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STATE OF MAINE

ONE HUNDRED AND SEVENTH LEGISLATURE

**JOINT SELECT COMMITTEE ON COUNTY GOVERNMENT**

January 14, 1977

Rep. John L. Martin, Chairman  
Legislative Council  
c/o Speaker's Office  
State House  
Augusta, Maine 04333

Dear Representative Martin:

In accordance with House Paper 1670, which ordered the Select Committee to study the structure and purpose of county government, we enclose herein the final report of the Joint Select Committee on County Government.

Respectfully submitted,

*Philip C. Jackson* (JCH)

Philip C. Jackson  
Senate Chairman

*Roger V. Snow* (JCH)

Roger V. Snow, Jr.  
House Chairman

enclosures  
JH/sym



STATE OF MAINE  
OFFICE OF LEGISLATIVE ASSISTANTS  
STATE HOUSE  
AUGUSTA, MAINE 04333

January 14, 1977

Dear Sir:

This copy of the Final Report on County Government does not contain all of the appendices to the Report. The only appendices included are those containing draft legislation. The other appendices, totaling approximately 200 pages, are omitted to save the large cost of printing.

The entire report, including all appendices, is on file in the State Law Library, and copies of individual appendices may be obtained through this office.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jonathan C. Hull", written over the printed name.

Jonathan C. Hull  
Legislative Assistant

JH/sym

\* THIS COPY INCLUDES ALL APPENDICES (A-S)

REPORT OF THE JOINT SELECT  
COMMITTEE ON COUNTY GOVERNMENT:

STUDY ON COUNTY GOVERNMENT.

H.P. 1670

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LEGISLATIVE ASSISTANT - Jonathan C. Hull

December, 1976



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## SUMMARY

The Committee considered many aspects of county government, but concentrated on three basic areas, the budget approval process, the county's role in the function of law enforcement and possible county roles related to human services. The Committee presented three bills to the First Special Session of the 107th Legislature: L.D. 2251, AN ACT to Enable Counties to Hire County Administrators; L.D. 2253, AN ACT to Change County Budgets to an Annual Basis; and L.D. 2275, AN ACT to Give Counties Power to Assess and Collect Their Own Taxes. L.D.'s 2251 and 2253 were enacted, but the most important bill L.D. 2275, which granted counties the authority to determine and approve their own budget, was defeated. As a result of these actions of the Legislature and the opinions expressed in debate, as well as the broad scope of possible areas for consideration, the Committee decided to concentrate on two functional areas of county government during the second phase of its study. The areas chosen were county law enforcement, because of its important place in county government and the discontent expressed about its current administration and operation, and human services, because of its limited place and the apparent need for an expanded county role. After hearings and discussion the Committee prepared two bills concerning these areas for consideration by the 108th Legislature. In addition, a minority of the Committee prepared a minority bill concerning the structure of county government, including new provisions governing the qualifications and election of county commissioners and authorizing counties to approve their own budget.

These bills are the result of a year and one-half study that included consideration of many areas of county government. the Committee considered constitutional changes, changes in financing county government, complete restructuring of the administration of county government, expansion of the county role in directly providing services, the relation of county government to special purpose sub-state districts and the many other subjects set out in the study order. However, because of limited time and the complexity of these issues, the Committee restricted its proposals to limited areas that were considered crucial at this time. By limiting itself, the Committee was able to develop detailed proposals in these areas, after long discussion and careful consideration of the actual effect of alternatives.

The Report of the Committee contains a detailed discussion of the three areas that the Committee considered, as well as basic background information on county government in Maine. The first part of the Report details the present general situation of county government in Maine, documenting its decline in the face of increasing legislative control and the proliferation of other governmental units. From this examination, the Committee concluded that the prime requirement for a reverse in this decline, was the development of an efficient, centrally organized and responsible system of county government. The obstacles to this development were analyzed and the bills submitted to the Special Session were drafted. These bills were intended to be the first step in reviving county government; but with the defeat of the "county budget bill", the Committee changed direction.

The second part of the Report details the county role in two critical areas: law enforcement and human services. In considering these areas, the Committee attempted to clearly define the county functions and the administration required to responsibly and efficiently carry them out. The need for a civil service system for law enforcement officers and for alternate methods of financing county government are detailed in this part. The role of the county in providing and financing health and social services is also discussed.

The final part of the Report provided a detailed list of areas that deserve further study. The Committee discussed briefly all of these areas, and considered them important enough for further study.

The Committee believes that the result of enactment of the proposed bills will be the reversal of the long decline of county government, and redirection of its role. As a first step, the proposals define critical roles for the county that need not conflict with municipal and state roles, but can complement and strengthen them. Further study in the many areas not considered will lead to more proposals in the future; and the experience of counties in implementing these proposals will serve to define their future evolution. Thus, the Committee considers these proposals and this report as the beginning of a long-term study of county government that will eventually lead to a significant role for county government in this State.

## INTRODUCTION

The 107th Legislature, during its Regular Session, ordered the formation of a Joint Select Committee on County Government and ordered the Select Committee to study the structure and purpose of county government (Study Order H.P. 1670 attached as Appendix A). The Study Order was in response to bills submitted during the Regular Session that proposed "County Home Rule", L.D. 's 1243 and 1307, or the abolition of county government, L.D. 1819. The Select Committee consisted of the members of the Joint Standing Committee on Local and County Government and the sponsor and co-sponsors of the "abolition" bill, L.D. 1819. The Study Order directed the Committee to study the "proper role and authority, if any, of county government in this state", and included specific areas to be considered by the Committee. Pursuant to this study the Committee reviewed the present structure and purpose of county government and developed several basic proposals outlined in this report. In addition, the Committee researched other areas but did not make specific proposals. These areas are identified for further study. This report contains the basic research and conclusions of the Committee that developed during its year and one-half study, including legislation that was submitted to the 107th First Special Session without a narrative report.

The recommendations of the Committee and this report do not encompass all the specific issues identified in the Study Order. The Study Order provides the basis for a detailed study of all aspects of county government or any intermediate level of government appropriate to the State. That task was too large for the

Committee, in the time allotted and with the resources at the Committee's disposal. Though the Committee did consider every aspect identified in the Study Order, it concentrated on only a few of them. Thus, the recommendations for legislation are limited to areas the Committee considered critical and manageable. These recommendations should provide the basis for reorganizing and revitalizing county government in Maine, and should be followed by further study of the effects of their recommendations.

Other areas of county government also deserve further study to develop proposals that carry through to completion the reorganization begun by this Committee and this report. As these proposals are implemented and further study is undertaken, the future role and purpose of county government will develop. This development of a revitalized county government could be slow, and difficult to order by rapidly implemented legislative mandates or authorizations. Legislative actions can develop the basis for a revitalization and can define the basic role and function of county government, but they probably cannot create a viable, responsible and influential intermediate level of government. That task must be left to the municipal and county officials and citizens, and to the readjustments that will evolve with experience. Thus, the Committee's observations and recommendations are not intended to solve all the problems of county government, but rather to remove certain obstacles and provide the direction and impetus to allow them to be solved on the local level. The ultimate solution may take time, and, in all probability, further study and recommendations by other legislative committees.

The Committee extends its appreciation and thanks for the valuable assistance given by the Maine County Commissioners' Association, and the Maine Municipal Association, who participated in this study, and to the county officeholders and municipal officers, who offered advice and information to the Committee. Without their frank and articulate comments the Committee would have been unable to develop the proposals contained in this report.

#### COMMITTEE PROCEDURE

The Committee or sub-committees met 31 times during the year and one-half of the study. At its first meeting on October 1, 1975, the Committee elected Senator Philip Jackson and Representative Roger Snow as co-chairmen and discussed the study and the present structure of county government. The Committee began the study with a series of sub-committee hearings throughout the State. The purpose of the hearings was to gather the opinions of municipal and county officials and the public on county government and its problems. In addition the Committee solicited written comments from municipal and county officials. (A summary of the issues raised and proposed solutions in these hearings and comments is attached as Appendix B.) The Committee also began to review published information about Maine counties and regional governmental units, including prior proposals for county government reform.

After completing fourteen public hearings and reviewing the written comments received by the Committee and the observations of the Committee members, the Committee came to two conclusions:

1. "It is the objective of this Committee to recommend basic reforms in county government, to make it more responsive to the



people."

2. "The Committee makes its objective the development of comprehensive draft proposals for the reform of county government during the (First) Special Session (of the 107th Legislature)."

In order to accomplish these objectives, the Committee assigned subject areas to its sub-committees for review and the development of proposals for Committee consideration.

After considerable review and discussion in the sub-committees and the full committee, of a wide-range of problems of county government and of proposed solutions for reorganization and revitalization, the Committee focused on three specific proposals. Because of the press of time, many other issues were delayed until after the Special Session, while the Committee concentrated on the proposals. The Committee reported to the First Special Session three bills: L.D. 2251, AN ACT to Enable Counties to Hire County Administrators; L.D. 2253, AN ACT to Change County Budgets to an Annual Basis; and L.D. 2275, (N.D. - L.D. 2335) AN ACT to Give Counties Power to Assess and Collect Their Own Taxes. L.D.'s 2251 and 2253 were enacted as Ch. 736 and 716 of P.L. 1975, respectively. However, the most important and far-reaching of these proposals, L.D. 2275, the "County Budget Bill", died between houses after being indefinitely postponed in the House. (L.D. 2335, the new draft of L.D. 2275, is attached as Appendix C.)

After the end of the Second Special Session, the Committee reconvened to consider continuing the study. At this time the Committee invited the Maine Municipal Association and the Maine County Commissioners' Association to send staff members to join the Committee's staff in research and preparing proposals for the Committee.

In reviewing the legislative actions on L.D. 2275-2335 the "County Budget Bill", the Committee decided that the critical area for the next study phase was the function of county government. However, the Committee realized the present functions were too numerous to all be considered and thus limited itself to two major functions: county law enforcement and county human services. In considering the county role in these areas, the Committee also decided to consider their financing and administration. These areas were chosen for different reasons. County law enforcement is presently the most visible and important traditional county function and has drawn serious study and criticism in the past. The function of human services, on the other hand, is just beginning to become important on the county level, and presents an area of significant opportunity and need for increasing governmental action. In making detailed recommendations in these areas, the Committee hoped to provide a revitalized pattern for county government, which would shape its future in other areas.

The Committee then researched and discussed the role of the county in law enforcement, reviewing in detail the counties' present operations and their relationship to municipal and state law enforcement activities. The Committee also discussed the administration of county law enforcement and possible alternatives to the present financing structure. After a thorough review of this function, the Committee developed draft legislation for consideration.

The Committee then researched and discussed the possible roles of counties in the area of human services. It reviewed the present role of different counties and of other governmental units and discussed possible extension of the present county role. The

Committee proposed draft legislation to formalize the authority of counties in this role and to clearly define its authority and power.

Despite its original intentions, the Committee was unable to complete its review of other county functions nor to propose legislation in certain critical areas. The Committee did, however, identify these areas for future study, and in this report indicates its views on possible directions for future proposals.

One member of the Committee has submitted a minority report that includes some of these areas. This minority report contains proposed legislation.

The Committee reviewed its final report and the accompanying draft legislation at its meeting on December 28, 1976, and after discussion, unanimously voted to submit the draft legislation, and this report, for legislative action during the 108th First Regular Session.

#### MAJORITY REPORT

##### Prologue

County government in Maine has been a subject of intense legislative discussion for many years. Proposals to radically alter the whole structure of county government have been introduced into the last two Legislatures and controversy and discussion has continued about the proper role for counties. However, major reforms in county government have been slow, and those bills that were designed to accomplish the complete restructuring of county government in one move have invariably failed to pass. Three other pat-

terns of change have become apparent during this period. First, some traditional county functions have been moved from the county to the state level, such as the change from county to district attorneys (P.L. 1973, ch. 567), and the restructuring of Superior Court financing, (P.L. 1975, ch. 383). This pattern appears to generally favor state control and direction of certain functions that historically have been county functions. The second general pattern is the by-passing of county government, and the jurisdictional boundaries of counties, in establishing new governmental programs or special service districts. The Legislature and Executive have increasingly turned to the creation of new sub-state units when some governmental service is needed on the intermediate level, rather than utilizing the county. As has been amply documented (see Sub-state Regionalism in Maine, John B. Forester, Thesis, University of Maine, August, 1976) the number of these sub-state governmental units has increased explosively over the past few years. The third pattern is the enactment of enabling legislation to grant counties more flexibility and authorize them to undertake certain new functions; but these extensions of county authority are limited to specific programs or functions or to legislation enabling cooperative ventures with other governmental units. The examples of these very limited expansions of county authority (e.g., food stamps and social services P.L. 1972, ch. 571; P.L. 1969, ch. 393; & P.L. 1973, ch. 158; 30 MRSA §§416, 419 & 420, solid waste collection and disposal P.L. 1975, ch. 325, 30 MRSA § 413, and contractual service powers P.L. 1975, ch. 423 and P.L. 1975, ch. 385; 30 MRSA §§ 63 & 413) make clear that they cannot be considered as major alterations in traditional county

structures or authority. However, they do indicate certain directions where a need for county government is perceived.

What these patterns seem to reveal is a basic distrust in the present structure of county government and its ability to meet the need to efficiently and responsively provide certain services; but it also reveals an unwillingness to radically alter the entire structure of county government or a basic disagreement on how it should be altered. Though various aspects of county government in this state have been studied and several proposals to restructure it entirely have been advanced (e.g., L.D. 1243 & 1307, 107th Legislature), none have been implemented. However, the bill to abolish county government completely (L.D. 1819, 107th Legislature) was also soundly defeated. Thus, this study was begun with no clear mandate to either abolish or completely restructure county government. The Committee's first major decision was to determine which direction to adopt. After public hearings throughout the State and considerable discussion, the Committee concluded that there is strong public support for the continuation of county government, but that the present functions and structure of county government require reorganization and reform. From this basic premise, the Committee developed the recommendations of this report.

#### County Government.

County government in Maine has never been a strong, semi-autonomous and influential level of government, unlike the county governments of almost every state outside New England. The counties have limited legal authority, and what powers they do have are closely controlled by the Legislature through the general law and the power to finally approve county budgets. Like counties

in Massachusetts, New Hampshire and Vermont, Maine counties have historically acted as state administrative agencies, loosely grouped under and controlled by the county commissioners. The primary functions of county government, the administration of justice, law enforcement and record-keeping are performed by independently elected officials whose duties and powers are prescribed in detail in the statutes. These officers have little discretionary power and virtually no policy making role. The counties have no legislative powers and have not developed a centrally organized structure.

Historically, county residents have elected ten officers; three county commissioners, a county treasurer, county attorney, clerk of courts, judge of probate, register of probate, register of deeds and sheriff. The judge of probate, register of probate and sheriff were constitutionally prescribed officers (Art. VI, §6; Art. IX, §10). The duties of each officer are prescribed by statute. (See Appendix D for duties of present officers.) Financing of county operations is through the property tax, and is assessed against the municipalities on the basis of their latest state valuation (30 MRSA §§252-254).

Over the past several years the historical powers and functions of county government have significantly altered. County attorneys have been replaced by district attorneys (P.L. 1973, ch. 567), who, though still elected, are now full-time and usually serve areas larger than a single county. (Aroostook, Cumberland and York counties are complete districts in themselves. 30 MRSA §553-A.) The funding for Superior Courts has been transferred from the counties

to the State, though the county property tax is still the source (P.L. 1975, ch. 383). The authority of the county over roads and ways has been decreased in favor of municipal authority (P.L. 1975, ch. 711). The Clerk of Courts has been effectively removed from the county government structure, now being appointed and controlled directly by the courts (P.L. 1975, ch. 254). And finally, the judge of probate and register of probate have been removed from the Constitution, and the way opened to establish "districts" or administrative units other than the counties, though this provision is not yet in effect (Resolves 1967, ch. 77).

These legislative actions reflect the growing distrust of the county as an effective and efficient state administrative agency. The historical role of the county in the administration of justice has been diminishing for many years, and is today, almost completely eliminated. This loss of an historically important county role is also reflected in law enforcement, where the number and importance of municipal police departments have increased significantly over the past several decades, and the role of the State Police has also increased. At the same time the Sheriffs' departments have either not expanded or have decreased, despite growing demands for more law enforcement. Unlike the judicial administration function, however, the county law enforcement function is still actively pursued, accounting for a large proportion of the county budget.

At the same time that certain traditional county functions have been diminishing, there has also been a proliferation of special purpose sub-state districts that ignore county boundaries. The federal, state and local governments have found an increasing need, over the past few years, to create districts to perform cer-

tain functions; but in Maine, the one existing "district", the county, has been consistently ignored in creating these new units. School districts, water districts, sewer districts, regional planning commissions, resource conservation and development districts, community action agencies, health planning agencies, pollution control areas, law enforcement planning districts, health and welfare districts, department of transportation districts, fish and game management units, wildlife regions, soil and water conservation districts, forest management districts, employment service districts, economic areas and economic development districts, airport authorities, hospital districts, solid waste districts and a watershed authority have been formed with no regard to county boundaries or the administrative potential of counties. The departments of state government alone have divided the state into 138 service areas that have little or no interaction with county government in the same areas, and have little relationship to other districts operating in the same areas. The reasons for these new districts and their relationship to other governmental units have been described (see Sub-State Regionalism in Maine, John B. Forster, Thesis, University of Maine, August, 1976; Regional Government Organization Plan, Draft, Maine State Planning Office, Dec. 23, 1974); and one of the most basic reasons is the ineffectiveness of the present form of county government. The independence of the elected county officers, the direct control of the Legislature over county functions and taxation, the lack of a centralized administrative structure or of policy making powers, the strength of municipalities and publicized discord among some county officers and between some counties and



municipalities have combined to raise a basic distrust in the ability of the county to undertake these functions.

However, some counties have undertaken some new roles over the past few years, such as the distribution of food stamps (30 MRSA § 416), "priority social services" (30 MRSA §§ 419 & 420), solid waste collection and disposal (30 MRSA § 413), the Comprehensive Employment and Training Act program (30 MRSA § 255), Recreational Centers (30 MRSA § 424), and other human services. Almost every county has increased its role in human services, most of them by increasing their funding and grants to independent service agencies. Kennebec County has significantly increased its functions in this area by undertaking coordination and review of independent human service agencies within the county, and by consolidating local and county funding. The importance of counties in this area has grown because of a perceived need for coordination and evaluation of the programs and the initiative of some county commissioners, rather than because of direct legislative mandate. Where the Legislature has mandated new functions or powers for county government, the mandate has usually taken the form of broad enabling legislation that authorizes functions that have already begun to develop. This new legislation has also commonly stressed the interrelationship between counties and municipalities and enacted mechanisms for the voluntary transfer of functions. (See 30 MRSA § 63, P.L. 1975, ch. 423, allowing county-municipal contracts; and 30 MRSA § 413, P.L. 1975, ch. 325, § 1, relating to regional solid waste management.) Some minor, but significant changes in the structure of county government have also been enacted. (See 30 MRSA § 61, P.L. 1975, ch. 494, relating to administrative assistants, (repealed and replaced by P.L. 1975, ch. 736, § 1.)

These statutory changes reflect the legislative recognition of changing county roles and governmental structure, and have been enacted in response to the changes.

Thus, county government in Maine has already begun to change over the past few years. The change is piece-meal, in response to specific needs or pressures and without a comprehensive approach. Many of the traditional county roles have been removed or have been seriously considered for abolition, while the potential for new roles is only beginning to develop. Part of the pressure for the development of these new roles is the dissatisfaction with the many independent substate districts formed for specific governmental purposes. However, many of these districts were formed, at least to a certain extent, because of dissatisfaction with the present form of county government.

Thus, as its initial consideration, the Committee choose to explore the possibility of completely restructuring county government to make it a more efficient and responsibe unit of government.

#### First Phase: Sheriffs and County Budgets.

Two major obstacles appear to exist in the present form of county government that hinder the development of an efficient, centrally organized and responsibe system: the "independence" of the separately elected county officers and the legislative control of the county budget. Each county officer is directly elected to his position and thus feels a direct responsibility to his constituents. Though this concept of direct responsibility is laudable, it also creates autonomous county officers who strongly resist any

enroachment on their authority. Thus, there is not one single man or group that has the ultimate responsibility and authority to direct and control county government; but rather 6 individual officers with indefinite and occasionally contradictory powers and responsibilities (as has been recently demonstrated in York county). To confuse matters further, not even these officers acting in concert and harmony have final authority over county actions, as the "county" legislative delegation and the Legislature control the budget and the authorizing legislation. This has created a situation where no single group bears the clear and final responsibility for the actions of county government, nor has the power to initiate changes or innovative procedures in county government. Outside the area of traditional county roles, county government has almost reached the point of government by stalemate, with each county officer, the legislative delegation and the Legislature having veto power over the others, and with no one group or person having sole authority to initiate action. Obviously, if county government is to grow into new areas and reform itself, this stalemate has to be broken.

As a first step, the Committee considered the removal of the last constitutional county officer from the Constitution, the Sheriff. This would allow for the future restructuring of county government, either by mandatory or enabling legislation or by local initiative, such as a county charter or referendum. This approach had been successfully applied to judges and registers of probate, which were removed from the Constitution with a delayed effective date, i.e., "the amendment shall become effective at such time as the Legislature by proper enactment shall establish a different

Probate Court system with full-time judges." (Resolves 1967, ch. 77.) (Such a system has not yet been enacted and thus the Constitutional provision still is in effect.) After careful consideration of alternatives to either remove the Sheriff from the Constitution, or to provide for greater flexibility in the Constitutional provision, the Committee rejected this proposal. It was rejected because of the out-cry that was sure to arise that such a proposal was the first step in abolishing county government. In fact, the Committee perceived it as the first step in strengthening county government, but also realized its political infeasibility, except in the context of a complete plan for restructuring county government and a public understanding of its import. Without the constitutional change, it would be difficult to change the relationship of the county commissioners to the other county officers, or to create a unified, centrally administered structure. Thus, the subject of changing the administrative structure of county government was tabled.

The Committee, however, did make recommendations and drafted legislation for the First Special Session, on the subject of county budget approval. Final approval of county budgets presently is vested formally in the Legislature and informally in the legislative delegation of each county. As a result of requiring legislative approval, the accountability and responsibility of county commissioners and other county officers have been diminished. The legislative approval also provides a check and balance of county powers that compensates for the generally vague limits on those powers in the statutes. The Committee's goal was to transfer the

budget approval process to the county level, thus producing direct and clear accountability and responsibility, while insuring the retention of appropriate checks and balances. Because of constitutional limitations, the budget approval power could not be transferred to either the legislative delegation of the county or to municipal officers in the county. However, such power could be transferred to an elected county board. As part of that transfer, the authority and powers of county government would have to be specifically stated. (See Attorney General's opinion, attached as Appendix E.) Such a specific delegation of authority would also serve as an effective check and balance against the expansion or abuse of county powers.

After considerable discussion of the possible forms such a delegation might take, the Committee proposed a simple bill that transferred the power to approve county budgets to a "county finance board" in each county. This bill granted, by a specific enumeration of powers, the authority to counties to undertake the functions they already had; but it did not seek to expand that authority nor to reorganize or alter other aspects of county government. The "county finance board" was to be composed of 5 members, each elected from a single-member district for a 2 year term. (See L.D. 2275, attached as Appendix F.) The Committee considered alternatives to the county finance board, such as using the Board of County Commissioners, or a board composed of several municipal officers and elected representatives. These alternatives were rejected. The Board of county commissioners was rejected because that would concentrate the "legislative" and "executive" powers in one group; and the "combined" board was rejected because of

possible constitutional problems. The Committee also considered varying the size of the "finance board" according to the needs of the county; but was unable to reach decisions on which counties should have larger boards, how many members were appropriate and how they should be districted. The premise of the draft bill was that, as a first step, it would provide the impetus to further county restructuring. If the bill was enacted, the Committee would consider the restructuring of county administration and further refinements in county powers.

At the same time the Committee proposed two other bills, L.D. 2253, AN ACT to Change County Budgets to an Annual Basis and L.D. 2251, AN ACT to Enable Counties to Hire County Administrators. (Attached as Appendix G.) The Annual Budget bill was intended to formalize an already prevalent practice. The formalization was possible because of the change to annual legislative sessions. Further, it was hoped that annual budgets would allow greater flexibility and sounder planning in county finances. The County Administrator bill was the second attempt to provide at least one characteristic of a more centralized executive authority on the county level. (The first attempt during the Regular Session had been amended into the limited provision of 30 MRSA § 61, P.L. 1975, ch. 494.)

Both the Annual Budget bill and the County Administrator bill were enacted (P.L. 1975, ch.s 716 & 736), but the "County Budget Approval" bill failed. The crucial objections to the "Budget" bill, as they were stated in the floor debates, appear to be as follows:

1. County powers are increased by this bill, without sufficient checks or limitations.

2. Legislative approval of county budgets is necessary to provide full, responsive, and responsible action on the budgets.

3. This bill would significantly erode the authority of county commissioners, making them mere administrators, and create a board that would run each county and possibly expand into a county legislature.

4. Whatever influence municipalities have in the legislative budget approval process would be eliminated under this bill, but the mechanism for municipal collection of county taxes would continue.

5. This bill would insure the continuation of county government in its present form by strengthening its authority, but would not make any provisions for the differing roles of urban and rural counties or to future restructuring of county government.

6. The proposed "finance boards" are redundant, and will place additional costs for meetings, administration and elections on the taxpayers.

7. The districts proposed for the election of county finance board members are inappropriate for various reasons, most prominently because they strengthen urban control of the boards.

8. The power to borrow in anticipation of taxes is unlimited under this bill.

9. There are procedural problems in the election for county finance board members.

(Copy of debates attached as Appendix H.) The 1st, 8th and 9th objections were apparently satisfied in the Senate with the adoption of Senate Amendments S-503 and S-504 (attached as Appendix I); but basic objections apparently still existed. The crucial issues seemed to be the relationship between counties and municipalities, especially in the more "urban" counties, and the legislative control of the counties through the county budget. The Legislature was basically unwilling to change the present balance of powers and the mechanisms maintaining it. Thus, the bill died between the Houses after being "indefinitely postponed" in the House.

Second Phase: Law Enforcement and Human Services.

After adjournment of the Second Special Session, the Committee reconvened to continue its study. While reviewing the reasons for the defeat of the "budget" bill, the Committee also began considering the complete restructuring of county government. Many counties in states outside of New England have had a long history of strong and effective county government that has evolved several interesting structural alternatives. (See Appendix J for a brief synopsis of selected states.) In reviewing the experience in other states, the magnitude of the task of completely restructuring Maine county government became clear. It also became obvious that a strong, effective and responsible form of county government had evolved in these states rather than been created wholly by legislative action. Rather than examine in detail the range of alternatives in form and function and recommend legislation to reorganize county government entirely, the Committee decided to con-



sider, at first, only two areas of county functions: law enforcement and human services. By limiting its initial deliberations to these two areas, a detailed examination of the county function and the operations of other levels of government could be considered, and the role of the county could be carefully and fully examined. Further, when recommending changes, this careful examination would lead to detailed recommendations that could serve to shape the restructuring of county government as a whole over the next several years.

Law enforcement was chosen as one area of study because it is one of the most significant of present county functions and has been a subject of study and criticism for several years. Despite the extensive study and criticism, however, the county sheriff's departments and related county law enforcement functions have not altered significantly in many years. The second choice, human services, on the other hand, is a new county function. (see P.L. 1969, ch. 393; P.L. 1973, chs. 158, 463 & 571), that will probably grow more important in the future. The present role of county government in providing human services is relatively unstructured, primarily involving funding of various independent agencies and distribution of food stamps. Because of the increase in funding and the movement to decentralize such services, the county role and function will probably significantly increase in the near future. Without examination of the roles and structuring of the county function in this area, the potential for developing a significant and responsible role for the county and for providing local funding and evaluation of human service programs might be lost.

The study of these two county functions began with a detailed study of the present distribution of these functions in the sixteen counties, and continued with consideration of the administration and financing of these functions and the specific recommendations that accompany this report. The Committee first defined county law enforcement, both in theory and in actual practice.

#### Law Enforcement.

In theory, law enforcement on the county level has derived from the traditional common law duty of the sheriff: "a conservator of the peace and a protection to society against the commission of vice and crime" (Sawyer vs. County Commissioners, 116 Me. 408, 411, 102 A 2d, 226 (1917)). County law enforcement includes all those county functions that are intended to preserve the public peace throughout the county. When broadly defined in actual practice, county law enforcement encompasses the following areas: patrol, including traffic control; communications; jails and detention facilities; juvenile services; investigation, laboratory and intelligence services; rescue, ambulance and civil emergency services; administration and any other statutorily prescribed law enforcement duties. Some counties are providing services in each of these areas, with a major emphasis in almost all counties on patrolling and maintaining jails or detention facilities. (A review of county operations is contained in Appendix K.)

Theoretically, the county's law enforcement function and the sheriff's duty to preserve the public peace extend throughout the county. However, the actual law enforcement activities of the county have been concentrated in the more rural areas, with municipal police departments and the State Police undertaking police

duties in more urbanized areas and along major highways. Despite the general obligation to provide police services throughout the county and an increasing demand for more police protection, the counties have not expanded their sheriff's departments into large and efficient county-wide police departments. Instead, more municipal departments have been created and have expanded their patrolling services to meet the increased demand. The State Police have also sought to meet this apparent need for more police protection by creating and expanding their "resident trooper" program. Also, the sheriff's departments in most counties have not increased significantly their capacity for supporting such local police services by providing specialized support or auxillary services, such as investigation, laboratory or intelligence services. The State Police have provided some of these services, but their support or auxillary services, such as the State Crime Laboratory, would not be incompatible with similar, less sophisticated services on the county level.

From the great amount of information available on law enforcement throughout the State, the Committee was able to obtain a good view of the role of the county and the sheriff's department (see Appendix K). It is clear that the most important county law enforcement functions are patrolling and operation of a jail or detention facilities. However, even though a large proportion of the sheriff's budget is committed to patrolling, the sheriff's patrol is not a great presence in the county, in comparison with the patrolling function of municipal and state police. The operation of the jail in the fourteen counties that have one (Lincoln and Sagadahoc counties do not have county jails, though Lincoln has detention facilities, and York county's is presently closed) is a

significant function, both for pre-trial detention and for serving court imposed sentences of less than one year. Some counties, particularly the more urbanized counties, provide significant investigation, laboratory, intelligence and juvenile services that complement the efforts of municipal police. Some of the rural counties have begun to consider or to operate centralized communications for county and municipal police and fire departments; and other counties have provided ambulance or rescue services, either by contract or directly. Thus counties have provided a wide-range of law-enforcement services. But in comparing these services to the services provided by local and state police departments, it becomes clear that county law enforcement has been a declining presence throughout the State.

It appears that there is an important role for county law enforcement that has only begun to develop. The historical role of the county in providing law enforcement services throughout the county has seriously declined, because of the increases in municipal police departments, the demand for more intensive patrolling and the scope of services required of the police. In its place has developed an increasing emphasis on providing police services to rural areas and on providing both supportive services to local police and more sophisticated crime prevention and detection services to the whole county, which small municipal departments cannot provide. However, the statutory and common-law provisions governing county law enforcement have not been altered to reflect this change in functions. Thus the Committee considered and drafted legislation that would not only reflect the changes in county law enforcement, but would also enhance the capacity of

county and the sheriff to fulfill this new role.

In drafting legislation to reform county law enforcement into an efficient and professional organization capable of meeting the demands of county citizens, the Committee identified the following critical issues:

1. the present political influences on the sheriffs' departments and the need for increased professionalism;
2. the broad responsibility and indefinite functions of county law enforcement;
3. the indefinite relationship between the county commissioners and the sheriff; and
4. the requirement that county revenues for law enforcement be raised only through the county property tax.

The Committee considered each of these issues at length and drafted legislation that resolved most of them (attached as Appendix L). The critical recommendations of the draft legislation are as follows:

Politics and professionalism.

Sheriff's departments have traditionally been a source of political patronage and power in this State. The political influence has, to a greater or lesser extent in different counties, directly interfered with the development and retention of professional and experienced deputies. The election of the sheriff on a partisan basis and the selection of deputies to "serve at the pleasure" of the sheriff has contributed greatly to the political activities of the department. Many attempts have been made in the past to change this system (e.g., L.D.'s 566 & 1577, 105th Legislature; L.D. 1341, 106th Legislature), but they have failed. The argument against changing this system, that has apparently been accepted and reaffirmed, is that

an elected sheriff with deputies personally responsible and answerable to him will preserve and protect the voters rights and will be very responsive to their demands. Despite the attractiveness of the theory, the practice has not demonstrated this responsiveness. Despite this theory, the United States Supreme Court has recently placed serious limitations on the discretion of sheriff's to hire and fire at will (see Elrod vs. Burns, 44 LW 5091, June 28, 1976). Thus, the Committee came to the conclusion that the time had come to radically alter the structure of the sheriff's department in order to increase the professionalism of the department. The election of the chief county law enforcement officer was examined, and alternatives other than a constitutional amendment were proposed that would allow the appointment of the chief law officer while the sheriff continued his common law duties. These alternatives were rejected because of a belief in the general efficacy of electing the sheriff and having him in charge of county law enforcement. The election of the sheriff does provide for a certain responsiveness to the voters wishes, and this should be continued. The political patronage problem can be solved by introducing a limited civil service provision for deputies; and the use of deputies for political activities can be prohibited by statutes governing political activities.

The draft legislation incorporates these solutions. Full-time and part-time deputies are to be appointed by the sheriff with the approval of the county commissioners or a county personnel board. They are to be appointed on the basis of professional qualifications and for a term of years. Disciplinary actions or discharge for cause may be reviewed and reversed by the approval authority. The sheriff may continue to personally appoint the

Chief Deputy who serves at his pleasure, and may also appoint the "special deputies". These provisions should eliminate a large amount of "patronage" and insure an increase in professional and experienced deputies.

To assure the political "neutrality" of deputies, the Committee recommends the adoption of a statute based on the State's "Little Hatch Act". This provision has withstood constitutional scrutiny and has succeeded in "neutralizing" the classified state employees. In fact, it has been so successful that it was repealed last year and replaced by a much less restrictive statute (P.L. 1975, ch. 309). The Committee discussed the two alternatives offered by the repealed statute and the new statute, and selected the repealed statute as the basis for a "Deputy's Hatch Act". As deputies have traditionally undertaken political activities and do not have a tradition of "neutrality" and professionalism, the stronger provision is necessary to establish that tradition, as it was for state employees. When the tradition becomes as strongly established in sheriffs' departments as it is in state government, then the new state government provision could be adopted. (This restriction on political activities could not be and should not be applied to the sheriff, as he is an elected official and must campaign and undertake other political activities. Thus it applies only to deputies.)

Functions.

Many of the functions of county law enforcement have developed from the sheriff's common law duties, and have been only vaguely defined by statute. Other functions have been more clearly defined by statute and may have derived entirely from legislative authorization. Of the common law functions, the most important are patrolling, investigations, communications and some administrative services. The operation of county jails or detention facilities, though originally derived from the common law, is now closely regulated by statute. Rescue, ambulance and civil emergency services are almost completely statutory.

The common law powers of the sheriff are broad and indefinite (see discussion in Appendix K); and they have been based on the general principle that the sheriff is the chief law enforcement officer throughout the county. In defining and authorizing by statute specific county law enforcement functions, the Committee had to recognize that in reality the sheriff no longer is the chief law enforcement officer in the county. Many municipal police chiefs have departments larger than the sheriff's department; and few, if any of them; recognize or accept the common law authority of the sheriff to "oversee" local law enforcement. In reality, sheriffs and municipal police seem to have generally reached an agreement not to interfere in each others operations and to cooperate where possible. County law enforcement has generally stayed out of areas of strong local departments, and concentrated its operations in rural areas.



The Committee found that this present method of informal cooperation and equality was consistent with its general premise that the sheriff's department should enforce the law directly in the rural areas and assist and support municipal departments in their operations in urban areas. Thus, the Committee's draft legislation includes language to remove the sheriff's obligation to patrol throughout the county, while continuing the authorization to do so. In defining and authorizing the other law enforcement functions, the Committee generally characterized them as either "support" functions or "direct" functions. The support functions are auxillary services that the county may provide to increase the capabilities of municipal departments, such as investigation, intelligence and laboratory services. Direct functions are county functions provided directly to citizens, such as rescue services, juvenile services and detention facilities.

The draft bill authorized the county to provide rescue services through the sheriff's department and to provide juvenile services either through the sheriff's department or by other county personnel; and it requires counties to provide detention facilities, either directly or by contract. The draft bill also empowers counties to operate or contract for ambulance services throughout the county, after this function has been approved in a county referendum; and authorized counties to establish a county-wide communications center to serve county and municipal police and fire departments.

With the proposed legislation, the powers of the county to undertake law enforcement functions are definitively expressed in statute. Certain of these powers are limited and others are en-

abling legislation, but all powers are defined and controlled exclusively by legislative enactment. This approach removes the potential for conflict between different levels of government and expressly defines the role the county is to undertake in law enforcement. With a clear definition of functions of county law enforcement, the rivalry between county and municipal law enforcement department may be reduced or eliminated, thus increasing cooperation and coordination in providing police protection throughout the county. The role of the county will be to directly enforce the law in rural areas that do not have sufficient municipal police officers, and to support and assist municipal departments in urban areas. The county will be capable of providing specialized services to many municipal departments, that they may not be able to provide themselves. The specialized support by technical and expert personnel on the county level will increase the efficiency of the smaller municipal departments, without unnecessarily duplicating expensive services. This growth in the county's capacity to provide these services should not conflict with the highly specialized services provided on a state-wide basis by the Department of Public Safety, such as the services of the State Bureau of Identification, the State Police and the Crime Laboratory; but should complement those services by providing an intermediate level of specialized services in each county. The county will also continue its present direct law enforcement services in rural areas, and may expressly contract with municipalities to provide patrol services. This should reduce much of the duplication of services and the conflict between departments, while increasing efficiency and coordination.

Administration.

Because the county commissioners and the sheriff are each directly elected and the county budget is ultimately approved by the Legislature, there have been many occasions for conflict between the sheriff and commissioners. Sheriffs have traditionally viewed themselves as independent of the county commissioners, except for approval of the budget, because they are directly elected and have the common law responsibility for law enforcement. County commissioners, however, have often viewed the sheriff as a county officer subject to their general policy and to close budgetary control. This disagreement between these officers on their relationship has usually been informally resolved, though it has occasionally caused controversy and discord. There is no statutory provision governing this relationship nor clearly defining duties and responsibilities among these officers.

The Committee considered the problem created by the absence of a defined relationship between these officers. The occasional discord or conflict that may arise from this absence of definiteness can have serious effects in the delivery of county law enforcement services. Concentrating on disagreements or feuds over authority can only detract from county law enforcement; and the absence of a defined relationship has impeded the development of innovative services and the response of sheriffs' departments to the increased demand for law enforcement services. Thus, statutory definition of this relationship is necessary. The draft bill contains such definitions, making the sheriff the chief county law enforcement officer in charge of administering the sheriff's department, and giving the commissioners the authority to make general policy de-

cisions concerning county law enforcement. The commissioners' power is carefully restricted to policy and budget matters, with wide administrative authority remaining in the sheriff, consistent with his elected status. The county commissioners' role in the civil service provisions governing deputies is also carefully defined and limited. The draft legislation also requires bi-annual meetings between the commissioners, sheriff and municipal police chiefs, to encourage coordination in law enforcement throughout the county and to resolve mutual problems. These meetings will not only serve to encourage coordination, but will also provide a forum for resolving problems and conflicts between the commissioners, sheriff and municipal chiefs.

This proposed legislation will provide for more centralized and responsible county law enforcement, while maintaining the basic authority of the sheriff. The legislation clearly establishes the authority and responsibility of the commissioners and sheriffs, and thus should reduce, if not eliminate, conflicts over authority. With the commissioners having authority to establish general policies and with professional deputies under a modified civil service, the functions of the sheriff's department can be efficiently developed under long range planning, in coordination with other county law enforcement functions and with municipal police operations. However, the basic administrative authority of the sheriff remains vested in him, continuing his direct responsiveness to the voters. Thus, the general county policy on law enforcement will continue from sheriff to sheriff, encouraging a rational development of an efficient and responsive sheriff's department; but the general administrative authority of the sheriff will remain, giving him the power to respond to the demands of those who elected him.

Financing.

County law enforcement is basically financed through the county property tax. As the county property tax is assessed against all municipalities on the basis of their valuation and all municipalities do not receive proportional county law enforcement services, there have been strong arguments advanced for a more equitable system. In seeking a more equitable basis for financing county law enforcement, the Committee considered three alternatives to the present tax method: subordinate taxing areas, service payments and tax credits. The Committee eventually rejected all three.

Subordinate taxing areas are a device to allow counties to provide services for a given area and finance those services by revenues secured from that area. (See Appendix M for model legislation.) In applying this concept to county law enforcement, the Committee considered authorizing counties to establish specific geographic areas within the county that would receive direct patrol services from the sheriff's department. All municipalities within this area would pay a special county tax to cover the cost of this service, which would be based on the municipal valuation. This would mean that municipalities that would be receiving patrol services from the county would be paying for them, while municipalities that were operating municipal police departments would not be paying for sheriff patrol services. This concept differs from the concept of contracting with the sheriff's department in that individual municipalities would not have a choice about receiving or paying for such services once the district was established, and the tax revenues would not be based on actual services received, but on the municipal valuation. This concept would provide a more

equitable system for financing a county function than the present method, when the function is provided to only a portion of the county; and it could be structured to insure that the county had the authority to raise sufficient revenues to provide the service. When applied to patrol functions this concept raises some major policy questions relating to the relative merits of municipal departments and the county sheriff, the relative size and efficiency of smaller departments and the further fragmentation of police services. However, the Committee rejected this alternative before developing a detailed proposal for discussion, because of the serious constitutional questions raised by the division of counties for county taxing purposes, with different tax rates within those sub-county divisions (see Maine Constitution, Art.1,§22, Art.IX, §§ 7,8, & 9, and cases cited thereunder). The Committee did not wish to consider recommending amendment of the Constitution without a great deal of further study.

The service payment method would mean that those who receive a particular service pay for all or part of the cost of the service in proportion to services received. Unlike the subordinate taxing district, the payment (whether called a tax or service charge) would not be based on valuation, but would reflect actual services received. This concept is the core of the present contracting power between municipalities and the county (30 MRSA §§63 & 413); and is thus already applied to financing additional patrolling by the sheriff in some municipalities (see Attorney General's opinion attached as Appendix N). There appears to be no constitutional bar to this general concept when applied to financing the sheriff's patrol service. However, there are several major policy objections.

As the major municipalities in each county pay a large proportion of the county tax and also usually have municipal police departments, removing their tax share from the "patrolling budget" would either cause a major decrease in funds available or would force a major increase in the cost to towns without municipal police. After reviewing the tax revenues to the county and the potential impacts of this proposed method, the Committee concluded that adoption of a service charge concept for the sheriff's patrol function would increase the county "tax" for many of the smaller municipalities to an unbearable level, and would significantly increase the number of very small municipal departments while seriously eroding the sheriff's functions. The long range effect would be to foster one to three man departments in each municipality and to eliminate the sheriff's functions, except as support for these departments. This effect of the service charge concept would not only be contrary to the conclusions of almost every prior study concerning law enforcement in the State, but would also be contrary to the general policy established for county law enforcement by the Committee. Rather than encourage further fragmentation of police services and erosion of county powers, the Committee rejected this concept as applicable to Maine counties.

The concept of tax credits is that each municipality that provides certain services that duplicate county services would receive a "credit" against its county tax that would reduce the actual amount to be paid. Unlike the subordinate taxing district concept, this method would not raise constitutional problems, and it would vary according to the activities in each municipality in each year.

Unlike the service payment method, it would not place the entire cost of a particular function on municipalities that were served, but would continue to require some financing from municipalities that were not receiving the particular service.

The purpose of this approach is to provide some relief in the tax burden of municipalities that are not receiving a particular county service because they are providing it themselves. The principle of the "credit" is that the county is relieved of some expenditures required for a particular service when a municipality provides the service itself. However, the municipality still has an obligation to the county as a whole, and thus continues to pay some part of the cost of the county service. The municipal obligation to the county, regardless of particular services received, also recognizes the mutual benefit of providing certain services to all municipalities.

The Committee was very interested in applying this to the county law enforcement problem and examined it thoroughly. However, it was unable to make specific recommendations. The difficulty with this method is not in the concept, which was generally approved by the Committee, but in its application. The creation of a particular tax credit method will have a profound effect on the present mix of municipal, county and state law enforcement activities. The credit can be established to only provide credits for large municipal departments, thus discouraging the creation of smaller departments and perhaps encouraging sheriffs' departments to expand rural patrolling. It could also be designed to encour-



age the creation of more municipal departments and reduction of sheriff's patrol services. The amount of the credit, who would receive it and its effect on county revenues would all seriously influence the future development of county law enforcement. Thus, tax credits could be a very important, though subtle, tool for influencing the future of county and municipal law enforcement activities, as well as a method of resolving a major point of controversy between municipalities and counties. Thus, the Committee carefully considered alternative tax credit methods and reviewed possible consequences of particular plans (see Appendix O). In analysing the possible formulations of a tax credit, the Committee reached the conclusion that there was insufficient time to adequately review all the possibilities and to assess their effect on county law enforcement. The number of variables available and their interaction required extensive and sophisticated analysis before choices could be made. The reactions of municipal and county officials and their opinions about future developments under particular plans were unknown. As there was insufficient time to undertake the required analysis and to solicit opinions, the Committee tabled the tax credit proposal.

Thus, the Committee reached the conclusion that no recommendation would be made concerning the financing of county law enforcement functions.

#### Human Services.

The county's role in providing human services is not a traditional role in this State. Though some human services have been administered by the county for several years, only recently has the county begun to play a significant role in providing health

and social services. The range of human services that may be provided or funded by counties is broad, including: child and family services (30 MRSA §§412, & 412-A), food stamps (30 MRSA § 416; 34 MRSA § 3104), Priority Social Services Programs (30 MRSA § 419), firefighters insurance (30 MRSA § 1205), mental health and mental retardation services (34 MRSA §§2052,2097, & 2133) and extension services (7 MRSA § 194). The counties on the average, commit almost 1/5 of their budgets to financing human services, though the commitment of each county varies widely. This range of services and county commitments may extend in the future because of the state and federal movement toward decentralization of these services and the increasing number of such programs.

The particular services offered through or financed by each county varies widely throughout the State. (See Appendix P for 1976 appropriations by county.) Some of these services are offered directly by the county acting as a state agent (e.g., food stamp distribution), while other services are provided by contracting with or making appropriations for private, non-profit organizations which provide specific direct services. Counties spend a significant proportion of their budget on providing social and health services, particularly on food stamps, county extension services and mental health and retardation programs. However, the primary county involvement in these services is in providing financing, and not in planning and developing programs nor directing or evaluating present services. The majority of these human services are either part of a state-wide and centrally directed program, such as food stamps, or are provided by independent non-profit organizations, such as Community Action Councils and pro-

grams, that are independently directed. The county does have discretion in its choice of funding or not funding in many of the programs or services; but, in most counties, it has little or no influence in the direction, quality or nature of the actual services provided.

One reason counties have little influence on human services provided by these independent agencies is that the counties finance only a small proportion of the agencies that provide human services within the county, and also finance only part of any agency's budget. The county funds may serve as "seed money", but municipalities, the State and federal government and private sources also contribute funds. Municipalities are in very much the same situation in relation to many of these independent human service providers, providing funds but having little influence or knowledge of the specific programs. The present county and municipal roles in providing human services raise the same problems: the lack of any method of assessing the needs of the county for particular services or programs, the absence of any uniform or thorough evaluation of present services, and the lack of coordination of various suppliers of human services. This problem has been amply documented on the municipal level (see MMA:Municipal Perspectives, Study on Human Services, John Melrose and Virginia Norman, Maine Municipal Association, 1975), and appears to be equally present on the county level.

In seeking alternatives to the present role of the county in human services, the Committee considered the following roles: direct provider of services, funding agent for services, needs assessment

and evaluation of services, coordinator of services and the county as a geographic base.

Direct Provider.

As a direct provider of services, the county would directly provide a specific human service to county residents by hiring the necessary manpower, providing all or part of the funding and by directly administering and managing the program. This role is presently used in most counties in providing food stamps and juvenile services. In providing food stamps, the county administration and financing are closely controlled by federal and state requirements and limitations; while in juvenile services the counties have great discretionary powers in the structure, administration and financing of any program. Most of the social and health services provided to county residents, however, are directly provided by independent non-profit corporations, directed by a body representing governmental, private and "client" interests, whose areas of operations may or may not coincide with county boundaries. An increase in the counties' role as a direct provider might lead to conflict with those already providing these services; even though the county has at least six major advantages over the independent agencies. These advantages are: its ability to use C.E.T.A. employees to provide manpower, its ability to raise funds by direct taxation, its directly elected administrative leaders, its visibility and generally high recognition among voters, its ability to accomplish long range planning and coordination among many services, and the evaluation of its services inherent in election of principal officers. These advantages could provide the responsiveness and evaluative

checks that seem absent, in some degree, in the present system of independent agencies. If several of these services were all provided directly at the county level, there would probably be an increase in efficiency and coordination, with a possible decrease in administrative costs.

Two major objections, however, have been raised to the idea of making the county a significant direct provider of human services. Because of the complexity of the federal and state statutes, and rules and regulations governing the eligibility of providers to enter a specific program, and the ineligibility of the county to directly provide specific services under these standards, a great amount of research and numerous changes in state or federal law would be required to alter the present delivery system from its private, non-profit corporation base to a county base. However, in many instances, these programs were deliberately established in a manner designed to avoid a governmental unit as a direct provider, instead relying on private organizations directed by interested parties to provide these services. The reasons for this basic policy choice have remained relatively unchanged, though experience may generate modifications. The other objection is basically political. There seems to be little support for the county as a direct provider, especially if it was to be accomplished rapidly by legislative mandate. The county in Maine has had little experience in directly providing human services, and no compelling reason appears to require such a radical change. This is especially valid when many of the problems in the present system of providing human services can probably be resolved in a less radical manner, that may be more acceptable to all concerned.

Thus, the Committee rejected the alternative of making the county the direct provider of human services within each county; though it also agreed to continue the present direct county provided services and to urge consideration of the county in the development of future programs.

#### Funding Agent.

As noted earlier, the counties most important present role in human services is as a funding agent. In this role the county provides money for particular services that are administered and provided by another independent organization. The financing is derived from the county tax and is appropriated as a separate line item in the county budget. Every county uses this role, as do many municipalities. Because the source of this money is the county tax, the cost of the county's contributions is distributed among municipalities according to their valuation, and not on the basis of services received. As some of the independent organizations receiving county funds only service part of the county, there is potential inequity. However, because many municipalities also fund organizations providing services to municipal residents, and the county contributions are relatively small, the potential for inequity is reduced. Combining all local funding at the county level could increase that potential, especially if local contributions increased significantly, unless some method of differential taxation was developed for funding the services.

One major objection seems to exist to this role of the county. That objection is that county funding is usually not based on objective criteria of need for a particular service within the county, nor on any objective evaluation of the service provider. With-

out information on county needs and the performance of providers, the counties are relying on requests for money, opinions of individuals and persuasive arguments to decide who will receive county funds, and how much will be appropriated. This is an inadequate method of determining appropriations, as has been recognized by some counties who have experimented with or are seeking further information about more objective methods for making these decisions. Another objection, that is related to evaluation of the service providers, is the lack of coordination between funders and the lack of information on the providers' other sources of money. There is presently little coordination between municipalities and counties in funding these programs, and virtually no information readily available to either about the other sources or revenues available to these agencies. These objections, however, do not support removing the counties' powers to fund human services provided by independent organizations. Rather they argue for counties to continue or increase their funding, but also to base it on more information and to seek to influence the policy of the providers to meet real county needs.

#### Assessment and Evaluation.

The counties thus need to take a much stronger role in needs assessment and evaluation of services. In this role the county provides a continuing program to assess the actual need for a particular service in the county, and evaluates the performance of service providers in relation to identified needs and in terms of their efficiency and benefit. Few counties are currently undertaking this role, though there appears to be experimentation and increasing interest in it on both county and local levels. The

most prominent examples of this role are the Greater Portland Council of Government's "Human Services Review Program" and the combined Kennebec and Somerset Counties - Northern Kennebec Regional Planning Commission program. Though both programs have just been established, they are eventually intended to provide both assessment of needs and service evaluation. Both programs are essentially organized in the same way, relying on a combination of governmental officials, providers and "clients" to direct them and placing the major burden of supplying information on the agencies requesting funds. (See Appendix Q for description of programs in Maine.) However, there is at least one major difference between these two examples, the G.P.C.O.G. program is almost entirely advisory, providing information about human service organizations, their activities and finances, to municipalities on which they may base funding decisions. The municipalities and county continue to make their funding decisions independently. The Kennebec-Somerset program not only generates information; it also has centralized funding. These counties have become the sole local funding agents, with the consent of the municipalities, in each county; and by centralizing the source of local "seed" money, they have significantly increased their influence on the independent organizations that are seeking financing for human service programs in the county.

Both these programs and others in the State provide vitally needed information on which to base funding decisions, and increase the role of the county, or other broadly representational, unit in providing direction and coordination in human services. They are relatively simple and inexpensive, placing the greatest burden for providing the information on the service providers requesting



funds. Thus the Committee is proposing legislation to create these programs on the county level. (Draft legislation attached as Appendix R.)

One major problem, however, is the relation of funding to assessment and evaluation. Centralizing all local funding in the county would enhance the authority of the assessing and evaluation role. But it would also mean that municipal influence on these programs would be reduced and the general county tax revenue would be the major source. Though the county tax would provide a broader base for such funding, it could not provide the flexibility to increase revenues from areas receiving services and decrease them from unserved areas, unless some mechanism for differential taxation was created. As noted in discussing differential financing for law enforcement, the Committee did not have the resources or time to make recommendations in this area. However, the combination of municipal and county funding solves this problem, even though it may weaken the response to a county review program. The balance between these two approaches to financing will probably differ in different counties, and may be best resolved on the local level, by agreement between the county and municipalities.

Another problem is raised by the Regional Planning Commissions, which have authority to review applications for state and federal funds (30 MRSA § 4522). This authority could include a program of assessment and evaluation of human service providers and could conflict or duplicate a county program. As R.P.C.'s are governed by a board of municipal and county representatives, many municipalities express the view that they are more suitable as an evaluating authority than the county. R.P.C.'s, however, do not have a direct financing role nor the power to directly raise money through taxes,

and thus have an almost purely advisory role in a municipal, county, state or federal decision to fund a human service program or agency. Any assessing and evaluating role would also be purely advisory. As the R.P.C.'s reviewing authority for state and federal funds does not directly conflict with the proposed grant of authority to the counties to evaluate agencies applying for local funds, and as the county does have the authority to raise and appropriate money for human service agencies, the Committee concluded that the counties should have the authority to establish assessment and evaluation programs. But the Committee also concluded that the county should be required to include municipal representatives on a county human services board, to insure a complete representation from local funding sources and responsiveness to municipal concerns.

The Committee considered the experiments in various counties on providing an assessment and evaluation program, and concluded that the need for this information was so great that each county that funds independent non-profit organization providing human services should be required to establish such a program. The draft legislation attached (Appendix R) mandates such a program in broad and flexible terms, allowing individual counties to experiment and develop details. The draft requires the county commissioners to establish a Human Services Board. The Board will be composed of three county officials, appointed by the county commissioners for two year terms; three municipal officers, each from a different municipality and elected to one year terms by the municipalities (one vote for each municipality); and three representatives of human service agencies, nominated by all agencies seeking local funds and elected for one year terms by majority vote of the other six members of the board. The Board shall adopt rules, to establish a

system for obtaining standardized budgetary and program information from each human service organization requesting county or municipal funds. The Board shall annually review and evaluate that information, and make recommendations to each municipality and the county on the efficiency, accountability and budget requests of each organization. The Board may also make an assessment of the needs in the county for particular human services and provide this information to the municipalities, county, state governmental departments or bureaus and human service organizations. On the basis of the evaluation of organizations and any assessment of needs, the Board may make recommendations to any organization reviewed as to its administration, services or financing. The county commissioners will expend the funds necessary for the operation and expenses of the Board, and the Board shall be deemed a department of county government. The Board, will be deemed a department of county government. The commissioners will provide any necessary clerical assistance and rooms or facilities required to perform these functions.

This basic and simple program will provide a basis for gathering the necessary information on the human service needs in each county, for evaluating the organizations requesting funding to service these needs, and for influencing the direction and administration of human service programs in the counties. Because the Board represents the county, municipalities and services agencies, it will reflect an informed consensual opinion; and because it is merely advisory, it will not exercise draconian powers. The number of local funding sources represented on the Board will insure its influence on service agencies; while the presence of service agency representatives will insure expertise in the agencies' operations and cooperation in obtaining information. As experience is gained, the Boards will have an opportunity to adjust their program to

meet specific local problems and needs, without being hindered by detailed legislative limits. Each county and municipality that funds human service agencies, however, will have at least a basic source of information on county needs and the programs and performance of agencies seeking funds.

