MAINE STATE LEGISLATURE

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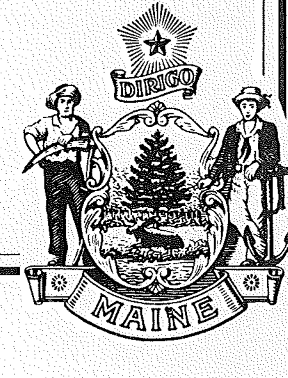
Review of

DEPARTMENT OF FINANCE

- Deferred Compensation Program
- Bureau of the Budget
- Bureau of Taxation
  - Appellate Division
  - Audit Division
  - Property Tax Section

Joint Standing Committee on Audit and Program Review 1989-1990



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STATE OF MAINE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
COMMITTEE ON AUDIT AND PROGRAM REVIEW

April 1990

Members of the Legislative Council,

We are pleased to transmit the Committee's 1989-1990 report to you in four volumes. To simplify our process and reduce costs, this year the Committee used draft reports to circulate its initial recommendations. These four volumes represent our final conclusions about the agencies under review. The report includes statutory and administrative recommendations and findings on the:

- Department of Finance
  - Bureau of the Budget
  - Bureau of Taxation
- Finance Authority of Maine
- Office of the State Treasurer
- Maine Municipal Bond Bank
- Department of Audit
- Bureau of Capitol Security
- Maine's child welfare service delivery system;
- Department of Administration, Part II
  - Office of Information Services;
  - Bureau of Purchases;
  - Bureau of State Employee Health;
  - Division of Risk Management;
  - Capitol Planning Commission;
  - Educational Leave Advisory Board;
- Maine State Board of Licensure for Architects and Landscape Architects;
- Board of Trustees, University of Maine System; and
- Maine Emergency Medical Services System.

In addition to the diligent work of the Committee members, we would like to particularly thank the adjunct members who served on our subcommittees from other Joint Standing Committees and the many agency staff and public who assisted the Committee in its deliberations. Their expertise enriched and strengthened the review process.

The Committee's recommendations will serve to improve state agency performance and efficiency by increasing management and fiscal accountability, resolving complex issues, clarifying Legislative intent and increasing Legislative oversight. We invite questions, comments and input regarding any part of this report.

Sincerely,

Beverly Bustin
Beverly M. Bustin
Senate Chair

Neil
Neil Rolde
House Chair

STATE HOUSE STATION 5, AUGUSTA, MAINE 04333 TELEPHONE: 207-289-1635

This document represents a partial report of the Department of Finance, covering only:

- Deferred Compensation;
- Bureau of the Budget; and
- Bureau of Taxation
  - Appellate Division;
  - Audit Division; and
  - Property Tax Section

The material contained herein will be incorporated into the final Department of Finance report, upon completion of the Committee's review of the Department in 1991.

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COMMITTEE ORGANIZATION

SUBCOMMITTEE #2
REVIEW ASSIGNMENT

- Department of Finance
  - Bureau of the Budget
  - Bureau of Taxation
- Finance Authority of Maine
- Office of the State Treasurer
- Maine Municipal Bond Bank
- Department of Audit
- Bureau of Capitol Security

MEMBERS:

Representative George Townsend,
Subcommittee Chair

Senator Beverly M. Bustin
Senator Georgette Berube
Senator Linda Brawn
Representative Neil Rolde
Representative Phyllis Erwin
Representative Harriet Ketover
Representative Beverly Daggett
Representative John Aliberti
Representative Eleanor Murphy
Representative Catharine Lebowitz
Representative Wesley Farnum

ADJUNCT MEMBERS:

Representative Wilfred Bell
Joint Standing Committee on
Housing and Economic Development

THE COMMITTEE PROCESS

The Joint Standing Committee on Audit & Program Review was created in 1977 to administer Maine's Sunset Act which "provides for a system of periodic justification of agencies and independent agencies of State Government in order to evaluate their efficacy and performance " [3 MRSA Ch. 33 §921 et. seq.]. To carry out its mandate, the goal of the Audit Committee is to increase governmental efficiency by recommending improvements in agency management, organization, program delivery, and fiscal accountability.

The Committee process unfolds in five distinct phases:

PHASE ONE: RECEIPT OF PROGRAM REPORTS

The law requires that agencies due for review must submit a Program Report to the Committee. The Program, or Justification, Report prepared by the agency provides baseline data used to orient staff and Committee to the agency's programs and finances.

PHASE TWO: REVIEW BEGINS

At the start of each review, the Committee Chairs divide the full Committee into subcommittees, appoint subcommittee chairs, and assign each subcommittee responsibility for a portion of the total review. Each subcommittee is augmented by at least one member from the committee of jurisdiction in the Legislature; i.e. the subcommittee reviewing Maine's child welfare service delivery system will include a member of the Human Resources Committee.

PHASE THREE: SUBCOMMITTEE MEETINGS

The subcommittees created by the Committee meet frequently when the Legislature is in session and every three to four weeks to between the sessions to discuss issues regarding the agency and to make recommendations for change. Staff will prepare material for the subcommittee's deliberation and present it to the subcommittee in one of several forms; as an option paper, discussion paper, or information paper. The Committee has found that these formats facilitate its process by cogently and objectively describing the topic for discussion and the points necessary for expeditious decision-making. These subcommittee meetings are not formal hearings but are open to the public and are usually well attended by interested parties. The subcommittees conduct their business in an open manner, inviting comment, and providing a forum for all views to be heard and aired.

PHASE FOUR: FULL COMMITTEE MEETINGS

The full Audit & Program Review Committee considers the recommendations made by each subcommittee. These meetings are another opportunity for the public to express its views.

PHASE FIVE: THE LEGISLATURE

Following the full Committee's acceptance of subcommittee recommendations, Committee staff prepare a text and draft a bill containing all the Committee's recommendations for change. The Committee introduces this bill into the Legislative session in progress and the legislation is then referred to the Audit & Program Review Committee. As a final avenue for public comment prior to reaching the floor, the Committee holds public hearings and work sessions on all its recommendations. After the Committee concludes final deliberations and amendments, the bill is amended and placed on the calendar for consideration by the entire Legislature.

SUMMARY OF RECOMMENDATIONS

The Committee makes both Statutory and Administrative recommendations. In some instances, the Committee will issue a finding which requires no action but which highlights a particular situation. The Committee's bill consists of the Statutory Recommendations. Administrative recommendations are implemented by the agencies under review without statutory changes. A simple listing of the Committee's recommendations and findings appear here. Narratives describing the background and rationale for these proposed changes appear throughout the report.

ADMINISTRATIVE 1. Request that the Advisory Council on Deferred Compensation gather performance information from non-participating carriers comparable to that submitted by current carriers, in order to evaluate carrier performance relative to competitors' offerings.

ADMINISTRATIVE 2. Direct the three firms participating in the State's Deferred Compensation Program to produce and annually distribute an updated informational brochure and conduct a seminar detailing the benefits of the program for state employees.

ADMINISTRATIVE 3. Direct the Commissioner of Finance to report back to the Committee during the compliance review on the steps taken to improve the Department's communication with state employees about deferred compensation.

ADMINISTRATIVE	4.	Direct the Bureau of the Budget to publish a detailed statement of its policies and procedures, and any subsequent amendments thereto, and distribute them in a timely fashion to all relevant agency personnel, in order to enable agencies to effectively manage their programs.
FINDING	5.	The Committee supports the finding of the Commission on Property Tax Assessment, Valuation and Collection that an updated revision to the Assessment Manual published by the Bureau of Taxation is indicated.
ADMINISTRATIVE	6.	Direct the Bureau of Taxation to explore options to decentralize the data entry function in the Unorganized Territory unit of the Property Tax section, in order to streamline operations, increase efficiency and improve public service.
ADMINISTRATIVE	7.	Direct the Bureau of Taxation to acquire a printer for the Unorganized Territory unit, in order to allow for a daily record of file revisions.

STATUTORY	8.	Amend the time schedule in the tax lien procedure for real property in the Unorganized Territory, in order to assist both taxpayers and the State in complying with statutory requirements.
STATUTORY	9.	Amend reporting dates related to the fiscal administration of the Unorganized Territory, in order to increase compliance with statutory requirements.
FINDING	10.	The Committee finds a need for a study of the Unorganized Territory and supports the review recommended by the Joint Standing Committee on State and Local Government in their recently published report on county government.
STATUTORY	11.	Authorize the State Tax Assessor to reimburse municipalities which are in compliance with statutory requirements, for satisfactory claims filed under the Tree Growth Tax Law, in a single, lump sum payment.
ADMINISTRATIVE	12.	Require the Bureau of Forestry to transmit its Tree Growth inventory and annual updates to the appropriate registries of deeds, in order to make Tree Growth classification information more widely available.

STATUTORY	13.	Authorize the State Tax Assessor to establish procedures designed to ensure that the certified ratio reported by municipalities on their municipal valuation returns is accurate within a reasonable range, in order to provide more equitable application of the State's municipal funding and reimbursement programs.
ADMINISTRATIVE	14.	Direct the Bureau of Taxation to increase its efforts to assist municipalities in understanding the importance of accurate reporting on the municipal valuation return, in order to reduce the incidence of unintentionally inaccurate reporting.
STATUTORY	15.	Clarify the captured assessed value within a tax increment financing district that is excludable from a municipality's state valuation.
ADMINISTRATIVE	16.	Instruct the Bureau of Taxation to amend the municipal valuation return form to include the total amount of captured assessed value within a tax increment financing district, and the percentage of that value required to finance the district's development plan.

ADMINISTRATIVE 17. Urge the Department of Economic and Community Development to require municipalities with one or more tax increment financing districts to submit an annual report, in order to enable the Department to effectively monitor this increasingly popular program.

DEPARTMENT OF FINANCE

INTRODUCTION

The Department of Finance is responsible for the overall management of the State's fiscal resources. Specific activities associated with this general responsibility include revenue projections, budget preparation, financial reporting, advising the Governor on fiscal matters, and participation with the Governor and Treasurer in decisions affecting the State's debt and investment strategies. The Finance Department is additionally responsible for the implementation and administration of all state tax laws, as well as the State's two revenue generating "enterprises": liquor and lottery. The Department administers the State Single Audit Act and the Deferred Compensation Plan, and has various responsibilities related to financial matters between the State and Maine's tribal Indians.

HISTORY

The Department of Finance originated in the 1919 establishment of a State Budget Committee. Twelve years later, as part of a major reorganization of state government, the Committee was replaced by a new Department of Finance headed by a Commissioner of Finance who also served as State Budget Officer. At that time, the Department consisted of the Bureaus of Accounts and Control, Purchases, and Taxation. Also established in the same year (1931) was an Advisory Committee on the Budget, with the responsibility to advise the Governor on matters concerning state financial policies.

In 1953, the Department became the Department of Finance and Administration. In 1957, the Bureau of the Budget was created under a State Budget Officer. The Administrative Services Division was established in 1977. Three years ago, the Department was divided into the two separate Departments of Finance and Administration, the Lottery was established as a bureau under the jurisdiction of the Department of Finance, and the State Claims Board became the State Claims Commission.

DEPARTMENT ORGANIZATION

The Department of Finance is comprised of five bureaus, an administrative services division, the Office of the Commissioner and several affiliated commissions and advisory entities. An organizational chart of the Department appears on page 3. These subdivisions of the Department include the following:

- **Office of the Commissioner** (3 positions) - made up of the Commissioner, Assistant to the Commissioner, and Administrative Assistant;

- **Administrative Services Division** (16 positions) provides administrative and financial management support and services to all bureaus within the Department;

- **Bureau of the Budget** (13 positions) reviews agency budget request submissions, prepares the biennial state budget document, approves agency work programs and quarterly allotments and changes thereto, processes financial orders, and reviews administrative activities of agencies with a focus on efficiency. The State Budget Officer has historically had primary responsibility for projecting revenues;

- **Bureau of Taxation** (254 permanent, 52 seasonal positions) administers and enforces the State's tax laws, including income, sales, excise, estate taxes, and property taxes in the unorganized territories; provides technical and analytical support to the State Tax Assessor, prepares revenue estimates for current tax systems and proposed law changes, and prepares procedural manuals for tax administration;

- **Bureau of Accounts and Control** (61 positions) maintains the official accounting records for all State expenditures and financial transactions, examines all bills and payrolls to ensure legality, and prepares warrants for payment;

- **Bureau of Alcoholic Beverages** (251 permanent, 67 seasonal positions) headed by the **State Liquor Commission**, oversees the distribution, marketing and sale of all liquor in the State, operates 70 liquor stores, issues licenses and permits for the sale and importation of alcoholic beverages, and collects excise taxes on beer and wine;

- **Bureau of the Lottery** (43 positions) under the direction of the **State Lottery Commission**, plans, promotes and operates the State's four lottery games;

- **State Claims Commission** (2 positions) conducts hearings on the taking of or damage to real property by the State, to ensure the rights of property owners, determine just compensation, provide for relocation assistance, etc.

