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STATE OF MAINE  
114TH LEGISLATURE  
SECOND REGULAR SESSION

COUNTY GOVERNMENT:  
A STUDY OF ITS STRUCTURE &  
POSSIBLE REDISTRIBUTION OF CERTAIN FUNCTIONS

*Final Report  
of the Study Subcommittee*

*Joint Standing Committee on  
State & Local Government*

*December 1989*

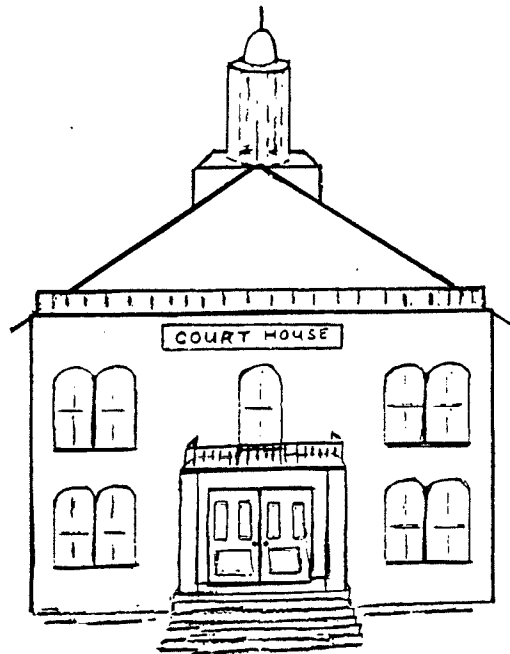
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# COUNTY GOVERNMENT

## ADMINISTRATIVE

County Commissioner  
County Clerk  
County Treasurer  
Registrar of Deeds  
Funding Social Service  
Organizations

## GOVERNANCE OF UNORGANIZED TERRITORY

Serves as Governing Body for  
Unorganized Territory

## JUDICIAL

Probate Judge  
Registrar of Probate  
District Attorney  
Superior & District  
Courtrooms

## PUBLIC SAFETY

Law Enforcement  
Corrections  
Emergency Planning

FIGURE 1  
COUNTY GOVERNMENT



# COUNTY GOVERNMENT STUDY

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**COUNTY GOVERNMENT STUDY  
EXECUTIVE SUMMARY**

Recently, the functions of county government in Maine have been under increasing scrutiny. Property tax increases and questions regarding county government services are the subjects of debate among Maine residents, municipal and county officials, and legislators. County government has long provided important services to the people of Maine, but the increased costs to continue these services have prompted discussion on the need for county government. In the First Regular Session of the 114th Legislature a bill was introduced to offer a referendum to abolish county government and reassign its functions to state and municipal governments (LD 817). The bill died in the legislature but a study of county government was authorized by the Legislative Council in July, 1989.

The study subcommittee was charged with investigating four policy questions:

- What are the functions of county government in Maine?
- How efficient are counties in performing these functions?
- Would it be more appropriate for state or municipal government to perform any of these functions?
- What would be the costs or savings of the redistribution of any of these functions?

After study, the subcommittee reached consensus on a number of legislative and administrative recommendations. Three legislative bills are included in the report. An Act to Reform County Government is the unanimous report of the study subcommittee, proposed to implement the 15 legislative recommendations. The report includes two other bills, which embody additional recommendations supported by some members of the subcommittee.

**Legislative Recommendations**

The subcommittee recommends that counties establish autonomous budget procedures by January 1, 1992. The process will require county commissioners to prepare the budget and present it for final approval to a county budget committee. As the commissioners are the policy-making branch of county government, the subcommittee recommends that counties have three commissioners and that every county hire a county administrator to manage the county's business. Among other functions, the county administrator would perform the functions previously performed by the county clerk, and could also serve as county treasurer. If not, the treasurer would become a position appointed by the commissioners. The subcommittee also recommends that the register of deeds become an appointed position.

The subcommittee recommends that the revenues retained in the county from the register of deeds be sufficient to support the expenditures of that office, including overhead. To assure this, the amount the counties receive from the real estate transfer tax should be increased. The subcommittee recommends the expansion of the permissible uses of the Corrections Fund to include operating costs of the county jails.



The subcommittee also recommends that county jails be funded by the State Department of Corrections. To better insure community safety the subcommittee recommends that sheriffs meet the same training qualifications as deputies and that the Maine Emergency Management Agency review the regional structure of the emergency management program.

The subcommittee finds that the Superior and District Courts serve a state function, and recommends that the State Judicial Department assume the full cost of their courtrooms. The subcommittee also recommends that the Attorney General's office assume the operating costs of the district attorneys' offices. Finally, the subcommittee recommends that the district attorneys be relieved of representing the counties in legal matters, with counties contracting for legal services as needed.

As previously mentioned, a bill is proposed which would implement these recommendations. It is titled "AN ACT to Reform County Government".

#### **Administrative Recommendations**

The subcommittee recommends that counties use improved, standardized budget reporting procedures as prescribed by the State Auditor.

On several major issues for which no action was recommended, the subcommittee recommends further review. The subcommittee recommends that the Judiciary Committee conduct a study of the Probate Court, including consideration of full time probate judges, their appointment, duties, and conflict of interest problems. The subcommittee recommends that the Joint Standing Committee on State & Local Government review the performance of counties as the government of the unorganized territories. The subcommittee also recommends that the Joint Standing Committee on State & Local Government and other members of the Legislature continue to explore the appropriate method of delivering law enforcement to rural areas that are unable to afford full time coverage.

#### **Additional Recommendations**

Some members recommend that a considerably larger portion of the real estate transfer tax be used to fund county government, rather than going to the State. In addition, some members recommend that additional revenues be generated by increasing the amount of money distributed to counties from the Jail Surcharge Fund. A bill is included which would do this, "AN ACT to Help Fund County Government".

Some members recommend that the district attorneys' staff be transferred to the Attorney General's office. A bill is included which would do this, "AN ACT to Transfer All Functions and Personnel of the District Attorney from the Counties to the State.

Some members recommend that county jails be administered by the state Department of Corrections, and support LD 1189, a carry-over bill, to do this.

## I. INTRODUCTION

### ORIGIN OF THE STUDY

The First Regular Session of the 114th Legislature considered LD 817, An Act to Provide a Referendum to Abolish County Government and Authorize Reassignment of its Functions and Duties to Appropriate State and Municipal Departments and Agencies. (Sponsors: Kany, Berube, J. Martin, and Dillenback). The Joint Standing Committee on State and Local Government held a public hearing April 15, 1989, and issued a divided report. The House accepted the ONTP report, but the Senate accepted the OTP-A report. The amendment accepted by the Senate completely replaced the bill with a study commission to study county government. All reference to abolition of county government was deleted and an appropriation of about \$8,000 was added.

The bill finally died between the Houses, but on July 6th the Legislative Council approved an interim study of Redistribution of County Functions with 4 meetings of a 5-member Subcommittee and 1 meeting of the Full Committee on State and Local Government.

### CONDUCT OF THE STUDY

The members of the study Subcommittee were:

Rep. Ruth Joseph (Chair)  
Sen. Georgette B. Berube  
Rep. Conrad Heeschen  
Rep. Alberta M. Wentworth  
Rep. John S. McCormick, Jr.

The Subcommittee met September 19th to hear an overview of county government, presented by the staff; a review of LD 817 presented by the principal sponsor, Sen. Kany; and an overview of county government presented by various county officials.

The Subcommittee met October 17th to hear the Attorney General, the Judicial Council, the Deputy State Auditor and several municipal officials, as well as committee staff presentations on county budget appropriations and county maintenance of court space.

The Subcommittee met October 31st to receive further information from committee staff and the Deputy State Auditor on the relation between income and expenditures for selected county functions. The rest of the meeting was devoted to an extensive discussion of the options for change in each functional area of county government.

The Subcommittee met on November 15th to review and discuss the preliminary draft report.

The Subcommittee met on December 4th to review the final draft report. The Full Committee on State and Local Government met later in the day to receive the Subcommittee report.

## SUBJECT OF THE STUDY

In general, the purpose of the study was to evaluate the functions performed by county government and determine whether any could be performed better by making certain structural changes. The tasks involved were to:

- Inventory and study the functions performed by county government;
- Consider whether it would be more appropriate for state or municipal agencies to perform any of these functions;
- Evaluate the efficiency of county government in performing these functions;
- Evaluate the effects, including the costs or savings from any reassignment of these functions; and
- Develop legislation to implement the recommendations of the study.

The subcommittee carried out the first two tasks, and made a start on the next two. The subcommittee also developed legislative and administrative recommendations. Most of these were consensus recommendations, but several additional recommendations are presented by various members of the subcommittee.

## THE STUDY REPORT

For purposes of this study, it was convenient to organize the functions of county government into four department-like groups. For budget purposes, a fifth group of support functions was also used, so that the five groups are:

- Administrative Functions (including budget preparation);
- Governance of Unorganized Territory (separately funded);
- Judicial Functions;
- Public Safety Functions; and
- Support Services

This report has a chapter for each of the four department-like groups, but first a separate chapter is devoted to the financial situation of the counties, which mentions the overhead functions and relates to all the others. Figure 1, the frontispiece, shows the general functions within each grouping, and Figure 2 lists the specific accounting functions within each general function.

The appendix includes "An Act to Reform County Government", proposed legislation to implement the 15 legislative recommendations supported unanimously by the subcommittee to streamline county government and make it more accountable. The subcommittee also reached consensus on 3 administrative recommendations, which will be communicated by letter to the action agency. The Appendix also includes two other bills proposed by some members of the subcommittee to implement additional recommendations on the district attorney and on county revenues. Several members also support LD1189, a carryover bill dealing with county jails.

FIGURE 2  
COUNTY BUDGET ACCOUNTS

Listed below are the 50 specific county accounts grouped within the 16 general functions in 4 functional groups, but not including the budget for government of the unorganized territories, which is financed separately.

ADMINISTRATION FUNCTIONS

<u>Administration</u>	<u>County Treasurer</u>
County Commissioners	
Personal Services	<u>Register of Deeds</u>
Wage Adjustments	
Labor Relations	
Planning	<u>Program Grants</u>
Economic Development	Extension
Auditing	Soil Conservation
Promotion and Advertising	Solid Waste
Dues	Youth Aid
Postage	Task Force

JUDICIAL FUNCTIONS

<u>Courts</u>	<u>District Attorney</u>
District Court	
Superior Court	<u>Register of Probate</u>
	(includes judge & clerk)

PUBLIC SAFETY FUNCTIONS

<u>Jail (Sheriff)</u>	<u>Sheriff</u>
Jail Building	(Law enforcement)
Jail Planning	
Jail	<u>Civil Emergency Preparedness</u>

SUPPORT SERVICES

<u>Buildings</u>	<u>Overhead</u>
County Buildings	Insurance
Building Complex	Firemen
Building	Microfilm
Court House Building	Copiers
Registry Building	
<u>Debt Service and Interest</u>	<u>Employee Benefits</u>
Debt Service	
Interest	
<u>Miscellaneous</u>	<u>Reserves</u>
Communications	Reserves
Engineer	Contingent
Fire Marshal	
Misc.	

## II. COUNTY FINANCES

This chapter provides a brief introduction to county financial matters. Maine counties, unlike the state, operate on a calendar fiscal year. Much of the data presented here is based on the most recent complete year, calendar year 1988.

For analysis of county finances, this study used the five functional groups and the 16 general functions presented above. This chapter focuses on the functions which are included in the county budgets. Governance of the unorganized territory, which is separately funded, is discussed in chapter IV.

### COUNTY APPROPRIATIONS

The totals of the appropriations by all counties to each major functional group both in dollars and as percentages of the grand total for 1988 are shown in Figure 3. The statewide dollar amount and the percentage of the total funds budgeted for each function for all counties combined are shown in a bar graph and a table in Figure 4. The Appendix gives a summary of the 1988 county budget appropriations for each county.

Statewide, the public safety function received the largest proportion of funds, with 43% of the total budget for all Maine counties, including 16% for law enforcement, 26% for the jails, and 1% for civil emergencies. Administrative functions accounted for approximately 17% and judicial functions 10% of the total budgets.

Support services constituted a large percentage (30%) of the total appropriations in 1988. If expenditures for support services were included within the functional accounts to which they relate that would reflect a more accurate picture of fund allocations in county government. For example, employee benefits (9%) includes funds that are paid to employees of the sheriff, register of deeds, and other county offices. However, available records of county budgets do not allow distribution of support services to the various departments of county government.

**FINDING:** The subcommittee finds that the support costs are not being allocated to the department which incurs the expense but are currently being carried in separate accounts, so it is impossible to obtain an accurate cost of each department. In addition, different counties are using different accounts than other counties for the same expense item. This makes a comparative budget analysis impossible. Under 30-A MRSA §857 the State Auditor has the necessary authority to establish uniform budget categories, but these rules need an update.

**RECOMMENDATION:** The subcommittee recommends that the requirement that all counties submit annual budgets and financial reports to the State Auditor using uniform accounting categories be strengthened by:

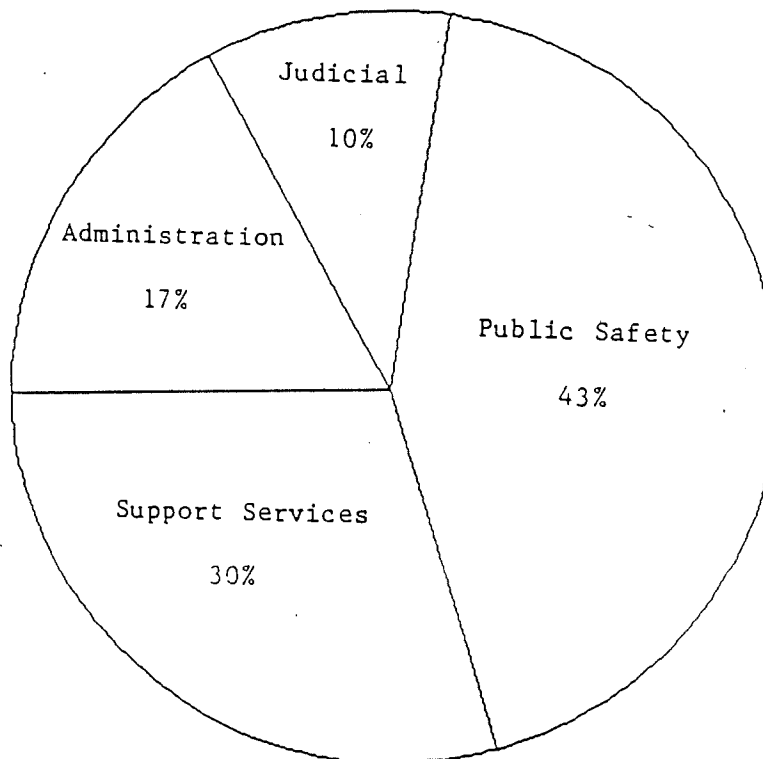
- (1) the State Auditor adopting improved budget categories; and
- (2) the counties, including those that have budget autonomy, complying completely with that new standard budget form.

**FIGURE 3**  
**COUNTY APPROPRIATIONS 1988**  
**BY FUNCTIONAL GROUP**

Percent of Total Appropriated to the  
Four Major Functions of County Government

Function	Dollars	Percent of Total
Public safety	18,576,790	43%
Support Services*	12,604,067	30%
Administration	7,398,227	17%
Judicial	4,501,811	10%
Total	43,080,895	100%

\* Support services include items that would properly fall into other functions but are accounted for separately in county budgets.



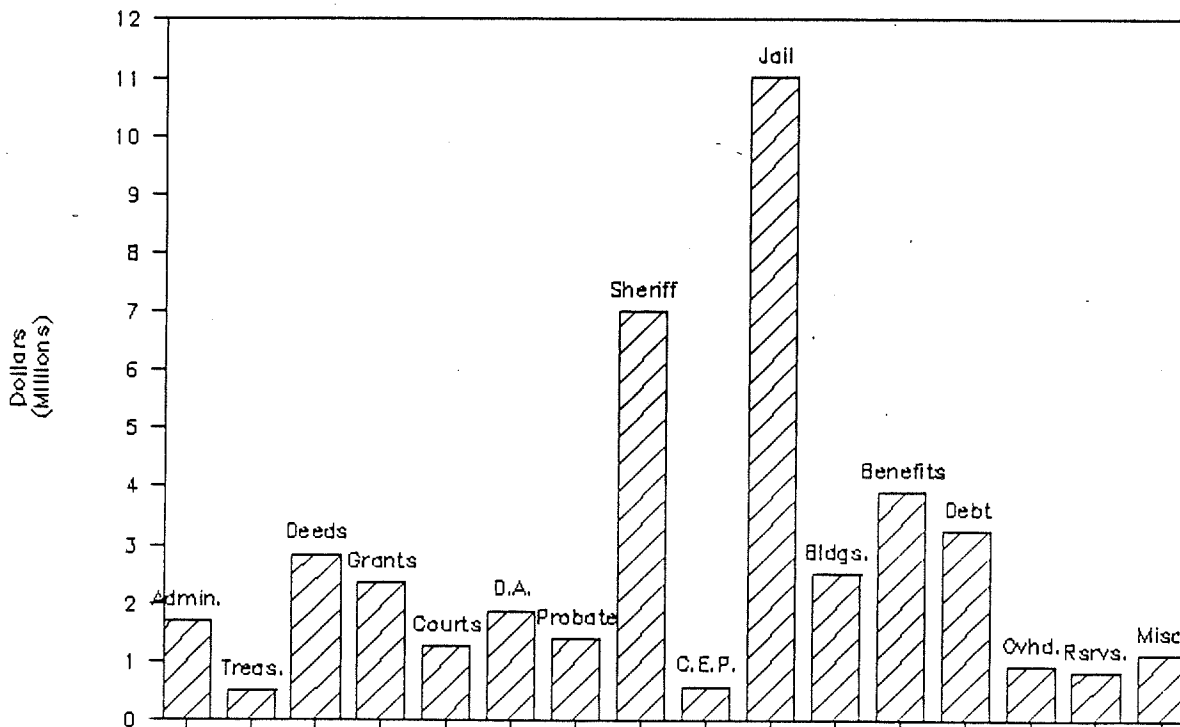
Source: 1988 County Budget Resolves

OPLA 10/31/89

**FIGURE 4**  
**COUNTY APPROPRIATIONS 1988**  
**BY GENERAL FUNCTION**

Category	Dollars	Percent of Total
Administration (Admin)	1,702,222	4
County Treasurer (Treas)	502,263	1
Register of Deeds (Deeds)	2,841,353	7
Program Grants (Grants)	2,352,389	5
Courts	1,249,575	3
District Attorney (DA)	1,871,432	4
Register of Probate (Probate)	1,380,804	3
Sheriff	6,990,803	16
Civil Emergency (CEP)	578,187	1
Jail	11,007,800	26
Buildings (Bldgs)	2,511,438	6
Employee Benefits (Benefits)	3,918,005	9
Debt Svc/Interest (Debt)	3,260,084	8
Overhead (Ovhd)	945,275	2
Reserves (Rsrvs)	844,765	2
Misc.	1,124,500	3

### County Appropriations 1988



Sources: 1988 County Budget Resolves  
State Auditor's Office

OPLA 10/17/89

## COUNTY INCOME

The statewide total estimated revenues and other credits for counties in 1988 are shown in Figure 5. The Appendix has estimated revenues and other credits for each county. Note that the tax commitment covers about two-thirds of the budget.

**FIGURE 5**  
**COUNTY INCOME 1988**

<u>Available Credits</u>	<u>\$ Thousands</u>	<u>Percentage</u>
Revenues:		
Probate	631	1
Deeds	5,375	12
Boarding of Prisoners	1,110	3
Miscellaneous*	<u>2,742</u>	<u>6</u>
SUBTOTAL	9,848	23
Surplus	2,939	7
Capital Reserves	50	-
Correction Fund	225	-
Federal Revenue Sharing	<u>107</u>	<u>-</u>
TOTAL	13,181	31
Tax Assessment	<u>29,900</u>	<u>31</u>
GRAND TOTAL	43,080	100

\*includes revenues from: lease contracts; airport leases; reimbursement from courts and other state agencies; civil process fees; jail surcharge on court fines; town-sheriff contracts; and investment income.

Additional information on revenue sources for counties from certain state distributed funds in 1988 is given below. These include: 1) transfer tax on real estate transactions administered by the register of deeds; 2) Department of Corrections Fund distributed to counties for the support of certain prisoners; and 3) jail surcharge fund distributed to counties for the costs associated with jail operations (see Appendix for the figures for each county).

Figure 6 includes items excerpted from the 1988 County Budget Reports and Audit Reports from the State Department of Audit. These are provide a comparison of the revenues and operation costs for certain functions of county government, including: register of deeds; register of probate; and jail. The income and cost of operation for each function are shown for each county and as statewide totals. Actual figures are presented for seven counties, but estimated figures are used for the nine counties whose final reports are not completed yet.