#### Coordination of Services.

As a complement to this recommended role of needs assessment and evaluation, the Committee also recommends enabling legislation to provide county coordination of services. The role of coordinator of services could be a very broad role, including coordination of administration of human services provided in the county by various agencies or governmental units, providing central services to aid municipal human service programs, such as a county case-worker or grant specialist, or providing central client services, such as a central referral and application program. However, most of these coordination services are already adequately provided by private organizations or by other governmental units. The one significant omission is the lack of coordination between locally funded human service organizations in relation to the needs of the county.

The Committee thus includes in its draft legislation a section enabling the county commissioners to designate a county official or to appoint another individual as a County Human Service Coordinator. The premise of this recommendation is that the county has a responsibility to coordinate county funded human service programs in order to reduce red-tape, confusion and duplication of services and to insure that the county's actual needs for human services are being met. The Coordinator may make recommendations

to the commissioners on the basis of information from the Board and on information he has gathered. The Commissioners may also appoint him to the Board. Thus the Coordinator should become the key individual in coordinating county human service programs, and in developing the county's future role in providing human services.

#### Geographic Unit.

The last issue the Committee considered was the place of the county as a geographic unit in the present system of delivering human services throughout the State. County boundaries have not had a major influence on the establishment of governmental special purpose sub-divisions of this State, including the determination of areas to be served by health or social service organizations. Economic, geographic and municipal boundaries have had far greater consideration. (See Regionalism in Maine; 1964-1974, John B. Forster, Thesis Draft, University of Maine, 1974.) This general trend to ignore county boundaries reflects the political reality in this State. The county presently has a very small and specialized role in state government and the demography of the State has changed radically since the last change in county boundaries in 1860. Thus, forcing all sub-state units to conform to county boundaries to the extent of not crossing them, could have imposed an artificial constraint on the creation of new service areas. The restriction would have been artificial because the demography of any given county might have little or no relationship to the service's client demography, and because the functions of county government had no relationship to the services of the new unit. However, the functions of county government have recently begun to change and expand into many areas that involve sub-state districts. The recommendations of

this study concerning the county role in human services, if implemented, will create a much stronger interaction between the county and human service organizations operating partially or wholly within its boundaries. However, the county's proposed role will be weakened in dealing with human service organizations whose jurisdiction cross county boundaries, because of the possible conflicts between county reviewing and evaluation systems and the uncertainty of the use of county funds. Thus, the Committee considered mandating that county boundaries not be crossed by sub-state regions or service units. However, the Committee understands the drastic consequences of such a mandate and the insufficiency of its concerns as the basis for requiring this of all sub-state district boundaries. Instead, the Committee recommends that legislation be enacted to require that county boundaries be carefully considered in the establishment of any new sub-state districts or service regions. (Included in the draft legislation attached as Appendix R.) The requirement will not mandate that county boundaries be followed, but will rely on the good-faith and judgment of those establishing the new district to include county boundaries as one factor, and thus not to arbitrarily reject them as unsuitable. Hopefully, as the counties' functions increase and their role in state government becomes more significant, the weight given to county boundaries as one factor in establishing new districts or changing the boundaries of old districts will increase.

Further Study.

After completing its study of law enforcement and human services and making its recommendations, the Committee briefly discussed other areas of county government that had been raised during its study. There was insufficient time left in which to undertake an in-depth study of many areas, and without that study, no recommendations could properly be made. In addition, the Committee was wary of recommending additional changes in county government before its present recommendations had been adopted and implemented. Recommendations for future changes in county government and about possible roles and functions will develop from the experience of counties, municipalities and state government as these new functions and changed roles are implemented.

In order to review the counties' experiences in these new roles and functions, and to study the many other areas of county government that were only touched on by this Committee, the Committee recommends that this study be continued, either by another Joint Select Committee or by the Joint Standing Committee on Local and County Government. The Committee suggests that that Committee consider the following topics:

1. Financing of county government, including:
  - A. Municipal tax credits, or other methods of providing differential county taxes based on services provided;
  - B. Changes in the method of approving county budgets; and
  - C. Discontinuance of county tax payments to the State, (e.g., Superior Court payments).

2. Administration of county government, including:
  - A. The relationship between county commissioners and elected county officers, other than the sheriff;
  - B. The relationship between county commissioners and municipal officers;
  - C. The number and selection process of county commissioners;
  - D. Administrative assistants, county managers and county clerks;
  - E. Civil service for all county employees; and
  - F. The creation of separate county legislative and executive bodies.
3. Elected county officers, including:
  - A. Whether these officers should be elected or appointed;
  - B. The continuation of the Judge of Probate, Register of Probate and Register of Deeds as county officers;
  - C. Combining the Treasurer's duties with the County Clerk's;
  - D. Districting of all counties for election of county commissioners; and
  - E. The creation of new county officers.
4. Functions of county government, including:
  - A. Whether county government powers and functions should be limited to statutorily specified functions or be limited only by those powers and functions specifically denied;



B. Specific functions that may be performed by the county, including:

- i. Planning and development activities,
- ii. Public works,
- iii. Public health,
- iv. Transportation,
- v. Record keeping,
- vi. Coordination or interaction with municipalities, regional units and state agencies,
- vii. Functions in unorganized territories, or
- viii. Other functions;

C. The differing functions of primarily urban and primarily rural counties; and

D. The county as a general purpose intermediate level of government.

5. Relationship between the county and other regional governmental units, including:

A. The reasons for the present diversity in sub-state regional units of government;

B. County government as the primary intermediate level of government; and

C. Other regional governmental units and their present and future relationship to counties.

6. Boundaries, including:

A. Detailed and improved legislation governing changes in county boundaries by local action; and

B. Legislative review and possible alteration of present boundaries.

### CONCLUSION

After spending a year and one-half in studying county government, holding public hearings, researching alternatives and drafting legislation, the Committee has come to a basic recognition of the present vitality and future potential of county government in Maine. Over the past several years Maine counties have been losing many of their traditional roles, particularly in the area of administration of justice, and have been finding other once important roles diminishing, such as county law enforcement. The reasons for these changes are complex, but can be basically summarized as the increased need for centralization and sophistication in some government services combined with certain inherent weaknesses in the traditional structure of county government. The lack of significant changes in the structure of county government since it was first established has begun to tell in its loss of authority and significance.

However, there is increasingly apparent a recognition of the need for a greater role for counties, and the possible need for a general purpose intermediate level of government in this State to respond to the growing desire for decentralization of government services and more citizen control of government functions. Whether Maine counties can, or should, evolve into this general purpose intermediate level of government is still uncertain. Whether they should play a more important role in specific areas is not uncertain. The Committee's recommendations are based on the premise that in the areas of law enforcement and human services, the counties have a very important role. This role need not conflict with the role of municipalities or state agencies, but can complement and strengthen them. But the Committee's recommendations

are not complete, in the sense that they fully establish these roles. If the proposed legislation is enacted, the counties will have an opportunity to demonstrate their ability to carry out expanded governmental duties. From the experience of implementing the proposed changes, the counties may evolve into more significant governmental units undertaking many more duties not related to their traditional functions. This evolution may also involve the transfer of other traditional county functions and a greater degree of self government vested in the county.

However, these changes cannot take place solely by legislative action. Changes in county government will evolve from successful experiments combined with the recognition of greater demands on the county. The legislation proposed in this study can provide impetus and direction to the evolution and does portend a significant and vital role for county government in many other areas.

MINORITY REPORT

Though a minority of the Committee has chosen to file this report and draft legislation, it does not disagree with most of the majority report. Rather, it believes that the basic proposals of the majority do not go far enough in reorganizing county government at this time. The minority believes that it is necessary to provide for a modified board of county commissioners and to grant the counties the power to approve county budgets. This is the basic premise of the minority report. (Draft legislation attached as Appendix S.)

In its draft legislation submitted to the First Special Session of the 107th Legislature, the Committee proposed granting counties the power to approve their own budgets. The draft legislation created a County Finance Board in each county to approve the budget. This legislation was subjected to strong criticism and was defeated. The Committee decided that further study of this problem would not be productive and thus began to consider other areas of county government. However a minority of the Committee believes that another method of county budget approval is necessary and proposes another approach to the problem.

As the majority report indicates, the greatest weakness of Maine's present form of county government is the fragmentation of authority and responsibility on the county level. No single group bears the clear and final responsibility for the actions or inactions of county government, now has the authority to initiate changes or innovative procedures. The authority and responsibility of county government, presently, is shared among the county commissioners, independently elected county officers, the legislative delegations and the Legislature. This fragmentation of authority and responsibility

and the resulting confusion and stalemate, must be changed if the counties are to play a significant role in providing a sub-state level of government in this State. The Committee recognized this need in proposing legislation to the First Special Session of the 107th Legislature. The minority believes that this problem is still the paramount problem of county government in this State, and thus has proposed a second solution.

The core of the minority's draft legislation is restructuring the Board of County Commissioners, and granting it the power to approve the county budget. The present method of requiring legislative approval of the county budget has supplied the necessary check against unwarranted expansion of county powers and excessive county taxation. However, it appears this check has been too effective, and has prevented the counties exercising more than their traditional functions, despite the growing need for an intermediate level of government. The growth in demand for some governmental services and the inadequacy of the present method of sub-state districts to meet this demand, responsibly and responsively, has been discussed. (See Majority Report and Sub-State Regionalism in Maine, John B. Foster, Thesis, University of Maine, Aug. 1976.) From the conclusions of these studies, the need for a form of county government that can meet at least part of this need seems clear. In order to remove the stalemate now existing on the county level, but retain sufficient checks against unwarranted expansion of excessive taxation, the minority has sought to create a form of county government that contains internal checks and balances.

The most critical check on county government is that exercised by municipalities, either directly or indirectly through the legislative delegation. As the county tax is collected through municipalities and county and municipal powers may conflict, the need for a municipal balance to county power is obvious. Thus, the minority proposes that the interest of municipalities be represented on the county board, with three members of a seven member board required to be municipal officers. To avoid constitutional limitations, these officers will be elected directly by the voters of each district. The other four members of the board are three district members, each residing in and elected by one commissioner district, and one at-large member, elected by the whole county. The municipal representation will provide an internal check on county actions and taxes, while also providing a mechanism for compromise and cooperation between counties and municipalities. This balance of interests in the county board should not stifle the legitimate expansion of county activities where there is a real need, and municipalities cannot adequately respond. However, it should provide an adequate check on unwarranted expansion of powers. To further foster the responsiveness of the county commissioners to the needs of the county, the terms for the commissioners are shortened, the district and at-large members having three year terms and the municipal members having one-year terms.

This basic compromise in the structure of the board of county commissioners will allow the county to develop into a significant and useful unit of government only if it includes transfer of the authority to finally approve the budget. The present budget approval process has served primarily to check the development of potential

county functions. It also has removed much of the responsibility of county commissioners by providing a "scape-goat", the Legislature. By allowing the new board of commissioners to finally approve the county budget, the responsibility for county policies and taxes are clearly fixed in a directly elected and balanced board. There can be no escape from complaints of higher taxes or insufficient services, nor reliance on an uninformed public or short memories to insure re-election.

From these two points, a balanced county board and local budget approval, flow all the other changes in the minority draft legislation. The powers of the county are limited to those authorized by law. In addition the draft legislation allows counties to provide planning services if authorized by referendum. It more clearly defines powers that may be exercised only under a municipal-county contract, requiring appropriations for parks, airports, utilities and non-county buildings to be authorized by a municipal-county contract. In order to encourage consolidation of services in small counties, there is a provision to allow contracts between counties. The creation of a finance committee to assist and advise the commissioners on the budget is also authorized. The human services proposals of the majority report are also included in a simplified form. Because of the changes in the board that this report recommends, the human service proposals do not need to be so complex and detailed. As the board now adequately represents municipalities, it is given the power to directly appoint the human services board. In all other respects, the provisions for human service review and coordination are the same as the majority report draft.

The majority report draft on law enforcement is satisfactory.

It has been considered to be part of the minority report as well.

The other key provisions of the minority bill include the appointment of the county treasurer and register of deeds, strengthening of the county administrator's role, districting of Washington and Cumberland Counties, equalization of the commissioners' salaries, a statement of the county tax in municipal tax bills, and a delayed transfer of the authority to set all salaries of county officers. These provisions are designed to clearly establish the policy making and governing role of the board of commissioners, and to provide a stronger administrative structure for county government. The county administrator can provide the daily administrative control and direction required of a stronger board of commissioners, and can also perform the purely administrative tasks of the county clerk or county treasurer. (As the treasurer's and register's of deeds duties are purely administrative, with no policy making powers, the minority believes that they should not be elected, but should be appointed by the commissioners.) To balance the increased power of the board, the minority has also sought to increase its visibility by requiring identification of the county tax in municipal tax bills. Because of the effective date of this proposed act, and the extent of the changes in county government, the minority has also provided that the county budget for the first year under the new boards will still be set by the Legislature, and the salaries of county officers will not be set by the new board until January 1, 1981. This should allow the new boards, and the Legislature, to adjust to the changes and new responsibilities created by this legislation. A transition



provision provides for adjustment to the new board, while retaining present commissioners, treasurers and registers of deeds for the remainder of their terms, and continuing the transitions to commissioner districts and four year terms that were mandated by prior legislation.

It is important to note that this proposed legislation makes no significant change in the powers of counties other than to approve their own budget. There is no attempt to expand the county into a general purpose level of government, nor to give it new powers that would encroach on municipal authority. Rather, the intent is to create a responsible unit of government that can continue to provide its present services, while developing new services and functions in cooperation with municipalities and with the approval of the Legislature.

The minority believes that it is critical to establish a new structure for county government, if the county is to become a responsible and effective unit of government. This change should not be further delayed. The compromises contained in the proposed legislation meet the objections to the prior bill of the Committee, and provide a firm foundation for the development of county government. Under the direction of the new board, the county can begin to meet the new demands placed on it, in a cooperative and effective manner. This new county government structure, combined with the power of finally approving the county budget, can provide the mechanism and the impetus for the evolution of counties to meet the demands for government services that are now being met by various sub-state districts. Thus, this bill can provide the beginning of a simplified and understandable basis for sub-state government in Maine.

## APPENDIX A

WHEREAS, legislation has been proposed to phase out the present form of county government and to transfer its functions to other government units; and

WHEREAS, this proposed legislation has raised the issues of the proper role and authority, if any, of county government in this State, the functions and duties that might properly be performed by an intermediate level of government, the organizational structure that might be required, the compensation, methods of selection and terms of officials, the authority of the State and method of exercising it, the relationship between any intermediate level of government and municipalities and unorganized townships, and the role and authority of regional or special purpose units of government; and

WHEREAS, the Legislature feels that these matters are deserving of additional study; now, therefor, be it

ORDERED, the Senate concurring, that a Joint Select Committee on County Government be established, consisting of the Senators and Representatives appointed to the Joint Standing Committee on Local and County Government and the sponsor and cosponsors of H.P. 1445, L.D. 1819, as introduced at the regular session of the 107th Legislature; and be it further

ORDERED, that the Legislative Council be authorized, through the Joint Select Committee on County Government, to study the

~~XXXXX~~ proper role and authority, if any, of county government in

~~XXXXXX~~

D OF R.

this State, such study to include:

1. The role and authority of county government in this State, if any;
2. The functions and duties that might properly be performed by an intermediate level of government, either through county government or multi-purpose units of government serving defined regional areas of the State;
3. The organizational structure that is required for proper and efficient county government or other multi-purpose regional units of government;
4. The compensation, methods of selection and terms of officials serving county government or other multi-purpose regional units of the government;
5. The authority of the State, and manner of exercising such authority over county government or other multi-purpose regional units of government;
6. The relationship between county government or other multi-purpose regional units of government and municipalities and unorganized townships;
7. The role and authority of other regional or special purpose units of government that perform one or more functions that may be performed by county government or other multi-purpose regional units of government;
8. The subject matter of the following bills: "An Act Relating to the Powers of County Government," H.P. 980, L.D. 1243; "An Act Relating to County Home Rule Powers of the County Delegation," S.P. 398, L.D. 1307; and "An Act to Phase Out the Present Form of County Government, Transfer its Functions to Other Government Units and to Direct the State's Advisory Commission

D OF R.

on Intergovernmental Relations to Make Recommendations to the Special Session of the 107th Legislature," H.P. 1445, L.D. 1819, as introduced at the regular session of the 107th Legislature; and

9. Any other subject matter found relevant to the purposes of this study; and be it further

ORDERED, that for the purposes of this study, this Joint Select Committee shall conduct public hearings in order to solicit and consider testimony for its study and may conduct such hearings throughout the State, and, in addition, they shall solicit and receive information from individuals, organizations and government units, including, but not limited to, the several counties of the State, the Maine Municipal Association, the Maine County Commissioners' Association and the municipal associations of any county; and be it further

ORDERED, that the Council shall report the results of its findings, together with any proposed recommendations and drafts of necessary implementing legislation, to the next special or regular session of the Legislature; and be it further

ORDERED, upon passage in concurrence, that suitable copies of this Order be transmitted to said Legislative Council, the Joint Standing Committee on Local and County Government, the sponsor and cosponsors of L.D. 1819, and each of the counties of this State as notice of this directive.

HP1670

NAME:

(Dam)

TOWN: Skowhegan

HOUSE OF REPRESENTATIVES  
READ AND PASSED

JUN 6 1975

*Edward J. ...*

CLERK

SENT UP FOR CONCURRENCE



## APPENDIX B

Summary of sub-committee hearings in the counties.

### Gray Sub-committee:

Androscoggin, Hancock, Knox and Waldo counties.

The following issues were raised and opinions expressed at these hearings:

1. There was no support for the abolition of county government, but strong support for its "reform".
2. The major reform proposal advanced was for more "local control", particularly for local approval, rather than legislative approval, of the county budget.
3. The authority of County Commissioners over county departments should be increased. The Commissioners should appoint the Judge of Probate and should also be authorized to hire an administrator. The administration should undertake all the Treasurer's functions, in addition to other administrative duties.
4. The Board of County Commissioners should be expanded to five or seven members in larger counties.
5. Some support was expressed for reducing the number of counties from 16 to 10, and equalizing their population. This would also allow three senators to be elected from each county.
6. There was support for districting and election by district for county commissioners, rather than "at-large" elections.
7. Comments were made on the disparity between salaries for the same county office in different counties.
8. The Probate Court should be expanded into a full "family court" in jurisdiction; but support was equally divided between reducing the number of probate judges and districting the Probate Court on a state-wide basis.
9. The Sheriff's department should provide county-wide law enforcement and civil service should be applied to all deputies. Some support was expressed for greater funding of the Sheriff's department and for contracting with municipalities for police services.
10. Some social service agencies expressed a preference for working with counties, rather than with "Augusta."

### Henderson Sub-committee:

Aroostook, Penobscot and Washington Counties.

1. In Washington county there was support for county government remaining as it is, while in Penobscot county reform was advocated. There were isolated expressions of support for abolition of county government. There was also support for an increased role for counties in rural areas.
2. Appointment of the Sheriff was strongly favored in Penobscot County, but other counties favored continued election. Civil Service for deputies was supported. Contracting powers for providing law enforcement services was favored. Transfer of state prisoners from Thomaston to county jails was urged.
3. The county should have complete control over civil defense, rather than acting as a state agent.
4. The present method of budget approval is unsatisfactory. The county budget should be approved by a small legislative delegation or solely on the county level. The present legislative control of line items in the budget is much too inflexible.
5. The Commissioners presently have responsibility for county departments, but no authority over them, especially as to their expenditures.
6. The Register of Probate should be appointed.
7. The Board of County Commissioners should be expanded to 5, 7 or 9 members, perhaps with a reduction to two year terms.
8. Dissatisfaction was expressed with the District Attorney system, because of higher cost and less service than the County Attorney System.

Bachrach sub-committee:

Lincoln, Oxford, Kennebec and Sagadahoc counties.

1. Strong support was expressed for total state financing of the court system, since they now control it.
2. The present budget approval process is unsatisfactory, and should be replaced by legislative delegation approval, municipal approval or county commissioner approval with municipal oversight.
3. The county commissioners should have legislatively defined duties and their authority over county departments should be clearly established. Presently they have virtually no control over county departments.
4. Rather than a uniform legislatively mandated reform in county structure, general enabling legislation to allow adoption of county charters should be enacted.

5. County administrators should be authorized and should include the county treasurer's duties.
6. Judges of Probate, Registers of Probate and Registers of Deeds should be appointed by the courts. The Probate court should be districted on a state-wide basis, with full-time appointed judges; and its jurisdiction should be expanded into a "family court."
7. The responsibility to pay for human services should be clearly established as resting in the county, municipalities or both.

Dam Sub-committee:

Cumberland, Franklin, Piscataquis, Somerset and York counties.

1. Disatisfaction with the present budget approval method was expressed. As one alternative, a municipal board that also had legislative and business representatives, to finally approve the budget was suggested.
2. The county should take over responsibility for education financing with consolidation of school districts around counties.
3. Non-partisan election of county officers was supported, with the Treasurer's office becoming full-time.
4. It was suggested that the District Attorney system be changed back to the County Attorney System.
5. County budgets should be on an annual, instead of biennial, basis.
6. There is a serious problem with the lack of authority of Commissioners over county officers, even though they have the responsibility for county operations. The authority of the Commissioners should equal their responsibility and be legislatively defined.
7. There is a growing problem of regions or districts that don't relate to county lines.
8. Disatisfaction was expressed in the present manner of allocating the county tax burden, which bears no relationship to county services received, particularly by island residents.
9. Disatisfaction was also expressed concerning the present method of social service funding, which has no effective budget control over or evaluation of agency actions or expenditures.
10. The authority over county roads should be shifted to municipalities or the state.
11. Unorganized territories expressed a strong need for county government.

12. Any committee proposal should contain enough flexibility to allow adjustments between the needs of urban or rural counties.



APPENDIX C

(New Title)  
New Draft of: H. P. 2128, L. D. 2275  
FIRST SPECIAL SESSION

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 2335

H. P. 2263

House of Representatives, March 30, 1976

Reported by Mr. Dam from Committee on Local and County Government  
and printed under Joint Rules No. 18.

EDWIN H. PERT, Clerk

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STATE OF MAINE

---

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SIX

---

AN ACT to Allow County Budget Determination at the County Level.

---

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

Sec. 1. 21 MRSA § 1, sub-§ 8 is amended to read:

8. County office. "County office" means the office of judge of probate, register of probate, clerk of courts, county treasurer, register of deeds, sheriff, county attorney and county commissioner, but shall not include the county finance board.

Sec. 2. 30 MRSA § 2, first paragraph, as last amended by PL 1975, c. 408, § 38, is repealed and the following enacted in place thereof:

The county commissioners, county treasurers and their deputies, sheriffs, registers of deeds, judges of probate and registers of probate in the several counties shall receive annual salaries from the county treasury in weekly or monthly payments, as determined by the county finance board, but not to be less than the following; except that clerks of judicial courts and their deputies, bailiffs and other court and jury officers required, the district attorneys and their assistants shall receive annual salaries from the State Treasury in monthly payments on the last day of each month in a sum which will, in the year's aggregate, most nearly equal the annual salary, as follows, and no other fees, costs or emoluments shall be allowed them, except as hereinafter provided:

Sec. 3. 30 MRSA § 252, as last amended by PL 1971, c. 380, §§ 1, 2 and 3, is repealed and the following enacted in place thereof:

§ 252. County taxes; estimates, approval and amendment

1. County commissioners' duties. In order to assess a county tax, county commissioners shall annually prepare estimates of the sums necessary to defray expenses which have accrued or which may probably accrue for the purposes set forth in section 253-A, for the coming year. These estimates shall be prepared prior to October 1st in each year, shall be drawn so as to authorize the appropriations to be made to each department or agency of the county government, and shall provide specific amounts for personal services, contractual services, commodities, debt service and capital expenditures.

Any county which is the recipient of federal revenue-sharing funds shall provide for the expenditure of such funds in accordance with the laws and procedures applicable to the expenditure of its own revenue and shall recommend estimates of the same as provided in this section.

A copy of the estimates shall be distributed to each municipality in the county and to each member of the county finance board prior to October 10th. Copies shall also be available during normal business hours in the office of the county commissioners for public inspection and copies shall be provided, at cost, to any county resident.

A copy of the estimates shall be signed by the chairman of the county commissioners and attested by their clerk, and shall be transmitted to the county finance board prior to November 1st.

2. County finance board duties. The county finance board shall hold 2 or more public hearings, preferably at different locations within the county, on the county estimates prior to November 30th. Public notice shall be given at least 10 days prior to each hearing by publication in a newspaper of general circulation within the county, by written notice by certified or registered mail to the clerk of each municipality within the county and by written or personal notice to the county commissioners and each department or agency of the county government.

After the public hearings, the county finance board shall adopt any amendments to the estimates, including any changes or alterations required in specific line categories, that are necessary to provide for the public purpose expenditures of the county as authorized under section 253-A. The county finance board shall then adopt the annual county budget, which shall be the county commissioners' estimates with any duly adopted amendments thereto, provided the county finance board shall not approve any single capital expenditure in such estimates or budget that exceeds \$50,000, unless such expenditure has been approved by the voters of the county in a county referendum. All amendments and budgets shall be adopted only by a majority vote of all members of the county finance board and shall be discussed and adopted only at a public hearing.

The county finance board shall, prior to December 15th, transmit signed and attested copies of all approved amendments of the estimates and the approved county budget to the county commissioners, to the clerk of each municipality of the county, and to the State Auditor. A copy of the estimates, amendments

and approved budget shall be a public record at the office of the county clerk and each municipal clerk and shall be retained for a period of 4 years.

Sec. 4. 30 MRSA § 253, as last amended by PL 1973, c. 229, § 1, and c. 386, is repealed and the following enacted in place thereof:

§ 253. Contingent account; transfer of funds

1. Contingent account. There is established a contingent account in each county in an amount not to exceed \$50,000. Such funds as are available to each county may be used for this purpose. This fund shall be used for emergency purposes only at the discretion of the county commissioners. At the end of each fiscal year there shall be transferred from unencumbered county funds an amount sufficient to restore the established county contingent account.

2. Transfer of funds. Whenever any specific appropriation of a department or agency of county government shall prove insufficient to pay the required expenditures for the statutory purposes for which such appropriation was made, the county commissioners may, upon written request of such department or agency, transfer from any other specific line appropriation of the same department or agency an amount as required to meet such expenditure, provided that such request shall bear the written approval of the majority of the county finance board.

Any transfers between specific line categories or from the contingent account shall be certified by the county commissioners within 30 days to the county finance board.

Sec. 5. 30 MRSA § 253-A, as enacted by PL 1973, c. 229, § 2, is repealed and the following enacted in place thereof:

§ 253-A. Authorized expenditures

1. Raising and appropriating powers. The county may raise or appropriate money for the following purpose, subject to subsections 2 and 3.

A. Operating expenses

- (1) Providing for the operation of county government;
- (2) Establishing a contributory pension system for its officials and employees or participating in an existing system, including the State Retirement System;
- (3) Providing for the operation of various departments of county government, including provision for police and fire protection;
- (4) Insuring officials, employees and volunteer workers against public liability and property damage resulting from their negligent operation of any vehicle owned or leased by the county or being used for county purposes or business; or
- (5) Obtaining the services of county advisory organizations.

B. Public works.

- (1) Providing for buildings, parks, parking places, water or sewage facilities, ways and bridges, except for ways and bridges in unorganized townships and plantations;
- (2) Providing for public solid waste disposal areas, either within or without its boundaries;
- (3) Providing for cemeteries in unorganized territories; or
- (4) Providing for flood control projects.

C. Health and welfare.

- (1) Conducting or supporting a public health program, including employing the necessary professional help and assistants;
- (2) Providing for a public ambulance and facilities for it; or
- (3) Providing for a food stamp or donated food program in conformity with regulations promulgated by the United States Department of Health, Education and Welfare.

D. Development.

- (1) Supporting a chamber of commerce or board of trade;
- (2) Purchasing real estate and property for county purposes, including purchases from the Federal Government; or
- (3) Planning for the purpose of future development, including employment of a county planner.

E. Transportation.

- (1) Providing for the planning, construction, equipping, improvement, extension and operation of airports, provided the airport was approved by the voters of the county in a county referendum.

F. General duties and operation.

- (1) Performing any of the duties required of it by law; or
- (2) Providing for any operations authorized by law which by their nature require the expenditure of money.

2. Limitation on raising and appropriating powers. The county may only raise or appropriate money for a purpose listed under subsection 1, paragraphs B to F, if the county raised or appropriated money for the purpose in the preceding year, if raising or appropriating money for the purpose is approved by the voters of the county in a county referendum, or if the purpose is included under subsection 3.

3. Powers granted by other statutes. Any county may also raise or appropriate money under any other authority or power expressed or implied in other statutes or enabling provisions, and no authority or power now existing under any other law shall be repealed or limited by this subsection.

Sec. 6. 30 MRSA § 401-A, 1st ¶, as enacted by PL 1975, c. 5, is amended to read:

The county commissioners of all counties may borrow in anticipation of taxes ~~and to the extent that the county budget has not been approved by the legislature, the county commissioners of each county may borrow an amount not exceeding 80% of the previous year's budget.~~

Sec. 7. 30 MRSA c. 1, sub-c. VII is enacted to read:

#### SUBCHAPTER VII

#### COUNTY FINANCE BOARD

##### § 1121. County finance board; election; terms; districts; vacancies

The county finance board of each county shall consist of at least 5 county residents, who shall be resident in and elected by the voters of the district they represent. No member of the county finance board shall at the same time hold any other county office or any other employment position of the county.

Each county shall be divided into 5 or more board districts, as hereinafter created in section 1125, which shall be reapportioned after each Federal Census.

The members of the board shall be elected for terms of 2 years in the same manner as are town officials, when such officials are nominated by nomination papers and elected by secret ballot. The nomination shall be made by nomination papers signed by not less than 75 nor more than 125 voters of the board district.

When a vacancy occurs by the death, resignation, removal from the county or for any other reason, the Governor shall appoint a person to fill the vacancy, who shall hold office until the first day of January after another has been elected to fill the place.

##### § 1122. Quorum, chairman and rules

A quorum shall consist of one more than a majority of board members.

The members of the board shall elect a chairman and a vice-chairman to act in the absence of the chairman.

The board shall adopt rules of order and procedures for conducting its meetings.

##### § 1123. Compensation

Members of the board shall be compensated at a rate not to exceed \$25 per meeting, not to exceed 10 meetings per year, for attendance at a meeting of the board and for travel at the rate equal to the state travel reimbursement rate going from and returning to their place of residence. The pay and expenses of members shall be paid out of the county treasury monthly, after being certified by the member and approved by the chairman of the county finance board.

## § 1124. Powers and duties

The county finance board shall have the power and duty to review, amend and approve an annual county budget pursuant to section 252, and to set the salaries of the county commissioners, county treasurer and his deputy, sheriff, register of deeds, judge of probate and register of probate, provided such salaries are not less than the amounts set forth in section 2.

## § 1125. County finance board districts

The following number of board members and districts are established for the election of members of the county finance board.

1. Androscoggin County: Five board members, one from each of the following districts:

Board District No. 1 consisting of the municipality of Auburn;

Board District No. 2 consisting of Wards 1, 2 and 3 and Precinct 1 of Ward 4 of the municipality of Lewiston;

Board District No. 3 consisting of Precinct 2 of Ward 4 and Wards 5, 6 and 7 of the municipality of Lewiston;

Board District No. 4 consisting of the municipalities of Poland, Mechanic Falls, Minot, Turner, Livermore and Livermore Falls; and

Board District No. 5 consisting of the municipalities of Leeds, Greene, Wales, Webster, Lisbon and Durham.

2. Aroostook County: Five board members, one from each of the following districts:

Board District No. 1 consisting of the municipalities and unorganized territory of Madawaska, Saint Agatha, Frenchville, Fort Kent, New Canada Plantation, Wallagrass Plantation, St. John Plantation, St. Francis Plantation, Allagash, Eagle Lake, Winterville Plantation, Unorganized Territory-North, Portage Lake, Nashville Plantation, Carfield Plantation and Ashland;

Board District No. 2 consisting of the municipalities and unorganized territory of Grand Isle, Van Buren, Hamlin, Cyr Plantation, Stockholm, New Sweden, Westmanland Plantation, Perham, Wade, Connor, Caswell Plantation and Limestone;

Board District No. 3 consisting of the municipalities of Caribou, Fort Fairfield, Easton and Mars Hill;

Board District No. 4 consisting of the municipalities and unorganized territory of Woodland, Washburn, Castle Hill, Mapleton, Presque Isle, Chapman, Westfield, E Plantation, Blaine, Unorganized Territory-Central, Masardis and Oxbow Plantation;

Board District No. 5 consisting of the municipalities and unorganized territory of Bridgewater, Monticello, Littleton, Hammond Plantation, Ludlow, Smyrna, Merrill, Moro Plantation, Hersey, Dyer Brook, Oakfield, New

Limerick, Houlton, Hodgdon, Linneus, Island Falls, Crystal, Sherman, Cary Plantation, Amity, Orient, Haynesville, Glenwood Plantation, Unorganized Territory-South, Benedicta, Macwahoc Plantation, Reed Plantation, Bancroft and Weston.

3. Cumberland County: Fifteen board members, 3 elected at large from each of the following districts:

Board District No. 1 consisting of Precincts 1 and 2 of Ward 1, Precincts 1 and 2 of Ward 2, Precinct 1 of Ward 3, and Precincts 1 and 2 of Ward 4 of the municipality of Portland;

Board District No. 2 consisting of Precinct 2 of Ward 3, Precincts 1 and 2 of Ward 5, Precincts 1 and 2 of Ward 6 of the municipality of Portland and the municipalities of Falmouth and Cumberland;

Board District No. 3 consisting of the municipalities of Casco, Raymond, Gray, New Gloucester, Pownal, North Warrmouth, Warrmouth, Freeport, Brunswick and Harpswell;

Board District No. 4 consisting of the municipalities of Bridgton, Harrison, Otisfield, Naples, Sebago, Baldwin, Standish, Gorham, Windham and Westbrook;

Board District No. 5 consisting of the municipalities of South Portland, Cape Elizabeth and Scarborough.

4. Franklin County: Five members, one from each of the following districts:

Board District No. 1 consisting of the municipalities and unorganized territory of Unorganized Territory - North, Eustis, Coplin Plantation, Dallas Plantation, Rangeley, Rangeley Plantation, Sandy River Plantation, Madrid, Phillips, Unorganized Territory - West Central, Weld and Avon;

Board District No. 2 consisting of the municipalities and unorganized territory of Kingfield, Carrabasset Valley, Unorganized Territory - East Central, Strong, New Vineyard, Industry and New Sharon;

Board District No. 3 consisting of the municipalities and unorganized territory of Carthage, Unorganized Territory - South, Temple and Wilton;

Board District No. 4 consisting of the municipality of Farmington;

Board District No. 5 consisting of the municipalities of Jay and Chester-ville.

5. Hancock County: Five board members, one from each of the following districts:

Board District No. 1 consisting of the municipalities and unorganized territory of Plantation No. 32, Unorganized Territory - East, Aurora, Amherst, Great Pond Plantation, Mariaville, Otis, Waltham, Osborn Plantation, Eastbrook, Franklin, Unorganized Territory - Central, Hancock, Lamoine, Sullivan, Sorrento, Gouldsboro, Winter Harbor and Township 7, S.D.;

Board District No. 2 consisting of the municipalities of Dedham, Bucksport, Orland, Verona and Penobscot;

Board District No. 3 consisting of the municipalities and unorganized territory of Ellsworth, Surry, Trenton, Tremont, Cranberry Isles and Long Island Plantation;

Board District No. 4 consisting of the municipalities of Bar Harbor, Mount Desert and Southwest Harbor;

Board District No. 5 consisting of the municipalities of Castine, Blue Hill, Brooklin, Sedgwick, Brocksville, Deer Isle, Stonington and Swan's Island.

6. Kennebec County: Five board members, one from each of the following districts:

Board District No. 1 consisting of the municipality of Augusta;

Board District No. 2 consisting of the municipality of Waterville;

Board District No. 3 consisting of the municipalities and unorganized territory of Clinton, Benton, Unity Plantation, Winslow, Albion, Vassalborough, China and Windsor;

Board District No. 4 consisting of the municipalities of Chelsea, Hallowell, Farmingdale, West Gardiner, Gardiner, Randolph and Pittston;

Board District No. 5 consisting of the municipalities of Vienna, Rome, Oakland, Fayette, Mount Vernon, Seignade, Sidney, Readfield, Wayne, Winthrop, Manchester, Monmouth and Litchfield.

7. Knox County: Five board members, one from each of the following districts:

Board District No. 1 consisting of the municipality of Rockland;

Board District No. 2 consisting of the municipalities of Owl's Head, Vinalhaven, North Haven, Matineus Isle Plantation, Isle au Haut, Friendship and South Thomaston;

Board District No. 3 consisting of the municipalities of Thomaston, St. George and Cushing;

Board District No. 4 consisting of the municipalities of Camden, Hope and Appleton;

Board District No. 5 consisting of the municipalities of Rockport, Warren, Union and Washington.

8. Lincoln County: Five board members, one from each of the following districts:

Board District No. 1 consisting of the municipalities and unorganized territory of Somerville Plantation, Jefferson, Willsfield, Alna and Newcastle;

Board District No. 2 consisting of the municipalities of Nobleboro and Waldoboro;



Board District No. 3 consisting of the municipalities and unorganized territory of Damariscotta, Bremen, Bristol, South Bristol and Monhegan Plantation;

Board District No. 4 consisting of the municipalities of Dresden, Wiscasset, Westport, Edgecomb and Southport;

Board District No. 5 consisting of the municipalities of Boothbay and Boothbay Harbor.

9. Oxford County: Nine board members, one from each of Districts 1-7, and 2 elected at large from District 8, as follows:

Board District No. 1 consisting of the municipalities of Porter, Hiram, Denmark, Brownfield and Fryeburg;

Board District No. 2 consisting of the municipalities and unorganized territory of Lynchtown, Lovell, Sweden, Waterford, Stow, Stoneham, Albany, Bethel, Gilead, Grafton, Mason Plantation and Newry;

Board District No. 3 consisting of the municipalities and unorganized territory of Oxford, Hebron, Buckfield, Hartford, Sumner, Canton and Batchelders Grant;

Board District No. 4 consisting of the municipalities of Norway, Greenwood and Woodstock;

Board District No. 5 consisting of the municipalities of Paris and West Paris;

Board District No. 6 consisting of the municipalities and unorganized territories of Peru, Dixfield, Hanover, Milton Plantation, Andover, Lincoln Plantation, Magalloway Plantation, Upton, Township A No. 1 Riley, No. 4 R. 1 Richardstown and No. 4 R. 2 Adamstown;

Board District No. 7 consisting of the municipalities of Mexico, Roxbury and Byron;

Board District No. 8 consisting of the municipality of Rumford.

10. Penobscot County: Five board members, one from each of the following districts:

Board District No. 1 consisting of the municipalities and unorganized territory of Unorganized Territory - North, Mount Chase, Patten, Stacyville, Millinocket, East Millinocket, Medway, Woodville, Mattawamkeag, Kingman Plantation, Drew Plantation, Prentiss Plantation, Webster Plantation, Winn, Chester, Seboeis Plantation, Maxfield, Howland, Enfield, Lincoln, Lee, Springfield, Carroll Plantation, Lakeville Plantation and Burlington;

Board District No. 2 consisting of the municipalities and unorganized territory of Lowell, Passadumkeag, Edinburg, Lagrange, Alton, Unorganized Territory - Argyle, Greenbush, Grand Falls Plantation, Greenfield, Milford, Old Town, Glenburn, Orono and Bradley;

Board District No. 3 consisting of Precincts 1 and 2 of Ward 3, Precincts 1 and 2 of Ward 4, Ward 5, Ward 6 and Precinct 2 of Ward 7 of the municipality of Bangor;

Board District No. 4 consisting of Ward 1, Ward 2 and Precinct 1 of Ward 7 of the municipality of Bangor and the municipalities of Veazie, Brewer, Orrington, Holden, Eddington and Clifton;

Board District No. 5 consisting of the municipalities of Dexter, Garland, Charleston, Bradford, Hudson, Corinth, Exeter, Corinna, Newport, Stetson, Levant, Kenduskeag, Hermon, Carmel, Etna, Plymouth, Dixmont, Newburgh and Hampden.

11. Piscataquis County

Board District No. 1 consisting of the municipalities and unorganized territory of Unorganized Territory-North, Greenville, Beaver Cove Plantation, Shirley, Blanchard Plantation, Kingsbury Plantation, Wellington and Parkman;

Board District No. 2 consisting of the municipalities and unorganized territory of Elliottsville Plantation, Monson, Willimantic, Bowerbank, Barnard Plantation, Brownville, Lake View Plantation, Unorganized Territory-South East, Medford and Atkinson;

Board District No. 3 consisting of the municipalities of Abbot, Guilford and Sangerville;

Board District No. 4 consisting of the municipality of Dover-Foxcroft;

Board District No. 5 consisting of the municipalities of Sebec and Milo.

12. Sagadahoc County

Board District No. 1 consisting of the municipalities of Bowdoin, Bowdoinham and Richmond;

Board District No. 2 consisting of the municipality of Topsham;

Board District No. 3 consisting of Wards 1, 2, 3 and 4 of the municipality of Bath;

Board District No. 4 consisting of Wards 5, 6 and 7 of the municipality of Bath;

Board District No. 5 consisting of the municipalities of Woolwich, West Bath, Phippsburg, Arrowsic and Georgetown.

13. Somerset County

Board District No. 1 consisting of the municipalities and unorganized territory of Unorganized Territory - North, Dennistown Plantation, Moose River, Jackman, West Forks Plantation, The Forks Plantation, Caratunk Plantation, Highland Plantation, Pleasant Ridge Plantation, Moscow, Unorganized Territory - Central, Bingham, Brighton Plantation, New Portland, Embden, Harmony, Hartland, Ripley and Cambridge;

Board District No. 2 consisting of the municipalities of Madison, Solon, Athens, Anson, Starks and Mercer;

Board District No. 3 consisting of the municipalities of Norridgewock, Smithfield and Fairfield;

Board District No. 4 consisting of the municipalities of Cornville and Skowhegan;

Board District No. 5 consisting of the municipalities of Canaan, Pittsfield, Detroit, Palmyra and St. Albans.

14. Waldo County

Board District No. 1 consisting of the municipalities of Burnham, Troy, Unity, Freedom, Palermo and Liberty;

Board District No. 2 consisting of the municipalities of Thorndike, Knox, Brooks, Jackson, Monroe and Winterport;

Board District No. 3 consisting of the municipalities of Frankfort, Swanville, Searsport, Prospect and Stockton Springs;

Board District No. 4 consisting of the municipality of Belfast;

Board District No. 5 consisting of the municipalities of Waldo, Morrill, Montville, Searsmont, Belmont, Lincolnville, Northport and Islesboro.

15. Washington County

Board District No. 1 consisting of the municipalities and unorganized territories of Danforth, Unorganized Territory - North, Vanceboro, Codyville Plantation, Waite, Talmadge, Grand Lake Stream Plantation, Plantation No. 21, Princeton, Baileyville, Alexander, Crawford and Wesley;

Board District No. 2 consisting of the municipalities and unorganized territory of Calais, Robbinston, Perry, Charlotte, Meddybemps, Cooper, Plantation No. 14, Dennysville and Baring;

Board District No. 3 consisting of the municipalities of Deblois, Cherryfield, Steuben, Milbridge, Harrington, Addison, Jonesport, Beals and Beddington;

Board District No. 4 consisting of the municipalities of Columbia, Columbia Falls, Northfield, Centerville, Jonesboro, Roque Bluffs, Whitneyville, Marshfield, East Machias, Machias and Machiasport;

Board District No. 5 consisting of the municipalities and unorganized territory of Whiting, Cutler, Unorganized Territory - Lubec, Pembroke and Eastport.

16. York County

Board District No. 1 consisting of the municipalities of Parsonsfield, Cornish, Limington, Limerick, Newfield, Acton, Shapleigh, Waterboro, Lyman, Alfred, Lebanon, North Berwick, Berwick, South Berwick and Eliot;

Board District No. 2 consisting of the municipalities of Hollis, Buxton, Dayton, Saco and Old Orchard Beach;

Board District No. 3 consisting of the municipalities of Biddeford and Kennebunkport;

Board District No. 4 consisting of the municipalities of Sanford, Kennebunk and Arundel;

Board District No. 5 consisting of the municipalities of Wells, York and Kittery.

Each member of a county finance board shall be a resident in the district he represents, and shall be elected by the voters of that district.

Sec. 8. Effective date and application. This Act shall take effect 90 days after adjournment of the Legislature only for the purpose of electing members of county finance boards and shall become effective in all its parts on January 1, 1977, at which time those elected to the board shall take office, provided that the dates for action by the county commissioners and county finance board for preparing 1977 estimates and approving the 1977 county budgets, shall be 90 days later than the dates set for such actions in section 3 of this bill.

#### FISCAL NOTE

This Act will result in an annual savings of approximately \$250,000 because of the savings in legislative time in considering county budgets.

#### STATEMENT OF FACT

This Act transfers to the county control over their own budget, but does not expand the present authority of counties to undertake new functions, unless those are authorized by the vote of the people.

## APPENDIX D

Summary of statutory duties of present county officers.

### County Commissioners:

County Commissioners have the following statutory duties and responsibilities:

1. Represent the county; care for county property and manage its business; examine, allow and settle county accounts; assess the county taxes; keep the county books; lay out, alter or discontinue ways' and appoint an agent to convey county real estate. (30 MRSA §251)
2. Draw the annual county budget estimates and meet with the legislative delegation to finalize them; and when the budget is approved, assess it against the municipalities. (30 MRSA §§252,253,& 254)
3. Provide and maintain courthouses, offices for the Register of Deeds and Register of Probate, and jails and courtrooms. (30 MRSA §301)
4. Manage jails and workshops, and inspect and supervise construction, snow removal and road maintenance in unorganized places.  
(30 MRSA § 106)
5. Maintain county records, inventory property, obtain loans, and issue an annual financial report. (30 MRSA §§ 303,346,404,& 411)
6. Supervise the Food Stamp Program and Priority Social Services Program. (30 MRSA §§ 416 & 419)
7. Contract for or operate a solid waste collection and disposal system. (30 MRSA § 413)
8. Contract to undertake county or municipal services. (30 MRSA § 63)
9. Accept Federal and State grants. (30 MRSA § 255)
10. Assess damages in condemnation cases. (1 MRSA §§ 20 & 21, 39 MRSA § 55)

11. Perform specific municipal and state-mandated functions in unorganized territories. (8 MRSA § 658; 28 MRSA §§ 103 & 252; 30 MRSA §§ 1201-1204, 5601-5603, & 5703; 36 MRSA § 1487)
12. Perform miscellaneous functions. (Issue distress warrants, 30 MRSA § 54; establish & maintain meridian lines, 30 MRSA § 1151; perform civil defense function, 30 MRSA § 1251 & 37-A MRSA § 59 and examine and supply jails, 34 MRSA §§ 1041 & 1044)

County Treasurer:

County Treasurers have the following statutory duties and responsibilities:

1. Receive, deposit and invest all money due the county.  
(30 MRSA §§ 701 and 702)
2. Make an annual financial report for the county, detailing all monies received and paid out of the Treasury, etc. (30 MRSA § 703)
3. Make payments from the treasury on itemized claims. (30 MRSA § 704)
4. Maintain books and accounts, account to County Commissioners for all receipts and payments, enforce payment of taxes, and defray expenses of the county from the Treasury. (30 MRSA § 751, as amended by P.L. 1975, ch. 408, § 44; and 40 MRSA § 754)
5. Maintain an account of all certified fines, forfeitures and bills of costs accruing to the State by action of the Judicial Courts. (30 MRSA § 752)
6. Give an annual or more often accounting to County Commissioners and enclose such with county tax estimate. (30 MRSA §§ 753 & 754)
7. Receive and account for federal money for the use or maintenance of county jails. (30 MRSA § 755)

8. Charge off any accounts receivable that the Commissioners determine are uncollectable. (30 MRSA § 756)
9. Act to hold money or to receive or pay out money under various other statutory provisions. (e.g. 1 MRSA §§ 17 & 18, 4 MRSA § 301; 10 MRSA §§ 553, 4009, 1606, & 1706; 15 MRSA § 1902 & 2033; 18 MRSA §§ 252, 2351 & 2352; 30 MRSA § 1053; and 36 MRSA §§ 752, 1487 & 1489)
10. Bring civil actions in the name of the County Treasurer.  
(14 MRSA § 1)

Sheriff:

County Sheriffs have the following statutory duties and responsibilities:

1. Enforce laws under the direction of the Governor. (30 MRSA §1001)
2. Appoint and direct all full-time, part-time and special deputies. (30 MRSA §§ 951, 952, 954 & 958)
3. Maintain custody and charge of county jail, and responsible for prisoners. (34 MRSA §§ 901, 907, 908 & 909)
4. Attend Supreme Judicial, Superior, and Probate Courts. (4 MRSA §§ 112 & 302, 30 MRSA § 1051)
5. May serve various civil papers. (4 MRSA § 302, 30 MRSA § 1051)
6. Serve all writs and precepts issued to him by lawful authority. (4 MRSA § 302, 14 MRSA §§ 702 et seq.)
7. Receive reports on, attend or investigate hunting accidents, motor vehicle accidents and suspicious or unattended deaths. (12 MRSA § 2954, 22 MRSA § 512, 29 MRSA § 819)
8. Collect, account for and dispose of all fees. (30 MRSA §§ 1053 & 1054)

9. Collection of taxes. (38 MRSA §§ 801 et seq. and 891 et seq..)
10. Miscellaneous duties in relation to enforcement duties. (e.g., 4 MRSA § 170, 15 MRSA § 704, 28 MRSA § 1151)

Register of Deeds:

Registers of Deeds have the following statutory duties and responsibilities:

1. To be full-time duty (except in Western District of Oxford County). (33 MRSA § 604)
2. Make, revise, consolidate and maintain indexes and record books of all deeds, other instruments or miscellaneous records recorded. (10 MRSA §§ 3253, 3261, 13 MRSA §§ 43,73,75,203,903, 931,961,1141,1224, & 1302, 30 MRSA § 1051)
3. Account for all fees and pay them to county treasurer. (33 MRSA § 604)
4. May make abstracts and copies from the records. (33 MRSA § 604)

Judge of Probate:

Judges of Probate have the following statutory duties and responsibilities:

1. Probates all wills, handles distribution of interstate estates. oversees written trusts, oversees administration and settlement of estates; and hears and decides on adoptions, changes in name, and appointment and oversight of guardians. (4 MRSA §§251 & 252)
2. Grants legal separations, including determining support payments, guardianship and visitation rights of minor children. (12 MRSA § 581)
3. Undertakes judicial proceeding for involuntary hospitalization of the mentally ill. (34 MRSA § 2333 (1) (B))



4. Admits involuntarily to Pineland Center. (34 MRSA § 2152 (3))

Probate Judges must be admitted to the practice of law in Maine.

Registers of Probate:

Registers of Probate have the following statutory duties and responsibilities:

1. Have care and custody of all files, books and papers of probate office; record and index all wills proved, letters of administration or guardianship granted, etc.; maintain and update a docket of all probate proceedings; and attest all records. (18 MRSA §253)
2. May act as auditor of accounts. (18 MRSA § 253)
3. Certification of any transfer of property under a will to Register of Deeds and notification of beneficiaries of a will. (18 MRSA §§ 254 & 255)
4. Account for and pay to the County Treasurer all fees. (18 MRSA § 553)
5. May make copies or abstracts of probate documents. (18 MRSA §§ 251 and 552)
6. Receive and preserve wills deposited for safekeeping. (18 MRSA § 2)
7. Report to State Tax Assessor on all executors, administrators or trustees appointed in Probate Court. (36 MRSA § 3852)
8. May appoint a deputy. (18 MRSA § 256)
9. Custody of official court seal. (18 MRSA § 201)

APPENDIX E

SENATE

PHILIP C. JACKSON, CHAIRMAN  
LINWOOD E. GRAFFAM  
ROLAND J. CARBONNEAU

HILDA M. PRIOR, COMMITTEE ASSISTANT  
JONATHAN C. HULL, LEGISLATIVE ASSISTANT



HOUSE

ROGER V. SNOW, JR., CHAIRMAN  
C. EVERETT DAM  
GEORGETTE B. BERUBE  
ANNE J. BACHRACH  
MICHAEL E. CARPENTER  
JAMES S. HENDERSON  
ANTOINETTE C. MARTIN, SECRETARY  
PETER P. TRUMAN  
VAUGHAN A. WALKER  
GLENYS W. BERRY  
DOROTHY B. KELLEY  
JOHN R. MCKERNAN  
OLYMPIA J. SNOWE  
WAYNE C. GRAY

STATE OF MAINE

ONE HUNDRED AND SEVENTH LEGISLATURE

JOINT SELECT COMMITTEE ON COUNTY GOVERNMENT

February 10, 1976

The Honorable Joseph E. Brennan  
The Attorney General  
State House  
Augusta, Maine 04333

Dear Sir:

The Joint Select Committee is considering legislation that would transfer the power to approve county budgets from the Legislature to county finance boards. Such legislation would include provisions stating specific activities for which the county could raise and expend county tax monies, and would also create a county board elected by the county residents which would have the final authority to approve the county budget. I am enclosing a rough draft of the legislation for your information.

The committee requires an answer to one basic question relating to this proposal:

"May the Legislature delegate the power to make final approval of county budgets to an elected representative board in each county, if the delegation includes specific revenue raising and expending powers, without a constitutional amendment?"

Thank you for your consideration.

Respectfully,

A handwritten signature in cursive script, likely of Philip C. Jackson, written over a horizontal line.

Philip C. Jackson, Senate Co-Chairman

A handwritten signature in cursive script, likely of Roger V. Snow, Jr., written over a horizontal line.

Roger V. Snow, Jr., House Co-Chairman

JOSEPH E. BRENNAN  
ATTORNEY GENERAL



RICHARD S. COHEN  
MARTIN L. WILK  
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

February 26, 1976

Hon. Philip C. Jackson, Senate Co-Chairman  
Joint Select Committee on County Government

Hon. Roger V. Snow, Jr., House Co-Chairman  
Joint Select Committee on County Government

Gentlemen:

Your letter of February 10, 1976 poses the question: "May the Legislature delegate the power to make final approval of County Budgets to an elected representative board in each county, if the delegation includes specific revenue raising and expending powers, without a constitutional amendment?"

We have reviewed the Maine Constitution, and it is the conclusion of this office that no constitutional amendment would be required as a prerequisite to adoption of such legislation.

The section of the Maine Constitution of most particular concern is Article IX, Section 9, which reads: "The Legislature shall never, in any manner suspend or surrender the power of taxation." No suspension or surrender of the power of taxation occurs as a result of the change in approval of County Budgets from County Legislators to County Finance Committees. The method of budget approval is still subject to control of the Legislature.

As with delegation of budgeting and taxing powers to municipalities, delegation of such power to counties pursuant to legislative enactment remains, in legal contemplation, an Act of the State, Frankfort v. Lumber Co., 128 Me. 1 (1929). In concept no constitutional problem arises from such delegation. In fact it is similar to delegations which have already been granted to municipalities and school administrative districts.

Your letter also enclosed proposed legislation to implement the concept addressed in your letter. The effect of the legislation, and particularly Section 3 thereof, would be to authorize counties to raise or appropriate money for a wide range of generally described governmental purposes.

APPENDIX F

FIRST SPECIAL SESSION

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 2275

H. P. 2128

House of Representatives, March 1, 1976

Reported by Mr. Dam from the Joint Select Committee on County Government pursuant to H. P. 1670 and printed under Joint Rules No. 3.

EDWIN H. PERT, Clerk

Filed under Joint Rule 3 pursuant to H. P. 1670.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SIX

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AN ACT to Give Counties Power to Assess and Collect Their Own Taxes.

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

Sec. 1. 30 MRSA § 252, as last amended by PL 1971, c. 380, §§ 1, 2 and 3, is repealed and the following enacted in place thereof:

§ 252. County taxes; estimates, approval and assessment

1. County commissioners' duties. In order to assess a county tax, county commissioners shall annually prepare estimates of the sums necessary to defray expenses which have accrued or which may probably accrue for the purposes set forth in section 253-A, for the coming year. These estimates shall be prepared prior to October 1st in each year, shall be drawn so as to authorize the appropriations to be made to each department or agency of the county government and shall provide specific amounts for personal services, contractual services, commodities, debt service and capital expenditures.

Any county which is the recipient of federal revenue-sharing funds shall provide for the expenditure of such funds in accordance with the laws and procedures applicable to the expenditure of its own revenue and shall recommend estimates of the same as provided in this section.

A copy of the estimates shall be distributed to each municipality in the county and to each member of the county finance board prior to October 10th. Copies shall also be available during normal business hours in the office of the county commissioners for public inspection and copies shall be provided, at cost, to any county resident.

A copy of the estimates shall be signed by the chairman of the county commissioners and attested by their clerk and shall be transmitted to the county finance board prior to November 1st.

