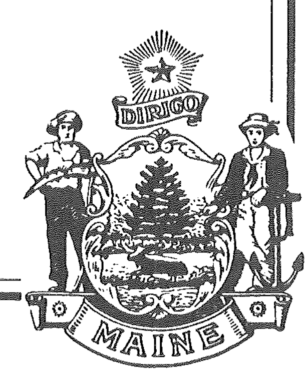
# Review of

DEPARTMENT OF FINANCE
STATE LIQUOR COMMISSION
STATE LOTTERY COMMISSION
MAINE COMMISSION FOR WOMEN
MAINE HUMAN RIGHTS COMMISSION
STATE BOARD OF PROPERTY TAX REVIEW
MAINE HIGH RISK INSURANCE ORGANIZATION

# Joint Standing Committee on Audit and Program Review

## 1990 - 1991

Volume 1 of 3



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STATE OF MAINE
ONE HUNDRED AND FIFTEENTH LEGISLATURE

**COMMITTEE ON AUDIT AND PROGRAM REVIEW**

April 22, 1991

The Honorable Charles P. Pray, Chair
The Honorable Dan A. Gwadosky, Vice-Chair
Members of the Legislative Council:

Pursuant to 3 MRSA §925, we are pleased to submit to the Legislature the final findings and recommendations required to implement the Committee's 1990-1991 study of the following agencies:

- Department of Finance
  - Taxation
  - Administrative Services
  - Accounts & Control
  - Alcoholic Beverages
  - Lottery
- State Liquor Commission
- State Lottery Commission
- Board of Property Tax Review
- Maine Human Rights Commission
- Maine Commission for Women
- Maine High Risk Insurance Organization
- Capital Planning Commission
- Educational Leave Advisory Board
- Maine Technical College System
- Department of the Attorney General
- Department of Defense and Veterans' Services
- Department of Human Services
  - Child Support Enforcement
- State Planning Office
- State Harness Racing Commission
- Board of Pesticides Control
- Board of Veterinary Medicine
- Agricultural Bargaining Board
- Seed Potato Board
- Maine Milk Commission
- Dairy Promotions Board
- Dairy & Nutrition Council
- Maine Blueberry Commission
  - Blueberry Advisory Committee

We would like to thank the following legislators who served from other joint standing committees for providing additional expertise and experience to the Committee's review process:

- Representative Patrick Paradis, Judiciary;
- Representative Peter Manning, Human Resources;
- Representative James Handy, Education;
- Representative John Jalbert, Aging, Retirement & Veterans;
- Representative Robert Tardy, Agriculture; and
- Representative Susan Dore, Taxation.

We also note that these reviews were initiated by the 114th Legislature and would like to especially thank Neil Rolde who served as House Chair at that time as well as Senators Georgette Berube and Linda Curtis Brawn who do not currently serve on the Committee.

Sincerely,

Beverly
Beverly M. Bustin
Senate Chair

Phyllis
Phyllis R. Erwin
House Chair

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

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### COMMITTEE MEMBERSHIP

- Senator Beverly Miner Bustin, Chair
- Senator John J. Cleveland
- Senator Donald L. Rich
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- Representative John A. Aliberti
- Representative George A. Townsend
- Representative William Lemke
- Representative Catherine Koch Lebowitz
- Representative Eleanor M. Murphy
- Representative Wesley Farnum

* served as Subcommittee Chair for the review

**Adjunct Members:**

- Representative Patrick Paradis, Judiciary
- Representative Peter Manning, Human Resources
- Representative James Handy, Education
- Representative John Jalbert, Aging, Retirement & Veterans
- Representative Robert Tardy, Agriculture
- Representative Susan Dore, Taxation

## THE COMMITTEE PROCESS

The Joint Standing Committee on Audit and 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 §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 ON: RECEIPT OF PROGRAM REPORTS

The law requires that agencies due for review must submit a Program Report to the Committee. The Program Report (otherwise referred to as the 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 cycle, the Committee Chairs divide the full Committee into subcommittees, appoint subcommittee chairs and assign each subcommittee responsibility for a portion of the reviews scheduled for the year. Adjunct members are requested from the legislative committee of jurisdiction for each agency under review, e.g. the subcommittee reviewing the administration and management of the Maine Technical College System will include a member of the Education Committee.