- **Advisory Council on Deferred Compensation** advises the Commissioner of Finance on the administration and operations of the State Deferred Compensation Plan;

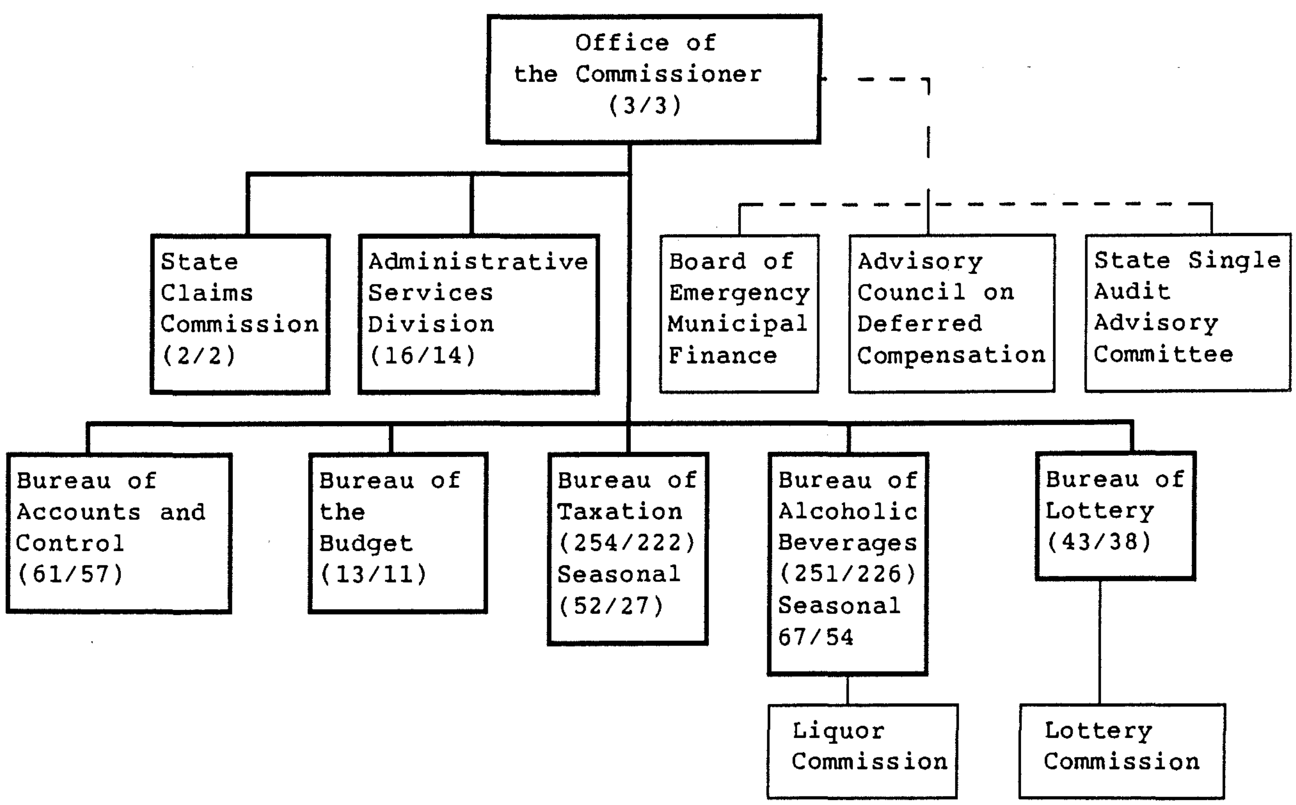
- **State Single Audit Advisory Committee** is made up of representatives of interested community and government agencies, appointed at the discretion of the Commissioner of Finance, to advise the Department on the administration of the State Single Audit Act; and

- **Board of Emergency Municipal Finance** is made up of the State Tax Assessor, the Commissioner of Finance and the State Treasurer. The Board is authorized to take over a municipal government in the event that a particular municipality cannot meet its financial obligations. The Board has not exercised this authority for several decades and has not convened for any reason since the early 1980s.

The Department of Finance is authorized 643 permanent and 119 seasonal or intermittant positions, of which 572 and 81, respectively are currently filled.

Below appears an organizational chart of the Department of Finance. The numbers in parentheses indicate the number of positions authorized and currently filled for each unit.

DEPARTMENT OF FINANCE



FINANCIAL OVERVIEW

The costs of administering the responsibilities of the Department of Finance were approximately $27.2 million in FY 1989, of which about $16 million were derived from the General Fund. It is the activities of this Department that either collect or generate 93% of the State's undedicated revenues. Below are shown expenditures of the Department by bureau, as well as General Fund revenues generated through each bureau's activities.

	FY 89 Expenditures	FY 89 General Fund Revenues
Administration	$ 144,428	
Accounts & Control	2,090,574	
MFASIS	3,132,027	
Administrative Services	524,416	
Budget	495,035	
Taxation	9,660,355	$1,275,713,122
Alcoholic Beverages	8,774,500*	31,505,304
Lottery	2,359,306*	30,407,318
	$27,180,641	$1,337,625,744

* Generated by activities - not GF appropriation

AUTOMATION

The Maine State Government Financial and Administrative Systems Plan, otherwise known as MFASIS, is an ambitious, 4 1/2 year, multi-million dollar project to update and streamline the financial and administrative systems that are the foundation and framework of efficient, responsible, and responsive government. The impetus for the project was the recognition of the increasing gap between the size and complexity of Maine State Government, and the aging, technologically obsolete, and unintegrated systems that were responsible for its functioning. The implications of this widening gap included widespread duplication of effort, labor-intensive manual operations, lack of adequate management controls, untimely reports, duplicate record-keeping due to incompatible agency and central systems, and an increasing risk of the basic inability to adequately handle the sheer volume of transactions and processes required to effectively run Maine State Government.

In late 1987, the State contracted with the accounting firm of Price Waterhouse to work with a State Steering Committee, headed by the Commissioners of Finance and Administration, to develop a plan to address these actual and impending inadequacies. The results of that original effort were the identification of 5 new integrated systems that are intended to replace the 15 then existing central systems. Those systems are:

- an integrated payroll/personnel/position control system;
- a new accounting system;
- a budget preparation system;
- a new purchasing system; and
- a new fixed asset system.

Funding for the project has been appropriated in fiscal years 1988 ($515,188), 1989 ($4,091,125), 1990 ($3,800,000) and 1991 ($1,500,000), totaling over $9.9 million. Funding for the purchasing and fixed asset systems, were not approved in the current biennium.

Implementation of the personnel system occurred during October and November 1989. The accounting system went 'on line' in February. The most critical phases of the budget preparation system will be implemented by July 1, 1990, though full implementation of this component may not be completed until the fall. The status and effect of each system will be discussed within the context of the operations of the various bureaus of the Department most affected by them.

STATE SINGLE AUDIT ACT

The responsibility to administer the Maine Uniform Accounting and Auditing Practices Act for Community Agencies (Title 5, Chapter 148-B) lies with the Commissioner of Finance. The Act, passed in 1984, was the result of an Audit Committee review of the community agency auditing practices in effect at that time. The Committee's recommendation that the State Auditor be responsible for the development and implementation of standard accounting practices and procedures was subsequently amended, assigning responsibility for the project to Commissioner of Finance . One one-year Field Examiner position was appropriated to the Bureau of Accounts & Control for fiscal year 1985 for the project.

The Act requires the Commissioner of Finance to:

- establish final written community standard accounting practices;
- promulgate final rules governing performance guidelines and audit criteria, including responsibilities of the lead agency and waiver criteria;
- maintain a register of all qualifying agencies;
- maintain a grant register, including name of community agency, all grant or contract years, the contracting state agency and the amount of the grant;
- ensure that annual training on standard accounting practices be available to community agencies;
- be responsible for the implementation of the Act; and
- determine whether waivers of any of the requirements are justified for any individual agency.

The lead agency --- generally the department with the largest number of dollars contracted with the community provider --- is responsible for:

- directing, coordinating, or conducting the single state audit;
- maintaining all audit workpapers (to be retained for at least 3 years);
- conducting a formal exit interview with the community agency;
- issuing the audit report;
- maintaining a follow-up system that ensures that findings are resolved in writing within a reasonable period of time;
- providing technical advice; and
- ensuring that the audit is conducted in accordance with AICPA and U.S. GAO standards.

Standards were published in 1987 and recently updated, with the advice and assistance of the Advisory Committee on Single State Audits. The Committee is made up of representatives of the major state contracting agencies (Human Services, Mental Health & Mental Retardation, Transportation, and the Division of Community Services), several community providers, and a certified public accountant. The Commissioner's office stays informed on changes to the federal General Accounting Office standards, in order to provide as much consistency as possible between federal and state requirements.

MANUAL OF FINANCIAL PROCEDURES

Originally produced in 1962, the Manual of Financial Procedures is a document delineating the policies of the centralized administration of state government, and the procedures to be followed in implementing those policies. The manual covers several areas which fall under the jurisdiction of various bureaus of the Departments of Finance and Administration, as well as the State Treasurer. Procedures addressed in the Manual include those relating to:

Administration	Finance	Both	Treasury
Human Resources	Budget Planning & Control	Organizational Structure	Cash Receipts
Purchasing & Contracts	Position Control	Management Assistance	
Information Services	Accounting		
Facilities & Property Management	Payroll		
	Travel		
	Payments		

In July of 1989, former Finance Commissioner Mattimore initiated a comprehensive update of the Manual of Financial Procedures, a project which has not been undertaken since the Manual was first produced. A Committee on the revision was formed, responsibilities for various sections assigned, and target dates for the completion of first drafts set (November 30 - January 1). In addition, several new areas were identified for addition to the Manual, including general liability and workers' compensation insurances, debt management and lease management.

The updated manual should accomplish the original goal of providing an accurate, detailed resource for state agencies on the goals and policies that form the basis of state government administration, and the procedures that have been designed for the effective accomplishment of those goals.

DEBT MANAGEMENT

Another area in which the Department is seeking to improve management practices is capital planning and debt management. The Department is currently working with the Department of Administration and the State Treasurer to develop a coordinated, financially sound, priority-setting approach to capital acquisition.

DEFERRED COMPENSATION PLAN

The Deferred Compensation Plan is a type of retirement/savings plan administered by the Department of Finance with the advice of the Advisory Council on Deferred Compensation. The Advisory Council is made up of 7 members: the Commissioner of Finance, the Superintendent of Banking, the Superintendent of Insurance, and 4 state employees appointed by the Governor. Eleven percent (11%) of the State's employees participate in the plan, with a total of nearly $40 million currently deferred and invested.

During its review of the Maine State Retirement System last year, the Committee recommended that the Department of Finance, the Maine State Retirement System and the Advisory Council "review several areas of concern" and report back to the Committee as part of its review of the Department of Finance in the fall of 1989. The Committee's concerns included:

- the effectivensss of the three existing firms relative to competitive offerings by other firms;
- the need to increase the number of firms that participate in the plan, ensuring a proper balance between healthy competition and additional administrative expenses;
- the most effective agency to administer and review the plan; and
- the appropriate level of financial commitment by the state to the optional program.

While no formal report was ever submitted, the Committee continued its inquiry into the program's administration.

Number of Participating Firms - When the program was established in 1974, 3 carriers were selected to participate in the program through competitive bidding. There has been no opportunity for other carriers to gain entry into the program since that time.

Under the law, the State's administrative responsibilities extend only to deducting the designated amount of employees' compensation to be deferred and ensuring that it is transmitted to the specified carrier(s). The carriers are responsible for "servicing" the accounts - providing quarterly statements, investment counselling, etc. Deferred Compensation is an entirely voluntary program. An employee chooses whether or not to participate, how much to defer, and what investment option(s) to utilize. There are 25 different fund options currently offered by the 3 participating carriers.

The Committee found that the number of carriers with which other states that offer deferred compensation plans have contracts varies widely. Some states contract with a single carrier and the employees' choices are limited to that carrier's offerings. There would not appear to be any generally accepted legal or administrative obligation on the part of contracting states to provide free and equal, or periodic, access to program participation to the insurance industry. In addition, the Committee found that the argument that participants currently do not have sufficient investment options appears to be unfounded. Investment choices offered by the current carriers adequately "cover the field", according to the Financial Manager for the Maine State Retirement System.

Performance - In reviewing the analysis of the performance data submitted by the carriers that was prepared by Maine State Retirement System staff, the Committee found that, while the performance of the various funds varies widely, yields generally appeared to be within acceptable ranges. In order to assess whether other carriers perform more favorably, comparable data would need to be gathered.

Appropriate Administering Entity - Currently, the Administrative Assistant in the Finance Commissioner's office serves as the initial contact person for the Deferred Compensation program. The individual in this position answers employees inquiries, distributes pamphlets about the program on request, and refers questions to the respective carrier(s) when appropriate. The Payroll Division in the Bureau of Accounts and Control is responsible for the deduction and transmittal of deferred compensation. The Advisory Council on Deferred Compensation is responsible for reviewing the plan's operations annually, and advising the Commissioner on "matters of policy relating to the activities thereunder" (5 MRSA §884). The Commissioner must also consider requests for withdrawal of funds from the program for "unforeseeable financial emergency", which requires a determination of whether the conditions of the request fulfill the required criteria under the law. No resources were ever provided to the Department to administer the plan, and tasks had to be absorbed by an existing position. The Committee finds that, while the Maine State Retirement System has relevant expertise in retirement investing, there would not appear to be a feasible funding source to cover the costs of transferring administration of the Deferred Compensation program to the MSRS.

Costs - The Committee also discussed the appropriate level of financial investment by the State to this voluntary program, which constitutes an opportunity offered to employees for their own individual benefit. There are administrative costs, currently absorbed by the Department of Finance, associated with the program. Carrier costs are covered by income generated through their investment activities.

ADMINISTRATIVE	1.	Request that the Advisory Council on Deferred Compensation gather performance information from non-participating carriers comparable to that submitted by current carriers, in order to evaluate carrier performance relative to competitors' offerings.
ADMINISTRATIVE	2.	Direct the three firms participating in the State's Deferred Compensation Program to produce and annually distribute an updated informational brochure and conduct a seminar detailing the benefits of the program for state employees.
ADMINISTRATIVE	3.	Direct the Commissioner of Finance to report back to the Committee during the compliance review on the steps taken to improve the Department's communication with state employees about deferred compensation.

Deferred Compensation is a tax deferred, retirement savings plan which must meet certain Internal Revenue Service requirements. Maine's Deferred Compensation Program was established in 1974. As mandated in statute, the program is administered by the Department of Finance and overseen by an advisory council.

In 1974, an ad hoc Committee, headed by then Finance Commissioner Maurice Williams, selected three firms through competitive bidding to participate in the State's program. While the statute allows for replacement of any firm by the Council "after the evaluation and study of new programs", the Council reports that no evaluation of offerings by other firms has ever been performed.

Additionally, while the Committee heard testimony that participation in Maine's program was relatively good in comparison to other states, it was also reported that employees were not generally well informed about the program and its potential benefits.

Therefore, the Committee recommends that the Advisory Council on Deferred Compensation gather performance information from non-participating carriers comparable to that submitted by the current carriers, in order to evaluate carrier performance relative to competitors' offerings. In addition, the Committee directs the three firms participating in the State's Deferred Compensation Program to produce and annually distribute an updated informational brochure and to conduct a seminar outlining the benefits of the program for state employees. Thirdly, the Committee requests that the Commissioner of Finance report back to the Committee during the compliance review on the steps taken to improve communication between his office and state employees about this program.