2. County finance board duties. The county finance board shall hold 2 or more public hearings, preferably at different locations within the county, on the county estimates prior to November 30th. Public notice shall be given at least 10 days prior to each hearing by publication in a newspaper of general circulation within the county, by written notice by certified or registered mail to the clerk of each municipality within the county and by written or personal notice to the county commissioners and each department or agency of the county government.

After the public hearings, the county finance board shall adopt any amendments to the estimates, including any changes or alterations required in specific line categories, that are necessary to provide for the public purpose expenditures of the county as authorized under section 253-A. The county finance board shall then adopt the annual county budget, which shall be the county commissioners' estimates with any duly adopted amendments thereto, provided the county finance board shall not approve any single capital expenditure in such estimates or budget that exceeds \$50,000, unless such expenditure has been approved by the voters of the county in a county referendum. All amendments and budgets shall be adopted only by a majority vote of all members of the county finance board and shall be discussed and adopted only at a public hearing.

The county finance board shall, prior to December 15th, transmit signed and attested copies of all approved amendments of the estimates and the approved county budget to the county commissioners, to the clerk of each municipality of the county and to the State Auditor. A copy of the estimates, amendments and approved budget shall be a public record at the office of the county clerk and each municipal clerk and shall be retained for a period of 4 years.

Sec. 2. 30 MRSA § 253, as last amended by PL 1973, c. 229, § 1, and c. 386, is repealed and the following enacted in place thereof:

§ 253. Contingent account; transfer of funds

1. Contingent account. There is established a contingent account in each county in an amount not to exceed \$50,000. Such funds as are available to each county may be used for this purpose. This fund shall be used for emergency purposes only at the discretion of the county commissioners. At the end of each fiscal year there shall be transferred from unencumbered county funds an amount sufficient to restore the established county contingent account.

2. Transfer of funds. Whenever any specific appropriation of a department or agency of county government shall prove insufficient to pay the required expenditures for the statutory purposes for which such appropriation was made, the county commissioners may, upon written request of such department or agency, transfer from any other specific line appropriation of the same department or agency an amount as required to meet such expendi-

ture, provided that such request shall bear the written approval of the majority of the county finance board.

Any transfers between specific line categories or from the contingent account shall be certified by the county commissioners within 30 days to the county finance board.

Sec. 3. 30 MRSA § 253-A, as enacted by PL 1973, c. 229, § 2, is repealed and the following enacted in place thereof:

§ 253-A. Authorized expenditures

The county may raise or appropriate money for the following purposes:

1. Operating expenses.

A. Providing for the operation of county government;

B. Establishing a contributory pension system for its officials and employees or participating in an existing system, including the State Retirement System;

C. Providing for the operation of various departments of county government, including provision for police and fire protection;

D. Insuring officials, employees and volunteer workers against public liability and property damage resulting from their negligent operation of any vehicle owned or leased by the county or being used for county purposes or business; or

E. Obtaining the services of county advisory organization.

2. Public works.

A. Providing for buildings, parks, parking places, water or sewage facilities, ways and bridges, except for ways and bridges in unorganized townships and plantations;

B. Providing for public solid waste disposal areas, either within or without its boundaries;

C. Providing for cemeteries in unorganized territories; or

D. Providing for flood control projects.

3. Health and welfare.

A. Conducting or supporting a public health program, including employing the necessary professional help and assistants;

B. Providing for a public ambulance and facilities for it; or

C. Providing for a food stamp or donated food program in conformity with regulations promulgated by the United States Department of Health, Education and Welfare.

4. Development.

- A. Supporting a chamber of commerce or board of trade;
  - B. Purchasing real estate and property for county purposes, including purchases from the Federal Government; or
  - C. Planning for the purpose of future development, including employment of a county planner.
5. Transportation.
- A. Providing for the planning, construction, equipping, improvement, extension and operation of airports, provided the airport was approved by the voters of the county in a county referendum.
6. General duties and operation.
- A. Performing any of the duties required of it by law; or
  - B. Providing for any operations authorized by law which by their nature require the expenditure of money.

The powers and authority provided in this section are additional and supplemental to any other authority or power of the counties, whether that authority or power be expressed or implied in existing statutes or other enabling provisions and shall not be regarded as in derogation of or as repealing any authority or power now existing under any other law.

Sec. 4. 30 MRSA § 401-A, 1st ¶, as enacted by PL 1975, c. 5, is amended to read:

The county commissioners of all counties may borrow in anticipation of taxes ~~and to the extent that the county budget has not been approved by the Legislature, the county commissioners of each county may borrow an amount not exceeding 80% of the previous year's budget.~~

Sec. 5. 30 MRSA c. 1, sub-c. VII is enacted to read:

#### SUBCHAPTER VII

#### COUNTY FINANCE BOARD

§ 1121. County finance board; election; terms; districts; vacancies

The county finance board of each county shall consist of 5 county residents, who shall be resident in and elected by the voters of the district they represent. The members of the board shall be elected for terms of 2 years in the same manner as are Members of the Legislature.

Each county shall be divided into 5 board districts, as hereinafter created in section 1125, which shall be reapportioned after each Federal Census.

When a vacancy occurs by the death, resignation, removal from the county or for any other reason, the Governor shall appoint a person to fill the vacancy, who shall hold office until the first day of January after another has been elected to fill the place.

§ 1122. Quorum, chairman and rules

Three members of the board must be present to constitute a quorum.

The members of the board shall elect a chairman and a vice-chairman to act in the absence of the chairman.

The board shall adopt rules of order and procedures for conducting its meetings.

§ 1123. Compensation

Members of the board shall be compensated at a rate not to exceed \$25 per meeting, not to exceed 10 meetings per year, for attendance at a meeting of the board and for travel at the rate equal to the state travel reimbursement rate going from and returning to their place of residence. The pay and expenses of members shall be paid out of the county treasury monthly, after being certified by the member and approved by the chairman of the county finance board.

§ 1124. Powers and duties

The county finance board shall have the power and duty to review, amend and approve an annual county budget pursuant to section 252 and to undertake any other activities established by law.

§ 1125. County finance board districts

The following districts are established for the election of members of the county finance board.

1. Androscoggin County

Council District No. 1 consisting of the municipality of Auburn;

Council District No. 2 consisting of Wards 1, 2 and 3 and Precinct 1 of Ward 4 of the municipality of Lewiston;

Council District No. 3 consisting of Precinct 2 of Ward 4 and Wards 5, 6 and 7 of the municipality of Lewiston;

Council District No. 4 consisting of the municipalities of Poland, Mechanic Falls, Minot, Turner, Livermore and Livermore Falls; and

Council District No. 5 consisting of the municipalities of Leeds, Greene, Wales, Webster, Lisbon and Durham.

2. Aroostook County

Council District No. 1 consisting of the municipalities and unorganized territory of Madawaska, Saint Agatha, Frenchville, Fort Kent, New Canada Plantation, Wallagrass Plantation, St. John Plantation, St. Francis Plantation, Allagash, Eagle Lake, Winterville Plantation, Unorganized Territory—North, Portage Lake, Nashville Plantation, Garfield Plantation and Ashland;

Council District No. 2 consisting of the municipalities and unorganized territory of Grand Isle, Van Buren, Hamlin, Cyr Plantation, Stockholm, New



Sweden, Westmanland Plantation, Perham, Wade, Connor, Caswell Plantation and Limestone;

Council District No. 3 consisting of the municipalities of Caribou, Fort Fairfield, Easton and Mars Hill;

Council District No. 4 consisting of the municipalities and unorganized territory of Woodland, Washburn, Castle Hill, Mapleton, Presque Isle, Chapman, Westfield, E Plantation, Blaine, Unorganized Territory—Central, Marsdis and Oxbow Plantation;

Council District No. 5 consisting of the municipalities and unorganized territory of Bridgewater, Monticello, Littleton, Hammond Plantation, Ludlow, Smyrna, Merrill, Moro Plantation, Hersey, Dyer Brook, Oakfield, New Limerick, Houlton, Hodgdon, Linneus, Island Falls, Crystal, Sherman, Cary Plantation, Amity, Orient, Haynesville, Glenwood Plantation, Unorganized Territory—South, Benedicta, Macwahoc Plantation, Reed Plantation, Bancroft and Weston.

### 3. Cumberland County

Council District No. 1 consisting of Precincts 1 and 2 of Ward 1, Precincts 1 and 2 of Ward 2, Precinct 1 of Ward 3, and Precincts 1 and 2 of Ward 4 of the municipality of Portland;

Council District No. 2 consisting of Precinct 2 of Ward 3, Precincts 1 and 2 of Ward 5, Precincts 1 and 2 of Ward 6 of the municipality of Portland and the municipalities of Falmouth and Cumberland;

Council District No. 3 consisting of the municipalities of Casco, Raymond, Gray, New Gloucester, Pownal, North Yarmouth, Yarmouth, Freeport, Brunswick and Harpswell;

Council District No. 4 consisting of the municipalities of Bridgton, Harrison, Otisfield, Naples, Sebago, Baldwin, Standish, Gorham, Windham and Westbrook;

Council District No. 5 consisting of the municipalities of South Portland, Cape Elizabeth and Scarborough.

### 4. Franklin County

Council District No. 1 consisting of the municipalities and unorganized territory of Unorganized Territory—North, Eustis, Coplin Plantation, Dallas Plantation, Rangeley, Rangeley Plantation, Sandy River Plantation, Madrid, Phillips, Unorganized Territory—West Central, Weld and Avon;

Council District No. 2 consisting of the municipalities and unorganized territory of Kingfield, Unorganized Territory—East Central, Strong, New Vineyard, Industry and New Sharon;

Council District No. 3 consisting of the municipalities and unorganized territory of Carthage, Unorganized Territory—South, Temple and Wilton;

Council District No. 4 consisting of the municipality of Farmington;

Council District No. 5 consisting of the municipalities of Jay and Chester-ville.

5. Hancock County

Council District No. 1 consisting of the municipalities and unorganized territory of Plantation No. 33, Unorganized Territory—East, Aurora, Amherst, Mariaville, Otis, Waltham, Osborn Plantation, Eastbrook, Franklin, Unorganized Territory—Central, Hancock, Lamoine, Sullivan, Sorrento, Gouldsboro and Winter Harbor;

Council District No. 2 consisting of the municipalities of Dedham, Bucksport, Orland, Verona and Penobscot;

Council District No. 3 consisting of the municipalities and unorganized territory of Ellsworth, Surry, Trenton, Tremont, Cranberry Isles and Long Island Plantation;

Council District No. 4 consisting of the municipalities of Bar Harbor, Mount Desert and Southwest Harbor;

Council District No. 5 consisting of the municipalities of Castine, Blue Hill, Brooklin, Sedgwick, Brooksville, Deer Isle, Stonington and Swan's Island.

6. Kennebec County

Council District No. 1 consisting of the municipality of Augusta;

Council District No. 2 consisting of the municipality of Waterville;

Council District No. 3 consisting of the municipalities and unorganized territory of Clinton, Benton, Unity Plantation, Winslow, Albion, Vassalborough, China and Windsor;

Council District No. 4 consisting of the municipalities of Chelsea, Hallowell, Farmingdale, West Gardiner, Randolph and Pittston;

Council District No. 5 consisting of the municipalities of Vienna, Rome, Oakland, Fayette, Mount Vernon, Belgrade, Sidney, Readfield, Wayne, Winthrop, Manchester, Monmouth and Litchfield.

7. Knox County

Council District No. 1 consisting of the municipalities of Washington, Union, Appleton, Hope and Rockport;

Council District No. 2 consisting of the municipalities of Camden, North Haven, Vinalhaven and Isle au Haut;

Council District No. 3 consisting of the municipality of Rockland;

Council District No. 4 consisting of the municipalities of Thomaston, South Thomaston and Owls Head;

Council District No. 5 consisting of the municipalities and unorganized territory of Friendship, Cushing, Warren, St. George and Matinicus Isle Plantation.

## 8. Lincoln County

Council District No. 1 consisting of the municipalities and unorganized territory of Somerville Plantation, Jefferson, Whitefield, Alna and Newcastle;

Council District No. 2 consisting of the municipalities of Nobleboro and Waldoboro;

Council District No. 3 consisting of the municipalities and unorganized territory of Damariscotta, Bremen, Bristol, South Bristol and Monhegan Plantation;

Council District No. 4 consisting of the municipalities of Dresden, Wiscasset, Westport, Edgecomb and Southport;

Council District No. 5 consisting of the municipalities of Boothbay and Boothbay Harbor.

## 9. Oxford County

Council District No. 1 consisting of the municipalities and unorganized territory of Unorganized Territory—North, Lincoln Plantation, Magalloway Plantation, Upton, Byron, Roxbury, Andover, Newry, Gilead, Unorganized Territory—South, Stow, Lovell, Stoneham, Waterford, Sweden, Fryeburg, Denmark, Brownfield, Hiram and Porter;

Council District No. 2 consisting of the municipalities of Hanover, Bethel, Greenwood, Norway and Oxford;

Council District No. 3 consisting of the municipality of Rumford;

Council District No. 4 consisting of the municipalities of Mexico, Dixfield, Peru and Canton;

Council District No. 5 consisting of the municipalities and unorganized territory of Milton Plantation, Woodstock, West Paris, Sumner, Hartford, Buckfield, Paris and Hebron.

## 10. Penobscot County

Council District No. 1 consisting of the municipalities and unorganized territory of Unorganized Territory—North, Mount Chase Plantation, Patten, Stacyville, Millinocket, East Millinocket, Medway, Woodville, Mattawamkeag, Kingman Plantation, Drew Plantation, Prentiss Plantation, Webster Plantation, Winn, Chester, Seboeis Plantation, Maxfield, Howland, Enfield, Lincoln, Lee, Springfield, Carroll Plantation, Lakeville Plantation and Burlington;

Council District No. 2 consisting of the municipalities and unorganized territory of Lowell, Passadumkeag, Edinburg, Lagrange, Alton, Unorganized Territory—Argyle, Greenbush, Grand Falls Plantation, Greenfield, Milford, Old Town, Glenburn, Orono, Bradley;

Council District No. 3 consisting of Precincts 1 and 2 of Ward 3, Precincts 1 and 2 of Ward 4, Ward 5, Ward 6, and Precinct 2 of Ward 7 of the municipality of Bangor;

Council District No. 2 consisting of Ward 1, Ward 2 and Precinct 1 of Ward 7 of the municipality of Bangor and the municipalities of Veazie, Brewer, Orrington, Holden, Eddington and Clifton;

Council District No. 5 consisting of the municipalities of Dexter, Garland, Charleston, Bradford, Hudson, Corinth, Exeter, Corinna, Newport, Stetson, Levant, Kenduskeag, Hermon, Carmel, Etna, Plymouth, Dixmont, Newburgh and Hampden.

11. Piscataquis County

Council District No. 1 consisting of the municipalities and unorganized territory of Unorganized Territory—North, Greenville, Shirley, Blanchard Plantation, Kingsbury Plantation, Wellington and Parkman;

Council District No. 2 consisting of the municipalities and unorganized territory of Elliottsville Plantation, Monson, Willimantic, Bowerbank, Barnard Plantation, Brownville, Lake View Plantation, Unorganized Territory—South East, Medford and Atkinson;

Council District No. 3 consisting of the municipalities of Abbot, Guilford and Sangerville;

Council District No. 4 consisting of the municipality of Dover-Foxcroft;

Council District No. 5 consisting of the municipalities of Sebec and Milo.

12. Sagadahoc County

Council District No. 1 consisting of the municipalities of Bowdoin, Bowdoinham and Richmond;

Council District No. 2 consisting of the municipality of Topsham;

Council District No. 3 consisting of Wards 1, 2, 3 and 4 of the municipality of Bath;

Council District No. 4 consisting of Wards 5, 6 and 7 of the municipality of Bath;

Council District No. 5 consisting of the municipalities of Woolwich, West Bath, Phippsburg, Arrowsic and Georgetown.

13. Somerset County

Council District No. 1 consisting of the municipalities and unorganized territory of Unorganized Territory—North, Dennistown Plantation, Moose River, Jackman, West Forks Plantation, The Forks Plantation, Caratunk Plantation, Highland Plantation, Pleasant Ridge Plantation, Moscow, Unorganized Territory—Central, Bingham, Brighton Plantation, New Portland, Embden, Anson, Starks and Mercer;

Council District No. 2 consisting of the municipalities of Madison, Solon, Athens, Hartland, Harmony, Ripley and Cambridge;

Council District No. 3 consisting of the municipalities of Norridgewock, Smithfield and Fairfield;

Council District No. 4 consisting of the municipalities of Cornville and Skowhegan;

Council District No. 5 consisting of the municipalities of Canaan, Pittsfield, Detroit, Palmyra and St. Albans.

14. Waldo County

Council District No. 1 consisting of the municipalities of Burnham, Troy, Unity, Freedom, Palermo and Liberty;

Council District No. 2 consisting of the municipalities of Thorndike, Knox, Brooks, Jackson, Monroe and Winterport;

Council District No. 3 consisting of the municipalities of Frankfort, Swanville, Searsport, Prospect and Stockton Springs;

Council District No. 4 consisting of the municipality of Belfast;

Council District No. 5 consisting of the municipalities of Waldo, Morrill, Montville, Searsmont, Belmont, Lincolnville, Northport and Islesboro.

15. Washington County

Council District No. 1 consisting of the municipalities and unorganized territories of Danforth, Unorganized Territory—North, Vanceboro, Codyville Plantation, Waite, Talmadge, Grand Lake Stream Plantation, Plantation No. 21, Princeton, Baileyville, Baring, Alexander, Crawford, Wesley and Beddington;

Council District No. 2 consisting of the municipalities and unorganized territory of Calais, Robbinston, Perry, Charlotte, Meddybemps, Cooper, Plantation No. 14 and Dennysville;

Council District No. 3 consisting of the municipalities of Deblois, Cherryfield, Steuben, Milbridge, Harrington, Addison, Jonesport and Beals;

Council District No. 4 consisting of the municipalities of Columbia, Columbia Falls, Northfield, Centerville, Jonesboro, Roque Bluffs, Whitneyville, Marshfield, East Machias, Machias and Machiasport;

Council District No. 5 consisting of the municipalities and unorganized territory of Whiting, Cutler, Unorganized Territory, Lubec, Pembroke and Eastport.

16. York County

Council District No. 1 consisting of the municipalities of Parsonsfield, Cornish, Limington, Limerick, Newfield, Acton, Shapleigh, Waterboro, Lyman, Alfred, Lebanon, North Berwick, Berwick, South Berwick and Eliot;

Council District No. 2 consisting of the municipalities of Hollis, Buxton, Dayton, Saco and Old Orchard Beach;

Council District No. 3 consisting of the municipalities of Biddeford and Kennebunkport;

Council District No. 4 consisting of the municipalities of Sanford, Kennebunk and Arundel;

Council District No. 5 consisting of the municipalities of Wells, York and Kittery.

Each member of a county finance board shall be a resident in the district he represents, and shall be elected by the voters of that district.

#### STATEMENT OF FACT

The purpose of this bill is to give the power to approve budgets to a county finance board, a representative board elected by the voters of the county.

APPENDIX G

FIRST SPECIAL SESSION

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 2251

H. P. 2092

House of Representatives, February 25, 1976

Reported by Mr. Dam from Committee on Local and County Government pursuant to H. P. 1670 and printed under Joint Rules No. 3.

EDWIN H. PERT, Clerk

Filed under Joint Rule 3, Pursuant to H. P. 1670.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SIX

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AN ACT To Enable Counties to Hire County Administrators.

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

Sec. 1. 30 MRSA § 61, as enacted by P. L. 1975, c. 494, is repealed.

Sec. 2. 30 MRSA § 201, as repealed and replaced by P. L. 1975, c. 254, § 5, is amended by adding at the end the following new sentence:

In counties having a county administrator, the administrator shall also perform the duties of the clerk of the county, and the commissioners shall not appoint a clerk.

Sec. 3. 30 MRSA § 202 is enacted to read:

§ 202. County Administrator

The county commissioners of all counties are authorized and empowered to appropriate funds for the hiring of a county administrator. The county administrator shall be chosen by the board of county commissioners solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, the duties of office as set forth in the policies established by the board of county commissioners and by law. At the time of his appointment, he need not be a resident of the county, but during his tenure of office he may reside outside the county only with the approval of the board of county commissioners. A county administrator may not hold any other elective or appointed county office, except as provided in this section.

The county administrator shall hold office for an indefinite term unless otherwise specified by contract. The county commissioners shall determine the compensation of the county administrator. The county administrator may be removed or suspended for cause by the county commissioners in accordance with the procedure for removing or suspending a town manager under section 2313. In the absence or during the disability of the county administrator, the county commissioners may appoint an official of the county to perform the duties of the administrator.

The county administrator shall be the chief administrative official of the county and shall be responsible for the administration of all departments and offices over which the county commissioners have control. He shall act as the clerk of the county. He shall act as purchasing agent for all departments and offices of the county, provided that the county commissioners may require that all purchases greater than a designated amount shall be submitted to sealed bid. He shall attend all meetings of the county commissioners, except when his removal or suspension is being considered. He shall keep the county commissioners and the legislative delegation of the county informed as to financial condition of the county and shall collect all data necessary for the preparation of the budget.

If the county commissioners hire a full-time county administrator, they shall not appoint another person as clerk of the county.

#### STATEMENT OF FACT

The purpose of this bill is to enable each county to hire a county administrator and to establish the qualifications, powers and duties of the administrator. When an administrator is appointed under this section, he will also perform the duties of the clerk of the county and no clerk shall be appointed.



FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2253

H. P. 2094

House of Representatives, February 25, 1976

Reported by Mr. Dam from the Committee on Local and County Government, pursuant to H. P. 1670 and printed under Joint Rules No. 3.

EDWIN H. PERT, Clerk

Filed under Joint Rule 3, pursuant to H. P. 1670.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SIX

AN ACT to Change County Budgets to an Annual Basis.

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

Sec. 1. 30 MRSA § 252, first 4 ¶'s, as last amended by P.L. 1971, c. 380, §§ 1, 2 and 3, are further amended to read:

In order to assess a county tax, county commissioners, prior to December 1st ~~before the convening of the Legislature in each year~~, shall prepare estimates of the sums necessary to defray the expenses which have accrued or may probably accrue for the coming year, including the building and repairing of jails, courthouses and appurtenances, with the debts owed by their counties ~~and like estimates for the succeeding year~~, and after newspaper notice, written notices of which shall be transmitted by registered or certified mail with return receipt requested to the clerk of each municipality in said county and to each member of the Legislature of said county, hold a public hearing thereon in the county, prior to December 20th ~~and the county tax for both said years shall be granted by the Legislature separately at the same session.~~

Such estimates shall be drawn so as to authorize the appropriations to be made to each department or agency of the county government for ~~each~~ the year ~~of the biennium~~. Such estimates shall provide specific amounts for personal services, contractual services, commodities, debt service and capital expenditures. Said estimates shall be made on such forms and in such manner as shall be approved by the State Department of Audit. A copy of such estimate shall be distributed to each municipality in said county and to each member of the legislative delegation of said county, at least 10 days prior to meeting of December 20th.

Copies of such forms shall be transmitted to the county commissioners of each county by the office of the Secretary of State no later than October 10th of each ~~biennium~~ year.

Prior to the convening of the Legislature, the county commissioners of each county shall meet with the respective county legislative delegation to finalize estimates for each the year of the ~~biennium~~.

Sec. 2. 30 MRSA § 253, first ¶, as last amended by P.L. 1971, c. 380, § 4, is further amended to read:

~~Said~~ Such estimates shall be recorded by their clerk in a book. A copy of ~~said~~ such estimates shall be transmitted by registered mail by the county commissioners to each municipality in their respective counties on or before the 20th day of December in the each year prior to convening of the Legislature. A copy thereof shall be signed by the chairman of the county commissioners and attested by their clerk, who shall transmit it to the office of the Secretary of State on or before the 20th day of each January in which the Legislature meets, together with the county reports for the 2 preceding years, to be by him laid before the Legislature.

Sec. 3. 30 MRSA § 253, 2nd ¶, as enacted by P.L. 1971, c. 386, is amended to read:

Any county which is the recipient of federal revenue sharing funds shall provide for the expenditure of such funds in accordance with the laws and procedures applicable to the expenditure of its own revenue and shall record estimates of the same as provided in this section. ~~All supplemental budgets for all county expenditures shall be submitted to the Secretary of State no later than June 1, 1973 and thereafter on the regular reporting date for estimates~~

Sec. 4. Effective date. This Act shall take effect on January 1, 1977.

#### STATEMENT OF FACT

The purpose of this Act is to change county budgets from a biennial to an annual basis. This is now possible because of the change to annual legislative sessions.

Dow, Dudley, Durgin, Dyer, Farley, Farnham, Faucher, Fenlason, Finemore, Flanagan, Gauthier, Goodwin, K.; Gould, Gray, Greenlaw, Henderson, Hinds, Hobbins, Hughes, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Joyce, Kauffman, Kelleher, Kelley, Kennedy, LaPointe, Laverty, LeBlanc, Leonard, Lewin, Lewis, Lizotte, Lovell, Lynch, MacEachern, Mackel, MacLeod, Mahany, Martin, R.; McBreairey, McKernan, McMahon, Miskavage, Mitchell, Morin, Nadeau, Najarian, Peakes, Pearson, Pelosi, Perkins, S.; Perkins, F.; Peterson, P.; Peterson, T.; Post, Raymond, Rideout, Rollins, Saunders, Shute, Silverman, Snowe, Spencer, Sprowl, Strout, Stubbs, Tarr, Teague, Theriault, Torrey, Tozier, Twitchell, Tyndale, Wagner, Walker, Wilfong, The Speaker.

**ABSENT** -- Cote, Drigotas, Goodwin, H.; Hall, Jacques, Jensen, Laffin, Littlefield, Lunt, Mulkern, Palmer, Powell, Quinn, Snow, Tierney.

**EXCUSED** -- Jalbert.

Yes, 30; No, 105; Absent, 15; Excused, 1.

The **SPEAKER**: Thirty having voted in the affirmative and one hundred and five in the negative, with fifteen being absent and one excused, the Governor's veto is sustained.

The Chair laid before the House the following matter:

Bill "An Act to Give Counties Power to Assess and Collect Their Own Taxes" (H. P. 2128) (L. D. 2275) Committee on Local and County Government reporting "Ought to pass" in New Draft under New Title: "Bill 'An Act to Allow County Budget Determination at the County Level'" (H. P. 2263) (L. D. 2335) which was tabled earlier in the day and later today assigned pending the motion of Mr. Wagner of Orono that the Bill and all accompanying papers be indefinitely postponed.

The **SPEAKER**: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: Now that you all have the bill, I would like to go over some parts of this and explain it and at the same time get this into the record so there will be no misunderstanding from anyone, no matter what you have read in the past put out by various organizations in the state, when they were speaking to L. D. 2275. The bill we have before us today is L. D. 2235. There have been changes made, not only in the title but in the substance of the bill.

This bill came as a result of the Joint Select Committee on County Government, which included the Joint Standing Committee on Local and County Government as well as the sponsors and cosponsors of the bill in the regular session, an act to really abolish county government or reform. We worked on this all summer and this is the result of our labor.

What this does, the primary intent of this bill is to allow each county to approve its own budget on its own county level. Nowhere in this bill does it expand county government in any county beyond what it is right at this minute. Every safeguard has been built into this bill that can be built in, so no county can expand beyond what they are already doing. It does set up a mechanism for a county finance board of at least five members and five districts, and the finance board members would be elected from that finance district that they reside in. It does allow changes to be made in the various counties, so if they would like to still have five districts and two members from each finance district, or three, they could do that. Or they could have more districts so that they could get a better spread of representation over their counties in the larger counties.

On Page 2, the next to last paragraph, there is a limit on any single capital expenditure of the budget that exceeds \$50,000, this has to go out to referendum vote.

Also, under transfer of funds on Page 3, now the commissioners, under the present law, two commissioners, and being a majority of the board of three, can, by written agreement, transfer funds between the line categories of the county budget. Under this bill, it would have to have the approval of the majority of the county finance board as well as that written approval of the majority of the county commissioners.

I think the thing in this bill that has really frightened a lot of people is on Page 3, when we get down into Section 5, and we use the words "authorized expenditures." Well, what this really is is no more than a laundry list that has been put into the bill and everything that appears in this list some county is doing today. We the exception on transportation, we wrote in a little more protection when it came to the airport, saying that airports could not be expanded or changed in any way unless they had already been approved by referendum in the county.

Now we get down to the real meat of the bill. On Page 4, next to the last paragraph, this I want to make very clear, the next two paragraphs are the heart of the bill as far as the limitations. The county may only raise or appropriate money for a purpose listed under Subsection 1, paragraphs B to F, if the county raised or appropriated that money, which means if that money appeared in the budget of the preceding year. So any money for any service that is not in the budget for 1976, in this budget that is floating between us now, the county cannot go into a new service, only if they go with a county referendum. This is the only way a county can take on a new service, if they have a county referendum.

Now, in number 3, it is powers granted by other statutes. This bill does not take away any power that a county has now. For instance, the County of Kennebec, in the 106th session we authorized the County of Kennebec to operate an ambulance service. Also, back in the 104th, 105th and 106th we authorized, I believe, seven counties to operate a solid waste program within the county. They would still have that right. The County of Penobscot, the only county in this state that has a county park, would still have that right to operate the county park. The County of Somerset, which operates cemeteries, would still retain their right under the existing statute to still operate their cemeteries.

It does not take away, it does not give new powers. There is a limit. It does set a very good system of controlling the budget on the county level. It allows the counties to decide just what kind of a finance board they would like to have in their county, and we realized in committee that there was no way that a committee could sit down and come up with 16 different plans to please 16 different counties. This would have to be done in each individual county. A small county, such as my county, five members might be well and good, in a larger county, such as Cumberland or York, they might want ten members of five districts or they might want ten districts with ten members. This will take the burden, and a considerable burden off the legislature. We have spent a lot of time here just approving county budgets. When it comes right down to it, and I think I can say this and I think it will reflect the feeling of a lot of people, when it comes down to the fact whether York County wants to spend \$2,000 on a social program or Somerset County wants to spend \$5,000 on senior citizens of Cumberland might want to spend \$3,000 on a hot lunch program for senior citizens, I think this is something that should be decided in their own home county instead of tying up 184 people to decide what each individual county is going to do.

This is about all the presentation I have on the bill, but again, I want to say, it does not expand or allow any expansion of county services any

more than they are right at this minute. It does not take away anything that the counties have as of this minute.

The **SPEAKER**: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: If you would look at Legislative Docket 2335 on Page 2, under Section 252, the next to the last paragraph, the last sentence, is something that you all want to take a good hard look at and it says, "All amendments and budgets shall be adopted only by a majority vote of all members of the County Finance Board and shall be discussed and adopted only after a public hearing." I served on the Towns and Counties Committee and I appreciate the endeavors that the committee has presented in this document for our consideration here today.

I am a member of this house that feels that Towns and Counties Committee is a very important committee in this legislature. I considered it to be an important committee, only after I had a chance to serve on it and see how much time and effort these individual members of this house put in on our 16 respective counties and their budgets. I think it is a necessity, because of the right of redress as members of the legislature or representing towns or representing various constituents of ours who are not satisfied as far as their local county budgets are concerned.

I think that the program that we go through now is presenting the county budgets from the County Commissioners back to the legislature and then back to the legislative process is a good one and it protects, I believe, everybody in this state, an opportunity to either be for or against issues that are in the county budget, but to limit it to a finance board, to limit it to five members and then to limit to the majority of those five members to give the approval to allow the county to set taxes, I think, is irresponsible and I do hope that you support the gentleman from Orono, Mr. Wagner, in his indefinite postponement motion. I request the yeas and nays.

The **SPEAKER**: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I am only going to speak for Aroostook County. I hope you will go along with that, I am not telling any other county what to do.

On top of Page 5, the very first thing they start off with, the County Commissioner of all counties may borrow money in anticipation of taxes. Well, that used to be 80 percent, and they have cut it out. Now I don't think any county should be allowed to borrow 100 percent because that has to be paid back in that tax year. It can't go one minute by that tax year. If they borrow 100 percent and there are 30 percent uncollected taxes, which there always are, 20 to 30 percent, how are they going to pay back 100 percent? I disagree with that 100 percent. It should be left at 80 percent.

I have been on the budget for Aroostook County, six different budgets I have worked on, and I mean I have worked on them. I think our Speaker and many more have too. Only once have we ever had any holdup on our budget. Just once in six budgets, that would be 12 years. Other times our budget have gone and it has been changed in the County Government, they have done it on their own because it was never asked for by the delegation from Aroostook County.

As you go along down in this bill, I find they have made no special time for elections. They can't say when -- and this bill doesn't say when they are going to be elected, it says they will be elected for term of two years in the same manner as town officials, but it doesn't say on what date, it doesn't say whether it is going to be the general election or otherwise. They got their nomination papers, it is quite a thing to do that.

It also says that if a person dies or is removed from office or leaves the district, why there will be an appointment made by the Governor for January. So, therefore, everyone of these is going to take effect in January, which doesn't coincide with anything that goes along in here.

The meetings of legislature doesn't cost anything for these boards, it isn't any additional cost. I think maybe some counties have trouble this year but I don't think there is any need of having quite so many.

Now you will set it up in these district in Aroostook County at 19,000 per district. Now in the district when you come to the town of Bridgewater, that I am in, would also include Houlton, and 27 more towns and plantations. I tell you ladies and gentlemen, this covers quite a district. It would always be Houlton that would have that member because they would control the vote.

I noticed in district one, Fort Kent, would control the vote, they could have that position as long as they wanted it. When they got down to district two it would be a loss up between Van Buren and Limestone to see who had it. When you come down to district 4 there would be no question, it would be Presque Isle, because those towns would hold 10,000 votes out of 19. I think this is a little too much to ask. I think the bill, as you look through it, even in some other counties, of course I said, I wasn't going in some other county, as you look through it I think it would be ridiculous to pass this bill today. It says effective date, this act will take effect 90 days after adjournment of the legislature only for the purpose of electing members of the County Finance Boards. It shall become effective in all these parts on January 1st in 1977. It doesn't say when these first members are going to be elected or how they are going to be elected other than as selectmen, which the town meeting has already gone by. At which time those elected to the board shall take office provided that the dates for action by the County Commissioners and County Finance Board preparing the 1977 estimates, and approving the 1977 county budget shall be 90 days later than the date set on such action in Section 3. Then it goes on, under fiscal notes, to say that this act will approximately save \$250,000. Well, that is not true, that is a very exaggerated statement.

I noticed that last summer, in studying this bill, and some others, not this alone, I don't suppose, I noticed that the County and Local Government Committee spent \$9,320.11. It seems as though we have paid well for this today although I do know and understand that only four went to these different counties to which I admire them for that. I don't think the whole committee should go. This cost of election is going to be a lot of money, there is going to be a lot of printing and if it isn't at the general election, if it happens to choose something besides the general election, it would be a lot more money because in each town, it costs about \$200 to \$230 for the smaller towns, the very smallest towns it costs them for an election, like a general election.

I think this bill, in my opinion, for Aroostook County. I am not speaking for the whole county, they can speak for themselves but for me, I couldn't vote for this bill. I hope you go along with the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House. I would like to make a few comments with respect to the comments from the gentleman from Bridgewater. There is a House Amendment, by the way, detailing the time of the election. There was a drafting error in the final version of this bill and you will notice it has now been distributed and you could at least refer to it and see if that solves the problem. Ultimately it is H149, House Amend-

ment "A". In effect, the intention was and the effect of this amendment is, to make the election at the time of the general election in November, every two years. So, there wouldn't be any additional expense other than maybe a few more spaces on a long piece of paper. There wouldn't be no additional expense. This would be a non-partisan election so there is no need to go through the April 1st filing and primary business and all that. The districts are subject to amendment by this house and by members of the counties, if they feel they ought to be more representative. Aroostook County now, as I understand it, has three county commissioner districts and those are much larger than the five finance boards districts. If the Aroostook County people felt they would like to have ten finance districts, that is fine too, it would reduce the number.

I think I would like to make some comments concerning the general principle involved in this bill and other bills that resulted from this \$9,000.11 study or whatever it was. One general principle is this: there were people who were stand patiers who would keep county government just as it is, types. There were people who were on the other side of the fence completely which was, get rid of County Government completely. I think even on the study committee there were people on both sides on this extreme to begin with.

As we went around to the counties, in subcommittees, we came to the conclusion that neither one of those extreme positions were something that was best to the people of Maine, and that County Government could potentially provide some good services to the people of this state but not as it is right now. If we tried to maintain County Government just as it is right now, it is going to get further, and further, and further out of date so the time will come in the not too distant future when it will be eliminated completely and there won't be that possibility between the state and the local government.

This is one attempt to bring responsibility back to the local county level and to get it out of the politics of the legislature. It provides for locally elected citizens to be a Finance Board over their county budget. It does not provide one with additional responsibility of what counties can do except it does say that, if the voters of a county decided they do want their county to do something in addition to what it now can do, for instance, possibly, solid waste disposal, a transportation district, whatever they think they can do better than a single community can do, then those voters can, by referendum, give that authority to the county.

There has been some suggestion that councils of government would be a nice alternative to expanding or enhancing the institution of county government and maybe it would be. The fact is, that is a voluntary confederation of communities which exists in one part of this state and hasn't really come into existence in many other parts of this state. Apparently, municipalities have not been willing to get together to solve some of these common problems. In fact, because they haven't, many of the responsibilities have been eroding away from those municipalities and they have not been going to the counties because people feel they aren't capable of dealing with them, they have been going to the state. There have been a lot of suggestions that the welfare system, the general assistance, ought to be taken over by the state, that a lot of environmental regulations ought to be taken over by the state, that taxation ought to be taken over by the state, many of these things are happening. Maybe not all of those that I mentioned, but many of these things are happening because there is no viable alternative. The general attempt of this committee and its various reports is to try to put some political responsibility and administrative capability into the county govern-

ments so that they won't just die off completely as irresponsible pieces of paper but they will be able to do something constructive.

I hope you will seriously consider this and other reports of the study committee.

The SPEAKER: The Chair recognizes the gentleman from Madison, Mrs. Berry.

Mrs. BERRY: Mr. Speaker, Ladies and Gentlemen of the House. I would like to correct something that Representative Finemore said and I think he knows what I am going to say. He quoted that this committee spent over \$9,000 doing this survey and this is not so, that amount of money was between two committees. The Regular or the Joint Standing Committee of Local and County Government had three or four other studies in which we were involved in. That was one committee and then this split committee of which prepared this bill and had hearings over the state, was another committee. I would also like to say that I attended four of the hearings and of those four hearings, there was just three legislators present who were not members of the committee. Every legislator in the state had notice of these hearings.

Also, Mr. Finemore was complaining about the districting of Aroostook County. I think that the Clerk has announced that the delegations could meet with the chairman of our committee and also I think they have had two letters in which if they weren't satisfied with the districting that they could change it if they would like. In traveling the state and hearings, those hearings that I attended, except one, which was in Cumberland and that was the first snow storm that we had, we had a good turnout and involved not just county commissioners but involved citizens in the county. Some people are saying these are just the views of the county commissioners and as far as I am concerned, this isn't so. We have had a lot of citizen participation in these hearings and this seemed to be the thing that they mostly were concerned about was the budget coming to Augusta and being cut and slashed and this type of thing. They thought they were perfectly capable in their own counties to make up the budget and approve of it and know more of what was going on than we did here in Augusta.

I would like to have you think of this a while and look over the districting. If you are not satisfied with it, this can be changed. I would ask that you would consider voting to let this committee report go by so that we can study it further.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will go along with the motion for indefinite postponement which Representative Wagner made. I, personally, like the original title of the bill better than the redraft. The original title was "An Act to Give Counties Power to Assess and Collect their own Taxes" and that is basically what this bill does. No one that I know in Kennebec County completely is satisfied with method of setting the county tax rate. Basically, we, in the legislature, perform this duty. We set the tax rate, but of course, we won't under the new bill. Title 30, Section 252 would be completely repealed and rewritten.

At least some of the county legislative delegations exercised a true line item veto in tearing down county budgets this year. This was, of course frustrating to the elected county commissioners who felt we were completely redrawing their budgets without the benefit of all the public hearings to which they have been a party. We were kind of relocating the commissioners to county administrators just as this bill would in effect do. The county commissioners would now become three county administrators, basically, in each county, the way I look at the bill.

So, almost everyone is looking for a better

system and I appreciate the hard work of the committees which worked on this bill. I know they were searching for a better answer but I don't think this bill provides a better mechanism. It just provides another taxing level in addition to the municipal, the state and the federal level. This bill would grant to the newly established five member County Finance Board the legislatures current authority to set county tax rates. So, regardless of what I personally think of the value of county government, I believe that changes as far reaching as those contained in this bill, which change county government to this extent should be sent to the voters for consideration if people are indeed interested in a measure of this kind.

I hope that you do go along with indefinite postponement instead.

I certainly would question the fiscal note. It says that approximately \$250,000 would be saved and I really would question that. I mean here we are talking about five county board members and each county receiving a good \$250 per year and that would add up alone, I can't imagine that our savings would be all that great.

Most importantly, I question the Statement of Fact. It says that this act would not expand the present authority of counties to undertake new functions and personally, if setting a tax rate isn't a new function, I don't know what is.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Talbot.

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: I also have some problems with the bill but I would like to expand on the gentleman from Waterville, Mrs. Kany, on the fiscal note. This is a question that I was going to ask the chairman of the Local and County Government Committee and I see he isn't in his chair, so maybe somebody from the committee itself can answer the question, and that is the savings of the \$250,000. First of all, I don't know where that figure came from. I took that figure and broke it down to 16 counties which leaves each county with approximately a little over \$1,500. Now, if Cumberland County is to save about \$1,500 and they are going to set up a 15 man or 15 member board at \$25 a day — no 15, or page seven it says Cumberland County 15 board members to be elected at large from each of the following districts, that means Cumberland County would set up a 15 member board at \$25 a day which would come to approximately \$375. Now, on Page 5 it states that they will meet no more than ten times a year. If you figure that up by ten times it comes to a little over \$3,750. I don't see where we saving a nickel. I wonder if the chairman of that committee can answer that question?

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House. I think it is quite evident that when we are referring on any bill to a fiscal note we are talking about state money, what we are going to save the general fund. There are bills go through here that will cost the various communities money that has gone through since the beginning of the legislature but I have yet to see on any bill going through here that will cost the various communities money that has gone through since the beginning of the legislature but I have yet to see on any bill going through anything saying it is going to cost the communities any money. I am speaking about mandated programs. So, this has got nothing to do with the municipal level, this is state money.

Now, I think my good friend, Mr. Talbot mentioned something about \$1,500 in Cumberland County, but if my memory serves me right, there are 16 counties in this state, and if you saved roughly \$250,000 of state money, this would be roughly \$21,000 per county, based on 16

counties. Now, how did we arrive at that figure? We arrived at that figure by the time it took in the regular session to get the budgets out in the 107th, the time it took in the 106th and the 105th, the 104th, the 103rd and down the line and figuring at \$20,000 a day, which is the figure that is always tossed out, what it costs to operate the legislature, this is how we arrived at the money.

While I am on my feet, I would like to say this, that you said you agreed with the good lady from Waterville, Mrs. Kany, on many of her thoughts. Well, I would like to say this, that Mrs. Kany did not even appear at the budget hearing in Kennebec County when the budget was presented, she was away on vacation.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: There is some confusion on who much it would cost. One gentleman says \$1,500 which I know he made a mistake, and I know he sees it now beyond a doubt, but the other gentleman, Mr. Dam, has stated it was \$25,000 to \$30,000, it is only \$15,620 for each county. I am not going to squabble over figures but that is what it figures out.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mr. DeVane.

Mr. DEVANE: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Henderson of Bangor is indeed right, I think, when he says that Maine counties should be responsible political units or significant political units or something to that respect. I don't think that this legislative document, if it is approved and becomes law, will do that. I think rather the five member or whatever member finance board will make every significant decision on every significant judgment and then if the commissioners will become a useless appendage and then eventually nobody will want to run for commissioner. Then somebody will be talking about will, let's do away with the commissioners and just have the five finance people, not only set the budget but administer it because the commissioners aren't showing up. It seems to me unfortunate that the powers and the duties that we have given to the county finance board was not given directly to the county commissioners. The county finance board shall have the power and the duty to review, amend, and approve an annual county budget. I am wondering too with some of the sponsors and promoters this bill has, why it doesn't say an annual county line item budget. I would have thought it would. But, at any rate, and to set the salaries of the county commissioners, county treasurer, deputy sheriff, registra of deeds, judge of probate, so forth, provided such salaries are not less than the amount set forth. Every significant judgment comes from money, what can be done? If a five member district finance board makes these decisions the commissioners, in fact, will have no significant decisions to make.

Now, as a citizen of the state, I would prefer to see these powers given not a finance board, but directly to the commissioners. But that then raises a very interesting question, I think a constitutional one. If you look at this bill, in the taxing powers, you will see that without reading them, you will see that the bill numerates, I think, every area under which a county does now spend money, providing for the operation of county government, the administration, if you will, establishing a contributory pension system, providing for the operation of departments of county government, including police and fire, insuring officials and employees and volunteers, obtaining services of county advisory board, public works, providing for buildings, parks, parking places, water, sewerage facilities, bridges, providing for public solid waste disposal areas, providing for cemeteries and on down through Item F and

there are two limitations, but it ends up by saying, performing any of the duties required of it by law, providing also for any operation authorized by law which by their nature require the expenditure of money. That is as broad a taxing power as you can give.

I would point out to you that Article 9, Section 9, of the Maine State Constitution says, I think rather unequivocally and straight forward, the legislature shall never, in any manner suspend or surrender the power of taxation. If that ladies and gentlemen, doesn't give the power to taxation to the counties, I don't know what does.

Once again, I am not opposed to it, but I think if you approach this, then the thing to do is to change the constitution so we can then surrender the power of taxation to the county to which I am not opposed. As far as I am concerned, the commissioners should stand responsible for their own budget and for the administration of them. I think it is unfortunate that county budgets come here because then the commissioners, with whom the public is dissatisfied, suggests that their powerless as against the legislature, which simply, I think, is not the case. I think there is buck passing, and there shouldn't be. The way it should be handled is the counties, I think, should raise their own monies, spend them, raise the taxes and to be responsible. I do not think by statute that we can ignore Section 9, Article 9 of the State Constitution, the legislature shall never in any manner suspend or surrender the power of taxation.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Bachrach.

Mrs. BACHRACH: Mr. Speaker, Ladies and Gentlemen of the House: To address the last point first, the committee did, in fact, get into the question of whether they could or could not delegate the power of taxation to the counties, and found that under the same circumstances in which they can delegate to the municipalities, they can also delegate to counties. That is not surrendering the power, that is delegation of the power which by statute can be revoked in the same way that we delegate it.

The chief complaint that we all heard as we went around the counties was this business of communication between the legislature and the county. I was under the impression as Mr. DeVane was, I see he doesn't want to hear, that, in fact, it might be better to have a single body, namely a large number of county commissioners who would, in fact, undertake the entire responsibility in order to avoid the potential buck passing which you can have when certain people are doing something and other people are voting on it.

However, there was the question whether the county commissioners should decide how the money should be spent without any oversight. In view of the fact that the municipalities are the ones that raise the money, through their tax on local property taxes, that raise the money that is to go into county budget it seemed as if representation from the local municipalities, by way of course, of not one person from each one, since this is impractical, but by way of regional representatives, would provide the type of oversight that would make everybody feel happier that someone weren't deciding and expending the funds at the same time.

I would be happy to go the other way actually and have a large number of county commissioners because I do think three is too small to be both a policy making and a financial body, but I would be satisfied to have a larger number of county commissioners to the whole job. I do feel that it is a real bone of contention between the counties and the legislature that the counties decide on what services they need, present the budgets to the legislators and usually, in very short order, the legislators make their decisions, probably under pressure of other

meetings, and say yes, no or maybe without giving it sufficient thought. The assumption was that the finance committee would spend a great deal more time on it. I feel very sorry that the legislators here present who object to this bill, perfectly allowably but they do object to it, didn't appear at the meetings which we held all over the state for the very purpose of hearing on the local level how the people felt about this. We did have some legislators come and they did express their feelings and this was very helpful. We did have many county officials come and express their feelings. My chief regret was we had almost no citizens come and express their feelings on the questions because it does effect them too. The ones that did attend were more than helpful, they had obviously given much thought to the question of county government. We felt that since the towns paid the bills for county government of course, as an assessment on their citizens but essentially it is part of the town budget, that local representatives of the towns might really be more concerned with what went on with the county budget than state representatives.

Lately, it was thought that many things in this state can better be performed by a collection of communities getting together for services particularly small communities, that county government, after all, was in a position to deliver, inter-local or inter-community services better than any other form of government available to us and that an improved form of county government would be the answer to many of our problems. I was sorry that we didn't have more time to address the entire structure of county government in more detail because I feel that this is only part of the problem that the, for instance, the power inter-relationship between the sheriff's department and the commissioners and the probate court and so forth should be addressed and, in the next year, our study will continue until the 108th Legislature, and the next year, I hope we will continue on with the study and address these problems more precisely. I do feel that this approach does offer a way of getting real responsibility in regard to county budgets and I would like it if you would give it a try because there has been real dissatisfaction with county government.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I support the motion to indefinitely postpone and I am glad that I can go along with the lady sitting in front of me, she has left right now, but it is seldom that I can. I can't imagine where the delegation that went around, who they talked to in Penobscot County. I can't find one person in my whole district that would support this piece of legislation, so I feel obligated to indefinitely postpone it and that is what I want to do and I want you to know it.

The SPEAKER: The Chair recognizes the gentleman from Buxton, Mr. Berry.

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I am not particularly fond of coming down here and wrestling with county budgets, but as an elected legislator, I suppose that is part of the duties that I have to assume and will do that.

I am not happy with the section of this bill that creates a county finance board and I perhaps would like to raise a situation for you to think about. It occurs to me, and this could happen in some counties, one in particular that I know of, whereby five ex-deputy sheriffs could run for a finance board, be supported by a kind of built-in campaign organization, if you want to call it that, get elected, turn around and raise the sheriffs' pay to double what it is now. I don't think that that is a very good policy. If that is not true, I wish somebody would correct me on that.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: In answer to my good friend from Buxton, Mr. Berry, the answer to his statement would have to be, to be thoroughly honest, in the affirmative. But by the same token, the answer would also be in the affirmative that we could form economy blocks right here, we can form blocks of one type or another right in this House. It has been done. Some of us have probably been part of it, some of us have organized them. These things can happen.

But one thing that impresses me about this bill is that I have seen more hassling, I have been part of more hassling in the legislature wherein it concerns county government to a point where rather than argue and rather than hassle, I actually refused to go to the meetings of county government, which is not good. I don't think that is doing your job.

I look at the makeup of my own county and it delights me because it gives the towns and the cities the power that they deserve. I have always been very strong in partisan politics as far as Androscoggin County is concerned, because I think that in certain areas, county government is very useful to smaller communities.

I think this bill, like anything else, could be improved upon. Certainly I think we ought to give it a try. It can be amended, it can even be repeated, but I think it is a step in the right direction and I think probably if we did give the thing a whirl, if it didn't work out, we can always amend or repeal.

I would hope that you would go along with this measure.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Snowe.

Mrs. SNOWE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to read to you a letter from the Attorney General's Office which, in effect, answers the question of the gentleman from Ellsworth, Mr. DeVane. I think it is a particularly important question and I think this letter should be on record. The questions were raised by the committee and the co-chairman of the Committee on County Government.

"Your letter of February 10, 1976 poses the question: May the legislature delegate the power to make final approval of county budgets to an elected representative board in each county, if the delegation includes specific revenue raising and expending powers, without a constitutional amendment?"

"We have reviewed the Maine Constitution, and it is the conclusion of this office that no constitutional amendment would be required as a prerequisite to adoption of such legislation."

"The section of the Maine Constitution of most particular concern is Article IX, Section 9, which reads: The legislature shall never, in any manner suspend or surrender the power of taxation. No suspension or surrender of the power of taxation occurs as a result of the change in approval of county budgets from county legislators to county finance committees. The method of budget approval is still subject to control of the legislature."

"As with delegation of budgeting and taxing powers to municipalities, delegation of such power to counties pursuant to legislative enactment remains, in legal contemplation, an Act of the State. *Frankfort V. Lumber Co.*, 128 Me. 1 (1929). In concept no constitutional problem arises from such delegation. In fact, it is similar to delegations which have already been granted to municipalities and school administrative districts."

"Your letter also enclosed proposed legislation to implement the concept addressed in your letter. The effect of the legislation, and par-

ticularly Section 3 thereof, would be to authorize counties to raise or appropriate money for a wide range of generally described governmental purposes."

"The ultimate responsibility to pay for such services, except where funded by federal or state grants, would continue to rest with the municipalities. However, the County Finance Board would effectively establish a tax through the level of program costs it approved."

"In delegating legislative authority, the legislative body must spell out its policies in sufficient detail to furnish a guide which will enable those to whom the law is to be applied to reasonably determine their rights thereunder, and so that the determination of those rights will not be left to the purely arbitrary discretion of the administration. Delegation authority must be particularly clear and specific in tax cases."

"Your proposed bill, and particularly Section 3, should be closely examined to assure that the legislative direction as to finance board appropriation and thus, effectively, taxing authority, is sufficiently specific both as to substance and procedures to avoid any question of inadequate delegation to authority."

I would also like to mention this morning, it was said that the meetings were poorly attended. However, the meetings I did attend, we broke down to sub-committees, I thought they were pretty well attended. If they were not well attended, I don't understand why, because they were well publicized, people had the opportunity to attend these public hearings, we wanted input from citizenry and this was the chance to change our county government structure. This is the attempt that we had hoped to do. I would have preferred waiting until the next session, however, most of the committee members felt that we should do something this session.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Nadeau.

Mr. UDEAU: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to someone on the committee. I noticed that the number of board members in each county are different and unless I didn't hear it earlier, how was the number like for Cumberland County and Oxford different from other counties?

The SPEAKER: The gentleman from Sanford, Mr. Nadeau, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, the original proposal was to have five districts, one member from each district. Then other delegations, county delegations, suggested that it would be more appropriate to have a larger number in their counties. It was twice announced in this House that any county delegation or county members who wished to suggest a different number might do so and that is the reason for the differences — a response, in effect, to the different county delegations.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Wagner.

Mr. WAGNER: Mr. Speaker, Ladies and Gentlemen of the House: I had not intended to speak again on this but a couple of things came up that I wanted to mention.

I think the gentlelady from Auburn, Mrs. Snowe, for her careful address of the constitutional question, and as far as I am concerned, that issue is put to rest. However, my quarrel with this bill, is not a constitutional quarrel, it is more a practical reservation.

The previous speakers have addressed the question of the role of the county commissioners, if this bill were to be passed, and I think that is a very important concern.

I appreciated the remarks of the gentleman on my left from Bangor, Mr. Henderson.



relating to the construction in the constitution of county government, particularly because he is, as far as I know, the only resident, card-carrying, political scientist in the House and therefore understands structures of government.

I would think, then that he of all people, might be concerned with the direction that the county finance board might go, a five person board. The Local and County government Committee considered alternatives, I guess, but for one reason or another they were not considered practical, such as an expanded board of county commissioner numbers. Apparently, from what Mrs. Bachrach said, they looked at a panel constituted from municipal officers, and I think this is a good approach. I think if you feel that the present traditional method that has been in force for 156 years in this state is inadequate, as many people do, all of these alternatives should be considered.

I have one fear, that this county finance board would feel that they had to take on administrative roles and could serve as a vehicle to expand into a county legislature. I am familiar with one county, a rural county in Western New York of something of a nearly 100,000 people, which established county charter a few years ago and now has some 30 county legislators serving on part-time positions of \$5,000 each, which means \$150,000. One county can administer various services. If you were to expand this in the State of Maine, that would mean a hundred thousand times 16 counties, this is a considerable cost over the government — that is one concern.

Just two or three other brief comments on the bill itself. I think the districts themselves are somewhat unnatural. In the case of Penobscot County in my district, it is split into two county finance board districts. The town of Orono, which I happen to live in is grouped with Old Town and many, many small municipalities, such as Passadumkeag, Edinburg, LaGrange, Alton, unorganized territories, Argyle, Greenbush, Grand Falls Plantation, Greenfield, Milford and I think, as a practical matter, it would be very easy for towns of either Orono or Old Town to dominate these small rural towns and I don't think it would be fair to them to have the possibility of spendthrift, liberal representatives on the finance board representing them and dominating them on that board.

One other measure that concern me is, the bill calls for ten meetings a limit of ten meetings for the County Finance Board, and I wonder what would happen if more than ten were necessary. What would happen, would the budget not be approved or considered?

Lastly, the mechanism of the election concerns me a little bit. I may not understand what they mean by these officers being elected and the manner of municipal officers because in Penobscot County and I think in all counties you have cities, towns and selectmen-type of governments and I am not sure how this would happen. I am not sure when the election would be held. It doesn't specify whether it be held in March, October, November, at what time. I guess I would conclude by suggesting that April 1 would be an appropriate day, we could have the election on April Fool's Day.

Mr. MacEachern of Lincoln moved the previous question.