FIGURE 6  
COUNTY INCOME AND COSTS 1988  
SELECTED FUNCTIONS  
(\$ Thousands)

County	Register of Deeds		Register of Probate		Jail	
	Income <sup>2</sup>	Cost of Operation <sup>3</sup>	Income	Cost of Operation <sup>3</sup>	Income	Cost of Operation <sup>3</sup>
Androscoggin	\$ 325	\$ 178	\$ 40	\$ 71	\$ 161	\$ 756
Aroostook	230	208	33	73	130	614
Cumberland	1,600	464	158	185	302	2,189
Franklin	128	80	12	48	118	395
Hancock	200	145	65	70	85	311
Kennebec	388	232	69	132	133	1,071
Knox	189	123	27	59	92	436
Lincoln	155	117	25	56	131	254
Oxford	200	162	28	65	157	381
Penobscot	468	212	77	133	495	1,661
Piscataquis	70	70	12	56	100	272
Sagadahoc	125	89	19	60	89	217
Somerset	185	131	25	61	95	554
Waldo	115	114	14	61	89	292
Washington	140	102	20	62	130	463
York	939	358	106	171	201	1,422
Total	\$ 5,457	\$ 2,785	\$ 730	\$ 1,363	\$ 2,508	\$11,288

Sources: Department of Audit  
1988 County Budget Resolves

Notes:

<sup>1</sup>Includes county share of Jail Surcharge and Corrections Funds

<sup>2</sup>Includes county portion of the real estate transfer tax

<sup>3</sup>Support Services not included

## COUNTY REVENUES: DISCUSSION

1. Real Estate Transfer Tax The state imposes a tax on the transfer of real estate and pays the counties 10% as reimbursement for services in collecting that tax. Statewide, this provides a revenue of \$1.46 million to the counties, while the state share is \$13.1 million.

FINDING: The Real Estate Transfer tax is a large source of revenue for the State and the counties.

ADDITIONAL RECOMMENDATION: The subcommittee recommends increasing the counties share but did not agree on the amount. Some members support increasing the county share from 10% to 55%, leaving the portion for the state Housing Opportunities for Maine Fund unchanged. A provision to do this is included in the bill to help fund county government.

## 2. Register of Deeds

FINDING: The office of the Register of Deeds is a large source of revenue for the counties: the income is nearly twice the expense. Most, but not all counties retain enough money under the current statutory provisions to pay for the operation of the office.

RECOMMENDATION: In order to help alleviate the burden on the property tax by the county budget, the register of deeds position should become self-supporting. In those counties which are not self-supporting, the register of deeds should be allowed to retain an amount of the revenues it generates from the real estate transfer tax sufficient to support the operation of the office, including the overhead expenses.

3. Corrections Fund (boarding of prisoners). State law requires that persons sentenced to imprisonment be sent to the county jail if they are convicted of Class D or E crimes, or if they are convicted of Class A, B, or C crimes and sentenced to nine months or less. (17-A MRSA §1203, sub-§1 and §1252, sub-§1). The State Department of Corrections reimburses the county for every day served at the county correctional facility by those persons, based on the rate of reimbursement established in 34-A MRSA § 1210, subsection 5. However, the fund is designated for improving, maintaining, and developing correctional programs, community-based correctional programs, standards compliance, and capital improvements, and not for ordinary county jail expenditures (34-A MRSA § 1210). Statewide this provided an income of approximately \$1.46 million to counties in 1988.

FINDING: The State Department of Corrections reimbursement to the counties for the housing of prisoners is restricted in its use by the language of the statute.

RECOMMENDATION: The subcommittee recommends that the use of this money be expanded to include operating costs for the county jails. This would be accomplished by Section 8 of the Committee Amendment to LD 723, AN ACT to Require Counties to Accept Prisoners with Sentences up to One Year in Length and to Provide Assistance to Counties in Developing Community Corrections Programs (Carried over to the 2nd Regular Session, referred to Appropriations Committee).

4. Jail surcharge fund. The jail surcharge fund (4 MRSA § 1057) was established to assist in the cost of incarceration of prisoners by adding surcharge of 10% to all fines, forfeitures, and penalties imposed by any court in the state. The counties are allocated 2% of the total fines, forfeitures, and penalties collected by the Treasurer of the State. Statewide this provided an income of \$327,000 in 1988.

The current statutory language establishing the jail surcharge fund indicates that the fund shall be maintained for the sole purpose of reimbursing counties for costs associated with operations of the jail system. (4 MRSA § 1057, subsection 1) But subsection 3 put a limit on that allocation of 2% of the fines, so in practice, only 22% of the Jail Operations Surcharge Fund is distributed to the counties. (Based on the 2% allocation, 2% of base + 2% of surcharge = 22% of surcharge). The remaining balance accrues to the General Fund. (4 MRSA § 1057, sub-§3).

FINDING: The subcommittee finds that subsection 1 and subsection 3 of 4 MRSA §1057 are contradictory and should be corrected to conform to current practice.

RECOMMENDATION: The subcommittee recommends that the contradictory language in 4 MRSA §1057, which indicates that the sole purpose of the Jail Operations Surcharge Fund is to reimburse the counties for the costs of operating the jail system, be corrected to read: "This fund shall be maintained by the Treasurer of the State for the sole purpose of reimbursing counties for costs associated with operations of the jail system with the remainder of the money accruing to the General Fund."

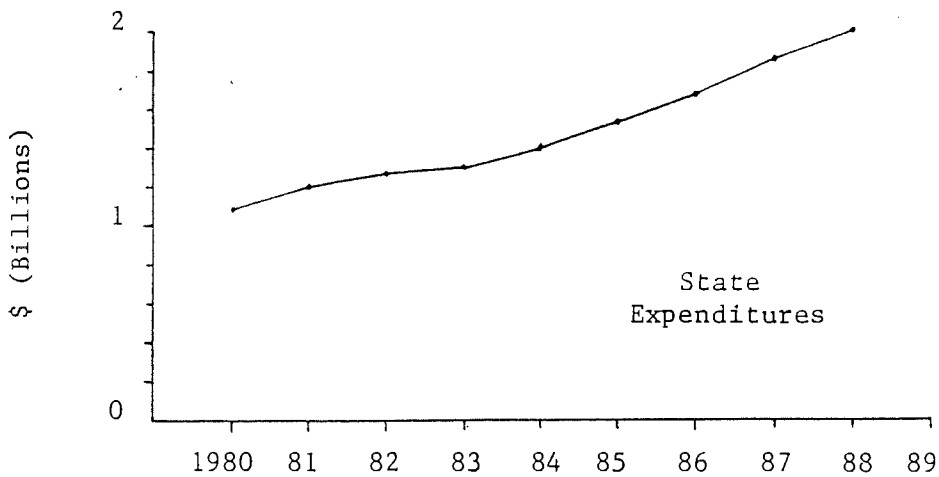
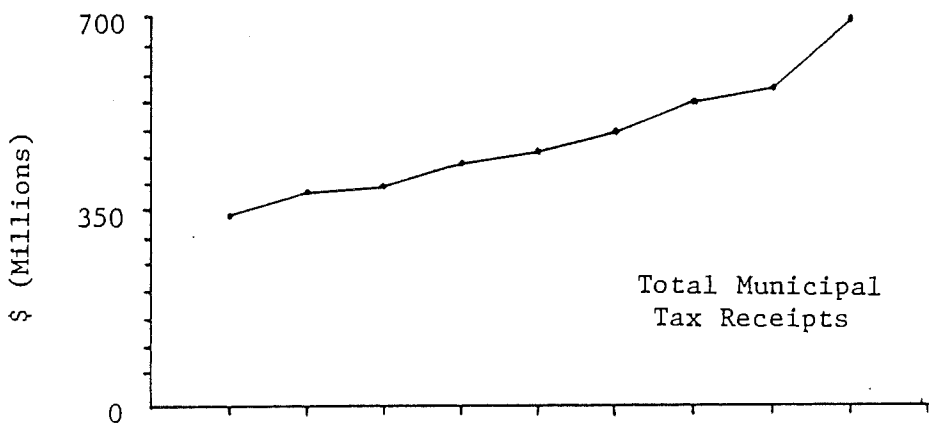
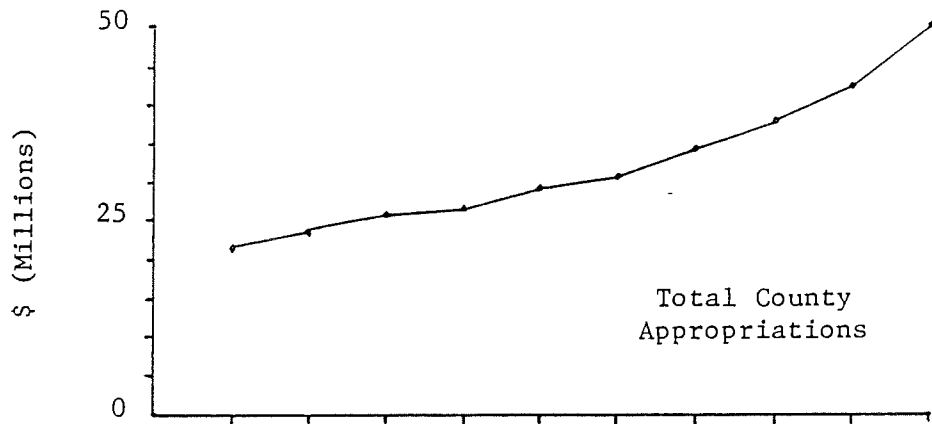
ADDITIONAL RECOMMENDATION. Some members of the subcommittee recommend that the full amount of the jail surcharge be distributed to the counties. A provision to do this is included in the bill to help fund county government.

#### COUNTY BUDGETS: TRENDS

Trends in total appropriations for all counties from 1980-1989 are shown in Figure 7A. The general trend for taxation and revenues (not plotted) is similar. County appropriations increased by 128% from \$22 million in 1980 to \$51 million in 1989, while the portion raised by taxation increased by 155% from \$14.5 million to \$37 million. The remainder, raised by reimbursements, fees and the like, increased only 77%. The Appendix includes line graphs representing ten-year fiscal trends (1980-1989) for each of the 16 counties.

For comparison, Figure 7B shows that from 1980 to 1988 actual operating expenditures for the state increased by 85% from \$1.13 billion to \$2.08 billion, and Figure 7C shows that property tax revenues for Maine municipalities increased 102% from \$348 million to \$704 million. It can also be noted that in 1988 the counties raised \$29.9 million from taxation, which is 4% of the amount raised by municipalities from property taxes statewide.

FIGURE 7  
FINANCIAL TRENDS 1980-1989  
COUNTIES, MUNICIPALITIES, & THE STATE



### III. ADMINISTRATIVE FUNCTIONS OF COUNTY GOVERNMENT

#### ADMINISTRATION: COUNTY COMMISSIONERS

Generally, each county has 3 commissioners elected from separate districts for 4-year, staggered terms. The exception is York County, which is scheduled to have 5 commissioners in 1995. The commissioners elect the chair annually. The commissioners settle accounts of the county, manage its property and business, convey real estate, lay out county ways, keep books and accounts and represent the county. (30-A MRSA §§51-66 and 101, 102) The statewide budget for all counties for administrative costs is \$1.7 million.

FINDING: With the adoption of budget committees, each county will be receiving formal input from many constituencies. Additional commissioners would be an unnecessary expense.

RECOMMENDATION: Require all counties to have 3 commissioners.

The county commissioners have final authority over the operation of all county offices by elected or appointed county officers (except matters which they delegate to a county personnel board under 30-A MRSA §102, added in 1981;

A county personnel board may be appointed by the commissioners and approves appointments of county employees, investigates dismissals, establishes personnel rules and the like. (30-A MRSA §§521-524). The study did not determine how many counties have a personnel board.

OBSERVATION: If the recommendations under chapter III are enacted, all counties will operate administratively under the direction of a full time county administrator. The county commissioners will act as the policy-making body, setting policy for the county. The administrators will implement that policy and administer the day to day operations of the county. The study subcommittee feels that all county commissioners should be paid at a per diem rate under the proposed system. Currently under 30-A MRSA §82 sub-§4, county commissioners in a county which has a county administrator are only allowed to receive per diem, with the exception of York County which has an exception.

#### ADMINISTRATION: COUNTY ADMINISTRATOR AND CLERK

The county commissioners usually appoint a county clerk to keep a record of the actions of the commissioners. If they appoint a county administrator they may not also have a clerk. (30-A MRSA §81)

Under statutory authority enacted in 1975, the county commissioners may appoint a full-time county administrator as the chief administrative official of the county, but so far, only two counties, York and Aroostook, have done so (30-A MRSA §82). The county administrator is responsible for administration of all departments and offices controlled by the county commissioners, acts as clerk and as purchasing agent, keeps the commissioners and the legislative delegation informed of the financial condition of the county, and collects all data necessary to prepare a budget.

COUNTY ADMINISTRATOR - CLERK (continued)

FINDING: A county administrator has the responsibility for the implementation of the policy established by the county commissioners. In counties with a county administrator there is no clerk: the functions of the county clerk's office are incorporated into the office of county administrator. In other counties the county clerk often performs the functions of a county administrator.

RECOMMENDATION: The subcommittee recommends that all counties be required to have a full-time administrator. Under current this would result in the position of county clerk being incorporated into that of county administrator.

ADMINISTRATION: COUNTY TREASURER

Each county has a treasurer, who is generally elected for a 4-year term. Election of the treasurer is not required by the constitution. Legislation was enacted in 1981 authorizing appointment of the treasurer, but so far no counties have chosen that option (30-A MRSA §156). The treasurer is responsible for: investing the money of the county; receiving costs collected in favor of the State in civil actions in court; payment of county bills as authorized by the county commissioners; enforcing the payment of taxes by the municipalities to the county; and keeping the county books. The treasurer may appoint a deputy (30-A MRSA §§151-182). The statewide budget for all county treasurers is \$500,000.

FINDING: There is a close relationship between the Treasurer's fiscal record-keeping role and the budgetary role of the commissioners. The only qualifications required of elected treasurers are that they be residents of the county. An appointed treasurer must be qualified in matters of business administration and finance.

RECOMMENDATION: The subcommittee recommends that the county administrator be authorized to serve as the county treasurer. Only if the administrator does not have the necessary qualifications to act as county treasurer or if combining the positions of county administrator and county treasurer would create an excessive work load for one person, would the county have a separate treasurer. If a county does have a treasurer, the subcommittee recommends that the treasurer be appointed. That would help professionalize that position and provide proper internal controls over the accounting system of the county.

## REGISTER OF DEEDS

Registers of deeds are elected in each county for 4-year terms under the statute, although the constitution does not require their election. Except in the Western District of Oxford County, they are full-time. Their duties include keeping and maintaining the records of deeds, mortgages and liens. The fees, established in 33 MRSA §751, have been amended six times in the last 10 years. In addition, when the State imposed a real estate transfer tax under 36 MRSA §§4641 et seq, it allowed the counties to retain 10% as reimbursement for services in collecting that tax. The remainder is remitted to the State, to be split equally between the General Fund and the Housing Opportunities for Maine Fund. Until PL 1983, c. 859 was enacted, 15% was retained by the county (33 MRSA §601). The statewide budget for the register of deeds is \$2.8 million.

**OBSERVATION:** The current geographical regions served by each register of deeds office have been established and maintained without change since the first register of deeds was elected. The subcommittee did not find any reason to change their boundaries.

**FINDING:** The register of deeds performs an administrative function, not a policy-making function. Appointment of the registers of deeds would make them more accountable to the county commissioners.

**RECOMMENDATION:** The subcommittee recommends that the registers of deeds be appointed by the County Commissioners.

## PROGRAM GRANTS

This category includes grants to a wide variety of programs; soil conservation service, extension, and social service agencies. This item averages about 5% of the total budget, but there are great variations among the counties in the types of programs covered and in the amount appropriated (from 2% of the county budget in Androscoggin and Knox to 9% in Lincoln).

The statewide budget for all counties for program grants is \$2.3 million. That money is broken down into several categories as illustrated below. The counties which authorize expenditures in each category are also indicated.

**FIGURE 8  
COUNTY PROGRAM GRANTS 1988**

CATEGORY	AMOUNT	COUNTIES
1055 Youth Aid	\$ 24,000	Lincoln only
1076 Task Force	115,000	HAN, PEN, & PIS
2005 Extension	753,000	All
2015 Solid Waste	61,000	Lincoln only
2035 Soil Conserv.	100,000	All exc. AR, OX, & CUM
2045 Program Grants	<u>1,272,000</u>	all exc AN, OX, & WAL
TOTAL	\$2,325,000	

## PROGRAM GRANTS (continued)

FINDING: Agencies which receive program grants are not always required to submit detailed financial information to the counties.

RECOMMENDATION: The subcommittee recommends that the counties retain their discretion for choosing which activities to support and the level of that support within their own budget process. The subcommittee further recommends that each organization which receives support be required to submit a current financial statement each year in which they receive funding from the county.

## COUNTY BUDGETS

At present, in most counties, the county commissioners prepare a proposed budget, hold a public hearing, meet with the Legislative delegation, and present the budget to the Legislature for its modification and approval in January of each year. After the budget is finally approved, the county makes an assessment on the municipalities within it, sufficient to support that budget. The municipalities add this as a surcharge to the property tax. The county has no direct taxation power. (30-A MRSA §701 et.seq.)

Title 30-A has been amended from time to time to establish different budget procedures for particular counties, for example by setting up a budget committee and granting it budget autonomy. At present Cumberland and Waldo counties have budget autonomy. In Cumberland, the commissioners have final authority, but in Waldo, that rests with the budget committee. Kennebec and Aroostook are in the process of setting up their budget committees, and Androscoggin and Piscataquis have advisory budget committees. The details are shown in Figure 9. The budget committees typically are composed of 9 municipal officers, thus giving some connection between county expenditures and the municipal taxes that pay for them.

FINDINGS: Since 1985, 9 of the 16 counties have initiated legislation modifying their budget processes to gain more direct responsibility for their own budgets. In addition, the Legislature is not well equipped to continue reviewing the budgets for every county.

RECOMMENDATION: The subcommittee recommends that all counties establish an autonomous budget process by January 1, 1992. That process should provide for a budget committee composed of 3 members from each commissioner district, including 2 municipal officials elected by the municipal officers and 1 person appointed by the commissioner from that district. The County Commissioners would present the budget to the budget committee, which would hold a public hearing. The budget would become final after approval by a majority of the budget committee. The approved budget must be filed with the State Auditor.



FIGURE 9  
COUNTY BUDGET PROCEDURES

County	Procedure
Cumberland	Autonomous 1985. County commissioners have final authority. Budget advisory committee composed of 9 municipal officers elected by the municipal officers by districts. State Legislature not involved, but final budget must be filed with State Auditor. (30-A MRSA §741 et seq.)
Waldo	Autonomous 1985. Budget committee has final authority. Budget committee composed of municipal officers elected by the municipal officers by districts. Budget committee holds public hearing on budget proposed by county commissioners. State Legislature not involved, but final must be filed with the State Auditor. (30-A MRSA §851 et seq.)
Aroostook	Autonomous 1992. Finance committee with final authority over budget has 9 members elected by the voters by districts. Commissioners by unanimous vote may modify finance committee's budget, but finance committee by 2/3 vote may override commissioners. State Legislature not involved but final budget must be filed with the State Auditor. Effective with 1992 budget but only if the voters approve in a referendum. (PL 1989, c. 475)
Kennebec	Autonomous 1990. Budget committee has final authority over the budget. Members appointed by county commissioners and confirmed by State Legislature. State Legislature not involved, but final budget must be filed with the State Auditor. (PL 1989, c. 473)
The 12 other counties	<p>Not autonomous. Legislature takes final action on budget proposed by county. Final budget enacted as Private &amp; Special Law and filed with State Auditor.</p> <p>Androscoggin and Piscataquis have advisory budget committees. Knox and York are considering them. Lincoln is considering autonomy.</p>

#### IV. COUNTY GOVERNANCE OF UNORGANIZED TERRITORY

##### GOVERNANCE OF UNORGANIZED TERRITORY

An unorganized territory is a political subdivision of the state that has not organized any form of self-government or has abolished its previously organized form of self-government. Frequently these are referred to by the surveyor's designations, Townships and Ranges, such as T2, R3. The unorganized territory, as a whole, consists of over 400 townships, islands, gores, etc. covering about 1/2 the state in area. They do not include the organized municipalities such as cities, towns or plantations. The unorganized territories include approximately 18,000 tax accounts, although the number of permanent residents is only about 7,000.