### PHASE THREE: SUBCOMMITTEE MEETINGS

The subcommittees created by the Committee meet frequently when the Legislature is in session and about every four weeks between legislative sessions to discuss issues regarding the agency and make recommendations for change. Staff 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 the 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 aired. The subcommittee's recommendations generally take three forms: findings, administrative recommendations, and statutory recommendations.

**PHASE FOUR: FULL COMMITTEE MEETINGS**

When the subcommittees have completed their work, the full Committee on Audit and Program Review reconvenes to consider and either accept or reject 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 passage of subcommittee recommendations, Committee staff prepare a text containing all the Committee's findings and recommendations for change, and draft a bill emcompassing those requiring statutory amendment. The Committee introduces its bill into the legislative session in progress and the bill is then referred to the Audit and 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 deliberations and amendments, the bill is reprinted and placed on the agenda 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 proposed legislation consists of all of the statutory recommendations made during the review cycle. Administrative recommendations are implemented by the agencies under review without statutory changes. A simple listing of the Committee's recommendations and findings appears here. Narratives describing the background and rationale for these proposed changes appear throughout the report.

### BUREAU OF TAXATION

ADMINISTRATIVE 1. Pursue reorganization of the Property Tax section as a separate division, in order to more accurately reflect the function and responsibilities of this unit.

ADMINISTRATIVE 2. Assess the feasibility of altering the application form for the Maine Residents Property Tax Program to accommodate applicants who file an amended Maine income tax return.

FINDING 3. The Committee finds that while the high percentage of ineligible applications (38%) for the Maine Residents Property Tax Program in 1989 would be unacceptable in the long term, it is prudent, given the level of effort and consideration given to the form's simplicity, to allow an additional year's experience before considering amendments to the current form.

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| ADMINISTRATIVE | 4. | Conduct an analysis of the costs vs. the benefits of adjusting the thresholds governing the frequency of sales tax filings, in order to determine whether the current categories are the most fiscally beneficial to the State. |
| STATUTORY | 5. | Ensure statutory consistency with the current practice of applying the use tax to casual sales of snowmobiles and all-terrain vehicles. |
| STATUTORY | 6. | Require the Department of Inland Fisheries and Wildlife to collect the use tax on casual sales of snowmobiles and all-terrain vehicles (ATV's) at the time of registration, in order to increase revenues, streamline the tax collection process and reduce administrative costs. |
| STATUTORY | 7. | Amend reporting and remittance dates for potato, sardine, and mahogany quahog taxes, in order to streamline and simplify tax return processing efforts. |

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| ADMINISTRATIVE | 8. | Compile a report estimating the aggregate amount of penalties imposed under State law for nonpayment of taxes that were waived by the Enforcement Division in fiscal year 1990, as well as totals for individual Division tax collectors. |
| ADMINISTRATIVE | 9. | Establish guidelines for granting waivers of penalties imposed under Maine's tax laws, within which individual collector discretion may be employed. |

**BUREAU OF ACCOUNTS AND CONTROL**

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| FINDING | 10. | The Committee finds that the State Controller's concept for reorganization of the Bureau of Accounts and Control has merit, and should be pursued as resources permit. |
| STATUTORY | 11. | Transfer a data entry position from the Bureau of Accounts and Control to the Judicial Department's Administrative Office of the Courts, in order to partially reflect the shift in the workload between these two departments. |

## BUREAU OF ALCOHOLIC BEVERAGES

## STATE LIQUOR COMMISSION

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| STATUTORY | 12. | Clarify that agency liquor stores may order stock directly through the Bureau of Alcoholic Beverages. |
| STATUTORY | 13. | Clarify that licensees may not use a credit card to purchase liquor at state liquor stores, but that they may pay by check. |
| ADMINISTRATIVE | 14. | Amend State Liquor Commission rules to ensure consistency with current law and enforceability. |
| FINDING | 15. | The Committee finds that there may be some inconsistency in the laws related to credit sales of liquor to non-license individuals, and refers its finding to the Joint Standing Committee on Legal Affairs for further consideration. |
| STATUTORY | 16. | Raise the license fee for alcoholic beverage sales representatives, in order to reflect the inflation that has occurred since the fee was originally established. |