The SPEAKER: For the Chair to entertain a motion for the previous question, it must have the expressed desire of one third of the members present and voting. All those in favor of the Chair entertaining the motion for the previous question will vote yes; those opposed will no.

A vote of the House was taken, and more than one third of the members present having expressed a desire for the previous question, the motion for the previous question was entertained.

The SPEAKER: The question now before the House is, shall the main question be put now? This question is debatable with a time limit of five minutes by any one member. Is it the pleasure of the House that the main question be put now?

Teh Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I object to moving the question. I think when I first came down here as a freshmen eight years ago, I used this mechanism, but after awhile, you learn that you don't use it, you let everybody speak.

I think there are others that want to speak on this. I think it is an important bill. It is one of the most important that we will have come in before us this session or any session. There has been money spent for a study, subcommittees have traveled across the State of Maine using the taxpayer's money, people have turned out for the hearings and I think that the people that have participated in this, there are others that might want to be heard and there are still others that might want to object. I don't think it is right on something as important as this or right on any question to move the question and cut off debate from those that want to be heard.

They have been elected by their people in their various communities to come down here and represent the people and whether they are for a bill or they are against it, if they want to be heard I think they have that right to be heard. I object to moving the question.

The SPEAKER: The pending question is, shall the main question be put now. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. MacEachern of Lincoln requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is shall the main question be put now? All in favor of the main question being put now will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bennett, Birt, Blodgett, Boudreau, Byers, Call Carey, Connolly, Curan, P., Curtis, Davies, Dow, Dudley, Durgin, Dyer, Farnham, Fenlason, Finemore, Fraser, Goodwin, H., Hewes, Higgins, Hinds, Hobbins, Jackson, Jalbert, Jensen, Joyce, Kauffman, LaPointe, Laverty, Lewin, Lewis, Lizotte, MacEachern, Mackel, McMahon, Mills, Pelosi, Perkins, S., Rollins, Stubbs, Tozier, Twitchell, Usher.

NAY — Albert, Bachrach, Bagley, Berry, G.W., Berry, P.P., Berube, Burns, Bustlin, Carpenter, Carroll, Carter, Chonko, Churchill, Clark, Connors, Cooney, Cox, Dam, DeVane, Donk, Faucher, Flanagan, Garsoe, Goodwin, K., Gould, Gray, Greenlaw, Henderson, Hennessey, Hughes, Hunter, Hutchings, Immonen, Ingegneri, Kany, Kelleher, Kelley, Kennedy, LeBlanc, Lovell, MacLeod, Mahany, Martin, A., Martin, R., McBrearty, McKernan, Miskavage, Mitchell, Morin, Morton, Nadeau, Najarian, Peakes, Pearson, Perkins, T., Peterson, P., Peterson, T., Pierce, Raymond, Rideout, Rolde, Saunders, Shute, Silverman, Snowe, Spencer, Sprowl, Susl, Talbot, Tarr, Teague, Theriault, Torrey, Truman, Walker, Wilfong, Windhip.

ABSENT — Ault, Bowle, Curran, R., Drigouts, Farley, Gauthier, Hall, Jacques, Lafin Leonard, Littlefield, Lunt, Lynch, Maxwell, Mulkern, Norris, Palmer, Post, Powell, Quinn,

Smith, Snow, Strout, Tierney, Tyndale, Wagner, Webber.

Yes, 45; No, 77; Absent, 28.

The SPEAKER: Forty-five having voted in the affirmative and seventy-seven in the negative, with twenty-eight being absent, the main question is not ordered.

The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Orono, Mr. Wagner, mentioned April 1 or April Fool's Day. I guess he said April 1 is April 1, and he also mentions the fact that what would happen if you would need more than ten meetings? The fact of the matter is, you can have a meeting and then recess that meeting, and you can recess that meeting and you can hold one meeting for four or five months if you want to under the recess rule it is still called one meeting. So that problem could be taken care of.

I look at the makeup of all of the boards of all the counties, particularly my own. In this area here, the way we operate now, the County Government Committee usually takes the majority of the members of each county as the unwritten rule as to how they would go. To control a county within this body in my opinion would be comparatively easier, if it were to be attempted, it would be comparatively easier than to try to control, using my county, five members from the municipality of Auburn and the members from each of the districts in my area and also all of the one representing each of the towns within the county. I just feel it would give some responsibility to the people who are named.

I think it is hard to get people to go to meeting today, but if you give them the official title, if they seek an official title, I think they are duty bound to go to these meetings and they would.

I think the thought might be good to — and this is not in my original thinking — it might be an idea to accept this thing now and it would give us time to discuss it among ourselves or even at the county meetings if need be. I really think that we ought to do that.

I think we are faced here with a very important situation. The hour is getting late. I voted for the previous question because I figured that if the people wanted to have the previous question, so be it. I think probably at times the previous question ought to be made. I really and truly think we ought to go along and accept this thing here and discuss it among ourselves, or within our county groups if we want to, then we have got more than one shot at this thing. I am only suggesting.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I think that this is a good bill, it is not a perfect bill, but it is a good bill, and it is a good attempt to get at a problem that has been nagging, at least the people in my district, for quite some time.

Let me give you a for instance. As a member of the city council for the last six years in Old Town, we have enumerable times asked the county commissioners of Penobscot County when they are going to have a hearing on their budget. Usually the answer would come back to us in the form of, we have decided to raise this much money and you can tentatively set your budget at such and such a figure. Well, with that kind of an answer and that kind of consideration, we become very frustrated. But, nevertheless, we set our goal or raising taxes in Old Town for the county budget at a certain figure and then inevitably, after we have passed the budget in the city, we get another notice from the county commissioners of Penobscot County that we made a mistake, that your taxes are going to be higher, so we had to dip into surplus or contingency funds or some thing or

another in order to come up with the taxes.

If there is one thing that every member of on the city council in Old Town have told me time and time again, try to get some local control back on the county budget because we are not getting any answers from the three county commissioners in Bangor.

I would urge you to support the bill. There are some parts of it that perhaps need to be amended. As a matter of fact, they left off part of my district that was the Indian Reservation, but that will be taken care of in second reader.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Hughes.

Mr. HUGHES: Mr. Speaker, Ladies and Gentlemen of the House: I didn't want to speak on this but nobody has said what my major objection is. Maybe I am alone on it, but it seems to me that this bill will lead to irresponsibility for this reason. It gives the county board the authority to set taxes but it still requires that those taxes be collected through the towns and cities of this state, thereby bearing the burden of that tax decision made by the finance board in the bills of towns and cities and putting the burden on the officials of towns and cities to take the citizen reaction. It is that irresponsibility, that dichotomy, I would favor the thing in theory if, for one reason, there were no finance board but simply an enlarged board of county commissioners and, two, if somehow they had to collect their own taxes. But as long as they are going to piggy-back on the towns and cities, then I couldn't buy this concept.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: In response directly to that comment, right now I would say it would be even more irresponsible in that, in fact it is the legislature that is setting the tax rate that has to be collected through the municipalities.

In addition, I would agree with the gentleman from Auburn and the gentleman from Ellsworth, that personally I would prefer to have seen an enlarged county commissioners do the whole job themselves. That was one point that was considered. Another point was municipal officers being on a board and so forth, as we have mentioned, but this was the compromise that came out of the committee. I think that this is still, even though I couldn't get all that I would have preferred, or something else, this is an acceptable alternative.

There has been a question raised about the election date, and I just want to say it again, apparently people didn't hear it before, that if we do pass this and allow this to go on, there will be an amendment specifying that the election date is the general election date in November. So, I would hope that you would keep this bill alive.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Orono, Mr. Wagner, that Bill "An Act to Give Counties Power to Assess and Collect their own Taxes," House Paper 2128, L. D. 2275, and all accompanying papers be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

YEA — Albert, Bagley, Bennett, Berry, p.p., Birt, Blodgett, Boudreau, Bustin, Byers, Carey, Carroll, Carter, Chonko, Churchill, Clark, Connors, Connolly, Cooney, Cox, Curran, P., Davies, DeVane, Dudley, Durgin, Farnham, Fenlason, Finemore, Flanagan, Goodwin, H.,

Goodwin, K., Hennessey, Hewes, Hinds, Hobbins, Hughes, Hunter, Hutchings, Jensen, Joyce, Kany, Kauffman, Kelleher, LaPointe, Lavery, LeBlanc, Leonard, Lewis, Lizotte, MacEachern, MacLeod, Mahany, Martin, R., McBreairty, McMahon, Miskavage, Mitchell, Morin, Nadeau, Peakes, Pelosi, Peterson, P., Peterson, T., Pierce, Post, Raymond, Shute, Silverman, Smith, Spencer, Sprowl, Strout, Stubbs, Talbot, Teague, Twitchell, Usher, Wagner, Wilfong, Winship, The Speaker.

NAY — Bachrach, Berry, G.W., Berube, Burns, Carpenter, Curtis, Dam, Doak, Dow, Faucher, Fraser, Garsoe, Gould, Gray, Henderson, Higgins, Immonen, Ingegerl, Jackson, Jalbert, Kelley, Kennedy, Lewin, Lovell, Mackel, Martin, A., McKernan, Morton, Najarian, Pearson, Perkins, T., Rideout, Rolde, Rollins, Saunders, Snowe, Susi, Tarr, Theriault, Torrey, Tozier, Truman, Walker.

ABSENT — Ault, Bowie, Call, Cote, Curran, R., Drigotas, Dyer, Farley, Gauthier, Greenlaw, Hall, Jacques, Laffin, Littlefield, Lunt, Lynch, Maxwell, Mills, Mulkern, Norris, Palmer, Perkins, S., Powell, Quinn, Snow, Tierney, Tyndale, Webber.

Yes, 80; No, 43; Absent, 28.  
The SPEAKER: Eighty having voted in the affirmative and forty-three in the negative, with twenty-eight being absent, the motion does prevail.

Mr. Kelleher of Bangor moved the House reconsider its action whereby the Bill and all accompanying papers were indefinitely postponed.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, moves the House reconsider its action whereby this bill and all accompanying papers were indefinitely postponed. All in favor of that motion will say yes; those opposed will say no.

A viva voce vote being taken, the motion did not prevail.

Sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Revise the Laws Relating to the Maine Traffic Court" (Emergency) (H. P. 2257) (L. D. 2327) which was tabled earlier in the day and later today assigned, pending passage to be engrossed.

Mr. Bennett of Caribou offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-1160) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. McKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask what this amendment does?

The SPEAKER: The Chair recognizes the gentleman from Caribou, Mr. Bennett.

Mr. BENNETT: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the good gentleman from Bangor, the purpose of this amendment is reflected, actually, in the Statement of Fact, where it says this amendment assures that an officer is able to inspect a drivers license for authenticity. This would take care of the people and the problem of the people who refuse to hand over their licenses to a police officer. An example of this would be a person who merely shows his license through a rolled up car window and refusing to give his license to a police officer. It strikes out the word 'display' and substitutes 'hand over' for inspection.

Thereupon, House Amendment "C" was adopted.

Mr. Goodwin of South Berwick, offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1144) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry to bring this before you today, but I am even sorer that it is in this bill. If you look at the bill on Page 9, Section 39-A, what my amendment does is eliminate the section that is written in there at the end of the paragraph "or unless such person holds a valid Maine operator's license." Somehow, this got into the traffic code. I have asked members of the Judiciary Committee how and why it was put on and I haven't yet got an answer. I would appreciate it if somebody on the committee could answer that.

In the 106th, I introduced legislation to establish motorcycle drivers education training programs. We gave it a two-year extension before it went into effect to provide for the training of the people and the implementation of the program. What has happened, we have trained the people to teach the drivers ed for motorcycle courses, the dealers are ready with bikes to donate to the schools, but the schools have not implemented this. One of the problems has been a problem in implementation between the Secretary of State's office and Department of Education.

Now, what the bill requires, what the law requires as it stands right now, is the exact same thing as what is required of an automobile license. If a kid is 16 years old and he wants to get his automobile license, he has to have automobile drivers education. Then he can get his permit, take his test and get his automobile license. The way the law stands right now, if he is 16 years old and he wants to get his motorcycle license, then he has to have the motorcycle drivers ed and he takes his permit test, and then he takes his drivers test and gets his license.

Now, what this amendment would do in the traffic code is eliminate, in fact, it nullifies the need for motorcycle drivers ed. Now, if a kid is 17, there is no problem, he can get his automobile license or his motorcycle license. The problem is that some of the schools have not implemented this, so you have some 16-year-olds that can't get their motorcycle permit or their license now. That is a real problem and I recognize that and I have worked out an amendment with the Secretary of State and the Department of Education, it has been brought forth to the Judiciary Committee and put on the Errors and Inconsistency bill to push forward again for two more summers, until September 1977, the implementation of this and also would direct the department of Education, Transportation Division, or whatever it is, to work with the schools to develop these programs. I don't know how the Judiciary Committee is going to rule on this, if they are going to report it out or not, but if they don't, I plan to offer it on the floor as an amendment because it is a real problem.

Then I saw this morning, The Secretary of State called me up and said, we are sorry we didn't know this was coming on, and the same with the Department of Education, and I guess I was a little upset at it because I haven't had time to prepare all my material on drivers ed is home. This has not had a public hearing. It really doesn't deal with the traffic code and so I guess I was a little upset today when I saw this.

Just briefly, if you remember, last Friday there was an article written by George Weir in the Portland paper and I guess it went in the K.J. and the other Gannett papers, explaining the problems that we had in implementing this, the fact of the need for this and everything else. It is really hard to get into this because I don't want to spend a lot of time up here, but what I would like to say is the fact that I think there is a definite need for motorcycle drivers education, there is a definite need for this for new drivers, for young drivers and for anybody that rides a motorcycle. I think this is the way to go rather than mandatory laws like helmets and



event, new hope and a better way of life for the mentally retarded; and be it further

ORDERED, that suitable copies of this Joint Order be forwarded to the olympic officials in token of our commendation and support. (S. P. 782)

Which was Read.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: For several years now there has been the Olympic Committee for Retarded Children throughout the state, but it seems to me that there are also children participating from other states in this endeavor, and to me it is one of the most miraculous things that takes place, and it has taken place in Portland, as I say, for the last few years. For anyone who has had the opportunity to be present during these olympics for the retarded, it certainly gives you a great feeling of relief to know that these children have been able through their fine tutorship and people working with retarded children to see the progress that is being made. I certainly would extend an invitation to each and every one of you, if possible, to be in Portland on June 4 and 5 to see this great experience. I think it is certainly something that will warm everyone's heart.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: I would certainly endorse passage of this order. It has been my privilege to be on the Honorary Committee for the Special Olympics for the last four years. I have had the privilege of attending and giving out some of the awards at the Special Olympics in Portland, and it has been a tremendous experience. I have even had to promise to cheer certain members of the teams on from Pineland and from some of the other organizations where the youngsters have got to know me as I have visited so many times, and I too, along with the Senator from Cumberland, Senator Conley, would urge you to attend those Olympics. It would really be an experience you would never forget.

The PRESIDENT: Is it now the pleasure of the Senate that this order be passed?

Thereupon, the Joint Order received Passage.

The PRESIDENT: The Chair is very pleased to welcome in the rear of the chamber Roberta Yeaton and Dennis Rourke. Both are clients of the Prevocational Training Program of the Kennebec Valley Council for Retarded Citizens. Both are annual participants of Maine's Special Olympics since its inception, both participants in the 1975 International Special Olympics at Mt. Clements, Michigan, and Dennis won third place, a bronze medal, in the International Pentathlon. We are very delighted to have you young people with us this morning and wish you every success. (Applause, the members rising)

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, it is an honor to move this morning that the rules be suspended and that this order be sent forthwith to the House.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the rules be suspended and that this Joint Order be sent forthwith to the House for concurrence. Is this the pleasure of the Senate?

The motion prevailed.

Mr. Berry of Cumberland was granted unanimous consent to address the Senate:

Mr. BERRY: Mr. President and Members of the Senate: We frequently in our debates here have referred to the fiscal condition of the State of Maine and the direction in which it is going. I think that the Senate would be extremely interested in a news article, under UPI credit, entitled "Moody's Won't Hike State Rating." I would like to read it, with the indulgence of the

members, because I think they will find it extremely apropos, not only in action we have taken but I think keeping in mind the few remaining days of the session when we will be making some extremely important decisions.

"Moody's Investor Service, one of the oldest bond rating firms in the nation, has refused to raise the State of Maine's current AA credit rating, State Treasurer Rodney Scribner said Tuesday. Scribner, Governor James B. Longley, and other state government officials have been working for months in an effort to return the state to the AAA rating it enjoyed until April 1974. The Treasurer said he was notified by phone of the decision by Moody's, which completed its review of the state finances, and was told he would receive a full report on the reasons behind the decision later. I feel relieved that they didn't lower it, but I am disappointed that they didn't raise it, Scribner said.

A number of measures before the Special Session of the Legislature were designed to aid the state's credit rating, including two constitutional amendments to be submitted to the voters in November. Both Houses have already voted to place an amendment on the ballot which would reduce the guaranteed limit for bonding school buildings from \$25 million to \$10 million, and raise the funds for the Veterans Small Business Loan Board from \$2 million to \$4 million. The Senate was considering the other amendment which would prohibit the use of bonds to meet current expenses. It would also give bondholders a first lien on state revenues, meaning that in the event the state went bankrupt they would have first call on other revenues before other creditors were paid, Scribner said. If both these measures are approved by the voters, he would approach Moody for another review for the state finances."

I think this points out, Mr. President and Members of the Senate, that other eyes are on us, and that our actions are certainly called for to be of a very high nature and a very responsible nature in the concluding days of this session.

#### Committee Reports House

##### Ought to Pass — As Amended

The Committee on Appropriations and Financial Affairs on, Bill, "An Act to Make Health-Care Projects Eligible for Bonding under the Maine Municipal Securities Approval Act." (H. P. 1899) (L. D. 2079)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1128).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence.

Thereupon, under suspension of the rules, the Bill, as Amended, was Read a Second Time and Passed to be Engrossed in concurrence.

##### Ought to Pass in New Draft

The Committee on Local and County Government on, Bill, "An Act to Give Counties Power to Assess and Collect Their Own Taxes." (H. P. 2128) (L. D. 2275)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Allow County Budget Determination at the County Level." (H. P. 2263) (L. D. 2335).

Comes from the House, Bill and accompanying papers Indefinitely Postponed.

Mr. O'Leary of Oxford moved that the Bill and all accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President and Members of the Senate: I would urge you to vote against the motion by the good Senator from Oxford, Senator O'Leary.

This bill, L. D. 2335, is a redraft of L. D. 2275. It is a result of an extensive study that the Joint Select Committee on Local and County Government did this last summer, last fall and part of this legislative session. We traveled to the sixteen counties of the state and held public hearings in the counties trying to gather information and testimony that would make this intermediate layer of government a more responsive government and a more responsible government to the people of those areas.

I don't know if everybody in this body has had the time to read L. D. 2335, but what it provides for is that it removes the legislature from approving the county budgets. As it presently stands, the legislature, as you saw this morning, approves the county budgets and the laying of the new taxes or additional taxes.

This bill creates a finance board consisting of not less than five members to be elected from districts in the counties. We sent a letter out, I believe it was two weeks ago, asking the chairman of every county delegation to take a look at the redistricting proposal and, if they had any fault with it, to contact us and we would consider that revision.

This board will finalize and approve the county budget. There must be one more member than the majority of the county finance board to consist of a quorum, so that you will have fair representation on this finance board when it is approved. It also shall have at least two public hearings, preferably in two different locations in the counties, so that everybody will have an opportunity to attend and voice their opinions on the budget.

There is some talk that this bill provides for additional powers for county government, and that is erroneously reported. This does not provide for expansion of powers of county government, unless the voters of that county want the county government to have additional powers. There is a savings clause in L. D. 2335, under subsection 2: "Limitation on raising and appropriating powers. The county may only raise or appropriate money for a purpose listed under subsection 1, paragraphs B to F, if the county raised or appropriated money for the purpose in the preceding year." So there is a safety factor in there whereas we have provided through letter B to letter F that the counties can undertake these programs. These programs are already in the statutes.

As I stated, it would have to go to the voters for providing new programs, and it would have to be a majority vote of the voters in the counties to accept these programs. And there is a provision in there where the counties cannot expend any more than \$50,000 for capital outlay expenses without being approved by referendum of the county voters.

This bill, if enacted, in my opinion is a good bill. Like in many other pieces of legislation, it does have its faults, which I am sure, if it is accepted in here, in second reading I will amend one provision in which there was a mixup with the translation on the implementation of the election of the finance board. I haven't received too many comments about the new redraft, except that people just feel that it is expanding the powers of county government, which it is not. It could result in a savings to the legislative account here in Augusta of approximately \$250,000.

I don't think anybody really realizes what you have to go through with these county budgets until you actually do them yourself. It takes approximately in that committee, with personnel who are familiar with looking these county budgets over to find where the funds are being spent, what funds are being spent for what, such as federal revenue sharing — they really don't

realize the work that is involved in these — it takes about ten days with three people full-time to do it.

As we did provide last year in the budget bill when it came out, that we would open the budgets again this year, and if there were any additional taxes needed we would provide for additional taxes. And if there were any changes in the line item budgets, we would provide for that. Well, that took, gentlemen, for just ten counties, with three of us working, it took us seven days to do it.

I feel that this bill, in the posture it is in, will return some of the local control back to the municipalities and the counties. This was the first thing we heard when we talked with these groups throughout the state, that they wanted budget determination back at their level. They didn't feel it was fair to be put down here where you have a county delegation which actually finalizes the budget; you have your hearings in your counties on these budgets and they come down here and they are changed. And when it goes back we seem to have some problems, as one county has had already, and we have tried to resolve that through the legislature this year.

But I do think it is a good bill, and I think it would be in the best interests of this body and the best interests of the citizens in the State of Maine to pass this bill out, enact it, and give them an opportunity to utilize their expertise or their experience in determining their own matters. I don't think it is for the legislature to approve the budgets, when you have 184 people from different and various sections of the state, and problems are different everywhere, making a determination on it. Let's let the local officials, the local people, make their own determination.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: The idea that this legislature or any legislature can adequately and efficiently and responsibly review the budgets of all of the sixteen counties of this state and responsibly act upon those budgets is nothing short of a farce. I certainly concur with the good Senator from Cumberland, Senator Jackson, in his opposition to the motion to indefinitely postpone.

I think that the elected officials of the various counties certainly are responsible to those citizens that elected them, and to be responsible to them, completely responsible to them, that they ought to have the power to create their own budgets. I would oppose the motion to indefinitely postpone, and would ask for a roll call.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Carbonneau.

Mr. CARBONNEAU: Mr. President and Members of the Senate: I too am a member of the Local and County Government Committee and I worked on this bill throughout last summer and last fall.

I didn't agree with the proposal originally because, if you will recall, last year I presented a bill to give the county delegations the power to assess their own budgets. Well, throughout the summer and the fall we held hearings in sixteen counties trying to find out what the people in the various counties wanted. They want to govern their own counties; they don't want us to do it. And rightly so, I believe, like myself in Androscoggin County, I know the problems of Androscoggin County — if I don't, I should — and I also know how much money we can raise or cannot raise. I also know how much we should pay our people and not pay our people. And I say this is the same thing everywhere, in every county.

For instance, in some counties where the sheriff has a big group of people working for him, 15 or 16 or 20 deputies, or a large jail to

maintain — let's assume, for instance, Aroostook County, how do I know their problems, and why should I here make the decisions for them?

With this bill, which is the best we could come up with, a finance board instead of the delegation because of constitutionality problems, this is the bill we were able to come up with by having a finance board elected by the counties, divided in five districts or ten districts, if you want; it really doesn't matter, it is up to you. We are trying to give the local people local government and let them handle their own things. That is the best we can do.

Another point I would like to emphasize is that Maine Municipal and other people have maintained that we have given counties more power than they had before, and that is not so. What powers there are in this bill here are already in the statutes. We did not add anything. And whatever we have for powers is that they may do this or they may do that, but if you people don't want them to do it, then it is up to you to get on your hind legs and go and object to these programs presented by county commissioners or finance boards in the future. I urge you to vote against this motion.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I would address myself to some of the remarks made by the good Senator from Androscoggin, Senator Carbonneau. Now, when he stated that he doesn't come here to vote on the county budget for Aroostook County, I agree with him, nor do I come here to vote on a county budget for Androscoggin County. I vote on a county budget representing Cumberland County, and I am sure that the good Senator from Androscoggin, Senator Carbonneau, knows that within the delegation of Androscoggin County they review the Androscoggin County budget as it is submitted to the legislature for approval.

I think the legislature is the supreme body of this state, the general court of the state, and it is a check and balance to make sure that the county budgets are held in line. I think if we turn county budgets over to the county commissioners themselves and to the finance commission that the good Senator from Cumberland, Senator Jackson, has spoken of, that the legislature does lose control and the people on the local level lose control up until the time the commissioners come up for re election.

I think it is good to maintain the checks and balances on county government and, therefore, I will support the motion to indefinitely postpone.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyrman.

Mr. WYMAN: Mr. President, I want to concur with the three previous speakers who favor this bill. It seems to me that the people of the state want government returned from the people in the legislature in Augusta to the people at home, and I think they have said that very loudly and clearly, and there is a referendum on this. I think it is an excellent bill and I certainly hope the Senate adopts it.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, I rise this morning to support the motion to indefinitely postpone this bill and to speak in opposition to my colleague from Androscoggin, Senator Carbonneau.

County government, I think, Mr. President and Members of the Senate, means different things to different areas in the state. I think in the rural areas county government has generally worked well. It has had few problems under the current law, as the law currently exists. There is little duplication in rural parts of the state with county government and there is little

overlap of functions with the municipalities. But in the urban areas it is a very different situation; there is, in fact, a tremendous amount of duplication and overlap, and your larger cities pay the very large bulk of county taxes and receive a proportionate small amount of the services rendered by county government.

The best example of this, of course, is the police protection. The City of Lewiston pays 50 percent of the Androscoggin County tax, and a substantial amount of that money goes for the sheriff's department, and the City of Lewiston receives no police services because they have their own police department. The same is true of Auburn, and the same is true of Lisbon. So that the situation in the urban areas is very different than it is in the rural areas, and yet this bill makes no such distinction between the two situations.

I agree that there should be changes in county government, but those changes should be addressed at the various levels, rural areas, urban areas. And this in fact is a bill which does not make that distinction, and it is a new grant of power to county government, no matter how you slice it. They now have the power to tax. They now have the power to directly tax on the property tax under this bill, and no one can oversee that; they are going to tax on the property tax directly.

This bill makes permanent a form of government which in some areas needs no change and in other areas needs other kinds of change. This legislature wrestled for a long time with the issue of relief of the property tax and took a step to increase the income tax to give some relief to the property tax, because I think everyone agreed, even those who were opposed, that the property tax is not a fair tax, it is not based on the ability to pay.

Well, this bill is a shift in the other direction. It goes back and locks in and makes permanent county government, and gives them that additional power to assess on the property tax for their functions. This is a complete reversal of the general policy of tax reform which this legislature has indicated it wants to take.

So it seems to me when you have the rural areas, which have no problems or few problems with county government the way it is now, and the urban areas which have had many problems with county government, and those problems are going to be compounded by this bill, it seems to me that this bill makes no sense at all.

I would say in the urban areas that the review by the legislative delegations, since I have seen in the legislature for two terms, have saved the property taxpayers of those counties literally hundreds of thousands of dollars, because of the legislative review, literally hundreds of thousands of dollars without any substantial reduction in the kinds of services that the counties have offered.

The county budget is going to be such a small amount of property tax in comparison to the municipal property tax that there is going to be very little restraint on county government in assessing property taxes. I just think that this bill goes in the opposite direction, goes in the wrong direction, it locks a cement a form of government which I think we should be looking at to make some more progressive changes in. Thank you, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Carbonneau.

Mr. CARBONNEAU: Mr. President and Members of the Senate: It is very odd this morning that we have a group of young people from Lewiston and the two Senators from Lewiston are on opposite sides on this issue. Well, that is government, I guess.

Now, the good Senator from Androscoggin, my colleague, Senator Clifford — and I don't like to fight against him because he is much

bigger than I am — talked about the checks and balances. Well, I would like to tell him a little story about checks and balances in this particular bill and what it refers to. We are here setting up a finance board elected by the people of the county that is going to be the checks and balance, which is the same thing that the county delegation is supposed to be doing now. And I think we all know that many of us don't even attend these meetings of the county legislative delegations. Now, as a result, I think you would have more checks and balances here where people would be attending these because that is all they would be elected to do.

Another remark the good Senator from Androscoggin made was about the fact that the City of Lewiston pays half of the budget in Androscoggin County. He is right, and I agree with him there. But as to the services that the rural areas get or urban areas get that we don't get in Lewiston, I would like to call his attention to the fact that the City of Lewiston by far gets more service from the courts of the county than anybody else in the county, and that costs money. They also have the jail services which cost a lot of money. As you probably know, the budget in Androscoggin County takes in about \$248,000 to administer the jail and the sheriff's office, and half of that budget goes for the jail.

On taxes, of course, the county government would be doing its own tax assessing, and that is what we are trying to do here, get it out of here, because people don't want the legislature to assess taxes as we don't know what we are talking about. At least that is what they say down there. We found out because we all went to four different counties. I know I went to Waldo, Knox, Androscoggin, and another one, and they all say the same thing, all the same story, that they want to get it out of here.

Again, I say the legislative review that the good Senator from Androscoggin is mentioning does not really take place. There was a very good example of it yesterday over here when we had a bill that came onto the calendar which Senator Cyr from Aroostook objected to. As a matter of fact, he tabled it, and I guess that is the one we took out of order just as we started this morning in order to get it down to the other end of the hall. There again, this bill was brought into the County Government Committee to readjust the county budget of Aroostook County, but Senator Cyr didn't know anything about it. There is a lack of communication among the legislative delegation members, and I am trying to get that out of here. That is what this bill would do. So I urge you again to vote against this motion.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate. I think we should try to clarify our own thinking in regards to this bill here. This bill is to create a finance board, not to abolish county government. My colleague and seatmate, Senator Clifford of Androscoggin, mentioned that this would give power to tax individual properties in the various counties. Well, in reading page 2, paragraph 252, it doesn't do that.

What this finance board would do is assess against the municipalities, the same as what you are assessed today. The taxes are assessed against the municipalities, and all the operation of county government would proceed as it does today. This wouldn't change it. The only thing that this bill would do would be to create a finance board and put this budget on a more financial basis than what it is now.

It is true that I tabled the county budget bill yesterday, because in looking at it I noticed that my county's appropriation was going up, its budget was going up. And this is a good example of what can happen, exactly what is happening to the Aroostook County delegation this year. It is being run by two people for political purposes

and it is being used for political purposes. As a result of that, the Aroostook delegation never bothered to invite the Senate members of that delegation to this budget meeting. We didn't know anything about it. I am sure my other two colleagues didn't know anything about it, because we discussed it and they didn't know anything about it. And this is exactly what happens.

The system that we have today is obsolete, political, archaic, and if I can of any more adjectives that I can add to it — I will say it is just plain no good. And I think possibly that this is a step forward, this finance board which is being established. I had the same reaction as my colleague here, my seatmate, I had the same reaction when I read the title of this: An Act to Allow County Budget Determination at the County Level, or the first bill, which was An Act to Give Counties Power to Assess and Collect Their Own Taxes. I had the same reaction of, my God, are we going to give power to the counties to start levying taxes on their own against any properties, and they could come back home and take any property that they wished in case of a default. But after reading further into this, and particularly the new draft of this, the assessment is against the communities, the same as it is today, and I think it makes a lot of sense. It is a lot more financially responsible. And I shall vote against the motion that is presently before the Senate.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin. The Senator from Androscoggin: As far as Androscoggin County is concerned, I feel like a minority because we represent the rest of the county tax, but the particular city I have in mind only represents 28 percent of that county tax. I have been a little in doubt as to the interpretation of the legislation in front of us because, as I look at the legislation, I have a feeling that there are new powers, and many of them. I see where it provides that the counties shall have the power to put in buildings, parks, parking places, water, sewerage, health and welfare, police powers, fire protection, and the list goes on and on. But I see nothing that prevents a duplication of that power where that particular service may already exist.

Also under the borrowing power which is granted to the finance board which is being suggested, I find that the 80 percent borrowing in anticipation of taxes has been removed and there is no longer any ceiling on that borrowing power. I think the members of this body have worked with budgets, whether on the local level or the state level, and anticipation of taxes is an estimate of what you think you are going to get, and is strictly an individual's suspicions. There is nothing documented, so they could actually borrow more money and run a deficit in that particular area because they would have to raise more taxes the following year to pay that money back.

Another concern I have is the fact that this finance board that is being set up represents approximately \$40,000 a year. There is \$20,000 in salaries, and it could run higher than the salary account in travel and expenses. I would urge the Senate to concur with the motion for indefinite postponement and I shall do the same.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I favor the general concept of home rule for counties, and I will support this bill in this bill is the answer to county government problems.

I share some of the same concerns that have been voiced by the Senator from Androscoggin, Senator Clifford. There is a vast difference in the need from one county to the other. In the two counties that I represent, small counties, mostly rural, Knox and Lincoln, in my judgment, county government is working out very

well. The county commissioners have been good businessmen and they have responded to the needs conservatively and with diligence. In those particular counties, in my judgment, we do not really need an additional five man finance board. This simply superimposes another body upon a structure that is already adequate.

I do suggest at one point that there might be an expansion of interest if there were some kind of an advisory board composed of municipal officials. This would perhaps tend to integrate some of the concerns where there is overlapping and perhaps lead to some removal of overlapping functions where they exist. But it seems to me that there is a real problem in our more populous counties.

People in my county really do not want to become participants in the inter-county problems of York or Androscoggin or Cumberland or Penobscot, and I think we must try to devise a way to provide a home rule element in this picture. So, although I am supporting the bill at this posture, unless there are substantial amendments coming, I will probably not be able to support it finally because of these problems I have mentioned.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Carbonneau.

Mr. CARBONNEAU: Mr. President, this will be my last time. What I would like to do with this bill, if it is agreeable with all the people here, I would like to pass it for the first reading and then it will be at an amendable stage.

During the course of our deliberations in County Government before we put this bill together — and there is an awful lot of input there, by the way, in case you don't know, a lot of work — we invited I think most all of the delegations to come in and talk with us on this proposal. A few did, and we took whatever we could. Now, what we would like to do is put this bill in an amendment posture so that input could come out of the entire legislature as to what they want and don't want. So I certainly would not like to see this bill go down the drain right off the bat. Give it a chance to be amended, get people to talk about it and think about it, and I am sure that they can improve this bill to satisfy their own needs. Thank you.

The PRESIDENT: Is the Senate ready for the question? A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the motion by the Senator from Oxford, Senator O'Leary, that L.D. 2275 be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "Nay" vote will be oppose.

The Secretary will call the roll.  
Roll Call

YEAS: Senators Berry, E.; Clifford, Conley, Graham, Johnston, Marcotte, Merrill, O'Leary, Pray, Reeves.

NAYS: Senators Berry, R.; Carbonneau, Chanchette, Collins, Corson, Cummings, Curtis, Cyr, Danton, Gahagan, Greeley, Hichens, Jackson, Katz, McNally, Roberts, Speers, Thomas, Trotzky, Wyman.

ABSENT: Senators Graffam, Huber.

A roll call was had. 10 Senators having voted in the affirmative, and 20 Senators having voted in the negative, with two Senators being absent, the motion did not prevail.

Whereupon, the Committee Report was Accepted in non-concurrence and the Bill in New Draft Read Once.

Under suspension of the rules, the Bill in New Draft was Read a Second Time.

Amended by House and Senate Amendments "A" Thereof, was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the sixth taled and Specially Assigned matter:

Bill, "An Act to Set the Unemployment Insurance Contribution Rate for New Employers at the Average Contribution Rate for all Employers in the Previous Year." (H. P. 2144) (L. D. 2284)

Tabled — march 30, 1976 by Senator Roberts of York.

Pending -- Consideration.

(In the House -- Passed to be Engrossed as Amended by Committee Amendment "A" (H-1010).

(In the Senate -- Passed to be Engrossed as Amended by Committee Amendment "A", as Amended by Senate Amendment "A" Thereof (S-471), in non-concurrence.)

On motion by Mr. Roberts of York, the Senate voted to Recede and Concur.

There being no objection, all matters previously acted upon in today's session requiring concurrence were sent down forthwith for concurrence.

On motion by Mrs. Cummings of Penobscot, Recessed until 3 o'clock this afternoon.

#### After Recess

Called to order by the President.

#### Papers from the House

Out of order and under suspension of the rules, the Senate voted to take up the following:

#### Non-concurrent Matter

Bill, "An Act to Revise and Clarify the Freedom of Access Law." (H. P. 2226) (L. D. 2316)

In the Senate March 29, 1976, Passed to be Engrossed as Amended by House Amendments "B" (H-1044) and "E" (H-1110), in non-concurrence.

Comes from the House, Passed to be Engrossed as Amended by House Amendments "A" (H-1034), "B" (H-1044), "E" (H-1110), "F" (H-1137) and "G" (H-1146), in non-concurrence.

On motion by Mr. Corson of Somerset, tabled until later in today's session, pending Consideration.

#### Non-concurrent Matter

Bill, "An Act to Prevent Impoundment of Funds." (H. P. 1985) (L. D. 2173)

In the House March 30, 1976, the Minority report Read and Accepted and the Bill Passed to be Engrossed.

In the Senate March 30, 1976, the Majority Ought Not to Pass report Read and Accepted, in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

Mr. Huber of Cumberland moved that the Senate Adhere, nad Mr. Conley of Cumberland subsequently moved that the Senate Insist and Join in a Committee of Conference.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, might I inquire of anyone who might care to answer the implications of this bill?

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair to any Senator who may care to answer.

The Cyair recognizes the Senator from Kennebec, Senator Katz, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President and Members of the Senate: THIS BILL PROVIDES AN ORDERLY PROCEDURE IN THE EVENT THAT THE GOVERNOR DOES NOT IMPLEMENT A STATUTORILY MANDATED PROGRAM. However, in so doing, I am afraid the bill creates a process so complex that the procedures proposed in this bill would cause a considerable additional burden on the Legislaive Finance Office. And we do have recourse to the courts in this event, as was shown earlier in its session. Therefore, I think, although this bill does provide a procedure, a procedure so cumbersome that perhaps it is more trouble than the system as we now have it.

The PRESIDENT: Is the Senate ready for the question? The Chair will order a division. Will all those Senators in favor of the Senate insisting and joining in a committee of conference with the House please rise in their places until counted. Those opposed to the motion will rise in their places until counted.

A division was had. 13 having voted in the affirmative, and 18 having voted in the negative, the motion did not prevail.

Thereupon, the Senate voted to Adhere.

#### Non-concurrent Matter

Bill, "An Act to Implement a Central Licensing Division within the Department of Business Regulation." (H. P. 2153) (L. D. 2294)

In the House March 30, 1976, the Minority report Read and Accepted and the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-1111), as Amended by House Amendment "A" Thereof (H-1116).

In the Senate March 30, 1976, Bill and accompanying papers Indefinitely Postponed, in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

On motion by Mr. Conley of Cumberland, the Senate voted to Adhere.

#### Joint Order

#### STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-six.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Mildred H. Harris Who is Retiring After 20 Years of Faithful and Efficient Service as the Librarian of the Vassalboro Public Library

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and furtehr

Order and direct, while duly assembled in session at the Captiol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 2266)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

#### Joint Resolution

#### STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-six.

Joint Resolution Concerning the Declslon of the United States Department of Defense to Award the Contract for the Manufacture of the M-60 Machine Gun to a Belgian Firm Instead of the toe Maremont Corporation of Saco, Maine

WHEREAS, the larrest single employer in York County is the Maremont Corporation of Saco, Maine; and

WHEREAS, the continued employment of the

workers of Maremont is a grave concern to the State of Maine at a time when the state unemployment rate is 10 percent; and

WHEREAS, the Department of Defense has now officially declared that a contract to manufacture the M-60 machine gun will not be awarded to the Saco firm but instead will be awarded to a Belgian firm; and

WHEREAS, the taxpayers of the United States will pay \$14,700,000 more to the Belgians for this contract than they would have paid to the Maremont Corporation; and

WHEREAS, 18,000 Maine citizens have signed petitions protesting the possible loss of the Maremont contract, which protests have been personally delivered to President Gerald Ford; ow, therefore, be it

RESOLVED: That we, the Members of the 107th Legislature in Special Session assembled, do hereby express our consternation and dismay at the decision of the Department of Defense to award the M-60 machine gun contract to a Belgian firm instead of to the Maremont Corporation; and be it further

RESOLVED: that we urge and request the members of the Maine Congressional Delegation to convey our sentiments to the President and to the Department of Defenes and to use every possible means to bring the Department of Defense to a reconsideration of its ill-advised action; and be it further

RESOLVED: That duly attested copies of this Resolution be immediately transmitted to those Congressional Delegates with our thanks for their prompt attention to this important matter. (H. P. 2267)

Comes from the House, Read and Adopted.

Which was Read and Adopted in concurrence.

The President laid before the Senate the followint tabled and Specially Assigned matter:

Bill, "An Act to Allow County Budget Determination at the County Level." (H. P. 2263) (L. D. 2335)

Tabled — March 31, 1976 by Seantor Speers of Kennebec.

Pending -- Passage to be Engrossed.

(In the House — Indefinitely Postponed)

Mr. Clifford of Androscoggin presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-503, was Read.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I want to be honest with my fellow members of the Senate, I am still opposed to this bill but I am presenting this amendment to make the bill more palatable, and it seems to me, make very clear what the proponents said the intention was in regard to the power of county government.

Section 253-A, which this amendment replaces, sets out the powers of county government's businesses that they can get into. Some of these powers are now possessed by one or a few counties. Some of these powers many counties do not have under the current law. Subparagraph 2 of the present section 5 of the bill, which is title 30, section 253-A, goes on to say that if the county is not in the business or is not performing that function in the previous year, then the people have to approve the function in a referendum. But then there is a further provision in subsection 3 that says if the power is at all authorized under the statute, then no referendum is needed. And I think the intent is of the proponents of the bill to limit the counties to the powers that they actually have now, and that is what this amendment does. It makes it, I think, very clear that they are limited to those powers which they have now. And I think it clears up an ambiguity.

But again, to be honest, I am offering this amendment as a constructive measure in the

bill, but I still would not be supportive of the bill. But I would hope that the Senate, whatever it did in the final analysis, would adopt Senate Amendment "A". Thank you, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President and Members of the Senate. I have just had an opportunity to look at the amendment of the Senator from Androscoggin, Senator Clifford, and from the surface of it I can't disagree with it, but yet I don't think by the passage of this amendment that we will be doing what we had intended to do, allowing the residents of the counties the opportunity, if they wanted to expand in their area, the opportunity by leaving in 253-A.

If it is what the good Senator needs to have him on our side, I guess I couldn't argue with him because it would get the budget back to the local level, and I don't have any regard that I would want to see any of the functions expanded at this time that counties are not providing. But I do think with this section 2 under 253-A, it is quite concise and it is brief and to the point, that there would have to be a vote of the county voters if they were to expand these services.

I guess I am sort of double talking. I will be supporting the amendment of the good Senator, Senator Clifford, and I would urge the entire Senate to adopt that amendment.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: I think that this amendment will clear up some misunderstanding. The intention of this bill is not to reform county government or to abolish county government, as we have heard so many times. The intent of this bill is solely to improve the budgetary function as we know it now. I think the system we have been following is obsolete and archaic, and this would create a finance board that I think could have a lot of merit, and certainly it would take out of the budgetary function of a lot of politics and a lot of backhand play that we have now. So I shall support my seatmate's amendment. In fact, if his doesn't go through, I have one which is quite similar which I would introduce. However, I think his is more general and, therefore, I would prefer his to mine.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A"?

The motion prevailed.

Mr. Jackson of Cumberland then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-504, was Read and Adopted.

Mr. Conley of Cumberland then moved that the Bill and accompanying papers be Indefinitely Postponed and subsequently requested a division.

Mr. Jackson of Cumberland then requested a roll call.

The PRESIDENT: Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: Although this bill is now clearer as to the powers of the counties, it still, it seems to me, is a very poor way to set about reforming county government because, as I indicated this morning, it makes no distinction at all between the rural county and the urban county, and the distinctions between the two in fact are many.

But I think if you analyze what is happening here, I think what this bill does is create a five man county finance board which essentially takes over the power of the county commissioners, and there is no legislative review. If

this passes, these proponents of great growth of county government, or those proponents of unhindered county government, are going to come in at the next session of the legislature and they are going to move to eliminate the position of county commissioners, and to do so would make eminent sense because what we have here is just two sets of county commissioners, 3-man county commissioners, and a 5-man board of finance review. And when the old county commission members are deleted from the law, then we will have again the same situation as it exists today, except it will be five members, as opposed to three, and they will have been successful in eliminating legislative review of their budgets. Their budgets would be able to be passed without hindrance from any quarter.

I submit to you, Mr. President and Members of the Senate, that the result of this, at least in the urban counties, is going to be a substantial increased burden on the local property tax. Thank you, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Danton.

Mr. DANTON: Mr. President, just so I can get it clear in my mind, because I am somewhat confused with this bill here, would some member of the committee please stand up and explain to me how these five individuals are going to be elected?

The PRESIDENT: The Senator from York, Senator Danton, has posed a question through the Chair which any Senator may answer who so desires.

The Chair recognizes the Senator from Androscoggin, Senator Carboneau.

Mr. CARBONNEAU: Mr. President and Members of the Senate: To answer the question of Senator Danton, they would be elected at the general election every two years just like the Senators and Representatives are to the legislative body.

Now, to get back to the question of indefinite postponement, we seem to be running into that kind of stuff today quite consistently. You know, it is not hard to do to get up and say I move that we indefinitely postpone this bill. The thing that is hard to do is come up with a better solution. This is what I am getting at, and this is what I asked this morning. I would like to see this bill go through here for the second reading, because I figure if you people are not happy with what we have in there, then give us some input. That is what we want and that is what we are looking for.

In the last session of the legislature, the County Government Committee was ordered to perform a study of county government. Every Tom, Dick and Harry from up and down the state were yelling blue murder about county expenditures, and they wanted to do something about it. They gave us the job to do, and we did our job as best as we could with whatever input we were able to gather. Now, we have got it and we put it in the form of a bill, and the first thing you know, I move indefinite postponement. Now, I don't think that is right really. I mean, it is perhaps a laughing matter right now, but it really is not. It is a very serious matter and a lot of people are affected. We all are from all the counties in the state.

Now, if you people who want to indefinitely postpone have some input for this, let's have it. If you don't like this bill the way it is written, rewrite it, redraft it, give us some amendments. We are willing to take them all in and do something with them. So I urge you to defeat this motion and let it fly for one time anyway.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Danton.

Mr. DANTON: Mr. President and Members of the Senate: I can only speak for my county, York County. We have three commissioners, and they are three fine gentlemen. We have two Democrats and one Republican. One Democrat

and one Republican have got together and they agreed to disagree with the lonely Democrat. Now, we have never had so many problems in all our lives in York County as we have had with that one Republican and the one Democrat. It is really a situation that I can't figure out to this day, a Republican and a Democrat getting along that well. I wish we did that here sometimes.

But now let's assume we take and put in five more. You know, we talk about impounding funds on the federal level, we talk about impounding funds on the state level, but believe it or not, we do that in York County with that Democratic commissioner and the Republican commissioner.

A session or so back, a legislator from York County had a similar bill to this, only he allowed for 28 persons to serve on a budget committee. They were supposed to sit down with those 28, plus the three commissioners, the county treasurer, the clerk of courts, the sheriff, and God knows how many more we have in county government.

I think the time has come that we are either going to have confidence in our county commissioners -- and I think I am left at a little bit of a loss as to whether I should have any confidence in the entire system, but one thing I don't want at this point in time is to take and add five more persons to try to come up with a budget. I think the system has been working pretty well, even with the problems we are having in my own county, so I will certainly support the motion to kill this bill, not to indefinitely postpone it but kill it.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: You know, we have debated county government time and time again, and I think everyone agrees that county government is probably the most ineffective type of government that we have. It is ineffective because it doesn't have a check and balance system like all the others. Also, it is ineffective because it doesn't have the accountability that all other governments have. It is no more or no less than a pork barrel type of financing that we have been following.

Every time that you have a delegation meeting on a budget, you know what happens when you are trying to kill an item which is close to your community, if you have historical museum, for instance, and they want to eliminate the funding of that, it is probably the only thing my town for instance, gets from county funds out of \$90,000 that we pay them, so naturally, if there is going to be a provision for \$3,000 for my historical society, I am going to fight like the devil to try to keep it on. And this goes on and on and on. However, I think this debate right now is not addressing itself to the bill that we have before us. It is not a question of reforming county government or abolishing county government, but it is to try to put common sense into its financing.

My seatmate claims, for instance, that a lot of these powers may help one county and may hurt another county. Well, all of the powers that are listed under county government are optional. You can either use those powers or not. If you want to have a regional hospital for instance, you have the powers in county government to do that, but you don't have to use it if you don't need it. The same applies for every power that you have. So it is just a case of adapting your own county government to your own county, the conditions of your county.

Now financing of this, you are going to have a five man finance board. Today look at what you have, you have no representation whatsoever on the part of the cities, on the part of the communities that are paying this. You have no representation whatsoever. And what this



would do, it would really make the commissioners administrators. That is what they would do, and that is what they should be doing, they should be administrators. Then the finance board will just help them out on their budget. They would prepare the budget and they would submit their budget to the finance board for their approval and discussion. I think it only makes sense.

We have an Appropriations Committee here that goes over all the appropriations that we have in the State of Maine. That doesn't mean that the Appropriations Committee takes away powers from the legislature or from any of the departments in government. It is the same thing here. The finance board would only bring in finance methods or systems into our county government. If this doesn't work, okay, then let's look around to try to either abolish county government and substitute it with something else, or else let's improve it. The first step to improve it is through the finances, the budgetary system, the method that we have. So I hope that we defeat this motion and we let this go to law.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate. In all due respect to the comments which have been made by my fellow colleague, the good senator from York, Mr. Danton, we had a unique situation in York County this last term in that the young Democrat that he mentioned was elected to fill an unexpired term and automatically, with the new districting process, cannot run for reelection. So for once he can use his common sense without regard to whether people liked it or didn't like it and without fear of offending the voters because he wasn't running for reelection anyway.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President and Members of the Senate: I would like to address my first remarks to the good Senator from York, Senator Danton. I am sure that he is aware that there was a piece of legislation introduced and heard in the Local and County Government Committee which was given a unanimous report and was accepted and enacted here a short time ago which made it unlawful for any county to impound and funds.

The second thing I would like to address is that the good Senator from Androscoggin, Senator Clifford, felt that maybe we were trying with this bill to circumvent the county commissioners office. If you will read in the definitions, section eight, first page, "County office. County office means the office of judge of probate, register of probate, clerk of courts, county treasurer, register of deeds, sheriff, county attorney and county commissioners, but shall not include the county finance board." They are not considered in the county office. This board all it does is approve the budget. It can amend it upward or amend it downward.

The bill as I stated this morning, was a result of a study that the Joint Select Committee on Local and County Government did this last summer and this last fall and into the legislative session. I think that if we are going to address a situation, it was a situation that put to us as we went out in subcommittees of four members each to the sixteen counties. The first thing that they demanded, the first thing that they wanted, was the determination of the county budget at local level. I don't see that this bill will provide for any more than that, because the good Senator from Androscoggin had his amendment adopted, which is quite clear as to what county government can do and what it can't do.

The amendment that I presented was the amendment which addressed the problem of the

good Senator from Androscoggin, Senator Berry, with the borrowing in anticipation of taxes, the date which it would be implemented, and how the election process would occur. I feel that with these amendments on this bill it is something that the local people want, the people in the sixteen counties throughout the state, the municipalities throughout the state, and I think it is something we should give it to them. And I don't think that they are going to expand the powers of county government, I do not think they are going to circumvent the county commissioners office, I just think you are going to have the expertise that is needed in that area to adopt and approve a respected and possibly a real good form of responsible county government. I would urge every member in the body to vote against the motion of the good Senator from Cumberland, Senator Conley.

The PRESIDENT: Is the Senate ready for the question? A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley, that L. D. 2335 and all accompanying papers be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators E. Berry, Clifford, Conley, Danton, Graham, Marcotte, Merrill, O'Leary, Pray, Reeves.

NAYS: Senators R. Berry, Carbonneau, Cianchette, Collins, Corson, Cummings, Curtis, Cyr, Gahagan, Graffam, Greeley Hichens, Huber, Jackson, Johnston, Katz, McNally, Roberts, Speers, Thomas Trotsky, Wyman. roll call was had. 10 Senators having voted in the affirmative, and 22 Senators having voted in the negative, the motion did not prevail.

Thereupon, the Bill, as Amended, was Passed to be Engrossed.

Sent down for concurrence.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President, having voted on the prevailing side, I move reconsideration and urge every member to vote against my motion.

The PRESIDENT: The senator from Cumberland, Senator Jackson, now moves that the Senate reconsider its action whereby this bill was passed to be engrossed. Will all those Senators in favor of reconsideration please say "Yes"; those opposed will please say "No".

A viva voce vote being taken, the motion did not prevail.

The President laid before the Senate the following tabled and Specially Assigned matter:

Bill, "An Act to Establish a Maine Community Jobs Act," (H. P. 2165) (L. D. 2293)

Tabled — March 31, 1976 by Senator Katz of Kennebec.

Pending — Adoption of House Amendment "A" (H-1126).

(In the House — Minority Ought to Pass Report Accepted and the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-1126).)

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Reeves.

Mr. REEVES: Mr. President and Members of the Senate: During the recess I met with the good Senator from Cumberland, Senator Jackson, and prepared an amendment, which is at the printer's now and should be here any

minute. If at all possible, I would like to delay this until later in the day. The amendment should be here at any second.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Thereupon, on motion by Mr. Speers of Kennebec, tabled until later in today's session, pending Adoption of House Amendment "A".

The President laid before the Senate the following tabled and Specially Assigned matter:

Bill, "An Act to Clarify Certain Provisions in the Education Laws," (S. P. 651) (L. D. 2056), tabled — March 31, 1976 by Senator Katz of Kennebec.

Pending — Adoption of Committee Amendment "A" (S-480), as Amended by Senate Amendment "A" (S-500) There to, hereupon, Committee Amendment "A", as Amended by Senate Amendment "A" There to, was Adopted. r. Corson of Somerset then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-502, was read and Adopted and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

The President laid before the Senate the following tabled and Specially Assigned matter:

Bill, "An Act to Revise and Clarify the Freedom of Access Law," (H. P. 2226) (L. D. 2316)

Tabled — earlier in today's session by Mr. Corson of Somerset.

Pending — Consideration.

On motion by Mr. Corson of Somerset, the Senate voted to Recede.

House Amendments "F" and "G" were Read and Adopted in concurrence.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I would inquire as to the status of House Amendment "A", as to whether or not the Senate has adopted House Amendment "A"?

The PRESIDENT: The Chair would advise the Senator that House Amendment "A" was Indefinitely Postponed by the Senate.

Is it now the pleasure of the Senate that this bill, as amended, be passed to be engrossed and sent down for concurrence?

It is a vote.

The President laid before the Senate the following tabled and Specially Assigned matter:

Bill, "An Act to Establish a Maine Community Jobs Act," (H. P. 2165) (L. D. 2293)

Tabled — earlier in today's session by Mr. Speers of Kennebec.

Pending — Adoption of House Amendment "A".

Mr. Reeves of Kennebec then presented Senate Amendment "A" to House Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-506, to House Amendment by Senate Amendment "A" There to, was Adopted.

Thereupon, under suspension of the rules, the Bill as Amended, was Read a Second Time and Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

(Off Record Remarks)

On motion by Mrs. Cummings of Penobscot, Adjourned until 10 o'clock tomorrow morning.

S.  
D. OF R.

APPENDIX I

STATE OF MAINE  
SENATE  
FIRST SPECIAL SESSION  
107TH LEGISLATURE

SENATE AMENDMENT "A " to H.P. 2263, L. D. 2335, Bill,  
"AN ACT to Allow County Budget Determination at the County Level."

Amend said Bill in section 5 by striking out all of that  
part designated "§253-A." and inserting in place thereof the  
following:

'§253-A. Authorized expenditures

The county may raise and appropriate money for the purpose  
of operating county government, performing any duties  
of it  
required/by law and providing for any operations expressly  
authorized by state statute which by their nature require the  
expenditure of money.'

Statement of Fact

This amendment would restrict county expenditures to  
those areas presently authorized or required by law.

(Clifford)  
NAME:

COUNTY: Androscoggin

Reproduced and distributed pursuant to Senate Rule 11-A.

March 31, 1976.

(Filing No. S-503).

3  
D O E R

STATE OF MAINE  
SENATE  
107TH LEGISLATURE  
FIRST SPECIAL SESSION

SENATE AMENDMENT "B " to H.P. 2263, L.D. 2335, Bill, "AN ACT  
to Allow County Budget Determination at the County Level."