The county government functions as the only elected local government for the unorganized territories. This contrasts with the organized municipalities, where the city or town government is the primary local government, and counties have only a secondary role. Within a given county all the unorganized townships are grouped together for governmental purposes and treated like one super-town. This coincides with the normal practice in other states, where the counties serve as the local government outside incorporated cities. The county commissioners are responsible for providing services in the unorganized territories including: fire protection of structures; dumps, roads and bridges; polling places; administrative services; law enforcement; and other municipal services not provided by the state. (30-A MRSA §§7501-7503 and 5 MRSA §246)

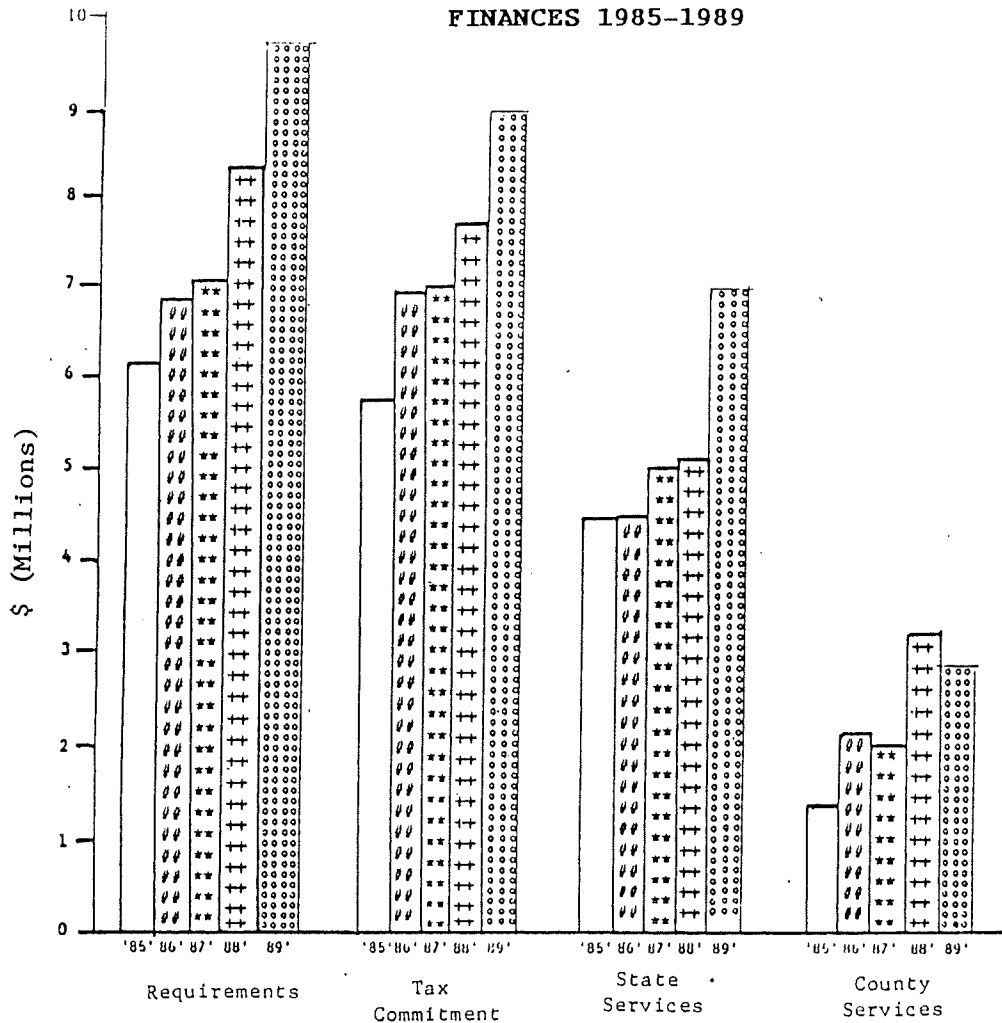
The state administers services in the unorganized territories for: Education (Department of Educational and Cultural Services); Welfare (Department of Human Services); Forest fire protection (Department of Conservation, Fire Control Division); Building code enforcement (Land Use Regulation Commission); and Property taxes (Department of Finance, Bureau of Taxation).

The unorganized territory function of county government is kept distinctly separate from the other county functions, and there is no mingling of the county budget and the budget of the unorganized territories, even though the county commissioners have responsibility for both. The State Department of Audit serves as Fiscal Administrator for the unorganized territories. Every year the county commissioners prepare separate budget legislation, known as the municipal cost component bill, for the unorganized territory. When enacted, the municipal cost component forms the basis for the State Tax Assessor to assess the unorganized territory for services provided. Figure 10 shows financial information for the unorganized territories.

**FINDING:** There has been no study or review of the governance of the unorganized territory by the state and the counties.

**RECOMMENDATION:** The subcommittee recommends a one-time review, conducted by the Joint Standing Committee on State and Local Government with the support of the Office of Fiscal and Program Review, of the government of the unorganized territories to determine its efficiency, effectiveness, and uniformity in the various counties. This should be similar to the sunset review performed for state agencies by the Joint Standing Committee on Audit and Program Review. Questions of annexation and deorganization will not be part of the review.

**FIGURE 10**  
**UNORGANIZED TERRITORIES**  
**FINANCES 1985-1989**



- Requirements -** Refers to the revenue needed to provide State and County services and also includes the overlay raised.
- Tax Commitment -** Refers to the total taxes raised. Difference between requirements and tax commitment reflects other revenue used to decrease taxes: 1985, \$278,587; 1986, none; 1987, \$100,000; 1988, \$570,889; 1989, \$708,000.
- State Services -** Refers total State services provided in Unorganized Territory. 1989 - State services includes new educational mandates and Rockwood School.
- County Services -** Refers to total County services for the Unorganized Territory. The 1985 year reflects a lower figure due to statute mandating the Counties to utilize their surplus. The 1988 year reflects a larger figure due to an eighteen month budget mandated by statute.

Source: Department of Audit

## V. JUDICIAL FUNCTIONS OF COUNTY GOVERNMENT

### DISTRICT ATTORNEYS

Each District Attorney, in coordination with the Attorney General, represents the State in traffic infractions, civil actions and criminal proceedings within a prosecutorial district. The state is divided into 8 prosecutorial districts. Three are single-county districts. The other five contain 2, 3, or 4 counties each. District attorneys are also directed to provide representation in civil cases to the counties within their districts. District attorneys are elected for 4-year terms (30-A MRSA §§251-289).

All district attorneys and assistant district attorneys are full-time officers of the state and receive their salaries from the state. The counties are responsible for funding staff and any office expenses, and for providing office space or funds to rent it. The statewide county budget for the district attorneys is \$1.9 million

FINDING: The district attorneys, although statutorily authorized to represent the county government, are unable to dedicate much time to that function. Criminal prosecution in coordination with the Attorney General's office is 90% of the work of the district attorney. Only 10% of the time of the district attorneys' offices is spent representing counties. Conflict of interest situations can and do arise when the district attorneys' responsibility to enforce the criminal law conflicts with their duty to represent the county. Most of the legal work performed for counties is currently being performed on a contract basis by private law firms.

RECOMMENDATION: The subcommittee finds that the current work load of the district attorneys and the conflict of interest situations make it impracticable for the district attorneys to continue to act as counsel for county government. Therefore, the subcommittee recommends that the district attorneys be relieved of their duty to represent the counties and that the counties obtain all their legal services independently.

FINDING: The clerical staff of the district attorneys are still county employees, while the professional staff are state employees. This creates an awkward situation administratively. In addition, the function of the district attorneys and their staff is a statewide function: enforcement of the state criminal code.

RECOMMENDATION: The subcommittee recommends that the entire cost of the offices of the district attorneys be recognized as a state responsibility and that the state completely fund those offices and the staff. The state would pay the cost of supplies and office space, leasing that space from the counties if necessary.

ADDITIONAL RECOMMENDATION: Some members of the subcommittee recommend that the staff of the district attorneys become employees of the State. Their benefits would be protected in the transfer. Separate legislation is attached which would accomplish this, "AN ACT to Transfer All Functions and Personnel of the District Attorney from the Counties to the State".

## PROBATE COURT

Judge of Probate. A Judge of Probate is elected in each county for a 4-year term under the Constitution. The constitution was amended in 1967 to remove this requirement, effective when the Legislature establishes by statute a new probate court system with full-time judges, but that has not happened yet (1967 Resolves c.77). The probate court has jurisdiction over: estates of decedents and protected persons; protection of minors; and trusts. (Const. Art. VI §6 & 4 MRSA §301 & 18-A MRSA §1-302)

Register of Probate Registers of Probate are elected in each county for 4-year terms. The statute provides for them to be appointed when the Legislature establishes a new probate court system, as discussed above (18-A MRSA §1-501). The register has the care and custody of all files and records of the probate office. The fees for various probate filings are established in 18-A MRSA §1-602 (last amended by PL 1987, c. 392). The statewide budget for the probate court is about \$1.3 million

OBSERVATIONS: All judges in Maine except probate judges are now appointed. The voters amended the Maine Constitution in 1967 to remove the requirement for election of judges and registers of probate when the Legislature enacts legislation establishing a Probate Court System with full-time judges, but the Legislature has not yet acted to implement this change.

The part-time status of judges potentially creates a conflict of interest when other lawyers must oppose the part-time judges in a non-probate case in their capacity as a private attorney and later bring a case before the same person in that person's capacity as a probate judge. No actual cases are known where this caused a problem.

FINDING: Probate court has been studied extensively in the last 25 years. Several studies have recommended major changes in the probate court system, but no change has occurred to date. This subject is largely within the jurisdiction of the Judiciary Committee.

RECOMMENDATION: The subcommittee recommends that the Joint Standing Committee on the Judiciary, in consultation with the Judicial Department, reexamine the status of the Probate Court including: the place of the Probate Court in the court structure which exists today; the feasibility of making the Probate Court part of the Judicial Department; having full time judges of probate, and having the judges and clerks appointed.

## SUPERIOR AND DISTRICT COURTROOMS

In 1976, the state assumed responsibility for providing suitable quarters for the Supreme Judicial and Superior Courts throughout the state. Earlier, the counties were responsible for providing and maintaining those quarters. Instead of relieving the counties entirely of the cost of providing court space, the 1976 law required the counties to pay a fee to the General Fund to compensate the state for the expense of court clerks, etc. which had previously been paid by the counties(4 MRSA §115). That law was repealed recently and the fee is no longer required.

However, the counties are still required to provide, without charge, court quarters, facilities, furnishings and equipment (including maintenance) in existing county buildings which were in use on January 1, 1976. The counties would prefer not to continue to bear this expense and the court system would prefer to provide and maintain its own buildings. Maintenance and upkeep of the facilities varies from county to county. Cumberland County maintains excellent court facilities. Other counties feel it is the state's responsibility and do not provide the same level of maintenance. In at least one instance, jail inmates are used for custodial work. Although that presents a potential security problem for the courts, the alternatives are either to accept the existing mode of service or receive none at all.

Almost all the costs of Superior and District Court are funded by the State, but the counties spend \$1.2 million per year statewide for courtrooms.

**FINDING:** Since the courtrooms are no longer maintained for county courts and since all courts, other than probate courts, are administratively unified under the Judicial Department of the state, there does not appear to be any functional connection between the counties and the courts.

**RECOMMENDATION:** The Judicial Department of the state should assume the full cost of courtroom space in this state.

## VI. PUBLIC SAFETY FUNCTIONS OF COUNTY GOVERNMENT

### LAW ENFORCEMENT (SHERIFF)

The county sheriff is elected for a 4-year term under the constitution, although vacancies are filled through appointment by the Governor. The sheriff is the chief county law enforcement officer and is responsible for administering the sheriff's department as authorized by the county budget. The sheriff must keep the county commissioners informed of his activities, and they must review the sheriff's operations, but the commissioners may not give orders to any subordinates of the sheriff. (Const. Art. IX §10 & MRSA 30-A §§351-460 and 30-A §§1501 et seq) The statewide budget for law enforcement by the sheriffs is \$7 million.

The subcommittee heard testimony that the sheriff patrols were essential in the more remote areas of the state and in the communities which could not afford a full-time police force, but that those areas would not be able to pay the full cost of the sheriff's patrols. On the other hand, the subcommittee heard testimony that municipalities which have adequate police protection of their own are paying for a service which they do not receive. For example, in Androscoggin County there are 14 communities, 9 of which have their own police force, yet those 9 pay 87% of the cost of the sheriff.

OBSERVATIONS: This proved to be one of the most difficult issues the subcommittee considered, but the subcommittee makes the following observations:

1. There is a clearly established public policy that all areas of the state need some kind of law enforcement.
2. Law enforcement is a shared function and a shared responsibility of state, county and municipal government.
3. There are areas of the state that need law enforcement that are not covered by municipal or state police.
4. There are areas of the state that pay for sheriff services but rarely use those services, except for the communications network, because they have their own law enforcement organization.

RECOMMENDATIONS: The subcommittee recommends that the Joint Standing Committee on State & Local Government and other members of the Legislature continue to explore earnestly the following questions until a reasonable solution is found:

1. What is the most appropriate way to deliver law enforcement services to areas which are too remote or do not have a sufficient tax base to support full time local law enforcement?

2. What is the most appropriate method of paying for these services? That is, what is the "fair share" of the cost for municipalities, counties, and the state? How can the municipalities who have their own law enforcement and receive little or no service from the sheriff's office reduce their payments to reflect only the communication and backup services they do receive and avoid unfairly burdening their municipal taxpayers?

FINDING: There are no statutory qualifications for the office of sheriff; but, deputies do have qualifications specified in 30-A MRSA § 381 and 25 MRSA § 2805.

RECOMMENDATIONS: Require sheriffs to meet the same qualifications as deputies.

#### JAILS (SHERIFF)

In addition to rural law enforcement, the sheriff also has the custody and charge of the county jail and its prisoners. The jail budget is the largest single factor in county budgets: over 1/4 the budget. The budget, statewide, for operation of the jails is \$11 million.

The subcommittee heard testimony from the Maine Municipal Association that the jails system is of statewide concern and that the counties have very little, if any, control over jail policy since it is the state that sets the standards for the jails. In addition, the Attorney General testified that the jails are a state function. On the other hand, Sheriff Hackett of Kennebec County testified that jails provide a good place to initiate alternative sentencing pilot projects. He indicated that county jails were now at 86% compliance with state standards.

During the First Regular Session of the 114th Legislature, legislation was introduced to transfer the jails to the state. This bill, LD 1189, An Act to Transfer Jurisdiction over County Jails from County Government to the Department of Corrections sought to transfer the operation and the cost of the county jails to the state. It has been carried over unassigned to the 2nd Regular Session.

FINDING: Jails are a state function. The cost and administration of the jails should be a state responsibility.

RECOMMENDATION: The subcommittee recommends that the state reimburse the counties for the cost of operating the county jails.

ADDITIONAL RECOMMENDATION: Some members of the subcommittee recommend passage of LD 1189, completely transferring jurisdiction over county jails from county government to the State Department of Corrections.



## EMERGENCY PLANNING

The director of the county civil emergency preparedness agency is appointed by the county commissioners. The agency is responsible for preparing and maintaining a county disaster emergency plan and for coordinating mutual aid with the state or with other local agencies. (37-B MRSA §781 et.seq.) The statewide budget for all counties for emergency planning is \$600,000.

**FINDING:** Planning for disasters or emergencies which require emergency preparedness may not necessarily fall logically within county boundaries.

**RECOMMENDATION:** The subcommittee recommends that the Maine Emergency Management Agency review the organizational structure of the state's emergency management program to determine whether the counties are the best regional agencies for this purpose or whether other districts (for example watersheds) would be preferable for the regional level of emergency planning and management. The agency should report back to the Joint Standing Committee on State and Local Government on or before January 1, 1991.

## **VI. RECOMMENDATIONS**

In summary, the subcommittee reached consensus on making the following recommendations.

### LEGISLATIVE RECOMMENDATIONS

1. Corrections fund. Expand the permissible uses of the reimbursement the counties receive from the state for housing prisoners to include operating costs of the county jails.
2. Jail surcharge fund. Correct the contradictory language in the jail surcharge fund statute to conform to current practice. (Also see Additional Recommendation # 1)
3. County commissioners. Require all counties to have 3 county commissioners.
4. County administrator. Require all counties to have a county administrator. Under existing law, the county administrator would also carry out the statutory duties of the clerk.
5. County treasurer. Authorize the county administrator to serve as county treasurer also; but if the county desires a separate treasurer, that must be an appointed position.
6. Register of deeds-appointment. Require appointment of register of deeds.

7. Register of deeds-revenues. Allow register of deeds to retain an amount of revenue generated by that office sufficient to support the expenditures of that office, including overhead. (Also see Additional Recommendation # 2)
8. Program grants. Require organizations receiving program grants from the county to submit an annual financial report to the county.
9. County budgets. Require all counties to establish an autonomous county budget process by January 1, 1992. That process would require submission of a county budget, prepared by the commissioners, for final approval by a majority of the county budget committee. The county budget committee will consist of 9 members, 3 from each commissioner district. In each district, 2 of the members will be municipal officers elected by the municipal officers and the third will be a member of the general public appointed by the commissioner from that district.
10. Unorganized territory. Require a one-time review of the governance of the unorganized territory to determine its efficiency, effectiveness, and uniformity, to be conducted by the Joint Standing Committee on State and Local Government, with support from the Office of Fiscal and Program Review.
11. District attorney. Transfer the operating costs of the district attorneys' offices to the state. (Also see Additional Recommendation # 3.)
12. Legal representative of counties. Conform the statutes with the current practice in which the counties generally contract for legal representation with independent counsel by amending the statutes to remove District Attorneys from this role.
13. Superior and District Court Courtrooms. Require the Judicial Department to assume the full cost of the Superior and District Court courtrooms.
14. Sheriffs' qualifications for office. Require the sheriffs to meet the same qualifications for office as deputies.
15. County jails-state reimbursement. As a minimum measure, provide for state reimbursement for all county jail costs, keeping jail employees on the county payroll. (Also see Additional Recommendation # 4.)
16. Emergency Planning. Require a review of the regional structure of the emergency management program by Maine Emergency Management Agency by 1991.

#### ADMINISTRATIVE RECOMMENDATIONS

1. County budget reports. Require all counties to use improved standardized budget reporting procedures and forms, as prescribed by the State Auditor.
2. Probate Court. Request that the Judiciary Committee, in consultation with the Judicial Department, conduct a study of the probate court system to consider: making the judges full-time to eliminate conflict of interest situations; appointment of judges and registers; and the subject matter of its jurisdiction.
3. County Law Enforcement (Sheriff). Continue exploration by the Joint Standing Committee on State & Local Government and other members of the Legislature of the appropriate method of delivering law enforcement to rural areas that are unable to afford full time law enforcement and of paying for those services without unfairly burdening the municipalities which receive little or no service from the sheriff's office.

#### ADDITIONAL RECOMMENDATIONS

The subcommittee did not reach consensus on the following additional recommendations, but they did receive some support.

1. Additional revenues to the counties. Increase the amount of money distributed to the counties from the Jail Surcharge Fund to the full amount of the surcharge, as in the attached bill "AN ACT to Help Fund County Government". (Supported by Representatives McCormick and Wentworth)
2. Additional revenues to the counties. Increase from 10% to 55% the portion of the money retained by the Register of Deeds from the real estate transfer tax to help defray the cost of county government, as in the attached bill "AN ACT to Help Fund County Government". (Supported by Representatives McCormick, Heesch, and Wentworth.) Other members of the subcommittee supported the concept but did not agree on the amount.
3. District Attorney staff. Transfer the district attorneys' staff to the state, as in the attached bill "AN ACT to Transfer All Functions and Personnel of the District Attorneys from the Counties to the State". (Supported by Representative Joseph and Heesch.)
4. County jails. Transfer jurisdiction of the county jails from county government to the state Department of Corrections. Support LD 1189, a carry-over bill which would accomplish this. (Supported by Representatives Joseph and Heesch.)

## COUNTY GOVERNMENT STUDY

### APPENDICES

#### A. PROPOSED LEGISLATION

1. AN ACT to Reform County Government (consensus bill)
2. AN ACT to Help Fund County Government (minority report)
3. AN ACT to Transfer All Functions and Personnel of the District Attorneys from the Counties to the State (minority report)

#### B. STUDY AUTHORIZATION

1. Letter from Legislative Council authorizing the study
2. Committee amendment to LD 817 (not enacted), which describes the issues of concern in this study

#### C. FINANCIAL DATA

1. Financial trends for each county
2. Appropriations, Available Credits, and Tax Commitment for Counties, Fiscal Year 1988
3. Revenue Sources for Counties from Certain State Distributed Funds 1988
4. Maine County Appropriations 1988

#### D. PREVIOUS STUDIES (list)

#### E. SELECTED TESTIMONY

1. Letter from the Maine County Commissioners Association
2. Testimony from the Maine Municipal Association



SECOND REGULAR SESSION

ONE HUNDRED AND FOURTEENTH LEGISLATURE

Legislative Document

No.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

AN ACT to Reform County Government.

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

PART A

**Sec. 1.** 4 MRSA §1057, sub-§ 1, as enacted by PL 1987, c. 339, §3, is amended to read:

1. **Fund established.** There is hereby established a fund to be known as the Jail Operations Surcharge Fund. This fund shall be maintained by the Treasurer of State for the sole purpose of reimbursing counties for costs associated with operations of the jail system with the remainder of the money accruing to the General Fund.

**Sec. 2.** 30-A MRSA §1 is amended to read:

**§1. Definitions**

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings.

~~1.--County-legislative-delegation.--"County-legislative delegation"--means-all-state-legislators-whose-legislative districts, in whole or in part, lie within the boundaries of a county.--~~

2. County officers. "County officers" means the commissioners, ~~treasurer~~, sheriff, ~~register-of-deeds~~ judge of probate and register of probate of a county.

3. ~~Voter~~. ~~"Voter"~~ means a person registered to vote.