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| ADMINISTRATIVE | 17. | In consultation with the Bureau's Merchandising Manager, develop rules that specify the information required to be submitted by a product's promoter at least two weeks prior to any listing presentation for the product before the State Liquor Commission. |
| ADMINISTRATIVE | 18. | Make every reasonable effort to schedule meetings at such intervals as to enable the Commission to conduct a full day's business. |
| STATUTORY | 19. | Reduce the number of meetings for which State Liquor Commission members may be compensated each year to 25 for regular members and 30 for the chair. |
| FINDING | 20. | The Committee finds that the Bureau of Alcoholic Beverages is not providing an adequate level of oversight of agency liquor stores. |
| ADMINISTRATIVE | 21. | Ensure at least quarterly visits to each agency liquor store by the assigned district supervisor. |

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| ADMINISTRATIVE | 22. | Distribute to each agency liquor store a notice that identifies the district supervisor assigned to that store, provides an effective means of contacting the supervisor and lists the services available from the supervisor. |
| STATUTORY | 23. | Establish 1960 Federal Census data as the uniform standard in determining room requirements for all hotels applying for or renewing liquor licenses. |
| FINDING | 24. | The Committee finds that the dual governance and oversight of Bureau operations by the Commissioner of Finance and the State Liquor Commission is not effective. |
| FINDING | 25. | The Committee finds that communications, between the Bureau and the Department, the Liquor Commission, state and agency liquor stores, and between divisions within the Bureau are inadequate, resulting in ineffective relationships, frustration and mutual distrust between parties. |

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| ADMINISTRATIVE | 26. | Urge each administration, through its Commissioner of Finance, to clearly communicate to the State Liquor Commission its mission, goals, and priorities regarding the State's role in alcoholic beverage control. |
| ADMINISTRATIVE | 27. | Recommend that the Director of the Bureau of Alcoholic Beverages and Director of Administrative Services meet monthly to discuss and resolve issues of mutual concern and responsibility. |
| ADMINISTRATIVE | 28. | Instruct the Bureau Director to hold monthly staff meetings attended by supervisory staff from each Bureau division or unit. |
| FINDING | 29. | The Committee finds that, while the majority of Bureau employees support the goals of increased efficiency, productivity, and accountability in Bureau operations, the methods used to promote these goals have garnered universal criticism. |
| ADMINISTRATIVE | 30. | Recommend that the Director responsible for the oversight of store operations provide an opportunity at least quarterly, for a representative(s) of store managers and assistants to present and discuss issues of concern at the district supervisors meeting. |

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| FINDING | 31. | The Committee finds that very low morale is evident among district supervisors and, to a lesser degree, among store employees and within the Licensing Division. |
| FINDING | 32. | The Committee finds that the current practice of joint supervision of district supervisors by two separate division directors is not effective. |
| FINDING | 33. | The Committee finds that there is an overemphasis on the retail store operations of the Bureau, due in part to the State's need for revenue, and that a recommitment to the Bureau's licensing and control functions by the Commission and the Bureau Director is indicated. |
| ADMINISTRATIVE | 34. | Direct the Bureau Director to schedule informational presentations by Bureau staff at each Commission meeting, to ensure that the Commission is adequately aware of current operational issues requiring its oversight. |

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| FINDING | 35. | The Committee finds that seasonal demands need to be given more consideration in allocating district supervisors' time, and that oversight should be sufficient to ensure that all responsibilities of these supervisors are being adequately met. |
| FINDING | 36. | The Committee finds that adequate licensing training has not been provided to district supervisors and that adequate time to conduct required licensing inspections is not routinely accorded. |
| ADMINISTRATIVE | 37. | Direct the Bureau Director ensure development of comprehensive training programs for district supervisors. |
| ADMINISTRATIVE | 38. | Encourage the Bureau of Alcoholic Beverages to work together with the Bureau of Human Resources to develop training programs for store employees that address both current job responsibilities (mandatory) and preparation for advancement within the Bureau (voluntary). |
| FINDING | 39. | The Committee finds that direct supervision of the Kittery Liquor Store and the frequent Commission meetings interfere with the Bureau Director's management of day-to-day operations. |