BUREAU OF THE BUDGET

RESPONSIBILITIES

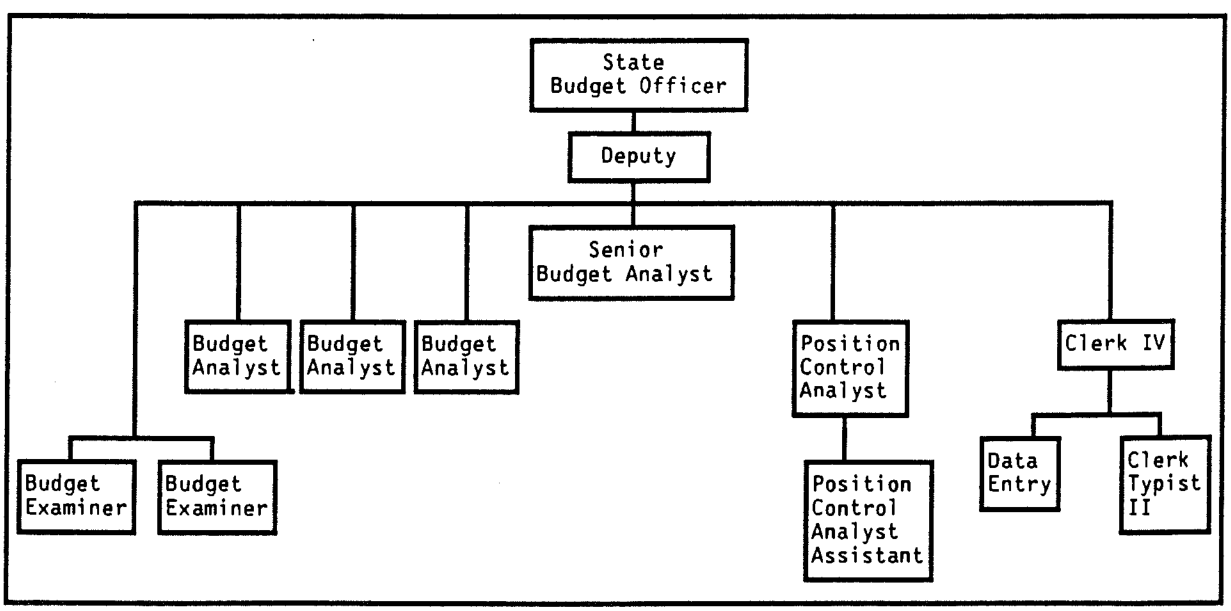
Established as a separate bureau in 1957, the Bureau of the Budget is statutorily responsible for preparing and submitting, to the Governor or Governor-elect, a biennial state budget document. The Bureau is also mandated to:

- examine agency work programs and quarterly allotments and make recommendations for approval;
- review changes in work programs and allotments during the year;
- process financial orders;
- review administrative activities, study organization, and investigate duplication of work of other departments, and formulate plans for better and more efficient management;
- require submission of all information necessary to facilitate Bureau efforts; and
- make rules and regulations in order to carry out the duties of the Bureau and the Department (5 MRSA §1662).

The Bureau of the Budget produces the Maine State Annual Report each year, and submits a vacant position report to the Legislature annually. The State Budget Officer is a member of the Contract Review Committee, which is responsible for reviewing all special service contracts, and several committees related to the MFASIS project. The State Budget Officer also carries primary responsibility for projecting revenues.

ORGANIZATION AND STAFFING

The Bureau of the Budget has a staff of 13, as shown in the chart below. Two positions are currently vacant.



The Committee's review revealed that Budget staff numbers 19% fewer than in 1975. The Bureau's staff is small relative to their statutorily mandated duties. Difficulty in attracting and retaining qualified staff, and the implementation of the Position Control component of MFASIS have placed additional stresses on Budget's staff over the last year.

The Bureau has recently undergone reorganization, with upgrading of the deputy and position control positions, and creation of a senior budget analyst position. A second Senior Budget Analyst position had been sought in the Bureau's 1989 Part II budget request, but failed to survive the budget process. Former Finance Commissioner Jean Mattimore reported at the time that failure to get the position will not affect the performance of the Bureau in the short term, but was intended to increase the Bureau's analytical capabilities, as well as assist the Bureau in retaining qualified staff by providing more opportunity for advancement for professional level personnel. The Budget staff has experienced substantial turnover in the recent past, and currently has 2 vacant positions.

FUNDING

The Bureau of the Budget is funded through the General Fund. Total funds expended for Bureau operations in FY 1989 were $495,035.

THE BUDGET PROCESS

Pursuant to Title 5 section 1665, on or before September 1st of each even numbered year, all state agencies or other entities wishing to receive state funds must submit their estimated budgets for the following biennium, along with corresponding figures for the last completed and current fiscal years. Expenditure estimates must be categorized by fund, organizational unit, and character and object code. All information is presented on forms supplied by the Bureau. In addition, agencies must submit projections of their revenues, both dedicated and undedicated, their position count, equipment purchase and replacement requests, and work programs.

The budget requests (current services or Part I) are reviewed and analyzed by the Bureau's budget analysts. Funding recommendations are made on the basis of concrete factors such as collective bargaining agreements, health and dental insurance costs, inflation, and whether the prior year's actual expenditures represented full staffing of an agency. Other, less-concrete factors, such as the Governor's program priorities and the general economic forecast are also included in the guidelines that the budget analysts use to assess the current services budget submissions of state agencies. The analysts also check to be sure that all items in the Part I request do qualify as current services.

Departments also submit budget requests for new or expanded services (the Part II), which are reviewed by the budget analysts and included in the budget document. Part II requests are evaluated and prioritized in consideration of the projected economic outlook, the Governor's program priorities and other individual external factors. The Part I and Part II budget bills are prepared and submitted to the Legislature for their consideration.

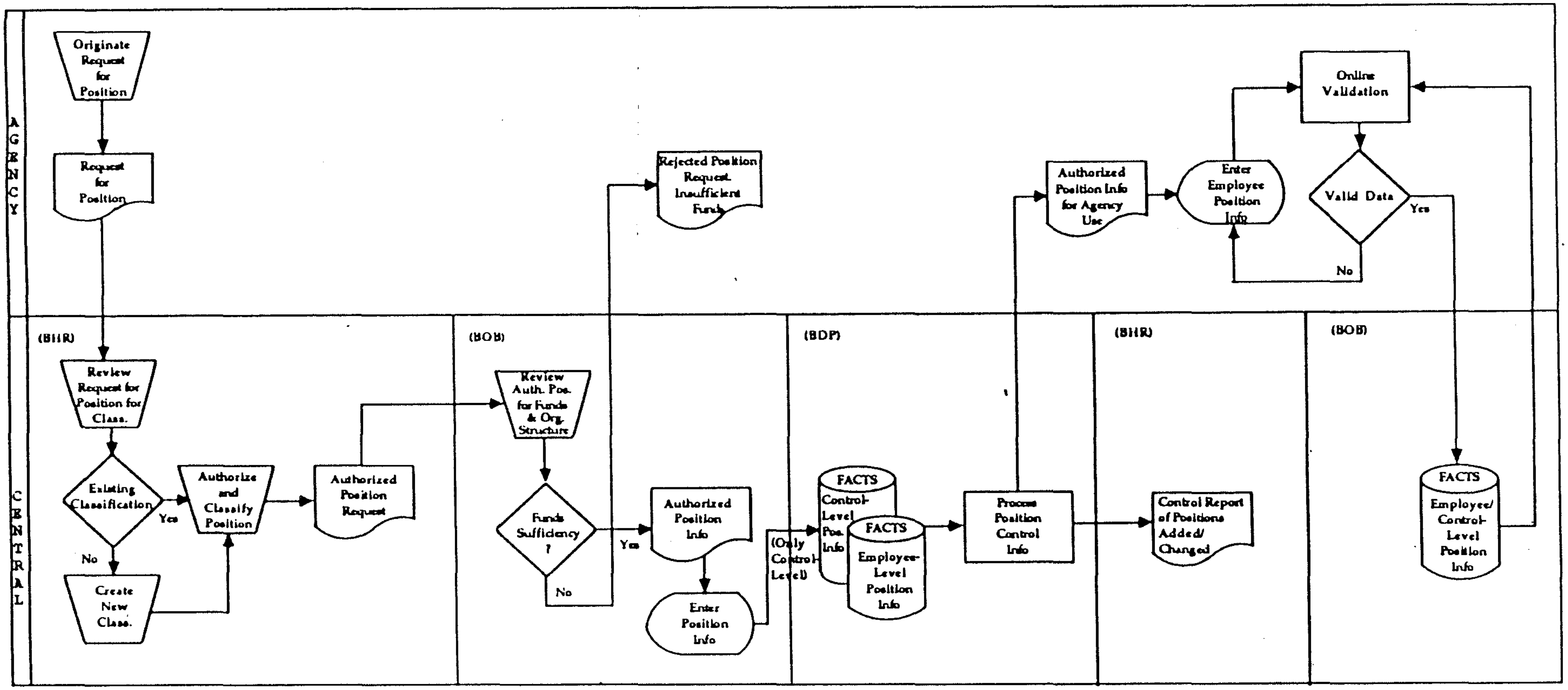
AUTOMATION OF POSITION CONTROL (MFASIS)

As described briefly in the Department of Finance introduction, the MFASIS project, as originally envisioned, consists of five systems. Funding has, thus far, been provided for the first three. The systems are:

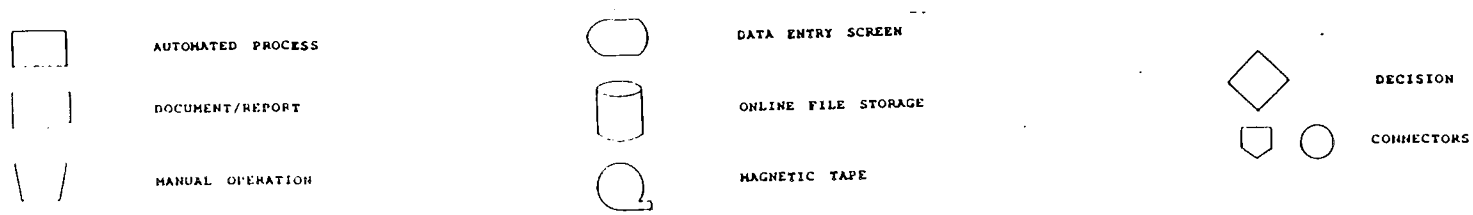
- Human Resources - which includes Position Control, Personnel, and Payroll components;
- Accounting;
- Budget Preparation;
- Purchases; and
- Fixed Assets.

The Human Resources component of the MFASIS project, by far the most complex, is what is called a "position-driven system" with the availability and definition of positions controlled by the Bureau of the Budget. For each authorized position in Maine State Government, the Bureau will maintain a computerized file detailing the characteristics of that position: title, classification code, range, date created, duration, funding source, whether the position is filled, when it was vacated, etc. The Bureau's position control piece will be integrated with the personnel component in the Bureau of Human Resources and the payroll component in the Bureau of Accounts and Control and the Bureau of Data Processing. Below appears a flow chart that graphically displays the steps that the Position Control process will follow, as well as diagrams describing the process of position creation and reclassification.

