONS, JOB EXAMINATIONS AND JOB CLASSIFICATIONS.

The Maine Management and Cost Survey (MMCS) recommends that Personnel tests and examinations be changed to reflect a job content rather than education-credentials orientation and that job specifications be updated.²⁴ Present examinations are not in line with the requirements of the Equal Opportunity Act of 1972 and other federal legislation. Further, the MMCS states that many job specifications are outdated. These also may not comply with laws prohibiting discrimination - by setting height and weight requirements, for example, or by outlining unnecessary educational qualifications.²⁵

24 Maine Management and Cost Survey, Department of Personnel Recommendations 4 and 5, page 41 (September 1973). See L.D. 2376, One Hundred Sixth Legislature, First Special Session, which was placed in the legislative files after a unanimous ought not to pass vote (Joint Rule 17-A) and which would have provided a total of \$186,500 for continuing updating of job examinations and specifications. See Appendix D.

25 All too often classified positions are awarded to the applicant with the most impressive academic record while a person possessing the necessary practical skills and experience is passed by. Further, a person placed in a position for which he is over-educated will find the job boring and his incentive to perform waning.

The MMCS labels their two recommendations in this area as "Executive"; however, both require an appropriation, and relevant sections of the personnel statutes (5 MRSA § 633-classification plan and 5 MRSA § 673 - examinations) might well be amended to require ongoing revision of specifications and examinations in connection with a deliberate program of nondiscrimination and affirmative employment action.

Even more fundamental is the need for an on-going classification study. There are currently approximately 1,100 job classifications for approximately 13,500 state employees. Only four personnel officers are currently updating these classifications. There has not been a comprehensive classification study in over 20 years and as a result it is severely out of date and the single greatest system impediment²⁶ to successful collective bargaining, effective affirmative action and compli-

26 The importance of the classification system is emphasized by the state's Equal Employment Opportunity Specialist, Patricia Schroeder:

The classification system, having an effect at almost every level of state service, is probably the most important system in this or any organization. A proper, workable classification plan serves management, provides a personnel tool, and benefits employees. The system, first, serves management by aiding in organizational planning, budgeting for services and forecasting manpower needs. It serves a public relations function by explaining to the taxpayer the relationship between work performed and pay received and it is the one determining factor in wage and salary administration. Secondly, a good classification plan provides an excellent personnel tool because it spells out a job clearly, leaving no fuzzy assignments to be disputed at a later date. (con't)

ance with federally mandated personnel system standards. For example, a recent complaint by state domestic class workers charged a violation of the equal pay for equal work requirement of the Fair Labor Standards Act. Their complaint was based on the fact that they did tasks similar to those performed by custodians, who were members of a higher classification. The suit was settled out of court with the result that back pay was awarded to 67 employees, some of which will represent over two years of work. The belated result of this suit is that domestics are merged with the custodial class at a higher range effective this December.²⁷

It aids in manpower planning, recruitment, job restructuring and placement, as well as acting as a guide in performance appraisal. It is the determining factor in training programs and specific management techniques. Promotional systems and career ladders rely heavily on a good classification system; but, most importantly, this system lays the groundwork for proper examination validation according to the standard guidelines. Lastly, a good, workable classification system benefits the employee by acting as a guarantee of Equal Pay for Equal Work.

27 For a compendium of federal cases dealing with back pay, class actions, sex discrimination, testing violations, age discriminations etc., see "Equal Employment Opportunity Court Cases", U.S. Civil Service Commission (July 1974).

On July 11, 1974, the Maine Human Rights Commission published a study of the Implementation of Executive Order 11, which first set forth the Code of Fair Practices, creating the policy of anti-discrimination and equal opportunity and eventually establishing the affirmative action plans. The study's conclusions as to the Department of Personnel, while never formally discussed by the Committee, are very relevant:

The Department of Personnel is severely underfunded. It is difficult for this agency to carry on much of its every day work not to mention work aggressively for implementation of EEO principles. The Legislature must be made aware of this deficiency and the implications of it. [Emphasis added]

The following are recommendations for the State Personnel Board and/or the Department of Personnel.

8. A revised application form should be developed.
9. Examinations need to be reviewed to insure that they are valid and job-related.
10. A complete classification study needs to be conducted.
11. A training course for supervisors should be instituted.
12. Personnel involved in recruiting, interviewing, and counselling must be specifically trained in the area of equal opportunity.
13. A complete analysis of the EEO-4 report must be done.²⁸
14. The job duties and responsibilities of agency Equal Opportunity Officers need to be clarified.

28 The EEO-4 form requires that the sex, racial/ethnic status, occupational category and salary range for each full time employee be compiled.

15. It is currently permissible for Viet Nam-Era veterans to open closed registers. This was instituted in conjunction with the Emergency Employment Act program. This policy should be reviewed; if it is found to be essential, then there should be a time limit from date of discharge. For example, a closed register could be opened by a Viet Nam-Era veteran within 120 days of the date of discharge.
16. The possibility of using selection certification, i.e., certification based on some attribute other than merit, should be explored as part of affirmative action.
17. The expanded use of non-competitive positions, i.e. positions which do not require examinations, as an integral part of affirmative action should be considered.
18. The procedure for rating military experience should be reviewed because it is not quantified as is the rating of civilian experience.
19. When a vacancy exists in an agency, that agency currently receives the names of three certified eligibles. This rule of three should be changed; two alternatives are certify six eligibles for each vacancy or certify all eligibles whose scores are within a given range.

While the implementation of these recommendations (except for number 15)²⁹ is the responsibility of the Personnel Department

29 Recommendation #15, permitting Viet Nam-era veterans to open closed registers would necessitate specific legislation; see 5 MRSA § 675, Reopening of Examinations.

under their specific affirmative action plan, the legislative import is clear: the Personnel Department needs increased funding.

Finally, the Personnel Department itself has forwarded in their 1975-77 Part II budget request a plan to dramatically increase personnel and to conduct their own updating of the classification-pay system and their own organizational restructuring. While the committee feels this basic classification-pay study as well as the department reorganization should most likely be performed by a more objective outside management consultant, (see Chapter IV, Sec. C, Structural Changes, Recommendation #1, page 29), it does fully endorse additional funding and personnel for the Personnel Department. More staff will certainly be needed to keep current the personnel system - classifications, specifications, exams etc. - despite the fact that the fundamental groundwork in many areas will be achieved by an outside management consultant study.

3. THE STATE PERSONNEL BOARD IS IN NEED OF REORGANIZATION: ALL FIVE MEMBERS SHOULD BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE EXECUTIVE COUNCIL; MEMBERS' SALARIES SHOULD BE MADE COMMENSURATE WITH THEIR DUTIES AND THE HOURS SPENT.

As the state enters into the collective bargaining process, it is important that the members of the State Personnel Board have no allegiance to any special interests. Currently, one of the five members is nominated by the Maine State Employees Association; another is the head of one of the executive branch agencies.³⁰

The membership of the Board should still reflect generally the interests of the public, state administrators and state employees. Each member should be chosen by the Governor with the advice and consent of the Executive Council.

Appointees' knowledge of personnel relations and management should be the first and main criteria for their selection.

³⁰ Currently, three members are chosen to represent the public by the Governor with the advice of the Executive Council, the fourth member is elected by the Maine State Employees Association to represent all state employees and the fifth member is elected by the other four members from among the heads of the various departments to represent state administrators. See 5 MRSA § 591.

The compensation of these Board members should be raised from its current level of \$20.00 per day plus expenses to a figure more commensurate with their expanding duties.³¹

Finally, while the committee is aware that past studies have advocated a changed role for the State Personnel Board,³² it feels the above reforms are immediately necessary while additional, more fundamental changes, can await the result of an outside management consultant study of Personnel Department organization. For further discussion of the necessity of such an outside study, see Chapter IV, Sec. C, Structural Problems, Recommendation #1, page 29 .

31 See Recommendation #3, Sec. C, Structural Problems, which calls for the State Personnel Board to be given yet another duty: a continuing study of the hours, wages and working condition of the state employees in the unclassified service.

32 Both the Cresap, McCormack and Paget, "Personnel Department", page II-9, and the Maine Management and Cost Survey, pages 39-41, saw the need for a new role for the State Personnel Board.

C. Structural Problems

1. THE STATE MERIT SYSTEM, INCLUDING THE CLASSIFICATION AND PAY SYSTEM, THE PERFORMANCE EVALUATION SYSTEM, TEST VALIDATIONS, THE UNCLASSIFIED SERVICE AND THE ORGANIZATION OF THE DEPARTMENT OF PERSONNEL ITSELF, SHOULD BE ANALYZED AND REDESIGNED BY MANAGEMENT CONSULTANTS.

The State Merit System has not been comprehensively studied and overhauled for at least 20 years. Two such studies have been commissioned, one in 1960 by J.C. Jacobs and Co. and one in 1966 by Cresap, McCormick and Paget but neither of them was implemented by the Legislature. Thus, as the State copes with the complex and demanding eras of collective bargaining, affirmative action, and federally mandated merit system standards, it is forced to contend with a primitive and increasingly ineffective merit system. In a November 26, 1974 letter to the committee concerning this study, the Personnel Department stated that this outside management consultant study was of crucial importance:

Many of the other [proposed] recommendations are the techniques by which the personnel system is administered; this recommendation seems to get at the heart of the system itself and therefore has the potential for the greatest impact.³³

33 Also expressing strong favor of an outside management consultant study were Mr. David Carnevale, Executive Director, Maine State Employees Association (November 18, 1974 interview) and Mr. Lanning S. Mosher, Office of State Employee Relations (November 22, 1974 interview).

Classification and Pay System

In its 1975-77 Part II budget request the Department of Personnel makes the following statement:

The classification plan is badly out of date as are the supporting class specifications. The compensation plan is likewise antiquated and contributes to a lack of stability of the entry work level and, in many cases, middle management personnel. The survey and audit functions so vital to continued work force modernization and Fair Labor Standards are simply beyond the capability of the current organization. Those audits conducted are varied and largely limited to single positions and never applied to a complete class. Surveys, including those involving other public employment systems, are not conducted. Classification service is badly backlogged and will continue to be under current manning authorizations.³⁴

On September 11, 1974 the State Personnel Board voted to request the Governor and the Executive Council to grant the Board the authority and funds to hire outside consultants to do a study of the classification and pay plan.