Amend said Bill in section 6 by inserting after the stricken or  
line of the last  
"budget" in the last paragraph the underlined words 'with the  
approval of the county finance board'

Further amend said Bill in section 7 by striking out all  
of the first sentence of the 3rd paragraph of that part  
designated "§1121." and inserting in place thereof the following:  
'The members of the board shall be elected at the biennial  
meetings of voters for the election of Senators and Representatives  
as established by the Constitution of Maine, Article II, Section  
4, for terms of 2 years in the same manner as are town  
officials, when such officials are nominated by nomination papers  
and elected by secret ballot.'

Statement of Fact

This amendment gives county commissioners of all counties  
the right to borrow in anticipation of taxes "with the approval  
of the county finance board." The amendment also sets the date  
for holding elections for the county finance board.

(Jackson)

NAME:

COUNTY: Cumberland

Reproduced and distributed pursuant to Senate Rule 11-A.

March 31, 1976.

(Filing No. S-504).



## APPENDIX J

Summary of county government forms in California, Virginia, New York and Michigan.

County government in these four states, California, Virginia, New York and Michigan, is very different from Maine county government. These states have had a history of strong, semi-autonomous and centralized county administration, with the counties undertaking many functions that are undertaken by municipalities or the State in Maine. However, the general county government structure of these states is interesting for that very reason. Though the whole structure of county government in these states could not be appropriately adopted to Maine counties, because of their history and traditions, many aspects of county functions, financing and structure may be applicable or may generate solutions for problems of county government in Maine.

## California

Prior to 1970, California had a series of intricate and detailed Constitutional provisions, Article 11, §§ 6-12, granting counties self-governing powers based on the adoption of a charter. Under a charter, a county could determine the size of the Board of Supervisors, determine the method of selecting officers, their powers, salaries and duties, and determine the number and duties of other county officials. Adopting a charter required a majority vote of the county voters and subsequent approval by the Legislature (without any power to amend). These provisions also provided for the creation of a "city and county charter" for any city and county with a population over 3,500. The "city and county" so created would exercise both municipal and county functions in one governmental unit. Any city of more than 50,000 population could separate from its county and set up a "city and county" unit by adopting a "city and county" charter, with approval of the voters of the city and the county, and with legislative approval. Municipal powers and duties could also be performed by the county for municipalities that so voted, even without the "city and county" charter form.

Thus, under the old provisions of the California Constitution, the following forms of county government were possible:

1. A chartered self-governing county;
2. A chartered self-governing "city and county" created by a city of more than 50,000 population separating itself from its county, and subsequently exercising both municipal and county powers for a single metropolitan area;
3. A chartered self-governing "city and county" with a

present county with a population of over 3,500 exercising both municipal and county powers throughout the county; or

4. A chartered self-governing county, that also fulfilled all or some specified municipal functions in some municipalities that had voted for such activity.

Each of the charters had to be adopted by the voters of the governmental unit in issue, county or city or both, and had to be approved by the legislature. And, in addition to these various charter provisions, any county, city, town or township was granted the power to make any ordinances not in conflict with the general laws, and also was granted taxing powers.

In June of 1970 Article 11 of the California Constitution was repealed and replaced by substantially simplified provisions. These provisions, however, essentially continue the basic alternatives of the earlier provisions. The major change in the new provisions, other than extensive simplification, is the removal of the legislative approval requirement for the adoption of charters.

County government in California is an intermediate level of government exercising general governmental powers. Though carefully regulated by statute (see Calif. Codes, Government, Title 3), the counties exercise broad governmental powers and contain large populations, (e.g., Los Angeles County contains more than 4 million people). The county Board of Supervisors centrally supervise and control the many functions of county government, levy and assess taxes directly against property owners, estimate and approve the county budget, appoint and determine salaries of county officials and exercise a limited

legislative function in passing county ordinances. The counties perform a wide variety of functions, including police protection, fire protection, maintenance of highways, and recreational and social services. They are authorized to establish special assessment and service districts and to undertake numerous special services within these districts. There are also statutory provisions for civil service and retirement plans on the county level. Counties, in California, thus are general purpose, centralized and independent units of government.

## XI. LOCAL GOVERNMENT [NEW]

Sec.

1. Counties; subdivisions of state; formation, consolidation and boundary change; removal of county seat; powers; officers and employees.
2. Cities; uniform procedure for formation; powers; annexation and consolidation.
3. Charters; adoption by counties and cities; amendment, revision or repeal; conflicting measures.
4. County charters; provisions.
5. City charters; provisions.
- 5.1 Repealed.
6. Consolidation as charter city and county.
7. Counties and cities; ordinances and regulations; authority.
- 7½. Repealed.
- 7½b. Repealed.
8. Performance of municipal functions by county; request.
- 8½. Repealed.
9. Public works in municipalities; operation or regulation.
10. Extra compensation or allowance after service rendered; payment of claims.
- 10.5 Residency of public employees; exception [New].
11. Delegation of powers over municipal functions; deposits in and payments by banks, investments, registration of evidence of debt.
12. Claims.
13. Distribution of powers; general law, general laws, and laws.
- 13½ to 20. Repealed.

Article 11 was added and former Article 11 was repealed June 2, 1970.

### TABLE

Showing where the subject matter of the sections of former Article 11 is now covered by sections of new Article 11, except as otherwise indicated.

Former Sections	New Sections	Former Sections	New Sections
1	1	9	Repealed 1933
2	1	10	12
3	1	11	7
4	Repealed 1933	12	Art. 13, § 37
5	1, 10; Art. 2, § 7	13	11
5.1	1	13½	Art. 13, § 37.5
6	1 to 3, 8	14	None
7	6	15	None
7½	3, 4	16	Art. 13, § 38
7½a	Repealed 1949	16½	Art. 13, § 39
7½b	2	17	None
8	3, 5	18	Art. 13, § 40
8a	Repealed 1949	18½	Art. 13, § 41
8½	3, 5; Art. 22, § 8	18½	Repealed 1949
		19	9
		20	None

§ 1. Counties; subdivisions of state; formation, consolidation and boundary change; removal of county seat; powers; officers and employees

Sec. 1. (a) The State is divided into counties which are legal subdivisions of the State. The Legislature shall prescribe uniform procedure for county formation, consolidation, and boundary change. Formation or consolidation requires approval by a majority of electors voting on the question in each affected county. A boundary change requires approval by the governing body of each affected county. No county seat shall be removed unless two-thirds of the qualified electors of the county

voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

(b) The Legislature shall provide for county powers and an elected governing body in each county. Except as provided in subdivision (b) of Section 4 of this article, each governing body shall prescribe by ordinance the compensation of its members, but the ordinance prescribing such compensation shall be subject to referendum. The Legislature or the governing body may provide for other officers whose compensation shall be prescribed by the governing body. The governing body shall provide for the number, compensation, tenure, and appointment of employees. (Added June 2, 1970. Amended Nov. 3, 1970.)

Former section 1 was repealed June 2, 1970.

Repeal of former section 1 and addition of a new section having the same number, proposed by Assembly Const. Amend. No. 30 (1968), was rejected by the voters at the general election held Nov. 5, 1968.

1970 Amendment. Rewrote the first sentence of subd. (b) which previously read: "The Legislature shall provide for county powers and an elected governing body in each county and prescribe compensation of its members." and added the second sentence of subd. (b).

#### Law Review Commentaries

Annexation and conflict of interest laws. Dan Kaufmann and Alan I. Widiss (1963) 36 So. Cal. L.R. 186.

Nature, functions and operations of California grand jury. (1964) 52 C.L.R. 116. Reapportionment in California counties. William H. Stoffers (1964) 4 Santa Clara L. 201.

The metropolis, home rule, and special district. Wayne A. Brooks (1959) 11 Hast. L.J. 110, 246.

#### Library references

Annexation and related incorporation problems in California. Report of Assembly Interim Committee on Municipal and County Government, 1959-1961, vol. 6, No. 16. Vol. 1 of Appendix to Journal of the Assembly, Reg. Sess., 1961.

Concepts in metropolitan government. Reports of Assembly Interim Committee on Municipal and County Government, 1957-1959, vol. 6, No. 9, p. 7. Vol. 1 of Appendix to Journal of the Assembly, Reg. Sess., 1959.

Functional consolidation of local government. Reports of Assembly Interim Committee on Municipal and County Government, 1957-1959, vol. 6, No. 10, p. 7. Vol. 1 of Appendix to Journal of the Assembly, Reg. Sess., 1959.

Metropolitan government in California. Reports of Assembly Interim Committee on Conservation, Planning and Public Works, 1957-1959, vol. 13, No. 23, p. 7. Vol. 2 of Appendix to Journal of the Assembly, Reg. Sess., 1959.

Metropolitan multipurpose district for California. Reports of Assembly Interim Committee on Conservation, Planning and Public Works, 1957-1959, vol. 13, No. 24, p. 7. Vol. 2 of Appendix to Journal of the Assembly, Reg. Sess., 1959.

#### Index to Notes

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#### 1. Construction and application

Article VI disposes of all judicial power not expressly disposed of elsewhere in constitution, and, although legislature retains authority to grant multitude of powers to local bodies pursuant to this article, powers of judicial nature are no longer at its disposal. *Strumsky v. San Diego County Emp. Retirement Ass'n* (1974) 112 Cal. Rptr. 805, 520 P.2d 29, 11 C.3d 28.

The County of Santa Clara could construct juvenile hall, central services building, motor pool and garage building, board of education building, cultural building, superior courts building, municipal courts building, and a fiscal building or county administration building on sites presently within corporate limits of San Jose, but outside city limits of San Jose as those limits existed on date seat of Justice of Santa Clara County was established at San Jose, without first securing consent of two-thirds of voters of county in election under this section. 29 Ops. Atty. Gen. 42, 2-8-57.

#### 2. Counties—In general

Powers of counties are limited to those expressly set out in statutes and those necessarily implied therefrom. *Byers v. Board of Sup'rs of San Bernardino County* (1968) 68 Cal. Rptr. 549, 262 C.A.2d 148.

Ordinances abolishing civil service positions of addressograph operator and duplicating supervisor and establishing noncivil service position of supervisor of central services did not nullify basic principle of civil service and thus their submission to electors was not required under ordinance providing for submission to electors of ordinances nullifying basic principle of civil service. *Placer County Emp. Ass'n v. Board of Sup'rs of Placer County* (1965) 43 Cal. Rptr. 782, 233 C.A.2d 555.

#### 3. Offices—Creation

Failure of the legislature to prescribe duties or fix term of county physician indicates an intention not to create the position "county physician" as a county office and indicates that a county physician is not a "county officer" within purview of Gov. C. § 1090 providing that members of the legislature, state, county, judicial district, and city officers shall not be interested in any contract made by them in their official capacity, or by any body or board by which they are members. *Murin County v. Dufley* (1956) 300 P.2d 721, 144 C.A.2d 555.

# Art. 11, § 3

## CONSTITUTION

### § 3. Charters; adoption by counties and cities; amendment, revision or repeal; conflicting measures

Sec. 3. (a) For its own government, a county or city may adopt a charter by majority vote of its electors voting on the question. The charter is effective when filed with the Secretary of State. A charter may be amended, revised, or repealed in the same manner. A charter, amendment, revision, or repeal thereof shall be published in the official state statutes. County charters adopted pursuant to this section shall supersede any existing charter and all laws inconsistent therewith. The provisions of a charter are the law of the State and have the force and effect of legislative enactments.

(b) The governing body or charter commission of a county or city may propose a charter or revision. Amendment or repeal may be proposed by initiative or by the governing body.

(c) An election to determine whether to draft or revise a charter and elect a charter commission may be required by initiative or by the governing body.

(d) If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail.

(Added June 2, 1970. Amended Nov. 5, 1974.)

Former section 3 was repealed June 2, 1970.

Repeal of former section 3 and addition of a new section having the same number, proposed by Assembly Const. Amend. No. 30 (1968), was rejected by the voters at the general election held Nov. 5, 1968.

1974 Amendment. Substituted, in subd. (a), in the second sentence, the words "when filed with the Secretary of State," for "if approved without change by resolution of the Legislature, by rollcall vote entered in the Journal, a majority of the membership of each house concurring."; added the third and fourth sentences in subd. (a); deleted the former fourth sentence, in subd. (a), which read: "A charter may be amended, revised, or repealed in the same manner."; and added the last sentence in subd. (a).

#### Law Review Commentaries

Authority of county and city to impose an occupation tax. Sho Sato (1965) 63 C.L.R. 895.

Business licensing: the city-state conflict in California (1961) 49 C.L.R. 331.

Legislative control of municipal corporations in California, (1960) 7 U.C.L.A. Law Rev. 102.

Municipal income tax and state preemption in California. (1971) 11 Santa Clara L. 343.

Pre-emption of municipal licensing by state Contractors' License Act. (1959) 47 C.L.R. 607.

Regulation of San Francisco Bay and state constitutional problems including home rule. (1967) 55 C.L.R. 757.

#### Library references:

Sovereign immunity study. Cal. Law Revision Comm. (1963) Vol. 5, pp. 214, 241.

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#### 1. In general

Stats. 1927, p. 485, which, as it existed prior to repeal in 1949, granted plenary authority to municipal corporations to lease and contract with regard to use of municipal airport space and facilities, did not deal with "municipal affair" within

meaning of former art. 11, §§ 6, 8, and was valid. Trans World Airlines v. City and County of San Francisco (C.A. 1956) 228 F.2d 473, certiorari denied 76 S.Ct. 711, 351 U.S. 919, 100 L.Ed. 1451.

Charter city retains complete control of municipal affairs, whether or not its charter expressly enumerates power over specific municipal affair in question. Madsen v. Oakland Unified School Dist. (1975) 119 Cal.Rptr. 531, 45 C.A.3d 574.

Even if proposed city golf course which initiative petition sought to prohibit city from constructing and operating was part of a general plan of city, where city charter provision circumscribed authority of planning commission with respect to general plans but did not purport to prohibit city council from amending a general plan, and where city charter expressly provided that legislative power of city be vested not only in city council but also in the people through initiative and referendum, special hearing procedures allegedly required by Gov.C. § 65356.1 governing amendments of general plans did not preclude accomplishment of amendment to city plan by the initiative process. Duran v. Cassidy (1972) 104 Cal.Rptr. 793, 28 C.A.3d 574.

Sale of public streets of San Francisco is governed by its charter and not by the Streets and Highways Code. Harman v. City and County of San Francisco (1972) 101 Cal.Rptr. 880, 496 P.2d 1248, 7 C.3d 150.

City council had power to determine that appeal from city planning commission's grant of special use permit allowing establishment of mobile home park should be by trial de novo even though there was no statutory procedure governing the method or manner of perfecting an appeal from the commission to the council. Lagrutta v. City Council of City of Stockton (1970) 96 Cal.Rptr. 627, 9 C.A.3d 890.

Local governments, whether chartered or not, do not lack the power, nor are they constitutionally forbidden, to legislate on matters not of a local nature, nor is the legislature forbidden to legislate with respect to local municipal affairs of a home rule municipality; rather, in the event of conflict between state and local regulations, or if state legislation discloses an intent to preempt field, the question becomes one of predominance or superiority as between general state laws and local regulations. Bishop v. City of San Jose (1969) 81 Cal. Rptr. 465, 460 P.2d 137, 1 C.A.3d 56.

In former § 7½, providing that proposals to amend county charter may be submitted at "general election" by resolution (rather than by an ordinance, as required for submission at a special election), quoted reference does not necessarily mean

# Art. 11, § 4

# CONSTITUTION

## Note 1

### § 4. County charters; provisions

Sec. 4. County charters shall provide for:

(a) A governing body of 5 or more members, elected (1) by district or, (2) at large, or (3) at large, with a requirement that they reside in a district. Charter counties are subject to statutes that relate to apportioning population of governing body districts.

(b) The compensation, terms, and removal of members of the governing body. If a county charter provides for the Legislature to prescribe the salary of the governing body, such compensation shall be prescribed by the governing body by ordinance.

(c) Other officers, their election or appointment, compensation, terms and removal.

(d) The performance of functions required by statute.

(e) The powers and duties of governing bodies and all other county officers, and for consolidation and segregation of county officers, and for the manner of filling all vacancies occurring therein.

(f) The fixing and regulation by governing bodies, by ordinance, of the appointment and number of assistants, deputies, clerks, attaches, and other persons to be employed, and for the prescribing and regulating by such bodies of the powers, duties, qualifications, and compensation of such persons, the times at which, and terms for which they shall be appointed, and the manner of their appointment and removal.

(g) Whenever any county has framed and adopted a charter, and the same shall have been approved by the Legislature as herein provided, the general laws adopted by the Legislature in pursuance of Section 1(b) of this article, shall, as to such county, be superseded by said charter as to matters for which, under this section it is competent to make provision in such charter, and for which provision is made therein, except as herein otherwise expressly provided.

(h) Charter counties shall have all the powers that are provided by this Constitution or by statute for counties.

(Added June 2, 1970. Amended Nov. 3, 1970.)

Addition of a new section 4 proposed by Assembly Const. Amend. No. 30 (1968) was rejected by the voters at the general election held Nov. 5, 1968.

1970 Amendment. Added the second sentence in subd. (b).

#### Law Review Commentaries

California preemption doctrine: Expanding regulatory power of local governments. (1974) 8 U.S.F.L.Rev. 728.

Legislative control of municipal corporations in California. (1960) 7 U.C.L.A. Law Rev. 102.

The metropolis, home rule, and special district. Wayne A. Brooks (1959) 11 Hast. L.J. 110, 246.

Angeles County Civil Service Commission (1973) 110 Cal.Rptr. 311, 34 C.A.3d 709.

County assessor was county officer for purpose of recall and was not entitled to be reimbursed by state for sum expended to defeat recall election in absence of provision, in Elec.C. §§ 27200 to 27216 governing recall of county officers, for reimbursement. Hickman v. State (1971) 97 Cal.Rptr. 333, 19 C.A.3d 1038.

Under former art. 11, § 7½ provision relating to power of county to provide for manner of appointment of officers, county charter could provide for selection of probation officer in a manner wholly different from that set forth in general law since probation officer is a county officer. Superior Court In and For Alameda County v. Civil Service Commission of Alameda County (1968) 65 Cal.Rptr. 93, 257 C.A.2d 632.

The manner of appointment or removal of a county officer is not a matter of statewide concern but of local concern, and control over it, by the Constitution, has been placed under the control of the county involved under its charter. Curphey v. Superior Court In and For Los Angeles County (1959) 337 P.2d 169, 169 C.A.2d 261.

Where office of district attorney of Tehama County was vacated by resignation of incumbent on June 11, 1956 and was filled by appointment by the board of supervisors to serve for the unexpired term of the incumbent, the appointment of the appointee was not for the full unexpired term of the incumbent which would terminate in January 1959 but terminated at the general election to be held on November 6, 1956 so as to require that such office appear on the ballot for the November 6, 1956 general election. Hedlund v. Davis (1956) 301 P.2d 843, 47 C.2d 76.

Charter of the County of Tehama providing for the times at which and the terms

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### 1. Officers and employees—Generally

Action of county civil service commission in considering complaints of deputy district attorney concerning the design, grading and conduct of promotional examination for position of head deputy district attorney by reviewing written materials rather than holding hearing did not deny deputy district attorney due process. Fuchs v. Los

## Art. 11, § 5

## CONSTITUTION

### Note 25

controls over contrary provisions of Eureka city charter limiting term of superintendent of schools to one year. 30 Ops. Atty.Gen. 347, 12-30-57.

The provision of Eureka City Charter providing that only the superintendent of schools shall serve as secretary and bookkeeper to the board of education is in conflict with Educ.C. § 14006 (repealed. See, now, § 934) providing that board of education may employ a person not a member of the board to act as secretary and bookkeeper for the board and is therefore void. Id.

### 26. Taxation

Ordinance requiring utilities to collect charter city's utility users' tax, though applicable to state agencies, was reasonable exercise of city's constitutional power to tax for revenue purposes. Modesto Irr. Dist. v. City of Modesto (1973) 110 Cal. Rptr. 111, 34 C.A.3d 504.

Independent electrical contractor which performed work for state agencies could not appropriate to itself the state's immunity from local taxation; thus, contractor was liable for city business tax based on gross receipts from projects performed for state agencies within city limits. City of Los Angeles v. A. B. C. Los Angeles (1973) 109 Cal.Rptr. 519, 33 C.A.3d 933.

A city has power to impose taxes and business license fees on transportation companies, although in the case of a multi-city carrier the exaction must be apportioned to the carrier's local business; in imposing such kind of exaction, the city asserts its role as a political sovereignty, exercising governmental powers delegated to it by the constitution and state law. People v. Yellow Cab Co. (1973) 106 Cal. Rptr. 874, 31 C.A.3d 41.

Where city involved is freeholder's charter city availing itself of home rule provisions of former art. 11, §§ 6, 8, only restrictions on exercise of its power to tax are those limitations appearing in constitution and in charter itself. Century Plaza Hotel Co. v. City of Los Angeles (1970) 87 Cal. Rptr. 166, 7 C.A.3d 616.

Taxing power of chartered city may be altered as authorized by this section. In re Bunker Hill Urban Renewal Project 1B of Community Redevelopment Agency of City of Los Angeles (1964) 37 Cal.Rptr. 74, 389 P.2d 538, 61 C.2d 21, certiorari denied 85 S.Ct. 185, 379 U.S. 899, 13 L.Ed.2d 174, appeal dismissed, certiorari denied 85 S.Ct. 190.

Unless a court were to hold that a statutory provision of Rev. & T.C. § 17041.5 is unconstitutional, the city of Los Angeles may not impose an occupational tax for revenue upon persons employed in that city based upon a percentage of the salary or

### § 5.1 Repealed. June 2, 1970

The repealed section, added Nov. 3, 1964, related to adjustment of boundaries of county supervisorial districts.

### § 6. Consolidation as charter city and county

Sec. 6. (a) A county and all cities within it may consolidate as a charter city and county as provided by statute.

(b) A charter city and county is a charter city and a charter county. Its charter city powers supersede conflicting charter county powers.  
(Added June 2, 1970.)

Former section 6 was repealed June 2, 1970. Prior to repeal, the former section was amended Nov. 3, 1964.

Repeal of former section 6 and addition of a new section having the same number, proposed by Assembly Const. Amend. No. 30 (1968), was rejected by the voters at the general election held Nov. 5, 1968.

other form of compensation earned by such persons. 53 Ops.Atty.Gen. 270, 9-11-70.

### 27. Vehicles and traffic

The legislature has not abandoned that portion of traffic regulation field relating to parking meters so as to give general, unrestricted control to cities, and traffic regulation on public streets and highways remains a matter of state-wide concern and is not a "municipal affair", and power of initiative was not available to residents of city to repeal parking meter ordinances. Mervynne v. Acker (1961) 11 Cal.Rptr. 346, 183 C.A.2d 558.

State has right to exclusive control of vehicular traffic on public streets, and traffic on public highways is not a "municipal affair" in sense of giving municipality control thereof in derogation of power of state. Id.

### 28. Water system and rates

Formation and operation of San Bernardino Valley Municipal Water District did not constitute a "municipal affair", within meaning of former §§ 6, 8, and it was not necessary that majority of electors of city of San Bernardino vote in favor of formation of district in order that city be included therein. Wilson v. City of San Bernardino (1961) 9 Cal.Rptr. 431, 186 A.C.A. 665.

### 29. Zoning

City code providing that action of planning commission may be appealed to council did not limit city council in its consideration of an appeal from an action of the planning commission to an examination of transcript of previous hearing before planning commission; city had jurisdiction to hold another public hearing and take additional evidence. Lagrutta v. City Council of City of Stockton (1970) 96 Cal.Rptr. 627, 9 C.A.3d 890.

City code providing that action of planning commission may be appealed to council did not limit city council in its consideration of an appeal from an action of the planning commission to an examination of transcript of previous hearing before planning commission; city had jurisdiction to hold another public hearing and take additional evidence. Lagrutta v. City Council of City of Stockton (1970) 88 Cal.Rptr. 105, 9 C.A.3d 890.

### 30. Review

Under provisions of former § 8 respecting powers of chartered cities with respect to "municipal affairs," judicial interpretation is necessary to give meaning to the quoted term and it is not fixed but fluctuates in scope and changes in conditions make necessary new and broader applications thereof. 26 Ops.Atty.Gen. 67, 1-19-55.

Repeal of former section 5.1 proposed by Assembly Const. Amend. No. 30 (1968) was rejected by the voters at the general election held Nov. 5, 1968.

### Law Review Commentaries

Authority of county and city to impose an occupation tax. Sho Sato (1965) 13 C.L.R. 805.

Judicial limitations on the initiative and referendum in California municipalities. (1966) 17 Hast.L.J. 805.

Legislative control of municipal corporations in California. (1960) 7 U.C.L.A. Law R. 102.



determination of whether a reasonable relationship exists between the regulation imposed and the protection of public welfare, and does not extend to determining the wisdom of the regulation, its usefulness in achieving its objectives, or its merits when compared to other regulatory schemes. 7978 Corp. v. Pitchess (1974) 115 Cal.Rptr. 746, 41 C.A.3d 42.

Where city involved is freeholder's charter city availing itself of home rule provisions of former art. 11, §§ 6, 8, only restrictions on exercise of its power to tax are those limitations appearing in constitution and in charter itself. Century Plaza Hotel Co. v. City of Los Angeles (1970) 87 Cal. Rptr. 166, 7 C.A.3d 616.

Los Angeles being chartered city, ordinances relating to matters which are purely municipal affairs are not invalid because in conflict with general state laws or because state laws have been enacted to cover same subject, save as to general laws intended to preempt. Baron v. City of Los Angeles (1970) 86 Cal.Rptr. 673, 469 P.2d 353, 2 C.3d 535, 42 A.L.R.3d 1036.

In exercising judicial function of deciding whether matter is a municipal affair or of statewide concern, courts will give great

weight to legislative purpose in enacting general laws which disclose intent to preempt field to exclusion of local regulation; however, mere fact that legislature has attempted to deal with particular subject on statewide basis is not determinative, nor does it impair the constitutional authority of a home rule city or county to enact and enforce its own regulations to the exclusion of general laws should the subject be held by courts to be a municipal affair; disapproving Bishop v. City of San Jose (1969) 81 Cal.Rptr. 465, 460 P.2d 137, 1 C.A. 3d 56.

McCarthy v. City of Manhattan Beach (1954) 264 P.2d 932, 41 C.2d 879 [main volume former § 11, note no. 341], certiorari denied 75 S.Ct. 29, 348 U.S. 817, 99 L.Ed. 644.

Where original determination of zoning administrator is void for lack of jurisdiction, the reviewing body may not consider merits but take only that action appropriate to annul and set aside the administrative action or remand proceedings for further appropriate proceedings to the administrative body exercising original jurisdiction. Mumaw v. City of Glendale (1969) 76 Cal.Rptr. 245, 270 A.C.A. 485.

#### § 7½. Repealed. June 2, 1970

Prior to repeal, this section was amended Nov. 2, 1954 and Nov. 6, 1956.

Amendment of subd. 1 of the 6th paragraph of former section 7½ proposed by Assembly Const. Amend. No. 42 (1965) was rejected by the voters at the general election held Nov. 8, 1966.

Repeal of former section 7½ proposed by Assembly Const. Amend. No. 30 (1968) was rejected by the voters at the general election held Nov. 5, 1968.

#### § 7½b. Repealed. June 2, 1970

Repeal of former section 7½b proposed by Assembly Const. Amend. No. 30 (1968)

was rejected by the voters at the general election held Nov. 5, 1968.

#### § 8. Performance of municipal functions by county; request

Sec. 8. (a) The Legislature may provide that counties perform municipal functions at the request of cities within them.

(b) If provided by their respective charters, a county may agree with a city within it to assume and discharge specified municipal functions.

(Added June 2, 1970.)

Former section 8 was repealed June 2, 1970.

Repeal of former section 8 and addition of a new section having the same

number, proposed by Assembly Const. Amend. No. 30 (1968), was rejected by the voters at the general election held Nov. 5, 1968.

#### § 8½. Repealed. June 2, 1970

Repeal of former section 8½ proposed by Assembly Const. Amend. No. 30 (1968)

was rejected by the voters at the general election held Nov. 5, 1968.

#### § 9. Public works in municipalities; operation or regulation

Sec. 9. (a) A municipal corporation may establish, purchase, and operate public works to furnish its inhabitants with light, water, power, heat, transportation, or means of communication. It may furnish those services outside its boundaries, except within another municipal corporation which furnishes the same service and does not consent.

(b) Persons or corporations may establish and operate works for supplying those services upon conditions and under regulations that the city may prescribe under its organic law.

(Added June 2, 1970.)

New York

The New York Constitution provides that every "local government", including towns, cities and counties, but not including a county wholly included within a city, shall have a legislative body elected by the people. Every local government has local legislative and administrative powers, including the authority to determine the organizational structure and "the powers, duties, qualifications, number, mode of selection and removal, terms of office, compensation, hours of work, protection, welfare and safety of its officers and employees."...

(N.Y. Constitution, Article 9, §2, sub-§ C, ¶1.) Counties, as well as cities and towns, also are granted the "power to adopt and amend local laws not inconsistent with the provisions of this constitution or any general law relating to its property, affairs or government...." (N.Y. Constitution, Article 9, §2, sub-§C.) The Constitution also limits the power of the Legislature to intervene on the local level, requiring legislative action concerning local affairs only by general law or, if by special law, only on request of 2/3's of the total legislative membership or by request of the local government's chief executive officer and a majority of the Legislature. Further, once a power has been granted to local government, it may be "repealed, diminished, impaired or suspended" only by enactment and subsequent re-enactment in the following year. (N.Y. Constitution, Article 9, §2, sub-§B, ¶¶ 1 & 2.)

Thus, the constitutional grant of authority to New York counties appears to be broadly that of a semi-autonomous general purpose unit of government. Appearances may be deceptive however, see Home Rule and the New York Constitution, 66 Columbia Law

Review 1145, 1966. In any event, counties in New York exercise far more power than counties in Maine. Counties exercise the same general authority and powers granted to New York's cities and towns, and the Legislature is limited, to some degree, in its power to control these units of government. The provisions of general law that particularly define the powers of counties have delineated broad areas of county powers, including planning, parks and recreation, fire training, solid waste disposal, water, sewage, drainage and refuse disposal, law enforcement, county highways, district attorneys and public defenders, public welfare and sealing of weights and measures. Most of these provisions, however, are enabling legislation and do not pre-empt the powers of other governmental units. (N.Y., County Law, §§ 218-280 and 475-775.) The counties do have the power to set up and operate special purpose subordinate taxing districts to supply water, sewerage, drainage and refuse disposal. (N.Y. County Law, §§250-280; N.Y. Constitution, Article 9, §1, sub-§§C, F & G.)

The structure of New York county government is particularly interesting in several respects. The traditional county structure has vested county legislative and administrative powers in a Board of Supervisors. This Board is composed of the Supervisors of each city and town within the county, (N.Y. County Law, §150.) and thus is not directly elected by the county as a whole, but by each municipality separately. (This procedure has withstood constitutional attack. See *Incorporated Village of Port Jefferson v. Board of Supervisors of Suffolk County*, 1964, 44 Misc. 2d 1083, 256 N.Y.S. 2d 34, affirmed 26 A.D. 2d 700, 272 N.Y.S. 2d 617, affirmed 21 N.Y. 2d 663, 287 N.Y.S. 2d 92, 234 N.E. 2d 254, appeal dismissed 88 5. ct. 1263, 390 U.S. 597, 20

L. Ed. 2d 159.) The Board may adopt local laws not inconsistent with general law, and directly administer county government by fixing the salary of county officers, establishing employment positions and fixing their compensation, overseeing and auditing all county accounts, and by adopting the budget and appropriating money. Despite this centralized administrative control by the Board, direct election of the Sheriff, County Clerk, District Attorney, County Treasurer, County Judge, Surrogate and Judge of the Family Court, continues under this County structure. The Sheriff, County Clerk, District Attorney, and Register are required by the Constitution to be elected. (N.Y. Constitution, Article 13, §13.) The Sheriff also retains the power to appoint his own deputies. (N.Y. County Law, §§153, 201, 204, 205, 209, 350-381, 400 & 652; N.Y. Municipal Home Rule Law, §§10, 11, 20-27.) The Board of Supervisors elects a chairman, who directly exercises the general administrative oversight of the Board on a daily basis, and carries out the decisions and instructions of the Board. (N.Y. County Law, §§150-4 & 450) The Chairman also has veto power over local laws passed by the Board. (N.Y. Municipal Home Rule Law, §21)

The New York Constitution also provides that counties may adopt, amend or repeal a charter for alternative forms of county government, and that any alternative may shift municipal functions to the county and vice-versa, and may abolish offices, departments, agencies or units of government. These changes require voter approval of any units of government effected (N.Y. Constitution, Article 9, §1, sub-§H; and see N.Y. Municipal Home Rule Law.) The statutes do not provide for any particular alternate forms of county government, except to provide that the Board of Supervisors may be replaced by an "elected county

legislative body", which would be directly elected by county voters and would exercise all the powers and duties of the Board. (N.Y. County Law, §150-a.) The statutes do provide, however, for the general powers that any form of county government may exercise, for limitations and restrictions on those powers, and for the general method of adoption, amendment and repeal. (N.Y. Municipal Home Rule Law, §§30-35.) The powers, with restrictions and limitations, are, in theory, very broad, granting almost total control over local affairs to units of local government, though some subjects of local law and financing require referenda prior to enactment or undertaking. The only other major limitations on the power and authority of counties are the Constitutional limits on indebtedness and the amount to be raised by real estate taxes. These limits are based on percentages of "average full valuation of taxable real estate." (N.Y. Constitution, Article 8.)

## ARTICLE IX—LOCAL GOVERNMENTS

Sec.

1. Bill of rights for local governments.
2. Powers and duties of legislature; home rule powers of local governments; statute of local governments.
3. Certain powers of legislature as unimpaired; existing laws unaffected; construction of article; definitions.

### § 1. Bill of rights for local governments

Effective local self-government and intergovernmental cooperation are purposes of the people of the state. In furtherance thereof, local governments shall have the following rights,

powers, privileges and immunities in addition to those granted by other provisions of this constitution:

(a) Every local government, except a county wholly included within a city, shall have a legislative body elective by the people thereof. Every local government shall have power to adopt local laws as provided by this article.

(b) All officers of every local government whose election or appointment is not provided for by this constitution shall be elected by the people of the local government, or of some division thereof, or appointed by such officers of the local government as may be provided by law.

(c) Local governments shall have power to agree, as authorized by act of the legislature, with the federal government, a state or one or more other governments within or without the state, to provide cooperatively, jointly or by contract any facility, service, activity or undertaking which each participating local government has the power to provide separately. Each such local government shall have power to apportion its share of the cost thereof upon such portion of its area as may be authorized by act of the legislature.

(d) No local government or any part of the territory thereof shall be annexed to another until the people, if any, of the territory proposed to be annexed shall have consented thereto by majority vote on a referendum and until the governing board of each local government, the area of which is affected, shall have consented thereto upon the basis of a determination that the annexation is in the over-all public interest. The consent of the governing board of a county shall be required only where a boundary of the county is affected. On or before July first, nineteen hundred sixty-four, the legislature shall provide, where such consent of a governing board is not granted, for adjudication and determination, on the law and the facts, in a proceeding initiated in the supreme court, of the issue of whether the annexation is in the over-all public interest.

(e) Local governments shall have power to take by eminent domain private property within their boundaries for public use together with excess land or property but no more than is sufficient to provide for appropriate disposition or use of land or property which abuts on that necessary for such public use, and to sell or lease that not devoted to such use. The legislature may authorize and regulate the exercise of the power of eminent domain and excess condemnation by a local government outside its boundaries.

(f) No local government shall be prohibited by the legislature (1) from making a fair return on the value of the property used and useful in its operation of a gas, electric or water public utility service, over and above costs of operation and maintenance and necessary and proper reserves, in addition to an amount equivalent to taxes which such service, if privately owned, would pay to such local government, or (2) from using such profits for payment of refunds to consumers or for any other lawful purpose.

(g) A local government shall have power to apportion its cost of a governmental service or function upon any portion of its area, as authorized by act of the legislature.

(h) (1) Counties, other than those wholly included within a city, shall be empowered by general law, or by special law enacted upon county requests pursuant to section two of this article, to adopt, amend or repeal alternative forms of county government provided by the legislature or to prepare, adopt, amend or repeal alternative forms of their own. Any such form of government or any amendment thereof, by act of the legislature or by local law, may transfer one or more functions or duties of the county or of the cities, towns, villages, districts or other units of government wholly contained in such county to each other or when authorized by the legislature to the state, or may abolish one or more offices, departments, agencies or units of government provided, however, that no such form or amendment, except as provided in paragraph (2) of this subdivision, shall become effective unless approved on a referendum by a majority of the votes cast thereon in the area of the county outside of cities, and in the cities of the county, if any, considered as one unit. Where an alternative form of county government or any amendment thereof, by act of the legislature or by local law, provides for the transfer of any function or duty to or from any village or the abolition of any office, department, agency or unit of government of a village wholly contained in such county, such form or amendment shall not become effective unless it shall also be approved on the referendum by a majority of the votes cast thereon in all the villages so affected considered as one unit.

(2) After the adoption of an alternative form of county government by a county, any amendment thereof by act of the legislature or by local law which abolishes or creates an elective county office, changes the voting or veto power of or the method of removing an elective county officer during his term of office, abolishes, curtails or transfers to another county officer or agency any power of an elective county officer or changes the form or composition of the county legislative body shall be subject to a permissive referendum as provided by the legislature.

§ 2. Powers and duties of legislature; home rule powers of local governments; statute of local governments

(a) The legislature shall provide for the creation and organization of local governments in such manner as shall secure to them the rights, powers, privileges and immunities granted to them by this constitution.

(b) Subject to the bill of rights of local governments and other applicable provisions of this constitution, the legislature:

(1) Shall enact, and may from time to time amend, a statute of local governments granting to local governments powers including but not limited to those of local legislation and administration in addition to the powers vested in them by this article. A power granted in such statute may be repealed, diminished, impaired or suspended only by enactment of a statute by the legislature with the approval of the governor at its regular session in one calendar year and the re-enactment and approval of such statute in the following calendar year.

(2) Shall have the power to act in relation to the property, affairs or government of any local government only by general law, or by special law only (a) on request of two-thirds of the total membership of its legislative body or on request of its chief executive officer concurred in by a majority of such membership, or (b), except in the case of the city of New York, on certificate of necessity from the governor reciting facts which in his judgment constitute an emergency requiring enactment of such law and, in such latter case, with the concurrence of two-thirds of the members elected to each house of the legislature.

(3) Shall have the power to confer on local governments powers not relating to their property, affairs or government including but not limited to those of local legislation and administration, in addition to those otherwise granted by or pursuant to this article, and to withdraw or restrict such additional powers.

(c) In addition to powers granted in the statute of local governments or in any other law, (i) every local government shall have power to adopt and amend local laws not inconsistent with the provisions of this constitution or any general law relating to its property, affairs or government and, (ii) every local government shall have power to adopt and amend local laws not inconsistent with the provisions of this constitution or any general law relating to the following subjects, whether or not they relate to the property, affairs or government of such local government, except to the extent that the legislature shall restrict the adoption of such a local law relating to other than the property, affairs or government of such local government:

(1) The powers, duties, qualifications, number, mode of selection and removal, terms of office, compensation, hours of work, protection, welfare and safety of its officers and employees, except that cities and towns shall not have such power with respect to members of the legislative body of the county in their capacities as county officers.

(2) In the case of a city, town or village, the membership and composition of its legislative body.

(3) The transaction of its business.

(4) The incurring of its obligations, except that local laws relating to financing by the issuance of evidences of indebtedness



by such local government shall be consistent with laws enacted by the legislature.

(5) The presentation, ascertainment and discharge of claims against it.

(6) The acquisition, care, management and use of its highways, roads, streets, avenues and property.

(7) The acquisition of its transit facilities and the ownership and operation thereof.

(8) The levy, collection and administration of local taxes authorized by the legislature and of assessments for local improvements, consistent with laws enacted by the legislature.

(9) The wages or salaries, the hours of work or labor, and the protection, welfare and safety of persons employed by any contractor or sub-contractor performing work, labor or services for it.

(10) The government, protection, order, conduct, safety, health and well-being of persons or property therein.

(d) Except in the case of a transfer of functions under an alternative form of county government, a local government shall not have power to adopt local laws which impair the powers of any other local government.

(e) The rights and powers of local governments specified in this section insofar as applicable to any county within the city of New York shall be vested in such city.

### § 3. Certain powers of legislature as unimpaired; existing laws unaffected; construction of article; definitions

(a) Except as expressly provided, nothing in this article shall restrict or impair any power of the legislature in relation to:

(1) The maintenance, support or administration of the public school system, as required or provided by article XI of this constitution, or any retirement system pertaining to such public school system,

(2) The courts as required or provided by article VI of this constitution, and

(3) Matters other than the property, affairs or government of a local government.

(b) The provisions of this article shall not affect any existing valid provisions of acts of the legislature or of local legislation and such provisions shall continue in force until repealed, amended, modified or superseded in accordance with the provisions of this constitution.

(c) Rights, powers, privileges and immunities granted to local governments by this article shall be liberally construed.

(d) Whenever used in this article the following terms shall mean or include:

(1) "General law." A law which in terms and in effect applies alike to all counties, all counties other than those wholly included within a city, all cities, all towns or all villages.

(2) "Local government." A county, city, town or village.

(3) "People." Persons entitled to vote as provided in section one of article two of this constitution.

(4) "Special law." A law which in terms and in effect applies to one or more, but not all, counties, counties other than those wholly included within a city, cities, towns or villages.

Michigan.

Counties in Michigan, like the other counties discussed here, are powerful and semi-autonomous units of government. The Michigan Constitution provides that counties will be governed by a Board of Supervisors (or Board of County Commissioners in some statutory charter alternatives) that is vested with legislative and administrative functions. (Mich. Const. Art. 7, § 8). This Board was originally composed of one member from each county township and "such representation from cities as provided by law" (Mich. Const. Art. 7, § 7). However, in 1968 this method of selection was declared unconstitutional (In re Advisory Opinion re Constitutionality of P.A. 1966, No. 261, 158 NW 2d, 497; 380 Mich. 736 (1968); see also Avery v. Midland County, 390 U.S. 474, 88 S.Ct. 1114, 20 L. Ed. 2d 45 (1968)); and election by single-member districts was adopted (Mich. stats. 41.401 et seq.).

The Constitution provides for the adoption of county charters, with the approval of the voters, (Mich. Const. Art. 7, § 1); the election of county sheriffs, county clerks, county treasurers, registers of deeds, and prosecuting attorneys (Mich. Const. Art. 7, § 2); and the transfer of functions or joint administration of duties between different units of local government (Mich. Const. Art. 7, § 28). The Board of Supervisors is granted the exclusive power to set the salaries of all county officers, including the elected officers, that are not otherwise set by law (Mich. Const. Art. 7, § 9).

Thus, the authority of the Board appears to be broad and exclusive as to the operations of county government. However, the elected officials retain an anomalous degree of independence

from the Board, retaining their power to operate their own departments within the budget approved by the Board, and to appoint their own deputies. (Mich. stats. 45.41, 45.405, 48.35, 49.11, 50.61, 50.70 and 50.75). Without a county charter, such autonomy of the elected "department heads" would not appear inconsistent with the general supervisory function of the Board. However, under several charter alternatives, the supervision and administration of county government on a daily basis is granted to an officer, the "manager", or "executive", with a specific exception for the departments headed by an elected official, (Mich. stats. 45.558). Thus, a conflict with elected officials is avoided by limiting the power of the county's chief administrative officer..

The Board of Supervisors or County Commissioners of each county sets the salaries of all county officers and employees, is empowered to levy taxes or ordinances relating to "purely county affairs". Any ordinances or laws passed, however, are subject to the veto of the Governor (in non-charter and certain charter counties), (Mich. stats. 46.11 (c)), or by the County Executive (in charter-county executive counties) (Mich. stats. 45.561). The Board also has power to remove county officers by 2/3's vote of its members. All counties may also establish a county purchasing agent, a county controller (finance officer), a finance committee (auditing and oversight), a Board of Auditors, a form of county civil service and a county pension system. (Mich. stats. 46.13a, 46.13b, 45.51, 47.1 and 51.351).

The counties appear to perform many general governmental functions, including the construction and maintenance of roads, highways and bridges, which may be delegated to townships. Counties also may undertake major public works function, particularly relat-

ing to water supply, sewage disposal and solid waste disposal. The "transfer of functions" and "consolidate - joint venture" provisions of the Constitution and statutes gives the county great flexibility in performing these, and other "municipal", functions.

Michigan law provides for three separate types of charter, as follows:

1. "County charter". This provision provides for an elected full-time county executive to act as the chief administrative officer of the county. The Board of County Commissioners acts solely as a legislative body, and the elected county officials, (e.g., sheriff) continue to exercise their broad administrative authority within their departments. There is a debt limit of 10% of taxable property and a taxing limit of 1% of taxable property. The charter may provide for the acquisition, operation and sale of public utilities, for the transfer of municipal functions to the county if those functions are already performed on a county-wide basis, and for authority to perform any function or service not prohibited by law (Mich. stats. 45.514 and 45.515). However, "(p)owers granted solely by charter may not be exercised by the charter county in a local unit of government which is exercising a like power, without the consent of the local legislative body." (Mich. stats. 45.515 (c)). Any charter adopted under this provision, must be approved by the Governor, or if he refuses twice, by the court, to insure its compliance with the Constitution and statutes. After such approval, it may be adopted by the county voters.

2. Unified Form of County Government. This provision (Mich. stats. 45.551-45.567) provides two alternatives to the "county charter": "Alternative A" that provides for an appointed county manager, and "Alternate B" that provides for an elected county ex-

ecutive. This provision is much more detailed in its allocation of authority between the Board and the chief administrative officer. The Board exercises general legislative and policy setting functions, including budget adoption, levy of taxes, appropriating funds, establishing departments and their budgets, setting salaries and investigating and auditing county operations. The chief administrative officer, either a "manager" or "executive", directly supervises and controls all county departments, except those headed by an elected official, coordinates and unifies all county functions, prepares, submits and subsequently administers the county budget and work programs, appoints, supervises and removes, with Board concurrence, all non-elected department heads, and recommends actions to the Board. Specific departments are set out by the statutes, though the Board may consolidate, or transfer functions of all departments except those of elected officials. The basic difference between "Alternatives A and B" of the "Unified Forms", is that "Alternative A" has a county manager appointed by the Board that acts as the Board's full-time administrator, while "Alternative B" has an elected county executive that has independent responsibility for administrative supervision, is elected (on a partisan basis for a four year term, coterminus with Board members) and has a veto power over the Board's "legislative" actions. Thus "Alternative B" provides for the classic division of power between the "legislative" and "executive" functions. While "Alternative A" provides for both powers to be generally vested in the Board of County Commissioners.

Under any one of these three charter options, the power of the county is strengthened even further, particularly by providing a centralized administrative structure. These "alternatives" were

added because of the demonstrated inadequacy of the previous "home rule" structure, which had not been adopted by any county as of 1972. (County Home Rule: An Approach to Metropolitan Problems in Michigan, 6 U.Mich.J.L.R. 232, (1972)). However, even these alternatives have been called deficient in two key areas, the continued "independence" of the five elected county officials, and the lack of pre-emptive municipal powers. (County Home Rule: An Approach to Metropolitan Problems in Michigan, 6 U.Mich. J.L.R. 232 (1972)). Nonetheless, even with these "deficiencies", Michigan counties already have much broader authority than Maine Counties, and can extend that authority even further by adopting "home rule" charters.

## OPTIONAL UNIFIED FORM OF COUNTY GOVERNMENT [NEW]

*Caption editorially supplied*

P.A.1973, No. 139, Eff. March 29, 1974

AN ACT to provide forms of county government; to provide for county managers and county executives and to prescribe their powers and duties; to abolish certain departments, boards, commissions, and authorities; to provide for transfer of certain powers and functions; to prescribe powers of a board of county commissioners and elected officials; to provide organization of administrative functions; to transfer property; to retain ordinances and laws not inconsistent with this act; and to provide methods for abolition of a unified form of county government.

*The People of the State of Michigan enact:*

**45.551 Authority to adopt; superseding existing form**

Sec. 1. A county which has not adopted a charter, or elected a charter commission which has not been dissolved pursuant to Act No. 293 of the Public Acts of 1966, being sections 45.501 to 45.521 of the Michigan Compiled Laws, may adopt an optional unified form of county government. A unified form of government adopted pursuant to this act shall supersede the existing form of government of the county. P.A.1973, No. 139, § 1, Eff. March 29, 1974.

**45.552 Appointed county manager, alternate A; elected county executive, alternate B**

Sec. 2. (1) An optional unified form of county government shall include either:

(a) An appointed county manager, who shall comply with the qualifications and exercise the responsibilities detailed in sections 7 and 8.<sup>1</sup> This form of county government shall be known as alternate A.

(b) An elected county executive, who shall comply with the qualifications and exercise the responsibilities detailed in sections 8, 9, 10, and 11.<sup>2</sup> This form of county government shall be known as alternate B.

(2) A provision of this act not specifically designated as applicable to alternate A or alternate B is applicable to the unified form of county government adopted. P.A.1973, No. 139, § 2, Eff. March 29, 1974.

<sup>1</sup> Sections 45.557 and 45.558.

<sup>2</sup> Sections 45.558, 45.559, 45.560 and 45.561.

**45.553 Adoption, procedure**

Sec. 3. (1) An optional unified form of county government shall be adopted and become effective in the following manner:

(a) The county board of \* \* \* commissioners by a majority vote of the members elected and serving may adopt an optional unified form of county government with an appointed manager. The adoption shall be submitted to the electors pursuant to subdivision (c). A vote of disapproval by the electors does not limit the power of the county board of \* \* \* commissioners subsequently to adopt an optional unified form of county government with an elected county executive pursuant to subdivision (b). A county board of \* \* \* commissioners may not adopt an optional unified form of county government with an appointed manager within 2 years after an optional unified form of county government with an appointed manager is disapproved by the electors.

(b) The county board of \* \* \* commissioners, by a majority vote of the members elected and serving, may adopt an optional unified form of county government with an elected county executive. The adoption shall be submitted to the electors.

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pursuant to subdivision (c). A vote of disapproval by the electors does not limit the power of the county board of \* \* \* commissioners subsequently to adopt an optional unified form of county government with an appointed manager pursuant to subdivision (a). A county board of \* \* \* commissioners may not adopt an optional unified form of county government with an elected executive within 2 years after an optional unified form of county government with an elected executive is disapproved by the electors.

(c) Within 90 days of the adoption of an optional unified form of county government by the county board of commissioners, petitions bearing the signatures of registered electors of the county equal to not less than 5% of the total number of votes cast for governor in the county in the last previous election at which a governor was elected, requesting adoption of the other optional unified form of county government may be filed with the county clerk. The county clerk shall canvas and certify the sufficiency of the petitions within 14 days of the filing.

The election to be held on the question of an optional unified form of county government pursuant to the action of the county board of commissioners or pursuant to that action and the filing of petitions, shall be held at the next regular primary election occurring not less than 49 days nor more than 180 days following the date of the action of the county board of commissioners or the date of the certification of the petition, whichever is later. If a regular primary election is not scheduled during that period the board of county commissioners shall call a special election for the purpose of voting on the issue within that period.

If a valid petition is not filed, the question presented to the voters shall be on whether the alternate set forth in the board action shall be adopted. If a majority of the electors voting on the question vote in favor of the question the optional unified form of county government set forth in the question shall be effective 30 days following the certification of the election by the board of county canvassers.

If a valid petition is filed, the questions presented to the voters shall be on whether to adopt an optional unified form of county government, and then whether to adopt alternate A or alternate B. If a majority of the electors voting on the question of whether to adopt an optional unified form of county government vote in favor of the question, the alternate receiving the highest number of votes shall prevail and shall be effective 30 days following the certification of the election by the board of county canvassers. A county board of commissioners, by majority vote, may place both alternate A and alternate B on the ballot at the same time. The alternate receiving the highest number of votes by the electors shall prevail.

If the question of adopting an optional unified form of county government is not approved, approval of either alternate is void and the subsequent adoption of an optional unified form of county government shall be in accordance with subdivisions (a) and (b).

(d) If the county board of \* \* \* commissioners does not adopt an optional unified form of county government, petitions bearing the signatures of registered electors of the county equal to not less than 10% of the total number of votes cast for governor in the county in the last previous election at which a governor was elected, may be filed with the county clerk requesting adoption of alternate A or alternate B. Two separate petitions or sets of petitions may be filed if each peti-

tion or set of petitions requests the adoption of a different alternate. Upon the clerk certifying to the county board of commissioners that a proper petition is filed, the question of adopting an optional unified form of county government with the alternate specified in the petition or both alternates if 2 separate petitions or sets of petitions, of which each petition or set of petitions requests the adoption of a different alternate, are filed and certified, shall be submitted by the board to the electorate of the county for approval or disapproval at the next regular primary election occurring not less than 90 days nor more than 180 days after the date the clerk certifies the petitions to the county board of \* \* \* commissioners; or, if a primary election is not scheduled during the period, at a special election called by the county board of \* \* \* commissioners for the purpose within the period. If a majority of the votes cast on the proposal approve the adoption, the optional unified form of county government containing the alternate specified in the original petition then shall become effective in the county 180 days after the date of the election. If both alternates are on the ballot and a majority of the votes cast on the proposal approve the adoption of an optional unified form of county government, the alternate receiving the highest number of votes shall prevail and shall become effective in the county 180 days after the date of the election. If the question of adopting an optional unified form of county government is not approved, approval of either alternate is void and the subsequent adoption of an optional unified form of county government shall be in accordance with subsection (1)(a) or (b).

(2) An election held pursuant to this section shall be subject to and in accordance with the general election laws.

(3) Except as otherwise provided by law, an election which is requested by a county board of commissioners or pursuant to petitions filed by the electors for purposes of implementing this act shall be paid by the county.

(4) A petition requesting adoption of an optional unified form of county government which received signatures before the effective date of this subsection or the adoption of an optional unified form of county government by a county board of commissioners before the effective date of this subsection shall not be construed as being invalid or to require any further action as a result of the amendatory act which added this subsection, and the optional unified form of county government requested by the petition or adopted by a county board of commissioners or both shall be placed on the ballot as provided in this act as amended.

P.A.1973, No. 139, § 3, Eff. March 29, 1974. Amended by P.A.1974, No. 120, § 1, Imd. Eff. May 23, 1974.

1974 Amendment. Substituted "county board of commissioners" for "board of county commissioners" throughout the section; substituted "subdivision (c)" for "subdivision (d)" in the second sentence of subsections (1)(a) and (1)(b); substituted "and optional unified form" for "a unified form" in the last sentence of subsection (1)(a); substituted "optional unified form" for "optional form" in the third sentence of subsection (1)(b); rewrote subsection (1)(c) which had read:

"(c) The adoption of an optional form of county government by a majority of the county board of commissioners is valid unless within 90 days after the adoption, petitions bearing the signatures of registered electors of the county equal to not less than 5% of the total number of votes cast for governor in the county in the last previous election at which a governor was elected, are filed with the

county clerk requesting adoption of the other alternate form. Upon the clerk certifying to the county board of commissioners that a proper petition is filed, the county board of commissioners shall adopt the unified form of county government requested by the petitions and submit the question of approving or disapproving the adoption to the electors in accordance with subdivisions (c) and (d). When proper petitions are filed for both optional forms of unified county government, both forms will be adopted and the question of approving or disapproving either of the options shall be submitted to the county electors at the next regular primary election occurring not less than 90 days nor more than 180 days following the date of certification of the petitions by the county clerk. If a primary election is not scheduled during the period, the county board of commissioners will

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call a special election for the purpose of approving or disapproving either of the options. When both forms appear on the ballot, county electors may vote "yes" or "no" on whether to adopt a form of unified county government, and may choose either alternate A or B. The alternate receiving the highest number of votes will prevail. Where the question of adopting a unified form of county government is not approved, approval of either alternate is void and the subsequent adoption of an optional unified form of county government shall be in accordance with section 3, subdivisions (a), (b) and (c) of this act."

deleted former subsection (1)(d), which read:

"(d) The adoption shall be submitted to the electors for approval or disapproval at the next regular primary election occurring not less than 90 days nor more than 180 days following the date of adop-

tion or, if a primary election is not scheduled during the period, at a special election called by the board of county commissioners for the purpose within the period. If a majority of the votes cast on the proposal at the election approve the adoption, the optional unified form of county government then shall become effective in the county 180 days following the date of the election. If a majority of the votes cast disapprove the adoption, it is void."

relettered former subsection (1)(e) as subsection (1)(d); inserted the second sentence, inserted "or both alternates if 2 separate petitions or sets of petitions, of which each petition or set of petitions request the adoption of a different alternate, are filed and certified" in the third sentence, and added the last two sentences of subsection (1)(d); and added subsection (4).