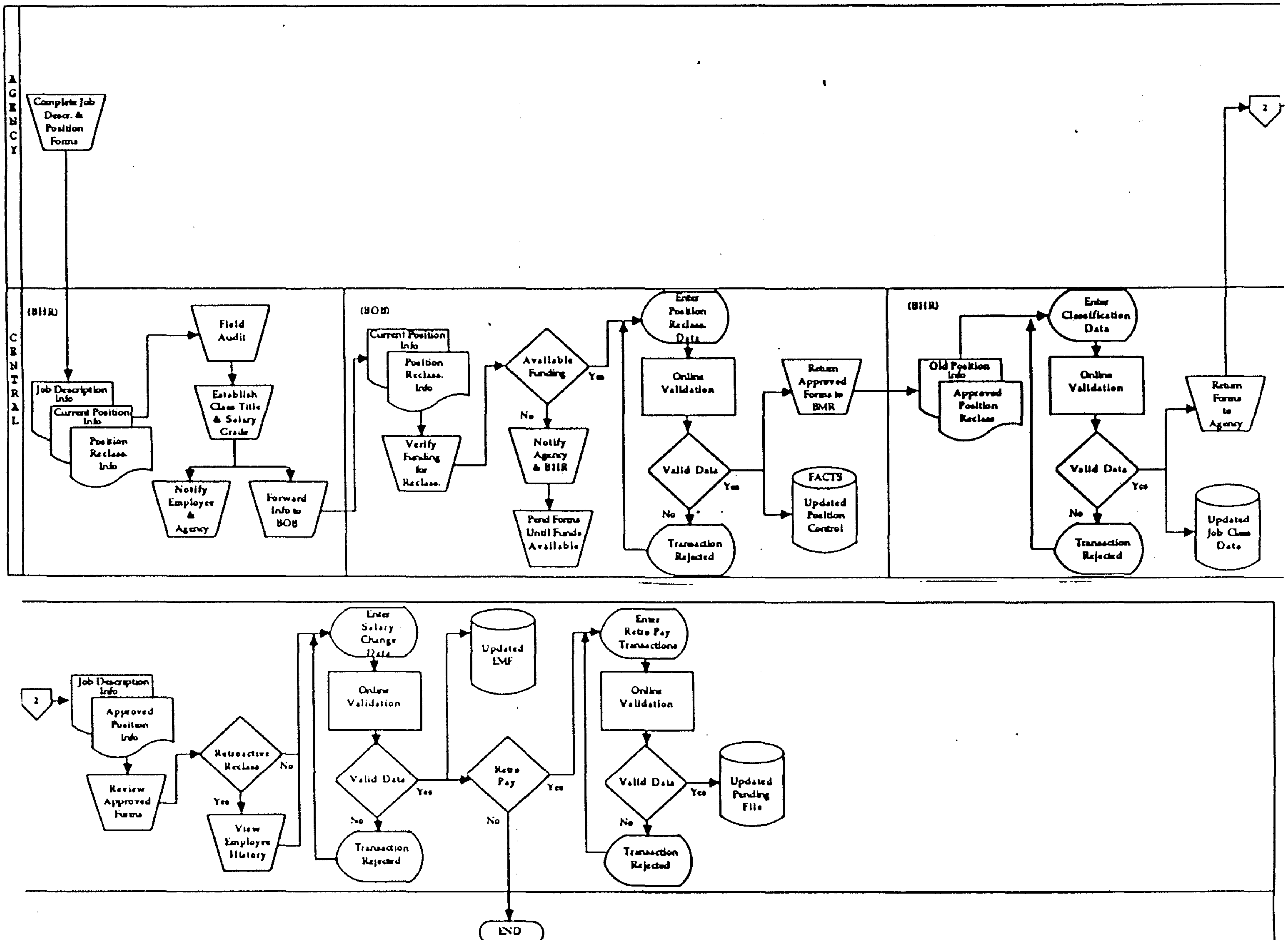
MFASIS PROJECT
HUMAN RESOURCE SYSTEM
POSITION CONTROL SYSTEM DIAGRAM



LEGEND OF FLOWCHART SYMBOLS

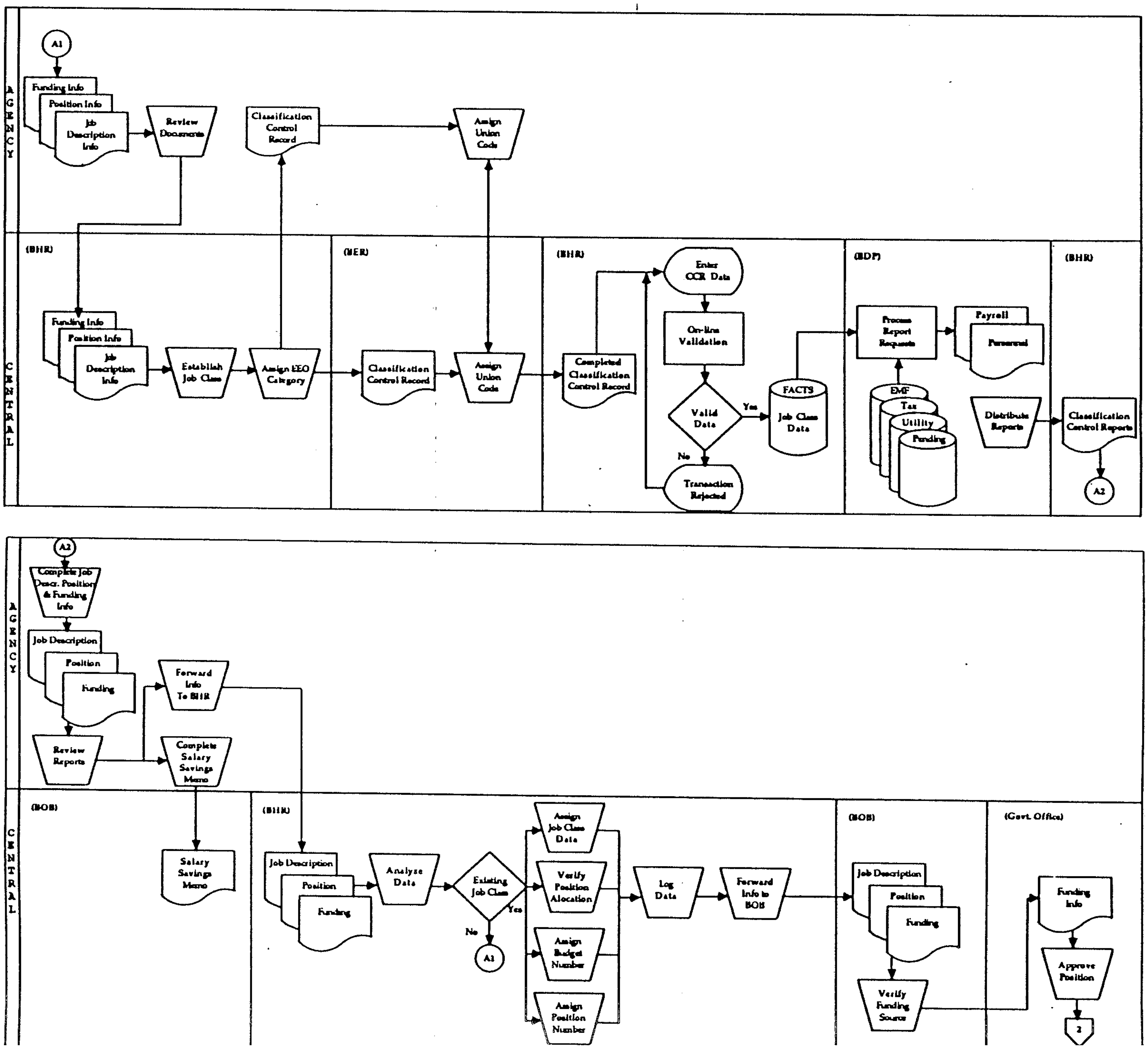


MFASIS PROJECT
HUMAN RESOURCE SYSTEM
EXAMPLE B - RECLASSIFY AN EXISTING POSITION
(B1) RECLASSIFY POSITION DATA



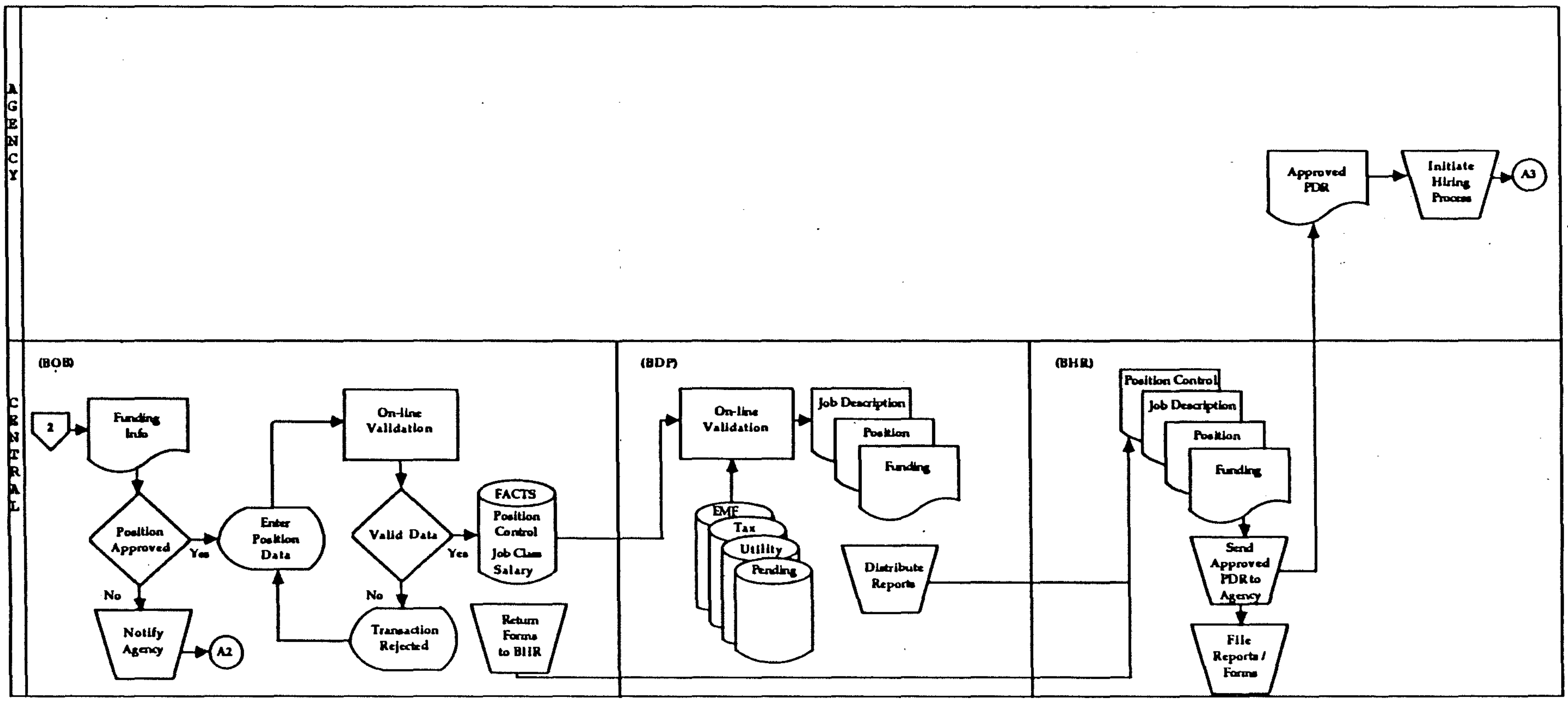
AGENCY

MFASIS PROJECT
HUMAN RESOURCE SYSTEM
EXAMPLE A - ESTABLISH A NEW CLASSIFICATION, POSITION AND EMPLOYEE
(A1) ESTABLISH A JOB CLASSIFICATION



CONTINUED FROM ABOVE

MFASIS PROJECT
HUMAN RESOURCE SYSTEM
EXAMPLE A - NEW EMPLOYEE WITH A NEW POSITION
(A2) CREATE A NEW POSITION



The various Bureaus underwent the conversion process, with parallel systems (both old and new) being operated throughout October and November.

The new system will generate a large number of reports which will provide information never before available to budget staff, agencies, the Governor and the Legislature. Some of these reports include:

- employee turnover by job classification;
- employee health costing;
- employees in expired appointments and positions;
- positions due to expire within 60 days;
- employee EEO report;
- position and employee record discrepancies; and
- many others.

The information available for anlaysis should prove invaluable in the State's efforts to manage its human and other resources efficiently and effectively.

The budget preparation piece of MFASIS is still in the initial stages of development, with a July 1st target date for implementation.

REVENUE ESTIMATES

The State Budget Officer is responsible for preparing revenue estimates and monitoring revenue collections. This function is essential both to the Governor, in the development of his executive budget, and to the Legislature in making appropriations and considering law changes (especially taxation policies) that would affect revenues.

While all departments submit estimates of revenue from all sources as part of the budget process, the majority of the data used to project revenues are provided to the Bureau of the Budget by the Bureau of Taxation. Tax law changes on the federal level have, in recent years, made several categories of taxes (personal and corporate income and sales and use taxes) much more difficult to accurately predict. Additionally, state policies favoring the return of all overcollected or "windfall" tax revenues due to those federal changes, have created an insistent demand for the ability to accurately assess the fiscal implications of tax policy revisions.

During the 1989 Legislative session, the House chair of the Appropriations Committee introduced legislation that would have created a Commission on State Finance, composed of the House and Senate chairs of the Taxation and Appropriations Committees, the Commissioner of Finance, the State Budget Officer, the State Tax Assessor, the Director of the State Planning Office, and the Director of the Office of Fiscal and Program Review. The primary purpose of the Commission would have been to make recommendations on revenue forecasts to both branches of government by a body that represented both branches. The bill would have provided a full time economist on the legislative staff, a computer, programming that provided models for more accurately projecting income, sales, and other taxes, technical assistance, and the development of a tax data base. The cost over the two-year period was approximately $350,000 of which about $100,000 would have constituted an ongoing annual expense. The bill was not funded due to a shortage of funds.

In October of 1989, the Department of Finance issued a Request for Proposals (RFP) for the development of a revenue estimating and monitoring system (REMS) and an assessment of the present revenue estimates for individual income and sales and use taxes for fiscal years 1990 (current) and 1991. The envisioned system would have included development of computer models, installation in the Department of Finance's PC mainframe environment, staff training, creation of a General Fund revenue monitoring system and ongoing technical assistance. The deadline for proposals was October 31, 1989.

Due to the high cost of the proposals received, only the assessment of current revenue projections and the income tax projecting model have been contracted at this time. Project costs ($88,578) were funded from the Governor's contingent account.

A cooperative effort by legislative and executive branches resulted in the December 8, 1989 Executive Order establishing an Advisory Committee on State Revenues. Arising out of the recognition that "it is in the mutual best interests of the executive and legislative branches of State Government to formalize a more active, analytical, and frequent discussion of current revenue trends and the need for future revenue adjustments", the Advisory Committee is made up of Senate and House Chairs and one minority member from the Appropriations and Taxation Committees, the Commissioner of Finance, the State Budget Officer, the State Tax Assessor, and the Director of the Office of Fiscal and Program Review. The Advisory Committee's purpose is to undertake a comprehensive review, on a quarterly basis, of the revenues received by the State and to analyze the accuracy of future forecasts.

RECOMMENDATION

ADMINISTRATIVE 4. Direct the Bureau of the Budget to publish a detailed statement of its policies and procedures, and any subsequent amendments thereto, and distribute them in a timely fashion to all relevant agency personnel, in order to enable agencies to effectively manage their programs.

As part of the Committee's review of the Bureau of the Budget, comments were solicited from agency financial officers on the budget process and on their interactions with the Bureau generally. Responses covered several areas, however one sentiment expressed unanimously by responding agencies was the need for the Bureau's policies and procedures to be stated clearly, in adequate detail, and in writing. Respondents expressed frustration about their lack of definitive information about budgetary procedures, and concern about whether policies were uniformly applied. In addition, agencies wanted to be informed when policies were amended, again in writing, and with sufficient notice to enable them to effectively plan and manage their programs. While the Committee has heard that a new Financial Procedures Manual is "in the works", the Committee also notes that the project is running significantly behind schedule.

Agencies also seemed to feel that there was a lack of general understanding on the part of Budget office staff, about the constraints and circumstances under which the agencies operate. Pursuant to Title 5 §282, the Commissioner of Finance is required to meet with agencies at least twice a year to discuss fiscal needs and problems. The Finance Commissioner suggested including the State Budget Officer in these meetings, as one way of keeping the Budget Bureau apprised of issues facing the agencies. The Committee supports this action.

The Committee acknowledges that the Bureau of the Budget operates under considerable pressure from the Legislature for ever-increasing stringency and accountability in the use of all available funds. The Committee also finds compelling, however, the agencies' need to be adequately informed of current budgetary policies and procedures, so that they may effectively manage the programs for which they are responsible. The

Committee finds that agencies should be notified of budgetary policy changes at least ten days prior to the effective date of any policy change.

Therefore, the Committee directs the Bureau of the Budget to publish a detailed statement of its policies and procedures, and any subsequent amendments thereto, and distribute them in a timely fashion to all relevant agency personnel, in order to enable agencies to effectively manage their programs.

BUREAU OF TAXATION

HISTORY

The Bureau of Taxation's origins lie in the 1891 creation of a three member Board of State Assessors, whose responsibility it was to equitably apportion state taxes among Maine's several towns and unorganized territories, and to assess all taxes upon corporate entities. Upon the creation of the Department of Finance in 1931, the Board was replaced by the Bureau of Taxation within the new Department. A State Tax Assessor, appointed by the Commissioner of Finance with the approval of the Governor, was named the administrative head of the new Bureau.

In addition to the responsibilities of the original Board, the Bureau took over administration of the gasoline tax, previously the responsibility of the State Auditor. A Board of Equalization was established at that time, to later be replaced by the Municipal Valuation Appeals Board in 1969 and subsequently by the State Board of Property Tax Review in 1986. The Bureau assumed responsibility for several other categories of taxes and tax programs in the following sequence:

1941	cigarette tax
1947	inheritance and estate taxes
1951	sales and use taxes
1969	individual and corporate income tax
1972	Elderly Householders Tax & Rent Refund Program.

In 1974, all property tax functions were transferred to a new Bureau of Property Taxation, an action that was reversed one year later.

The Bureau also administers several tax reimbursement, refund, relief and credit programs passed in recent sessions by the Legislature, as well as all property tax matters for the Unorganized Territory.

PURPOSE AND OPERATIONS

The Bureau of Taxation was established to collect the revenues necessary to support Maine State Government through the effective administration of Maine's tax laws, and to assist localities in improving local tax administration practices.

Summarized briefly, the activities of the Bureau of Taxation's seven divisions are described below. Fiscal year 1989 revenue associated with each division's activities appears in parentheses.

Operations. The Operations Division is comprised of 3 sections.

The **Property Tax** section is responsible for the determination of the State Valuation, upon which the State's education funding formula is based; supervision of and assistance to local assessors; assessment and collection of taxes in the Unorganized Territory; auditing of reimbursement claims of municipalities under the Tree Growth Tax Law and veterans' exemption; as well as administration of the Real Estate Transfer Tax, the Commercial Forestry Excise Tax, the Spruce Budworm Management Fund Tax and the Telecommunications Property Tax. ($22,383,502)

The **Data Processing** section designs, maintains and operates the Bureau's automated systems; provides statistical analyses of computerized data bases; and handles the acquisition and overall coordination of computer hardware for the Bureau.