Sec. 3. 30-A MRSA §2, sub-§1 is amended to read:

## §2. Salaries

1. County officers' salaries. Notwithstanding other sections of this chapter, counties that are not required to obtain legislative approval of their budgets under section 702, are not required to obtain legislative approval of the salaries of county officers under this section. The ~~county commissioners, treasurers~~, sheriffs, judges of probate, and registers of probate and ~~registers-of-deeds~~ in those counties whose budgets require legislative approval under section 702, shall receive annual salaries from the county treasury in weekly, biweekly or monthly payments, as follows:

A. Androscoggin County:		1989		
(1) <del>Commissioners</del>				
(a) <del>Chair</del>		\$6,043		
(b) <del>Members</del>		5,173		
(2) <del>Treasurer</del>		19,426		
(3) Sheriff		25,848		
(4) Judge of Probate		11,732		
(5) Register of Probate		13,067		
(6) <del>Register-of-Deeds</del>		22,649		
B. Aroostook County:		1989	1990	1991
(1) <del>Commissioners</del>				
(a) <del>Chair</del>		\$2,000	\$2,000	\$2,160
(b) <del>Members</del>		2,000	2,000	2,160
(2) <del>Treasurer</del>		8,000	8,000	8,640
(3) Sheriff		20,800	20,800	22,465
(4) Judge of Probate		10,210	10,210	11,550
(5) Register of Probate		16,560	16,560	17,885
(6) <del>Register-of-Deeds</del>				
(a) <del>Northern-District</del>		16,280	16,280	17,585
(b) <del>Southern-District</del>		16,280	16,280	17,585
C. Franklin County:		1989		
(1) <del>Commissioners</del>				
(a) <del>Chair</del>		\$4,899		
(b) <del>Members</del>		4,646		
(2) <del>Treasurer</del>		5,200		
(3) Sheriff		26,000		
(4) Judge of Probate		11,687		
(5) Register of Probate		16,695		
(6) <del>Register-of-Deeds</del>		17,808		

D. Hancock County:			1989
(1)--Commissioners			
(a)--Chair			\$-7,214
(b)--Members			6,732
(2)--Treasurer			16,277
(3) Sheriff			29,500
(4) Judge of Probate			14,633
(5) Register of Probate			15,167
(6)--Register-of-Deeds			16,277
E. Kennebec County:			1989
(1)--Commissioners			
(a)--Chair			\$6,652
(b)--Members			6,244
(2)--Treasurer			8,824
(3) Sheriff			27,560
(4) Judge of Probate			15,201
(5) Register of Probate			19,491
(6)--Register-of-Deeds			19,491
F. Knox County:	1989	1990	1991
(1)--Commissioners			
(a)--District-1	\$4,000	\$4,000	\$4,000
(b)--District-2	4,000	4,000	4,000
(c)--District-3	4,000	4,000	4,000
(d)--Chair-differential	300	300	300
(2)--Treasurer	18,954		
(3) Sheriff	29,250		
(4) Judge of Probate	12,000	12,000	12,000
(5) Register of Probate	16,965		
(6) Register of Deeds	18,954		
G. Lincoln County:			1989
(1)--Commissioners			
(a)--Chair			\$5,819
(b)--Members			5,003
(2) Treasurer			5,444
(3) Sheriff			27,500
(4) Judge of Probate			12,503
(5) Register of Probate			15,750
(6)--Register-of-Deeds			19,128
H. Oxford County:			1989
(1)--Commissioners			
(a)--Chair			\$5,572
(b)--Members			5,077
(2)--Treasurer			6,711
(3) Sheriff			28,000
(4) Judge of Probate			13,988
(5) Register of Probate			16,089
(6)--Register-of-Deeds-			
(a)--Eastern-District			16,521
(b)--Western-District			13,179



I. Penobscot County:	1989
{1}--Commissioners	
{a}--Chair	\$8,008
{b}--Members	7,644
{2}--Treasurer	3,172
(3) Sheriff	31,512
(4) Judge of Probate	20,800
(5) Register of Probate	21,320
{6}--Register-of-Deeds	19,500
J. Piscataquis County:	1989
{1}--Commissioners	
{a}--Chair	\$5,800
{b}--Members	5,000
{2}--Treasurer	5,850
(3) Sheriff	21,600
(4) Judge of Probate	12,568
(5) Register of Probate	14,788
{6}--Register-of-Deeds	15,256
K. Sagadahoc County:	1989
{1}--Commissioners	
{a}--Chair	\$4,478
{b}--Members	3,918
{2}--Treasurer	7,627
(3) Sheriff	28,000
(4) Judge of Probate	14,052
(5) Register of Probate	15,352
{6}--Register-of-Deeds	16,382
L. Somerset County:	1989
{1}--Commissioners	
{a}--Chair	\$4,737
{b}--Members	4,058
{2}--Treasurer	9,758
(3) Sheriff	28,004
(4) Judge of Probate	15,773
(5) Register of Probate	16,635
{6}--Register-of-Deeds	17,089
M. Washington County:	1989
{1}--Commissioners	
{a}--Chairman	\$4,872
{b}--Members	4,061
{2}--Treasurer	9,000
{3}--Deputy-Treasurer	6,000
(4) Sheriff	27,000
(5) Judge of Probate	14,526
(6) Register of Probate	16,000
{7}--Register-of-Deeds	16,000

N. York County:

1989

(1)--Commissioners	
(a)--Chair	\$4,500
(b)--Members	4,500
(2)--Treasurer	5,200
(3) Sheriff	28,000
(4) Judge of Probate	12,500
(5) Register of Probate	20,000
(6)--Register-of-Deeds	20,000

Sec. 4. 30-A MRSA §51 sub-§§ 1 & 2 are repealed and replaced by:

1. Compensation. The county commissioners shall receive \$75 each for each meeting attended, and reimbursement for travel at the same rate established for state employees.

2. Full compensation. The payments authorized in subsection 1 are in full compensation for all services of the commissioners, including the management of the jails and for any expenses or their travel to any from the county seat except as provided in section 105.

Sec. 5. 30-A MRSA §61-A is repealed

Sec. 6. 30-A MRSA §81 is repealed .

Sec. 7. 30-A MRSA §82 is repealed and replaced by:

**§82. County administrator**

The county commissioners of each county shall appropriate funds for the hiring of a county administrator.

1. Appointment; qualifications. The county commissioners shall choose the county administrator solely on the basis of executive and administrative qualifications with special reference to the actual experience in, or knowledge of, the duties of the office as set forth in the policies established by the board of county commissioners and by law.

A. At the time of appointment, the county administrator need not be a resident of the county, but, while in office, the county administrator may reside outside the county only with the county commissioners' approval.

B. A county administrator may not hold any other elective or appointed county office, except as provided in this section.

2. Compensation; tenure of office. The county commissioners shall determine the compensation of the county administrator. The county administrator shall hold office for an indefinite term unless otherwise specified by contract. The

county commissioners may, for cause, remove or suspend the county administrator in accordance with the procedure for removing or suspending a town manager under section 2633. In the absence or during the disability of the county administrator, the county commissioners may appoint an official of the county to perform the administrator's duties.

3. Duties. The county administrator is the chief administrative official of the county and is responsible for the administration of all departments and offices controlled by the county commissioners. The county administrator shall act as the clerk of the county. The county administrator shall act as purchasing agent for all departments and offices of the county, although the county commissioners may require that all purchases greater than a designated amount must be submitted to sealed bid. The county administrator shall attend all meetings of the county commissioners, except when the county administrator's removal or suspension is being considered. The county administrator shall keep the county commissioners and the county legislative delegation informed as to the financial condition of the county and shall collect all data necessary to prepare the budget.

4. Duties as clerk. When acting as clerk of the county, the county administrator shall make a record of the actions of the county commissioners. The commissioners shall examine these records and, when correct, shall certify them and they shall be adopted into the records of the county commissioners by the administrator. When absent the administrator may appoint a person to perform the duties as clerk to the commissioners temporarily, but the administrator is responsible for that person's actions.

5. Duties as treasurer. Unless the county commissioners appoint a treasurer under §156, the county administrator shall serve as treasurer.

Sec. 8. 30 MRSA §101, sub-§6A is amended to read:

6-A. Adopt ethics policy. ~~In-their-discretion, the-county commissioners may adopt~~ Adopt, in their discretion, an ethics policy governing the conduct of elected and appointed county officials.

Sec. 9. 30-A MRSA §101, sub-§6-B is enacted to read:

6-B. Employ counsel. Employ counsel, as necessary, to represent the county; and

Sec. 10. 30-A MRS §121 sub-§5 is enacted to read:

§121. County buildings and land; records; parking areas

5. Courtrooms. The Judicial Department shall reimburse each county quarterly for the cost of providing courthouses as described in subsection 1 paragraph A and for the cost of providing space and equipment for the office of the clerk of courts as required by subsection 1, paragraph B, subparagraph (2).

Sec. 11. 30-A MRS §151 is repealed and replaced to read:

§151. County administrator as treasurer

Except as provided in §156, the county administrator shall serve as county treasurer and shall have the responsibility and authority of the office of treasurer under this part.

Sec. 12. 30-A MRS §152 is repealed.

Sec. 13. 30-A MRS §153 is repealed and replaced by:

§153 Bond required

The county administrator or other person appointed to perform the duties of county treasurer shall give bond to the county for the faithful discharge of duties in the sum ordered by the commissioners and with such sureties as they approve in writing on the bond.

Sec. 14. 30-A MRS §154 is repealed and replaced by:

§154. Salaries

The county treasurer, if any, and the deputy treasurer shall receive salaries as approved by the county commissioners.

Sec. 15. 30-A MRS §155 is repealed.

Sec. 16. 30-A MRS §156 is repealed and replaced by:

§156. Appointed county treasurer

1. County commissioners' decision. The county commissioners through the budget process may decide to authorize the position of county treasurer in lieu of the county administrator serving as the county treasurer.

2. Term; compensation; qualifications. The county commissioners may appoint a treasurer to serve at their will and, with the compensation they set. The treasurer must be qualified in matters of business administration and finance.

The appointed treasurer has all authority granted to treasurers under this subchapter and is subject to all the requirements of this subchapter.

Sec. 17. 30-A MRS §281, sub-§3 is enacted to read:

3. Reimbursement by the State. The Attorney General operating shall reimburse the counties quarterly for the actual cost of operating the district attorneys' offices authorized in this section and in section 282, sub-§4. This reimbursement shall not exceed the amount approved in each county budget for district attorney expenses.

Sec. 18. 30-A MRS §282, sub-§1 is repealed.

Sec. 19. 30-A MRS §282, sub-§5 is repealed.

Sec. 20. 30-A MRS §375 is enacted to read:

§375. Qualifications for election or appointment

1. Qualifications required. A sheriff must, before taking office, meet the qualifications required of deputy sheriffs by section 381 subsections 1 and 2.

2. Period of abeyance for a newly elected or appointed sheriff. Any person elected or appointed to the office of sheriff who does not meet the requirements of subsection 1 shall have a period of six months after the election or appointment to meet those requirements.

3. Notification of Attorney General's office. The county commissioners of each county, within 2 weeks after the election or appointment of a sheriff, shall examine the qualifications of the sheriff to determine if the sheriff meets the requirements of subsection 1 and shall report their findings to the Attorney General. The county commissioners shall reexamine the sufficiency of the sheriff's qualifications to meet the requirements of subsection 1 and submit additional reports to the Attorney General:

A. no later than 6 months following the election or appointment of a sheriff whose qualifications were found to be insufficient to meet the requirements of subsection 1 in the initial report, and

B. at any time upon request of the Attorney General.

4. Notification of Governor. The Attorney General shall review each report received from the county commissioners pursuant to subsection 3 and determine whether or not the sheriff is faithfully performing the duty imposed by subsection 1. In making this determination the Attorney General may also review other relevant information. The Attorney General may

initiate an investigation, upon suitable cause, to determine whether or not a sheriff is faithfully performing the duty imposed upon by subsection 1. If the Attorney General determines that a sheriff is not faithfully performing the duty imposed by subsection 1, the Attorney General shall report this finding in the form of a complaint to the Governor. The Governor shall initiate a hearing pursuant to Article IX, Section 10 of the Constitution of Maine to determine if the sheriff should be removed from office.

5. Transitional provision. Any person holding the office of sheriff on the effective date of this act shall be considered to have been elected on that date for purposes of this section and any duties and requirements imposed by this section shall apply as if that person had been elected on that date. This subsection is repealed on January 1, 1992.

Sec. 21. 30-A MRSA §705 is amended by adding a new paragraph to read:

Any agency outside the regular county departments which receives a grant from a county to fund its activities shall file with the county treasurer an audited annual financial report for the year in which grant funds are received. The commissioners shall withhold further funds from any agency which is not in compliance with this paragraph.

Sec. 22. 33 MRSA §601 is enacted to read:

**§601. Appointment of register**

The county commissioners of each county shall appoint a register of deeds, who shall hold office for an indefinite term unless otherwise specified by contract. The county commissioners may, for cause, remove or suspend the register in accordance with the procedure for removing or suspending a town manager under section 2633.

Sec. 23. 33 MRSA §602 is repealed.

Sec. 24. 33 MRSA §604 is repealed and replaced by:

**§604. Salaries**

The register of deeds of a county shall receive an annual salary as determined by the county commissioners.

Sec. 25. 34-A MRSA §1210, sub-§ 6, is amended to read:

**6. County Correctional Improvement Account.** The county commissioners of each county shall establish the County Correctional Improvement Account for funds received from the State under this section, which shall be used for improving, maintaining and developing correctional programs, .

community-based correctional programs, standards compliance and capital improvements for the support of prisoners in that county, including personal services, contractual services, commodities, debt service and capital outlay. Funds in this account unexpended at the end of the year do not lapse, but shall carry forward into subsequent years.

**Sec. 26.** 36 MRSA §4641-B is amended by repealing and replacing the 5th paragraph to read:

Each register of deeds shall, on or before the 10th day of each month, pay over to the State Tax Assessor an amount as determined by this paragraph of the tax collected during the previous month. The register of deeds shall retain an amount of the tax collected sufficient to reimburse the county for the actual cost of the operation of the register of deeds office during the previous month, including overhead costs not to exceed 30% of direct costs, less any income from fees. In no event shall the register retain less than 10% of the tax collected. The actual cost of the register of deeds shall be determined by the State Auditor, based on projections from an audited financial statement from the previous year.

**Sec. 27. Effective date.** This Part shall take effect January 1, 1991.

PART B

Sec. 1. 30-A MRSA §2 sub-§1 is repealed and replaced by :

1. County officers salaries. The sheriffs, judges of probate and registers of probate shall receive annual salaries from the county treasury in weekly, biweekly or monthly payments as provided in the county budget.

Sec. 2. 30-A MRSA §701, sub-§2 is amended to read:

2. Preparation of estimates. In order to assess a county tax, the county commissioners, prior to November 7<sup>th</sup> 1<sup>st</sup> in each year, shall prepare estimates of the sums necessary to pay 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.

The estimates must be drawn so as to authorize the appropriations to be made to each department or agency of the county government for the year. The estimates must provide specific amounts for personal services, contractual services, commodities, debt service and capital expenditures.

Sec. 3. 30-A MRSA §701, sub-§§ 3 and 4 are repealed.

Sec. 4. 30-A MRSA §702 is repealed.

Sec. 5. 30-A MRSA §702-A is enacted to read:

§702-A. Final budget; filing

A copy of the final budget and subsequent amendments shall be filed, on forms approved by the Department of Audit, with the State Auditor, who shall retain them for 3 years.

Sec. 6. 30-A MRSA Chapter 3, Article 1-A is enacted to read:

ARTICLE 1-A COUNTY BUDGETS, GENERALLY

§711. Purpose

The purpose of this article is to establish a method of appropriating money for county expenditures, according to a budget, which must first receive approval of a budget committee. This article replaces the previous statutory method by transferring the authority of the legislative delegation and the Legislature to approve the county budgets to a committee comprised of county citizens and municipal officials. This article applies to all counties, including those which have previously adopted a budget committee in some form.



## §712. Definitions

As used in this article, unless the context indicates otherwise, the following terms have the following meanings.

1. County commissioners. "County commissioners" means the county commissioners of the county in question.

2. Municipal officers. "Municipal officers" means the mayor, councillors or selectmen.

## §713. County budget committee

In each county there is established a County Budget Committee to carry out the purposes of this article.

1. Membership. The budget committee shall consist of 9 members, 2 elected members and one appointed member from each commissioner district selected as provided for in this section. The county commissioners shall serve on the committee in an advisory capacity only and may not vote on any committee matters.

In 1992, and thereafter, at least 90 days before the end of every fiscal year, two members shall be elected from each county commissioner district by the following procedure.

A. The county commissioners shall notify all municipal officers in the county to caucus by county commissioner districts at a specified date, time and place for the purpose of nominating at least one municipal officer from each district as a candidate for the county budget committee; except that in 1992, at least 2 municipal officers shall be nominated from each district. A county commissioner shall serve as nonvoting moderator for his district's caucus. Nominations shall be received from the floor. The nominee receiving the most votes shall be approved. Any other nominee who receives a majority vote of those present shall also be approved. The names of those duly approved shall be recorded and forwarded to the county commissioners to be placed on a written ballot.

B. The county commissioners shall have written ballots printed with the names of those candidates selected in their districts under paragraph A. Each commissioner district shall require a separate ballot and each ballot shall specify each candidate's full name and municipality. The county commissioners shall distribute the appropriate ballots to each municipality within a commissioner district. The municipal officers shall vote as a board for one budget committee member from the candidates on the ballot and return the ballot to the county commissioners by a certain date, except that in 1992, the municipal officers shall vote as a board for 2 budget committee members. The

ballots shall be counted at a regular meeting of the county commissioners. Each vote shall be weighted according to that municipality's population as a proportion of the district's total population, except that no municipality may have more than one budget committee member. The county commissioners shall notify each municipality, in writing, of the results of the election and shall certify the results to the Secretary of State.

Each county commissioner shall appoint one member of the general public to serve on the budget committee from that commissioner's district.

2. Duties. The county budget committee shall review the budget estimates prepared by the county commissioners and approve a final county budget.

3. Term of office. The term of office for the elected members shall be 3 years beginning on October 1st, provided that a budget committee member remains a municipal officer in the municipal officer's municipality, except that of those elected in 1992, one from each district shall be elected for a term of 3 years; and one from each district shall be elected for a term of 2 years. The term of office for the appointed members shall be 2 years beginning on October 1st, provided that a budget committee member remains a resident of the county, except that those appointed in 1992 shall be appointed for a term of one year.

4. Vacancies. A vacancy occurring in an elected position on the budget committee shall be filled by the committee for the balance of the unexpired term. The person appointed to fill the vacant office must be a municipal officer from the same municipality as the person vacating the office. A vacancy in an appointed position shall be filled by appointment by the commissioner for that district for the balance of the unexpired term.

5. Expenses. Members shall serve without compensation, but shall be reimbursed from the county treasury for expenses lawfully incurred by them in the performance of their duties.

#### §714. Budget committee organization

The budget committee shall conduct its meetings in public at the county courthouse, or other convenient public building. The county commissioners shall direct the county administrator to call an organizational meeting of the budget committee no later than 60 days before the end of the county's fiscal year. The county commissioners shall provide the committee with necessary clerical assistance, office expenses and suitable meeting space, as well as access to county files and information. The budget committee shall adopt its own rules or procedures and bylaws.

## §715. Budget procedures

1. Proposed budget. The county commissioners shall submit an itemized budget estimate, as described in section 701, to the budget committee in a timely fashion, no later than 60 days before the end of the county's fiscal year.

2. Budget review process. The budget committee shall review the proposed itemized budget prepared by the county commissioners, together with any supplementary material prepared by the head of each county department or provided by any independent board or institution or another governmental agency. The budget committee may increase, decrease, alter or revise the proposed budget, provided that:

A. The budget committee shall enter into its minutes an explanation for any change in the estimated expenditures and revenues as initially presented by the county commissioners; and

B. The total estimated revenues, together with the amount of county tax to be levied, must equal the total estimated expenditures.

3. Public hearing. The budget committee shall hold a public hearing in the county on the proposed budget before the end of the county's fiscal year and before the final adoption of the budget. Notice of the hearing shall be given at least 10 days before the hearing in a newspaper of general circulation within the county. Written notice and a copy of the proposed budget shall be sent by registered or certified mail with return receipt requested, or delivered in person, with proof received of the delivery, to the clerk of each municipality in the county. The municipal clerk shall notify the municipal officers of the proposed budget.

4. Adoption of budget. After the public hearing is completed, the budget committee may further increase, decrease, alter and revise the proposed itemized budget, subject to the conditions and restrictions imposed in subsection 2. The proposed itemized budget must be finally adopted by a majority vote of the budget committee at a duly called meeting not later than the end of the county's fiscal year. The approved budget is the final authorization for the assessment of county taxes. The budget shall be sent to the county commissioners and the county tax authorized shall be apportioned and collected in accordance with section 706.

5. Interim budget. If the budget is not approved before the start of a fiscal year, until a budget is finally adopted, the county shall operate on an interim budget which may not exceed 90% of the previous year's budget.

6. Transfer of funds. The county commissioners may transfer funds as provided in section 922.

## §716. Budget amendments

The approved budget shall govern the expenditures of the county during the fiscal year. No expenses may be incurred in excess of those shown in the approved budget, but the budget may be revised from time to time by the preparation and submission of a proposed amended budget by the county commissioners to the budget committee. The budget committee shall render, not less than 15 calendar days, except in emergencies, nor more than 30 days after the submission to it, a decision on any such revised budget. An approved revised budget shall be transmitted to the State Auditor within 15 days of the budget committee's action.

**Sec. 7.** 30-A MRSA Chapter 3, Articles 2, 3, 3-A, 4, 6, 7, and 8 (§§721 through 867) are repealed:

**Sec. 8.** 30-A MRSA §1353 is repealed.

**Sec. 9. Effective date.** This Part shall take effect January 1, 1992.

## PART C

**Sec. 1. Unorganized Territory; review.** The Joint Standing Committee on State and Local Government shall review the governance of the unorganized territories by the counties to determine its efficiency, effectiveness and uniformity. The Office of Fiscal and Program Review shall provide staff assistance for the review. The committee shall report the findings of the review together with its recommendations, including any proposed legislation, to the 2nd Regular Session of the 115th Legislature by January 15, 1992.

**Sec. 2. Emergency planning; review.** The Maine Emergency Management Agency shall review the regional structure of the emergency management programs within the state including state, county and municipal programs. The review shall focus particularly on the coordination among these different levels of government, and determine whether there is a continued need for involvement of multi municipal regional units, and if so whether the counties are the best choice for that function. The agency shall report its findings and recommendations to the Joint Standing Committee of the Legislature with jurisdiction over State and local government by January 1, 1991.