#### 45.554 Pre-existing appointed boards, commissions, and authorities and elective county offices, abolishment, exceptions; transfer of powers

Sec. 4. (1) On the date the optional unified form of county government becomes effective all appointed boards, commissions, and authorities except the apportionment commission, airport zoning board of appeals, board of county canvassers, boards of determination for drainage districts, civil service commission, county drainage board, concealed weapons licensing board, election commission, jury commission, library commission, parks and recreation commission, social services board, tax allocation board, any board established to oversee retirement programs, any plat board, any mental health board, any hospital board, any intercounty drainage board, and any building authority established by the county individually or in conjunction with another unit of government and the boards of county road commissioners; and all elective county offices except those of county commissioner, prosecuting attorney, clerk, register of deeds, treasurer, sheriff, elected county auditors, and drain commissioner are abolished and the tenure of persons holding the offices or appointments are terminated. Termination shall take effect whether or not it coincides with the end of a term of office or appointment. All county departments in conflict with the departmental organization established by this act are abolished. As used in this act, the term department or county department shall not be construed to include boards of county road commissioners.

(2) Powers vested in any abolished office, board, commission, authority, or department, on the date the optional unified form of county government becomes effective, become general county government powers, and functions performed by the office, board, commission, authority, or department shall be carried on as provided in this act.

(3) A board or commission which is excepted from this act pursuant to subsection (1) shall exercise the powers and duties as provided by law.

(4) The power vested in the office of county prosecuting attorney, county sheriff, county register of deeds, county clerk, county treasurer, county drain commissioner, or the board of county road commissioners and elected county auditor shall not be minimized or divested by any provision of this act.

1973, No. 139, § 4, Eff. March 29, 1974.

#### 45.555 County governing body, designation, election, organization, procedures

Sec. 5. Upon the date an optional unified form of county government becomes effective, the board of county commissioners shall be the governing body of the county. The board shall be elected in the manner and number and for terms as provided by law. Its organization and procedures shall be as provided by law, except as modified by this act.

P.A.1973, No. 139, § 5, Eff. March 29, 1974.

stantive changes in text indicated by underline

#### 45.556 Powers of board of county commissioners

Sec. 6. The board may:

(a) Establish policies to be followed by the government of the county in the conduct of its affairs and exercise all powers and duties vested in boards of county commissioners not inconsistent with this act.

(b) Adopt ordinances and rules necessary for the conduct of county business and exercise all other powers in the area of legislation authorized by this act or by general law.

(c) Establish committees of the board necessary for the efficient conduct of business.

(d) Adopt the annual county budget and work program, and adopt and from time to time revise and update a long range capital improvement program and capital budget.

(e) Make appropriations, levy taxes, and incur indebtedness in the manner authorized by law for the carrying out of functions, powers, and duties granted or imposed upon the county or upon any office or department thereof as provided by general law.

(f) Establish the budget for any department unless otherwise fixed by law.

(g) Establish salaries of elected officials and heads of boards, commissions, and departments unless otherwise fixed by law. Adopt a classification and pay plan for all positions in the county service, which shall provide uniform compensation for like service.

(h) Adopt, following a public hearing, personnel rules governing county employment and operation of a merit system if adopted as provided by law.

(i) Appoint members of any board, commission, and authority.

(j) Appoint, when alternate A of this act is applicable, a county manager to serve as chief administrative officer of the county.

(k) Inquire into and investigate the official conduct and audit the accounts of any county officer or offices. For these purposes it may subpoena witnesses, administer oaths, and require the production of books, papers, and other evidence.

(l) Appoint a staff to assist it in postaudit and investigative functions.

(m) Appoint necessary personnel to assist it.

(n) Adopt, and from time to time revise, a comprehensive plan for county development as provided by law.

(o) Adopt and enforce rules establishing and defining the authority, duties, and responsibilities of county departments and offices.

(p) Consolidate county departments or transfer functions from 1 department to another.

(q) Enter into agreements with other governmental or quasi-governmental entities for the performance of services jointly.

(r) Accept gifts and grants-in-aid from a government or private source.

P.A.1973, No. 139, § 6, Eff. March 29, 1974.

#### 45.557 County managers, appointment, administrative and supervisory powers, residence, compensation, term, removal

Sec. 7. Within 60 days after an optional unified form of county government containing alternate A becomes effective, the board of county commissioners by a majority vote of all members elected and serving shall appoint a county manager. The manager shall be the administrative head of the county government and shall be responsible for the overall supervision of all county departments not headed by elected officers. He shall be appointed on the basis of merit only. He need not be a resident of the county at the time of his appointment but shall assume and maintain residence in the county following appointment except in counties of 1,000,000 or more he shall also be a resident at the time of his appointment. He shall be paid a compensation as the board determines. A member of the board

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during his term of office and for 1 year thereafter is not eligible for appointment as county manager. The county manager shall hold office at the pleasure of the board and may be removed by a majority vote of all members elected and serving. P.A.1973, No. 139, § 7, Eff. March 29, 1974.

#### 45.558 Duties of county managers and executives

Sec. 8. A county manager or county executive shall:

(a) Supervise, direct, and control the functions of all departments of the county except those headed by elected officials.

(b) Coordinate the various activities of the county and unify the management of its affairs.

(c) Enforce all orders, rules, and ordinances of the board and laws of the state required to be enforced by his office.

(d) Prepare and submit to the board a recommended annual county budget and work program, and administer the expenditure of funds in accordance with appropriations. An elected officer or county road commissioner may appear before the board as to his own budget. Not less than once each year the appointed manager or county executive shall submit to the board a proposed long-range capital improvement program and capital budget.

(e) Appoint, supervise, and at pleasure remove heads of departments except elected officials. The appointment or removal of heads of departments shall require the concurrence of a majority of the county board of commissioners.

(f) Attend all meetings of the board with the right to participate but not to vote.

(g) Submit recommendations to the board for the efficient conduct of county business.

(h) Report to the board on the affairs of the county and its needs, and advise the board not less than each 3 months on the financial condition of the county.

(i) Perform such other duties and activities as the board shall direct.

P.A.1973, No. 139, § 8, Eff. March 29, 1974.

#### 45.559 Nomination and election of county executives; vacancies; compensation

Sec. 9. (1) A county executive, who is a qualified elector in the county shall be elected on a partisan basis for a term of 4 years concurrent with that of the county prosecuting attorney, county clerk, county register of deeds, county treasurer, county sheriff, elected county auditors, and county drain commissioner.

(2) The first county executive shall be nominated in the same election in which alternate B is approved. He shall then be elected in the next regular primary or general election occurring not less than 30 days nor more than 90 days after the date of the election in which alternate B is approved. If a primary or general election is not scheduled during the period, the county executive shall be elected at a special election called by the board of county commissioners for this purpose within the period. Thereafter, he shall be nominated and elected in accordance with and subject to the same laws applicable to the nomination and election of other county officials.

(3) If the first election of a county executive is a special election for that purpose only, and no more than 1 candidate for each political party shall qualify to have his name appear on the primary ballot, no primary election shall be held, and the candidate so qualifying shall be certified as the nominee of the political party for which he filed.

(4) The office of elected county executive which becomes vacant due to resignation or death shall be filled for the balance of the unexpired term by appointment of the board of county commissioners.

(5) The salary of the county executive for the initial term shall be established by the board of county commissioners not less than 6 months prior to the date the

optional unified form of county government containing alternate B becomes effective. For all subsequent terms it shall be established by the board consistent with the procedures established for other elected officials. The salary of a county executive shall not be reduced during his term of office except as part of a general salary reduction.

P.A.1973, No. 139, § 9, Eff. March 29, 1974.

#### 45.560 Supervisory power of county executives

Sec. 10. The county executive shall be responsible for the overall supervision of all county departments not headed by other elected officials.

P.A.1973, No. 139, § 10, Eff. March 29, 1974.

#### 45.561 Ordinances or resolutions, approval or veto by county executive, effective date

Sec. 11. (1) The county executive may veto any ordinance or resolution adopted by the board, including all or any items of an ordinance appropriating funds. The veto shall be certified by the county executive to the board of county commissioners within 10 days from date of adoption of the ordinance or resolution and the board may override the veto by a  $\frac{2}{3}$  vote of all members elected and serving.

(2) Under the unified form of county government containing alternate B an ordinance or resolution shall become effective on approval of the county executive, on expiration of 10 days without approval or veto, or on the overriding of a veto in the manner above described.

P.A.1973, No. 139, § 11, Eff. March 29, 1974.

#### 45.562 Powers and functions of other county officials

Sec. 12. (1) Upon the date an optional unified form of county government becomes effective, the following officials shall exercise the powers and functions as provided by law, unless other powers or functions are delegated to an official by the board of county commissioners:

(a) The sheriff.

(b) The clerk-register or clerk and the register of deeds.

(c) The treasurer.

(d) The prosecuting attorney. Where a county employs an attorney pursuant to Act No. 15 of the Public Acts of 1941, as amended, being sections 49.71 and 49.72 of the Michigan Compiled Laws, the prosecuting attorney shall not act relative thereto.

(e) The drain commissioner.

(f) The boards of county road commissioners.

(2) The officials named in subsection (1) shall be elected or appointed in such manner and for such term as provided by law.

P.A.1973, No. 139, § 12, Eff. March 29, 1974.

#### 45.563 Functions of optional unified form of county government; departments and directors, establishment, functions

Sec. 13. An optional unified form of county government shall have all functions, except when otherwise allocated by this act, performed by 1 or more departments of the county or by the remaining boards, commissions, or authorities. Each department shall be headed by a director. Subject to the authority of the county manager or elected county executive the following departments and their respective directors may be established and designated to be responsible for performance of the functions enumerated:

(a) The department of administrative services shall perform general administrative and service functions for the county government; carry on public relations and information activities and deal with citizen complaints; plan

for, assign, manage, and maintain all county building space; and manage a central motor pool.

(b) The department of finance shall supervise the execution of the annual county budget and maintain expenditure control; perform all central accounting functions; collect moneys owing the county not particularly within the jurisdiction of the county treasurer; purchase supplies and equipment required by county departments; and perform all investment, borrowing, and debt management functions except as done by the county treasurer.

(c) The department of planning and development shall prepare comprehensive plans for the overall development of the county; coordinate the preparation of county capital improvement programs; supervise economic development functions; and represent the county in joint planning activities with other jurisdictions.

(d) The department of medical examiners shall coordinate and supervise medical investigative activities.

(e) The department of corporation counsel if adopted shall perform as provided by law all civil law functions and provide property acquisition services for the county as provided by law.

(f) The department of parks and recreation shall develop, maintain, and operate all county park and recreation facilities and supervise all recreation programs except where the same is under a board of county road commissioners, or a parks and recreation commission.

(g) The department of personnel and employee relations shall perform all personnel and labor relations functions for the county.

(h) The department of health and environmental protection shall perform all public health services for the county and carry on environmental upgrading programs.

(i) The department of libraries shall operate a general library program for the county if no library board or commission exists and may operate libraries for other governmental and semi-governmental entities.

(j) The department of public works shall construct, maintain, and operate all county storm and sanitary sewer, sewage disposal, general drainage, and flood control facilities except as the same are performed by the county drain commissioner; perform general engineering, construction, and maintenance functions for all county departments and, upon approval of the board, for other governmental and semi-governmental entities; and operate the county airport except where the airport is operated by a board of county road commissioners.

(k) The department of institutional and human services shall supervise county human service programs including hospitals and child care institutions.

#### 45.564 Creation and consolidation of departments; transfers of functions; county managers and executives as directors

Sec. 14. Except to a department headed by elected county officials or the board of county road commissioners, the board of county commissioners may:

(a) Consolidate departments completely or in part or may transfer a function from 1 department to another upon the affirmative recommendation of the county manager or elected county executive and following a public hearing.

(b) Create additional departments.

(c) Require the county manager or elected county executive to serve as director of a department.

P.A.1973, No. 139, § 14, Eff. March 29, 1974.

#### 45.565 Deputies; civil service exemptions

Sec. 15. (1) Each department head may appoint 1 deputy.

(2) A department head and any deputy appointed thereunder is exempt from civil service.

P.A.1973, No. 139, § 15, Eff. March 29, 1974.

#### 45.566 Civil service commission, appeals, employees; other personnel relations functions

Sec. 16. The civil service commission, if existing, shall hear and decide appeals from any disciplinary action, suspension, or removal of county employees who are within the classified service, and shall perform no other function. The commission in exercising its duties shall be authorized to employ such secretarial and clerical assistance as may be approved by the board of county commissioners. All other personnel and employee relations functions of the county shall be performed by the department of personnel and employee relations, the county manager or elected county executive and the board of county commissioners. The civil service commission shall have no authority over the performance of such functions.

P.A.1973, No. 139, § 16, Eff. March 29, 1974.

#### 45.567 Retirement boards, continuance, establishment, investment powers

Sec. 17. The board of county commissioners shall continue, without diminution of function or authority, any board previously established to administer employee retirement and pension programs or may create a retirement board if none exists. A retirement board may invest or reinvest the moneys thereof.

P.A.1973, No. 139, § 17, Eff. March 29, 1974.

#### 45.568 Title to property of abolished offices, boards, commissions, authorities, or departments

Sec. 18. Upon the date an optional unified form of county government becomes effective, title to all property, real or personal, formerly held in the name of any office, board, commission, authority or department which is abolished shall be held in the name of the county.

P.A.1973, No. 139, § 18, Eff. March 29, 1974.

#### 45.569 Previously enacted ordinances, effect

Sec. 19. When an optional unified form of county government becomes effective all ordinances previously enacted by the board of county commissioners and unrepealed, to the extent not inconsistent with this act, remain in full force and effect.

P.A.1973, No. 139, § 19, Eff. March 29, 1974.

#### 45.570 Application of act; continuance of consistent prior law

Sec. 20. When an optional unified form of county government becomes effective, this act is controlling as to all matters to which it relates, and provisions of law not in conflict continue in full force and effect.

P.A.1973, No. 139, § 20, Eff. March 29, 1974.

#### 45.571 Existing civil service and merit system rights

Sec. 21. Under an optional unified form of county government all rights secured employees by existing civil service and merit system legislation are continued in full force and effect, except as specifically modified by this act.

P.A.1973, No. 139, § 21, Eff. March 29, 1974.

#### 45.572 Existing retirement and pension rights

Sec. 22. Under an optional unified form of county government all retirement and pension rights of employees provided by existing law remain in full force and effect.

P.A.1973, No. 139, § 22, Eff. March 29, 1974.

#### 45.573 Abolishment of optional unified form of county government

Sec. 23. An optional unified form of county government may be abolished in the following manner:

(a) After a period of 4 years from the date an optional unified form of county government originally became effective, the board of county commissioners of

the county, by a majority vote of those members elected and serving, may abolish the form and elect to be governed by the provisions of the general county law then in force. Such abolition then shall be submitted to the electorate of the county for approval or disapproval at the next regular primary or general election occurring within the county. If a majority of votes cast on the proposal at such election shall approve the abolition, the optional unified form of county government shall be abolished in the county effective 180 days after the date of the election.

(b) Upon adoption by the voters of the county of a home rule charter.

(c) After a period of 4 years from the date an optional unified form of county government containing alternate A or alternate B originally became effective, if the board of county commissioners of the county does not exercise its discretion to abolish the form, a petition, signed by not less than 10% of the total number of persons voting in the last previous election for which votes were cast for governor may be filed with the clerk-register or clerk requesting abolition of the form. Upon the clerk-register or clerk certifying to the board that proper petition has been filed, the board shall submit the question of abolishing the optional unified form of county government to the electorate of the county for approval or disapproval at the next regular primary or general election occurring within the county. If a majority of votes cast on the proposal at such election approve the abolition, the optional unified form of county government shall be abolished in the county effective 180 days after the date of the election.

P.A.1973, No. 139, § 23, Eff. March 29, 1974.

## CHAPTER 46

### BOARDS OF SUPERVISORS

#### BOARDS OF SUPERVISORS

- Section  
46.3a Record of names and votes of members, necessity, inspection [New].  
46.11b Installment purchases [New].

#### COUNTY PUBLIC IMPROVEMENTS

- 46.188 Validation; incontestability [New].

#### ELDERLY PERSONS CENTERS [NEW]

P.A.1972, No. 9

- 46.261 Funds, county or multicounty appropriations.

#### BASE CLOSURE COMMITTEE [NEW]

P.A.1968, No. 270

- 46.271 Base closure committee; appointment; purpose.  
46.272 Base closure committee; membership; compensation; term; vacancies.  
46.273 Base closure committee; election of officers; meetings; employment of personnel.  
46.274 Base closure committee; nature; signatures on documents; powers.  
46.275 Base closure committee; duties.  
46.276 Base closure committee; maintenance contracts with department of defense.

#### Section

- 46.277 Base closure committee; recommendations to board of supervisors, acquisition of property, actions to expedite development or utilization of properties, matters incident to disposition of properties.  
46.278 Base closure committee; report.  
46.279 Base closure committee; actions by board of supervisors not in conflict with act validated.  
46.280 Base closure committee; function until conversion of military installation to civilian use or reactivation; dissolution.  
46.281 Counties not affected by this act.

#### COUNTY PARKS

- 46.359a County and regional commissions; taking of property in another county [New].  
46.367 Financing, planning, acquisition, construction, and renewal; borrowing money; bonds [New].

#### APPORTIONMENT OF BOARDS OF SUPERVISORS

- 46.411a Filing fees paid in lieu of filing petitions, returns and forfeitures, basis [New].  
46.416 References to supervisors deemed to mean commissioners [New].

Substantive changes in text indicated by underline

## Virginia

The distinguishing feature of county government in Virginia is the separation and territorial exclusivity and integrity of the state's counties and cities. Each city (of which there are 38) exercises both municipal and county powers within its territory, and each county (of which there are 96) exercises county and limited municipal powers. The county has no authority to exercise any powers within the cities, and the cities are not within any county's territory. (Local Government Law in Virginia, 1870-1970, 4 U. of Richmond L.R. 174, 177-79 (1970)). However, though cities thus have all county powers, the municipal powers of counties are more limited, being proscribed only by statute. The county Boards of Supervisors (in an unchartered county) have the same powers as city councils, but no powers conferred solely by this general grant can be exercised within towns without the approval of the town council (Va. Code 15.1-510). However the counties also have specific enumerated powers (Va.Code 15.1-7-1-37), some of which are pre-emptive or exclusively vested in the county, such as solid waste disposal (Va.Code 15.1-282). The governing body of unchartered counties is a Board of Supervisors which exercises both legislative and administrative functions. The legislative function is apparently broad, enabling a county to adopt ordinances "to secure and promote the health, safety and general welfare of the inhabitants of such county, not inconsistent with the general laws of this State." (Va. Code 15.1-504 & 510). The administrative authority is also broad and covers the functions performed by other elected county officials (Va. Const. Art.7, §§ 4 & 5; Va. Code 15.1-37.4, 40.1 & 527); and this authority may be, in part, delegated to an

appointed County Administrator or Executive Secretary. (Va. Code 15.1-115 et seq.).

The Virginia Constitution provides that the Legislature can create optional forms of county government (Va. Const. Art. 7, § 3), which it has done with a vengeance, providing for seven different detailed organizational structures for county government: "county executive" (Va. Code 15.1-588-621), "county manager" (Va. Code 15.1-622-660), "modified commission" (Va. Code 15.1-670-673), "broad county manager" (Va. Code 15.1-674-687), "county board" (Va. Code 15.1-697-721), "urban county executive" (Va. Code 15.1-729-738, & 755-787), and "urban county manager" (Va. Code 15.1-742-752 & 755-787). The legislation does not provide for the adoption of charters by counties, but for the adoption of specific detailed forms of government that are exhaustively proscribed by the statutes. The following analysis covers the key provisions of each form:

1. County Executive. The powers of the county are vested directly in the Board of Supervisors, which has 3 to 7 members elected from single member districts for 4 year terms. The Board is responsible for all county functions, organizes the specified county departments, appoints all county officers and employees, except those elected, establishes salaries and adopts a budget. The Board appoints a full-time executive, who serves at the Board's pleasure, determines his salary, and direct his actions. The executive generally administers the county, including the county police force, proposes a budget, reports monthly to the Board and generally executes all their orders and resolutions. Thus under this form of government, the Board of Supervisors continues to directly oversee county functions, with the aid of an executive to administer on a daily basis.

2. County Manager. Under this form of Virginia county government, the Board of Supervisors is more of a policy determining body, and delegates more administrative control to the manager. The Board appoints the manager, who also serves at the Board's pleasure, and determines his salary. However, unlike the executive, the manager appoints county officers, except those elected, and, with Board approval, sets the salaries and compensation of all officers and employees. The manager is primarily responsible for the administration of the county, and recommends actions to the Board for their approval. Thus, the Board is primarily concerned with policy and general directives, with administration vested generally in the manager. The organization of the county is the same as that under the "county executive" form, with departments, duties and functions specified in detail in the statutes.

3. Modified Commission. The governing body of a county under this form is the Board of Commissioners, which exercises all legislative, executive and administrative authority and powers of a Board of Supervisors. The key characteristic of this form is that each member of the Board is the head of one or more departments of county government and exercises direct administrative control of them. The Chairman of the Board oversees all departments. The Board as a whole determines appointments, removals, and salaries, though each department head - board member also has the power to remove employees within his department. The county is otherwise organized as it is under the prior forms of government.

4. "Broad" County Manager. This form provides for a county manager that is even "stronger" than that in the previous "county manager" form. The Board exercises only legislative power, with

all administrative and executive powers vested in the manager. The Board appoints the manger for an annual term, with removal only for cause. (There is an optional provision, by referendum, for an indefinite term serving at the Board's pleasure.) The Board appoints officers including non-elected department heads, unless the manager is granted that power by referendum. The Board is not to interfere in appointments or removals, nor is the Board to give administrative directives to any employee other than the manager or a department head. The manager prepares the budget for Board approval and supervises public works and county operations. He may also be delegated the power to certify county vouchers. The Board retains the power to investigate any officer, office or employee; and it can appoint a civil service commission to establish and operate a personnel system. This form also allows local options, subject to referendum, on the staggering of terms of Board members, on the creation of an office of "county attorney" (to act as civil counsel to the county), and the establishment of a Board of real estate assessments and Board of equilization. In addition the Board has the authority to abolish almost all offices, boards, and commissions, except certain specified ones, and then to redistribute their powers, authorities and duties. Thus this form of government can provide for both a stronger central administration of the county and for greater glexibility in its organization, than the prior forms.

5. County Board. Under this form, the Board is composed of one member elected at large, and one member from each of the "magesterial district" in the county, rather than a fixed number of Supervisors elected by districts. The Board of County Supervisors has all the powers and authority of a Board of Supervisors



and exercises legislative, executive and administrative functions. It may appoint an Executive Secretary, to serve at its pleasure, to generally administer the county, and it may also investigate directly any office, officer or employee. Thus, the Board exercises a close general supervision of county affairs, and utilizes the Executive Secretary to administer on a day-to-day basis. The Board also establishes all salaries for officers and employees. The key difference with this form is in the organization of the administrative structure. The statutes only proscribe six departments that shall be established (including a County Purchasing Agent), and leave to the Board broad powers to determine the organization and officers required to perform all other county functions. Under the prior County Manager and County Executive forms, the organization and departments of government are proscribed in detail, and the Board has little discretion in altering or expanding them. However, the authority of the officers elected, under the Constitution is maintained, as it is under other forms, by granting them authority to hire their own deputies and employees and preserving their powers and duties untouched. This form is apparently an attempt to grant a greater amount of organizational flexibility to counties, while maintaining the basic Board form of administration.

6. Urban County Executive. Both this form and the following one, urban county manager are limited to counties with populations in excess of 90,000. This form of county government is similar to the County Executive form, except that the Chairman of the Board of Supervisors is elected at large and the elected officials, as well as the Executive, are allowed to take part in all Board meetings. Thus, the "Urban County Executive" acts as an administrative

assistant to the Board, to oversee the routine functioning of the county. The important difference between this form and the "non-urban" forms is not in the organization of the county, but in the power delegated to the county, which will be discussed below.

7. Urban County Manager. This form is also similar to a "non-urban" form, the County Manager form. The differences between them is that under the urban form, all department heads attend Board meetings and the Manager is assigned certain specific functions, such as assessing and collecting taxes or other revenues and the care of the poor, county correctional institutions and public health. In other respects the Urban County Manager, like his non-urban" counterpart, exercises general administrative control of the county, hiring and firing department heads, setting salaries, etc., with the Board exercising more of a legislative role in determining general policy and directives for administration.

The most significant difference between these "urban" forms and the other "non-urban" forms is the broader scope of county powers. The required departments of county government are essentially the same as those for non-urban counties, finance, public works, social services, law enforcement, education, records and health. But there are also several optional county departments, assessments, farm and home demonstration, public safety, and public utilities, and, more importantly, the ability to form "special taxing districts". Any town with the county can dissolve its charter and become a special district of the county, with special service charges assessed by the county for services not generally provided. Any city may also, by referendum, become part of the county. These provisions allow the county to perform

municipal, as well as county, functions within certain areas. Also, under either of these forms, the county is required to be divided into 5 to 11 districts, that serve as election districts for the Board. However, these districts also serve as general administrative districts and as sanitary districts. Thus, the county also exercises all sanitary district powers within these districts. These provisions thus enable certain counties to exercise the powers of municipalities and certain special districts, and thus to more effectively respond to area-wide problems. However, whether these provisions have been adopted, and how they have operated in practice is unknown at this time.

The provisions of the Virginia statutes provide an example of detailed enabling legislation for various forms of county government, without utilizing "charter" forms. Even though counties are thus restricted to the statutory schemes, the variety, as well as the traditional strength of Virginia counties, gives them a wide range of possible forms to apply in county government. As cities are separate from counties, and exercise both municipal and county functions, much of the potential municipal-county conflict is absent. The counties have also historically exercised a great deal of autonomy, being largely self-governed with minor legislative interference. In these respects, Virginian county government is very different from Maine's experience. Nonetheless, the varied forms of Virginian county government illustrate many alternatives that may be useful in Maine, and thoroughly illustrate the basic alternative of providing statutory forms rather than allowing the formation of charters within broad limitations.

## APPENDIX K

### A Summary Review of County Law Enforcement Functions.

The power and authority of counties to undertake law enforcement functions have traditionally rested on the common-law powers and duties of sheriff's. Thus, this review begins with a summary of the powers and duties of the sheriff.

The law enforcement functions of the county have then been divided into eight areas, for the purpose of review and summary. These areas are:

1. Patrol, including traffic control;
2. Communications;
3. Detention/Jails;
4. Juvenile Services;
5. Investigation/Laboratory/Intelligence Services;
6. Rescue/Ambulance/Civil Emergency Services;
7. Administration, including
  - Recruitment/Training
  - Records/Evidence
  - Purchasing/Supply
  - Planning/Budget Preparation; and
8. Other (Sheriff's functions)
  - Process serving and court officers.

SHERIFF

The present powers and duties of the Sheriff in each of Maine's counties are defined by the common law, and only in a few particular instances, by statute. Though the Maine courts have not established in detail the nature and extent of the sheriff's powers and duties, they have recognized explicitly his basic duty "as a conservator of the peace and a protection to society against the commission of vice and crime." *Sawyer v. County Commissioners*, 116 Me. 408, 411, 102 A 2d. 226 (1917). Under generally accepted common law, the basic duty can be seen as three basic functions:

1. Conservator of the peace (i.e. a peace officer or policing function).
2. "Jailer ex officio" (i.e. custody and control of the county jail and the prisoners in it).
3. Officer of the court (i.e. preserves order in the court and carries out court orders such as levying or executing writs). C.J.S. Sheriffs and Constables, §§ 42-7, Prisons, §8.

These three basic functions have evolved into many specific powers and duties, most of which are detailed in the following pages. In addition, other expressed or implied powers and duties have been created by statutory provisions, such as the serving of civil papers.

Under the common law, the sheriff exercises his "police" function as the chief law enforcement officer in his jurisdiction, the county. As such, he is under the affirmative duty to be active and vigilant throughout the entire jurisdiction, even though other police officers may also be exercising similar powers. If there are municipal police departments within the county, the sheriff may assume local authorities are enforcing the law; but if the sheriff has reason to believe such

local enforcement is inadequate, he is required to undertake local enforcement directly. C.J.S. Sheriffs and constables, §42. Thus, under the common law, the sheriff's duties require that he be responsible for law enforcement throughout the county, even if municipal police departments or constables are also enforcing the law in their jurisdiction.

The sheriff's "jail" and "court officer" functions also flow from his position as chief "conservator of the peace". He has the duty to fulfill the orders and directions of the courts, and thus levys writs of execution, and sells property seized under executions. He also has the duty to maintain order in the court. The sheriff has custody of all persons convicted in the county, and must dispose of them according to the law and the orders of the court. C.J.S. Sheriffs and Constables, §§ 45-47. From this flows the sheriff's obligation for the maintenance and security of the county jail and the custody and control of the prisoners in the jail. C.J.S. Prisons, §8. From this basic function is derived the requirement that the sheriff live in the county jail.

The basic functions of the sheriff have evolved, by tradition and court cases, into the many specific duties and powers required to exercise the broad authority of the chief law enforcement officer of the county. In addition, certain specific duties have been created by statute that are in addition to the common law powers. It is important to note that the common law duties and powers exist in the absence of specific statutory provisions defining the sheriff's powers and duties. The common law definition of the sheriff's scope of authority can be altered or removed simply by enacting legislation that covers the same area. In Maine, however, the principle is probably limited

by the fact that the sheriff is a constitutional officer. The limits on the power of the Legislature to alter or remove the sheriff's common law duties and powers are unclear (See C.J.S. Prisons, Vol. 72, §3, p. 858), though it is clear the specific statutory powers identical or similar to the sheriff's can be granted to other "officers" on the county level (Gilmore v. Penobscot County, 78 A, 454, 107 Me. 345 (1910) ); and the sheriff can be relegated to his common law duties without other power or authority.

#### PATROL

##### Description of Function:

"Patrol" means the regular and repeated circuit of the jurisdictional area as a method of deterring criminal activities, of observing or inspecting for possible violations or criminal activities, of providing for rapid response to calls for assistance, and of maintaining order and the general peace. "Patrol" includes regulating and facilitating the movement of people and vehicles and maintaining highway safety by routine enforcement of the traffic laws; and also the response to particular calls for assistance. "Patrol" may be conducted on foot or in a motor vehicle or aircraft.

##### Present distribution of function:

The State Police, 11 county sheriffs departments, and all municipal departments provide patrol service. Sheriffs in five counties do not provide a regular field patrol service. On the average, half of patrol time is spent in traffic enforcement. The following number of personnel provide patrol services:

County Sheriff/ Other (Municipal and State)	Full Time Personnel	Traffic	Patrol
AROOSTOOK			
Sheriff	20	1	3
Other	105	—	75
HANCOCK			
Sheriff	7	—	1
Other	45	1	32
KNOX			
Sheriff	13	—	4
Other	42	—	30
PENOBSCOT			
Sheriff	20	—	4
Other	165	2	118
PISCATAQUIS			
Sheriff	8	—	2
Other	15	—	10
VALDO			
Sheriff	10	—	3
Other	19	—	12
WASHINGTON			
Sheriff	8	—	9
Other	34	—	25
KENNEBEC			
Sheriff	13	—	—
Other	144	9	97
SOMERSET			
Sheriff	12	—	4
Other	45	—	30
LINCOLN			
Sheriff	12	—	3
Other	25	—	20
SAGADAHOE			
Sheriff	9	—	5
Other	36	—	25
ANDROSCOGGIN			
Sheriff	25	—	17
Other	136	1	95



FRANKLIN			
Sheriff	16	-	6
Other	24	-	19
OXFORD			
Sheriff	10	--	6
Other	39	-	28
CUMBERLAND			
Sheriff	44	--	9
Other	346	14	244
YORK			
Sheriff	20	-	6
Other	185	5	123

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From this data, it is obvious that the sheriff's patrol function is not a large presence in the county in comparison with that of municipal departments and the State Police, even though a substantial part of the sheriff's full-time sworn deputies may be assigned to full-time patrol duties.

Questions:

1. Should the county law enforcement officer continue to have the authority to provide patrol services throughout the county?
2. If not, what criteria are to be used to define the area of patrol authority?
3. Should the county law enforcement officer have any responsibility for controlling the movement of traffic, other than that incident to routine patrol activities?
4. Should the authority of the county law enforcement officer to respond to calls for assistance by either citizens or other law enforcement officers be limited?
5. Should criteria be established for minimum routine patrol duties by county law enforcement officers?

COMMUNICATIONS

Description of Function:

"Communications" means a system for sending and receiving information to aid in law enforcement between fixed or mobile points, including telephone, teletype or radio systems. "Communications" also includes "dispatching", which means the operation of sending messages and directing the operations of mobile law enforcement units from a central fixed-base transmitter.

Present distribution of Function:

Sixty-eight percent of all police departments in the state operate 24-hour service dispatching and communications. Of the 41 departments that do not have such 24-hour service, 40 rely on other departments for full-time service, thus leaving only one that relies on its own part-time service. Every sheriff's department, except Oxford, operates a dispatching service, and may also provide other communications services. The State Police also maintain teletype communications with 26 municipal departments and 10 sheriff's departments.

The following number of full-time enforcement personnel provide dispatching:

<u>County</u>	<u>Sheriff</u>	<u>Municipal</u>	
AROOSTOOK	2	Fort Kent	1
		Houlton	3
HANCOCK	3	Bucksport	1
		Ellsworth	1
KNOX	4	Camden	4
		Rockport	1
PENOBSCOT	5	Bangor	4
		Old Town	3
		Orono	1
PISCATAQUIS	3	-----	

<u>County</u>	<u>Sheriff</u>	<u>Municipal</u>	
WALDO	3	Belfast	4
WASHINGTON	3	Eastport	1
KENNEBEC	3	Augusta	1
		Winthrop	2
SOMERSET	3	Pittsfield	3
		Skowhegan	3
LINCOLN	3	----	
SAGADAHOC	3	Bath	2
		Richmond	1
		Topsham	3
ANDROSCOGGIN	3	Auburn	1
		Lewiston	3
		Lisbon	3
FRANKLIN	8	----	
OXFORD	-	Rumford	4
CUMBERLAND	4	Cape Elizabeth	4
		Gorham	1
		Portland	7
		Scarborough	3
		So. Portland	4
		Westbrook	3
YORK	9	Biddeford	3
		Old Orchard	
		Beach	2
		Sanford	3

Questions:

1. Should counties be authorized to operate a full-time centralized communications center?

2. Should such authorization be by enabling legislation or mandatory, be pre-emptive of local communications or not, or include fire, ambulance or rescue communications?

3. Should dispatching be centralized?

4. Should dispatching or communications personnel be required to be law-enforcement personnel or to have specialized training?

#### DETENTION / JAILS

##### Description of Function:

"Detention" means the confining of a person held in lawful custody in a specially-constructed or modified facility designed to insure continued custody and control. "Detention" may be confinement prior to trial or to serve court imposed sentences. "Jail" means a specially constructed or modified facility designated by law or regularly used for detention for a period of up to 12 months. "Lock-up" means a facility designated by law or regularly used to confine a person held in lawful custody for a temporary period prior to trial or transfer to a jail or other facility.

##### Present distribution of function:

Thirteen of the sixteen counties currently operate jails, ranging in capacity from fourteen inmates (Hancock) to one hundred and eight inmates (Aroostook). The York County Jail has been closed by court order, and both Lincoln and Sagadahoc counties only have "lock-ups". Forty-three municipalities have "lock-ups", though four counties have no municipal lock-ups at all. The State also operates correction facilities at the State Prison, Men's Correctional Institute and the Boys Training Center. (The Stevens School is presently not operating as a correctional facility.)

The scope and nature of rehabilitative programs and services available to inmates of county jails differs among the counties. Some counties offer virtually no programs or services for effective rehabilitation, and even counties with the larger, more modern jails still serve a primarily custodial function. The sheriffs, however,

have attempted to utilize community resources, in some instances, to provide some rehabilitative services, such as drug and alcohol counseling and work release programs. To strengthen this approach, Cumberland County employs a "Director of Community Correctional Programs", and Aroostook County utilized the services of a federally funded "Director of Treatment" until funding terminated last year. Despite these attempts to more fully utilize community resources for rehabilitation, the bulk of such functions are carried on at the state level or by non-profit, non-governmental organizations.

Most county jail personnel are part-time, performing other law enforcement functions, such as dispatching or patrol, as well, and have received little or no training in corrections. In contrast to training programs available to state corrections personnel (both at the Criminal Justice Academy and at the state correctional institutions), there appear to be no programs, other than "on-the-job", for training county personnel in the operation and management of county jails. Without any "professional" training in corrections, the security of jails and rehabilitative functions seem to be lacking, as has been demonstrated recently in the inability of jail personnel to deal with potential suicidal inmates.

Despite these problems in personnel training and rehabilitation functions, the county jails are relied upon heavily in law enforcement. Intergovernmental and interlocal cooperation are strong traditions in the use of county jails, and both state and municipal police rely heavily on them as "lock-up" facilities. In addition, the courts utilize them as short-term (less than one year) detention facilities.

Thus, there is a large potential for developing the present system of county jails as part of the state's correctional facilities and programs.

Questions:

1. Should the sheriff continue as the "jailer ex officio", the county's chief jail administrator?
2. Should trained personnel, either county jail personnel or others, be required for county jail supervision?
  - A. Should jail personnel meet minimum training requirements?
  - B. Should professionals in corrections, social work, etc. be made available to or required in county jails?
  - C. Should a "chief correctional officer", meeting minimum standards in operation and management of jails and/or in corrections and rehabilitation be required or authorized?
3. Should the state continue to set minimal standards for the health and safety of jail inmates?
4. Should the requirement that sheriffs live in the jail facilities be continued?
6. Should the present functional emphasis on custody be changed or broadened?

JUVENILE SERVICES

Description of Function:

"Juvenile Services" means the personnel and procedures provided by the county, either through the law enforcement agency or

otherwise, to deal with delinquents or criminal offenders under 18 years of age. "Delinquent" means a person under 18 years of age who: is habitually truant; behaves in an incorrigible or indecent and lascivious manner; knowingly and willfully associates with vicious, criminal, or grossly immoral people; repeatedly deserts home without just cause; or lives in a circumstance of manifest danger of falling into habits of vice or immorality.

Present distribution of function:

There are several state agencies or private non-profit, statewide agencies that provide juvenile services, most important of which are the Boys Training Center (now the state's only juvenile correctional institute, serving both males and females), the Division of Probation and Parole of the Department of Mental Health and Corrections, the Division of Social Services of the Department of Human Services, Upward Bound, In-School and Out-of-School Neighborhood Youth Corps, and various mental health, counseling and special education agencies. The juvenile services provided by the county, however, are uneven, with seven counties providing a varying degree of service and nine providing none at all. The breakdown by county is as follows:

ANDROSCOGGIN

The sheriff's department has no law enforcement personnel assigned full-time to juvenile services; while the Lewiston and Auburn police departments each have a Youth Aid Bureau, with four and one full-time law enforcement personnel assigned to each respectively.

The Lewiston-Auburn YMCA also provides certain juvenile services, funded by LEAA, such as an "intervention program", Teen clubs and a summer camp, in addition to the usual recreational facilities.

#### AROOSTOOK

The sheriff's department, and the municipal departments of Caribou, Houlton and Van Buren each have one full-time law enforcement officer assigned to juvenile services. The municipal departments have Youth Aid Bureaus that handled a total of 324 cases in 1975 (Caribou - 109, Houlton - 89, Van Buren - 106). In addition, the Youth Environmental Services Project provides a county-wide spectrum of juvenile services without direct county funding or direction. The YES Project is a collection of seven specific service programs operating in a coordinated and county-wide effort. The programs are as follows (in the first 6 months of operation):

1. Youth Advocacy / Crisis Intervention. (Provided individual counseling, referral, intervention and advocacy services to 110 juveniles.)
2. Association of Aroostook Indians. (Caribou Indian Center). (Provided direct counseling.)
3. Human Relations Service, District V,  
(Project Friendship).  
(Provided 42 Big Brother/Big Sister matches.)
4. Southern Aroostook Community Coordinated  
Child Care. (Provided 35 Big Brother/Big Sister  
matches).
5. Rural Sports and Recreation  
(Provided sports and recreation programs for  
more than 1300 juveniles in the rural areas of  
Woodland, Frenchville, Hudgdon and Island Falls.



6. M.S.A.D. # 29 - Houlton

(Provided a drug education seminary to  
16 juveniles and 8 adults).

7. Northern Maine Vocational Technical Institute

(Provided various educational services through  
the Family Learning Center to 6 juveniles  
and 81 adults. Special efforts are being made  
to recruit more juveniles).

There is also a home for delinquent boys in Hodgdon that serves  
primarily Aroostook County, the Christian Hill Faith Home. It has  
provided housing, counseling and guidance for 63 boys over the last  
four years.

CUMBERLAND

The sheriff's department has three full-time juvenile officers,  
and municipalities have the following:

Cape Elizabeth	1
Falmouth	1
Portland	19
Scarborough	1
South Portland	2
Westbrook	1

Thus, there are available 28 officers under Youth Aid Bureaus, School  
Liaison Officers, or Youth Aid Officers with the county. Of the 2662  
cases handled by the officers in 1974, 388 were handled by the  
sheriff's department (with Portland handling 1454 and South Portland 501.)  
The county, however, has apparently discontinued its Youth Aid Bureau  
this year.

In addition to these juvenile services, the following juvenile  
services are located in the county, though not funded or directed by  
county government: Fair Harbor Emergency Shelter (providing counseling,

referral and emergency needs for girls aged 7-18); Huckleberry House of the Little Brother Association of Greater Portland (providing counseling, guidance and recreational activities for boys aged 13-17); and Portland YWCA (providing recreational facilities and an Emergency Shelter Program funded by MCJPAA through the sheriff).

#### FRANKLIN

There are no exclusively juvenile services operated specifically in this county by either county government or municipalities.

#### HANCOCK

Only Ellsworth provides for full-time law enforcement personnel to provide juvenile services exclusively. In addition, Homestead, Inc. provides a live-in program for eight delinquent boys and girls from Hancock and Washington counties. The county apparently makes no direct expenditures on juvenile services.

#### KENNEBEC

The Augusta and Waterville police departments provide Youth Aid Bureau services with one and three officers respectively. Together they handled 641 cases in 1974. The county apparently makes no direct expenditures on juvenile services. In addition to the Youth Aid Bureaus, there are two delinquent youth homes, Kennebec Group Home and Bethany Acres which provide residential guidance and counseling for 9 and 20 residents respectively; as well as a Crisis and Counseling Center located in Augusta.

#### KNOX

The only full-time law enforcement personnel assigned to juvenile services is in the Rockland police department. The county apparently

provides no direct funding for juvenile services. There is also the only group home for high school drop-outs in the state located in Camden, which provides residential guidance and counseling for five youths.

#### LINCOLN

The county has established a Youth Aid Bureau with one full-time person who is not a law enforcement officer. The Bureau is dispatched and supervised by the sheriff's office.

#### OXFORD

There is one full-time law enforcement officer in the sheriff's department assigned to juvenile services. There is also the Rumford Boys Home providing residential guidance and counseling for ten delinquent boys.

#### PENOBSCOT

The municipal departments of Bangor (4), Brewer (1), Hampden (1), Lincoln (1) and Old Town (1) have full-time juvenile officers. The county apparently does not provide direct funding for any juvenile services. There are also two juvenile residential facilities, the Atrium, Old Town, providing residential guidance and counseling for five juveniles and vocational placement and general referral for 50 non-resident juveniles, and St. Michael's Center, Bangor, providing residential guidance and counseling for 18 boys, aged 8-14. In addition, the Bangor/Brewer YWCA is beginning a non-residential "intervention program", funded by the National YWCA and LEAA, in addition to its recreational programs.

#### PISCATAQUIS

There appear to be no programs in Piscataquis county designed exclusively to provide juvenile services.

SAGADAHOC

There is only one juvenile service program in the county, the Bath municipal department's Youth Aid Bureau, staffed by one full-time officer.

SOMERSET

There are no programs in Somerset County designed exclusively to provide juvenile services. One S.A.D. in the county does employ a part-time truant officer.

WALDO

The sheriff's department and Belfast's municipal department each have one full-time juvenile officer.

WASHINGTON

There are no full-time juvenile officers in Washington County. There has just begun an MCJPAA pilot project to provide rural youth activities programs through the Eastern Maine Development District in the towns of Edmunds, Dennysville, Marion and Plantation # 14.

YORK

There are three municipal juvenile officers in the municipalities of Biddeford, Old Orchard Beach and Kittery. The county provided funding for the York County Counseling Center which provides crisis counseling. The District Court in York County operates a "Juvenile Intake System", using a director, two intake workers and a secretary, to provide screening, counseling and supervision of juveniles for the Court, investigation for detention and court actions, and community coordination of juvenile services for juvenile offenders. The Sweetser Childrens Home is also located in York County (Saco) and provides comprehensive year-round residential counseling and guidance for

approximately 130 disturbed juveniles. There are also three residential group homes operated by New Life Centers, Inc., which provide residential guidance and counseling for 20 boys and 10 girls between 10 and 14 years old.

Questions:

1. Should counties continue to be authorized, or be required, to provide juvenile services?
2. Should the provision of county juvenile services be through the sheriff's department?
3. Should counties coordinate and/or fund juvenile services provided on the municipal or local level?
4. Should counties provide a comprehensive referral service for juvenile services to aid the courts and other service agencies?

INVESTIGATION / LABORATORY / INTELLIGENCE SERVICES

Description of Function:

"Investigation" means the examination, inquiry or observation of persons or objects to gather evidence concerning unlawful acts or the apprehension of wrongdoers. "Investigation" may also mean examination, inquiry or observation of persons or things in order to determine compliance with qualifications or requirement for the issuing of licenses or permits, when such actions are taken at the request of the issuing authority.

"Laboratory Services" means those services which concern the testing or analyzing of physical evidence, by chemical or physical science methods and techniques, in order to determine its properties, composition, attributes or other information required for law enforcement purposes.

"Intelligence" means the collection, storage, retrieval, analysis and use of information about persons known to be repeatedly violating the criminal law in a manner difficult to detect as part of a covertly planned, deliberate or organized attempt to undertake criminal acts.

Present distribution of functions:

Investigation, laboratory and intelligence services are most commonly found at the state level and in the largest departments at county and local levels. Laboratory services are generally provided at the state level for all law enforcement needs, by either the state crime lab in the Department of Public Safety and the State Public Health Laboratory in the Department of Human Services. In addition, some hospitals and private laboratories can provide certain specialized services to law enforcement units; and highly specialized federal laboratories, such as the F.B.I. laboratories in Washington and the Federal Bureau of Narcotics and Dangerous Drugs laboratories in New York are also giving assistance. Certain of the large local and county enforcement departments also have certain very limited laboratory services available, mostly as part of direct evidence collection and preservation.

Intelligence services are also concentrated at the state level, with the Bureau of State Police of the Department of Public Safety operating an Intelligence Unit, a two man unit exchanging information with other states and federal agencies about organized crime, and the Division of Special Investigations, which coordinates and exchanges information among local, county and state law enforcement officers who are involved in suppressing drug traffic. Local and county officers are thus involved in some intelligence work, although only Lewiston has hired full-time "narcotics" officers.

Investigation is, of course, part of the general patrol function, and thus is, in a less specialized sense, carried on at all levels of law enforcement. However, personnel specially trained and assigned exclusively to investigating services are predominantly located in large departments, and at the state level. The Bureau of State Police operates a homicide investigation unit that works closely with the Attorney General in investigating homicides and other serious crimes. In addition, the Attorney General may accept as qualified the investigation units of other law enforcement departments, and use them for such investigations. The breakdown of full-time personnel assigned to investigations is as follows:

AROOSTOOK

Sheriff - 5, Caribou - 1, Houlton - 1, and Presque Isle - 2.

HANCOCK

Sheriff - 2, Bar Harbor - 1 and Bucksport - 1.

KNOX

Sheriff - 0 and Camden - 1.

PENOBSCOT

Sheriff - 1, Bangor - 5, Brewer - 1, Hampden - 1, Millinocket - 1, and Orono - 1.

PISCATAQUIS

Sheriff - 2 and Dover-Foxcroft - 1.

WALDO

Sheriff - 2.

WASHINGTON

None.

KENNEBEC

Sheriff - 5, Augusta - 3, Waterville - 3 and Winslow - 1.

SOMERSET

Sheriff - 1 and Pittsfield - 1.

LINCOLN

Sheriff - 4.

SAGadahoc

Sheriff - 0 and Bath - 1.

CUMBERLAND

Sheriff - 3, Brunswick - 1, Cape Elizabeth - 1, Falmouth - 1,  
Portland - 12, South Portland - 3 and Yarmouth - 1.

YORK

Sheriff - 3, Biddeford - 2, Kittery - 1, Old Orchard Beach - 1,  
Saco - 1, Sanford - 2, Wells - 2 and Kennebunkport - 1.

Questions:

1. Should counties be authorized, or be required, to provide investigation, laboratory or intelligence services?

2. Should counties be encouraged to specialize in these areas in order to provide these services to local departments?

(And from this, should municipalities be discouraged in providing these services independently?)

RESCUE / AMBULANCE / CIVIL EMERGENCY SERVICES

Description of Function:

"Rescue, ambulance and civil emergency services" means assistance and/or aid given to a person or area when there is imminent danger or damage or injury to property or personal health and safety. Rescue services are those services required to free or save persons



from imminent injury or death. Ambulance services are those services primarily designed to transport ill or injured persons to available medical facilities and to administer first-aid and emergency life-supporting systems in the interim period. Civil emergency services are those services administered to populations or areas to minimize and repair injury and damage resulting from disasters or catastrophes caused by hostile action or natural events.

Present distribution of function:

Civil emergency planning, training and preparation is carried on to some extent in every county by the county Director of Civil Emergency Preparedness. The Director is responsible to the state Bureau of Civil Emergency Preparedness, and in turn oversees and coordinates local planning, training and preparation. His salary is paid in half by the county and in half by the state.

Ambulance service is commonly provided at the municipal level, despite some attempts to provide it on the county level. Forty-two municipalities provide either public or privately contracted ambulance services, or subsidize operations. In addition, at least a dozen private ambulance services provide the service without public funding. Many of these services are available in areas surrounding the municipality, though none seem to be available uniformly throughout any county. In some instances, the municipal police or fire departments provide ambulance service to the municipality, and occasionally to surrounding municipalities as well; and in many other municipalities the fire and police departments provide supplementary ambulance services. The counties and the state do not appear to participate in any way in providing this service.

Rescue services appear to be routinely provided by municipal and county police departments. However, no county has apparently provided rescue services by a full-time specially trained unit. Some municipalities do appear to have specially trained personnel that operate as rescue units, while others rely on additional training for their police and firement, who then respond to provide such services. The state apparently provides no specialized rescue services, other than the routine services of state law enforcement personnel.

Questions:

1. Should counties be authorized, or be required, to provide rescue and ambulance services?
2. Should counties coordinate and/or fund rescue and/or ambulance services provided on the municipal or local level?
3. Should counties provide training of personnel for rescue or ambulance services?
4. Should municipalities be discouraged from providing rescue or ambulance services if the county undertakes to provide them?

ADMINISTRATION

Description of function:

"Administration" means the supervision, management and support of the other functions of law enforcement. "Administration" includes the areas of Recruitment/ Training, Records/Evidence, Purchasing/ Supply, and Planning/Budget Preparation.

Present distribution of functions:

Administration is carried on by law enforcement departments as an adjunct to their other functions. However, certain agencies in

in the state do provide specialized services in some administrative areas. For example, the Maine Criminal Justice Academy provides training in both basic law enforcement and advanced special courses for all law enforcement personnel. Recruitment is aided by the Maine Municipal Association's central register system for persons seeking law enforcement positions. The State Police operate a Bureau of Identification that is the central repository for all criminal records in the state, and also operates the state terminal for computer access to the National Crime Information Bureau and for information on Maine's licensed drivers and motor vehicles. Some purchasing functions are also performed centrally on the county level, such as the purchasing of surplus government equipment through the county Director of Civil Emergency Preparedness.

Questions:

1. Should recruitment of deputies be on a non-partisan, professional basis?
2. Should incentives for specialized training of deputies be provided?
3. Should the county provide evidence technicians or specialists for county and municipal use?
4. Should the county provide a centralized record-keeping and retrieval system?
5. Should the county provide centralized purchasing services?
6. Should the county coordinate countywide law enforcement functions and aid in municipal planning efforts?

OTHER

Description of function:

"Other" means those services uniquely provided by the sheriff's departments: the serving of legal papers in both civil and criminal cases and the providing of officers to maintain the security and order of the courts.

Present distribution of functions:

All sheriff's departments appear to routinely serve both civil and criminal papers and also to provide court officers. In some counties, these functions are performed by part-time deputies, and in others by full-time deputies who may fulfill these functions on either a part-time or full-time basis. In the case of serving civil papers, the deputy (or sheriff) receives a fee which is prescribed by statute, and which he may retain for his personal use.

Questions:

1. Should sheriffs continue to be authorized to serve civil or criminal papers?
2. Should full-time deputies continue to be authorized to serve civil papers?
3. Should sheriffs or full-time deputies continue to retain the fees for serving civil papers?
4. Should the sheriff's department continue to provide court officers on either a full-time or part-time basis?

COMMENTS

Once the Committee has answered the questions raised by each of these functions, it should then examine the overall pattern that it has concluded is appropriate for county law enforcement. With the

basic outline developed, the Committee can then consider the issues of financing, administration, and relationships with municipal and state law enforcement agencies.

Sources used in compiling the data in this memo:

1. Police Services in the State of Maine, Phase I, Maine LEAA, Public Administration Service (1972).
2. A Study of Police Services in the State of Maine, Phase II, Maine LEAA, New England Bureau for Criminal Justice Services (1974).
3. A Corrections Study for the Bureau of Corrections, State of Maine, Vols. I, II and III, Batten, Batten, Hudson and Swab, Inc. (1972).
4. 1976 Existing Criminal Justice System MCJPAA (1976).
5. In the Public Interest: Report of the Governor's Task Force on Corrections, (1974).
6. Crime in Maine: 1975, Maine Department of Public Safety (1976).
7. 1975 County Jail Inspection Report, Maine Department of Mental Health and Corrections (1976).
8. Ambulance Survey, Maine Law Enforcement Council (1971).
9. County budgets for Maine counties in 1975 and 1976.

APPENDIX L

Draft Legislation, County Law Enforcement.

AN ACT to Clarify and Reform the Laws Relating to County Law Enforcement

Be it enacted....:

Sec. 1. 28 MRSA §1151, is amended to read:

§1151. Duty of sheriffs, deputies and district attorneys; refusal or neglect

Sheriffs and their deputies and district attorneys shall diligently and faithfully inquire into all violations of law within their respective counties and institute proceedings in case of violations or supposed violations of law; ~~and particularly the law against the illegal sale of liquor, gambling houses or places and houses of ill fame.~~ except sheriffs and their deputies shall only be required to perform specific law enforcement functions throughout the county as provided under Title 30, chapter 11.

Sheriffs and their deputies shall promptly enter complaints before a judge and execute the warrants issued thereon, or shall furnish the district attorney promptly and without delay with the names of alleged offenders and of the witnesses. Any sheriff, deputy sheriff or district attorney, who shall willfully or corruptly refuse or neglect to perform any of the duties required by this section, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months.

Sec. 2. 30 MRSA § 853, is enacted to read as follows:

§ 853. Definitions

For the purposes of this sub-chapter, the following words shall have the following meanings, unless the context indicates otherwise:

1. Deputy. "Deputy" shall mean either a full-time or part-time county law enforcement officer appointed under section 951.
2. Full-time deputy. "Full-time deputy" means a deputy who is compensated on a salaried or per-diem basis under section 958, sub-section 1, and who is employed in county law enforcement for at least 40 hours a week.
3. Part-time deputy. "Part-time deputy" means a deputy who is compensated on a hourly or per-diem basis under section 958, sub-section 2, and who does not receive more than \$2,500 in any one calendar or fiscal year for performing county law enforcement duties.
4. Special deputy. "Special deputy" means a person appointed under section 952 who is authorized to exercise the powers of a deputy only when a state of war or emergency exists.

Sec. 3. 30 MRSA §901, is amended to read as follows:

§901. Election or appointment; bond

Sheriffs shall be elected or appointed and shall hold their offices according to the Constitution, and their election shall be effected and determined as is provided respecting county commissioners, and they shall enter upon the discharge of official duty on the first day of January following.

Every person elected or appointed sheriff for the Counties of York, Cumberland, Kennebec or Penobscot, before receiving his commission, shall give bond to the Treasurer of State with at least 3 sufficient sureties or with the bond of a surety company authorized to do business in this State as surety, in the sum of \$40,000, and for any of the other counties, in the sum of \$25,000, conditioned for the faithful performance of the duties of his office and to answer for all neglect and misdoings of his ~~deputies~~ chief deputy.

Sec. 4. 30 MRSA § 951 is repealed and replaced to read as follows:

§ 951. Deputies; appointments and removal

The Sheriff may appoint, with the approval of the County Commissioners or the County Personnel Board (if one has been established under sub-chapter VII), full or part-time deputies, whose special duties shall be to enforce the Criminal laws in the County. All deputies shall be appointed without regard to any political affiliation and solely on the basis of professional qualifications relating to law enforcement duties or potential for acquiring those qualifications. Professional qualifications shall include actual experience in law enforcement duties, training in criminal justice or law enforcement from an accredited college or university or from the Maine Criminal Justice Academy, or knowledge of the duties, activities and responsibilities of a deputy gained from other experience or training.