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| ADMINISTRATIVE | 40. | Direct that, at the time of the Committee's compliance review of the Bureau, the Kittery liquor store be supervised in the same manner as all other state liquor stores by the supervisor responsible for the district in which the store is located. |
| ADMINISTRATIVE | 41. | Instruct the Bureau Director to actively address all internal problems, including those associated with the dual supervision of district supervisors. |
| STATUTORY | 42. | Redefine and more clearly delineate the powers and duties of the Director of Alcoholic Beverages. |
| ADMINISTRATIVE | 43. | Pursue amendments to the job descriptions for the Deputy Director and the Director of Retail Stores to accurately reflect the operational responsibilities of the two positions. |
| STATUTORY | 44. | Continue the Maine State Liquor Commission under the provisions of the Maine Sunset Act. |

## STATE LOTTERY COMMISSION

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| STATUTORY | 45. | Continue the State Lottery Commission for one year, pursuant to the provisions of the Maine Sunset Act. |

## MAINE HUMAN RIGHTS COMMISSION

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| FINDING | 46. | The Committee finds that diligence must be employed to ensure that all publications distributed by the Commission be written in language that is accessible to all its clients, without sacrificing the accuracy of the information presented. |
| STATUTORY | 47. | Continue the Maine Human Rights Commission under the provisions of the Maine Sunset Act. |

## MAINE COMMISSION FOR WOMEN

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| STATUTORY | 48. | Amend the law to specify the appointing authority responsible for each mandated representative to the Maine Commission for Women, and to ensure the awareness of each mandated member of the representational responsibilities associated with the appointment. |

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| STATUTORY | 49. | Amend the law to unclassify the position of Executive Director of the Maine Commission for Women. |
| STATUTORY | 50. | Continue the Maine Commission for Women under the provisions of the Maine Sunset Law. |

**STATE BOARD OF PROPERTY TAX REVIEW**

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| FINDING | 51. | The Committee finds that recent amendments to Maine's property tax laws, combined with dramatically increased market values in many areas of the State have significantly increased the number of appeals before the State Board of Property Tax Review. |
| STATUTORY | 52. | Continue the State Board of Property Tax Review under the provisions of the Maine Sunset Act. |

**MAINE HIGH RISK INSURANCE ORGANIZATION**

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| STATUTORY | 53. | Continue the Maine High Risk Insurance Organization for one year, under the provisions of the Maine Sunset Act. |