Performance Evaluation System

A persistent critic of the state evaluation of performance system has been the Maine State Employees Association:

³⁴Department of Personnel Budget Request, 1975-77, Part II, Statement of Program Highlights/Accomplishments.

Few incentives exist to promote outstanding career service. Training programs are virtually non-existent and employee morale at all levels, is altogether too low.³⁵

Merit pay increases have, except for the very poorest calibre employees, become almost automatic...[the solution is to] develop standards and procedures whereby meritorious employees are granted merit increases proportionate to the merit exhibited.³⁶

It is unfortunate that the merit system has been deprived of much of its incentives. If an employee believes a merit increase is a matter of right, productivity suffers. Further, in this time of collective bargaining, it is essential that the merit system be redesigned or reconstrued so that salary increases can be a truer reflection of individual worker performance. It cannot be emphasized too often that one basis of collective bargaining is a partnership: workers asking increased benefits in exchange for improved performances. If all benefits are granted without some improvement in performance, worker gains are often inflationary and, ultimately, illusionary.³⁷

³⁵ Mainstater, August, 1974.

³⁶ Maine State Employees Association Memorandum page 4 (November 5, 1973).

³⁷ The MMCS also saw the need for a more effective job evaluation system: "It is essential that an employee evaluation appraisal and incentive program be made an integral part of the salary and wage administration program." Maine Management and Cost Survey, page 41 (September 1973).

Organization of the Department of Personnel

The Cresap, McCormick and Paget 1966 study of the Merit System devoted an entire volume to the organization and policies of the Department of Personnel:

The State's system of personnel administration is largely geared to operate as a control device, rather than as a positive aid to the State departments in establishing and maintaining a modern system of personnel management...The part-time, non-professional membership of the Board does not permit proper top leadership and administration of the personnel function, since no part-time group could be expected to administer successfully.³⁸

The analysis then went on to recommend in detail a personnel system that was decentralized, with each state department completely involved in its own internal personnel management and with the Department of Personnel providing leadership and coordination. The State Personnel Board was dismantled and the Director of Personnel answered directly to the Governor.³⁹

Whether such a reorganization, devised in 1966, is best for today's employment conditions is a matter for debate, but unless an outside consultant analyzes the current State Merit System meaningful structural change will be difficult to achieve. Finally, with the advent of collective bargaining it is essential that management and employee demands be based

³⁸ Cresap, McCormick and Paget, "Personnel Department", 11-4, (1967).

³⁹ The MMCS also recommended a restructuring of the Personnel Department. Its ideas paralleled closely those of the Cresap study. Maine Management and Cost Survey, page 39-41 (September 1973).

on a comprehensive merit system which each side respects. If not, bargaining may result in attacks on the structure of the merit system itself; and the effect could very well be chaotic.

Test Validation

The State Equal Employment Opportunity Specialist, Patricia Schroeder, explains the necessity for test validations that would help avoid illegally discriminatory hiring practices:

Once a successful classification and pay study has been completed, a thorough test validation process should be undertaken. There is only one set of acceptable guidelines for validation of Selection criteria; those put out by the Equal Employment Opportunity Commission. For the purposes of this study, those selection criteria which must be validated are tests, defined as any paper and pencil performance measures used as a basis for any employment decision, and all interviewer rating systems. Before validation can begin, an analysis should be performed to determine those tests or standards which screen out a disproportionate number of women and/or minorities. There are 3 types of validation: criterion or empirical validation which proves that those who score high on a particular test or selection standard generally turn out to be successful on the job and visa versa. If this type of validation is not feasible, an employer may use content validity which shows job relatedness, or construct validity which shows that the test measures some characteristic clearly needed to perform.

Of the three types listed above, only criterion validation will hold up in a court of law should the test or other standard be challenged. Therefore, as soon as criterion validation is feasible it should replace any procedure already in the works. The difficulty and expense of these guidelines comes from the fact that the validity should be studied for each minority and sex group separately because the same test scores or performance may not predict the same level of job performance in all groups.

These validity studies must be conducted by professionally trained psychologists, and all records kept for documentation. This is not an easy process and because professionals have to do the actual study, it is not an inexpensive one. With Affirmative Action and Equal Employment Opportunity, however, test validation is an absolute necessity, particularly in State Government where written tests and training and experience evaluation are used for almost all classifications. It is one of the State's most vulnerable points with respect to discrimination complaints. This is true not only for original employment but also for promotion, transfer as well as all other employment opportunities.

Unclassified Service

In general, too many state positions fall outside the classified service.⁴⁰ The 1967 Cresap, McCormick and Paget study recommended that because many positions (non-policy-making) in the unclassified service parallel classified positions, those unclassified positions should be made part of the classified service.⁴¹

40 See Appendix E.

41 Cresap, McCormick and Paget, "State Employees Salary Plan", II-12 (1967).

In summary, whether all or only some of these areas should be the subject of an outside management consultant study, this recommendation should be the first order of business for the Committee on State Government during the coming regular session. The U.S. Civil Service Commission, Bureau of Intergovernmental Personnel Programs, Boston, Massachusetts has offered to provide in depth technical assistance as to the precise nature of this state's contract with the selected management consultant. The contracting party, to insure the greatest impartiality of the final study should be the Legislative Council. This recommendation, along with its following companion recommendation which would make affirmative action plans mandatory in all state financed agencies, strikes at the core of the personnel system and are the keystone upon which the effectiveness of this study rests.

2. THE EXECUTIVE DEPARTMENT'S AFFIRMATIVE ACTION PROGRAM⁴²
SHOULD BY LAW APPLY TO ALL STATE FINANCED AGENCIES.

Equal Opportunity already is the law of the nation; it is mandated by Federal and State legislation, Presidential Executive Orders and definitive court decisions.⁴³ Equal Opportunity progress in Maine is basically the responsibility of the Human Rights Commission. Article 5 of Executive Order Number 24 states that: all affirmative action programs are subject to the review and comment of the Human Rights Commission; all

⁴³ See Executive Order No. 24, FY 73-74, Code of Fair Practices and Affirmative Action (March 24, 1974). See also Appendix B.

⁴⁴ While there has been a proliferation of federal equal opportunity legislation, three pieces of legislation are the main concern of this study:

- a. Title VII of the Civil Rights Act of 1964 (as amended by the Equal Opportunity Act of 1972), which prohibits discrimination (because of race, color, religion, sex or national origin) in any term, condition or privilege of employment;
- b. the Equal Opportunity Act of 1972, which greatly strengthened the powers and expanded the jurisdiction of the Equal Employment Opportunity Commission (EEOC) in enforcement of this law. As amended, Title VII now covers:
 1. all private employers of 15 or more persons;
 2. all educational institutions, public or private;
 3. state and local governments;
 4. public and private employment agencies;
 5. labor unions with 15 or more members;
 6. joint labor-management committees for apprenticeship and training;
- c. Executive Order 11246 (as amended by Executive Order 11375) which was issued by the President in 1965 and requires Affirmative Action Programs by all Federal contractors and subcontractors and requires that firms with contracts over \$50,000 and 50 or more employees develop and implement written programs, which are monitored by an assigned Federal compliance agency.

powers and duties granted to the Human Rights Commission under 5 MRSA § 4551, et seq., as amended, apply to the affirmative action programs; all complaints of discrimination based on race, color, religious creed, sex, national origin, age or physical handicap are made to the Maine Human Rights Commission.⁴⁴

These affirmative action programs are the necessary step beyond establishment of neutral "non-discriminatory" and "merit-hiring" policies, and should not be limited only to the Executive Department agencies but rather should be a permanent feature of every state financed and quasi-independent organization.

44

See note 42 supra, at 3.

3. DEDICATED REVENUE AGENCIES SHOULD BE SUBJECT TO THE SAME RESTRICTIONS REGARDING TOTAL EMPLOYEE COUNT AND RECLASSIFICATION AS ARE GENERAL FUND AGENCIES.

During the 1974 Special Session the Legislature restricted general fund agencies in their number of personnel and their power to change classifications:

Personnel Services savings and flexibility.

Savings accruing within appropriations made for permanent positions may be used for nonrecurring personal services or retirement costs when recommended by the department head and the State Budget Officer, and approved by the Governor and Council. To provide some degree of flexibility, each department may apply to the Personnel Board for an exchange between job classifications, and such action may be approved if by so doing the total amount determined to be made available for Personal Services, in each department, is not exceeded and also providing that certification will not result in an increased request for Personal Service moneys from any future Legislature. Copies of all Personnel Board actions and department head certifications relating to such changes shall be furnished to the Legislative Finance Officer. The State Personnel Board on a continuing basis shall review all reclassification and range change requests and regularly report those which it approves in omnibus bill form to each subsequent session of the Legislature, through the Appropriations and Financial Affairs Committee, for final determination.⁴⁵

⁴⁵ Chapter 221, section 7, of the Private and Special Laws of the State of Maine, 1973, AN ACT Making Supplemental Appropriations from the General Fund for the Fiscal Year Ending June 30, 1975 and Changing Certain Provisions of the Law Necessary to the Proper Operation of State Government.

Briefly, this preamble has been interpreted to mean that Legislative approval must be received before an agency can implement a job "reclassification" or a job "range change". However, the Personnel Board can implement, without reference to the Legislature, "an exchange between job classifications", provided the budgetary limitations are met.⁴⁶ An example of this is the situation in which the appointing authority has a job vacancy, which he wishes to abolish, and he desires to create an entirely new job, which action will not exceed the budgetary limitations.

Beyond the fiscal prudence such restrictions encourage, they are a necessary foundation for both affirmative action plans and the collective bargaining program. All agencies, whether financed by dedicated revenues, General Fund monies or federal funds must be subject to uniform restrictions in order to promote fair and consistent compliance with the personnel laws.

⁴⁶ "Effect of Sec. 3, c. 221, P&SL, 1973, on Personnel Board Approval of Job Classification Exchanges, Reclassification and Range Changes", an Informal Opinion, Attorney General's Office (June 12, 1974).

4. AN ON-GOING STUDY SHOULD BE INSTITUTED WHICH WOULD REVIEW THE WAGES, HOURS AND WORKING CONDITIONS OF STATE EMPLOYEES IN THE UNCLASSIFIED SERVICE. THIS STUDY SHOULD BE A FUNCTION OF THE PERSONNEL BOARD.