The **Business Services** section provides mail processing and data entry services; revenue accounting; expenditure record keeping; and a central file facility for the entire Bureau.

State Tax. The State Tax Division is comprised of 2 sections.

The **Sales and Use Tax** section administers the State's sales and use tax laws, which entails the mailing and processing of 19,000 returns per month, and provides public education and assistance to encourage compliance with the law. This section also collects use taxes on "casual sales" (non-dealer) of motor vehicles, snowmobiles, ATV's, campers, aircraft, watercraft, livestock trailers, etc., as well as on items purchased out-of-state for use in Maine. ($517,067,952)

The **Excise Tax** section administers 20 various taxes and 13 tax refund programs. These include: motor fuel taxes, including the Regional Fuel Tax Agreement (RFTA); insurance premium; telecommunications; railroad; cigarette; illegal drug; and various industry taxes. Refund programs include 6 associated with gasoline, 6 with special fuel, and a cigarette tax refund program. ($237,288,137)

Income and Estate Tax. The Income and Estate Tax Division, formerly part of State Tax, was established as a separate division in 1989. The Income Tax Division is responsible for the State's income tax systems (individual, corporate, and fiduciary), the franchise tax on financial institutions, and succession taxes on estates and inheritances. The Division also administers the two property tax circuit breaker programs, issues certificates of eligibility for the low cost drug program, and has handled the income tax rebate programs passed by the Legislature. ($677,851,190)

Audit. The Audit Division reviews tax returns, corrects errors, and assesses any additional taxes necessary to attain compliance with state tax laws for both resident and out-of-state taxpayers. The Division audits primarily sales, use, excise, and corporate income taxes, however, will review all tax filings of an individual taxpayer during an audit. ($18,943,167 - included in relevant category above)

Enforcement. Established in 1986 to consolidate compliance efforts, the Enforcement Division is divided into 2 sections. One section concentrates on collection of delinquent accounts and the other pursues non-filers and follows up on discrepancies between federal and state returns, as reported by federal audits.

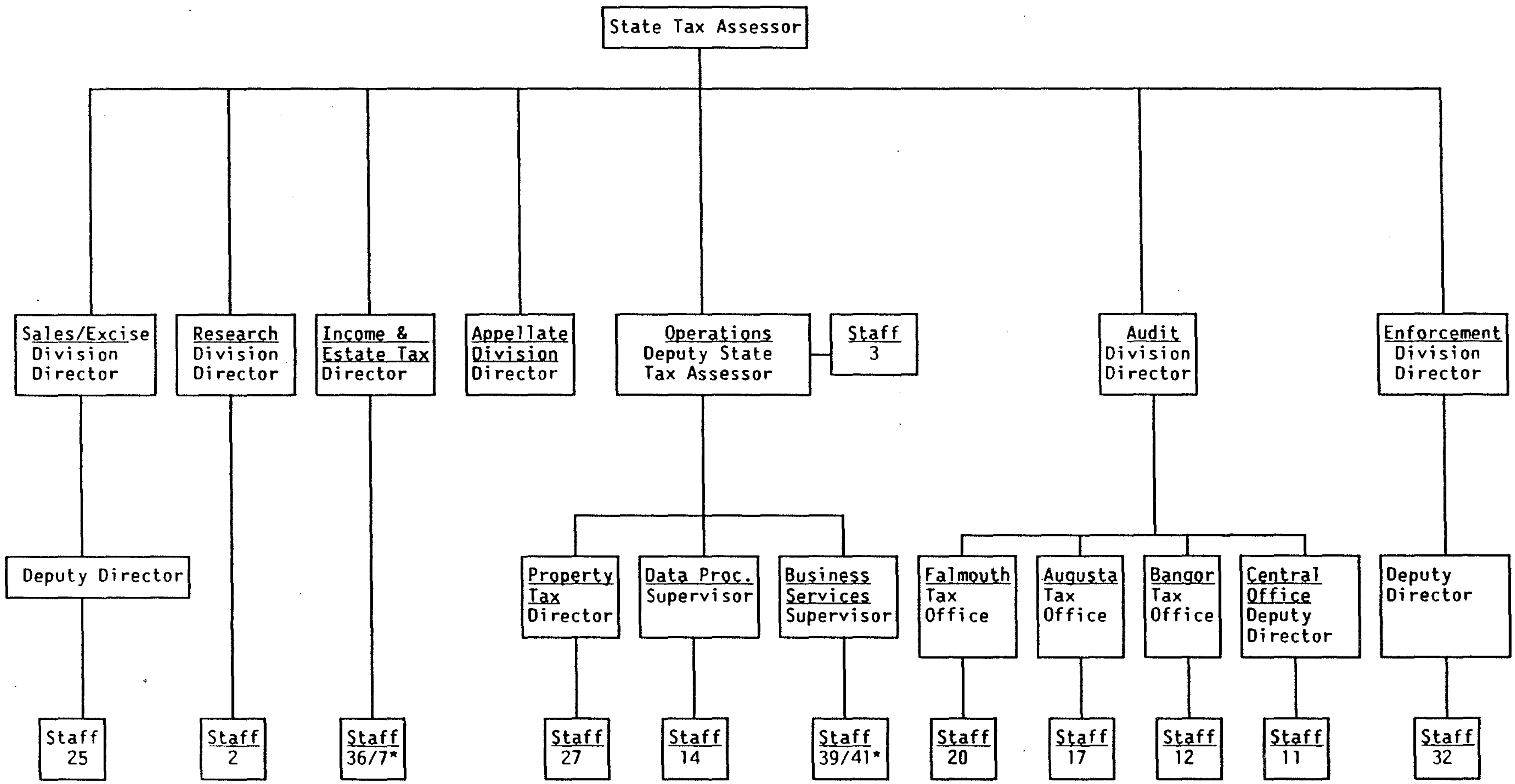
Research. The Research Division provides technical and analytical support to the State Tax Assessor. Upon request, the Division conducts studies of state taxes and administrative procedures, maintains statistical analyses of revenues, prepares revenue estimates for current tax systems and proposed law changes. The Division also prepares procedural manuals for tax administration and provides technical information to government officials, taxpayers, and others.

Appellate. The Appellate Division responds to taxpayer petitions for reconsideration of tax assessments. The Division requests and reviews all information pertaining to the assessment, conducts informal conferences (if requested by the taxpayer) and prepares a formal decision in the name of the State Tax Assessor.

ORGANIZATION AND STAFFING

The Bureau of Taxation is made up of 7 divisions, headed by a State Tax Assessor and a Deputy State Tax Assessor. The Bureau currently has 252 authorized full time positions and 48 seasonal positions, distributed as follows:

MAINE BUREAU OF TAXATION



* Seasonal Positions

State Tax Assessor	1
Deputy State Tax Assessor	1
Operations Division	3
Property Tax	27
Data Processing	14
Business Services	39/41*
Income and Estate Tax Division	37/7
Sales and Excise Tax Division	27
Enforcement Division	34
Audit Division	
Central Office (includes criminal unit)	13
Falmouth	20
Augusta	17
Bangor	12
Research Division	3
Appellate Division	1
	252/48*

* Denotes seasonal position = average, 20 weeks

An organizational chart of the Bureau appears on the preceding page.

The above positions include 17 full time and 13 seasonal positions appropriated during the 1st Regular Session of the 114th Legislature. The new positions were created as follows:

8 full/13 seasonal	Maine Residents Property Tax Program (c. 534)
1	Director, Audit Division (c. 501)
5	Revenue Agents, Enforcement Division (c. 501)
3	Solid waste advance disposal fees and recycling investment credits (c. 585)

Five additional positions were funded for fiscal year 1991 as a result of the solid waste legislation, as well as one Clerk-Typist III in the sales and use tax division, associated with collection of taxes on watercraft (c. 588). Two additional FY 90 positions associated with the Elderly Tax Deferral Program were deappropriated during the current session.

One way to measure effective staffing levels for a revenue generating agency is to compare the number of employees to the revenue generated. A comparative analysis performed by Bureau staff for the 6 New England states for FY 1988 showed Maine tied with Connecticut for the least number of employees (.17) per $1 million in revenues. The results of the Bureau's research is summarized in the table below.

Taxation Employees v. Revenues - FY 88
New England States

FY 88	ME	NH	VT	MA	CT	RI
Net revenues (millions)	$1382	$365	$485	$8273	$4183	$1111
Average employees	235	142	154	2012	713	212
Employees-to-revenue ratio	.170	.389	.318	.243	.170	.191

In addition, the Bureau's research states, while the number of full time equivalent employees increased 17% between 1975 and 1988, annual net revenue increased 342%, the number of corporate tax returns increased 50%, personal income tax returns, 41%, and the number of active sales and use tax accounts has increased 26%, in the same 13 year period.

Audit Division Staff. In 1966 the Bureau of Taxation had 36 field auditor positions. There was no income tax then, and auditors focused primarily on sales tax audits. Total revenues that year were $105 million.

In 1988, the Bureau had 42 field auditors. Not only had the number of sales tax accounts increased 45% (from 33,000 to 48,000) but the audit function was broadened to include individual and corporate income taxes, withholding taxes, and other business, industry, and excise taxes. Tax revenues generated in 1988 were over $1.3 billion, an increase of over 1200% since 1966, as compared to the increase in field auditors of just under 17%. Clearly, Audit coverage has been significantly reduced. In FY 1989, assessment revenue averaged about $314,156 per auditor.

In 1989, the Legislature appropriated 7 new revenue agents to the Bureau, 2 of which are associated with the Property Tax Program. The State Tax Assessor has used the other 5 positions to form a unit that will focus on individual income tax non-filers, an area where the State has done little auditing in the past. This unit is planned to be located in the Enforcement Division.

While the marginal return of additional audit staff decreases with each new position, the State Tax Assessor indicated that, in his estimation, Maine has not yet reached the break even point. The only limit to additional revenue realized through the audit function at this point is, according to the Assessor, the Bureau's ability to bring on and adequately train new auditors. One component of the Administration's revenue enhancement proposal that was developed in response to the current revenue shortfall, is the addition of 7 new revenue agents in fiscal year 1991 at a cost of $305,000. These agents are expected to generate additional tax collections of $2 million in their first year.

EXPENDITURES

Expenditures for the administration of the Bureau totalled $9,660,355 in fiscal year 1989, as follows:

Personal Services	$6,743,963
All Other	2,786,971
Capital	129,421
	$9,660,355

The Bureau administers several General Funded tax refund, relief and reimbursement programs. Appropriations and expenditures for these programs in FY 89 were as follows:

	Appropriation	Expenditures	(*)
Veterans Tax Reimbursement	237,000	236,455	(l)
Tree Growth Tax Reimbursement	843,000	740,378	(l)
Elderly Householders Tax & Rent Refund	7,184,971	6,801,954	(c)
Low Income Tax Relief	7,726,498	2,742,222	(c)
Individual Income Tax Surplus Return	40,745,000	40,663,289	(l)
Corporate Income Tax Surplus Return	1,395,000	949,282	(l)
1987 Tax Rebate Program	104,404	104,404	
Tree Growth Tax - Supplement	700,000	0	(c)
Low Income Tax Relief - Supplement	8,000,000	0	(c)
Corporate Income Tax Investment Credit	5,000,000	0	(c)
Court Facilities Payment Fund	$ 1,528,000	0	(c)
	$73,463,873	52,238,084	

(*) indicates whether the unexpended balance lapsed back to the General Fund (l) or carried forward for use in future years (c).

Dedicated Funds:

Unorganized Territory	
Education & Services Fund	$ 9,535,713
Excise Tax Reimbursement	429,210
	$ 9,964,923

As with staffing, comparisons of administrative costs to revenues are helpful in evaluating the efficiency of the Bureau's functions. According to information provided by the Bureau, operating costs as a percent of revenues have fallen by a full third between 1975 and 1988, from 1.9% to .63%. Again, in a 1988 comparison with the other five New England states, Maine's operating costs as a percent of revenue was lowest at .63%, with New Hampshire's relative costs highest at 1.5%.

The Bureau cautions, however, that though the figures may indicate that Maine's revenue collection operations are highly efficient, it also appears likely that additional staff could lead to increased tax collections well in excess of that staff's additional cost.

AUTOMATION

Maine's current State Tax Assessor has an extensive background in tax policy from both an executive and legislative perspective. Prior to coming to Maine, the Assessor: served for 4 years as Montana's Director of Revenue; ran the Legislative Finance Office in Montana; worked as an analyst in the comparable legislative office in New Mexico, and; served as Chair of the Multistate Tax Commission from 1986 to 1987.

The Assessor reports that in most states, "tax automation systems lead the way", because their cost is far outweighed by the additional tax revenues generated by employing efficient, effective, and equitable tax collection methods. Maine's income tax system was created in 1969 and, according to the Assessor, was obsolete 10 years ago. The Bureau received $200,000 in the Part II budget (c. 501) in 1989 for "the purchase of a receivable-collections system relating to Maine tax laws and the development of a unified accounts receivable system". Additional revenues that would be generated by the new system were estimated at $2 million this year and $3 million in FY 91. The Bureau has been working with the Office of Information Services over the last several months on the latter half of that mandate. As a result, the Assessor has declined to purchase the collections system originally envisioned, which he referred to as just "one more patch" on a system that is "providing only very basic functions very inefficiently."

The proposal for a comprehensive collections system, released by the Department in February, would carry a price tag of about $12 million dollars spread over a five year period (FY 91 through FY 95). The Assessor has stated that the proposed system would pay for itself in additional revenue collected by the time it is fully implemented, and be netting at least $7 million in the fifth year. This additional revenue does not represent increased taxes, but uncollected money owed to the State under current tax laws.

The State Tax Assessor indicated that the preferred system in Maine would be similar to one that the State of Alabama has been implementing over the last 3 years. The Assistant Commissioner of Revenue and the Chief of Computer Systems in Alabama provided the Committee with information on the results of the implementation of their new automated tax systems. The response from that state was extremely positive.

On the revenue side, according to Alabama's Assistant Commissioner of Revenue, the amount of additional revenues generated by the individual income tax component of the system alone was $40 to $50 million in the fiscal year that ended September 30, 1989, an increase of a little over 3.5% for that income source. Individual income tax represents about one third of Alabama's total annual revenues of about $4 billion. A comparable percentage increase for Maine's individual income taxes would be approximately $18.6 million.

In addition to the revenue benefits, Alabama was very pleased with how much the systems streamlined many of their operations. Automated processing of returns and refunds reduced the time it takes to generate refunds by more than half. In addition, the availability of tax return information on-line significantly improved taxpayer assistance functions. Alabama's taxation staff are now able to spend the majority of their time analyzing information made available by the system, rather than searching for and compiling it. Many different types of "flags" can be programmed, so that staff time can be allocated to auditing those returns which are more likely to involve errors. The system also allows for the kind of "what if" analysis required to project the implications of proposed tax law changes, a function that has proved invaluable to the Alabama Legislature, according to officials there.