**DEPARTMENT OF LABOR**

**Recommendations Resulting From Follow-up Compliance Review**

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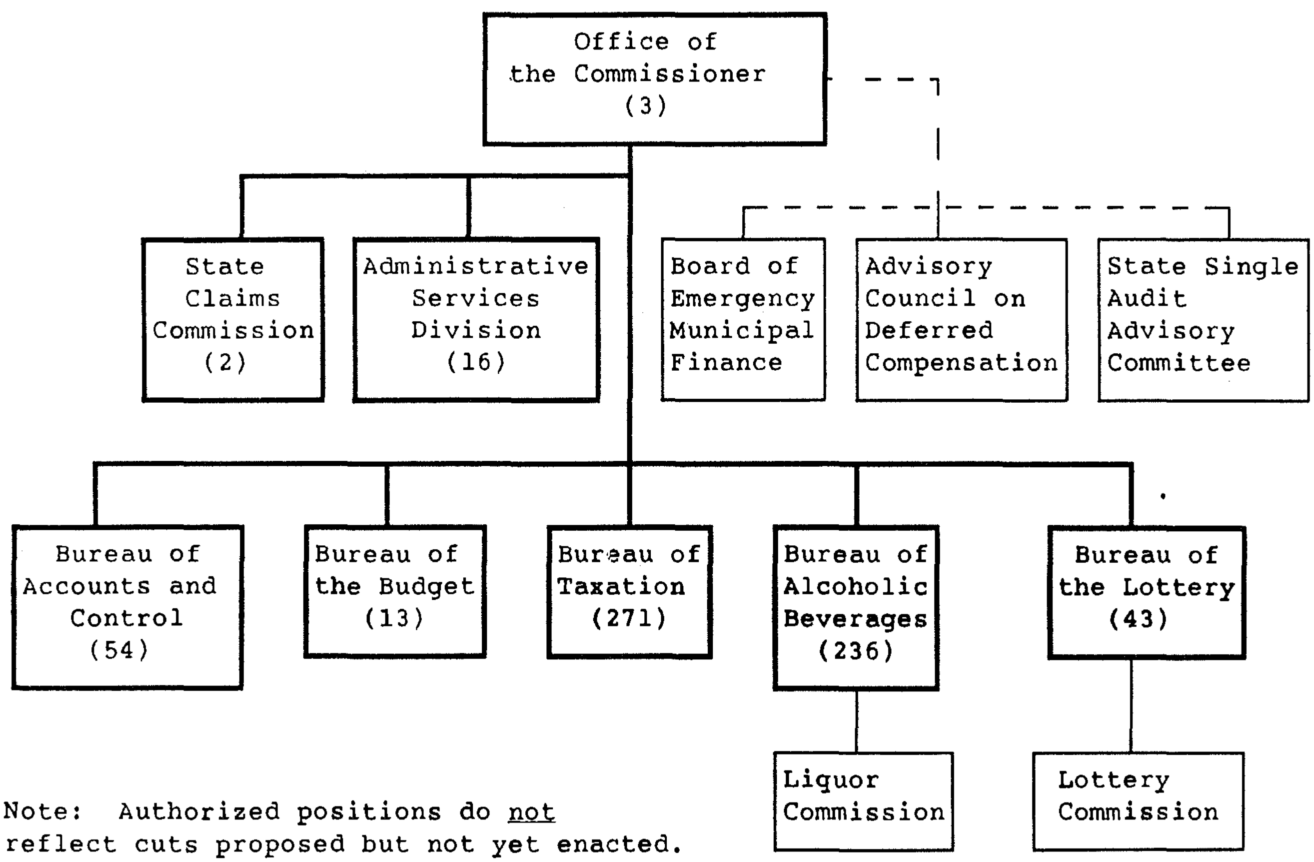
| FINDING | 54. | The Committee finds that all participants in state-administered job training programs should, at the time of enrollment, be provided with an informational packet that explains the scope of and procedures for obtaining all services available under any program in which the participant is enrolled, to be retained by the participant throughout the period of his or her enrollment. |
| ADMINISTRATIVE | 55. | Direct the State's three service delivery areas to implement state-wide, a uniform, post-termination, job training client satisfaction survey that includes questions that measure the adequacy of support services provided to job training participants, and provide the Committee with compiled, first quarter survey results by November 30, 1991. |

## DEPARTMENT OF FINANCE

The Audit and Program Review Committee's review of the Department of Finance began during the 1990 review cycle. Recommendations pertaining to the Deferred Compensation Program, the Bureau of the Budget, and the Appellate and Audit Divisions and the Property Tax Section of the Bureau of Taxation were included in last year's Committee report. Also appearing in the previous report are informational sections on the Department of Finance as a whole and the two Bureaus indicated above.