As the Executive Department proceeds steadily with affirmative action plans and as all classified employees prepare to participate in the collective bargaining program, the unclassified service employees,⁴⁷ many exempt from collective bargaining, remain open to possible inequities and arbitrariness in their wages, hours and working conditions. The Personnel Board⁴⁸ would periodically review these matters - including the question of too many non-policy making members in the unclassified service - thereby enhancing the due process rights belonging to all state employees,⁴⁹ insuring that such Federal legislation as the Fair Labor Standards Act is not violated, and promoting, in general, professional personnel standards in the working conditions of all state employees.⁵⁰

⁴⁷ See Appendix E.

⁴⁸ See Chapter IV, Sec. B, Recommendation No. 3, which states that the State Personnel Board should receive an increase in salary due to their proliferating duties.

⁴⁹ The unclassified service employees are already covered by the State Employees Appeals Board legislation, 5 MRSA §752: "The board shall have the authority to mediate the final settlement of all grievances and disputes between individual state employees, both classified and unclassified, and their respective state agencies, except in matters of classification and compensation."

⁵⁰ The MMCS also favored at least some monitoring of the unclassified service by the Personnel Department. Maine Management and Cost Survey, page 40 (September 1973).

5. WITH THE ADVENT OF COLLECTIVE BARGAINING AND AFFIRMATIVE ACTION PLANS IT IS IMPORTANT THAT STATUTORY AUTHORITY FOR THE STATE CLASSIFICATION AND PAY SYSTEM, PERFORMANCE EVALUATION SYSTEM AND EMPLOYEE FINANCIAL ETHICAL RESTRAINTS BE CLEARLY DELINEATED.

Because the State Employees Labor Relations Act clearly exempts from collective bargaining those areas "prescribed or controlled by public law"⁵¹ it is essential that the statutory authority of the personnel laws be definite and complete:

- a. Classification and Pay. Compensation Plan, 5 MRSA §634, should be redrafted to provide an "equal pay for equal work" clause.
- b. Performance Evaluation. Service Ratings, 5 MRSA §636, should be redrafted to insure a strong performance evaluation system. Currently, as discussed in Recommendation #1 of this section, merit increases are often automatic.
- c. Ethical Restraints. Maine currently has no statutory financial ethical restraints on state employees. In order for the public at large to have confidence in the career personnel system it is essential that all personnel laws be fairly and scrupulously administered.

Fine examples from the laws and rules of other states of such statutory authority are listed in Appendix F.

⁵¹26 MRSA §979-D,1(E).

6. NO SUPERVISOR, CLASSIFIED OR UNCLASSIFIED, SHOULD BE PUT IN THE POSITION OF BEING ABLE TO HIRE OR PROMOTE A MEMBER OF HIS OR HER EXTENDED FAMILY.

Because nepotism is not a concern of the affirmative action plans, legislation should be introduced that would prohibit any supervisor, whether of the classified or unclassified service, from being put in a position of deciding whether a member of his or her extended family be hired or promoted.

This problem seems less important in the classified service where only the highest scorers in the written and oral competitions are considered for an open position; but it may be of greater concern in the unclassified service where hiring practices are, if not less demanding, are at least more informal.

7. THE AUTOMATION OF PERSONNEL DEPARTMENT PROCEDURES SHOULD BE ENCOURAGED.

In its 1975-77 Part II budget, the Personnel Department requested funding for increased automation: "The manual system in existence is not capable of providing the service required. The current system is characterized by huge backlogs and inordinate delays."

In addition, in 1973 the MMCS recommended an automated system:

This [automated] system should maintain employment data on a current, retrievable basis. It should provide systems, job requisitioning, performance appraisal, service credits, absenteeism, turnover and the like.⁵²

To provide such a system the personnel needs of the state agencies would have to be thoroughly assessed. This could be a function of the outside management consultant study.

⁵²Maine Management and Cost Survey, page 42 (September 1973).

V. CONCLUSION

Of the 14 Recommendations made in this report, several call for fundamental changes in the Maine State Personnel Merit System, others ask for more minor, technical adjustments in the administration of the personnel laws; but taken together these recommendations chart the first steps toward a personnel system that is at once both responsive to the needs of its employees and the needs of the state it serves.

Over 100 years ago Daniel Webster said of public government:

The theory of our government is plain; it is that government is an agency created for the good of the people, and that every person in office is the agent and the servant of the people. Offices are created, not for the benefit of those who are to fill them but for public convenience.

Unless the state personnel merit system undertakes the necessary evolution initiated in this study, the ideal of state government as "an agency created for the good of the people" will become an increasingly fragile hope.

VI APPENDICES

1. Appendix A, Study Orders
2. Appendix B, Collective bargaining, affirmative action and federal personnel standards materials
3. Appendix C, Maine state compensation plan
4. Appendix D, Maine Management and Cost Survey personnel recommendations
5. Appendix E, The unclassified service
6. Appendix F, Suggested guides for statutory revisions
7. Appendix G, Implementing order and pieces of legislation.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
106TH LEGISLATURE

JOINT ORDER

WHEREAS, the proliferation of amendments to the state personnel laws providing particular variations in salaries, hours and other conditions of employment for particular classes of employees is a cause of concern to Legislators; and

WHEREAS, such amendments may tend to conflict with established principles and policies of the merit system, to create inequities in the employee compensation schedules and benefit plans and to encourage fragmentation and competition among employees and employee groups; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the state personnel laws, as provided in the Revised Statutes, Title 5, chapters 51 to 63 and all Acts amendatory thereof, to determine the feasibility and practicality of providing greater uniformity and equity in the law; and be it further

ORDERED, that the State Department of Personnel and Personnel Board be authorized and respectfully directed to provide such technical advise and other assistance as the Committee determines necessary or appropriate to carry out the purpose of this Order; and be it further

ORDERED, that the Committee shall make a written report of its findings and recommendations, together with such legislation as it deems appropriate; and subject to its discretion, submit the same at either the next special or regular legislative session; and be it

○ further

ORDERED, that upon passage in concurrence, a copy of this Joint Order be transmitted forthwith to said department and board as notice of this directive.

NAMF: Larry Simpson

TOWN: Standish

Reproduced and distributed under the direction of the Clerk of the House.

4/2/73

STATE OF MAINE
HOUSE OF REPRESENTATIVES
106TH LEGISLATURE
SPECIAL SESSION

JOINT ORDER

~~Ordered~~

WHEREAS, legislation has been presented pursuant to the Management and Cost Survey to establish performance incentives for managers and assistant managers of state liquor stores; and

WHEREAS, the Governor has recommended that this bill and the concept for performance incentives for state services receive further study before being considered for enactment; and

WHEREAS, the Joint Standing Committee on State Government is currently involved in a study of salaries, hours and other conditions of employment under the Personnel Law as authorized by the Legislative Council; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Council is authorized and directed to include in the State Government Committee current study of Personnel Laws, AN ACT to Establish Pay Scales for Managers and Assistant Managers in State Liquor Stores, House Paper 1859, Legislative Document 2354, as considered at the First Special Session of the One Hundred and Sixth Legislature; and be it further

ORDERED, that the Council shall cause a written report to be made of the findings and recommendations, together with any needed legislation resulting from such study, at the next regular legislative session.

HP2066

NAME: Richard W. Stillings

TOWN: Berwick

Reproduced and distributed under the direction of the Clerk of the House.

3/20/74

STATE OF MAINE
HOUSE OF REPRESENTATIVES
106TH LEGISLATURE
SPECIAL SESSION

JOINT ORDER

WHEREAS, retention of employees of the Bureau of Corrections is vital to the people of the State of Maine; and

WHEREAS, legislation was submitted during the 106th special session to provide additional longevity increases to such employees; and

WHEREAS, such legislation was determined to be constitutionally suspect by the Attorney General; and

WHEREAS, the Attorney General raised concerns about all employees receiving equal protection under the law; and

WHEREAS, the State Government Committee is currently reviewing the equities of the State Personnel system; now, therefore, be it

ORDERED, the Senate concurring, that the State Government Committee study the feasibility of extending longevity increases to all classified employees of the State of Maine and report its findings to the 107th Legislature.

HP2058

NAME: Dorothy McCormick

TOWN: Union

Reproduced and distributed under the direction of the Clerk of the House.

3/20/74

Appendix B, Collective bargaining, affirmative action and federal
personnel standards materials

1. Collective bargaining: selected sections from 5 MRSA §79 et seq.,
State Employees Labor Relations Act

§ 979. Purpose

It is declared to be the public policy of this State and it is the purpose of this chapter to promote the improvement of the relationship between the State of Maine and its employees by providing a uniform basis for recognizing the right of state employees to join labor organizations of their own choosing and to be represented by such organizations in collective bargaining for terms and conditions of employment.

§ 979-A. Definitions

As used in this chapter the following terms shall, unless the context requires a different interpretation, have the following meanings:

1. Bargaining agent. "Bargaining agent" means any lawful organization, association or individual representative of such organization or association which has as its primary purpose the representation of employees in their employment relations with employers, and which has been determined by the public employer as defined in subsection 5 or by the executive director of the board to be the choice of the majority of the unit as their representative.

2. Board. "Board" means the Public Employees Labor Relations Board as defined in section 968, subsection 1.

3. Cost items. "Cost items" means the provisions of a collective bargaining agreement which requires an appropriation by the Legislature.

4. Executive director. "Executive director" means the Executive Director of the Public Employees Labor Relations Board as defined in section 968, subsection 2.

5. Public employer. "Public employer" means all the departments, agencies and commissions of the executive branch of the State of Maine, represented by the Governor or his designee. In the furtherance of this chapter, the State shall be considered as a single employer and employment relations, policies and practices throughout the state service shall be as consistent as practicable. It is the responsibility of the executive branch to negotiate collective bargaining agreements and to administer such agreements. To coordinate the employer position in the negotiation of agreements, the Legislative Council or its designee shall maintain close liaison with the Governor or his designee representing the executive branch relative to the negotiation of costs items in any proposed agreement. The Governor's office or its designee is responsible for the employer functions of the executive branch under this chapter, and shall coordinate its collective bargaining activities with operating agencies on matters of agency concern. It is the responsibility of the legislative branch to act upon those portions of tentative agreements negotiated by the executive branch which require legislative action.