PART D

Sec. 1. 4 MRSA §1057, as enacted by PL 1987, c. 339, §3, is amended to read:

**§1057. Jail Operations Surcharge Fund**

1. **Fund established.** There is hereby established a fund to be known as the Jail Operations Surcharge Fund. This fund shall be maintained by the Treasurer of State for the sole purpose of ~~reimbursing counties~~ paying for costs associated with operations of the jail system.

2. **Surcharge imposed.** A surcharge of 10% shall be added to every fine, forfeiture or penalty imposed by any court in this State, which, for the purposes of collection and collection procedures, shall be considered a part of the fine, forfeiture or penalty. All funds collected as a result of this surcharge shall be deposited monthly in the Jail Operations Surcharge Fund.

3. **Reimbursement to counties.** ~~Monthly Quarterly, the Treasurer of State shall make payments from this fund to each county in direct proportion to the amount of revenue obtained from all courts within each county, provided a county may not receive an amount greater than the prior year's expenditures on its jail. The amount of total payments made to counties shall equal 2% of the total fines, forfeitures and penalties, including this surcharge, received by the Treasurer of State. The balance remaining in the Jail Operations Surcharge Fund at the end of each month shall accrue to the General Fund. These quarterly payments shall be included in the total payments made pursuant to Title 30-A, Article 5.~~

Sec. 2. 30-A MRSA, Article 5, is enacted to read:

**ARTICLE 5**

**COUNTY CORRECTIONAL ACCOUNT**

**§971. Definitions**

As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

1. **"Correctional programs."** Correctional programs means programs for the delivery of correctional services by or for the county, including, but not limited to, preventive or diversionary correctional programs, pretrial release or conditional release programs, alternative sentencing programs, residential treatment and halfway house programs, community correctional centers and temporary release programs from a facility for the detention or confinement of persons convicted of crime or adjudicated delinquents.

2. "Standards compliance." Standards compliance means compliance with the standards promulgated by the department under section 1208, for jail and holding facilities and short-term detention areas.

3. "Support of prisoners." Support of prisoners means the following line items:

A. Personal Services;

B. Contractual Services:

(1) Professional fees and services:

(a) Medical, dental and psychological;

(b) In-house correctional programs and community correctional programs as defined in this section;

(c) Board of prisoners; and

(d) Insurances;

(2) Prisoner transportation:

(a) Gas and oil; and

(b) Auto repairs;

(3) Utilities:

(a) Electricity;

(b) Gas;

(c) Sewage and water;

(d) Telephone; and

(e) Rubbish removal;

(4) Rentals;

(5) Repairs and maintenance;

(6) General operating expenses:

(a) Postage; and

(b) Printing; and

(7) Other:

(a) Staff training and education;

C. Commodities:

- (1) Food;
- (2) Fuel; and
- (3) Supplies:
  - (a) Cleaning;
  - (b) Institutional; and
  - (c) Office;

D. Capital expenditures:

- (1) Equipment:
  - (a) Furniture and fixtures; and
  - (b) Vehicles;
- (2) Buildings; and

E. Capital expenditures, replacement:

- (1) Equipment:
  - (a) Furniture and fixtures; and
  - (b) Vehicles.

§972. County Correctional Account. The county commissioners of each county shall establish the County Correctional Account for funds received from the State under this section, which shall be used for operating costs for the county jails, including support of prisoners; improving, maintaining and developing correctional programs; community-based correctional programs; standards compliance and capital improvements. Funds in this account unexpended at the end of the year do not lapse, but shall carry forward into subsequent years.

§973. Reimbursement. The State Controller shall reimburse each county quarterly for the actual cost of operating the county jails. The reimbursement shall not exceed the amount approved in each county budget for that expense.

Sec. 3. 34-A MRSA §1210, as enacted by PL 1985, c. 821, §18, is repealed.



Sec. 4. 34-A MRS §1211 is enacted to read:

§1211. Community corrections assistance

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Commissioner" means the Commissioner of Corrections.

B. "Correctional programs" means programs for the delivery of correctional services by or for the county, including, but not limited to, preventive or diversionary correctional programs, pretrial release or conditional release programs, alternative sentencing programs, residential treatment and halfway house programs, community correctional centers and temporary release programs from a facility for the detention or confinement of persons convicted of crime or adjudicated delinquents.

C. "Standards compliance" means compliance with the standards promulgated by the department under section 1208, for jail and holding facilities and short-term detention areas.

2. Technical assistance. The commissioner shall provide technical assistance to counties and county advisory groups to aid them in the planning and development of correctional programs, including community-based correctional programs, and standards compliance.

**Sec. 5. Effective date.** This Part shall take effect July 1, 1991.

## STATEMENT OF FACT

This bill is the unanimous report of the study on county government conducted by a subcommittee of the Joint Standing Committee on State and Local Government during the interim of 1989, as authorized by the Legislative Council. Minority views are presented in separate legislation.

In Part A, this bill would:

1. Corrections fund. Expand the permissible uses of the reimbursement the counties receive from the state for housing prisoners to include operating costs of the county jails.

2. Jail surcharge fund. Correct the contradictory language in the jail surcharge fund statute to conform to current practice.

3. County commissioners. Require all counties to have 3 county commissioners.

4. County administrator. Require all counties to have a county administrator. Under existing law, the county administrator also carries out the statutory duties of the clerk.

5. County treasurer. Authorize the county administrator also to serve as county treasurer also; but if the county desires a separate treasurer, that must be an appointed position.

6. Register of deeds-appointment. Require appointment of register of deeds.

7. Register of deeds-revenues. As a minimum measure, allow register of deeds to retain an amount of revenue generated by that office sufficient to support the expenditures of that office, including overhead.

8. Program grants. Require organizations receiving program grants from the county to submit an annual financial report to the county.

9. District attorney staff. Transfer the operating costs of the district attorneys' offices to the state.

10. Superior and District Court Courtrooms. Require the Judicial Department to assume the full cost of the Superior and District Court courtrooms.

11. Sheriffs' qualifications for office. Require the sheriffs to meet the same qualifications for office as deputies. There is a proposed Constitutional Resolution to implement this provision.

Part B would require all counties to establish an autonomous county budget process by January 1, 1992. That process will require submission of a county budget, prepared by the commissioners, for final approval by a majority of the county budget committee. The county budget committee will consist of 9 members, 3 from each commissioner district. From each district, 2 of the members will be municipal officers elected by the municipal officers and the 3rd will be a member of the general public appointed by the commissioner from that district.

In Part C, this bill would:

1. Unorganized territory. Require a one-time review of the governance of the unorganized territory to determine its efficiency, effectiveness, and uniformity, to be conducted by the Joint Standing Committee on State and Local Government, with support from the Office of Fiscal and Program Review.

2. Emergency Planning. Require that the Maine Emergency Management Agency review the regional structure of the emergency management program, and report by January 1, 1991.

Part D would provide for state reimbursement for all county jail costs, keeping jail employees on the county payroll.

SECOND REGULAR SESSION

ONE HUNDRED AND FOURTEENTH LEGISLATURE

Legislative Document

No.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

AN ACT to Help Fund County Government

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

**Sec. 1. 4 MRSA § 1057, sub-§ 3, as enacted by PL 1987, c. 339, §3, is amended to read:**

3. Reimbursement to counties. Monthly, the Treasurer of State shall make payments from this fund to each county in direct proportion to the amount of revenue obtained from all courts within each county, ~~provided a county may not receive an amount greater than the prior year's expenditures on its jail. The amount of total payments made to counties shall equal 2% of the total fines, forfeitures and penalties, including this surcharge, received by the Treasurer of State. The balance remaining in the Jail Operations Surcharge Fund at the end of each month shall accrue to the General Fund.~~

**Sec. 2. 36 MRSA §4641-B is amended to read:**

**§4641-B. Collection**

The State Tax Assessor shall provide for the collection of the tax by each register of deeds, and for that purpose may provide for the installation of a meter machine in each registry office.

When any deed is offered for recordation, the register of deeds shall ascertain and compute the amount of tax due thereon and shall collect such amount.

The amount of tax shall be computed on the consideration for the deed as set forth in the "declaration of value" prescribed by section 4641-D.

Payment of tax shall be evidenced by affixing such indicia of payment as shall be prescribed by the State Tax Assessor to the declaration of value provided for in section 4641-D.

Each register of deeds shall, on or before the 10th day of each month, pay over to the State Tax Assessor 90% 45% of the tax collected during the previous month. The remaining ~~10%~~ 55% shall be retained for the county by the register of deeds and accounted for to the county treasurer as reimbursement for services rendered by the county in collecting the tax.

In the event of a dispute as to the correct amount of tax the individual seeking to record the deed may request the State Tax Assessor to determine the correct amount of tax to be paid in order for the deed to be recorded.

The State Tax Assessor shall pay all net receipts to the Treasurer of State, ~~who shall credit 1/2 of the revenue to the General Fund and who~~ shall monthly pay ~~the remaining 1/2~~ those receipts to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

**Sec. 3. Effective date.** This Act shall take effect July 1, 1991.

#### STATEMENT OF FACT

This bill is a minority report of the study on county government conducted by a subcommittee of the Joint Standing Committee on State and Local Government during the interim of 1989, as authorized by the Legislative Council.

The bill would distribute to the counties the full amount of the jail surcharge. At present the counties receive 22%, which provided them \$327,000 in 1988.

The bill would also increase from 10% to 55% the amount retained by the counties from the real estate transfer tax which is collected by the registers of deeds. In 1988, the 10% amount distributed to the counties provided them \$1,460,000. The Housing Opportunities for Maine Fund would still receive 45% of the revenues. The General Fund would no longer receive revenues from this tax.

SECOND REGULAR SESSION

ONE HUNDRED AND FOURTEENTH LEGISLATURE

Legislative Document

No.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

AN ACT to Transfer All Functions and Personnel of the District  
Attorneys Offices from the Counties to the State

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

Sec. 1. 5 MRSA Chapter 502 is enacted to read:

CHAPTER 502

DISTRICT ATTORNEYS

SUBCHAPTER I

ELECTION AND TENURE

§19501. Election; qualifications

District attorneys shall be elected as provided in this section. They shall enter office on the first day of January following their election.

1. Election. The district attorneys shall be elected on the Tuesday following the first Monday of November in every 4th year, by the voters of the respective prosecutorial districts. The votes shall be received, sorted, counted and declared in the same manner as votes for Representatives. The names of the persons voted for, the number of votes for each and the whole

number of ballots received shall be recorded by the clerk of each municipality within the prosecutorial district. The clerk shall send true copies of these names and totals, sealed and attested as returns of votes for Senators, to the Secretary of State.

2. Qualifications. Only attorneys admitted to the general practice of law in this State and who reside in the prosecutorial district may be elected or appointed district attorney. Removal from the prosecutorial district vacates the office.

3. Term of office. The term of office for a district attorney is 4 years, except when one is elected to fill out an unexpired term, in which case it is for the remainder of the unexpired term.

#### **§19502. Vacancies in office**

A vacancy in the office of district attorney, because of expiration of the term of office, death, permanent incapacity, removal from office under section 19507, removal from the prosecutorial district, or otherwise, shall be filled under this section, except as provided in section 19503.

1. Vacancies caused by expiration of the term. Vacancies occurring by expiration of the term of office shall be filled by election in that year as provided in section 19501.

2. Vacancies caused by other reasons. When no person is elected or a vacancy happens in the office of district attorney, other than as provided in subsection 1, the Governor shall appoint a competent attorney, a resident of the prosecutorial district affected, to serve as a substitute district attorney until the first day of January following the next biennial election. At that election, a person shall be elected to the office of district attorney to serve for the remainder of the unexpired term. When the office of district attorney becomes vacant after the first day of October in the 2nd year after the election of a district attorney under section 19501, a new election shall not be held to fill the vacancy, but the substitute district attorney shall serve for the remainder of the unexpired term.

In the case of a vacancy in the term of a district attorney who was nominated by primary election before the general election, the district attorney appointed by the Governor must be enrolled in the same political party as the district attorney whose term was vacant.

### §19503. Military or naval service; substitutes

Whenever a district attorney during the district attorney's term of office in time of war, contemplated war or emergency, enlists, enrolls, is called or drafted into the military service of the United States, that district attorney is not deemed to have thereby resigned from or abandoned the office; nor is the district attorney removable from that office during military service except that the term of office may not be held to have been lengthened because of this section. From the time of induction into service, the district attorney is regarded as on leave of absence without pay from the office and the Governor shall appoint a competent attorney, a resident of the same prosecutorial district, to fill the office while the district attorney is in the federal service, but not for a longer period than the remaining portion of the district attorney's term. During the period of military or naval service, the Treasurer of State shall pay to the substitute attorney a salary at the same rate as the rate of pay of the district attorney and amounts paid shall be deducted from the salary of the district attorney. The attorney appointed to fill the temporary vacancy has the title of "substitute district attorney" and possesses all the rights and powers and is subject to all the duties and obligations of the district attorney.

### §19504. Prosecutorial districts

1. Prosecutorial District Number 1. There shall be one district attorney for York County, which shall be known as "Prosecutorial District Number 1." The district attorney shall be elected by the voters of York County in the manner set forth in section 19501.

2. Prosecutorial District Number 2. There shall be one district attorney for Cumberland County, which shall be known as "Prosecutorial District Number 2." The district attorney shall be elected by the voters of Cumberland County in the manner set forth in section 19501.

3. Prosecutorial District Number 3. There shall be one district attorney for Oxford, Franklin and Androscoggin Counties, which shall be known as "Prosecutorial District Number 3." The district attorney shall be elected by the voters of Oxford, Franklin and Androscoggin Counties in the manner set forth in section 19501.

4. Prosecutorial District Number 4. There shall be one district attorney for Kennebec and Somerset Counties, which shall be known as "Prosecutorial District Number 4." The district attorney shall be elected by the voters of Kennebec and Somerset Counties in the manner set forth in section 19501.



5. Prosecutorial District Number 5. There shall be one district attorney for Penobscot and Piscataquis Counties, which shall be known as "Prosecutorial District Number 5." The district attorney shall be elected by the voters of Penobscot and Piscataquis Counties in the manner set forth in section 19501.

6. Prosecutorial District Number 6. There shall be one district attorney for Sagadahoc, Lincoln, Knox and Waldo Counties, which shall be known as "Prosecutorial District Number 6." The district attorney shall be elected by the voters of Sagadahoc, Lincoln, Knox and Waldo Counties in the manner set forth in section 19501.

7. Prosecutorial District Number 7. There shall be one district attorney for Hancock and Washington Counties, which shall be known as "Prosecutorial District Number 7." The district attorney shall be elected by the voters of Hancock and Washington Counties in the manner set forth in section 19501.

8. Prosecutorial District Number 8. There shall be one district attorney for Aroostook County, which shall be known as "Prosecutorial District Number 8." The district attorney shall be elected by the voters of Aroostook County in the manner set forth in section 19501.

#### §19505. District attorney salaries

1. Annual salary. The District Attorney for each of the prosecutorial districts shall be within salary range 90 with the step within that salary range to be determined by the Attorney General, subject to the approval of the Governor.

2. Biweekly payments. The district attorneys and their assistants shall receive their annual salaries from the State Treasury in biweekly payments on a date to be determined by the State Controller and in a sum which, in a year aggregate, will most nearly equal the annual salary.

3. Limitation. The salary of any district attorney may not exceed that of a Justice of the Superior Court.

#### §19506. Full-time district attorneys

All district attorneys and assistant district attorneys designated as full-time assistants are full-time officers of the State. During their terms of office, they may not:

1. Appear as counsel. Appear as counsel in any civil or criminal case or controversy before the Supreme Judicial Court, Superior Courts or District Courts of the State or comparable courts in any other state or before the United States District Court or at any administrative hearing held by any state or United States agency other than in their capacity as district attorney; or

2. Private practice of law. Engage in the private practice of law nor be a partner or associate of any person engaged in the private practice of law nor be a member or employee of a professional association engaged in the private practice of law.

#### **§19507. Removal from office**

The Justices of the Supreme Judicial Court have jurisdiction to remove any district attorney from office, by majority vote of the justices sitting, upon complaint filed with the court by the Attorney General, and after notice and hearing, as provided in this section.

1. Expedited proceeding. Proceedings under this section shall be expedited insofar as practicable and shall take precedence over all other matters except requests for opinions of the justices and petitions for writs of habeas corpus.

2. Complaint; application of court rules. The complaint in a proceeding under this section shall contain a short and plain statement of facts showing that grounds for removal exist. The proceedings shall be conducted in accordance with the Maine Rules of Civil Procedure and the Maine Rules of Evidence, except that:

A. Discovery procedures may be used only by order of the court on motion for cause shown; and

B. The court may modify any rule or restrict its application as is necessary or appropriate to expedite the proceeding and ensure that the court is as fully informed of the relevant and material facts as practicable.

3. Removal. If a majority of the justices sitting finds, by clear and convincing evidence, that the respondent district attorney has violated a statute or is not performing the duties of office faithfully and efficiently, and finds in consequence that removal from office is necessary in the public interest, judgment to that effect shall be entered, and the respondent shall thereby be removed from office as district attorney.

## SUBCHAPTER II

### ASSISTANTS AND SUBSTITUTES

#### §19521. Appointment of temporary substitutes

When the district attorney does not attend a criminal session or the office is vacant, the court may appoint an attorney to perform duties during the session and allow a reasonable compensation to be paid by the Attorney General. The Attorney General who shall deduct that amount from the district attorney's salary.

#### §19522. Assistant district attorneys

1. Appointment. Each district attorney shall appoint assistant district attorneys, one or more of whom may be full-time, to serve at the district attorney's will. The district attorney shall designate whether each assistant district attorney will serve full-time or part-time when appointed.

2. Duties. The assistants shall take the oath prescribed for district attorneys and assist the district attorney in the ordinary duties of that office, in the drawing of indictments, in the hearing of complaints before the grand juries and in the preparation and trial of criminal causes. They, when directed by the district attorney, shall act as counsel for the State in the trial of complaints before Judges of the District Court and Justices of the Superior Court and in the prosecution of appeals before the Supreme Judicial Court.

3. Compensation. The compensation of deputy and assistant district attorneys shall be fixed by the district attorney, subject to the approval of the Attorney General and the Governor. For purposes of compensation and benefits, deputy and assistant district attorneys shall be treated comparably to assistant attorneys general.

4. Deputy district attorney. Each district attorney may designate one full-time assistant district attorney or, if there is no full-time assistant district attorney, one part-time assistant district attorney to be the deputy district attorney. In the absence of the district attorney, the deputy shall act in the district attorney's place and shall have the authority, duties and responsibilities of the district attorney. Notwithstanding any other provision of law, any full-time assistant district attorney designated as a deputy district attorney may receive a salary up to 90% of the salary designated for the district attorney.

5. Staff. Each district attorney shall be allowed sufficient sums to ensure an adequate staff of assistants to screen, process and investigate complaints, to assist law enforcement agencies, to conduct trials in the District and Superior Courts, to prosecute appeals in the Supreme Judicial Court and to carry out all other duties and responsibilities.

6. Allowance for compensation. For the compensation of assistant district attorneys, the district attorneys shall be allowed annually sums up to the limit of \$40,000 plus 69¢ for each person constituting the population estimate of the Office of Vital Statistics of the Department of Human Services. In addition to the sums allowed in this section, funds shall be provided for fringe benefits for which other state employees, including confidential employees, are eligible.

### SUBCHAPTER III

#### DUTIES

#### §19531. District attorney operations

1. Expenses allowed. Each district attorney shall be allowed sufficient funds for all office expense, clerk hire and travel, including, but not limited to, funds for:

A. Consultation and services of experts;

B. Rendition of prisoners;

C. Training and reference books and treatises which may aid the district attorney and staff in the prosecution of criminal matters; and

D. Office space suitable for the performance of the duties of office, including sufficient private area for research, conferences and meetings with officers, witnesses, complainants and citizens, at locations convenient to courthouses within the county or counties of that district attorney's prosecutorial district.

2. Fringe benefits. In addition to the sums allowed in subsection 1, funds shall be provided for fringe benefits for which other comparable state employees are eligible.

#### §19532. Civil proceedings

1. Traffic infractions. The district attorney, or someone acting under the district attorney's direction, shall prosecute all traffic infraction cases and shall be present at the trial of any such case.

2. Civil actions; State as party. The district attorney shall prosecute to final judgment and execution all civil cases in which the State is a party in any county within the district attorney's prosecutorial district and shall institute proceedings against sureties on any recognizance upon which the principal and sureties have been defaulted, before the term next succeeding that at which the default was entered upon the docket of the court, unless by order in open court the presiding justice grants a delay in proceedings against the sureties.

3. Compensation. For the services mentioned, the district attorney may receive no compensation other than the salary from the State and actual expenses when performing those services.

### §19533. Criminal proceedings

The district attorney shall attend all criminal terms held in the counties within the prosecutorial district for which the district attorney was elected and act for the State in all cases in which the State or county is an interested party. Unless the district attorney makes an order of dismissal under section 19534, the district attorney or someone acting under the district attorney's direction shall prosecute all criminal cases and shall be present at the trial of any such case before the District Court of any of the counties within the district. If the Attorney General is absent from a term in any of the counties, the district attorney shall perform the Attorney General's duties in state cases, in any of the counties, under directions from the Attorney General. The district attorney shall appear and act for the State with the Attorney General in the Law Court in all state cases coming into that court from any of the counties. No additional compensation may accrue to the district attorney for performing these duties.