First year funding of $1,752,000 for the project has been requested as part of the Administration revenue enhancement package currently being considered by the Taxation Committee. The schedule for phased in implementation of the peoposed system is as follows:

	What	When	Cost *
Phase I	Development and installation of core system, accounting functions and corporate income tax	July 1, 1990 - Dec. 31, 1991	$1,752,000
Phase II	Development and installation of individual income tax and withholding	Jan. 1, 1992- Dec. 31, 1992	$2,575,000
Phase III	Development and installation of sales and fuel excise Taxes	Jan. 1, 1993 - Oct. 31, 1993	$2,655,000
Phase IV	Property taxes, estate taxes and other excise taxes	Nov. 1, 1993 - Sept. 30, 1994	$2,620,000
Phase V	Not yet specified	Oct. 1, 1994 - June 30, 1995	$2,355,000

* Costs projected for each fiscal year FY 91 - 95, does not necessarily equal the cost of the specified system(s).

AUDIT DIVISION

PURPOSE

The primary purpose of the Bureau of Taxation's Audit Division is to monitor compliance with the State's tax laws. Public awareness of the existence of the audit function encourages voluntary compliance by taxpayers.

ACTIVITIES

Audit staff are trained to audit all the major state revenue producing tax systems, including sales and use, income, fuel, withholding and other industry taxes. Audit selection is a very important part of the process, and one which the current Director believes the Division has been improving upon. To illustrate, in FY 1988, the Division conducted 1,746 audits, resulting in the assessment of $11.3 million. In FY 1989, only 1,375 audits were conducted, about 21% fewer than the year before. Assessments for uncollected taxes, however, totalled $18,944,167 in FY 1989, an increase of over 67%.

Audits are indicated in several ways, according to the Director. In some cases, one audit in a particular industry or type of business will lead to another, or frequent errors on the part of particular taxpayers may act as a flag. Compliance with law changes will be audited in the year following passage - the new 10% tax on alcohol served in restaurants and bars, for example. The Division will be auditing for compliance with this tax increase, which took effect December 1, 1989, in early 1992. In addition, the Division receives reports on contracting and construction activity throughout the State and frequently gets audit leads from other divisions of the Bureau. According to the Director, experience is the most effective tool for good audit selections.

The Committee heard that discussions with other states on better selection procedures are ongoing. Many states utilize automated systems, which consolidate accounts receivable information from a taxpayer's several returns. Consolidation of accounts receivable files on an automated system allows discrepancies in reported liabilities to be easily discovered; for example, if a gross sales amount reported on a taxpayer's sales tax return is different than that reported for income tax purposes. The result is a time-saving audit selection tool that could prove very valuable to the State's compliance efforts. This capability has been included in the taxation automation proposal presented by the Department.

A breakdown of FY 1989 audits by type of tax and fiscal result is listed below.

Tax Audits Conducted by the BOT - FY 1989

Type of Tax	No. of Audits	Resultant Assessments
Corporate Income	69	$ 6,497,980
Sales & Use	825	$10,053,019
Fuel Taxes	310	$ 1,341,490
Individual Income*	92	$ 357,512
Withholding*	69	$ 208,124
Industry (potato, sardine, etc.)	10	$ 26,401
Miscellaneous Collections		$ 459,641
		$18,944,167

*Conducted in conjunction with sales and use audits.

In addition to actual assessments, it is estimated that for every assessed dollar collected as a result of the audit function, an additional dollar is realized through voluntary compliance. Simply stated, if the State did not conduct audits, more tax evasion would occur. That is why, though the average assessment per auditor in FY 1989 was $314,156, the Bureau roughly estimates the revenue generated per auditor at $500,000, a nationally accepted standard for increased revenue that can be anticipated from adding additional revenue agents. Clearly, factors such as experience, training, automation, and the existing auditor-to-accounts ratio effect the actual performance of individual auditors.

Out-of-state audits, primarily involving sales and use and corporate income taxes, tend to result in relatively large assessments. Each audit hour spent on out-of-state audits in FY 1989 (including travel time) netted $830. The average assessment per hour for in-state audits was $444.

ORGANIZATION, STAFFING AND EXPENDITURES

The Audit Division is made up of a director, deputy, central office staff of 4, and a 5 member criminal unit located in the Capitol complex; as well as 3 field offices in Falmouth, Bangor, and Augusta. Each of the field offices conducts sales and use tax audits, and staff from each are expected to travel out-of-state twice each year. In addition, the Falmouth office (20 positions) has staff that specializes in corporate income tax audits, and Augusta (17 positions), fuel taxes. The Bangor office (11 positions) handles all tax audits in the northern part of the State. The criminal unit (5 positions), recently transferred from the Enforcement Division, investigates fraud cases and initiates criminal prosecution in cases of criminal intent. The Division has a total staff of 62. The deputy director position is currently vacant.

Estimated expenditures for the Audit Division for the current fiscal year are just under $2 million.

ADDITIONAL AUDITORS

Included in the Part II budget bill in 1989 were 5 additional employees for the Bureau of Taxation (effective 1/1/90) who were appropriated as revenue agents. The cost of these positions ($170,000 & $280,000 respectively in FY90 and 91) is to be offset by the additional revenue generated, estimated at $1 million the first year and $2.5 million thereafter.

The State Tax Assessor made the decision to create a special unit in the Enforcement Division with these 5 positions, to pursue income tax non-filers. Maine does very little enforcement in this area currently, and it is projected that significant revenues could be generated more quickly because this type of activity does not require as extensive a training period as sales or corporate income tax auditing.

While the above is a legitimate use of the new positions, the Audit Division Director believes that substantial additional revenues are still available by increasing audit staff in the three field offices. The Director indicated that 17 additional auditors would be required to regain the auditor-to-accounts ratio of 20 years ago.

Connecticut offers a recently successful example of revenue generation through this means. In April of 1988, facing an $800 million revenue shortfall, the Connecticut Legislature appropriated $5.2 million for the FAIR project (Fair Audits, Increased Revenue), brainchild of Revenue Commissioner Timothy Bannon. Ninety three auditors and seven support staff were hired, and 2 new audit units created. The program's objective was to raise $90 million in additional revenues -- $62 million in actual assessments and $28 million in voluntary compliance -- nearly a million dollars per new auditor! The result, as reported to the Committee by Patrick Pelletier, Connecticut's Director of Audits, was even better than expected. Connecticut estimates that the program generated over $140 million, nearly half from voluntary compliance.

Connecticut's experience clearly would not be immediately transferable to Maine due to differences in tax systems (they have no income tax and an 8% sales tax), geographic location, tax base, etc. However, their experience would indicate that there may be substantial revenues going uncollected. As reported earlier, seven new revenue agents have been requested for fiscal year 1991, and are currently being considered by the Joint Standing Committee on Taxation .

Maine is also involved in discussions with the Multistate Tax Commission (MTC), which employs an audit staff and conducts, as its name suggests, multistate audits of the tax filings of either a particular corporation or sales taxes in selected businesses. The MTC is planning to conduct 18 sales tax and 38 corporate audits in FY 1991. Maine is considering participation in 5 of the sales and 15 of the corporate audits. It has not yet been negotiated what the costs would be to the State for its inclusion, but the decision to move forward will be based on costs vs. the anticipated benefits of participating.

APPELLATE DIVISION

ORIGIN AND PURPOSE

The Appellate Division of the Bureau of Taxation was created in February of 1988 to provide a uniform and consistent response to taxpayer appeals for reconsideration of Bureau assessed taxes, pursuant to §151 of Title 36. Prior to that time, taxpayers' petitions were handled by various Division Directors and other designated personnel. The State Tax Assessor determined that consolidating the responsibility for handling appeals was the best way to ensure uniform treatment of taxpayers, especially with regard to the abatement of assessed penalties and interest.

THE PROCESS

The Appellate Division handles appeals of sales and use taxes, income taxes, estate taxes, and appeals of assessments made as a result of the activities of the Audit and Enforcement Divisions (primarily corporate and business petitioners).

Taxpayers must file a petition within 15 days of receiving the notice of assessment from the Bureau. This 15 day deadline is one of the strictest in the country, and is frequently waived. The Bureau has submitted a bill this session (LD 2264) that will extend the filing deadline to 30 days. Enclosed with each notice of assessment of taxes, is a Petition for Reconsideration which clearly describes the taxpayer's appeal rights, including the statutory timeframe and right to an informal conference. Upon receipt of a petition, the Appellate Division Director reviews the additional information provided, may consult with the relevant Division for background information on the case, conducts the informal hearing if requested, and authors the decision letter on behalf of the State Tax Assessor. Decisions are circulated to the relevant division staff and the Attorney General's Office 5 days prior to mailing, in order to allow for review and comment.

The chart below displays the Division's activities for the twelve months beginning November 1988 through October 1989.

BREAKDOWN OF CASES

# of Cases Received.	# of cases decided	Sales & Use Taxes	Income Taxes	Audit	Miscellaneous	# of Informal conferences
453 (38/mo)	396 (33/mo)	182 (46%)	60 (15%)	107 (27%)	47 (12%)	64 (16%)

As can be seen by the figures above, approximately 57 (13%) fewer cases were decided than were received for the twelve month period, an average of 5 per month. The total number of cases currently backlogged in the 22 month history of the Division is 110. The State Tax Assessor is currently reviewing an inventory of the backlogged cases, in order to determine an appropriate means for resolving the apparent problem.

STAFFING

The Appellate Division consists of one person, the Division Director. The position requires the qualifications of an attorney familiar with tax law, or a CPA with a background in tax litigation. In a memorandum to the State Tax Assessor dated May 5th of this year, the Director indicated the need for additional staffing for the Division. His recommendation was one part time attorney and a full time clerk. The clerical functions associated with the Appellate Division have been performed by 3 separate clerical personnel in other divisions, located 2 floors away. According to the Director, a significant portion of his time is spent distributing and collecting his own communications. At the time of this report, the situation had been at least partially alleviated by the relocation of the Appellate Division office to the floor shared by the majority of the Bureau of Taxation. In addition, a revenue agent has been assigned to assist the Director in collecting and distributing relevant case materials.

The Director of the Appellate Division retired during the period of the review. A contract position has been hired to cover the transition until a permanent replacement can be found. The individual hired was previously employed in the Attorney General's Office as head of its Tax Division.

OPERATIONS DIVISION

PROPERTY TAX SECTION

PURPOSE AND RESPONSIBILITIES

Maine law requires the State Tax Assessor to annually establish an equalized just value of all taxable property for each municipality in the State and for the Unorganized Territory. Known as the State Valuation, these figures are used to determine the state share of education funding, state/municipal revenue sharing, and as the basis for the assessment of the County Tax.

While the establishment of the annual State Valuation and administration of the property tax in the Unorganized Territory are the most time consuming tasks assigned to the Property Tax section, this unit also:

- supervises and assists local property tax assessors;
- trains and certifies municipal assessors;
- administers the Real Estate Transfer Tax;
- audits and certifies the reimbursement claims of municipalities under the Tree Growth Tax and veterans exemption statutes;
- assesses and collects motor vehicle and watercraft excise taxes in the Unorganized Territory;
- administers the Commercial Forestry Excise Tax;
- administers the Telecommunications Property Tax; and
- administers the Spruce Budworm Management Fund, when applicable.

ORGANIZATION, STAFFING AND EXPENDITURES

The Property Tax section is one of three that make up the Operations Division, along with Business Services and Data Processing. The Property Tax section is divided into 2 units: Municipal Services and Unorganized Territory, each supervised by a Property Appraiser III. The Section employs 16 additional appraisers and 7 support positions. The majority of field staff work in both units, focusing on the municipal valuation in the fall and winter months and the Unorganized Territory during milder weather. Overall staffing of the Property Tax section has decreased over the last several years, primarily through attrition, from 36 to 26. The Director of Property Tax for the last 14 years retired on February 1st. The current Municipal Services supervisor is filling in as Director in an acting capacity, at least through the end of the current fiscal year. The Supervisor position will remain vacant during this period as a cost saving measure. More permanent staffing decisions are expected to be made in the early summer.

The expenditures of the Property Tax section were just under a million dollars in fiscal year 1989. Approximately 38% of this amount is attributable to activities in the Unorganized Territory, and is reimbursed to the General Fund through Unorganized Territory property taxes.

STATE VALUATION

Each year prior to February 1st, the Bureau of Taxation must certify to the Secretary of State the "equalized just value of all real and personal property...which is subject to taxation under the laws of this State" (36 MRSA §305, sub-§1). The state valuation process, which takes about 18 months, begins with a sales ratio study which measures the assessed value of residential and commercial properties relative to their actual selling price. This study is produced by using the "declaration of value" information which must be filed with the registry of deeds (with a duplicate going to the Property Tax section) at the time of a real estate transfer, concurrent with the payment of the Real Estate Transfer Tax. For the 1990 State Valuation, the sales ratio study began in the fall of 1988 and utilized actual sales data from July 1987 to June 1988, which means that the official State Valuation is always 2 to 3 years behind actual market values.

From this declaration of value information on the Real Estate Transfer Tax forms, Property Tax staff produce a sample of the year's sales data known as a "turnaround document" for each municipality, which is then sent to municipal tax assessors. Local assessors identify sales which should be discarded (i.e. family sales or others which do not accurately reflect fair market value), and report the actual local assessed value on the properties listed in the sample. The document is returned to the Property Tax section, which then computes a sales-assessment ratio for each municipality. The sales assessment ratio is the percentage of "just value" (market value) that property is actually appraised by the local assessor. By law, a municipality's locally assessed value must be at least 70% of the actual market value of that municipality's property, as reflected by the sales data. The Bureau projects the locally assessed values to 100% for the proposed state valuation.

Properties are categorized by use: residential, commercial, waterfront, industrial; developed, undeveloped, tree growth, farmland, open space, utilities. Bureau field staff do actual appraisals of industrial properties, if the property dominates a municipality's valuation (i.e. paper mills), or if the municipality does not have access to the necessary expertise and requests assistance in assessing a particular property.

The proposed state valuation is returned to the localities, and Property Tax field staff hold informal meetings in each county to enable towns to discuss the State's proposed figures. Because field staff spend, according to the Director, about half of their time assisting municipalities, answering statutory or technical appraisal questions and providing consultation on assessment practices, there are few contested appeals. Municipalities may appeal their state valuation to the State Board of Property Tax Review if agreement with the Bureau can not be reached informally.

The Property Tax Section prepares a statistical summary of the municipal valuation process, which displays a wealth of information about assessment ratios, tax rates, municipal vs. state valuation, etc. on a town by town basis, as well as by county.