Deputies shall be originally appointed for a probationary period of not more than six months, and thereafter may be appointed or reappointed for a term of three years. The sheriff may dismiss, suspend or otherwise discipline a deputy during the term of his appointment only for cause. In every case of dismissal, suspension or other disciplinary action, at the request of the deputy, the County Commissioners or County Personnel Board (if one has been established under sub-chapter VII) shall investigate the circumstances and fairness of the action, and, if it finds the charges unwarranted, shall order the reinstatement of the deputy to his former position with no loss of pay, rights or benefits resulting from the dismissal, suspension or disciplinary action. Cause for dismissal, suspension or disciplinary action shall be a just, reasonable, appropriate and substantial reason for the action taken, that relates to or affects the ability, performance of duties, authority or actions of the deputy or to the public's rights or interest.

The Sheriff shall furnish to the clerk of courts in each county the names of the deputies appointed by him from time to time, with the residence and post-office address of each.

A full time deputy shall not hold any other municipal, County or state office, and may reside outside the County during the term of his appointment only with the permission of the sheriff and county commissioners.

Sec. 5. 30 MRSA § 952 is amended to read as follows:

§ 952. Special deputies; duties.

Sheriffs may at any time appoint and train as special deputies citizens more than 18 years of age. The appointment shall be in writing, signed by the sheriff and shall include the residence and post office address of each special deputy. The appointment shall be recorded in the office of the clerk of courts in the county, and shall not be valid until recorded. The sheriff or his chief deputy shall only order ~~any-or-all-of-said~~ special deputies to active duty when a state of war exists, or when the Governor shall proclaim an emergency under Title 37-A, chapter 3, or when the State Director of the Bureau of Civil Defense declares that a state of emergency is imminent. Such special deputies shall exercise all the powers of deputy sheriffs appointed under the general law, except the service of civil process, only for the duration of the emergency that exists or which has been proclaimed or during the time for which they have been ordered to active duty.

Sec. 6. 30 MRSA § 953, is repealed and replaced to read as follows:

§ 953. Deputies; Uniforms

The Sheriff shall require each deputy, while engaged in the enforcement of Title 29, section 2121, to wear a uniform sufficient to identify himself as an officer of the law. Each county shall furnish the sheriff and each full-time deputy with one uniform required by this section; and, after approval of the county commissioners, may provide more than one uniform for each.

Sec. 7. 30 MRSA §954, is amended to read as follows:

§954. Chief deputy.

~~Subject to section 951, the~~ The sheriff in each county shall, as soon as may be after he takes office, appoint a chief deputy to serve under him, who shall have all the powers and duties of a deputy sheriff and who shall be subject to the direction of the sheriff in the administration of his office. The chief deputy shall serve at the pleasure of the sheriff.

The appointment shall be in writing, signed by the sheriff, and recorded in the office of the clerk of courts in the county. The appointment is not valid until recorded, except by operation of law or by vacancy in the office of sheriff.

The sheriff is answerable for the official misconduct or neglect of his chief deputy.

Sec. 8. 30 MRSA § 955, is amended to read as follows:

§ 955. Chief deputy, deputies, -Bond; approval and filing

Every person appointed chief deputy under section 954, or appointed a deputy under section 951, shall give bond to the Treasurer of State before receiving his commission, with at least 3 sufficient sureties, or with the bond of a surety company authorized to do business in this State as surety, in such sum as the county commissioners of his county shall require, conditioned for the faithful performance of the duties of his office. ~~and to answer for all neglect and misdoings of the deputies in said county during such time as he shall serve in the period of a vacancy in the office~~

2  
~~of-sheriff.~~ Said bond shall be filed and approved in the same manner as is required for the bond of a sheriff under section 902, and all of said section shall apply to the bond of such chief deputy.

Sec. 9. 30 MRSA § 958, is amended to read as follows:

§ 958. Full time or part-time deputies ~~in-all-counties~~; special deputies; compensation

1. Full-time deputies.

~~The-sheriffs-of-all-counties-shall-respectively-appoint-full-time-deputy-sheriffs, who shall serve at the pleasure of said respective sheriffs and whose special duty shall be to enforce the criminal laws in said counties and who~~ Full-time deputies shall be compensated at a rate not less than \$21 per day, or at a rate not less than \$23 per day if the deputy has:

~~1.---Associate-or-higher-degree-in-criminal-justice.~~ A.

An associate degree in criminal justice, with an emphasis on law enforcement from an accredited college or university; or

~~2.---Completed-basic-training-at-the-Maine-Criminal-Justice~~

~~Academy.~~ B. Successfully completed the basic training course at the Maine Criminal Justice Academy or its equivalent, as determined by the board of trustees of the academy, and has served at least 3 years as a full-time law enforcement officer in the preceding 4 years.

The minimum compensation rate shall not apply to any deputy sheriff who is in a probationary period or who is undergoing disciplinary action.

Such compensation shall be established by the respective county commissioners and paid from the respective county treasuries, together with such incidental expenses as may be necessary for the proper enforcement of ~~said~~ the laws, bills for which shall be audited as provided in Title 15, section 1902.

2. Part-time deputies.

Part-time deputies shall be compensated at a reasonable rate as established by the county commissioners, which shall not exceed the lowest per diem compensation rate of a full-time deputy in the county. No part-time deputy shall be compensated under this section more than \$2500 in any one calendar or fiscal year. Incidental expenses as may be necessary for the proper enforcement of the laws shall also be paid in the same manner as provided for full-time deputies, and shall not be included in the \$2500 limitation on compensation.

3. Special deputies.

Special deputies shall only be compensated when on active duty as provided under section 952. They shall be compensated at a rate equal to the rate of compensation of full-time or part-time deputies, depending on the actual duties performed while on active service.

Sec.10. 30 MRSA § 959 is enacted to read as follows:

§ 959. Political activities

1. Sheriff. No sheriff shall directly or indirectly coerce, attempt to coerce or command any county employee or deputy to pay, lend or contribute anything of value to, or to engage in any political service or activity on behalf of a party, committee, organization, agency or person for political purposes.

2. Deputies. No deputy, whether a full-time, part-time, or chief deputy shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription, contribution or political service, whether voluntary or involuntary, for any political purpose from any person; except that while off duty and not in uniform a deputy may engage in political activities relating to non-partisan municipal, school board or special district elections.

3. Official duties. Official duties undertaken solely to preserve the public peace and the order and security of polling places are not political services or activities.

4. Rights of voting and free expression. A sheriff or any deputy shall retain the right to vote as he chooses and to express his opinions on political subjects or candidates.  
Sec. 11. 30 MRSA §1001 is repealed and replaced to read as follows:

§1001. County law enforcement administration.

1. Sheriff's duties. The Sheriff shall act as the chief law enforcement officer of the county, and shall be responsible for administering and directing the sheriff's department and county law enforcement activities, as authorized by the county budget. The sheriff shall keep the county commissioners informed of county law enforcement activities on a regular basis and shall meet with the commissioners as required under subsection 3.

2. County Commissioners duties. The County Commissioners shall regularly review the sheriff's operations and shall insure that the law enforcement functions required under the budget are being adequately performed. The Commissioners, after consulting the sheriff, shall establish general policies for county law enforcement. The County Commissioners shall execute their general policies solely through the sheriff and shall not give orders directly to any deputies or other subordinates of the sheriff, either publicly or privately.

3. Meetings with municipal officers. At least twice each year, the County Commissioners and sheriff shall hold a special meeting for reviewing county law enforcement activities. The County Commissioners shall set a date, time and place for this meeting and inform the sheriff and all municipal officers, including all municipal police chiefs, within the county, of the meeting at least one week in advance. The purpose of this meeting shall be to review activities of the sheriff's department, to coordinate law enforcement activities throughout the county and to resolve problems in law enforcement.

4. Other orders. Sheriffs shall obey all orders relating to law enforcement that they receive from the Governor, and each sheriff shall undertake any other duties they are directed to perform by the county commissioners that are not in conflict with this chapter or general law.

Sec. 12. 30 MRSA Chapter 1, sub-chap. VI, Article 7 is enacted to read as follows:

Article 7. Removal of Sheriff.

§1111. Removal of Sheriff.

Whenever the County Commissioners shall find that the Sheriff is not faithfully or efficiently performing any duty imposed on him by this chapter or that the Sheriff is improperly exercising or acting outside his authority, the Commissioners may file a complaint with the Governor setting forth in detail the facts of such actions or omissions and requesting the Governor to remove the Sheriff from office and appoint another Sheriff in his place for the remainder of the term.

Sec. 12. 30 MRSA Chapter 1, sub-chap. VI, Article 9 is enacted to read as follows:

Article 9. County Law Enforcement Functions

§1121. Definitions.

As used in this Article, unless the context otherwise requires, the following words shall have the following meanings:

1. Ambulance Services. "Ambulance services" means those emergency services primarily designed to transport ill or injured persons to available medical facilities and to administer first-aid and emergency life-supporting systems in the interim period.

2. Civil emergency services. "Civil emergency services" means those emergency services administered to populations or areas to minimize and repair injury and damage resulting from disasters or catastrophes caused by hostile action or natural events.



3. Communications. "Communications" means a system for sending and receiving information to aid in law enforcement or law enforcement functions between fixed or mobile points, including telephone, teletype or radio systems. "Communications" also includes "dispatching", which means the operation of sending messages and directing the operations of mobile units from a central fixed-base transmitter.

4. Detention. "Detention" means the confining of a person held in lawful custody in a specially-constructed or modified facility designed to insure continued custody and control. "Detention" may be confinement prior to trial or to serve court imposed sentences, and may be in a jail or lock-up.

5. Emergency Services. "Emergency services" means assistance and/or aid given to one or more persons or areas, when there is imminent danger of damage or injury to property or personal health and safety, and includes ambulance services, civil emergency services and rescue services.

6. Intelligence. "Intelligence" means the collection, storage, retrieval, analysis and use of information about persons known to be repeatedly violating the criminal law in a manner difficult to detect as part of a covertly planned, deliberate or organized attempt to undertake criminal acts.

7. Investigation. "Investigation" means the inquiry about, or examination or observation of persons or objects to gather evidence concerning unlawful acts or the apprehension of wrongdoers. "Investigation" may also mean examination, inquiry or observation of persons or things in order to de-

termine compliance with qualifications or requirement for the issuing of licenses or permits, when such actions are taken at the request of the issuing authority.

8. Jail. "Jail" means a specially constructed or modified facility designated by law or regularly used for detention for a period of up to 12 months.

9. Juvenile Services. "Juvenile Services" means the personnel, procedures and services provided, to deal with delinquents or criminal offenders under 18 years of age. "Delinquent" means a person under 18 years of age who: is habitually truant; behaves in an incorrigible or indecent and lascivious manner; knowingly and willfully associates with vicious, criminal, or grossly immoral people; repeatedly deserts home without just cause; or lives in a circumstance of manifest danger of falling into habits of vice or immorality.

10. Laboratory Services. "Laboratory Services" means those services which concern the testing or analyzing of physical evidence, by chemical or physical science methods and techniques, in order to determine its properties, composition, attributes or other information required for law enforcement purposes.

11. Law enforcement functions. "Law enforcement functions" means functions or services related to law enforcement, including patrol, laboratory services, intelligence, investigation, juvenile services, emergency services, detention and communications, whether or not those services are administered or directed through the sheriff's department or municipal police departments.

12. Lock-up. "Lock-up" means a facility designated by law or regularly used for detention for a temporary period prior to trial or transfer to a jail or other facility.

13. Patrol. "Patrol" means the regular and repeated circuit of the jurisdictional area as a method of deterring criminal activities, of observing or inspecting for possible violations or criminal activities, of providing for rapid response to calls for assistance, and of maintaining order and the general peace. "Patrol" includes regulating and facilitating the movement of people and vehicles and maintaining highway safety by routine enforcement of the traffic laws; and also the response to particular calls for assistance. "Patrol" may be conducted on foot or in a motor vehicle or aircraft.

14. Rescue. "Rescue" means those services required to free or save persons from imminent injury or death due to accidents or other emergencies.

§1122. Patrol.

The Sheriff in each county, in person or by his deputies may patrol throughout the county, but shall not be required by law to patrol the entire county. The County Commissioners, with the agreement of the Sheriff, may enter into a contract with a municipality under section 63 to provide specific patrol services by the sheriff's department in return for payment for such services.

§1123. Communications Centers.

Each County may establish a Communications Center, separate from any communications function of the Sheriff's department, and capable of serving the communication needs of the County and the municipalities who may wish to utilize the center.

The County Commissioners, after consulting with municipal police chiefs, shall be responsible for setting policies for the Communications Center, and shall appoint a Director (or Chief Dispatcher) who will be responsible for carrying out their policies. The Director (or Chief Dispatcher) may be the County Director of Civil Emergency Preparedness, if he is qualified.

The County Communications Center shall provide communication services for the sheriff's department, County Civil emergency services, County or municipal rescue or ambulance services, County or municipal fire departments, or municipal police departments.

The County Commissioners, after consulting with the Director (or Chief Dispatcher), may enter into an agreement with a municipality under section 63 to provide specific communications for municipal law enforcement functions, including dispatching of municipal units, in return for payment for such services.

§1124. Detention.

Each county shall provide detention facilities, either within the county or, by contract with another county, outside the county. Adjoining counties may enter into an agreement under chapter 203 to provide consolidated detention facilities for the use of those counties.

§1125. Investigation, Intelligence or Laboratory Services.

Counties may provide investigation, intelligence or laboratory services within the sheriff's department to aid county law enforcement, municipal police departments or the district attorney. The county may set uniform charges payable by municipalities for specific laboratory procedures or tests, where such charges reflect the actual cost of such procedures or tests; but shall not require or accept any additional payments, other than the county tax, for investigation, intelligence or other laboratory services when they are provided to municipal departments or the district attorney.

§1126. Rescue Services.

Each county may provide rescue services through the sheriff's department and deputies.

§1127. Ambulance Services.

1. Scope of Service. Each county may provide ambulance service throughout the county, if this function is approved by the majority of the voters of the county. The ambulance service may be provided to all or part of the county and may be provided by county personnel and vehicles or by contract with private organizations, corporations or persons or with municipalities under chapter 203 or section 63.

The county commissioners, by majority vote, may order the submission to the voters of the question authorizing county ambulance services. On the written petition of a number of county voters equal to at least 20% of the number of votes cast in the county at the last gubernatorial election, the county commissioners shall order the submission to the voters

of the question authorizing county ambulance services. The referendum on the issue shall be held within 90 days of the order, by ballot at any special or general county-wide election. The county commissioners are authorized to expend such funds as are necessary to implement the referendum.

The county commissioners shall cause the preparation of the required ballots on which they shall state the subject matter of the authorization in the following question:

"Shall (name) county be authorized to provide ambulance services throughout the county, as provided under Title 30, section 1127?"

The voters shall indicate by a cross or check mark placed against the words "Yes" or "No", their opinion of the same.

The county shall be authorized to provide ambulance services under this section immediately upon the approval of that authorization by a majority of the legal voters voting at the election; provided that the total number of voters cast for and against the approval of the authorization equals or exceeds 30% of the total votes for all candidates for Governor cast in the last gubernatorial election in the county.

This question shall not be submitted to the voters more than once in any calendar year.

#### §1128. Juvenile Services.

Each county may provide juvenile services either through the sheriff's department or by other county personnel.

#### §1129. Administrative Services.

Each county may undertake administrative, management and supporting functions required to implement the law enforcement functions authorized by this chapter, including the recruitment and training of county personnel, maintenance of records and preservation of evidence, purchasing of necessary supplies and planning and budget preparation.

Sec. 14. 30 MRSA Ch. 1, sub-ch. VII, is enacted to read.

#### SUB-CHAPTER VII

County Personnel Board.

§1131. Establishment.

The County Commissioners may, after a public hearing, establish a County Personnel Board. The County Personnel Board shall have the duties and powers set forth in this sub-chapter, section 951 and Title 34, section 901.

§1132. Membership, Term and Compensation.

The County Personnel Board shall be composed of three members, who shall not be county officers or employees of the Sheriff's department. The members shall be appointed by the county commissioners. The terms of the members shall be 3 years, except that for the first appointment there shall be one appointed for one year, one for 2 years and one for 3 years. Vacancies shall be filled for the remainder of the term of the vacated appointment. The Board shall elect its own chairman annually. The members shall receive \$25 a day for the time actually spent in the discharge of their duties and their necessary expenses.

§1133. Powers and duties.

The Board shall have the following powers and duties:

1. Director. To appoint a director.
2. Appointments. To approve appointments as authorized under section 951, and Title 34, section 901.
3. Dismissals, suspensions or disciplinary actions. To investigate and make orders in cases of dismissal, suspension or other disciplinary action as authorized under section 951, and Title 34, section 901.
4. Investigations, hearings and reports. To investigate, hold hearings and report its findings, recommendations and orders for the purpose of approving appointments or reviewing dismissals, suspensions or other disciplinary actions.
5. Rules and regulations. After a public hearing, to adopt or amend rules or regulations relating to:
  - A. Examination or standards for appointments,
  - B. Probationary period,
  - C. Reinstatement,
  - D. Demotion,
  - E. Suspension, layoff or dismissal,
  - F. Provisional, emergency, exceptional and temporary appointments, and
  - G. Leave of absence, resignation, hours of service, vacations and sick leave.
6. Enforcement. To enforce the rules and regulations made thereunder.
7. Report. To receive, review and transmit to the county commissioners and sheriff the annual report of the director. The report of the director may be supplemented by any additional comment, criticism or suggestion for the more effectual accomplishment of the purposes of this chapter that the commission may care to submit.



8. Minutes. To keep full and complete minutes of its proceedings, which shall, subject to reasonable regulations, be open to public inspection.

9. Hearings. In the course of any investigation through any member of the board, to have the power to administer oaths and to subpoena and require the attendance of witnesses and the production thereby of books, papers, public records and other documentary evidence pertinent to such investigation.

In the case of the refusal of any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the Superior Court in the county on application of any one of the members of the commission or of the director, when authorized by the commission, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey such order of the court may be punished by the court as contempt thereof.  
§1134. Director; qualifications; tenure; compensation; powers and duties

The director shall be, at the time of his appointment, a person familiar with the principles, methods and techniques of public personnel administration on the merit basis. His tenure of office shall be at the pleasure of the appointing commission and he shall receive such compensation as shall be fixed by the commission with approval of the county commissioners.

The director shall have the power and duty to administer and make effective this chapter and the rules and regulations of the commission.

Sec. 15. 34 MRSA §901 is amended to read as follows:

§901. Custody of jail and prisoners; jailer

The sheriff has the custody and charge of the jail in his county and of all prisoners therein and shall keep it himself, or by his deputy as jailer, master or keeper. ~~for-whom-he-is responsible-~~ The jailer, master or keeper shall appoint, with the approval of the county commissioners or the county personnel board (if one has been established under Title 30, chapter 1, sub-chapter VII), all subordinate assistants and employees. Subordinate assistants and employees shall be appointed in the same manner and for the same period, and shall be dismissed, suspended or disciplined in the same manner that is provided for deputy sheriffs under Title 30, section 951. The professional qualifications required of them shall emphasize training or experience in or knowledge of corrections. The pay of the jailer, master or keeper and all subordinate assistants and employees shall be fixed by the county commissioners and paid by their several counties, except when otherwise provided by law.

Title 30, section 801, shall apply to sick leave and vacation of the full-time employees of the sheriff's department of each county.

## STATEMENT OF FACT

The purpose of this bill is to implement the recommendations of the study on County Government by the Joint Select Committee on County Government. A detailed statement of the intentions, purposes and provisions of this bill is contained in the Committee's narrative report. Generally, this bill does the following:

1. Defines county law enforcement functions;
2. Defines the relationship of the County Commissioners and the Sheriff; and
3. Increases the professionalism of Sheriff's deputies by prohibiting certain political activities and establishing a simple modified civil service approach to hiring and firing, including authorization to establish a County Personnel Board.

## APPENDIX M

### COUNTY SUBORDINATE TAXING AREAS

It is a primary responsibility of government to provide and finance services needed by its citizens. Where units of general local government--counties, cities, and towns--fail to provide such services their citizens will demand the services from a higher level of government or utilize the special district device for obtaining them.

Numerous draft bills suggested by this Committee have been directed toward securing greater authority and flexibility for units of general local government in order that they might better meet the needs of their citizens. The following proposal is directed to the same end. It is designed to minimize the need for special districts by authorizing counties to create subordinate taxing areas in order to provide and finance one or more governmental services within a portion of the county.

The Bureau of the Census indicates that, as of 1962, counties in 20 states have utilized the subordinate taxing area device to provide governmental services. Where counties do not possess authority to create such taxing areas there are only three alternatives available. First, the service must be financed from general county revenues which are derived from all residents of the county; second, the area desiring the service can create a special district; and third, the residents can do without the service. The first alternative frequently may be politically unacceptable as well as highly inequitable in a given county and the third alternative is incompatible with the public interest. Consequently, unless counties possess the authority to create subordinate taxing areas, demand is generated for the creation of numerous special districts.

The following suggested act is designed to authorize counties to establish subordinate taxing areas in order to provide any governmental service therein which the county is otherwise authorized by law to provide. Section 3 defines a county subordinate taxing area and Section 4 permits the county governing body to set tax rates within such areas at a different level than the overall county tax rate, in order that only those receiving a particular service pay for it. It should be noted that a constitutional amendment may be necessary in some states to permit use of this device.

Sections 5, 6, 7, and 8 spell out the procedures for establishing a subordinate taxing area. Initiation of the proceedings may be undertaken by the county governing body either on its own motion or following receipt of a petition by the residents of the area. Under the latter procedure a public hearing would be required and final approval of creation of such an area by the county governing body would be subject

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to referendum proceedings commenced by the qualified voters within the territory of the proposed subordinate taxing area.

Section 9 provides authority for extension of the boundaries of an existing subordinate taxing area pursuant to the same procedures authorized for their creation.

Section 10 directs the county governing body to provide an annual budget for the service authorized within the subordinate taxing area and to supply the revenues, either property taxes or service charges, to finance the service.

#### Suggested Legislation

1     Section 1. Short Title. A bill to authorize counties to establish  
2 subordinate taxing areas in order to provide and finance governmental  
3 services.

1     Section 2. Purpose. It is the purpose of this act to provide a  
2 means by which counties as units of general local government can  
3 effectively provide and finance various governmental services for  
4 their residents in an equitable manner as among urban, rural or  
5 special areas within the county.

1     Section 3. Definition. "County subordinate taxing area" means  
2 an area within a county in which one or more governmental services  
3 are provided by the county and financed solely from revenues secured  
4 from within that area.

1     Section 4. Notwithstanding any provision of law requiring uniform  
2 property tax rates on real or personal property within a county,  
3 counties are hereby authorized to establish subordinate taxing areas  
4 to provide and finance any governmental service or function which they  
5 are otherwise authorized to undertake. 1/

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1/ If the service is to be financed wholly or partly from property tax revenues, some states may have to amend constitutional provisions requiring uniform tax rates within a county.

1     Section 5. Establishing a Subordinate Taxing Area by Counties.

2     The county governing body may, on its own motion, establish a  
3     subordinate taxing area in any portion of the county pursuant to a  
4     resolution adopted by a majority of its members. The resolution  
5     shall specify the type of service or services to be provided within  
6     the subordinate taxing area and shall specify the territorial  
7     boundaries of the area.

1     Section 6. Creation of Subordinate Taxing Area Pursuant to

2     Petition. (a) A petition signed by \_\_\_\_\_ qualified voters within  
3     any portion of a county may be submitted to the county governing  
4     body requesting the establishment of a subordinate county taxing area  
5     to provide any service or services which the county is otherwise  
6     authorized by law to provide. Such petition shall include the  
7     territorial boundaries of the proposed subordinate taxing area and  
8     shall specify the types of services to be provided therein.

9         (b) Upon receipt of the petition, and verification of the  
10     signatures thereon by the county clerk, the county board shall,  
11     within /30/ days, hold a public hearing on the question of whether  
12     or not such a subordinate taxing area shall be established.

13         (c) Within /30/ days following the holding of a public hearing,  
14     the county governing body, by resolution, shall approve or disapprove  
15     the establishment of the subordinate county taxing area. A  
16     resolution approving creation of a subordinate taxing area may  
17     contain such amendments or modifications of any aspects of the taxing  
18     area's boundaries or functions as the county governing body deems  
19     appropriate.

1        Section 7. Publication and Effective Date. Upon passage of any  
2 resolution authorizing creation of a subordinate county taxing area  
3 the county governing body shall cause to be published in (---)  
4 newspapers of general circulation within the county a concise summary  
5 of such resolution. The summary shall include a general description  
6 of the territory to be included within the taxing area, the type of  
7 service or services to be undertaken within the area, a statement of  
8 the means by which the service or services will be financed, and a  
9 designation of the county agency or officer who will be responsible  
10 for supervising the provision of the service or services specified.  
11 The service area shall be deemed established, subject to initiative  
12 and referendum as hereinafter prescribed, 30 days after publication  
13 of such notice.

1        Section 8. Initiative and Referendum. (a) Upon receipt of an  
2 initiative petition signed by ( \_\_\_\_ percent or \_\_\_\_ number) of  
3 the qualified voters within the territory of the proposed taxing  
4 area prior to the effective date of its creation as specified in  
5 Section 7, the creation of such taxing area shall be held in abeyance  
6 pending referendum vote of all qualified electors residing within the  
7 boundaries of the subordinate taxing area.

8        (b) The county governing body shall make appropriate arrangements  
9 for the holding of a special election not less than 30 nor more than  
10 60 days after receipt of such petition within the boundaries of the  
11 proposed taxing area. The question to be submitted and voted upon  
12 by the qualified voters within the territory of the subordinate

13 taxing area shall be phrased substantially as follows:

14            Shall a subordinate taxing area be established in order  
15 to provide -- /name service or services to be provided/  
16 financed by /name revenue sources/?

17 If a majority of those voting on the question favor creation of a  
18 subordinate taxing area, the area shall be deemed created upon  
19 certification of the vote by the /county election board/.

1     Section 9. Expansion of the Boundaries of a Subordinate Taxing  
2 Area. The county governing body, on its own motion or pursuant to  
3 petition, may expand the boundaries of any existing subordinate  
4 county area pursuant to the procedures specified in Sections 5 through  
5 8, except that all references to qualified voters shall be limited  
6 to those residing within the territory to be added to the existing  
7 subordinate taxing area.

1     Section 10. Upon adoption of the next annual budget following  
2 the creation of a subordinate county taxing area the county governing  
3 body shall include in such budget appropriate provisions covering  
4 the financing of such services as will be derived from a property  
5 tax levied only on property within the boundaries of the subordinate  
6 taxing area or by levy of a service charge against the users of  
7 such service within the area, or by any combination thereof.



## APPENDIX N

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### SYLLABUS:

Municipalities may contract with county commissioners of their county or with the Bureau of State Police to provide municipal police services.

### FACTS:

Municipalities which cannot afford or support a full-time law enforcement officer are utilizing or investigating contracting as a method of providing adequate municipal police services to their inhabitants. The two existing agencies that could provide this municipal police service are the county sheriff's departments and the Bureau of State Police, of the Department of Public Safety.

### QUESTIONS AND ANSWERS:

(1) May municipalities contract with the Bureau of State Police to provide municipal police services if the municipality is otherwise authorized to provide police services? Yes.

(2) May municipalities contract with the county commissioners of their county to provide municipal police services if the municipality is otherwise authorized to provide police services? Yes.

### REASONS:

(1) 30 M.R.S.A. § 1953 reads in part as follows:

"Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this State may be exercised jointly with any other public agency of this State, . . . Any agency of State Government when acting jointly with any public agency may exercise all of the powers, privileges and authority conferred by this chapter upon a public agency."

\* \* \*

30 M.R.S.A. § 1952 defines public agency as follows:

"For the purposes of this chapter, the term 'public agency' shall mean any political subdivision of this State; . . . or any agency of State Government. . . ."

In Maine, a town or city is a municipality (30 M.R.S.A. § 1901(6)), either of which is an agency of the State. Opinion of the Justices, 133 Me. 532, 128 A. 613 (1935). Also see Baxter v. Waterville Sewerage District, 146 Me. 211, 79 A.2d 585 (1951). Under 30 M.R.S.A. § 2361, municipalities are given the power to appoint police officers who have general law enforcement authority with the municipality wherein they are appointed. Implicit in the authority of a municipality to appoint police officers is the power and authority to provide police services to the inhabitants of the municipality.

The Bureau of State Police, created in 25 M.R.S.A., chapter 191, is a state agency with general state-wide law enforcement responsibilities. 25 M.R.S.A. § 1502. Special emphasis is placed on the Bureau of State Police for law enforcement outside built-up areas within municipalities. 25 M.R.S.A. § 1502.

Municipalities and the Bureau of State Police are both public agencies within the meaning of 30 M.R.S.A. § 1952. Municipalities have the power and authority to provide police services to their inhabitants, and the Bureau of State Police has the authority to carry out general law enforcement activities within municipalities. Therefore, pursuant to 30 M.R.S.A. §§ 1951, et seq., municipalities may contract with the Bureau of State Police for municipal police services which the municipality is otherwise authorized to provide its inhabitants. Any such contract between the municipality and the Bureau of State Police must comply with the requirements set out in 30 M.R.S.A. § 1951, et seq.

(2) 30 M.R.S.A. § 63, enacted in 1975, provides that the county commissioners of each county may contract with municipalities within the county to provide services that either a county or a municipality may perform, subject to certain restrictions similar to those applied to § 1953.

Capt. Albert Jamison  
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As previously noted, municipalities, if otherwise authorized, have the power and authority to provide police services to their inhabitants. Under both 30 M.R.S.A. § 63 and 30 M.R.S.A. § 1953, municipalities may contract with the county commissioners of their county to provide municipal police services.

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DONALD G. ALEXANDER  
Deputy Attorney General

DGA:mfe

## APPENDIX O

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The Committee requested some concrete examples of the effects of various proposals to grant municipalities tax credits against the county tax when the municipality is providing police services. In order to study the effects of various proposals, this memo will first provide the concrete data required to implement the proposals, and then apply it to several examples to illustrate possible effects. The following alternatives should be considered by the Committee:

1. County Base Figure. The "County Base Figure" is the amount of money against which the credit will be allowed. The Committee has already determined that this figure should reflect the actual expenditures of the county in providing the function for which municipalities will receive credit, i.e. patrol. Present county budgets do not directly reflect this figure and thus it must be estimated by indirect methods. Further, the present budget "categories" or "accounts" do not even seem to be defined consistently between counties, and thus may be open to variations or manipulations. Thus, in choosing which figure to use as a "county base figure", the Committee should also consider the necessary safeguards required to insure uniformity and consistency in the figure. The following "county base figures" are proposed with the appropriate county figures:

A. Total County Budget Amount.

B. Total "Law Enforcement" Budget Amount (i.e. combined accounts for Support of Prisoners and Sheriffs as they appear on county budgets.)

C. Total sheriff's account (as it appears on county budgets.)

D. Estimated budget for "Patrol" function (based on the budget account for Sheriff with all identified appropriations for investigators, special or part-time deputies, turnkeys, matrons, dispatchers, and sheriff's quarters or subsistence allowance removed.) (This figure is also expressed as a percentage of the total budget amount, the total law enforcement amount and the total sheriff's account.)

Androscoggin (1974)

A. 578,463.00

B. 259,923.81

C. 148,821.65

D. 101,490.93 (18% of A; 39% of B; and 68% of C.)

Lincoln (1975)

A. 545,068.00

B. 128,520.00

C. 128,520.00

D. 98,375.46 (18% of A; 76% of B; 76% of C.)

Oxford (1975)

A. 432,171.69

B. 143,106.00

C. 105,128.00

D. 100,428.59 (23% of A; 70% of B; 96% of C.)

2. Credit Eligibility Standard. The "Credit Eligibility Standard" is the standard of size or functions of municipal police forces that will allow the municipality to claim the tax credit. The Committee has discussed two alternatives, a specific number of full-time municipal police officers or 24-hours municipal police protection. Figures on size and expenditures on municipal police activities are determine and available, but the "24-hour police protection" standard is harder to define. First, the following for our sample counties:

<u>Androscoggin</u>	<u>Full-Time</u>	<u>Patrol</u>	<u>Per Capital Expenditure</u>
Sheriff	24	10	\$ 8.09
Auburn	39	31	26.18
Lewiston	78	63	30.13
Lisbon	6	5	20.28
Livermore Falls	4	3	20.72
Mechanic Falls	3	1	15.48
Sabattus	4	3	27.94
<u>Lincoln</u>			
Sheriff	11	4	\$13.00
Boothbay Harbor.	7	5	28.32
Damariscotta	3	2	28.95
Waldoboro	4	3	14.86
Wiscasset	4	3	23.12

<u>Oxford</u>	<u>Full-Time</u>	<u>Patrol</u>	<u>Per Capital Expenditure</u>
Sheriff	14		\$11.19
Bethel	1	1	8.22
Dixfield	2	1	12.09
Fryeburg	1		6.07
Mexico	5	4	13.93
Norway	3	3	12.16
Paris	3	3	8.70
Rumford	14	8	23.21

The "24-hour police protection" standard is harder to make objective. Certain objective standards have been developed to measure the capacity to provide such service (i.e. "To man a single patrol unit or sector on a 24-hour, 7-day-a-week basis for an entire year will require the equivalent of 4.7 officer man-years at a cost of \$40,000 to \$60,000 per year..." A Study of Police Services in the State of Maine, the N.E. Bureau for Criminal Justice Services, April 1974, p.70.) But determining whether such services are provided requires someone's observation and judgment. Thus, the basic question with this standard is "who determines which municipalities are providing "24-hour police protection", and thus are eligible for the tax credit?"

3. Credit Calculation Base. The "Credit Calculation Base" is the method for basing any calculation of municipal tax credits. The basic choice here is between dollar amounts or percentages of either municipal expenditures or the County Base Figure. Thus, the municipal tax credit can be calculated as "x dollars per full-time municipal police officer" or an "x% of the county tax commitment per full-time municipal police officer." The basic distinction between these two methods is that the % method will vary the actual amount of "tax credit" in relation to the municipal valuation and amount of county taxes, while the set dollar amount will not. The set dollar amount, however, may be set to reflect the actual costs of providing municipal police services, and the % method probably cannot be so clearly related to municipal cost. The following figures of our sample counties can illustrate this to some degree:

<u>County or Municipality</u>	<u>Valuation (Thousands)</u>	<u>Cty. Tax</u>	<u>Police Expenditures</u>	<u>Expenditures as % of Valuation.</u>
Androscoggin	642,650		148,821.65	.02%
Auburn	166,000	202,188	641,411.	.39%
Lewiston	282,500	344,085	1,274,708.	.45%
Lisbon	43,000	52,374	102,647.	.24%
Livermore Falls	21,600	26,309	74,400.	.34%
Mechanic Falls	13,400	16,321	38,499.	.29%
Sabattus	11,600	14,129	46,972.	.40%

<u>County or Municipality</u>	<u>Valuation (Thousands)</u>	<u>Cty. Tax</u>	<u>Police Expenditures</u>	<u>Expenditures as % of Valuation.</u>
Lincoln	568,828		128,520	.02%
Boothbay Harbor	55,150	53,881.55	59,471	.11%
Damariscotta	20,750	20,272.75	36,588	.18%
Waldoboro	29,000	28,333.00	52,003	.18%
Wiscasset	262,500	256,462.50	57,806	.02%
Oxford	384,154		105,128	.03%
Bethel	16,000	20,320	18,244	.11%
Dixfield	11,750	14,922	26,449	.22%
Fryeburg	22,100	28,067	13,408	.06%
Mexico	12,550	15,939	60,755	.48%
Norway	31,450	39,942	44,258	.14%
Paris	27,900	35,433	33,174	.12%
Rumford	104,900	133,223	220,034	.21%

4. Credit Calculation Method. The "Credit Calculation Method" is the method for calculating the actual amount of tax credits a municipality will receive. The two basic choices the Committee has raised are a fixed calculation, based on either a percentage or dollar amount, coupled with a maximum credit, and a sliding scale for credits that diminishes the size of the credit as the scale of police services increases. As examples of fixed calculations with maxima:

"Each municipality maintaining 24-hour police protection (having X number of full-time police officers) shall receive a credit against the municipality's county tax commitment equal to:

- A. X% of the "county base figure" but not to exceed \$Y or Z% of the municipality's county tax commitment.
- B. the percentage of the county base figure that equals the municipality's pro-rata share, which shall be determined as the ratio of the municipalities state valuation over the county's total state valuation; but shall not exceed X% of the county base figure, or \$Z.
- C. X% of the municipality's expenditures for police services, but not to exceed Y% of the municipality's county tax commitment or \$Z.
- D. \$X for each full-time municipal police officer, but not to exceed Y% of the county base figure or \$Z.
- E. X% of the municipality's county tax commitment, but not to exceed Y% of the "county base figure" or \$Z."

As examples of a diminishing sliding scale:

"Each municipality maintaining 24-hour police protection (having X number of full-time police officers) shall receive a credit against the municipality's county tax commitment equal to:

A. the following scale:

- i. if the municipality has less than 5 full-time officers, then X% of the "county base figure" (municipality's county tax commitment) (or municipality's pro-rata share of the county base figure) or \$Y.
- ii. if the municipality has 5 to 10 full-time police officers, then Z% (being less than X% above)....
- iii. if the municipality has 10 to 20 full-time police officers, then A% (being less than Y% above)....
- iv. if the municipality has 20 to 50 full-time police officers, then B% (being less than A% above)....
- v. if the municipality has more than 50 full-time police officers, then C% (being less than B% above) ....

B. the following scale:

- i. if the municipality annually appropriates and expends more than \$A but less than \$B for municipal police protection, then X% of the "county base figure" or \$Y;
- ii. if the municipality annually appropriates and expends more than \$B but less than \$C, then ....
- iii. Etc.

C. the following scale:

- i. if the municipality annually appropriates and expends more than A% but less than B% of its current state valuation for municipal police protection, then ....
- ii. Etc.

5. Application. Whatever the final form or forms of tax credits the Committee decides to recommend, it also will have a choice in application of the credits within given counties. The Committee may choose to apply these tax credits on an experimental basis in one or more counties, make them uniformly applicable in all counties, or to allow counties to adopt one particular tax credit scheme or to choose from several alternatives. Once one or several alternatives are chosen, then the choice between mandatory or optional application is relatively simple to draft. The Committee may also choose between several al-



ternatives for optional adoption, such as adoption by the county commissioners or county legislative body, or by a referendum vote in the county. The Committee should also consider the possibility of requiring a minimum time period for application before repeal or amendment is allowed; and consider the mechanisms, voter turn-out requirements, etc. that are part of any referendum.

6. Paying for the tax credit. If the county budget is not reduced by the amount of the tax credit, then the county must increase its revenues to compensate for the credits. This can be accomplished merely by increasing the county budget and prorating that increase among all towns; but this reduces the "real value" of the credit and may even make a claim for credit more expensive than the credit value if one town pays a major portion of county taxes (e.g., if a municipality receives \$10,000 credit but then also sees a \$15,000 increase in taxes to account for credits). Other alternatives to be considered are exempting "credit" towns from the resulting increase, requiring the state to pay the increase or forcing the county to reduce its expenditures by the amount of the increase. Each of these choices has a policy implication that reflects the purpose of this credit, and which should be discussed.

7. Examples. In order to clarify the actual effects of possible choices, the following examples are given, based on the sample counties and the assumptions stated with each example. First, the tax rate for each county, the municipal valuation and actual tax paid by each municipality is as follows:

<u>Androscoggin</u>	<u>Valuation:</u> \$642,650,000	<u>Rate:</u> .001218
<u>Municipality</u>	<u>Valuation</u>	<u>Tax paid</u>
Auburn	\$166,000,000	\$202,188.00
Durham	9,950,000	12,119.10
Greene	15,950,000	19,427.10
Leeds	12,150,000	14,798.70
Lewiston	282,500,000	344,085.00
Lisbon	43,000,000	52,374.00
Livermore	11,950,000	14,555.10
Livermore Falls	21,600,000	26,308.80
Mechanic Falls	13,400,000	16,321.20
Minot	6,150,000	7,490.70
Poland	23,400,000	28,501.20
Sabattus	11,600,000	14,128.80
Turner	21,050,000	25,638.90
Wales	3,950,000	4,811.10
TOTAL:	\$642,650,000	\$782,747.70

Lincoln

Valuation: \$568,828,370

Rate: .000977

<u>Municipality</u>	<u>Valuation</u>	<u>Tax Paid</u>
Alna	\$ 4,400,000	\$ 4,298.80
Boothbay	39,000,000	38,103.00
Boothbay Harbor	55,150,000	53,881.55
Bremen	11,150,000	10,893.55
Bristol	33,000,000	32,241.00
Damariscotta	20,750,000	20,272.75
Dresden	4,800,000	4,689.60
Edgecomb	8,650,000	8,451.05
Jefferson	13,550,000	13,238.35
Newcastle	15,300,000	14,948.10
Nobleboro	9,000,000	8,793.00
Somerville	1,600,000	1,563.20
South Bristol	14,350,000	14,019.95
Southport	28,200,000	27,551.40
Waldoboro	29,000,000	28,333.00
Westport	8,350,000	8,157.95
Whitefield	7,300,000	7,132.10
Wiscasset	262,500,000	256,462.50
Monhegan Plt.	2,250,000	2,198.25
	<u>\$ 568,300,000</u>	<u>\$ 555,229.10</u>
Wild Land	528,370	516.22
TOTAL:	\$ 568,828,370	\$ 555,745.32

Oxford

Valuation: \$384,154,167

Rate: .00127

<u>Municipality or Township</u>	<u>Valuation</u>	<u>Tax Paid</u>
Andover	\$ 13,800,000	\$ 17,526.00
Bethel	16,000,000	20,320.00
Brownfield	3,550,000	4,509.00
Buckfield	3,750,000	4,762.00
Byron	1,000,000	1,270.00
Canton	3,950,000	5,017.00
Denmark	11,800,000	14,986.00
Dixfield	11,750,000	14,922.00
Fryeburg	22,100,000	28,067.00
Gilead	1,550,000	1,968.00
Greenwood	5,550,000	7,048.00
Hanover	1,400,000	1,778.00
Hartford	2,600,000	3,302.00
Hebron	1,900,000	2,413.00
Hiram	5,300,000	6,731.00
Lovell	19,790,000	25,133.00
Mexico	12,550,000	15,939.00
Newry	2,150,000	2,730.00
Norway	31,450,000	39,942.00
Oxford	15,700,000	19,939.00
Paris	27,900,000	35,433.00

<u>Municipality or Township</u>	<u>Valuation</u>	<u>Tax Paid</u>
Peru	\$ 8,250,000	\$ 10,478.00
Porter	5,100,000	6,477.00
Roxbury	2,500,000	3,175.00
Rumford	104,900,000	133,223.00
Stoneham	4,000,000	5,080.00
Stow	1,350,000	1,715.00
Sumner	2,450,000	3,111.00
Sweden	2,000,000	2,540.00
Upton	1,100,000	1,397.00
Waterford	11,200,000	14,224.00
West Paris	4,300,000	5,461.00
Woodstock	5,450,000	6,922.00
Lincoln Plt.	2,950,000	3,746.00
Magalloway Plt.	900,000	1,143.00
T.A.,1 (Riley)	562,317	714.14
T.A.,2 (Grafton)	668,385	874.25
Andover		
North Surplus	287,303	364.87
Andover		
West Surplus	109,382	138.91
Township "C"	896,646	1,138.74
C Surplus	241,666	306.92
T.4R.1,W.B.K.P.	937,295	1,190.36
(Richardson Town)		
T.4,R.2,W.B.K.P.		
(Adamstown)	739,958	939.75
T.4,R.3,W.B.K.P.		
(Lower Cupsuptic)	514,305	653.17
T.5,R.3,W.B.K.P	612,924	778.41
(Parkertown)		
T.4,R.4,W.B.K.P		
(Upper Cupsuptic)	661,724	840.39
T.5,R.4,W.B.K.P.		
(Lynchtown)	542,555	689.04
T.4,R.5,W.B.K.O.		
(Oxbow)	515,204	654.31
T.5,R.5,W.B.K.P		
(Parmachennee)	491,447	624.14
T.4,R.6,W.B.K.P		
(Bowman)	452,297	574.42
Albany	2,966,007	3,766.83
Mason	358,021	454.69
Milton	586,730	745.15
TOTAL:	\$ 384,154,167	\$ 487,875.49

Example A.

Assumptions:

County Base Figure: Estimated budget for "Patrol" functions.

Credit Eligibility Standard: Five full-time municipal police officers.

Credit Calculation Base: Percentage of county base figure.

Credit Calculation Method: 20% of the county base figure, but not to exceed 10% of municipal county tax commitment.

Cost of credit: Distributed among all municipalities in county on a pro-rata basis or only among non-credit municipalities.

Androscoggin.

County Base Figure: \$101,490.93

Eligible municipalities: Auburn, Lewiston, Lisbon.

Amount of credit:

Auburn	\$20,219	(10% of county tax)
Lewiston	20,298	(20% of county base figure)
Lisbon	<u>5,237</u>	(10% of county tax)
Total:	\$45,754	

Effect: Each municipality in the county will have an increase of .0585 (5.85%) in their county taxes. For the "credit" towns this means a "net credit" (credit minus increase) of:

Auburn:	\$ 8,391
Lewiston:	170
Lisbon:	2,173

If it is assumed that "credit" municipalities are exempted from paying the increase caused by the credit, then each of the "non-credit" municipalities will have an increase of .25 (25%) in their county taxes.

Lincoln.

County Base Figure: \$98,375.46

Eligible municipalities: Boothbay Harbor.

Amount of Credit: \$5,388. (10% of county tax)

Total: \$ 5,388

Effect: This will result in an increase in county taxes of .0097 (.97%) to all municipalities. For the credit town of Boothbay Harbor, the "net credit" will be \$4,865. If credit municipalities are exempted, this means an increase of .0107 (1.07%) in county taxes.

Oxford.

County Base Figure: \$100,428.59

Eligible municipalities: Mexico, Rumford.

Amount of credit:

Mexico	\$ 1,594	(10% of county tax)
Rumford	13,322	(10% of county tax)
Total:	<u>\$14,916</u>	

Effect: This will result in an increase in county taxes of .0306 (3.06%) to all municipalities, leaving the following "net credit":

Mexico	\$ 1,106
Rumford	9,245

If credit municipalities are exempted, the increase is .0440 (4.40%) in non-credit municipal taxes.

#### Example B.

Assumptions:

County Base Figure: 20% of the total county budget approved by the Legislature. (20% of the budget roughly equals that part spent on "Patrol" functions in these counties.)

Credit Eligibility Standard: One full-time municipal police officer.

Credit Calculation Base: Percentage of county base figure.

Credit Calculation Method: The percentage of the county base figure that equals the municipality's pro-rata share, which shall be determined as the ratio of the municipality's state valuation over the county's total state valuation.

(i.e.  $\frac{\text{municipal valuation}}{\text{county valuation}} = X\%$

credit = X% of county base figure.)

Cost of credit: Distributed among all non-credit municipalities.

Androscoggin.

County Base Figure: \$115,692.

Eligible municipalities: Auburn, Lewiston, Lisbon, Livermore Falls, Mechanic Falls and Sabattus.

Amount of credit:

<u>Municipality</u>	<u>Ratio</u>	<u>Credit</u>
Auburn	.2583	\$ 29,883.24
Lewiston	.4396	50,858.20
Lisbon	.0669	7,739.79
Livermore Falls	.0336	3,887.25
Mechanic Falls	.0209	2,417.96
Sabattus	.0181	2,094.03
Total:		<u>\$ 96,880.47</u>

Effect: This will result in an increase of .7608 (76.08%) in the county taxes of non-credit municipalities if there is to be no reduction in the county budget.

Lincoln.

County Base Figure: \$109,014

Eligible municipalities: Boothbay Harbor, Damariscotta, Waldoboro and Wiscasset.

Amount of credit:

<u>Municipality</u>	<u>Ratio</u>	<u>Credit</u>
Boothbay Harbor	.0970	\$ 10,574.36
Damariscotta	.0365	3,979.01
Waldoboro	.0410	5,559.71
Wiscasset	.4615	50,309.96
Total:		<u>\$ 70,423.04</u>

Effect: This will result in an increase of .3579 (35.79%) in the county taxes of non-credit municipalities, if there is to be no reduction in the county budget. (Aso, compare the amount of the credit with the present operating costs of municipal police departments.)

Oxford.

County Base Figure: \$86,434.

Eligible municipalities: Bethel, Dixfield, Fryeburg, Mexico, Norway, Paris, and Rumford.

Amount of credit:

<u>Municipality</u>	<u>Ratio</u>	<u>Credit</u>
Bethel	.0416	\$ 3,595.65
Dixfield	.0306	2,644.88
Fryeburg	.0575	4,969.96
Mexico	.0327	2,826.39
Norway	.0819	7,078.94
Paris	.0726	6,275.11
Rumford	.2731	23,605.13
Total:		<u>\$50,996.06</u>

Effect: This will result in an increase of .2549 (25.49%) in the county taxes of non-credit municipalities.

Example C.

County Base Figure: Sheriff's account as it appears in the approved county budget.

Credit eligibility standard: 24-hour police protection (assumed to be 3 full-time police officers assigned to patrol duties).

Credit Calculation Base: Dollar amount per full-time municipal police officer.

Credit Calculation Method: \$1,000 for each full-time municipal police officer, but not to exceed 33% of the county base figure.

Cost of credit: Distributed among all non-credit municipalities.

Androscoggin.

County Base Figure: \$148,821.65

Eligible municipalities: Auburn, Lewiston, Lisbon, Livermore Falls, and Sabattus.

Maximum credit: \$49,111

Amount of credit:

Auburn	\$ 39,000	
Lewiston	49,111	(Maximum credit)
Lisbon	6,000	
Livermore Falls	4,000	
Sabattus	4,000	
Total:	<u>\$102,111</u>	

Effect: This will cause an increase of .7108 (71.08%) in the county taxes of non-credit municipalities.

Lincoln.

County Base Figure: \$128,520

Eligible municipalities: Boothbay Harbor, Waldoboro, and Wiscasset.

Maximum credit: \$42,835.

Amount of credit:

Boothbay Harbor	\$ 7,000
Waldoboro	4,000
Wiscasset	4,000
Total:	<u>\$15,000</u>

Effect: This will result in an increase of .0691 (6.91%) in the county taxes of non-credit municipalities.

Oxford.

County Base Figure: \$105,128

Eligible municipalities: Mexico, Norway, Paris and Rumford.

Maximum credit: \$21,025

Amount of credit:

Mexico	\$ 5,000
Norway	3,000
Paris	3,000
Rumford	14,000
Total:	<u>\$25,000</u>

Effect: This will cause an increase of .0949 (9.49%) in the county taxes of non-credit municipalities.

Example D.

County Base Figure: Estimated budget for "Patrol" functions.

Credit Eligibility Standard: One full-time police officer.

Credit Calculation Base: Percentage of pro-rata share of the county base figure, with a declining percentage as forces increase.



Credit Calculation Method: Credit on the following scale:

- a. if the municipality has less than 5 full-time police officers, then 100% of the municipality's pro-rata share of the county base figure, but not more than 10% of the municipal appropriations for police services.
- b. if the municipality has less than 20 but 5 or more full-time police officers, then 75% of the municipality's pro-rata share of the county base figure, but not more than 5% of the municipality's appropriation for police services.
- c. if the municipality has less than 50, but 20 or more full-time police officers, then 50% of the municipality's pro-rata share of the county base figure, but not more than 2 1/2% of the municipality's appropriation for police services.
- d. if the municipality has 50 or more full-time police officers, then 25% of the municipality's pro-rata share of the county base figure, but not more than 1% of the municipality's appropriation for police services.

The pro-rata share of the county base figure is the ratio of the municipal state valuation over the county's total state valuation, expressed as a percentage.

Androscoggin.

County Base Figure: \$101,491

Eligible municipalities: Auburn, Lewiston, Lisbon, Livermore Falls, Mechanic Falls, and Sabattus.

Amount of Credit:

<u>Municipality</u>	<u>No. of Police</u>	<u>Pro-Rata Share</u>	<u>Municipal Approp.</u>	<u>Limit</u>	<u>Credit</u>
Auburn	39	26,215	641,411	16,027	\$13,108
Lewiston	78	44,615	1,274,708	12,747	11,153
Lisbon	6	6,790	102,647	5,132	5,092
Livermore Falls	4	3,410	74,400	7,440	3,410
Mechanic Falls	3	2,121	38,499	3,850	2,121
Sabattus	4	1,837	46,972	4,697	1,837
Total:					\$36,721

Effect: This will cause an increase of .2884 (28.84%) in the county taxes of non-credit municipalities.

Lincoln.

County Base Figure: \$ 98,375

Eligible municipalities: Boothbay Harbor, Damariscotta, Waldoboro and Wiscasset.

Amount of Credit:

Municipality	No. of Police	Pro-Rata Share	Municipal Approp.	Limit	Credit without limit	Credit
Boothbay Harbor	7	9,542	59,471	2,974	7,156	2,974
Damariscotta	3	3,591	36,588	3,659	3,591	3,591
Waldoboro	4	5,017	52,003	5,200	5,017	5,017
Wiscasset	4	45,400	87,806	5,781	45,400	5,781
Total						\$ 17,363

Effect: This will cause an increase of .0882 (8.82%) in the county taxes of non-credit municipalities.

Oxford.

County Base Figure: \$100,429

Eligible municipalities: Bethel, Dixfield, Fryeburg, Mexico, Norway, Paris and Rumford.

Amount of Credit:

Municipality	No. of Police	Pro-Rata Share	Municipal Approp.	Limit	Credit without limit	Credit
Bethel	1	4,178	18,244	1,824	4,178	1,824
Dixfield	2	3,073	26,449	2,645	3,073	2,645
Fryeburg	1	5,775	13,408	1,341	5,775	1,341
Mexico	5	3,284	60,755	3,037	2,463	2,463
Norway	3	8,225	44,258	4,426	8,225	4,426
Paris	3	7,291	33,174	3,317	7,291	3,317
Rumford	14	27,427	220,034	11,001	20,570	11,001
Total:						\$ 27,017

Effect: This will cause an increase of .1351 (13.51%) in the county taxes of non-credit municipalities.

8. Policy. In discussing these examples and the possible alternatives, the Committee should consider the following basic policy considerations and the effect of each plan on them:

A. the taxpayer's possible perception of being taxes more than once for what he considers to be the same service provided by different levels of government;

B. the desirability of charging for services on the basis of services received by the taxpayer (user charge) versus charging on a broad-based indicator of ability to pay, regardless of actual usage (e.g., property values);

C. the effect of any "tax credits" on the choice between relying on the Sheriff's department or forming a municipal department;

D. the effect on the Sheriff's department in its choice of functions or of geographic areas to be served;

E. the possible increase or decrease in municipal police departments and expansion or reduction of present departments;

F. the possibility of greater or lesser fragmentation of police services on the county level; and

G. the overall effect on county budgets.

The effect of a proposed plan on each of these police issues may not be clear from the limited examples of this memo. Thus, if the Committee can choose one or more plans, the effects in each county can be examined. Some effects may not become clear until after several years of actual operation, because of the complex interaction of various factors in a plan, and also because of future changes in county government and financing. However, careful consideration of the Committee's final recommendations and public exposure and comment on any final plan should eliminate any surprises.

# APPENDIX P

## 1976 COUNTY HUMAN SERVICE APPROPRIATIONS

The exact scope of activities in human services of each county is rather difficult to determine. Many of the counties undertake to help provide some of the human services by contracting with or making appropriations for non-profit organizations that can actually provide the necessary services. Some other services, such as volunteer fire insurance or Humane Agents, are provided directly through the county. The services offered through or financed by the counties varies widely across the State. The following extracts from the county budgets for 1976 will give some idea of the scope of county involvement:

	1976 Budget Request	Legislative Action Increase or (Decrease)
ANDROSCOGGIN		
Food Stamps	35,000	
Twin County Extension Service	29,379.75	(7,000)
Volunteer Fire Insurance	2,600.	
Soil Conservation	900.	
Regional Planning Commission	2,500.	(1,500)
Humane Agents	50.	(50)
Law Library	8,000	1,500
AROOSTOOK		
Extension Association	30,000.	
Humane Agents	-	
Volunteer Fire Insurance	2,050.	
Advertising & Promotion	5,000	
Law Libraries	8,600	
Aroostook Home Care Agency	3,000	
Retarded Children's Programs	20,000	
Economic Planning (N.M.R.P.C.)	10,000	
Mental Health	40,000	
Madawaska Historical Society	2,000	
Me. Potato Blossom Festival	8,000	
County Band	500	
Silver Ridge Cemetary	150	
Sinclair (T-17, R-4)	1,300	
Airports		
Northern Aroostook Reg. Airport	4,000	
Houlton	17,000	
Presque Isle	25,000	
Food Stamp	48,000	
Human Relation Services	5,000	
Green Valley Association	100.	