### §19534. Dismissal of cases

1. Civil cases. In order to dismiss civil cases, the district attorney must sign a written order of dismissal together with a statement of the reasons for dismissal upon the back of the writ or complaint in those cases. This order of dismissal does not take effect unless approved in writing by the justice presiding at the term when the dismissal is made.

2. Criminal cases. The district attorney may dismiss criminal cases in such manner and under such circumstances as the Supreme Judicial Court may provide by rule.

§19535. Collection of fines and costs; examination of sheriff's bond

1. Enforce collection of fines; move examination of sheriff's bond. For counties within the district attorney's prosecutorial district, the district attorney shall:

A. Enforce the collection and payment to the county treasurers of all fines, forfeitures and costs accruing to the State and the faithful performance of their duties by sheriffs and constables and inform the court of their defaults in this respect; and

B. Annually move the county commissioners of each of the counties within the prosecutorial district, at their respective meetings immediately following the 3rd Tuesday of June, to examine and consider the sufficiency of the bond of the sheriff for their county.

2. Civil violation. If the district attorney neglects either of these duties, the district attorney commits a civil violation for which a forfeiture of not more than \$100 may be adjudged. This forfeiture is to be recovered in a civil action in the name of the Treasurer of State.

§19536. Restrictions and obligations

The district attorney is under the same restrictions as to fees and the same obligations as to witnesses as imposed on the Attorney General by sections 201 and 205.

§19537. Physical examination of crime victims

1. Payment of expenses by district attorney. In all cases of alleged rape, gross sexual misconduct, sexual abuse of minors and assault when serious bodily injury has been inflicted, which are reported to a law enforcement officer, the office of the district attorney of the county in which the alleged crime occurred shall pay all expenses for a physical examination of a victim of the alleged crime which is conducted for the purpose of obtaining evidence for the prosecution.

2. Limitation. The office of the district attorney is not liable for the payment of any charges, costs or fees for an examination under subsection 1 until the district attorney has received copies of all reports and records pertaining to the examination, if the copies have been requested.

3. Medical personnel not liable for furnishing reports, records or testimony. No physician, nurse, hospital, clinic or any other person, firm or corporation attending a victim under subsection 1 may be liable in damages or otherwise for providing reports or records, copies of reports or records or for their testimony relating to any examination performed under this section when those reports, records or testimony are provided to a district attorney, a law enforcement officer or a court for the purpose of prosecuting the alleged crime, whether or not the reports, records or testimony are provided with the written authorization of the victim examined under this section.

**§19538. Disclosure of minor victims of sexual offenses**

The Legislature finds that publicity given to the identity of minor victims of sexual offenses causes intense shame and humiliation for which abused children are particularly ill-prepared and may cause severe and permanent emotional harm to the victim of such an offense.

Therefore district attorneys, their assistants and employees and other law enforcement officials shall refrain from any unnecessary pretrial public disclosure of information that may identify a minor victim of an offense under Title 17, chapter 93-B, Title 17-A, chapter 11 or Title 17-A, section 556.

**§19539. Investigation of child abuse cases**

Unless a written agreement exists between a law enforcement agency and a district attorney concerning primary responsibility for investigating any of the following offenses, the district attorney may direct the investigation of any offense under Title 17, chapter 93-B, and Title 17-A, chapter 11, or Title 17-A, sections 207, 208 and 556, when a victim may not have attained his 18th birthday, and may designate, by geographical boundaries or otherwise, a particular law enforcement agency to have primary responsibility for that investigation.

Any case involving the sexual or physical abuse of children which is discovered by or reported to any law enforcement department or officer shall be immediately reported by that department or officer to the appropriate district attorney or assistant district attorney or, in their absence, to the Attorney General or one of the Attorney General's assistants.

Sec. 2. 30 MRSA §101, sub-§6A is amended to read:

6-A. ~~Adopt ethics policy. In their discretion, the county commissioners may adopt~~ Adopt, in their discretion, an ethics policy governing the conduct of elected and appointed county officials;

Sec. 3. 30-A MRSA §101, sub-§6-B is enacted to read:

6-B. Employ counsel. Employ counsel, as necessary, to represent the county; and

Sec. 4. 30-A MRSA Chapter 1, sub-chapter V is repealed.

Sec. 5. **Transition provisions.** On the effective date of this Act, all permanent county employees employed in a position with a district attorney's office shall be state employees and shall be employed in comparable positions, in terms of duties and responsibilities, in their respective district attorney's offices. All county employees converted to state service under this section shall be employed and receive compensation at a rate not less than the last pay range they received while employed by the county. The district attorney of each prosecutorial district shall provide the attorney general with an up-to-date list of all permanent district attorney employees by the effective date of this Act.

A district attorney employee's accrued vacation credits and sick leave credits not compensated for at the time the employee is converted to state service by this Act shall be transferred to that employee's state service record.

Each employee transferred from county service to state service as a result of this Act who was a member of the Maine State Retirement System as a county employee shall have that employee's membership in the retirement system transferred from that of a participating local district member to that of a state employee member in accordance with Title 5, section 17656. These members shall not have portability of benefits from participating local district membership to state employee membership.

This section shall not apply to district attorneys, deputy district attorneys, substitute district attorneys, and assistant district attorneys.

Sec. 6. **Effective date.** This Act shall take effect July 1, 1991.



## STATEMENT OF FACT

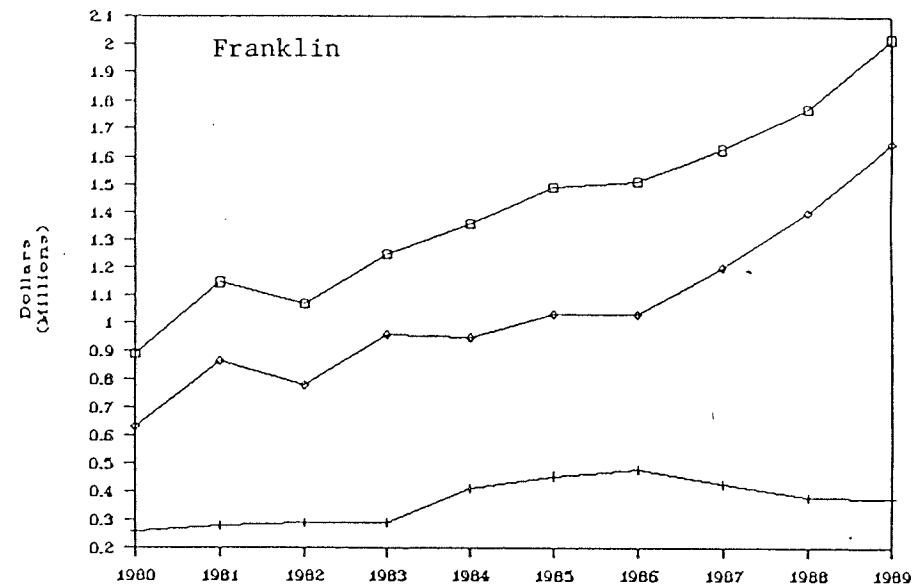
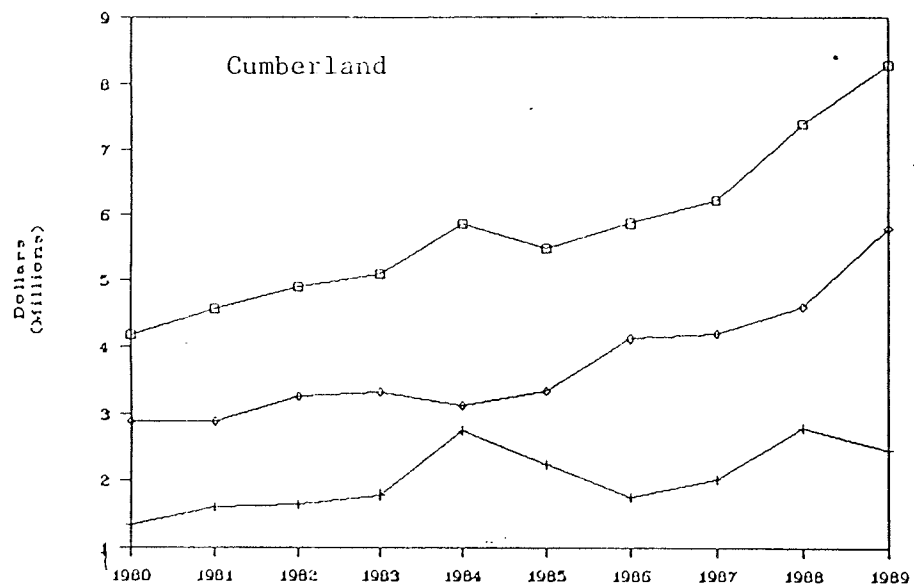
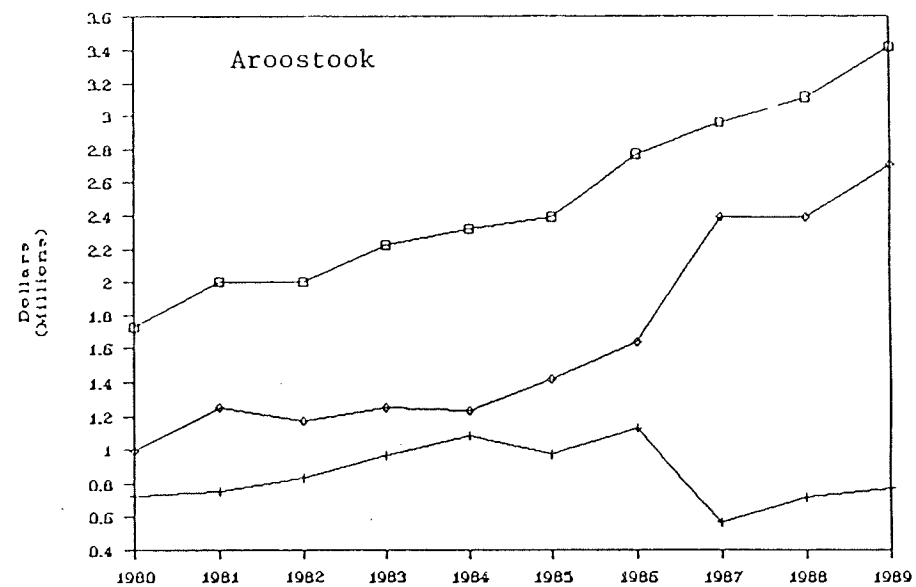
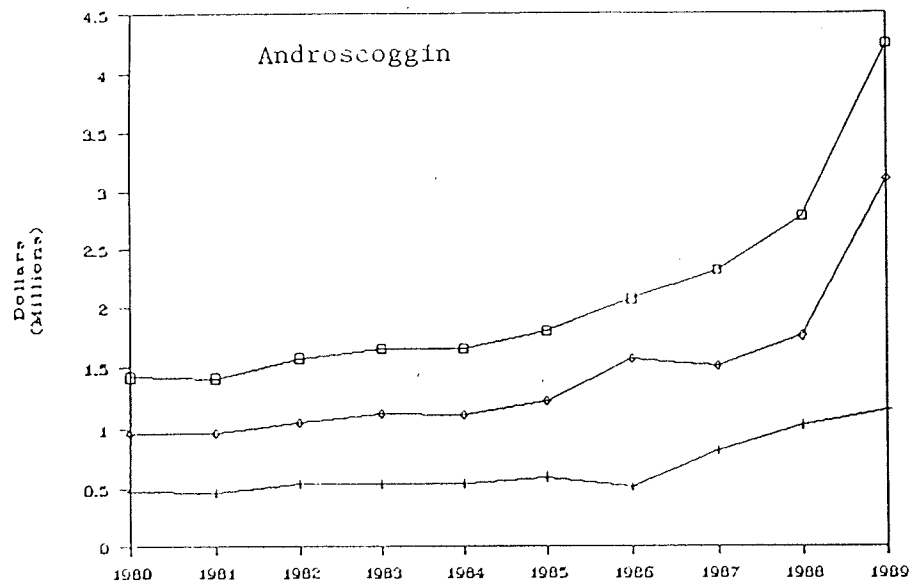
This bill is a minority report of the study on county government conducted by a subcommittee of the Joint Standing Committee on State and Local Government during the interim as authorized by the Legislative Council of 1989.

This bill transfers all of the functions and personnel of the District Attorneys' offices, including the associated costs, from the counties to the state, effective July 1, 1991. This bill necessarily incorporates the recommendations of the unanimous report of the subcommittee relating to the District Attorney offices: transferring the funding of the operating costs of the District Attorneys' offices to the state and authorizing separate counsel for all of the counties' legal business.

All county district attorney personnel transferred to state service shall have their rights and benefits preserved.

# Trends in County Finances 1980-1989

-B-1-



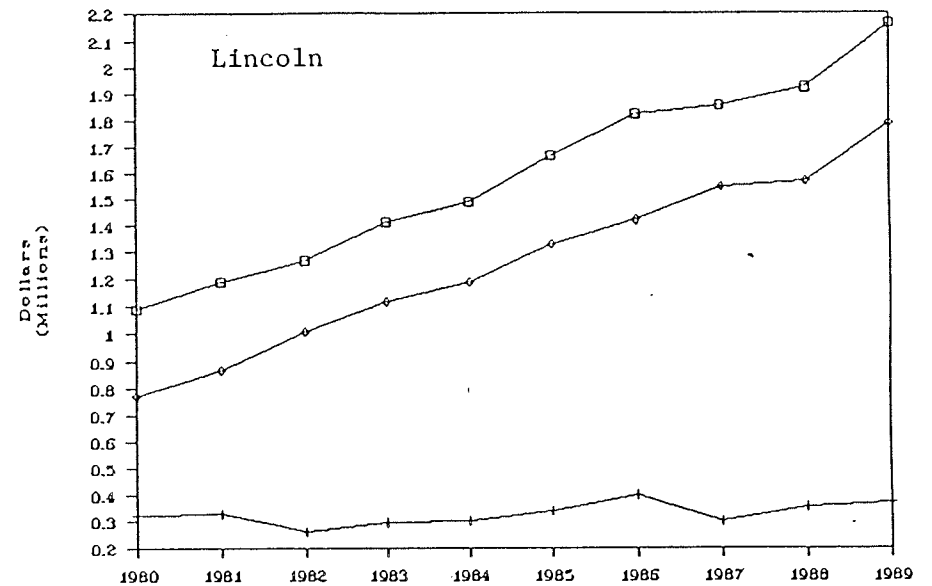
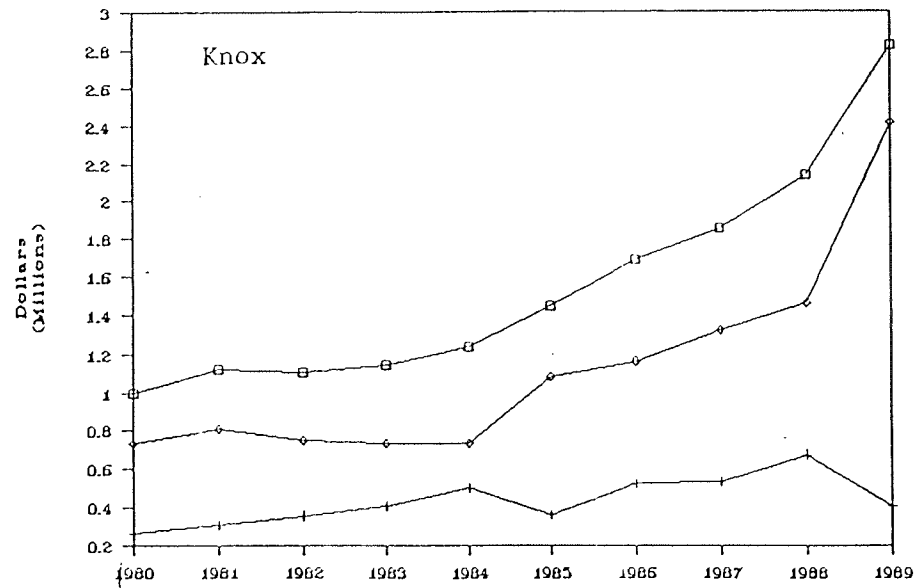
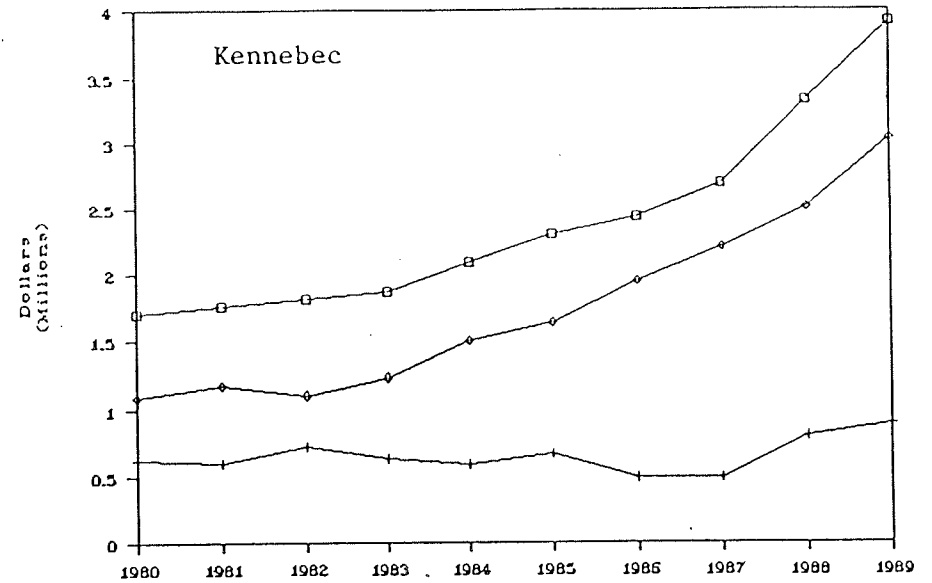
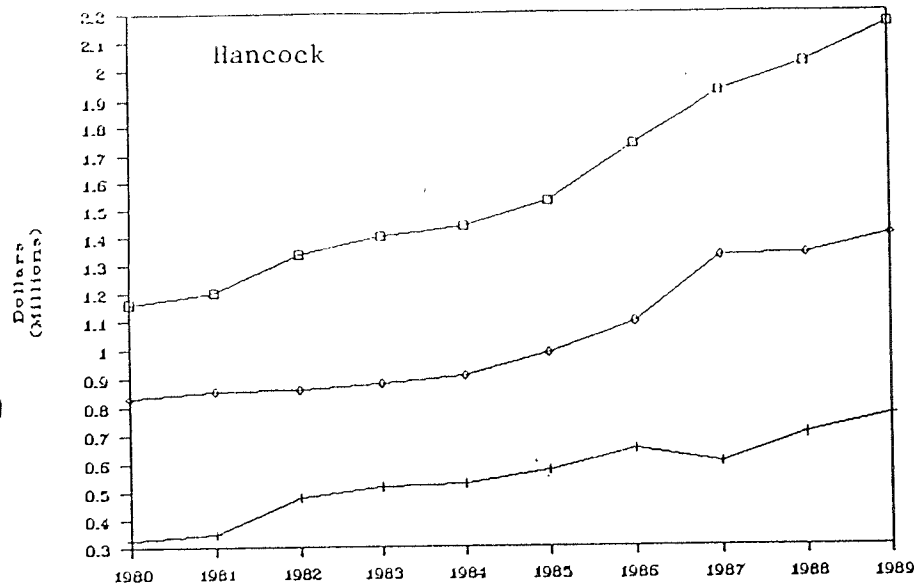
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+ Revenues