6. State employee. "State employee" means any employee of the State of Maine performing services within the executive department except any person:

- A.** Elected by popular vote; or
- B.** Appointed to office pursuant to statute, ordinance or resolution for a specified term by the Governor or by a department head or body having appointive power within the executive department; or
- C.** Whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship with respect to matters subject to collective bargaining as between such person and the Governor, a department head or body having appointive power within the executive department; or
- D.** Who is a department or division head appointed to office pursuant to statute, ordinance or resolution for an unspecified term by the Governor or by a body having appointive power within the executive department; or
- E.** Who has been employed less than 6 months; or
- F.** Who is a temporary, seasonal or on-call employee; or
- G.** Who is serving as a member of the State Militia or National Guard.

§ 979-D. Obligation to bargain

1. Negotiations. On and after January 1, 1975, it shall be the obligation of the public employer and the bargaining agent to bargain collectively. "Collective bargaining" means, for the purpose of this chapter, their mutual obligation:

- A.** To meet at reasonable times;
- B.** To meet within 10 days after receipt of written notice from the other party requesting a meeting for collective bargaining purposes, provided the parties have not otherwise agreed in a prior written contract;
- C.** To execute in writing any agreements arrived at, the term of any such agreement to be subject to negotiation but shall not exceed 2 years; and
- D.** To participate in good faith in the mediation, fact finding and arbitration procedures required by this section;
- E.**

(1) To confer and negotiate in good faith with respect to wages, hours, working conditions and contract grievance arbitration, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession. All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining, except those matters which are prescribed or controlled by public law. Such matters appropriate for collective bargaining to the extent they are not prescribed or controlled by public law. Such matters appropriate for collective bargaining to the extent they are not prescribed or controlled by public law include but are not limited to:

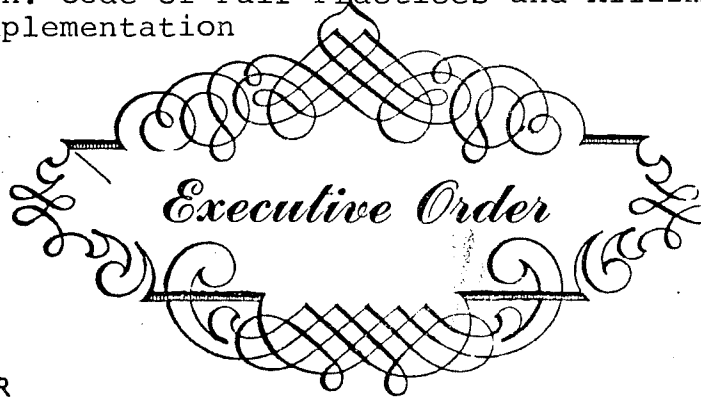
- (a)** Wage and salary schedules to the extent they are inconsistent with rates prevailing in commerce and industry for comparable work within the State;
- (b)** Work schedules relating to assigned hours and days of the week;
- (c)** Use of vacation or sick leave, or both;
- (d)** General working conditions;
- (e)** Overtime practices;
- (f)** Rules and regulations for personnel administration, except the following: Rules and regulations relating to applicants for employment in state

service and classified employees in an initial probationary status, including any extensions thereof, provided such rules and regulations are not discriminatory by reason of an applicant's race, color, creed, sex or national origin.

(2) Paragraph E subparagraph (1) shall not be construed to be in derogation of or contravene the spirit and intent of the merit system principles and personnel laws.

(3) Cost items shall be submitted for inclusion in the Governor's next operating budget within 10 days after the date on which the agreement is ratified by the parties. If the Legislature rejects any of the cost items submitted to it, all cost items submitted shall be returned to the parties for further bargaining.

2. Affirmative action: Code of Fair Practices and Affirmative Action; guidelines for implementation



OFFICE OF
THE GOVERNOR

NO. 24 FY 73-74
DATE March 20, 1974

CODE OF FAIR PRACTICES AND
AFFIRMATIVE ACTION

WHEREAS, the State of Maine, in spirit and in law, historically has opposed discrimination where it exists with regard to race, color, religious creed, sex, national origin, ancestry, age, or physical handicap; and

WHEREAS, in an effort to provide leadership by Maine State Government in achieving equal opportunity for all our State's citizens, I issued the Code of Fair Practices by Executive Orders on July 1, 1972 and September 28, 1973; and

WHEREAS, in 1971 the Maine Legislature enacted the Human Rights Act and in 1974 Maine became the thirty-first state to ratify the Equal Rights Amendment; and

WHEREAS, the passage of the Federal Equal Employment Opportunity Act of 1972 mandated that state and local governments adhere to the Civil Rights Act of 1964 and provide equal opportunity for all Federal funded employment; and

WHEREAS, the two Interim Reports of the Maine Advisory Committee to the United States Commission on Civil Rights recommend increased State efforts to employ women and Indians;

NOW, THEREFORE, I, KENNETH M. CURTIS, do hereby, under the power and authority vested in me as Governor, and in pursuit of the goals of equal opportunity and in support of the necessity for affirmative action, direct that the Code of Fair Practices and Affirmative Action, as set forth in this Order, be followed throughout the Executive Branch of the Government of the State of Maine.

ARTICLE I - DEFINITION OF AFFIRMATIVE ACTION

An Affirmative Action Program includes procedures designed to increase the numbers of minorities and women at all levels and in all segments of the work force where imbalances exist. Such a program should include an assessment of the existing situation, and the development of realistic goals for necessary action. These goals and related procedures and timetables should not require rigid quotas, but are commitments which an employer should make every good faith effort to achieve.

Affirmative action reinforces merit employment concepts by assuring that all segments of our society have an opportunity to enter the public service on the basis of open competition and to advance according to their relative ability. This is accomplished partly by doing away with barriers such as inadequate publicity about job openings, discriminatory job requirements, tests which lack adequate validity, and insufficient opportunity for promotion and partly through positive attempts to recruit and promote persons from minority or handicapped groups.

ARTICLE II - APPOINTMENT, ASSIGNMENT AND PROMOTION OF PERSONNEL

State officials and supervisory employees shall appoint, assign, and promote State personnel on the basis of merit and fitness, without regard to race, color, religious creed, national origin, sex, ancestry, age, or physical handicap unless related to a bona fide occupational qualification. Each appointing authority shall designate Equal Opportunity Officer (s) who will be placed within the agency's organizational structure so that he/she shall have direct access to the appointing authority. Each department or agency shall prepare an Affirmative Action Program for that department or agency in accordance with criteria set forth by the State Department of Personnel.

ARTICLE III - STATE ACTION AND CONTRACTS

No agency or individual employee of the State will discriminate because of race, color, religious creed, sex, national origin, ancestry, age, or physical handicap while performing any function of service to the public, in enforcing any regulation, or in any education, counseling, vocational guidance, apprenticeship and on-the-job training program. Similarly no State contractor, subcontractor, or labor union or representative of the workers with which the contractor has an agreement will discriminate unless based on a bona fide occupational qualification. State agencies may withhold financial assistance to any recipient found to be in violation of the Maine Human Rights Act or the Federal Civil Rights Act. Any State agency shall decline any job order carrying a specification or limitation, as to race, color, religious creed, sex, national origin, ancestry, age, or physical handicap unless related to a bona fide job requirement.

ARTICLE IV - THE STATE DEPARTMENT OF PERSONNEL

The State Department of Personnel shall take positive steps to insure that the entire examination and testing process, including the development of job specifications and employment qualifications, is free from either conscious or inadvertent bias. Furthermore, the Department of Personnel will have the initial responsibility of resolving conflicts and complaints, changing administrative procedures when necessary and providing assistance for preparing affirmative action programs.

ARTICLE V - THE MAINE HUMAN RIGHTS COMMISSION

All Affirmative Action Programs shall be subject to the review and comment of the Human Rights Commission.

All powers and duties granted to the Maine Human Rights Commission under Title 5, M. R. S. A., §§ 4551, et. seq., as amended, apply to this Code. Complaints of discrimination based on race, color, religious creed, sex, national origin, age, or physical handicap should be made to the Maine Human Rights Commission.

ARTICLE VI - INFORMATION

Executive Order 11 issued July 1, 1972 and Executive Order 18 issued September 28, 1973 are hereby superseded.

Copies of this Executive Order shall be distributed immediately to all State departments and agencies. All departments and agencies shall immediately display copies in prominent locations in their offices and facilities, particularly those locations to which the public has access.



Kenneth M. Curtis

KENNETH M. CURTIS

Governor

March 20, 1974

GUIDELINES FOR IMPLEMENTATION OF EXECUTIVE ORDER

1. Each agency head will insure that Executive Order #24 is publicly posted so that all employees have an opportunity to read the Code of Fair Practices and Affirmative Action. (April 1, 1974)
2. Each agency head shall designate an Equal Opportunity Officer (s) and report the names to the Department of Personnel and the Maine Human Rights Commission and their designation shall be announced to all employees. (April 15, 1974)
3. The Department of Personnel with the advice of the Human Rights Commission, will advise each agency of items to be covered in Affirmative Action Plans. (April 30, 1974)
4. Each agency which is required to develop an Affirmative Action Program by Executive Order #24, is encouraged to form an Affirmative Action Committee to help develop said Program. (May 15, 1974)
5. The agency or department shall prepare an Affirmative Action Program in accordance with criteria issued by the Personnel Department. Such a program after approval by the agency head, shall be submitted to the Personnel Department and Human Rights Commission and announced to agency employees. (September 1, 1974)
6. Annually each agency head shall review its EEO-4 report and Affirmative Action Program and recommend such necessary programs, goals and objectives as shall improve the Equal Opportunity aspects of the agency. (November 1 - annually, starting in 1974)
7. Annually the Human Rights Commission shall prepare a report documenting implementation of this Executive Order and submit it to the Governor and Department of Personnel with such recommendations as are appropriate. (July 1 - annually, starting in 1975)
8. Every State contract for public works or for services shall incorporate by reference the following provisions: "During the performance of this contract, the contractor agrees as follows:
 1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religious creed, sex, national origin, ancestry, age, or physical handicap, unless related to a bona fide occupational qualification. Such action shall include, but not be limited to the following: employment, upgrading, demotions, transfers, recruitment or recruitment advertising; layoffs; or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship.