Real Estate Transfer Tax - As described above, the Property Tax Section administers the Real Estate Transfer Tax. Approximately 70,000 of these declarations are processed annually. At $2.20 per $500 of the sale price of the property (buyer and seller each pay half), the Transfer Tax generated over $12.6 million in revenues in FY 89. One half of this revenue is dedicated to the Maine State Housing Authority's Housing Opportunities for Maine Fund, the other half is undedicated General Fund revenue.

TRAINING FOR TAX ASSESSORS

Pursuant to Title 36, section 318, the Property Tax section provides 4 basic courses in property tax administration for local assessors, which are offered periodically at various locations throughout the State. Staff also annually conduct a one week, intensive Maine Property Tax School at the University of Maine at Orono. The School provides a review of the basic courses as well as more advanced material, and serves as preparation for the 8 hour certification exam, administered 4 times each year.

A Certified Maine Assessor must complete 16 hours of classroom training each year to maintain certification. This requirement can be filled by training directly related to appraising (e.g. a seminar of recent law change or construction practices) or indirectly related subjects such as real estate law, public relations, land surveying, statistics, computer applications, etc.

There are approximately 90 property tax assessors currently certified in Maine.

UNORGANIZED TERRITORY

The Unorganized Territory, by definition, has no municipal government. The Maine State Legislature serves as the "local governing body" for the Unorganized Territory, reviewing and approving state agency and county expenditures in the area, as well as tax commitments. The Unorganized Territory consists of over 400 townships plus several coastal islands.

Legislation enacted in 1985 (C. 459, §C,1) established the position of fiscal administrator for the Unorganized Territory in the Department of Audit. The fiscal administrator makes recommendations to the Taxation Committee on the reasonableness of both state agency appropriation requests and county tax reimbursements for services provided in the Unorganized Territory.

By statute, the State Tax Assessor must annually determine:

- a separate mill rate for each county for the purpose of reimbursing counties for services provided by them in the Unorganized Territory located in that county. This is known as the county services payment, and is paid to the relevant counties in 4 equal quarterly disbursements. These services include road maintenance, dump, fire protection, law enforcement, etc.;

- a district-wide mill rate (for the whole Unorganized Territory) for the purpose of raising the funds required for the municipal cost component, defined as "the cost of funding services in the Unorganized Territory Tax District that would not be borne by the State if the Unorganized Territory Tax District were a municipality" (36 MRSA §1603, sub §1). Each state agency which provides services in the Unorganized Territory submits a budget for the municipal cost component, which is reviewed by the fiscal administrator and the Taxation Committee and must be passed by the Legislature. These services include education, property tax assessment, general assistance, forest fire protection, the cost of the fiscal administrator, etc.

In addition, the Unorganized Territory must pay its share of the counties' costs for jails, courthouses, Commissioners' salaries, etc. Known as the County Tax, it is determined by the percentage of the county's total valuation represented by the Unorganized Territory.

The State Tax Assessor uses the State Valuation in the Unorganized Territory and the above projected costs to establish the required mill rates. The rates are then combined through several formulas to establish a single tax rate for each county. Androscoggin, Cumberland, York, and Sagadahoc counties have no unorganized territory. Waldo, Lincoln, Knox, and Kennebec have very little, and provide no services.

Sales data is also used, as in the municipal valuation, to determine the annual valuation in the Unorganized Territory. Field staff do actual site appraisals on a 3 to 4 year rotating schedule. If appraisers, upon a site visit, discover significant unreported changes (e.g. new construction) that occurred in a prior year, supplemental assessments may be made for up to 3 years following the year of the improvement.

All real and personal property taxes collected from the Unorganized Territory accrue to the Unorganized Territory Education and Services Fund, which is used to reimburse the General Fund for funds appropriated for the provision of the county and state services described above.

The Property Tax section keeps records of all accounts and maintains tax maps for the Unorganized Territories. There are currently nearly 19,000 real estate and over 900 personal property tax accounts administered by the Unorganized Territory unit.

Motor vehicle and watercraft excise taxes in the Unorganized Territories are also administered by this unit. Generally, the Bureau contracts with local, municipal offices in the various counties to collect these taxes from Unorganized Territory residents, which are then reimbursed to the counties to offset some of the costs of county services to the territory, thereby reducing property taxes. Total excise taxes collected in FY 89 in the Unorganized Territory were $450,537.

In 1984, the Taxation Committee recommended and the Legislature passed a bill (PL 1983, c. 827) which called for a study of the funding and delivery of services to the Unorganized Territory. The study was not funded, however and therefore the study was never carried out. The Supervisor of the Unorganized Territory for the Property Tax Section, expressed support for a comprehensive study of the Territory, including the administration of the property tax function; the efficacy of county government's role; its organization (i.e. whether it should be divided into districts, established as one huge "municipality", or left as is); and the funding of services.

A 5 member subcommittee of the State and Local Government Committee recently completed an interim study of the structure and functions of county government. One of the provisions of the related bill that encompasses the recommendations of that subcommittee calls for an in-depth review of "the governance of the unorganized territories by the counties to determine its efficiency, effectiveness, and uniformity".

TREE GROWTH TAX LAW

The purpose of the Tree Growth Tax Law (Title 36, Chapter 105, sub-chapter II-A) is to encourage the operation of forest land on a sustained yield basis. Fifty percent of Maine's land is classified as Tree Growth (85% of the Unorganized Territory). Pursuant to Title 36, section 576, the State Tax Assessor must annually establish a 100% valuation for each acre of forest classified under the Tree Growth Tax Law.

The valuations are accomplished using stumpage sales data for each county for 8 types of softwood and 11 types of hardwood, categorized as either pulpwood or sawtimber. The table on the following page displays the Tree Growth land valuations for 1990, with the corresponding state determined valuation for "undeveloped land". As can be seen, the valuation of land classified under the Tree Growth Law ranges from a low of 8.3% (per Hancock County coastal hardwood acre) to a high of 69.3% (per Aroostook County inland softwood acre) of the undeveloped land valuation in the same county. However, the percentage of the state determined valuation actually assessed by municipalities on undeveloped land varies according to local assessment practices. Municipalities are reimbursed the difference between what was paid in taxes by property owners under the Tree Growth Law and what would have been paid if the land had been assessed by the municipality as undeveloped land.

Prior to 1981, the State reimbursed municipalities for Tree Growth land at a rate of 11¢ per acre. From 1981 through 1988, the reimbursement rate was 15¢ per acre, and was increased to 24¢ for tax year 1988. Currently, reimbursement equals 90% of revenues lost as a result of the Tree Growth classification. Tree Growth reimbursement funds budgeted for fiscal years 1990 and 1991 total $2,453,000 and $2,665,000 respectively. The Unorganized Territory receives no Tree Growth Tax reimbursement.

COMMERCIAL FORESTRY EXCISE TAX

Originally enacted in 1983, the Commercial Forestry Excise Tax is imposed on landowners of 500 or more acres of commercial forest land. The purpose of the tax is to partially offset the costs of forest fire protection expenditures of the Department of Conservation. Funds received by the State since the imposition of the tax average approximately $3.2 million per year.

Tree Growth v. Undeveloped Land Valuations - 1990

	Tree Growth Land Valuation			
	Softwood	Mixed Wood	Hardwood	Undeveloped Land Val'n
Androscoggin	203.10	136.80	78.90	340
Aroostook	100.50	62.50	36.10	145/250*
Cumberland	233.40	165.20	103.40	500/650*
Franklin	103.90	67.90	58.00	300
Hancock	83.80	50.20	33.10	270/400*
Kennebec	177.60	109.50	76.80	340
Knox	145.30	94.10	71.60	350/500*
Lincoln	143.60	94.70	74.10	350/500*
Oxford	108.30	75.80	71.40	300
Penobscot	75.00	62.00	44.00	225
Piscataquis	139.30	89.90	50.30	225
Sagadahoc	151.60	111.90	74.50	450/500*
Somerset	115.40	82.20	62.70	240
Waldo	155.20	97.70	71.00	190/400*
Washington	74.50	44.90	35.30	145/250*
York	189.60	137.40	89.30	500/650*

* Coastal

PROPERTY TAX RELIEF PROGRAMS

Maine Residents Property Tax Program (Circuit Breaker). Enacted in 1988, the so-called Circuit Breaker program provides rebates of property taxes for low income households, including renters. For elderly households, the benefit ranges from $5 to $400 for households with income not exceeding $7,400 for a single person and $9,200 for a household of 2 or more. For nonelderly households, the benefit equals 50% of property taxes which exceed 4.5% of the household income and 100% of taxes which exceed 8.5% of income, capped at $3,000. Households with incomes up to $60,000 are eligible to apply for the benefit. Thirteen (13) FTE positions and over $28.5 million were appropriated for this program in each year of the current biennium. Some deappropriations of surplus funds are expected, but at what level has not yet been decided by the Legislature.

Deferred Collection of Homestead Property Taxes. Enacted in 1989 (PL 1989, C. 534), this program allows households in which each member is 65 or older and with incomes of less than $32,000 to defer their property taxes until after their death, or upon sale of the property. The State reimburses municipalities for the deferred taxes and holds a lien on the property until the taxes, plus 6% simple annual interest, are received. Property taxes may only be deferred on a resident's principal dwelling. Two positions and $443,418 were appropriated for this program in FY 1991. ($55,080 for FY 90).

Homestead Property Tax Exemption. Also enacted as part of last session's property tax relief package, this program exempts 5% of just valuation on a Maine resident's principal dwelling up to $45,000 ($2,250) from taxation. To illustrate, if a home is valued at $45,000 or more and the mill rate in the municipality is:

9.90 mills x $2,250, the exemption would be $22.27
13.40 mills x $2,500, the exemption would be $30.15
23.00 mills x $2,250, the exemption would be $51.75

Exempted just value was scheduled to increase to 5% of $50,000 ($2,500), effective April 1, 1991. Only Maine residents are eligible and only on property which constitutes the resident's primary dwelling. No income restrictions apply to the Homestead Exemption.

Ten million dollars were appropriated in fiscal year 1991 to fund this exemption, however, the Governor has recommended the postponement of the implementation of the program until fiscal year 1992 due to the State's current revenue shortfall. There is legislation currently pending that would repeal the program and re-route the funds into municipal revenue sharing, however it is anticipated that the Administration's postponement proposal will prevail at this time.

SUMMARY OF PROPERTY TAX RELIEF PROGRAMS
FY 90-91

Total Appropriations

		FY 90		FY 91
	Low Income Tax Relief Supplement (PL 1987, c.876)	$4,000,000		$4,000,000
PART I BUDGET	Elderly Householder Tax Refund Program	7,197,598*		7,211,004
	Low Income Tax Relief	7,726,498		7,726,498
	Property Tax Relief Reserve Fund	17,606,000	$41,000,000	
	Property Tax Relief Reserve Fund (Part II Budget)	23,394,000		
		$59,924,096		$18,937,502

* $1,523,837 was subsequently deappropriated

Maine Residents Property Tax Program (Circuit Breaker)
encompasses Elderly and Low Income

	FY 90	FY 91
PL 1987, C. 876	4,000,000	4,000,000
Part I	14,924,096	14,937,502
Allocation from Reserve Fund (c. 534)	9,673,402	9,775,000
	$28,597,498	$28,712,502

Property Tax Relief Reserve Fund - Total Allocations

	FY 90		FY 91
Maine Residents Property Tax Relief (Circuit Breaker)	9,673,402		9,775,000
Homestead Exemption			10,000,000
Elderly Tax Deferral	55,080		443,418
Subsidies to school districts receiving less than the average state subsidy of 56.65%	5,523,000		5,523,000
Study Commission	7,100		
Total Biennium	$15,258,582	$41,000,000	$25,741,418

Funds do not lapse until June 30, 1991.

STUDY COMMISSION

Another component of last year's Property Tax Relief package was the creation of a 9 member Commission to Study Problems with the Municipal Assessment, Valuation and Collection of Property Taxes. Commission membership was established as follows:

- three Representatives;
- two Senators;
- the Director of the Property Tax Division
- one school official; and
- two municipal officials

with the added stipulation that 2 commission members represent districts which receive 25% or less of their education costs through the state school funding formula.

The Commission was charged generally to study and discuss the reasons for taxpayer dissatisfaction, and specifically to examine:

- obstacles preventing municipalities from utilizing the State Assessment Manual;
- method(s) used by municipalities to collect property taxes and possible alternatives;
- whether tax circuit breaker payments should be credited to property taxes owed rather than made as a direct payment; and
- inequities in assessments of various properties within a municipality.

The report of the Commission is due later this session.

RECOMMENDATIONS

FINDING 5. The Committee supports the finding of the Commission on Property Tax Assessment, Valuation and Collection that an updated revision to the Assessment Manual published by the Bureau of Taxation is indicated.

Under current law (36 MRSA §331), the State Tax Assessor is required to "maintain and periodically update a State assessment manual . . . which shall identify accepted and preferred methods of assessing property."

The assessment manual currently distributed by the Bureau of Taxation was printed in 1979 and contains assessing standards, practices and costs in effect as of July 1, 1978. Since that time, the updating process has consisted of the replacement of a sticker in the front of the manual giving the current multiplier that should be applied to all values in the manual.

The Bureau reports that construction methods have changed considerably in the past dozen years and that the manual can not be successfully applied to many structures constructed during this period. Simply applying a multiplier results in an unprecise and, in most cases, inaccurate appraisal. Testimony before the Committee indicated that the Manual is used infrequently by municipal assessors, due to its current state of obsolescence.

Estimates acquired by the Bureau revealed that the estimated cost of the update has increased 150% over the last four years, from $80,000 to a current minimum estimate of $200,000. A $200,000 appropriation for the manual update was originally included in the Part II budget last year, only to be eliminated in the final hours of the budget process.

The Commission on Property Tax Assessment, Valuation and Collection was established in 1989 to generally review property tax administration. Staff to that Commission indicated that the Assessment Manual was of unanimous concern to Commission members.

The Committee finds that the promotion of accurate, uniform assessing practices is a primary goal of the Property Tax section, and that the statutory requirement for maintaining and updating a State Assessment Manual is not currently being fulfilled. Therefore, the Committee supports the recommendation of the Commission to Study Property Tax Assessment, Valuation and Collection that the Assessment Manual published and distributed by the Bureau of Taxation be revised and updated.

ADMINISTRATIVE 6. Direct the Bureau of Taxation to explore options to decentralize the data entry function in the Unorganized Territory unit, in order to streamline operations, increase efficiency and improve public service.

ADMINISTRATIVE 7. Direct the Bureau of Taxation to acquire a printer for the Unorganized Territory unit, in order to allow for a daily record of file revisions.