◇ Taxation

# Trends in County Finances 1980-1989

-B-2-



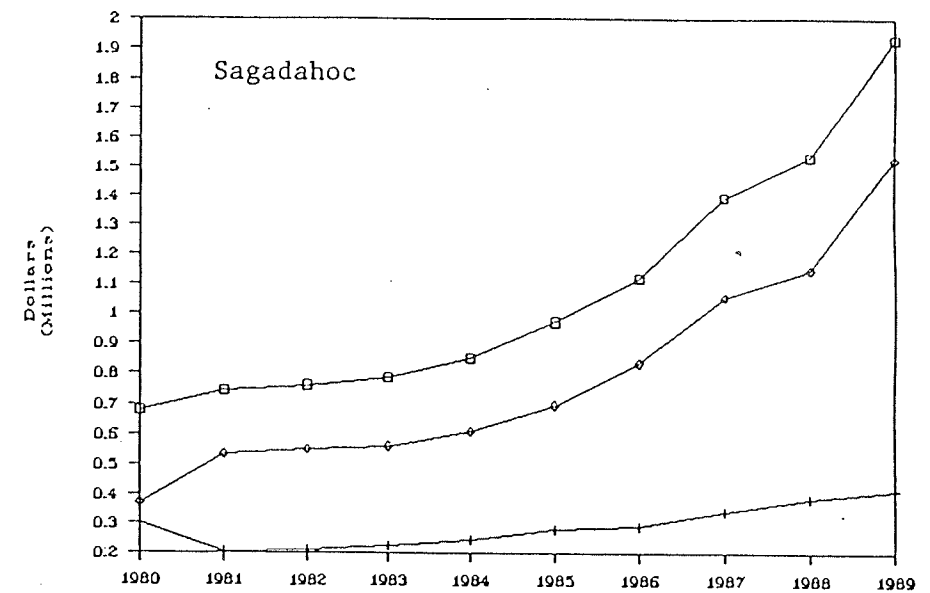
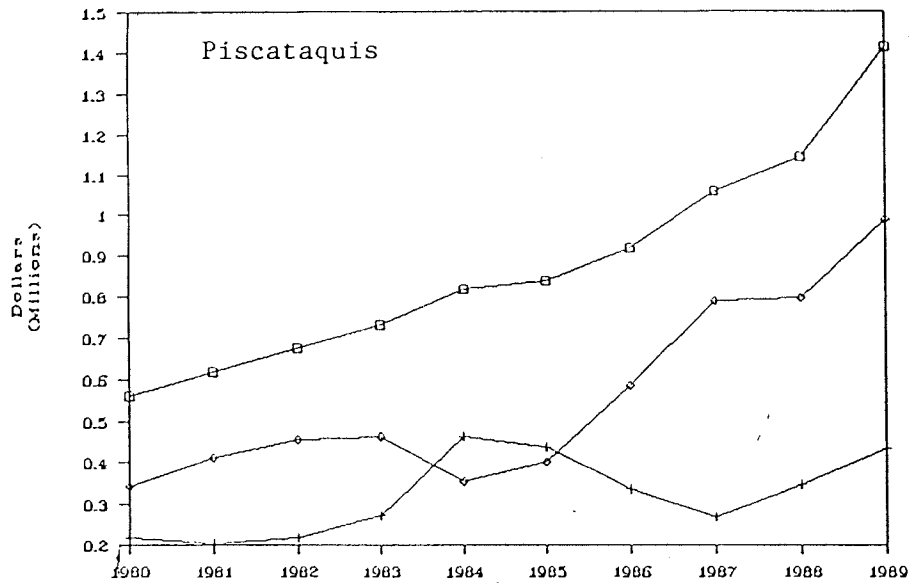
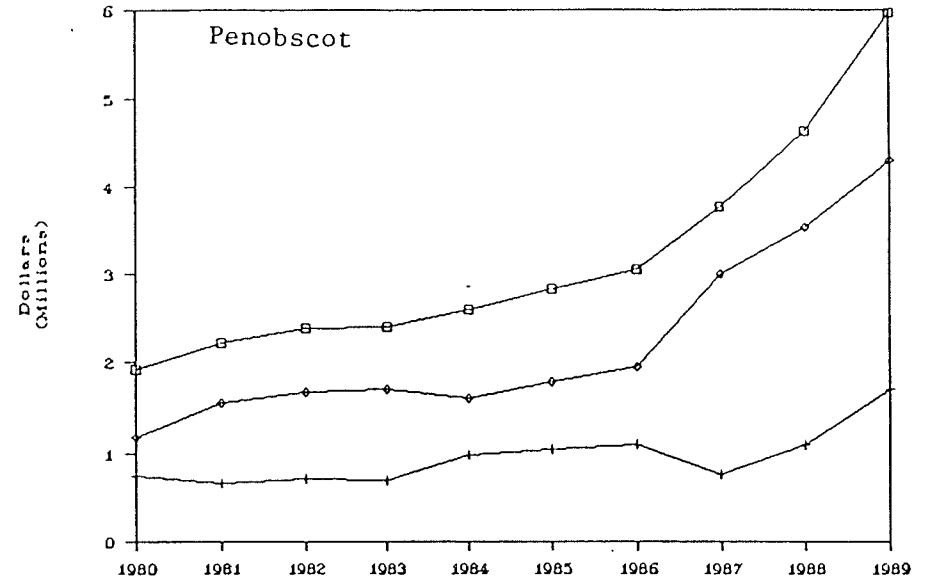
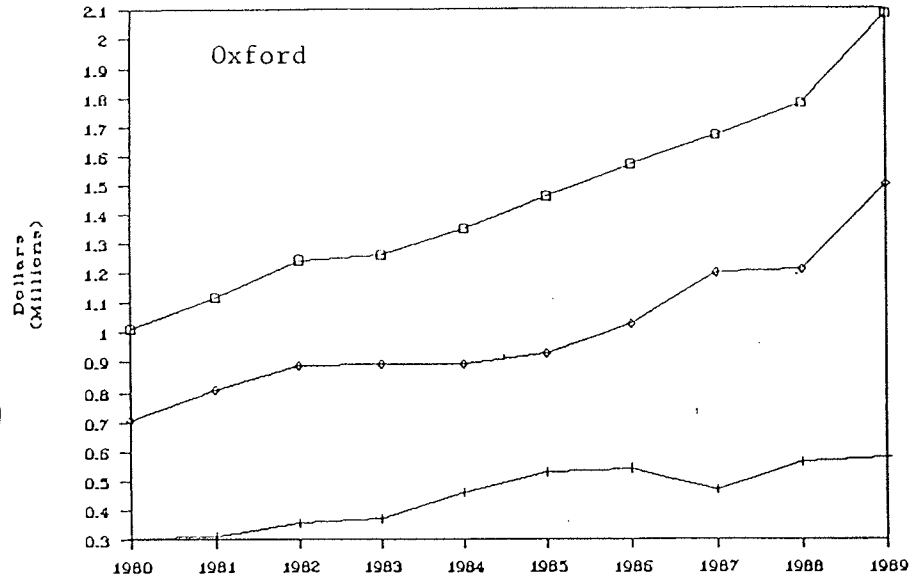
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+ Revenues

◇ Taxation

# Trends in County Finances 1980-1989

-B-3-

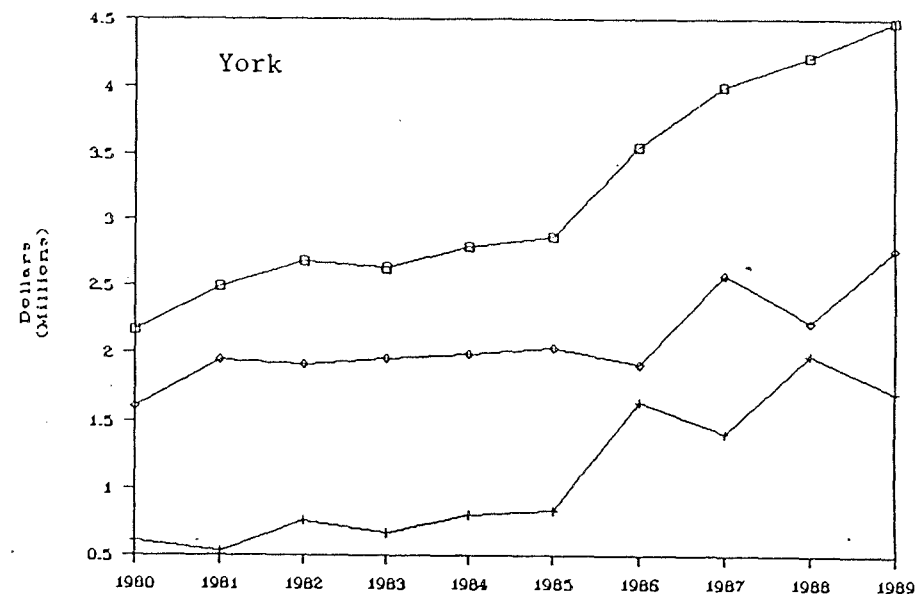
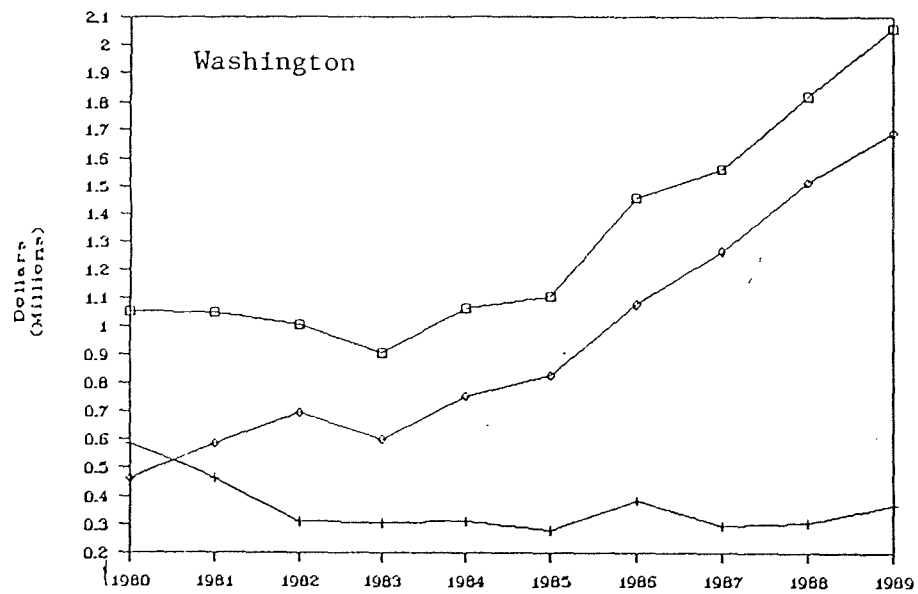
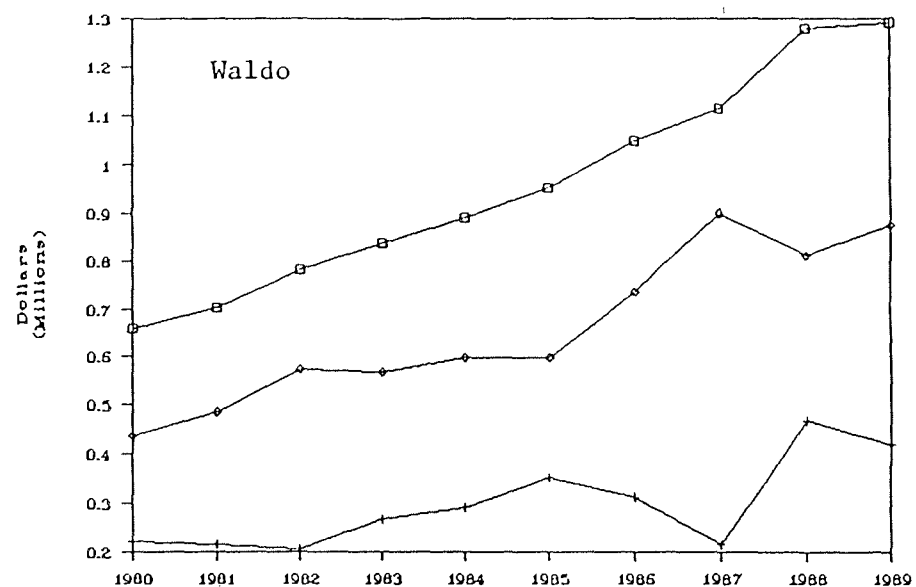
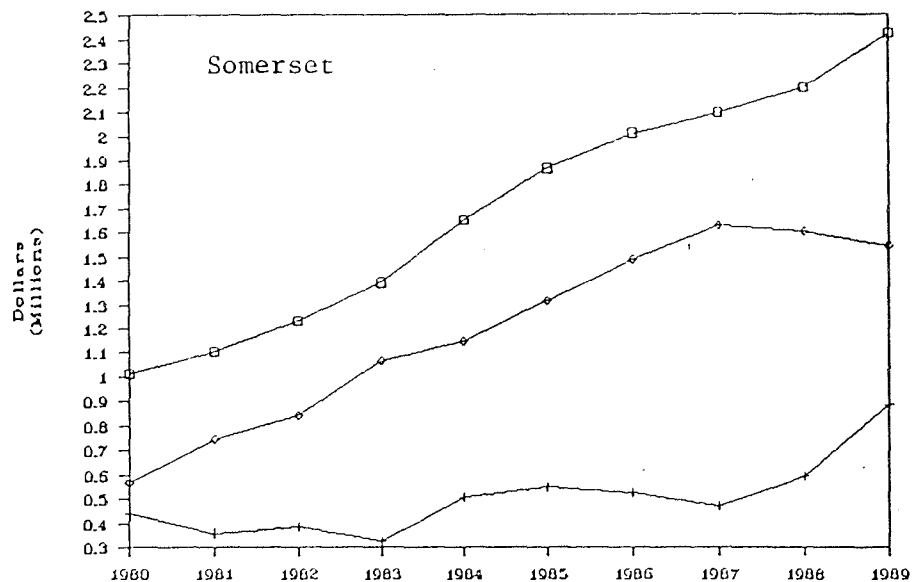


□ Appropriations

+ Revenues

◇ Taxation

# Trends in County Finances 1980-1989



□ Appropriations

+ Revenues

◇ Taxation

COUNTY BUDGETS

APPROPRIATIONS, AVAILABLE CREDITS, TAX COMMITMENT

Fiscal Year 1988

County	Total Appropriations	Available Credits					Capital Reserves	Correction Fund	Federal Revenue Sharing	Total	Tax Commitment
		Estimated Revenues									
		Probate	Deeds	Bd. Prisoners	Miscellaneous	Surplus					
Androscoggin	\$ 2,784,744	\$ 40,000	\$ 325,000	\$ 20,500	\$ 236,312	\$ 200,000	\$50,000	\$149,800	\$	\$ 1,021,612	\$ 1,763,132
Aroostook	3,113,167	25,000	220,000	80,000	246,900	150,000				721,900	2,391,267
Cumberland	7,404,220	157,800	1,600,100	12,000	361,875	660,355				2,792,130	4,612,090
Franklin	1,773,802	6,000	98,000	75,000	46,000	150,000			1,695	376,695	1,397,107
Hancock	2,025,941	65,000	200,000	12,000	227,123	175,000			18,145	697,268	1,328,673
Kennebec	3,316,839	46,000	400,000	95,000	82,600	175,000			1,852	800,452	2,516,387
Knox	2,140,489	26,875	189,000	29,200	135,571	224,796		11,550	59,500	676,492	1,463,997
Lincoln	1,924,022	25,000	155,485	90,000	74,493				9,050	254,028	1,569,994
Oxford	1,778,817	28,000	200,000	69,000	119,121	150,000				566,121	1,212,696
Penobscot	4,626,456	55,000	375,000	247,000	302,113	109,000				1,088,113	3,538,343
Piscataquis	1,147,141	12,000	70,000	62,000	84,634	120,000				348,634	798,507
Sagadahoc	1,534,567	18,500	125,000	38,528	65,850	136,000			1,560	385,438	1,149,129
Somerset	2,199,139	20,000	115,000	125,975	82,837	250,000				593,812	1,605,327
Waldo	1,279,028	14,000	114,596	30,000	140,064	154,186			15,625	468,471	810,557
Washington	1,817,139	12,000	120,000	50,000	58,822			63,325		304,147	1,512,992
York	4,214,604	80,000	1,068,543	74,000	477,692	285,000				1,985,235	2,229,369
Totals	\$43,080,115	\$631,175	\$5,375,724	\$1,110,203	\$2,742,007	\$2,939,337	\$50,000	\$224,675	\$107,427	\$13,180,548	\$29,899,567

\* Miscellaneous - includes revenues from: lease contracts, airport leases; reimbursement of district/superior courts and other state agencies; civil process fees; court surcharge on fines; town sheriff contracts; investment income.

1988 Revenue Sources for Counties from Certain State Distributed Funds

		<u>Transfer Stamp Tax</u>		<u>D.O.C.</u>	<u>Jail</u>
	<u>Total</u>	<u>State</u>	<u>County</u>	<u>Corrections</u>	<u>Surcharge</u>
		<u>90%</u>	<u>10%</u>	<u>Fund</u>	<u>Fund</u>
Androscoggin	\$ 962,584	\$ 866,326	\$ 96,258	\$ 119,159	\$ 21,709
Aroostook	495,285	445,757	49,528	97,043	17,857
Cumberland	3,927,275	3,534,629	392,646	216,397	73,855
Franklin	382,943	344,649	38,294	32,151	6,628
Hancock	773,210	695,889	77,321	61,594	11,592
Kennebec	946,830	852,147	94,683	97,782	34,718
Knox	483,727	435,354	48,373	56,682	6,204
Lincoln	429,128	386,215	42,913	34,713	6,293
Oxford	564,990	508,491	56,499	80,864	6,962
Penobscot	1,124,805	1,012,325	112,480	270,695	44,214
Piscataquis	334,556	301,100	33,456	32,304	5,907
Sagadahoc	382,676	344,408	38,268	44,556	6,115
Somerset	423,544	381,190	42,354	80,265	14,565
Waldo	315,014	283,513	31,501	52,931	6,131
Washington	299,640	269,676	29,964	83,957	7,548
York	<u>2,746,271</u>	<u>2,471,644</u>	<u>274,627</u>	<u>96,025</u>	<u>57,550</u>
Total	\$ <u>14,592,478</u>	\$ <u>13,133,313</u>	\$ <u>1,459,165</u>	\$ <u>1,457,118</u>	\$ <u>327,848</u>

Sources: State Department of Audit  
Judicial Department

OPLA 11/9/89

Maine County Appropriations 1988 in Dollars

General Account Categories

County	Adminis- tration	County Treasurer	Register of Deeds	Program Grants	Courts	District Attorney	Register of Probate	Sheriff	Civil Emergency	Jail	Buildings	Employee Benefits	Debt Svc. Interest	Overhead	Reserves	Misc.	Total
Androscoggin	68275	65343	177775	54352	64511	145954	71428	373864	74596	781276	225270	313500	155000	6600	207000	0	2784744
Aroostook	120510	15182	186425	184038	106244	95000	75218	436144	40947	589900	242814	312100	392500	166500	16000	133645	3113167
Cumberland	360715	70256	464428	476174	112213	315535	185376	1246003	103731	2188640	428304	741378	661467	10000	40000	0	7404220
Franklin	86654	14632	90101	107670	44806	34453	48485	399880	18663	418606	39285	111600	185267	89700	84000	0	1773802
Hancock	71558	30850	145017	116205	71115	99696	70071	381630	26551	311045	117937	205100	106504	91613	30000	151049	2025941
Kennebec	50402	34425	228950	232200	132250	170047	136801	489251	32000	976074	121042	385659	45000	99238	181000	2000	3316339
Knox	44267	24943	122655	40650	45000	81579	58500	420987	22808	436082	228063	312669	102352	8500	0	176434	2125489
Lincoln	57890	20866	116705	165215	65533	39194	56035	465967	40637	254498	84189	202500	153780	111300	76300	13413	1924022
Oxford	54477	30260	162026	57750	70000	57798	64613	367404	34829	380639	97851	204850	30000	8600	25000	132720	1778817
Penobscot	178788	74638	219051	240710	134173	183055	136803	396800	19466	1533518	304875	367736	584043	149100	77600	55380	4655736
Piscataquis	100829	16402	69647	67100	43584	44921	56291	201200	13100	272233	69274	118400	22500	50660	0	1000	1147141
Sagadahoc	39778	29405	89021	47851	67197	47326	59687	416131	14072	218250	105000	98700	179859	78425	43865	0	1534567
Somerset	105126	30020	131262	177372	84224	102952	66372	337553	22345	601206	124788	188500	175988	19031	14000	18400	2199139
Waldo	79986	12116	114369	56460	49222	45391	60553	256479	37333	292030	35112	150617	89360	0	0	0	1279028
Washington	74297	32925	106176	66142	67686	83893	64527	230611	13200	433593	101934	204696	153994	56008	0	114457	1804139
York	208670	0	417745	262500	91817	324638	170044	570899	63909	1320210	185700	0	222470	0	50000	326002	4214604
Total	1702222	502263	2841353	2352389	1249575	1871432	1380804	6990803	578187	11007800	2511438	3918005	3260084	945275	844765	1124500	43080895
Percent of Total	4	1	7	5	3	4	3	16	1	26	6	9	8	2	2	3	

Sources: 1988 County Budget Resolves  
State Auditor's Office

OPLA 10/17/89





REP. JOHN L. MARTIN  
CHAIR



SEN. CHARLES P. PRAY  
SEN. NANCY RANDALL CLARK  
SEN. CHARLES M. WEBSTER  
SEN. PAMELA L. CAHILL  
REP. DAN A. GWADOSKY  
REP. JOSEPH W. MAYO  
REP. MARY CLARK WEBSTER  
REP. FRANCIS C. MARSANO

SARAH C. DIAMOND  
EXECUTIVE DIRECTOR

STATE OF MAINE

114th LEGISLATURE

LEGISLATIVE COUNCIL

July 6, 1989

Honorable Georgette B. Berube, Senate Chair  
Honorable Ruth Joseph, House Chair  
Joint Standing Committee on State & Local  
Government  
114th Maine Legislature

Dear Senator Berube and Representative Joseph:

The Legislative Council met last Saturday to establish budgets for the approved interim study requests. The Council has taken the following actions on requests from your Committee:

Structure of Substance Abuse  
Assistance and Services in the State

APPROVED

5 member subcommittee

4 subcommittee meetings

1 full committee meeting

Redistribution of County Functions

APPROVED

5 member subcommittee

4 subcommittee meetings

1 full committee meeting

The Council also considered your request for \$5,000 to bring in outside speakers and consultants during the course of the study. Rather than allocating a lump sum, I would ask that you submit specific requests to the Council for each speaker, which includes a jurisdiction and estimated cost.

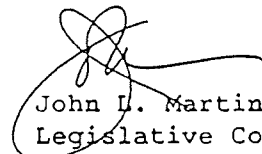
The Council's action on all study requests is based on the understanding that the subcommittee will have completed its work by December 1, 1989. This means that the report and any accompanying legislation must be ready to transmit to the Legislative Council on that date.

Honorable Georgette B. Berube, Senate Chair  
Honorable Ruth Joseph, House Chair  
July 6, 1989  
Page Two

I would ask that you send information regarding those members who will be serving on the subcommittee as soon as it is available to Sally Diamond.

We appreciate your cooperation in moving quickly to organize the study and look forward to receiving your findings and recommendations. Please call me if you have any questions.