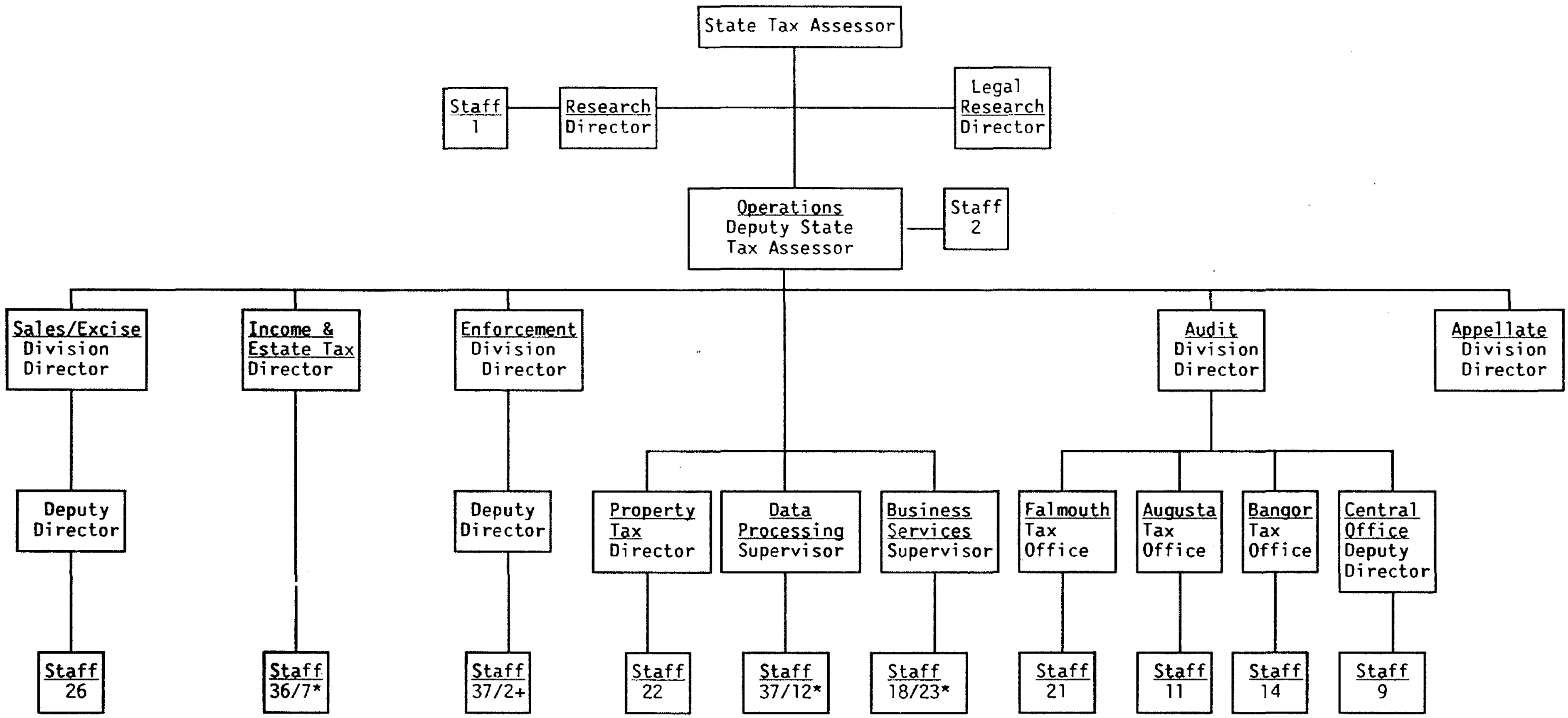
This volume contains the remainder of the **Bureau of Taxation** recommendations and supporting material, and completes the departmental review, including the **Bureaus of Accounts and Control, Alcoholic Beverages, and Lottery** as well as the alcohol and lottery oversight bodies, the **State Liquor Commission** and the **State Lottery Commission**. Organizational charts of the Department of Finance and the Bureau of Taxation are included here for orientation purposes. If detailed background information is desired on the Bureau of the Budget, the Bureau of Taxation or the Department overall, the Committee's 1990 report on the Department of Finance should be consulted.

**DEPARTMENT OF FINANCE**




Note: Authorized positions do <u>not</u> reflect cuts proposed but not yet enacted.

## MAINE BUREAU OF TAXATION




* Seasonal positions
\+ Project positions

# BUREAU OF TAXATION

### MAINE AUTOMATED TAX SYSTEM (MATS)

When the Audit and Program Review Committee began its review of the Bureau of Taxation last year, the Bureau was just completing a comprehensive automation proposal that would serve to update its currently inefficient, outmoded systems. The Maine Automated Tax System (MATS) proposal was developed through an intensive process of self-assessment and evaluation by the Bureau, as well as a survey of other states' systems, including a site visit to Alabama and a presentation by Montana's tax automation staff. Released in February of 1990, the proposal outlines a five year, $12 million plan for updating the Bureau's systems and streamlining its operations. The proposed plan is expected to pay for itself in increased revenues by the time it is fully implemented in fiscal year 1995. To fund the project's implementation, seven additional compliance auditors were authorized, beginning in fiscal year 1991. First year funding for the plan ($1,752,000) and the 7 auditor positions were included in the Governor's tax amnesty program proposal (LD 2390), and were approved by the Legislature last session (PL 1989, c. 880).