The Unorganized Territory unit in the Property Tax section maintains a file for each parcel of property in the Unorganized Territory for approximately 20,000 accounts. Currently, whenever changes to a file are required, staff must manually write up data entry sheets, pull the relevant file cards and send them to Data Processing to be entered, which occurs only once a week. According to the Unorganized Territory supervisor, the process is very inefficient and cumbersome, and impedes staff's ability to answer property owners' inquiries in a timely and effective manner. The Committee was informed that the unit has a computer which could be used to do data entry, and that existing staff in the unit could perform this task as part of their daily activities. Entering the information directly would eliminate the task of producing the data entry sheets, would mean that adjustments were made on a daily rather than weekly basis, and that file cards would spend significantly less time out of the files and so would be more readily available to staff to answer questions from property owners.

In addition, the Committee finds that the acquisition of a printer would enable the unit to produce a daily printout of all file revisions, additionally contributing to the State's ability to effectively serve the public. The cost of a printer could be included in the Unorganized Territory budget, and reimbursed by Unorganized Territory property taxes.

The Deputy State Tax Assessor indicated that, while there may be some job description issues that would need to be addressed, that decentralization of data entry was a goal of the Bureau for many of its divisions. While this goal is addressed on a Bureau-wide scale in the Maine Automated Tax Systems (MATS) proposal discussed previously, the Deputy agreed that exploring solutions to individual problem situations such as this one would be possible.

Therefore, the Committee directs the Bureau of Taxation to explore options to decentralize the data entry function in the Unorganized Territory unit of the Property Tax section, in order to streamline operations, increase efficiency and improve public service. Additionally, the Committee directs the Bureau of Taxation to acquire a printer for the Unorganized Territory unit, in order to allow for a daily record of file revisions.

STATUTORY 8. **Amend the time schedule in the tax lien procedure for real property in the Unorganized Territory, in order to assist both taxpayers and the State in complying with statutory requirements.**

Current law (36 MRSA §1281) regarding delinquent real property taxes in the Unorganized Territory contains the following time schedule:

February 1st	- unpaid taxes are declared delinquent
by February 20th	- State Tax Assessor must notify owner in writing
by March 1st	- payment must be received
by March 15th	- State Tax Assessor must file a lien certificate with the county registry of deeds.

Although the current practice is to send out notices well before the February 20th deadline, the law only provides the owner 9 days in which to pay the delinquent property tax before the State must file its lien. The State Tax Assessor then has only 2 weeks to file the 500 or so liens which are required each year. If this deadline is missed, a lien may never be recorded on that property for those unpaid taxes. The Committee heard testimony that this time frame is increasingly straining staff resources each year.

The Committee finds that an expansion of the timeframe for the lien procedure will serve to alleviate some of the pressure on both taxpayer and Bureau staff. Therefore, the Committee proposes changes that lengthen the period that the property owner has to pay the delinquent taxes from 9 to 20 days, and increase the period in which the state could record its lien from 2 to 3 weeks, as follows:

	Current	Proposed
Taxes deemed delinquent	Feb. 1st	Jan. 15th
STA notification to owner	Feb. 20th	Feb. 1st
Payment of taxes due	March 1st	Feb. 21st
Lien certificate filed	March 15th	March 15th

The Committee finds that these changes will assist both taxpayers and the state in complying with statutory requirements, and therefore recommends they be implemented.

STATUTORY 9. **Amend reporting dates related to the fiscal administration of the Unorganized Territory, in order to increase compliance with statutory requirements.**

Pursuant to Title 36, §1609, the Department of Audit is required to perform an audit of the Unorganized Territory Education and Services Fund and each account of the municipal cost component no later than 90 days after the end of each fiscal year. In addition, §1608 requires the fiscal administrator of the Unorganized Territory to publish an annual financial report of the status of the Fund by December 1st. The Committee heard testimony from the fiscal administrator that these deadlines are simply unattainable. Finalized figures from the Bureau of Accounts & Control are sometimes not received until 60 days following the close of the fiscal year, and there are always innumerable details which must be addressed before the audit can be completed.

The Committee finds that the fiscal administrator must annually submit to the Legislature by March 1st, county and agency budget requests for the following year, and that the Legislature benefits by having the completed financial report at that time. The Committee also finds that the audit of the Unorganized Territory Education and Services Fund and the municipal cost component accounts should be completed prior to the compilation of the financial report. Therefore the Committee recommends that the reporting dates for the Unorganized Territory Education and Services Fund be amended to require publication of the audit by February 1st and the financial report no later than March 1st annually.

FINDING 10. The Committee finds a need for a study of the Unorganized Territory and supports the review recommended by the Joint Standing Committee on State and Local Government in their recently published report on county government.

In 1984, the Taxation Committee recommended and the Legislature passed a bill (PL 1983, c. 827) which called for a study of the funding and delivery of services to the Unorganized Territory. The study was not funded, however, and therefore the study was never carried out. In testimony before the Committee, the Supervisor of the Unorganized Territory for the Property Tax Section expressed support for a comprehensive study of the Territory, including the administration of the property tax function; the efficacy of county government's role; its organization; and the funding of services.

A five member subcommittee of the State and Local Government Committee has recently completed a study of the structure and functions of county government. One of the provisions of the related bill that encompasses the recommendations of that subcommittee calls for an in-depth review of "the governance of the unorganized territories by the counties to determine its efficiency, effectiveness, and uniformity".

The Committee finds that several well-informed entities have called for a study of the Unorganized Territory and that such a review has not yet been conducted. Therefore, the Committee supports that recent recommendation of the Joint Standing Committee on State and Local Government to review the governance of the Unorganized Territory by the counties.

STATUTORY 11. Authorize the State Tax Assessor to reimburse municipalities which are in compliance with statutory requirements, for satisfactory claims filed under the Tree Growth Tax Law, in a single, lump sum payment, in order to streamline administration of the program.

Current law requires Tree Growth reimbursement to be paid to municipalities in two payments: 75% within 90 days of a receipt of a satisfactory claim (historically by December 15th) and the remainder after approval by the next convening Legislature. The Legislature routinely approves the remaining reimbursement to municipalities which fulfill the statutory requirements, and additionally approves prorated reimbursement, using any remaining appropriated funds, to towns that do not meet the minimum assessment ratio required by law for reimbursement under the program.

According to the Municipal Services supervisor, a single Tree Growth reimbursement payment would save both Taxation staff and the State Treasurer the administrative costs of issuing a second payment. Additionally, the Legislature has, to date, always approved the remaining 25% reimbursement to complying towns.

The Bureau reported that the risk of inadequate appropriations is insignificant, because payments to municipalities that don't fulfill the statutory requirement are included when calculating the necessary appropriation for Tree Growth reimbursement, therefore creating an adequate buffer. A lump sum reimbursement may also act as an incentive for non-complying municipalities to meet the requirements.

The Committee finds that lump sum reimbursement for Tree Growth claims improves efficiency, better serves municipalities, may provide an additional incentive for increased compliance with statutory assessing standards, and poses no significant financial risk to the State. Therefore the Committee authorizes the State Tax Assessor to reimburse those municipalities which comply with statutory requirements, for satisfactory claims filed under the Tree Growth Tax Law, in a single, lump sum payment.

ADMINISTRATIVE 12. Require the Bureau of Forestry to transmit its Tree Growth inventory and annual updates to the appropriate registries of deeds, in order to make Tree Growth classification information more widely available.

Current law does not require that a buyer of real estate be notified of its status as classified Tree Growth land prior to filing the Real Estate Transfer Form at the time the deed is registered. Pursuant to Title 36, §581-A, if a parcel of classified Tree Growth land is sold that is less than 10 acres (the minimum legal Tree Growth parcel size), the land is automatically withdrawn from Tree Growth classification and the new owner is subject to the withdrawal penalty. This penalty may be as high as 30% of the fair market value of the property minus the parcel's valuation as Tree Growth land. While transferred parcels of over 10 acres are not automatically withdrawn from Tree Growth, an unaware buyer may face an unexpected penalty when s/he proceeds with the intended development or use of the purchased property. Once a legal sales contract has been signed, a seller is no longer responsible for any withdrawal penalties, even though it was the seller who benefited from the Tree Growth classification of the property.

Included in the forest practices legislation last year (PL 1989, c. 555) is a requirement for municipal assessors to report to the Bureau of Forestry, for each parcel taxed as Tree Growth in the assessor's jurisdiction: the names and addresses of landowners; total acres classified, broken down by forest type (softwood, hardwood, mixed); and the year of acceptance of the land under the Tree Growth law. This compilation will constitute the first, one point information source representing an inventory of classified Tree Growth land in the State.

In testimony before the Committee, the Maine Forest Service stated that transmitting the completed reports to the relevant registries of deeds would pose no significant burden to current staff. This transmission would make general Tree Growth classification information available to a title search, or any other interested party. The registrars could maintain a listing of Tree Growth land which would be updated annually with revisions provided by the Bureau of Forestry. While acknowledging that the information collected by Forestry will not include actual parcel designations, the Committee finds that the distribution of the general inventory could act as a flag to indicate that a definitive determination of Tree Growth classification should be sought.

Therefore, the Committee recommends that the Bureau of Forestry transmit its Tree Growth inventory and annual updates to the appropriate registries of deeds, in order to make Tree Growth classification information more widely available.

STATUTORY	13.	Authorize the State Tax Assessor to establish procedures designed to ensure that the certified ratio reported by municipalities on their municipal valuation returns is accurate within 20% of the state valuation ratio last determined, in order to provide more equitable application of the State's municipal funding and reimbursement programs.
ADMINISTRATIVE	14.	Direct the Bureau of Taxation to increase its efforts to assist municipalities in understanding the importance of accurate reporting on the municipal valuation return, in order to reduce the incidence of unintentionally inaccurate reporting.

Pursuant to Title 36 §383, local assessors must complete a municipal valuation return each year, which must include "a statement to the best of their knowledge and belief of the ratio, or percentage of current just value, upon which the assessment is based". This is known as the "certified ratio" and appears in the Municipal Valuation Return Statistical Summary compiled by the Bureau. In addition, the Bureau produces a sales ratio study, which indicates the percentage of fair market value of a town's assessment based on actual sales.

Because Tree Growth and veterans reimbursements are adjusted by this "certified ratio", many municipalities report a certified ratio of 100% --- meaning that the town's assessments are based on 100%, on average, of fair market value of all properties --- even though the sales ratio study demonstrates a considerably lower assessment ratio.

If the disparity between the ratio certified by the municipal assessor and the developed parcel ratio established through the sales-ratio study is greater than 10%, Property Tax section staff adjust this certified ratio by averaging the two ratios. For example, if a municipality reports a certified ratio of 100%, but its developed parcel ratio demonstrated by the sales ratio study is only 68%, the Bureau will adjust the municipality's certified ratio to 84%. The adjusted ratio is used, in addition to being applied to the reimbursement programs mentioned previously, to establish state valuation of commercial, industrial, undeveloped, and personal property. This, in turn, affects the municipalities' state valuation and therefore school funding subsidies, assessment of county taxes, etc.

The Bureau testified that, while many municipalities are scrupulous in reporting their certified ratio, some are not, and the system currently rewards those who overstate their certified ratio with higher reimbursement payments and lower state valuation. While Taxation's current averaging practice helps to address the situation, the Municipal Services Supervisor reports that a few towns (those that most overstate their ratio) still "beat the system" to a significant degree. While the Committee recognizes that minor misjudgments are, to some degree, inevitable, gross misrepresentation of the certified ratio, whether deliberate or not, interferes with the intended application of the State's funding and reimbursement programs. Therefore, the Committee authorizes the State Tax Assessor to establish procedures designed to ensure that the certified ratio reported by municipalities on their municipal valuation returns, is accurate within 20% of the state valuation last determined, in order to provide more equitable application of the State's municipal funding and reimbursement programs.

In addition, the Committee finds that the Bureau could increase its education efforts to selected municipalities, to reduce the incidence of unintentional misreporting due to lack of understanding of the certified ratio and the importance of accurate reporting.

STATUTORY 15. **Clarify the captured assessed value within a tax increment financing district that is excludable from a municipality's state valuation.**

ADMINISTRATIVE	16.	Instruct the Bureau of Taxation to amend the municipal valuation return form to include the total amount of captured assessed value within a tax increment financing district, and the percentage of that value required to finance the district's development plan.
ADMINISTRATIVE	17.	Urge the Department of Economic and Community Development to require municipalities with one or more tax increment financing districts to submit an annual report, in order to enable the Department to effectively monitor this increasingly popular program.

A tax increment financing district (TIF) is a tool which may be used by municipalities to encourage economic development. The program allows municipalities to designate specific geographic areas for development, invest in infrastructure (roads, water, sewer, buildings), and use the increased property tax revenue generated by the improvements to pay off the investment debt incurred. The additional property value added by the improvements is "captured" by the municipality, and is not included in the state valuation until the debt is retired.

This program is administered primarily by the Department of Economic and Community Development, however the Bureau of Taxation must exclude the "captured value" generated by the districts, as reported by the municipalities, from the state valuation.

The Committee considered the intent of the program in order to determine what constitutes "captured assessed value" for the purposes of exclusion from a municipality's state valuation. The current provision in the taxation statute simply states that captured assessed value shall be excluded from the state valuation. According to the TIF district program manager for the Department of Economic and Community Development, however, only the percentage of captured assessed value that is used to finance the municipality's development plan was intended to be excludable. By law, the municipality may decide what percentage of the additional revenue from the development within the district will be applied toward funding the development plan and retiring the debt incurred therefrom, up to 100%. However, once the municipality has applied enough revenue to retire the debt, the additional value is no longer "captured", and should be included in the state valuation.

At the time a municipality applies for designation of a TIF district, it must submit a development program including:

- public facilities to be constructed;
- a financial plan;
- uses of private property within the district;
- transportation issues;
- plans for the relocation of persons displaced by development activities;
- environmental controls to be applied; and
- the proposed operation of the district after capital improvements are completed.

By law, a municipality has 5 years in which to carry out the development plan. The law also establishes a $50 million ceiling for each county on aggregate indebtedness that may be financed from the proceeds of TIF districts.

In the past, monitoring of the above requirements of the program by DECD has been accomplished informally through direct contact with local officials. The Committee finds that increased interest in the program, however, appears to call for a somewhat more formal reporting requirement in the future. The program manager for DECD reported that most other states with tax increment financing district programs require some type of annual reporting requirement from participating municipalities.

The Committee finds that requiring municipalities which participate in Maine's program to submit an annual statement describing, at a minimum, the prior year's progress toward completion of the development plan and the amount of outstanding debt associated with the plan, would provide DECD with the minimal information needed to monitor compliance with statutory program requirements and debt limits. Other useful information could also be gathered which might help to measure the success of the program.

Therefore the Committee recommends amending the statute to clarify the captured assessed value within a tax increment financing district that is excludable from a municipality's state valuation, and instructs the Bureau of Taxation to amend the municipal valuation return form to include the total amount of captured assessed value within a tax increment financing district, and the percentage of that value required to finance the district's development plan. In addition, the Committee urges the Department of Economic and Community Development to require municipalities with one or more tax increment financing districts to submit an annual report, in order to enable the Department to effectively monitor this increasingly popular program.