2. The contractor will, in all solicitations or advertising for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, or physical handicap.
3. The contractor will send to each labor union or representative of the workers with which he has a collective or bargaining agreement, or other contract or understanding, whereby he is furnished with labor for the performances of his contract, a notice, to be provided by the contracting department or agency, advising the said labor union or workers' representative of the contractors commitment under this section and shall post copies of the notice in conspicuous places available to employees and to applicants for employment.
4. The contractor will cause the foregoing provisions to be inserted in any subcontracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor."

Appendix B (continued)

3. Federal personnel standards: programs possibly endangered due to state failure to meet federal personnel standards

APPENDIX

Following is a list of those programs covered by statutes or regulations relating to a merit system of personnel administration:

Program	Statute or Regulation
Comprehensive Health Planning	42 U.S.C. 246 (a)(2)(F)
Comprehensive Public Health Services	42 U.S.C. 246 (d)(2)(F)
Medical Facilities Construction and Modernization	42 U.S.C. 291d(a)(8)
Old-Age Assistance	42 U.S.C. 302 (a)(5)(A)
Aid to Families with Dependent Children	42 U.S.C. 602 (a)(5)(A)
Maternal and Child Health Services/ Crippled Children's Services	42 U.S.C. 705 (a)(3)(A)
Aid to the Blind	42 U.S.C. 1202 (a)(5)(A)
Aid to the Permanently and Totally Disabled	42 U.S.C. 1352 (a)(5)(A)
Aid to the Aged, Blind, or Disabled Medical Assistance	42 U.S.C. 1382 (a)(5)(A)
Developmental Disabilities Services and Facilities Construction	42 U.S.C. 1396a(a)(4)(A)
Community Mental Health Centers Construction/Children's Mental Health Facilities Construction/Narcotic Addict Rehabilitation Facilities Construction	42 U.S.C. 2674 (b)(7)
Older Americans	42 U.S.C. 2684 (a)(6)
Alcoholism Prevention, Treatment, and Rehabilitation	42 U.S.C. 3023 (a)(6)
Surplus Property Utilization	42 U.S.C. 4573 (a)(5)
Child Welfare Services	45 C.F.R. 14.5(b)(3)(i)
*Disability Insurance Determination	45 C.F.R. 220.49(c)
*Health Insurance for the Aged	SSA Disability Insurance State Manual, Part IV, Sec. 425.1 SSA State Operations Manual, Part IV, Sec. 4510(a)
*Vocational Rehabilitation Administration	29 U.S.C. 35 (a)(6)
*Vocational Evaluation and Work Adjustment	29 U.S.C. 42-1(c)(5)
Food Stamp	7 U.S.C. 2019 (e)(2)
Unemployment Compensation	42 U.S.C. 503 (a)(1)
Employment Service	29 U.S.C. 49d(b)
Work Incentive Program	WIN Program Handbook, Sec. 8 and Exhibit 1, V-F
Civil Defense Financial Assistance	50 U.S.C. App. 2286 (a)(4)

*Federal requirements for personnel standards, which may be met by coverage under a State merit system.

Appendix C, Selected sections from Rule 5, The Compensation Plan,
State of Maine Personnel Rules

b. Salary Increases

Salary adjustments within an established range shall be dependent upon specific written recommendations by the appointing authority, which shall be based upon standards of performance as indicated by service ratings or other pertinent data. Salary increases may be granted to employees upon successful completion of their probationary period. Ordinarily, increases in salaries shall not be more than one step and shall not be made more often than once every 12 months, except that an appointing authority may propose salary increases of more than one step or more frequently than once every 12 months upon detailed written statements to the Director specifying the employee's exceptional performance or the unusual employment conditions that make such action necessary. The Director shall review each request for an increase of more than one step in the pay range for the class, giving due consideration to the salary rates paid other employees in the same class and agency, and may deny any request which, in his judgment, is contrary to the best interest of the service.

Every appointing authority shall at least once in every 12 months review the work performance of each employee to determine whether the rate of pay of that employee should be advanced to the next step in the range and shall advise the employee in writing of his determination, together with his reasons therefor.

c. Salary Decreases

An appointing authority for just cause may reduce the salary of an employee within the salary range prescribed for the class. In the case of a permanent employee, notice of intention to effect a reduction in pay and reasons for such action shall be given to the employee and to the Director at least 7 calendar days prior to the effective date of the reduction. The permanent employee so affected may request a hearing before the Board as provided in Rule 13.

d. Total Remuneration

Any salary paid to an employee in the classified service shall represent the total remuneration for the employee, not including reimbursements for official travel. Except as otherwise provided no employee shall receive pay from the state in addition to the salary authorized under the schedules provided in the pay plan for services rendered by him either in the discharge of his ordinary duties or any additional duties which may be imposed upon him or which he may undertake or volunteer to perform.

Subsistence or maintenance allowances received in lieu of cash shall be considered as part of the total salary. Whenever subsistence or maintenance is allowed in lieu of cash, a schedule of such maintenance together with a statement of the policy and rules to be followed in making charges therefor shall be submitted by the appointing authority for the approval of the Director and the Board.

Appendix D, Maine Management and Cost Survey, Personnel Department recommendations

A test of sales performance, comparing products in the same price range, should be formulated and computerized. If a brand did not pass the test for a period of two consecutive months, for example, a warning would be issued. Should sales continue to be below the minimum requirement for two additional months, the brand would be automatically delisted. Implementation would reduce the maximum time slow-moving items may be carried from 14 to 4 months. (Executive)

4. Delegate managerial responsibility for the Bureau of Alcoholic Beverages to its director. Presently, the commission is engaged in activities such as listing and delisting brands, establishing store hours, locations, negotiating leases, and the like. The public would be better served if the commission were to assign management responsibility to the director. This would free the commission to devote itself to monitor the manner in which the bureau discharges its responsibilities. (Executive)

Department of Personnel

This department's function is to provide qualified persons to fill employee requirements of various state agencies.

CURRENT PRACTICES

It is headed by a director who is responsible to the Personnel Board. The Personnel Board is responsible for administration of the Personnel Law. It also serves as an appeals committee to adjudicate complaints of permanent employees on classification and compensation matters. The board is also empowered to appoint a state advisory council on personnel.

The department administers placement and compensation of classified personnel. It is comprised of the Classification and Pay, Examination and Recruitment, and Certification and Records Divisions. Expenditures totaled \$199,383 for fiscal 1972. Of this, \$181,508 was allocated for personal services.

Classification and Pay audits classified positions, makes job evaluations, prepares class specifications, assigns rate ranges, as well as conducts compensation surveys, and the like. The division maintains some 11,500 job specifications for over 1,100 classifications. Examination and Recruitment has responsibility for recruiting personnel and providing a means for qualified applicants to compete for classified service vacancies. Announcements of examinations and job availability are prepared and distributed to various state agencies and individuals. Certification and Records maintains eligibility registers and makes referrals to requisitioning departments. It prepares and maintains payroll certifications and employment records of present and former state employees.

EVALUATION

Present personnel procedures are time-consuming and do not permit prompt service which departments require and expect. This is partially due to

provisions of the law, as well as cumbersome rules and repetitive activity of manual operations.

The expanding level of state employment and the laws demanding equal opportunities for underprivileged groups impose greater responsibilities upon the department. Job specifications and ratings are in need of review. The manual nature of operations also prevents this department from providing quick and reliable statistical data on employment strength, absenteeism, turnover, and the like.

A large volume of files and reports are retained for indefinite periods. Utilization of office space and equipment and records retention should be reviewed. Statistical data on personnel and employment are incomplete and are not properly consolidated on a statewide basis.

The Personnel Board concerns itself mostly with administration of its rules, rather than their propriety. Proper use of the department's staff for administration of rules through delegation of authority and operating responsibility has not been accomplished.

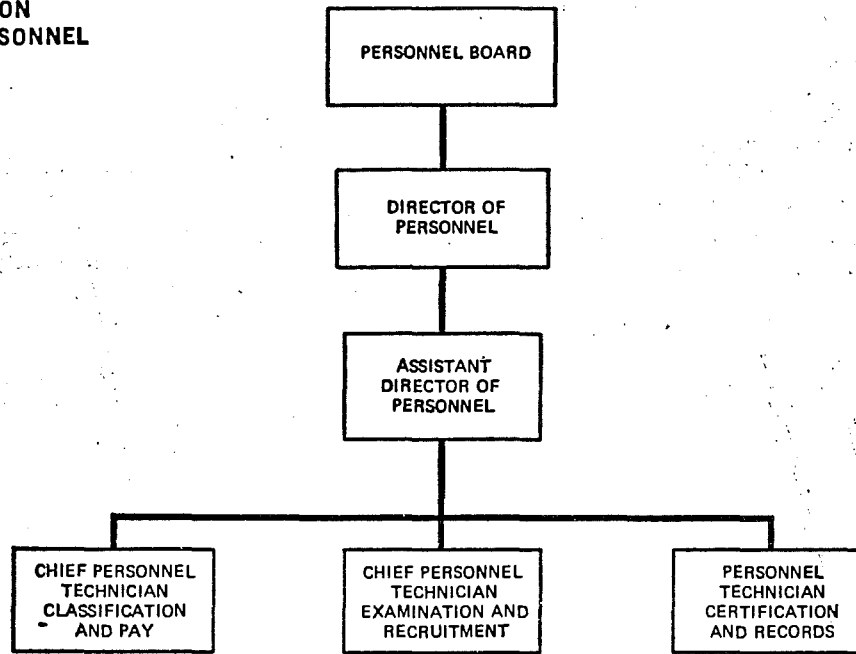
It has not produced the means or resources required to effectively administer the rules. There are no effective plans for supervisory or employee training programs nor a salary administration plan for unclassified personnel. Additionally, it has not exercised its prerogative to appoint an advisory council on personnel.

RECOMMENDATIONS

1. Revise organizational authority and personnel functions.

This department is required to provide the means whereby manpower in the state's employment is best utilized. Its present organization chart is shown at the top of the next page. The Personnel Board, partly because of its nonprofessional composition

**PRESENT ORGANIZATION
DEPARTMENT OF PERSONNEL**



and inflexibility, should be restructured to gain general acceptance and respect for its efforts.