Sincerely,



John L. Martin, Chair  
Legislative Council

cc: Martha Freeman, Director, Office of Policy & Legal Analysis

OK  
R.O.S.

L.D. 817

(Filing No. S- 316)

STATE OF MAINE  
SENATE  
114TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 312, L.D. 817, Bill, "An Act to Provide a Referendum to Abolish County Government and Authorize Reassignment of its Functions and Duties to Appropriate State and Municipal Departments and Agencies"

Amend the bill by striking out all of the title and inserting in its place the following:

'An Act to Study the Structure of County Government and Possible Options to Reform the Delivery of County Functions'

Further amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, it is necessary that the functions and efficacy of county government be studied and evaluated; and

Whereas, it is necessary that these actions be started as soon as possible to permit the results of the study to be available to the Second Regular Session of the 114th Legislature; and

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

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. Commission established. There is established the

1 Commission to Study the Functions of County Government and the  
2 Redistribution of County Functions. The commission shall study  
3 and advise the Legislature on the reassignment of the functions  
4 of county government to appropriate state and municipal  
5 departments. The commission shall be composed of 9 members as  
6 follows: 4 Senators appointed by the President of the Senate; and  
7 5 members of the House of Representatives, appointed by the  
8 Speaker of the House of Representatives. The commission must  
9 have at least 5 members from the Joint Standing Committee on  
10 State and Local Government. The President of the Senate and the  
11 Speaker of the House of Representatives shall make these  
12 appointments by July 15, 1989, and shall notify the Executive  
13 Director of the Legislative Council upon making the  
14 appointments. The chair of the Legislative Council shall call  
15 the first meeting of the commission by July 30, 1989. The  
16 commission shall elect a chair from among its members.

17  
18 1. Duties. The study commission shall:

19 A. Undertake a study of the functions performed by county  
20 government;

21 B. Prepare an inventory of those functions, by county if  
22 differing county government functions require;

23 C. Determine the efficacy of county government as a means  
24 of performing those functions and shall recommend  
25 appropriate state and municipal departments that could  
26 perform those functions more efficiently, if possible;

27 D. As far as possible, identify the potential savings or  
28 cost to each branch of government that would occur as a  
29 result of the proposed reassignment of functions;

30 E. Evaluate the effects of abolishing county government and  
31 provide recommendations to the Legislature in this regard;  
32 and

33 F. Suggest any legislation necessary to achieve the  
34 commission's recommendations.

35  
36 2. Staff; compensation. The study commission shall request  
37 necessary staff assistance from the Legislative Council.  
38 Legislative members shall receive the legislative per diem as  
39 defined in the Maine Revised Statutes, Title 3, section 2, for  
40 each day's attendance at commission meetings and reimbursement  
41 for travel and other necessary expenses upon application to the  
42 Executive Director of the Legislative Council.

43  
44 3. Reports. The study commission shall present a report of  
45 its findings and recommendations together with any recommended  
46 legislation to the Legislature by December 1, 1989, and shall  
47

1 submit the report by January 1, 1990.

3 4. Budget. The Executive Director of the Legislative  
Council shall administer the commission's budget.

5 Sec. 2. Appropriation. The following funds are appropriated  
7 from the General Fund to carry out the purposes of this Act.

9 1989-90

11 LEGISLATURE

13 Study Commission - Funding

15	Personal Services	\$2,970
	All Other	5,000

17 Provides funds for the per  
19 diem, travel and related  
expenses of the Commission to  
21 Study the Functions of County  
Government and the  
23 Redistribution of County  
Functions.

25	LEGISLATURE	
27	TOTAL	<u>\$7,970</u>

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

31

33 STATEMENT OF FACT

35 This amendment completely replaces the bill. The amendment  
deletes those provisions of the original bill that abolished  
37 county government. The amendment establishes a study commission  
to investigate the efficacy of county government in its present  
39 form and to recommend ways in which county government could be  
reformed and also makes the bill an emergency. The amendment  
41 also adds an appropriation.

Reported by the Minority for the Committee on State and  
Local Government. Reproduced and Distributed Pursuant to  
Senate Rule 12.

(6/16/89)

(Filing No. S-316)



# LIST OF STUDIES OF MAINE COUNTY GOVERNMENT

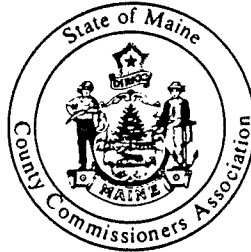
TITLE	AUTHOR	DATE
1. A Study of County Government in Maine	David Arthur Nichols	May 1942
2. County Government in Maine	Edward F. Dow	October 1952
3. County Government in Maine -- 1966	William J. McKinney, Jr.	January 1966
4. County Government	The Maine Intergovernmental Relations Commission	November 1966
5. Maine county commissioners: laws and general information relating to powers and duties of the early office and the Court of Sessions which preceded it	Maine State Law and Legislative Reference Library	1974
6. Study on County Government	Jonathan C. Hull, LA	December 1976
7. Regional Planning Agencies	John R. Selser, LC	January 1984
8. On Regional Agencies and Councils of Government	Maine State Planning Office	January 31, 1985
9. The Revision of Title 30	Gilbert Brewer, LA	December 1986





# M.C.C.A.

MAINE COUNTY COMMISSIONERS ASSOCIATION



Two Central Plaza  
Augusta, Maine 04330  
Tel. (207) 623-4697

Emile Jacques, President  
Androscoggin County

Albert S. Carey, Vice President  
Oxford County

Joseph L.A. Morin, Secretary-Treasurer  
Piscataquis County

Gordon L. Well, Executive Director

April 3, 1989

Sen. Georgette B. Berube  
Rep. Ruth Joseph  
Co-Chairs  
Committee on State and  
Local Government  
State House  
Augusta, ME 04333

Dear Georgette and Ruth:

In mid-February, representatives of the Maine County Commissioners Association met with your committee and promised to return with specific proposals for reforming the operation of county government and to reduce its burden on the property tax. This letter is to inform you of the recommendations adopted by the Board of Directors of MCCA at their regular monthly meeting on March 15th.

One of the chief criticisms of county government is that it is weak. Some critics take the position that county government should either be strengthened or abolished. MCCA believes county government has an important role to play, but believes some changes are necessary. Therefore, MCCA's Board of Directors is responding to this criticism with ways to strengthen county government.

The Commissioner is the chief elected officer of the county, thus, MCCA's discussions began with the role of Commissioner. MCCA believes that strengthening the role of the Commissioner will increase the strength of county government itself.

Strengthening the role of Commissioner requires increasing the responsibility and the accountability of that office, both fiscally and administratively. Discussion of fiscal and administrative responsibility and accountability

11904.322

lead to two key aspects of the job of a County Commissioner - the county budget process and the relationship between Commissioners and other elected county officials.

### Reform of the County Budget Process

The Board of Directors of MCCA urge that Commissioners in all sixteen of Maine's counties be given final budgetary authority. Elected County Commissioners should be given the responsibility and held accountable for the fiscal operation of county government.

In recent years two counties have taken this route, Cumberland and Waldo. Budgets in those counties are no longer reviewed by the Legislature. In Cumberland County an advisory panel of municipal officials works closely with County Commissioners and the system is working well by all accounts. In Waldo County a panel of municipal officials plays more than an advisory role but works closely with the County Commissioners in a mutually satisfactory arrangement.

The Board of Directors of MCCA recommends that the Legislature enact the necessary statutory changes to enable all counties to utilize a budgetary process the same as or similar to that which is in place in Cumberland and Waldo Counties.

### Appointment of Key County Officials

As you are well aware, there have been notable instances of the lack of accountability of elected county department heads to County Commissioners in recent years. In the most recent example, the Registrar of Deeds of Cumberland County repeatedly refused to appear for work. Although the County Commissioners took steps to deal with the matter, they were ultimately powerless to remove the incumbent from office. Only a law suit initiated by the State Attorney General brought about the removal of the incumbent. While the system worked, many believe it did not work well.

There have been repeated calls over the years that county department heads be appointed by the Commissioners. Those calls have been rejected for a variety of reasons. They include the concern that appointment will lead to unqualified patronage appointments, an erosion of the checks and balances of the present system, and a reluctance on the part of elected officials to abolish an elective office.

Concerns that appointing county department heads would result in unqualified appointments based on political patronage are countered by using the same methods that municipal and state governments developed to deal with the

problem of patronage. At a minimum, counties could and should adopt written job qualifications for such positions. Additionally, a specified term in office and removal only for cause could be added.

As for the matter of checks and balances, there are at least two ways in addition to election of department heads which preserve these. The first, of course, is the election of Commissioners themselves. With increased responsibility in their jobs will come increased visibility as the news media and the general public take more interest in that office. With that will come increased accountability.

As for fiscal responsibility, another check is the Maine Department of Audit whose authority would continue, and could be increased if necessary, regardless of whether department heads, specifically the County Treasurer, were appointed.

The MCCA Board of Directors considered all elected county positions in its discussion of this matter - Registrars of Deeds, Registrars of Probate, Sheriffs, Treasurers and Judges of Probate. The Board of Directors decided not to recommend any change with respect to the Judges and Registrars of Probate because of the judicial rather than administrative nature of Probate and because of the necessity of a change in the state constitution in order to make either position appointed (see Article VI, section 6).

The office of Sheriff is also a constitutional position (see Article CLIV) and, though sheriffs are arguably department heads who ought to be answerable to Commissioners, the Board of Directors decided to recommend no change in the method of selection of Sheriffs.

The Board felt that the office of Treasurer, more than any other department head, ought to be answerable to the Commissioners because of the close relationship between the Treasurer's fiscal record keeping role and the budgetary role of Commissioners. The need for accountability in fiscal matters with an appointed Treasurer is maintained through an advisory municipal budget committee, state Department of Audit oversight and the election of Commissioners. The Board of Directors of MCCA recommends the Legislature enact the necessary legislation to make the office of County Treasurer appointed by the Commissioners.

The office of Registrar of Deeds is a ministerial rather than policymaking function and ought to be answerable to the Commissioners. There is no question of loss of fiscal accountability with the appointment of this office, nor does it require a constitutional amendment. The Board of

Directors of MCCA recommends the Legislature enact the necessary legislation to make the office of Registrar of Deeds appointed by the Commissioners.

### Relieving Burden on the Property Tax

The primary source of revenue for the operation of county government at this time is the property tax. While the operation of county government represents only about 4.5% of the total statewide property tax assessment, there is widespread belief that other sources of funding county government are needed.

MCCA began its search for alternatives by reviewing certain of the costs imposed upon it, particularly in the area of courts and corrections, restrictions placed upon use of correctional reimbursement funds, and certain of the revenues it collects but does not keep. MCCA believes that any shift in the funding of county government should begin by enacting several pending pieces of legislation as follows:

**LD 401, An Act to Eliminate the Requirement that Counties Provide Facilities and Equipment to State Courts** (Rep. Look, Rep. Rotondi, Sen. Brannigan, Sen. Gauvreau)

**LD 786, An Act to Provide Full Reimbursement to Counties for Capital Expenditures for Buildings Attributable to the Community Corrections Program** (Rep. Erwin, Sen. Gauvreau, Rep. Manning, Sen. Pearson)

**LD 875, An Act Concerning the Permitted Uses of Funds Received by Counties as Reimbursement for Housing Certain Prisoners** (Rep. Allen, Rep. Rotondi, Sen. Bustin, Rep. Melendy) (LD 440 is a similar measure)

**LD 502, An Act to Increase the Recording Fees for Services Rendered by the County Offices of Registry of Deeds** (Rep. Look, Sen. Randall, Rep. Norton, Rep. Tammaro)

These measures alone would significantly reduce the burden on the local property tax. Because legislation is pending on all these matters, we will not present detailed information concerning their fiscal impact at this time. However, the combined effect of these bills if enacted would result in a shift from the property tax of approximately \$7.7 million or about one fourth the total county property tax commitment.

Sen. Berube and Rep. Joseph  
Apr. 3, 1989 page 5

On behalf of the Maine County Commissioners Association,  
I look forward to working with you and your committee this  
session on ways to reform and strengthen county government.

Sincerely yours,



Robert S. Howe

RSH/se

cc: Committee members  
MCCA Board of Directors

11904.322

Board of Directors  
Maine County Commissioners Association

SUMMARY OF RECOMMENDATIONS FOR REFORMING COUNTY  
GOVERNMENT AND REDUCING COUNTY PROPERTY TAX COMMITMENT

1. The Board of Directors of MCCA urge that Commissioners in all sixteen of Maine's counties be given final budgetary authority.

2. The Board of Directors of MCCA recommends the Legislature enact the necessary legislation to make the office of Registrar of Deeds appointed by the Commissioners.

3. The Board of Directors of MCCA recommends the Legislature enact the necessary legislation to make the office of County Treasurer appointed by the Commissioners.

4. The Board of Directors of MCCA recommends the Legislature enact the following pieces of legislation in order to relieve burden on the property tax:

LD 401, An Act to Eliminate the Requirement that Counties Provide Facilities and Equipment to State Courts (Rep. Look, Rep. Rotondi, Sen. Brannigan, Sen. Gauvreau)

LD 786, An Act to Provide Full Reimbursement to Counties for Capital Expenditures for Buildings Attributable to the Community Corrections Program (Rep. Erwin, Sen. Gauvreau, Rep. Manning, Sen. Pearson)

LD 875, An Act Concerning the Permitted Uses of Funds Received by Counties as Reimbursement for Housing Certain Prisoners (Rep. Allen, Rep. Rotondi, Sen. Bustin, Rep. Melendy) (LD 440 is a similar measure)

LD 502, An Act to Increase the Recording Fees for Services Rendered by the County Offices of Registry of Deeds (Rep. Look, Sen. Randall, Rep. Norton, Rep. Tammaro)



# Maine Municipal Association

COMMUNITY DRIVE  
AUGUSTA, MAINE 04330  
(207) 623-8428

December 1, 1989

Rep. Ruth Joseph, Chairperson  
Subcommittee to Study the Structure of County Government  
of the Joint Standing Committee on State and Local Government  
7 Aubrey Street  
Waterville, ME 04901

Dear Rep. Joseph:

Maine Municipal Association wishes to thank you and the other members of the Subcommittee for the opportunity to participate in the above study. We endorse the general focus of the Subcommittee which is to improve the efficiency of county government by avoiding duplication, reducing its costs, and providing sources of funding other than the property tax.

We specifically support the Committee's efforts to restructure the jail reimbursement from the State to the county so that those funds can in fact be used for ongoing out-of-pocket costs and operational expenses rather than just the creation of new programs. We also specifically support any recommendations of the Committee that would allow the county to retain additional sources of revenue for fees that it currently charges and collects, such as the transfer tax levied on the transfer of real estate.

Among the many issues and recommendations that the Committee is considering, there are several which are of significant concern to municipalities. Our position on those issues is set out below.

## I. Setting the County Budget

### (1) Why the County Budget Committee Should Have Budget Setting Authority.

As we heard at the last meeting of the Subcommittee, two counties have created budget committees. In Waldo County the budget committee itself sets the budget. The county commissioners in Waldo County support that budget process (see attached letter from Lloyd G. Drinkwater, Chairman of the Waldo County Commissioners/N.B.: Commissioner Drinkwater was formerly a Representative to the State Legislature, and in that capacity he personally sponsored the legislation that created the Waldo County Budget Committee--see enclosed copy of P.L. 1985 c. 233). The members of the budget committee in Waldo County also support the process (see attached letter from Katharine Littlefield, First Selectman from the municipality of Waldo). Both the county commissioners and the budget committee believe that having the budget committee



set the budget is a good process because it requires municipal officers to realize the financial requirements that face the county and allows them to balance those requirements against the impact on property taxes. We ask the Committee to support this process.

On the other hand, I discussed the operation of the budget committee in Cumberland County, which has an advisory-only budget committee, at a meeting attended by 15 town managers from Cumberland County. I also discussed it with several members of the budget committee. In the opinion of the managers and the members of the budget committee, that process is not functioning well. In their opinion, the county commissioners pay very little attention to the recommendations of the budget committee. Furthermore, because they have no budget authority, they have been unable to get county officials and employees to justify their expenditures. They do not believe that the advisory role of the budget committee is serving any useful purpose in controlling county expenditures. They would support placing budget authority with the budget committee.

(2) Why the County Commissioners Should Not Have Full Budget Setting Authority.

Allowing the county commissioners to have full budget setting authority is likely to increase costs. It will not keep costs down. It will not avoid duplication or improve the efficiency of county government. It is true that the county commissioners, like State legislators and elected local officials, are ultimately accountable to the electorate, and if they do not do a good job, the citizens have the right and ability to vote them out of office. However, in addition to accountability through the elective process, both the State Legislature and municipal government have significant legal controls on both the budget process and the amounts that can be spent. The State Legislature, by law, has to have a balanced budget. It cannot spend more than its revenues. At the municipal government level, both home rule charters and direct participation in the budget process, such as at town meeting, define and limit both the budget process and the amount of money that is spent. If the county commissioners are given full budget setting authority, they would be able to exercise that authority in the absence of any similar controls. It would be like authorizing a board of selectmen to create and pass a budget for a municipality without having to go to the town meeting for approval.

RECOMMENDATION

At a Minimum, the Final Budget For Any County Should Be Set By a Majority Vote of the Combined Budget Committee and the County Commissioners or the Citizens In Each County Should Be Allowed To Vote On a Referendum Basis As To Whether Budget Authority Should Rest With the Budget Committee or the County Commissioners.

We make the above recommendations because of the preceding arguments that we have made in relation to the budget setting authority for county budgets.

Either of these recommendations would ensure that some direct citizen/taxpayer control is exerted over the county budget on a regular basis.

## II. Paying for Rural Police Protection

### Why State Funds or Additional County Revenue Will Be Needed To Help Pay For County-Wide Police Protection Provided By the County If Municipalities With Local Police Departments Don't Have to Pay For It.

The Subcommittee is considering a recommendation that would allow municipalities that have police departments to receive either a credit or a lower payment for the costs of county government to reflect the fact that by having their own police forces, they do not use the county's police protection. Unless some additional funds from either State revenues or increased county revenues are provided along with this recommendation, the cost of the county-wide police protection will not be reduced, it will simply be shifted to the remaining municipalities in the county. Thus, while this recommendation would avoid duplication, it would be achieved only at the expense of greater property taxes in the municipalities to which the burden of paying for county-wide police protection is shifted. The use of State funds to pay for at least some of the cost of the rural police patrol and protection provided by the county can be justified by the fact that the Legislature has determined that this general police protection service is needed throughout rural Maine. A second source of revenue would be to either increase existing county fees or allow the county to retain more of the fees that it currently collects.

## III. Administration

### Why Requiring Professional Administrators For County Government Will Not Reduce the Cost of County Government.

Unless the salaries of the professional administrators are set by statute and the functions of that office are combined with existing offices such as the clerk and treasurer, professional administrators will drive up the cost of county government just by virtue of their salaries. If the functions of the administrator's office and the salary of that office are combined with existing functions, then the salary impact of the administrator can be limited.

## IV. Paying For Jails

### Why the Subcommittee Should Recommend That the State, at a Minimum, Fund the Cost of Operating County Jails.

Paying for the incarceration system is clearly one responsibility of county government that should rest with the State. We recognize that the Committee may well be split on having the State operate the jails, but a

Rep. Ruth Joseph, Chairperson  
December 1, 1989  
Page Four

unanimous recommendation that the State fund the jail system would have a favorable impact on that issue when it comes up for hearing before the Corrections Committee.

In closing, our focus on county government remains primarily to reduce its impact on the property tax. It is the only form of government in the State in which the tax is indirectly passed to the taxpayer without the taxpayer's having any significant control over the tax process. The rise in costs of county government has not necessarily been the result of poor management by the county commissioners, but rather by rapidly escalating costs, particularly in the area of jails. To the extent that the cost of the jails is taken out of the county budget and the county is allowed to retain more of the revenues that it generates, we think that the Subcommittee and its efforts will be well served as will all of the State's citizens.

We thank you again for the opportunity to participate in this study, and we also wish to express our thanks to John Selser, Haven Whiteside, and Bret Preston for all of the work and assistance that they have provided throughout the process.

Sincerely,



Gary C. Wood  
Director  
State and Federal Relations

GCW/tm

cc: John R. Selser, Esq., Legislative Analyst  
Haven Whiteside, Legislative Analyst  
Bret A. Preston

SUMMARY OF MAINE MUNICIPAL ASSOCIATION'S  
POSITION ON COUNTY GOVERNMENT



I. Setting the County Budget

Proposal: The County Budget Committee Should Have Budget Setting Authority.

Waldo County's budget process works. Cumberland County's doesn't. Allowing the county commissioners to set the budget would allow them to act without the controls that exist at both the State and local level.

II. Paying For Rural Police Protection

Proposal: State Funds or Additional County Revenue Will Be Needed If Municipalities With Local Police Departments Don't Have to Pay For It.

Allowing a credit or reduced payment for municipalities with police departments will simply shift the costs of rural police protection to the remaining towns. It will not reduce those costs.

III. Administration

Proposal: The Professional Administrator's Position Should Be Statutorily Combined With the Positions of Clerk and Treasurer.

Without a combination of existing functions and salaries, the administrator's salary alone will drive up the cost of county government.

IV. Paying For Jails

Proposal: The State Should Fund the Cost of Operating County Jails.

Paying for the incarceration system is clearly one responsibility of county government that should rest with the State. We recognize that the Committee may well be split on having the State operate the jails, but a unanimous recommendation that the State fund the jail system would have a favorable impact on that issue when it comes up for hearing before the Corrections Committee.