# CUMBERLAND

Food Stamp	26,000.	24,000
Cumb. Cty. Rec. Dist.	92,827.	
So. Mid-Coast Reg. P.C.	-	
Advertising & Promotion	1,000	
Extension Association	53,841.	(5,000)
Red Cross Transportation	-	[10,000 in '75
		- in '76]
Meals on Wheels	-	4,400
Youth Aid Bureau	-	[15,000 in '75
		- in '76]
Fair Harbor Emergency Shelter	-	2,500
Pine Tree Legal Asst.		[2,500 in '75
		- in '76]
Camping Program	-	2,250
York Cumberland Housing	-	5,000
PROP	-	10,000
Holy Innocents Home Care	-	6,000
Greater Portland Child Care	-	17,500
C.O.G.	1,000	
Humane Agents	-	
Law Library	7,500	2,500
Public Relations	500.	
Soil & Water Conser. Dist.	2,500.	

# FRANKLIN

Advertising & Promotion	5,000	(4,800)
Extension Service	22,000	
Humane Agent	-	
Law Library	5,000	
Soil Conservation	1,000	
Economic Opportunity		
Community Action Council	10,000	
Food Stamp	7,390.66	(.34)
Volunteer Fire Insurance	1,400.	
Sugarloaf Airport	2,250.	(500)

# HANCOCK

Advertising & Promotion	10,750	
Extension Ass'n.	32,954	
Regional Planning Comm.	9,000	
Humane Agent	1,000	
Law Library	6,000	2,000
Soil Conservation	1,200	4,000
Food Stamps	20,000	
Volunteer Fire Ins.	3,900.	
Airport Maintenance	13,300	3,000
(Capital Res. Bar Harbor		
Airport	12,500.)	7,500
Community Program	-	15,000
Publicity Bureau	-	3,500

## KENNEBEC

Unity Township	800.	
Soil Conservation	4,000.	2,327
Law Library	6,000	
Humane Agents	-	
Extension Service	27,000	
Maine Publicity Bureau	4,000	
Food Stamps	35,565.	
Regional Planning	0	
Kennebec Valley Mental Health	76,245.	
K.V. Council for Retarded Children	2,000	
Advertising	500	
Group Home Emergency Project	-	
Northern - Community Action Council	3,500	
Southern - Community Action Council	-	
Ken-a-set Assn. for Retarded Senior Citizens	2,000	
Ken V. Health Agency	11,955.	
County Planning	14,000	
Diocesan Bureau of Human Relations	5,000	
	29,000	

## KNOX

Soil Conservation	1,650	
Regional Planning	500.	
East. Me. Development Dist.	8,320	
Me. Publicity Bureau	200.	
Extension Service	14,314.60	
Law Library	3,500	
Volunteer Firemen	1,000	
Airport	52,614.20	
Food Stamp.	12,500	

## LINCOLN.

Extension	10.000	
Soil Conservation	1,650.	
Law Library	4,500	
Vol. Fire. Ins.	1,550.	
Planning Commission	100.	
Wiscasset Airport	-	
Advertising & Promotion	4,000	
Juvenile Youth Aid Bureau	10,000	
Food Stamps	8,000	

## OXFORD.

Surveyors	500	
Extension	33,014	(7,014)
Humane Agents	500	(400)
Law Library	6,000	500
Vol. Fire. Ins.	1,500	
Airport (Maintenance)	9,500	

Maine Publicity Bureau	3,888	(3,888)
Threshold to Maine	200	
Hamlin Memorial Library	-	[500 in '75 - in '76]
A.V.P.R.C.	1,400	
Boat Ramp & Parking Lot	-	
Food Stamp	14,000	
Home for Mentally Retarded	-	10,000
PENOBSCOT.		
Advertising	3,500	
Humane Agent	-	
Community Action Program	25,000	
Law Library	3,000	
Extension Service	44,905	(12,905)
E. Me. Dev. Dist.	35,941	
CETA Program	5,000	(3,000)
Food Stamp.	80,000	(5,000)
PISCATAQUIS.		
Advertising & Promotion	-	
Me. Publicity Bureau	-	
Extension Service	10,000	
Law Library	3,500	
Little Red Schoolhouse	1,000	
Community Action Program	5,000	
E. Me. Dev. Dist.	4,668	
Emergency Emp. Program	-	
Drug Control Center	-	
Counseling Center	240	
Food Stamps	14,000	
Soil Conservation	250	
Eastern Task Force on Aging	-	
SAGadahoc.		
Advertising & Promotion	2,250	
Extension Service	9,670	
Regional Planning Commission	1,000	
Humane Agents	100	
Law Library	4,250	
Soil Conservation	600.	
SOMERSET		
Vol. Fire. Ins.	725.	
Food Stamp.	25,000.	
County Extension	27,375.	
Law Library	6,500	
Soil Conservation	2,000	
Kennebec Mental Health	32,477.	(10,000)
Skowhegan Assoc. for		
Retarded Children	6,000	
Sebasticoock Assoc. for		
Retarded Children	6,000	
Airports - Pittsfield	3,000	

Jackman	1,500	
Norridgewock	3,000	
Kennebec Regional Health Agency	10,200	
Humane Agent	250.	(250)
Maine Publicity Bureau	3,216	
North. K.R.P.C.	1,000	(1,000)
Bureau of Human Relations	15,000	
N.K.C.A.P.	3,000	
Skowhegan Area Industrial Development	-	
Central Senior Citizens Assn.		5,485

#### WALDO.

Advertising & Promotion	8,840
Extension Service	24,000
Law Library	3,500
Soil Conservation	4,500
Vol. Fire. Ins.	5,000
Cty. Sponsored Programs	13,000

#### WASHINGTON

Advertising & Promotion	3,000	
Extension Service	23,000	
Regional Planning Commission	2,000	
Law Library	3,800	3,800
Soil Conservation	500	
Vol. Fire. Ins.	-	2,100
Airport (Maintenance)	3,000	
Cooper Mountain	700.	
Food Stamps	17,000	
E.M. Dev. Dist.	8,600	
Down East Camp Corp.	3,000	
Assoc. for Retarded Children	2,000	
Civil Action Programs	2,000	
Wash. Cty. Homemakers	5,000	
Wash.-Hanc. Community Action	1,500	
Meals for Me.	4,500	
Wash. Cty. Mental Health Assn.	3,000	

#### YORK (Revised Budget).

(Department  
Requests)

Advertising & Promotion	(3,000)	-	
Extension			
Association	(39,335.01)	1,000	33,640.02
A.M.R.P.C.	(15,942.)	-	15,000
Law Library	(7,000)	2,500	2,500
Public Relations		400	
Soil Conservation	(850)	750	



Food Stamps	(50,000)	35,000	
Camp Waban	(5,000)	-	5,000
Counselling			
Services	(75,000)	-	45,000
Meals on			
Wheels		[4,000 in '75,	
		0 in '76]	
Human Relations			
Dental Clinic	(10,000)	-	10,000
Resources Con-			
servation &			
Development		300.	
Saco Valley			
Assoc.	(10,000)	-	2,500
York Cumberland			
Housing	(7,500)	-	
Vol. Fire. Ins.		3,200	

The preceding information reveals the following patterns in social and health services:

Program	Total Expenditures	% of total Cty. Approp.	No. of Cty.'s providing
Food Stamps	370,455	3.66	15
Extension	393,174	3.89	16
Law Library	93,450	0.92	16
Advertising, Promotion & Publicity	55,656	0.55	14
Volunteer Firemen's Insurance	25,025	0.25	13
Soil Conservation	39,050	0.39	12
Reg. Plan. Comm.	42,500	0.42	11
Planning and Development	65,329	0.65	7
Airports	156,664	1.55	7
C.A.P.s	94,500	0.93	6
Mental Health & Retardation	283,962	2.81	6
Senior Citizens & Homemaker Services	40,340	0.40	5
Health	24,200	0.24	2
Dental Health	10,000	0.10	1
Juvenile	10,000	0.10	1
Housing	5,000	0.05	1
Recreation	92,827	0.92	1
Other	97,140	0.96	-
Total	1,899,272	18.77	

In the categories of "Health", "Mental Health", "Dental Health" and "Senior Citizens", these figures are roughly comparable to municipal expenditures, as follows:

Service	Total (1975) Municipal	Total (1976) County
Health	3,080,311	24,200
Mental Health	93,284	283,962
Dental Health	123,350	10,000
Senior Citizens & Homemaker Services	436,250	40,340
C.A.P.s	51,625	94,500

## APPENDIX Q

The following are extracts from the Municipal Human Services Update, Maine Municipal Association, 1976 (?). They describe experiments in providing needs assessment and evaluation of the services of human service agencies.

# Human Service agencies review

*By Jacques Weinstein  
Human Service Planner  
Penobscot Valley Regional  
Planning Commission*

Recent changes in federal funding from categorical to block grants have placed additional responsibilities on Maine municipalities. A decline in the level of federal funding for social service provider agencies and a corresponding increase in agency requests for limited municipal funds have placed cities and towns in a quandary. Local government units, with little or no background in social services, have difficulties in determining which agencies should receive funds and in what amounts.

To relieve this dilemma, the Penobscot Valley Regional Planning Commission, in cooperation with the Penobscot Development Council (PDC a coalition of human service providers in the two-county area), organized the "Two Tier" municipal review system to deal with the increasing problem of social service funding.

The concept is best described as a two-layered system of program review, wherein the first tier, comprised of representatives of various social service agencies, acts as a peer group in

evaluating all agencies seeking funding and making administrative recommendations to the second tier on actions relating to agency requests.

The Second Tier, comprised of municipal officials, independently reviews standardized budgetary and programmatic information submitted by agencies, judges agency presentations and makes recommendations to municipalities relative to efficiency, accountability and budgetary requests from agencies.

The results of this process are as follows:

1. Social service agencies requesting local dollars now meet together, discuss their programs, standardize their funding request and clarify those services that may appear to overlap.

2. Municipal officials become involved in the evaluative process thereby developing knowledge of human services systems which have both formal and informal applications for themselves, their fellow professionals and citizens.

3. Agency performance and needs are reviewed by municipal officials in a budgetary format (the United Way budget format). A comparison of agency performance and functions also takes place at this level.

4. Municipalities become more aware of services that agencies provide and can act as a referral for citizens in need of services.

5. Social service agencies, particularly small agencies, have a method with which to inform municipalities about their programs and request funds under a formalized procedure. In the past, agencies often were not always able to open up lines of communication with many towns and cities and found it difficult to reach each town individually.

6. Regional Planning Commissions act as a central point of focus for area communities, in most instances serving a similar geographic area. The RPC's, with no vested interest in social service agency funding, also gain insight into provider agencies which is useful for A-95 review procedures.

Regional Planning Commission sponsorship of independent review of social service agency funding requests has made at least order out of chaos for communities who are asked for funds. A current survey being conducted in the Penobscot District indicates full acceptance by towns and cities of this process, and indicates a willingness only to fund agencies that are currently reviewed under this process.

# MMA assists regional groups in Human Service development



Council of Governments (COG) representatives meet with Associate Director of ACTION Donald E. Gerevas. Left to right are John F. Torian, ACTION New England Regional Director, Deborah Miller, VISTA volunteer, assigned to the Council of Governments, and Osmond Bonsey, COG Executive Director. (ACTION photo by K. Healy)

*By John Melrose*

*Director of Human Resources, Maine Municipal Association*

Through grants awarded to the Maine Municipal Association from HEW and ACTION, MMA has provided three Regional Planning Commissions and the Greater Portland Council of Governments with staff support for the provision of regional human service planning and evaluation activities. Through the staff persons involved in the technically accountable MMA Human Resources Program, together with the Executive Directors of each agency, are responsible for the development as well as for the development and operation of their programs. This support has enabled each agency to develop a program which responds to the needs and conditions in their region. The efforts to date of

each of these agencies are described below.

## Greater Portland Council of Governments

At the June 1976 meeting of the GPCOG Executive Committee, authorization was provided for the establishment of a human services planning program to provide a mechanism for funding human services planning community needs, which is being carried out under ACTION grant funding. A full-time planner, Ms. Deborah Miller, who began her work in July,

Two subcommittees were established by the Executive Committee, a Human Services Committee and a Municipal Evaluation Committee. The first

committee is comprised of seven representatives of social service agencies and is chaired by Bill Allen of the United Way. This committee has been working since mid-July in developing and distributing a questionnaire for social service agencies that are requesting municipal funds. The Committee will collect and package the information in a clear and concise manner for review by the second committee.

The Municipal Evaluation Committee consists of nine representatives of local government who are either councilmen, selectmen, managers or village directors. The Committee is chaired by Nancy Bushell, First Selectwoman of Naples, and has been in operation since mid-July developing the criteria on which to review the package submitted by the Human Services Committee. The Municipal Committee expects to organize this information in a fashion that will provide guidance to GPCOG communities reviewing human service agency requests.

This entire evaluation process is scheduled to be completed by November so that the information can be utilized by municipalities during their budget formulation.

All agency requests for 1977 municipal funds will be channeled through this GPCOG review mechanism, except those which are Portland based and Portland funded. In order to avoid duplication of effort, these Portland based agencies will continue to be funded by the City of Portland through their present staff. However, the information will be integrated in the regional evaluation and the regional needs assessment study. Those Portland based agencies which are regional in scope, are encouraged to become part of the GPCOG regional mechanism.

## North Kennebec Regional Planning Commission

In June 1976, the North Kennebec RCP hired Glenn McKee as a human service planner funded under the grant from HUD. The Commission began its effort in human services three years ago but has not had any staffing assistance until now. Through this current program the Commission intends to improve its A-95 Review Process, and develop its capacity to assess human service needs in the region and to determine the effectiveness of the human service delivery system. The Commission in cooperation with regional human service agencies will be attempting to develop a refined format for presenting new and ongoing funding requests to the county. In Kennebec and Somerset, the County plays a more central role in funding human services than the municipality.

The Commission is in a unique position to promote a cooperative relationship with human service agencies. Their Planning Director, Elery McQuinn, acts as the convenor for monthly meetings of human service agencies that operate within the Commission's boundaries. This connection has insured open lines of communication not only between agencies and the Commission but also among agencies.

The PVRPC has formed a Human Service Planning and Review Committee to assist the Commission in fulfilling the objectives of this project. The Committee consists of municipal and county officials and acts as an A-95 review agent. It is responsible for making recommendations regarding the allocation of financial resources to human service programs, as well as recommendations on the way such programs are delivered and delivered.

After developing these aspects of the program relating to A-95 and county government, the Commission intends to develop through needs assessment activities, a greater awareness as to the extent and location of human service needs in the region. The human service planner is currently working with the Department of Human

Services to improve the data gathering potential of the Information and Referral Program. This program will serve as one source of needs data. In addition, the human services planner is authorized to seek other data through such means as community surveys.

## Penobscot Valley Regional Planning Commission

The PVRPC has been engaged in the process of reviewing human service agency funding requests of municipalities for two years. The Commission has provided its membership with a publication entitled *Social Services in the Penobscot Valley*, which describes the social service system for this region, outlines a process for reviewing funding requests and lists agencies with the potential for requesting local government financing. During last year's municipal budgeting process, the PVRPC released a further publication which provided recommendations and information on human service agencies making requests for local revenues.

As of August 1976, the PVRPC acquired a human service planner through the HUD grant. Jacques Weinstein, who formerly of Penobscot, is well acquainted with the Commission and this activity area. Much of his initial work has been in evaluating the utility of the review system to local government. This system, which is often referred to as the "two-tier review," was established first by the PVRPC and has served as a model for other agencies such as GPCOG which has implemented this same process. With this review system in place and functioning, Jacques is now attempting to refine it to better suit the needs of local government and human service agencies.

As with the North Kennebec RCP, the PVRPC has a long established working relationship with human service providers in the region. By the providers are represented by the Penobscot Valley Council on Social Affiliation with the Council has been most productive in the establishment of the review process and in particular the development and guidance of tier

one which consists of human service agencies.

The PVRPC experience is similar to North Kennebec in one other way which is that it also has a mandate to use the Department of Human Services' I & R system as one base for needs data. The Commission's activity corresponds with the Council of Governments in that both agencies are working with their local United Way.

## Southern Maine Regional Planning Commission

The SMRPC is the most recent participant in the human services arena among all the Commissions. Through assistance from ACTION, the Commission has recruited David Offner, a former Commission Chairman, to serve for one year as a human service planner. Due to SMRPC's newness to this type of activity much work is required in becoming acquainted with agencies and in formulating program goals and objectives with the membership.

The program has been introduced to local government and a variety of human service providers that are contemplating applying for funds from community funds. The potential of this effort to improve coordination and communication with local government has been received enthusiastically by the service providers. At this point the SMRPC desires to pursue the two-tier concept embraced by PVRPC and GPCOG and wishes to begin by issuing a report on human services in the region that would demonstrate the potential of this concept.

For the Commission, the important, immediate objective is the publication and distribution of standardized information on agencies requesting local financial support. Once this is achieved for the purpose of meeting current municipal budgeting deadlines, the Commission hopes to move on to the next step of developing more precise information on needs for their agencies to be the basis of the Commission's future estimates of need and to develop program and budget reviews will feature more thorough agency reviews by municipalities in subsequent budgets.

APPENDIX R

DRAFT LEGISLATION: HUMAN SERVICES

AN ACT to strengthen the Counties Role in Human Services.

Be it enacted...

Sec. 1. 1 MRSA §7 is amended by adding a new sentence at the end to read:

In dividing the State into any other administrative units or establishing regions for governmental purposes, or in creating special purpose governmental units, county boundaries shall be considered with all other factors and shall not be ignored.

Sec. 2. 30 MRSA ch. I, sub-ch. II, Article 9, is enacted to read:

ARTICLE 9. HUMAN SERVICES COORDINATOR

§441. Human Services Coordinator; appointment; compensation.

The county commissioners of all counties may appropriate funds to hire a county human services coordinator and may appoint some suitable person to serve as coordinator or designate a county official to undertake the coordinators duties. The human services coordinator shall serve at the pleasure of the county commissioners, and they shall determine the compensation to be paid to an appointed coordinator.

§442. Powers and duties.

The county human services coordinator shall have the following powers and duties:

1. Coordination. He shall coordinate the activities of the county in funding human service agencies;
2. Recommendations. He shall make recommendations to the county commissioners, and with their approval, to private agencies receiving county funds to provide human services within the county. These recommendations shall

relate to the coordination of agencies providing human services within the county and shall seek to reduce confusion and duplication of services, to reduce a multiplicity of reporting forms and application documents, and to insure that the county's actual needs are being met.

3. Budget. He shall review and make recommendations to the county commissioners about any request for county funds from private human service agencies.

4. County human services board. He may be appointed by the county commissioners to the county human services board, as a county representative.

5. Information. He may gather information about the need for county human services and the operations of private human service agencies within the county.

6. Report. He shall keep the county commissioners informed about the use of county appropriations to private human service agencies, and shall annually prepare a report for inclusion in the county report, about county human service expenditures, direct or indirect human services and actual needs.

Sec. 3. 30 MRSA ch. 11, is enacted to read:

#### CHAPTER 11

#### HUMAN SERVICES

§1401. Establishment.

Each county that expends county funds under sections 412, 412-A, 419 or 420, or under Title 34, sections 2052, 2097 or 2133, or for health or social services under sections 63 or 255, shall establish a County Human Services Board. Every other county may establish a County Human Services Board.

§1402. Membership, term and compensation.

The County Human Services Board shall be composed of nine members. The terms of the members shall begin on July 1st. Three members shall be appointed by the County Commissioners for two year terms, and shall be county officials. Three members shall be elected by the municipalities of the county in accordance with section 1403 for one year terms, and shall be municipal officers. Three members shall be elected by majority vote of the other six members of the Board from nominations received from agencies in accordance with section 1403, for one year terms. The Board shall elect its own chairman annually.

§1403. Municipal members, election; Agency members, nomination.

1. Election of municipal members. Each municipality within the county shall have one vote for each member in the election of municipal members to the Board. This vote shall be cast in writing, signed by the chief municipal officer; and shall be delivered or mailed to the county commissioners so as to reach them on or before June 1st. On the first Monday in June the commissioners, in a public meeting, shall tabulate and announce the results of the election. The three municipal officers receiving the highest number of votes shall become the municipal members. In the case of a tie vote for any members seat, a run-off election between the candidates receiving equal votes



shall be held in the same manner on the second Monday in June.

2. Nomination of agency members. Each human service agency that has requested county or municipal funds for human services prior to June 1st for that year or the next year, may nominate one person for membership on the Board. The nomination shall be made in writing and signed by the chief executive officer of the agency. The nominations shall be delivered or mailed to the county commissioners so as to reach them on or before June 1st. All nominations shall be delivered to six members of the Board during their first meeting after July 1st. The six members of the Board shall, by majority vote, elect three members of such nominations at their first meeting, which shall be held during July.

§ 1404. Clerical assistance.

The county commissioners shall provide the clerical assistance, office expenses, suitable rooms and expenses as are necessary, just and proper to the performance of the Board's official duties.

§ 1405. Duties.

1. Evaluations. The Board shall establish a system for obtaining information from each human service agency requesting county or municipal funds. The information obtained shall include the services offered by the agency, the organization of the agency, the funding from all sources, and such other information the Board deems necessary. The Board shall annually review and evaluate the information it receives and prepare a report on each agency. That report shall include an evaluation and any recommendations on the efficiency, accountability, services and budget request of each agency. The report shall be communicated to each municipality and to the county prior to October 1st.

2. Assessment. The Board may establish a system for regularly assessing the needs of the county for particular human services, and shall regularly study and report on such needs assessment to the municipalities and county.

3. Conferences and recommendations. The Board shall regularly confer with appropriate state departments and bureaus and private agencies about human service programs and needs, and shall provide them with all reports of the Board. The Board may make recommendations to state department and bureaus and to agencies seeking funds about the administration, financing or services of an agency seeking funds.

4. Rules or regulations. After a public hearing, the Board may adopt or amend rules or regulations relating to its duties or powers under this section.

§ 1406. Board as county department.

The Board shall be deemed a department of county government and all costs of operations and expenses shall be paid from the county treasury as authorized by the county budget. The costs and expenses of the Board shall be a separate line item of the county budget.

#### STATEMENT OF FACT

The purpose of this bill is to implement the recommendations of the study on County Government by the Joint Select Committee on County Government. A detailed statement of the intentions, purposes and provisions of this bill is contained in the Committee's narrative report. Generally, this bill does the following:

1. Requires each county that appropriates funds to human service agencies to establish a County Human Services Board. The Board is authorized to assess the needs for human services in the county and to evaluate the agencies requesting county or municipal funds.
2. Requires county boundaries to be considered in establishing sub-state districts or special districts.
3. Authorizes counties to appoint a Human Services Coordinator to coordinate county human service activities.

Appendix S. Draft Legislation: Minority Report

AN ACT To Establish County Boards, To Allow Them To Set And Approve County Budgets And To Allocate Services.

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

Sec. 1. 30 MRSA § 2, §§ 1-17, are amended to read:

The ~~county-commissioners~~, county treasurers and their deputies, sheriffs, registers of deeds, judges of probate and registers of probate in the several counties shall receive annual salaries from the county treasury in weekly or monthly payments as follows, except that the district attorneys and their assistants shall receive annual salaries from the State Treasury in biweekly payments on a date to be determined by the State Controller in a sum which will, in the year's aggregate, most nearly equal the annual salary, as follows, and no other fees, costs or emoluments shall be allowed them, except as hereinafter provided:

Androscoggin County: ~~County-commissioners~~, \$3,784; ~~chairman~~, \$4,452; ~~clerk~~ Clerk of courts, \$10,963; county treasurer, \$8,125; sheriff, \$10,295; register of deeds, \$8,960; judge of probate, \$8,069; register of probate, \$8,292;

Aroostook County: ~~County-commissioners~~, \$2,453; ~~except that one member of the board, designated by the board as chief administrative officer, shall receive~~ \$7,778; ~~clerk~~ Clerk of courts, \$9,640; county treasurer, \$4,188; sheriff, \$8,974; register of deeds, northern district, \$7,778; southern district, \$7,778; judge of probate, \$6,581; register of probate, \$5,982;

Cumberland County: ~~County-commissioners~~, \$5,787; ~~clerk~~ Clerk of courts, \$10,634; deputy clerk of courts, \$9,969; county treasurer, \$9,969; sheriff, \$11,710; register of deeds, \$9,960; deputy register of deeds, \$7,975; judge of probate, \$12,020;

register of probate, \$9,820;

Franklin County: ~~County-commissioners, \$1,935;~~ clerk Clerk of courts; \$6,879; county treasurer, \$2,688; sheriff, \$8,136; register of deeds, \$6,879; judge of probate, \$6,450; register of probate, \$6,879;

Hancock County: ~~County-commissioners, \$2,722; chairman, \$3,062;~~ clerk Clerk of courts, \$6,521; deputy clerk of courts, \$4,649; county treasurer, \$5,103; sheriff, \$7,939; register of deeds, \$6,521; judge of probate, \$6,521; register of probate, \$6,521;

Kennebec County: ~~County-commissioners, \$3,561; chairman, \$3,896;~~ clerk Clerk of courts; \$8,375; deputy clerk of courts, \$5,857; county treasurer, \$5,565; sheriff, \$8,974; register of deeds, \$8,375; judge of probate, \$8,974; register of probate, \$8,375;

Knox County: ~~County-commissioners, \$1,965;~~ clerk Clerk of courts, \$6,581; county treasurer, \$2,099; sheriff, \$6,771; register of deeds, \$6,771; judge of probate, \$5,982; register of probate, \$6,000;

Lincoln County: ~~County-commissioners, \$1,795; chairman, \$2,393;~~ clerk Clerk of courts, \$7,537; county treasurer, \$2,512; sheriff, \$8,375; register of deeds, \$7,538; judge of probate, \$7,179; register of probate, \$7,298;

Oxford County: ~~County-commissioners, \$2,551; chairman, \$2,778;~~ clerk Clerk of courts, \$7,060; county treasurer, \$3,589; sheriff, \$10,175; register of deeds, eastern district, \$6,699; western district, \$4,068; judge of probate, \$5,444; register of probate, \$5,743;

Penobscot County: ~~County-commissioners, \$3,918; chairman, \$1,721;~~ clerk Clerk of courts, \$9,092; deputy clerk of courts, \$7,778; county treasurer, \$5,145; sheriff, \$8,963; register of deeds,

\$8,375; judge of probate, \$9,572; register of probate, \$7,778;

Piscataquis County: County commissioners, \$1,795; chairman \$2,153; ~~clerk~~ Clerk of courts, \$6,581; county treasurer, \$2,495; sheriff, \$8,136; register of deeds, \$7,179; judge of probate, \$6,237; register of probate, \$6,581;

Sagadahoc County: ~~County-commissioners, \$1,795; clerk~~ Clerk of courts; \$7,179; county treasurer, \$3,589; sheriff, \$8,812; register of deeds, \$7,478; judge of probate, \$6,699; register of probate, \$7,179;

Somerset County: ~~County-commissioners, \$1,795; chairman, \$2,093; clerk~~ Clerk of courts, \$7,478; county treasurer, \$3,410; sheriff, \$7,478; register of deeds, \$7,478; judge of probate, \$7,478;

Waldo County: ~~County-commissioners, \$1,675; clerk~~ Clerk of courts, \$7,538; county treasurer, \$2,381; sheriff, \$7,657; register of deeds, \$6,581; judge of probate, \$6,581; register of probate, \$6,581;

Washington County: ~~County-commissioners, \$2,153; chairman, \$2,512; clerk~~ Clerk of courts, \$6,221; county treasurer, \$5,385; sheriff, \$7,478; register of deeds, \$6,221; judge of probate, \$6,820; register of probate, \$6,221;

York County: ~~County-commissioner, \$2,893; clerk~~ Clerk of courts; \$9,672; deputy clerk of courts, \$6,341; county treasurer, \$2,110; sheriff, \$10,768; register of deeds, \$8,974; judge of probate, \$8,375; register of probate, \$6,581;

Sec. 2. 30 MRSA § 2, new ¶ at the end to read:

On and after January 1, 1981, the salaries of the county treasurer, deputy treasurer, sheriff, register of deeds, deputy register of deeds, judge of probate, and register of probate shall be established by the county commissioners as provided in sections 252 and 253, and the salaries established in this section shall no longer apply.

Sec. 3. 30 MRSA § 51, is amended to read:

§ 51. Incompatible offices

No person-holding-the-office-of-county-commissioner District or At-large member of the board of county commissioners shall at the same time hold either the office of ma or or assessor of a city o selectman or assessor of a town. No Municipal member of the board of county commissioners shall hold any other county office.  
No county commissioner shall, during the term for which he shall have been elected and for one year thereafter, be appointed to any civil office of profit or employment position of the county, which shall have been created or the compensation of which shall have been increased by the action of the county commissioners during such term.

Sec. 4. 30 MRSA § 101 is repealed and replaced to read:

§ 101. Board membership; chairman; title.

1. Board membership. There shall be a board of commissioners, which shall be the governing and policy making body of the county. The board shall consist of seven members: three District

members, three Municipal members, and one At-large member. Each District member shall be a resident in and elected by the voters of a commissioner district; with one District member elected from each commissioner district in the county. Each Municipal member shall be a municipal officer of a municipality in a commissioner district and shall be elected by the voters of that district. One Municipal member shall be elected from each commissioner district in the county. The At-large member shall be a resident in the county and elected by the voters of the county.

2. Municipal members resignation prohibited. Municipal members shall not resign their municipal offices because of their election to the board.

3. Chairman. The members of the board shall elect a chairman and a vice-chairman, to act in the absence of the chairman. The election shall be held at the first board meeting on or after the first day of January annually; and the chairman and vice-chairman shall act for one year.

4. Title. Members of the board shall be known as county commissioners, and all statutory references to county commissioners shall mean members of the board of commissioners.

Sec. 5. 30 MRSA § 102, is repealed and replaced to read:

§ 102. Vacancies; appointed

When a vacancy occurs in the office of county commissioner by death, resignation, removal from the county or district, by resignation of municipal office under section 101, sub-section 2, or for any other reason, the board of county commissioners shall appoint a qualified person to fill the vacancy, who shall hold office for the remain-

der of the unexpired term. If the vacancy occurs in a District member's office, the board shall appoint a new member from the same district. If the vacancy occurs in a Municipal member's office, the board shall appoint a new municipal officer from a municipality in the same district to the vacant office. Appointments shall only be by a majority vote of all members of the board.

Sec. 6. 30 MRSA § 105, is repealed and replaced to read:  
§ 105. Election; term; districting.

1. Election. The members of the board shall be elected in the same manner as town officials, when those officials are nominated by nomination paper and elected by secret ballot. The nomination shall be made by nomination papers signed by not less than 75 nor more than 125 voters who are eligible to vote for the candidates office. The election shall be held on the Tuesday following the first Monday in November for all officers whose term expires in the year of the election. The nomination papers and official ballots shall by apt words designate the term and commission office, either District member, At-large member or Municipal member, for which the person is to be nominated or elected.

2. Term. Each District member and the At-large member shall be elected for a term of three years beginning on January 1st following their election. Each Municipal member shall be elected for a term of one year, beginning on January 1st following their election.

3. Districting. Those members required to be elected from commissioner districts under section 101, sub-section 1, shall be elected from and by the districts established under sections 105-A to 105-U.



Sec. 7. 30 MRSA § 105-B, last ¶, is repealed.

Sec. 8. 30 MRSA § 105-C, last ¶, is repealed.

Sec. 9. 30 MRSA § 105-D, last ¶, is repealed.

Sec. 10. 30 MRSA § 105-E, last ¶, is repealed.

Sec. 11. 30 MRSA § 105-F, last ¶, is repealed.

Sec. 12. 30 MRSA § 105-G, is enacted to read:

§ 105-G. Creation of Cumberland County Commissioner Districts.

Cumberland County shall be divided into the following three districts:

Commissioner District number 1, consisting of the municipality of Portland.

Commissioner District number 2, consisting of the municipalities of South Portland, Cape Elizabeth, Scarborough, Cumberland, Falmouth and Westbrook.

Commissioner District number 3, consisting of the municipalities of Baldwin, Bridgeton, Brunswick, Casco, Freeport, Gorham, Gray, Harpswell, Harrison, Naples, New Gloucester, North Yarmouth, Otisfield, Pownal, Raymond, Sebago, Standish, Windham and Yarmouth.

Sec. 13. 30 MRSA § 105-H, is enacted to read:

§ 105-H. Creation of Washington County Commissioner Districts.

Washington County shall be divided into the following three districts:

Commissioner District number 1, consisting of the municipalities and unorganized territories of Calais, Danforth, Unorganized Territories-North, Vanceboro, Codyville Plantation, Waite, Talmadge, Grand Like Stream Plantation, Plantation Number 21, Princeton, Baileyville, Alexander, Crawford, Wesley, and Unorganized Territory of Barington.

Commissioner District number 2, consisting of the municipalities and unorganized territories of East Machias, Machiasport, Northfield, Robbinston, Perry, Charlotte, Meddybemps, Cooper, Plantation Number 14, Dennysville, Whiting, Cutler, Unorganized Territory - East Central, Lubec, Pembroke and Eastport.

Commissioner District number 3, consisting of the municipalities and unorganized territories of Deblois, Cherryfield, Steuben, Milbridge, Harrington, Addison, Jonesport, Beals, Beddington, Columbia, Columbia Falls, Centerville, Jonesboro, Roque Bluffs, Whitneyville, Marshfield and Machias.

Sec. 14. 30 MRSA § 105-I, last ¶, is repealed.

Sec. 15. 30 MRSA § 105-J, last ¶, is repealed.

Sec. 16. 30 MRSA § 105-O, last ¶, is repealed.

Sec. 17. 30 MRSA § 105-P, last ¶, is repealed.

Sec. 18. 30 MRSA § 105-Q, last ¶, is repealed.

Sec. 19. 30 MRSA § 105-S, last ¶, is repealed.

Sec. 20. 30 MRSA § 105-T, last ¶, is repealed.

Sec. 21. 30 MRSA § 105-U, last ¶, is repealed.

Sec. 22. 30 MRSA § 106, is repealed and replaced to read:

§ 106. Salaries.

The county commissioners in the several counties shall receive annual salaries or compensation as follows:

District members: \$3,500

At-large members: \$3,500

Municipal members: \$25 per board meeting or for each

day spent in official county duties.

The salaries of District and At-large members shall be paid in monthly, semi-annual or annual payments as determined by the county commissioners; but the payments shall be made at the end of the pay period that is chosen.

The salaries of the District and At-large members shall be full compensation for all services, expenses and travel to and from the county seat, except as provided in this section. The Municipal members shall be allowed all necessary travelling expenses in addition to their compensation. All county commissioners shall be allowed the charges and expenses authorized by section 55. When outside of the county seat on official business, including public hearings, inspection and supervising construction, snow removal and maintenance of roads in unincorporated townships in their respective counties, all county commissioners shall be allowed in addition to their salaries, all necessary traveling and hotel expenses connected therewith. All bills for such expenses shall be approved by the chairman of the board of county commissioners and paid by the treasurer of said county, and with the further exception of such expenses as are provided for in section 55.

On and after January 1, 1981, the salaries of the county commissioners shall be established by the county commissioners as provided in section 252 and 253, and the salaries established in this section shall no longer apply.

Sec. 23. 30 MRSA § 151, is repealed and replaced to read:

§ 151. Sessions.

The county commissioners of each county shall hold sessions at least once each month in the shire town. They may hold other sessions or meetings as they find necessary. The county commissioners shall establish a regular day for the required monthly session, and shall give public notice of that day at least once each year.

Sec. 24. 30 MRSA § 152, is amended to read:

§ 152. Quorum

~~Two commissioners constitute a quorum.~~ Four commissioners constitute a quorum, if at least one of them is a municipal member. When only one attends, he a quorum is not present, the commission members present may adjourn to a convenient time and place. When no commissioner attends, the clerk may adjourn as provided in Title 4, section 112.

Sec. 25. 30 MRSA § 201, last sentence, is repealed and replaced to read:

The county clerk may also serve as the county administrator, if qualified and appointed by the county commissioners.

Sec. 26. 30 MRSA § 202, 3rd ¶, is amended to read:

The county administrator shall be the chief administrative official of the county and shall be responsible for the administration of all departments and offices over which the county commissioners have control. He ~~shall~~ may act as the clerk of the county- or as county treasurer, if appointed as clerk or treasurer by the county commissioners. He shall act as purchasing agent for

all departments and offices of the county, provided that the county commissioners may require that all purchases greater than a designated amount shall be submitted to sealed bid. He shall attend all meetings of the county commissioners, except when his removal or suspension is being considered. He shall keep the county commissioners and the legislative delegation of the county informed as to financial condition of the county and shall collect all data necessary for the preparation of the budget. He may undertake such other duties as may be authorized by the county commissioners.

Sec. 27. 30 MRSA § 202, last 2 ¶¶, are repealed.

Sec. 28. 30 MRSA § 251, 1st sentence is amended to read:

The county commissioners shall make the county estimates, approve the county budget and cause the taxes to be assessed.

Sec. 29. 30 MRSA § 252 is repealed and replaced to read:

§ 252. Estimated budget; public hearing.

The county commissioners shall prepare a county budget each year that will estimate the sums necessary to defray the expenses of the county for the coming fiscal year, which have or may probably accrue for the purposes set forth in Article 9. The estimated county budget shall be drawn so as to authorize appropriations for each department or agency of the county government for the year. In the budget prepared for 1981 and every year thereafter, the salaries of county officers shall be separately established by the commissioners. The estimated county budget shall include expenditures of federal revenue sharing funds or any other federal or state grants received pursuant to section 255.

At least one public hearing shall be held in the county on the estimated county budget, prior to its final approval and adoption by the county commissioners. At least 10 days prior to the public hearing, the commissioners shall cause to be published a public notice of the hearing in a newspaper of general circulation within the county, and shall also distribute to each municipality in the county a copy of the estimated county budget. Copies shall also be available during normal business hours in the office of the county commissioners for public inspection and copies shall be provided, at cost, to any county resident.

Sec. 30. 30 MRSA § 253, is repealed and replaced to read:

§ 253. Approval and adoption of budget; fiscal year.

1. Approval and adoption of budget. Prior to December 31st, the county commissioners shall approve and adopt a final county budget for the coming fiscal year. As part of that budget for 1981 and thereafter, the commissioners shall separately approve and adopt salaries for county officers. The final county budget shall be the estimated county budget, together with any amendments approved by the county commissioners. All amendments to the estimated county budget and the approval and adoption of the final county budget shall be only by a majority vote of all members of the board of county commissioners, and shall be discussed and adopted at a public meeting.

Copies of all approved amendments to the estimated county budget and of the final county budget shall be distributed to the clerk of each municipality of the county and to the State Auditor. A copy of the estimated county budget, amendments thereto and the final county budget shall be a public record at the office of the

county clerk and each municipal clerk, and shall be retained for a period of 4 years.

2. Fiscal year. The fiscal year for the county shall begin on January 1st and end on December 31st.

Sec. 31. 30 MRSA §§ 253-A & 253-B, are repealed.

Sec. 32. 30 MRSA § 254, 1st sentence is amended to read:

When ~~a-county-tax-is-authorized,~~ the final county budget is approved and adopted according to section 253, the total amount of that budget is granted as a tax on the county. The county commissioners shall, in ~~April~~ January in the year for which such tax is granted, apportion it upon the town and other places according to the last state valuation and fix the time for the payment of the same, which shall not be earlier than the first day of the following ~~September~~ July.

Sec. 33. 30 MRSA § 401-A, 1st ¶, is amended to read:

The county commissioners of all counties may borrow in anticipation of taxes ~~and-to-the-extent-that-the-county-budget-has-not been-approved-by-the-Legislature,~~ the county commissioners of each county may borrow an amount not exceeding 80% of the ~~previous-year's budget.~~ final county budget.

Sec. 34. 30 MRSA Art. 9, is enacted to read:

#### ARTICLE 9

#### POWERS AND EXPENDITURES

§ 431. Authorized expenditures.

The county may raise and appropriate money for the purposes of operating county government, performing any duties required by law, and providing any services or facilities authorized by statute.

No authority or power now existing under any other statute shall be repealed or limited by this section.

§ 432. Building, parks, airports, utilities.

The county shall only raise and appropriate money for the purpose of providing or maintaining buildings, that are not authorized under section 301, or of providing and maintaining parks or airports, or providing water or sewer utilities, that are not authorized by law prior to January 1, 1977, when such services or facilities are authorized by a contract under section 63.

§433. Planning and program review.

1. Exercising powers. Each county may establish a planning department and undertake the activities authorized by this section, if this is approved by a majority of the voters of the counties as provided in sub-section 5. If a county undertakes planning as authorized by this section, written notice shall be transmitted to the Governor, the State Planning Office, and Regional Planning Commission whose jurisdiction includes all or part of the county, and all municipalities within the county. For the purposes of this section county shall mean a county authorized under this subsection to exercise planning powers.

2. Planning authority.

A. County Plan. The county may prepare a comprehensive plan for the county that contains recommendations for the development of the county. The plan shall be advisory and shall have as its purpose the promotion of the health, safety and general welfare of county residents. The plan may contain recommendations relating to the use of land,



the general location, extent, type of use, character, and development of public ways, public property, public utilities and services, and for the improvement, redevelopment rehabilitation and conservation of industrial, commercial, residential, recreational and other areas. The plan may be designed to encourage the most appropriate use of land for agriculture, forestry, industry, commerce and residence; to provide adequate transportation and communication; to provide for the proper location of public utilities and services; to encourage the development of adequate recreational areas; to promote good civic design; and to encourage the judicious expenditure of public funds.

B. Adoption. The county commissioners may adopt, amend or repeal all or part of a county plan by a majority vote after a public hearing. An adopted county plan and any amendments thereto may be filed with the planning board of any municipality in the county and with the State Planning Office.

3. Notice to counties to establish or change land use zones. When a municipality proposes to establish or change a land use zone or any regulation affecting the use of a zone any portion of which is within 500 feet of the boundary of another municipality located within the county, the municipality shall give written notice of its public hearing to be held in relation thereto. The county shall study such proposal and shall report its findings and recommendations thereon to the municipality at or before the hearing. If such an advisory report of the county is not submitted at or before the hearing, it shall constitute approval.

4. Local assistance.

A. The county may make recommendations on the basis of its plans and studies to local planning boards or to the municipal officers of any municipality within the county, and to any regional planning commission, state or federal authorities.

B. A municipal planning board may use any part of the county studies which pertain to the municipality in its own comprehensive plan.

C. The county may assist any of its members in solving a local planning problem. All or part of the cost of local assistance may be paid by the municipality or paid from general county revenues.

5. Referendum.

The county commissioners, by majority vote, may order the submission to the voters of the question authorizing county planning services. On the written petition of a number of county voters equal to at least 20% of the number of votes cast in the county at the last gubernatorial election, the county commissioners shall order the submission to the voters of the question authorizing county planning services. The referendum on the issue shall be held within 90 days of the order, by ballot at any special or general county-wide election. The county commissioners are authorized to expend such funds as are necessary to implement the referendum.

The county commissioners shall cause the preparation of the required ballots on which they shall state the subject matter of the authorization in the following question:

"Shall (name) county be authorized to provide planning services as provided under Title 30, section 433?"

The voters shall indicate by a cross or check mark placed against the words "Yes" or "No", their opinion of the same.

The county shall be authorized to provide planning services under this section immediately upon the approval of that authorization by a majority of the legal voters voting at the election; provided that the total number of voters cast for and against the approval of the authorization equals or exceeds 30% of the total votes for all candidates for Governor cast in the last gubernatorial election in the county.

This question shall not be submitted to the voters more than once in any calendar year.

§ 434. Combining services of counties.

The county commissioners of each county may contract with other counties to provide combined or consolidated county services, when each county is authorized to perform the services. The contract shall meet the requirements of section 63, including the approval of the Attorney General. Pursuant to the contract, the county commissioners may also contract with other persons, organizations or governmental entities as is provided under section 63 for county-municipal contracts.

§ 435. Finance committee.

The county commissioners may establish a finance committee of county residents, including county and municipal officers, legislators and interested citizens, to advise the commissioners on the

county budget. The county finance committee may be either elected or appointed as the commissioners may determine, and shall have the authority to hold public hearings, and to make public recommendations concerning the budget.

§ 436. Human Services Coordinator.

1. Appointment. The county commissioners may appropriate funds to hire a county human services coordinator and may appoint some suitable person to serve as coordinator or designate a county official to undertake the coordinators duties. The human services coordinator shall serve at the pleasure of the county commissioners, and they shall determine the compensation to be paid to an appointed coordinator.

2. Powers and duties. The county human services coordinator shall have the following powers and duties:

A. Coordination. He shall coordinate the activities of the county in funding human services agencies;

B. Recommendations. He shall make recommendations to the county commissioners, and with their approval, to private agencies receiving county funds to provide human services within the county. These recommendations shall relate to the coordination of agencies providing human services within the county and shall seek to reduce confusion and duplication of services, to reduce a multiplicity of reporting forms and application documents, and to insure that the county's actual needs are being met.

C. Budget. He shall review and make recommendations to the county commissioners about any request for county funds from private human service agencies.

D. Information. He may gather information about the need for county human services and the operations of private human service agencies within the county.

E. Report. He shall keep the county commissioners informed about the use of county appropriations to private human services agencies, and shall annually prepare a report for inclusion in the county report, about county human service expenditures, direct or indirect human services and actual needs.

Sec. 35. 30 MRSA ch. 11, is enacted to read:

CHAPTER 11

HUMAN SERVICES

§ 1401. Establishment.

Each county that expends county funds under sections 412, 412-A, 419 or 420, or under Title 34, sections 2052, 2097 or 2133, or for health or social services under sections 63 or 255, shall establish a County Human Services Board. Every other county may establish a County Human Services Board.

§ 1402. Membership.

The County Human Services Board shall be established by order of the county commissioners, and shall have not less than 5 members and not more than 9. The county commissioners shall appoint the members for two year terms. The Board shall elect its own chairman annually.

§ 1403. Duties.

1. Evaluations. The Board shall establish a system for obtaining information from each human service agency requesting county or municipal funds. The information obtained shall include the

services offered by the agency, the organization of the agency, the funding from all sources, and such other information the Board deems necessary. The Board shall annually review and evaluate the information it receives and prepare a report on each agency. That report shall include an evaluation and any recommendations on the efficiency, accountability, services and budget request of each agency. The report shall be communicated to each municipality and to the county prior to October 1st.

2. Assessment. The Board may establish a system for regularly assessing the needs of the county for particular human services, and shall regularly study and report on such needs assessment to the municipalities and county.

3. Conferences and recommendations. The Board shall regularly confer with appropriate state departments and bureaus and private agencies about human service programs and needs, and shall provide them with all reports of the Board. The Board may make recommendations to state departments and bureaus and to agencies seeking funds about the administration, financing or services of an agency seeking funds.

4. Rules and regulations. After a public hearing, the Board may adopt or amend rules or regulations relating to its duties or powers under this section.

§ 1404. Clerical assistance.

The county commissioners shall provide the clerical assistance, office expenses, suitable rooms and expenses as are necessary, just and proper to the performance of the Board's official duties.

§ 1404. Board as county department.

The Board shall be deemed a department of county government and all costs of operations and expenses shall be paid from the county treasury as authorized by the county budget. The costs and expenses of the Board shall be a separate line item of the county budget.

Sec. 36. 30 MRSA § 601 is repealed and replaced to read:

§ 601. Appointment.

The county commissioners in each county shall appoint some suitable person to serve as county treasurer, such services to be at the pleasure of the county commissioners. The county treasurer may also serve as the county administrator, if qualified and appointed by the county commissioners, but shall not hold any other county office.

Sec. 37. 30 MRSA § 602 is repealed.

Sec. 38. 30 MRSA § 603 is amended to read:

§ 603. Bond and tensure of office.

The person ~~so-elected-and-accepting-the-office-of~~ appointed county treasurer shall give bond to the county for the faithful discharge of his duties in such sum as the commissioners order and with such sureties as they approve in writing thereon~~7~~.and-shall hold-his-office-for-4-years-from-the-first-day-of-the-next-January and-until-another-is-chosen-and-qualified-in-his-place.

Sec. 39. 30 MRSA § 651 is amended to read:

§ 651. Appointment; duties

The treasurers of the several counties may appoint deputy treasurers, with the approval of the county commissioners, for their respective counties. Such deputy treasurer shall assist the treasurer in performing the duties of his office. He shall give bond to the county for the faithful discharge of his duties in such sum as the county commissioners order and with such sureties as they approve in writing thereon, the premium of such bond to be met by the county. The deputy treasurer shall act as treasurer in the event of a vacancy until a treasurer is ~~chosen~~ appointed in accordance with section 601.

Sec. 40. 33 MRSA § 601, is repealed and replaced to read:  
§ 601. Appointment.

The county commissioners in each county shall appoint some suitable person to serve as register of deeds. The appointment shall be for a term of four years.

Sec. 41. 33 MRSA § 602 is repealed.

Sec. 42. 33 MRSA § 608 is repealed and replaced to read:  
§ 608. Removal.

The county commissioner in each county may dismiss or remove a register of deeds only for cause. Cause for dismissal or removal shall be a just, substantial, reasonable and appropriate reason that relates to or affects the ability, performance of duty, authority or actions of the register, or to the public's rights or interest. Dismissal or removal shall be only by a majority vote of all members of the board of county commissioners, and after a public hearing has been held.



Sec. 43. 36 MRSA § 507, is enacted to read:

§ 507. Tax distribution on tax bill.

If a municipality gives written notice to persons liable to taxation in the municipality or primary assessing area of the amount of tax due or payable, such notice shall contain a statement, in percentage or actual amount, of the amount of the total property tax assessment allocated to the county under 30 MRSA § 254 and 36 MRSA § 753.

Sec. 44. Application and transition.

This Act shall take effect 90 days after adjournment of the Legislature only for the purpose of electing the members of the county board of commissioners; and it shall become effective in all its parts on January 1, 1978, unless provided otherwise in this section.

The county budgets for 1978 shall be submitted to and approved by the Legislature as required by statutes in effect on December 31, 1977. The budget for 1979 and thereafter shall be approved in the manner provided in this Act.

County treasurers and registers of deeds elected prior to December 31, 1977 shall remain in office until the expiration of their term. The salary of these elected treasurers and registers of deeds shall not be reduced below the salary authorized by 30 MRSA § 2 on January 1, 1977, during the remainder of their term, without their consent. At the expiration of that term, the county treasurer or register of deeds shall be appointed as provided in this Act.

Municipal members and the at-large member of the board of commissioners shall be elected in each county on the Tuesday following the first Monday in November of 1977. They shall be elected in accordance with this Act, and shall take office on January 1, 1978.

Each county commissioner elected prior to July 1, 1977, shall remain in office until his term has expired; and he shall be deemed to be a district member of the Board of Commissioners from January 1, 1978 to the expiration of his term. The salary of a county commissioner, elected prior to July 1, 1977, and acting as a district member after January 1, 1978, shall not, by this Act or the action of the Board of County Commissioners, be reduced below the salary established by 30 MRSA § 2 on January 1, 1977, during the remainder of his term, without his consent. At the expiration of the present terms, the transition to three year terms for district members and to the new county commissioner board shall be as follows in each of the counties:

1. Aroostook. In Aroostook County, the district member of the Board of Commissioners for district 1 shall be elected in 1977 for a three (3) year term to begin in 1978; the district member for district 2 shall be elected in 1979 for a three (3) year term to begin in 1980; and the district member for district 3 shall be elected in 1979 for a two (2) year term to begin in 1980.

2. Waldo. In Waldo County, the district member of the Board of Commissioners for district 1 shall be elected in 1977 for a three (3) year term to begin in 1978; the district member for district 2 shall be elected in 1979 for a three (3) year term to begin in 1980; and the district member for district 3 shall be elected in 1979 for a two (2) year term to begin in 1980.

3. Somerset. In Somerset County, the district member of the Board of Commissioners for district 1 shall be elected in 1979 for a two (2) year term to begin in 1980; the district member for district 2 shall be elected in 1977 for a three (3) year term to begin in 1978; and the district member shall be elected in 1979 for a three (3) year term to begin in 1980.

4. Hancock. In Hancock County, the district member of the Board of Commissioners for district 1 shall be elected in 1977 for a three (3) year term to begin in 1978; the district member for district 2 shall be elected in 1979 for a two (2) year term to begin in 1980; and the district member for district 3 shall be elected in 1979 for a three (3) year term to begin in 1980.

5. Piscataquis. In Piscataquis County, the district member of the Board of Commissioners for district 1 shall be elected in 1977 for a three (3) year term to begin in 1978; the district member for district 2 shall be elected in 1979 for a two (2) year term to begin in 1980; and the district member for district 3 shall be elected in 1979 for a three (3) year term to begin in 1980.

6. Sagadahoc. In Sagadahoc County, the district member of the Board of Commissioners for district 1 shall be elected in 1979 for a three (3) year term to begin in 1980; the district member for district 2 shall be elected in 1979 for a two (2) year term to begin in 1980; and the district member for district 3 shall be elected in 1977 for a three (3) year term to begin in 1978.

7. Cumberland. In Cumberland County, the district member of the Board of Commissioners for district 1 shall be elected in 1979 for a two (2) year term to begin in 1980; the district member

trict 2 shall be elected in 1979 for a three (3) year term to begin in 1980; and the district member for district 3 shall be elected in 1977 for a three (3) year term to begin in 1978.

8. Washington. In Washington County, the district member of the Board of Commissioners for district 1 shall be elected in 1979 for a three (3) year term to begin in 1980; the district member for district 2 shall be elected in 1977 for a three (3) year term to begin in 1978; and the district member for district 3 shall be elected in 1979 for a two (2) year term to begin in 1980;

9. Androscoggin. In Androscoggin County, the district member of the Board of Commissioners for district 1 shall be elected in 1977 for a three (3) year term to begin in 1978; the district member for district 2 shall be elected in 1979 for a two (2) year term to begin in 1980; and the district member for district 3 shall be elected in 1979 for a three (3) year term to begin in 1980.

10. Oxford. In Oxford County, the district member of the Board of Commissioners for district 1 shall be elected in 1979 for a two (2) year term to begin in 1980; the district member for district 2 shall be elected in 1979 for a three (3) year term to begin in 1980; and the district member for district 3 shall be elected in 1977 for a three (3) year term to begin in 1978.

11. York. In York County, the district member of the Board of Commissioners for district 1 shall be elected in 1979 for a three (3) year term to begin in 1980; the district member for district 2 shall be elected in 1977 for a three (3) year term to begin in 1978; and the district member for district 3 shall be elected in 1979 for a two (2) year term to begin in 1980.

12. Penobscot. In Penobscot County, the district member of the Board of Commissioners for district 1 shall be elected in 1979 for a three (3) year term to begin in 1980; the district member for district 2 shall be elected in 1979 for a two (2) year term to begin in 1980; and the district member for district 3 shall be elected in 1977 for a three (3) year term to begin in 1978.

13. Kennebec. In Kennebec County, the district member of the Board of Commissioners for district 1 shall be elected in 1979 for a two (2) year term to begin in 1980; the district member for district 2 shall be elected in 1977 for a three (3) year term to begin in 1978; and the district member for district 3 shall be elected in 1979 for a three (3) year term to begin in 1980.

14. Lincoln. In Lincoln County, the district member of the Board of Commissioners for district 1 shall be elected in 1979 for a two (2) year term to begin in 1980; the district member for district 2 shall be elected in 1977 for a three (3) year term to begin in 1978; and the district member for district 3 shall be elected in 1979 for a three (3) year term to begin in 1980.

15. Knox. In Knox County, the district member of the Board of Commissioners for district 1 shall be elected in 1977 for a three (3) year term to begin in 1978; the district member for district 2 shall be elected in 1979 for a two (2) year term to begin in 1980; and the district member for district 3 shall be elected in 1979 for a three (3) year term to begin in 1980.

16. Franklin. In Franklin County, the district member of the Board of Commissioners for district 1 shall be elected in 1979 for a three (3) year term to begin in 1980; the district member for district 2 shall be elected in 1979 for a two (2) year term

to begin in 1980; and the district member for district 3 shall be elected in 1977 for a three (3) year term to begin in 1978.

After completion of this transition in 1980, elections shall continue as provided under this Act in such a manner so that one district member of the board is elected each year to a three year term.

#### Statement of Fact

The purpose of this bill is to implement the minority recommendations of the study on County Government by the Joint Select Committee on County Government. A detail statement of the intentions, purposes and provisions of this bill is contained in the Committee's Minority Report. Generally, this bill does the following:

1. Changes the board of county commissioners to a seven member board, with three members elected from districts, one at-large member and three municipal members who are municipal officers and elected by district. The board will be the governing and policy-making body of the county.
2. Authorizes the board of county commissioners to approve the county budget and determine county officers' salaries.
3. Grants counties the authority to establish a planning department and provide advisory planning services, if approved by referendum.
4. Grants counties the authority to coordinate and review human services provided by county and municipal funds. And,
5. Provides for appointment of county treasurers and registers of deeds, and for consolidation of the offices of county administrator, treasurer and county clerk.