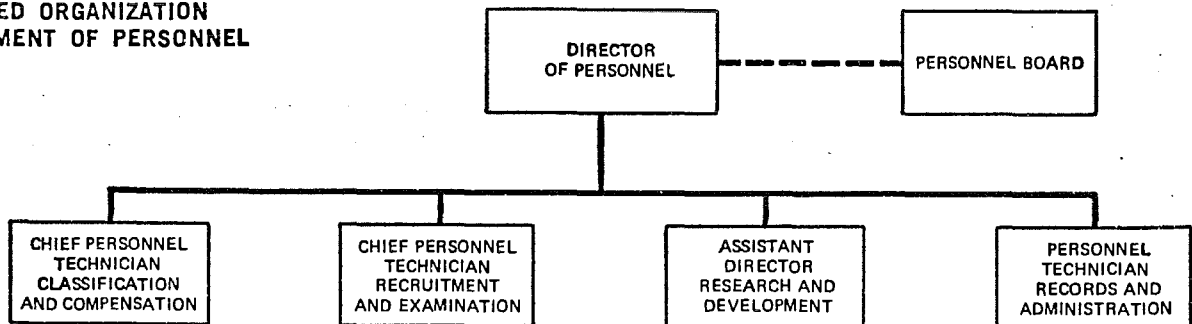
Administration of the state's personnel system must be improved to fully provide the policies and procedures needed to satisfy user needs. Personnel administration can be made more effective through changes in organizational authority and decentralization of certain personnel functions. Proper leadership also demands that personnel programs for training and evaluation, as well as control of absenteeism and turnover be established.

As illustrated in the proposed organization chart shown below, the department should be comprised of the Classification and Compensation, Recruitment and Examination, Research and Development, and Records and Administration Divisions. The reconstituted Personnel Board will provide professional advice and indirectly augment the staff.

The Director of Personnel should be solely responsible for management of the state's personnel activities. A major duty should be to assist the Governor in formulating policies and procedures to aid in personnel management. In addition, he should serve them in a staff capacity and aid them in carrying out their responsibilities. The position of Assistant Director of Personnel should be eliminated. The Personnel Board would evaluate personnel administrative practices and policies as well as make recommendations to the director.

Classification and Compensation would be responsible for developing job specifications, classifications, and ratings. It should determine the standards for each, conduct a review of present classifications, and recommend the manner in which a reduction can be accomplished. Furthermore, the division should establish standards for salary and wage ad-

**PROPOSED ORGANIZATION
DEPARTMENT OF PERSONNEL**



ministration programs to cover employees in the classified and unclassified services. A realistic compensation structure and a proper procedure for its administration will aid significantly in improving the state's ability to attract and retain high-caliber employees. It is essential that an employee evaluation appraisal and incentive program be made an integral part of the salary and wage administration program.

Examination and Recruitment would be responsible for creating standards and procedures for recruitment, examination, and selection of candidates for employment. Its primary purpose should be to attract competent people to seek a career in state employment. Much of the specialized recruitment and examination process should be delegated to authorized agencies. Research and Development would design research techniques for evaluating personnel practices and improve effectiveness of overall management.

The division should have the responsibility of keeping informed on federal and state legislation relating to employment practices. It should also prepare instruction manuals. Interpretive bulletins explaining a personnel procedure or the like should be issued as necessary, but only in letter form. Therefore, separate, complete and concise, instructional manuals, one for personnel forms and instructions, and another containing employee relations policies are suggested.

Records and Statistics would have accountability for maintaining departmental files and employee records. Also, it should retain and keep current, eligible registers of qualified persons for employment, re-employment, or reinstatement.

In general, for the present, personnel functions and management should be centralized. Decentralization of classification, recruitment, examination, and placement will take time. Agencies, whose staffs are large enough to warrant an employee relations representative, will require instruction from the department on matters not performed by them. (Legislative)

2. Restructure the Personnel Board.

This board needs to demonstrate the ability to create an acceptable system of personnel administration conducive to sound employee relations. By reason of the board's nonprofessional status, criticisms have been made against it and the department. Prompt service in recruiting, expected and needed by the agencies, must be forthcoming.

As constituted under the Personnel Law, the board should be revamped and its line authority eliminated. The restructured board should consist of three members. Each should be the head of the

personnel department of a major corporation or business enterprise in the state.

Its professional status should reflect a respected image. This board would be expected to review personnel practices and procedures of the state's personnel administration and make recommendations to the Director of Personnel. It would, however, have no responsibility for carrying out provisions of the Personnel Law. (Legislative)

3. Repeal provisions of the Personnel Act relating to appointment of an advisory council.

The function of this council is to act as a liaison between state agencies and the board. However, no such committee has existed for more than 17 years.

About 3 years ago, an attempt was made to convene the council. For some reason, this did not occur. The restructured authority of the department will permit the Director of Personnel to accomplish objectives anticipated in the law. Therefore, provisions relating to formation of this council should be repealed. (Legislative)

4. Change tests and examinations from a credentials-oriented to a job content basis.

Many of the tests and examinations conducted by Examination and Recruitment may not comply with the laws prohibiting discrimination in employment. They are too oriented to education instead of job content. Several tests are old and contain irrelevant material.

The work of updating tests and examinations should be expedited. Present progress is much too slow and violations of laws may be charged on the basis that tests are invalid or discriminatory. (Executive)

5. Update job specifications.

A job specification is available for each of the more than 11,500 classified positions. Many are outdated. The recent reorganization, consolidating many separate units into seven major departments, had an effect on positions in nearly every agency.

Personnel should expedite its updating of these specifications by adopting a position classification questionnaire. The technician position requested in the department's (Part II) budget will provide the means of updating without incurring additional costs. (Executive)

6. Require monthly reconciliation reports of employment strength.

Statistics should be available on the size of the state's labor force, other than by a manual count of payroll record cards, subject to change because of daily turnover. However, position cards are maintained by Classification and Pay. From these, a

manual count of filled and unfilled positions can be made. When checked against the records of an agency with an authorized strength of 789, a total of 192 unfilled positions had either been abolished or reclassified.

The department should require a monthly report from each agency of employment strength by actual versus authorized position. This will permit the department to maintain accurate rosters of classified and unclassified employees as required by law, confirm the number of employees, and have current information on unfilled positions.

Implementation will enable the department to plan recruitment of personnel in advance and enable it to make recommendations to the Bureau of the Budget to delete positions and forfeit budgeted funds for jobs which remain unfilled for more than a predetermined period of time. Activities resulting from reconciliation reporting could be accomplished by the present staff. (Executive)

7. Formulate policies to control absenteeism.

The only record of absenteeism is kept within each agency and is used as a check for payroll purposes. Sick leave earned, used, accumulated, and lapsed is recorded by each agency. There is no reporting requirement to permit this department to consolidate information on sick leave. Information is needed about sickness and absenteeism which reportedly costs the state approximately \$2.6-million annually.

Reporting should be required on a monthly basis. A form should be designed to show department, division, location, class code and title, reason for absence, period of absence, hours or days away, pay status, and pay rate. Its design should anticipate automation. Analysis will reveal areas where corrective measures should be taken. (Executive)

8. Establish control over and reduce costs of employee turnover.

Consolidation of information involving day-to-day employment activity should be developed. Turnover statistics are not available, but are estimated at 25% annually.

Basic data would come from regular personnel activity forms. An annual statistical record of turnover by department, division, location, reason, and extent should be prepared. Analysis will pinpoint areas where improvements could be realized so follow-up can be effected.

Only negligible expense is entailed to produce viable information. This should bring about a correction in working conditions and provide better employment stability. A payroll saving estimated at \$20,000 annually in regained productivity could be effected for

each 1% of turnover rate reduction. With good control, the rate could reasonably be expected to reach 15%. This could provide an annual saving of \$200,000. (Executive)

9. Provide urgently needed computerization of operations.

The department's operations should be attuned to progress. It still performs functions manually and cannot provide prompt reliable service. Electronic techniques should be adopted.

This system should maintain employment data on a current, retrievable basis. It should provide programs for data on payroll, retirement systems, job requisitioning, performance appraisals, service credits, absenteeism, turnover, and the like.

To produce a basic system, personnel needs of state agencies would have to be assessed. Such a study was made by a firm of management consultants in June 1969. It was not implemented. Complementing it are results of an examination of paper flow procedures on classified positions made in 1972 by the Department of Finance and Administration.

A basic automated personnel system could cost approximately \$100,000. Automation, in parallel with manual operation, would continue until reliability is proven. About 18 months would be needed before abandonment of present manual procedures. Development should be financed by participating agencies. (Executive)

10. Establish a 4-year period following termination for retention of personnel records.

Records of terminated employees are retained for an indefinite period. They are stored in 40 cabinets in the State Office Building and in 18 boxes in the Maine State Archives. The only material pertinent after 4 years is a record of service and pay. These serve as a basis for retirement benefits, if applicable employee contributions are made before age 70. Such records could be microfilmed at the end of the 4-year period. This retention period, together with microfilming, will permit the destruction of 30,000 to 40,000 files and release 30 cabinets, as well as more than 100 square feet of office and storage space. (Executive)

11. Establish schedules for retention of other forms and files.

A program is needed for controlling forms issued and received. The department retains forms and files indefinitely. Uncontrolled distribution and retention leads to unnecessary and costly file cabinet and space utilization. Retention schedules should be adopted. Once implemented, approximately 10 file cabinets will become available. (Executive)

12. Combine employment activities forms.

There are 10 different forms and approximately 250,000 are used annually. They should be combined into a standard unit with provision for all activities. Form design should anticipate conformity with electronic data processing requirements. A comprehensive form will lower storage and printing costs, and improve clerical performance. Annual savings of \$1,600 will result from reductions in printing costs. (Executive)

13. Dispose of 10 manual typewriters.

Personnel has 27 typewriters. The six manual typewriters in the examination room are never used because of their condition. They should be discarded and replaced by the six best manual typewriters available. Four manual machines not needed should also be removed or sold. (Executive)

14. Dispose of excess office furniture.

The office is crowded with old furniture. Working space is confined, and the location of equipment causes hazardous conditions.

There are 69 chairs for 28 employees. Six good chairs should be transferred to the examination room to replace its worthless swivel chairs. The better of the remaining ones should be assigned for visitors, releasing about 25 for alternate use. The three unused desks should also be released. (Executive)

15. Improve utilization of historical payroll files.

Certification and Records maintains historical payroll records of 12,500 classified and unclassified active

employees in 11 two-drawer filing cabinets. Only the upper drawer is used. Additional capital expenditures are made as increased employment requires more files. Both drawers should be used. This will release five cabinets valued at \$250 for other purposes, and recover approximately 15 square feet of space. (Executive)

16. Reproduce job classifications as required.

Classification and Pay reproduces up to 100 copies of each of the 1,108 job classifications, using an old mimeograph machine. Approximately 400 job classifications cover positions having fewer than 10 persons in them. These should be reproduced as needed. Only the original or a minimum quantity need be retained. This will release three filing cabinets. Also, the mimeograph machine should be sold or released. (Executive)

17. Institute an alcoholism rehabilitation program based on job performance.

National figures on alcoholism indicate 5% of the work force has an alcoholism problem. With over 12,500 employees, approximately 650 could theoretically benefit from a program whose results have been found to double the cure rate of voluntary rehabilitation. It would not be unreasonable to salvage 50% of the potential 650 alcoholics. Savings will result from lowered absenteeism, reduced sick pay and medical premiums. The state's payroll exceeds \$100-million per year and industrial alcoholic program savings are usually targeted for a 1% of gross payroll. Thus, annual savings of \$1-million are possible but none are claimed. (Executive)

Maine State Retirement System

This system provides retirement and survivors' allowances as well as life insurance benefits for state personnel, public school teachers, and employees of participating local political subdivisions. It also collects and reports taxes for municipal districts which elect benefits under social security.

CURRENT PRACTICES

General responsibility for the retirement system rests with a part-time, seven-member Board of Trustees. Administrative duties are vested in an executive director. Three professional advisory firms manage investments and a bank has accountability for custody and servicing of negotiable securities. Life insurance benefits are provided under a contract. A board of three physicians determines eligibility for disability retirement and survivors' allowances.

The retirement system has a complement of 32 in its Divisions of Accounting, Retirement Claims, and Actuarial. For fiscal 1972, administrative expenditures totaled \$264,701. The system maintains six funds. They are Membership Contribution, Retirement Allowance, Retirement Allowance Adjustment, Survivor's Benefit, Expense, and Group Life Insurance. As of June 30, 1972, reserves amounted to \$188,089,986. For fiscal 1972, participating members contributed \$16,074,283. Payments by the state, teachers, and participating local districts for funding, payment of allowances, as well as group insurance, totaled \$19,545,934.

Accounting processes payroll reports, makes distribution and deposits of all contributions, and administers local district elections for social security benefits. Retirement Claims maintains individual

5 § 711

CIVIL SERVICE

Title 5

CHAPTER 59

UNCLASSIFIED SERVICE

Sec.

711. Composition of.

§ 711. Composition of

The unclassified service comprises positions held by officers and employees who are:

1. Elective offices. Chosen by popular election or appointed to fill an elective office.

2. Officers chosen by Legislature. Officers who, under the Constitution or statutes, are chosen by the Legislature.

3. Appointed by Governor; certain official clerks. Heads of departments and members of boards and commissions required by law to be appointed by the Governor with the advice and consent of the Council, bureau directors, and the official clerk of the State Liquor Commission, and the secretary of the Public Utilities Commission.
1965. c. 91. § 1.

4. Judicial officers and employees. Officers and employees in the judicial service of the State.

5. Legislative officers and employees. Officers and employees of the Senate and House of Representatives of the Legislature.

6. Military. Officers and enlisted men in the National Guard and Naval Militia of the State.

7. Governor's office. The private secretary, assistant secretary and stenographers in the Governor's office, and the employees working at the Blaine Mansion.

8. Unorganized territory, vocational schools and state institutions. Officers and employees of the unorganized territory school system and the teachers and principals of the school systems in state vocational schools and state institutions;

[9. Repealed]

Appendix F, Suggested Guides
For Statutory Revisions

Classification and Pay

5 MRSA § 634, Compensation Plan, might be redrafted to provide a "equal pay for equal work" clause. A good example of such an ideal is the Classification and Pay section from the Commonwealth of Kentucky Merit System Act:

The Commissioner of Personnel shall prepare and submit to the Personnel Board proposed rules for the classified service...the rules shall provide:
For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class...
For a pay plan for all employees in the classified service,...the plan shall take into account such factors as (a) the relative levels of duties and responsibilities of various classes of positions; (b) rates paid for comparable positions elsewhere; and (c) the state's financial resources.

Performance Evaluation

5 MRSA § 636, Service Ratings, should be redrafted to insure a strong performance evaluation system. Currently, as discussed in Recommendation Number 1 of this section, merit increases are often automatic. A worthy statute would reflect the provisions of both the City of Amarillo, Texas Civil Service Ordinance:

It (the Civil Service Commission) shall make rules and regulations providing for a system of efficiency ratings for all employees in the classified service and shall require that such ratings be used for purposes of promotions, demotions, reductions in force, and reinstatements.

And the State of California Civil Service Rules:

Performance appraisal shall be governed by the following:

- a. The appraisal of work performance provides recognition for effective performance and identified aspects of performance which could be improved.
- b. Performance appraisal is a continuing responsibility of all supervisors, and supervisors shall discuss performance informally with each employee as often as necessary to insure effective performance throughout the year.
- c. Each supervisor...shall make an appraisal in writing and shall discuss with the employee his over-all work performance at least once in each twelve calendar months...for the purpose of informing the employee of the caliber of his work, helping the employee recognize areas where performance could be improved and developing with the employee a plan for accomplishing such improvement.
- d. Performance appraisals shall be prepared and recorded in the manner prescribed by the executive officer or board and may be appealed to the board only on the basis that they have been used to abuse, harass, or discriminate against an employee.
- e. Each employee shall be given a copy of the written appraisal covering his own performance...

Ethical Restraints

Maine currently has little in the way of ethical guidelines for its state employees. It would seem important that financial restraints on state employees be clearly stated. A fine example of such restraints can be found in the state of Florida statutes:

(1) No officer or employee...shall accept any gift, favor, or service that might reasonably tend improperly to influence him in the discharge of his official duties.

(2) If an officer or employee...is an officer, director, agent, or member of, or owns a controlling interest in any corporation, firm, partnership, or other business entity which is subject to the regulation of, or which has substantial business commitments from any state agency, county, city, or other political subdivision of the state, he shall file a sworn statement disclosing such interest...

(3) No officer or employee...shall use, or attempt to use, his official position to secure special privileges or exemptions for himself or others, except as may be otherwise provided by law.

(4) No officer or employee...shall accept employment or engage in any business or professional activity which he might reasonably expect would require or induce him to disclose confidential information acquired by him by reason of his official position.

* * * *

(6) No officer or employee of a state agency, or of a county, city, or other political subdivision of the state, or any legislator or legislative employee shall accept other employment which might impair his independence of judgment in the performance of his duties.

(7) No officer or employee...shall receive any compensation for his services as an officer or employee of a state agency, county, city, or other political subdivision of the state, or as legislator or legislative employee from any source other than this state, or the county, city, or other political subdivision of the state, or as legislator or legislative employee from any source other than this state, or the county, city, or other political subdivision of the state of which he is an officer or employee, except as may be otherwise provided by law.

Appendix G, Implementing order and pieces of legislation

AN ACT to Repeal Statutory Inequalities Among Classified Employees.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 5 MRSA §634, second sentence of 2nd ¶, as last amended by PL 1965, c. 382, is further amended to read:

No position shall be assigned a salary greater than the maximum or less than the minimum rates fixed in the compensation plan, ~~except that the Personnel Board may authorize rates above the established maximum compensation in specific advanced technical and professional classifications for employees whose technical or professional education, training or credentials exceed the established qualification requirements for those classifications.~~

Sec. 2. 5 MRSA §634, third through sixth sentences of 2nd ¶, as enacted by PL 1970, c. 549, are repealed.

Sec. 3. 5 MRSA §634, fourth through sixth sentences of 3rd ¶, as enacted by PL 1971, c. 331, are repealed.

Sec. 4. 12 MRSA §2001, second sentence of 1st ¶, is amended to read:

The compensation of the wardens shall be determined under the Personnel Law ~~and shall not be more than one pay grade below that of the Maine State Police.~~

Sec. 5. 12 MRSA §3651, sub-§3, is amended to read:

3. Compensation. Their compensation is determined under the Personnel Law ~~and shall not be more than one pay grade below that of the Maine State Police.~~

Sec. 6. P&SL 1971, c. 142, is repealed.

Sec. 7. 5 MRSA §680, as amended by PL 1973, c. 788,
§ 16, is repealed.

Sec. 8. 25 MRSA §1506, as amended by PL 1973, c. 788,
§108, is repealed.

Sec. 9. Effective date. This act shall take effect
October 4, 1976.

Sec. 10. Scope. Employees currently enjoying the above
compensation and benefits shall continue to enjoy them until
their employment by the State is interrupted.

STATEMENT OF FACT

This act repeals special interest compensation and benefits
legislation that tend to conflict with established principles
and policies of the merit system, create inequities in the
employee compensation schedules and benefit plans and encourage
fragmentation and competition among employees.

AN ACT To Restrict Armed Forces Preferences In State Employment To Veterans Who Were Not Career Officers or Career Enlisted Personnel.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 5 MRSA § 674, sub-§1, ¶c, as enacted by PL 1967, c. 67, §1, is amended to read:

C. Veteran. "Veteran" shall mean a person, male or female, who served on full-time active duty, exclusive of active duty for training, in the Armed Forces of the United States and who does not receive non-disability retirement benefits for Armed Forces service.

STATEMENT OF FACT

The purpose of this bill is to restrict armed forces preferences in state employment to veterans who were not career officers or career enlisted personnel and who are not receiving retirement benefits for Armed Forces service.

AN ACT to Reorganize the State Personnel Board

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the State has enacted the State Employees Labor Relations Act, which establishes for all State employees the right to collectively bargain with the State and to form bargaining units; and

Whereas, one of the members of the State Personnel Board is chosen by the Maine State Employees Association; and

Whereas, representation of only one collective bargaining unit on the State Personnel Board is injurious to the rights of all other collective bargaining units that may be created under the State Employees Labor Relations Act; and

Whereas, in the judgement of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 5 MRSA §591 is repealed and the following enacted in place thereof:

§591. Membership; term; compensation

The State Personnel Board, as heretofore established, shall be composed of five members, no more than three of whom shall be of the same political party. Each member shall be appointed by the Governor with the advice and consent of the Executive Council. One member of the board shall be designated by the Governor as chairperson. Each member shall be appointed for four years or until his successor has been appointed and qualified, except that of the five members first appointed under this act, the chairperson and one other member shall be appointed for four years, a third member shall be appointed for three years, a fourth member shall be appointed for two years and a fifth member shall be appointed for one year. Any vacancy shall be filled within 60 days by the Governor with the advice and consent of the Executive Council for the unexpired portion of the term.

The most important qualification for membership on the State Personnel Board shall be the appointee's expertise in personnel relations and management.

The members of the board shall receive \$50 a day for the time actually spent in the discharge of their duties, and their necessary expenses.

Within sixty days after passage of this act, the Governor with the advice and consent of the Executive Council shall appoint the five members of the board. Until these appointments are made, the present Board members will continue to serve.

Sec. 2. Appropriation. There is appropriated from the General Fund the sum of \$10,608 to carry out the purposes of this Act. The breakdown shall be as follows:

STATE PERSONNEL BOARD	1975-76	1976-77
Personal Services	\$5,304	\$5,304

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this act is to create a State Personnel Board that is unbiased, fairly paid and professional in its knowledge of personnel relations and management.

WHEREAS, the State Personnel system - including job classifications and pay, performance evaluations, job examinations, job specifications and the organization of the Personnel Department itself - is antiquated and in need of fundamental updating and restructuring; and

WHEREAS, the demands of equal opportunity affirmative action plans, the collective bargaining law and the standards set by federal law for all state personnel systems lend urgency to this necessary evolution of the personnel system; and

WHEREAS, this updating and restructuring of the personnel system can be most effective if performed by neutral personnel specialists from outside the ambit of state government; now, therefore, be it

ORDERED, the House concurring, that the Legislative Council is directed to employ professional consultants to recommend changes - and the means by which such changes would be effected - in the methods and structure of the state personnel system; and be it further

ORDERED, that a report of the study together with recommendations and legislation deemed necessary be made to a special session of the 107th Legislature or to the 108th Legislature; and be it further

ORDERED, that prior to the Legislative Council's solicitation of any consultant's offer, the Committee on State Government shall study what areas of the personnel system the consultant's report should analyze, the goals such a report should fulfill, and its approximate cost, and advise the Legislative Council on the precise nature of the contract it will make with the consultant; and be it further

ORDERED, that the Committee on State Government report its findings to the Legislative Council on the nature of the contract to be made as soon as possible during the current session.

AN ACT Establishing the Code of Fair Practices and Affirmative Action As The Equal Opportunity Standard For All State Financed Agenices and State Related Agencies.

Be it eancted by the People of the State of Maine, as follows:

5 MRSA c. 69 is enacted to read:

SUBCHAPTER VII

CODE OF FAIR PRACTICES AND AFFIRMATIVE ACTION

§4631. Code of Fair Practices and Affirmative Action. The State of Maine is an Equal Opportunity Employer and as such will require all its agencies to pursue in good faith affirmative action programs:

§4632. Definition of affirmative action. An Affirmative Action Program includes procedures designed to increase the numbers of minorities and women at all levels and in all segments of the work force where imbalances exist. Such a program should include an assessment of the existing situation, and the development of realistic goals for necessary action. These goals and related procedures and timetables should not require rigid quotas, but are commitments which an employer should make every good faith effort to achieve.

§4633. Appointment, Assignment and Promotion of Personnel. Officials and supervisory employees shall appoint, assign,

and promote personnel on the basis of merit and fitness, with-
out regard to race, color, religious creed, national origin,
sex, ancestry, age, or physical handicap unless related to
a bona fide occupational qualification. Each appointing
authority shall designate Equal Opportunity Officer(s). The
Officer (s) must be so placed within the agency's organiza-
tional structure that he/she shall have direct access to the
appointing authority. Each department or agency shall pre-
pare an Affirmative Action Program for that department or
agency in accordance with criteria set forth by the State
Department of Personnel.

§4634. State action and contracts.

1. State action. No agency or individual employee
of the State or state related agencies will discriminate
because of race, color, religious creed, sex, national
origin, ancestry, age, or physical handicap while pro-
viding any function or service to the public, in enforcing
any regulation, or in any education, counseling, vocational
guidance, apprenticeship and on-the-job training programs.
Similarly, no State or state related agency contractor,
subcontractor, or labor union or representative of the
workers with which the contractor has an agreement will
discriminate unless based on a bona fide occupational
qualification. State agencies or related agencies may
withhold financial assistance to any recipient found to

be in violation of the Maine Human Rights Act or the
Federal Civil Rights Act. Any State agency or related
agency shall decline any job order carrying a specifi-
cation or limitation, as to race, color, religious
creed, sex, national origin, ancestry, age, or physical
handicap unless it related to a bona fide job require-
ment.

2. Public contracts. Every State or state related
agency contract for public works or for services shall
incorporate by reference the following provisions:

"During the performance of this contract, the contractor
agrees as follows:

a. The contractor will not discriminate against
any employee or applicant for employment because
of race, color, religious creed, sex, national
origin, ancestry or age. Such action shall include,
but not be limited to the following: employment,
upgrading, demotions, transfers, recruitment or
recruitment advertising; layoffs or terminations;
rates of pay or other forms of compensation; and
selection for training including apprenticeship.

b. The contractor will, in all solicitations or
advertisements for employees placed by or on behalf
of the contractor, state that all qualified appli-
cants will receive consideration for employment
without regard to race, color, religious creed,
sex, national origin, ancestry or age.

c. The contractor will send to each labor union
or representative of the workers with which he has
a collective or bargaining agreement, or other con-
tract or understanding, whereby he is furnished
with labor for the performances of his contract, a
notice, to be provided by the contracting department
or agency, advising the said labor union or workers'
representative of the contractors commitment under
this section and shall post copies of the notice
in conspicuous places available to employees and to
applicants for employment."

d. The contractor will cause the foregoing provisions to be inserted in all contracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor.

§ 4635. State employment services. Any State agency or state related agency engaged in employment, referral and/or placement service for private industry or public agencies shall fill all job orders on a non-discriminatory basis, and shall decline any job order carrying a specification or limitation, as to race, color, religious creed, sex, national origin, ancestry or age unless it relates to a bona fide job requirement.

§4636. Training for job opportunities. All educational and vocational-guidance counseling programs and all apprenticeship and on-the-job training programs conducted, supervised or funded by the State or state related agency shall be conducted to encourage the fullest development of interest and aptitudes without regard to race, color, religious creed, sex, national origin, ancestry or age unless sex or age relates to a bona fide job requirement. In the event that any such programs are conducted in conjunction with private employers or private educational institutions, the supervising or contracting department or agency shall insure that the provisions of this Act are complied with fully by such private employer or private educational institution.

§4637. State financial assistance. No State agency or state related agency shall approve a grant of State financial assistance to any recipient who is engaged in discriminatory practices. All recipients of State financial assistance shall submit to the Maine Human Rights Commission, at its request, information relating to the recipients operations, with regard to race, color, religious creed, sex, national origin, ancestry or age. Such information shall be furnished on a form to be prescribed by the Maine Human Rights Commission.

§4638. The State Department of Personnel. The State Department of Personnel shall take positive steps to insure that the entire civil service examination and testing process, including the development of job specifications and employment qualifications, is free from either conscious or inadvertent bias. Furthermore, the Department of Personnel will have the initial responsibility of resolving civil service conflicts and complaints, changing administrative procedures when necessary and providing assistance for preparing affirmative action programs. It is the responsibility of the Equal Opportunity Personnel Specialist in the Department of Personnel to monitor the civil service Affirmative Action Program and insure compliance with all federal and state regulations.

§4639. Human Rights Commission. All Affirmative Action Programs, whether part of the civil service or not, shall be subject to the review and comment of the Human Rights

Commission.

All powers and duties granted to the Maine Human Rights Commission under Title 5, MRSAs §§ 4551, et. seq., as amended, apply to this section. Complaints of discrimination based on race, color, religious creed, sex, national origin, age, or physical handicap should be made to the Maine Human Rights Commission.

§4670. Affected state agencies and state related agencies. All state financed agencies, political subdivisions, quasi-independent agencies, school districts and instrumentalities of state government are required to implement this Code of Fair Practices and Affirmative Action.

STATEMENT OF FACT

The purpose of this bill is to make the Code of Fair Practices and Affirmative Action, which currently applies to only Executive Department agencies, apply to all state financed agencies and state related agencies.

AN ACT to Promote the Professional Standards of the Un-
classified Service

Be it enacted by the People of the State of Maine, as follows:

5 MRSA c. 712 is enacted to read:

§712. State Personnel Board Review

The State Personnel Board shall review the wages, hours
and working conditions of the unclassified service, in order to
prevent possible inequities and arbitrariness in these areas
and to insure compliance with federal personnel standards.
The Personnel Board will report yearly to a regular or special
session of the Legislature the results of its review, with, if
necessary, recommendations for changes.

Statement of Fact

The purpose of this act is guard against possible
inequities and arbitrariness in the wages, hours and
working conditions of the unclassified service and to
insure compliance with federal personnel standards.

AN ACT to Aid Neutrality In Hiring and Promotion Practices

Be it enacted by the People of the State of Maine, as follows:

5 MRSA §558 is enacted to read:

§558. Hiring and promoting neutrality

The final decision of whether a person will be hired or promoted by the State cannot be made in part or wholly by a person related to the job candidate by consanguinity, or affinity, within the fourth degree. The State Personnel Rules shall insure that this section will not deprive any applicant or employee of full consideration for hiring or promotion.

STATEMENT OF FACT

The purpose of this bill is to remove possible familial favoritism in state hiring and promotion practices, while insuring that the Personnel Rules will provide for alternative means by which a person related to the official who will decide on hiring or promotion can be insured of fair and full consideration.