MATS will dramatically alter the way the Bureau carries out its functions, and will continue to be implemented over the next several years (assuming continued funding).

The MATS system and its related programming and consulting staff, in addition to the 23 full time and 13 seasonal positions appropriated to the Bureau during the 1st Regular Session, have created a shortage of space. Transfer of the Audit Division staff to the Augusta field office is one option currently being considered to partially address this problem.

## Operations Division

### RESPONSIBILITIES

The Operations Division is composed of 3 sections: Property Tax, reviewed last year; Business Services; and Data Processing. The later two sections carry out administrative and technical support functions for the entire Bureau. The Committee recommends reorganizing the Property Tax section as a separate division (see Recommendation #1).

The **Business Services** section functions as the mail room and centralized data entry facility for the Bureau of Taxation. The various types of tax returns received by the Bureau are coded with different zip codes by the post office and color coded by the Bureau to facilitate sorting. Like returns are batched and sent to data entry for loading. Checks are separated, recorded, accounted for and deposited with the State Treasurer.

Opening mail and depositing checks are the Business Services section's highest priorities. Just after April 15th however, there is likely to be a 7 to 10 day backlog of unopened mail, amounting to over 100,000 returns. One reason for this delay, aside from obvious income tax filing deadline, is that 18,000 monthly sales tax reports, as well as other tax remittances, are also due the 15th of the month. The Bureau's own self-imposed standard is to have all timely filed returns opened by the end of April and entered onto the system by mid-June. The Bureau is working on several fronts to reduce this timeframe, including computer programming that can automatically correct certain errors and a contract with an outside firm (discussed later) to provide off-line data entry of 1040 short forms.

During 1990, personnel turnover and shortages in Business Services required the State Tax Assessor to divert personnel from other Divisions to assist with opening mail and getting returns screened and checks deposited. Both the State Tax Assessor and his Deputy took their turns in the mail room and on taxpayer assistance phone lines, in order to both set a performance and teamwork standard and to gain first hand experience of the demands of those jobs.

The **Data Processing** section provides computer programming maintenance and development for the Bureau. Whenever tax laws are changed or new programs implemented by the Legislature, the Bureau's computer programs have to be revised and adapted. In addition, there is a continual stream of requests from the various Bureau divisions for both major and minor programming changes, and the State Tax Assessor continues to seek more and better management information from the systems.

As is clear from the Bureau's far-reaching automation proposal, updating of Taxation's operating systems has become a matter of relatively urgent necessity. The new systems will enable current staff to provide faster and more reliable information and service to the taxpaying public, the State Tax Assessor, the Legislature and the Budget Office.

Ninety percent (90%) of Taxation's computer applications reside and operate on the State's Honeywell mainframe located in Bureau of Data Processing. The Bureau of Taxation's programming staff has developed and maintains approximately 50 different systems and hundreds of programs that encompass all of the various taxes and functions administered by the Bureau. In 1988, the Data Processing section produced a Managerial Documentation Overview, a 78 page document describing the function, operation, input and output, current status and cost of each of the programs maintained by the Bureau.

## SLF CONTRACT

In the summer of 1988, the Bureau entered into a contract with SLF Data Processing to provide data entry of approximately 50,000 individual income tax 1040 long forms, in order to have comprehensive information available to facilitate planning of the tax rebate programs then being developed.

The Bureau has continued its contract with SLF, except that it was determined that the most effective use of this resource would be for data entry of pre-labelled, no money, short forms (1040A). The contractor is paid an hourly rate of $12.06, which averages about 15¢ per return entered. SLF entered about 80,000 short form returns in 1990, about 30,000 less than the previous year.

While the Bureau acknowledges that there have been several "bugs" to work out in implementing this off-line data entry process, it is viewed as beneficial for the following reasons:

- the Bureau experiences problems with slow response time on its computer systems, in large part due to the sheer volume of on-line data entry taking place;

- limitations of time, space, and personnel necessitate outside assistance with data entry of tax returns, if an acceptable time frame for processing returns and issuing refunds is to be maintained; and

- the SLF experience serves as a testing ground for MATS, which will incorporate off-line data entry for a majority of the systems functions.

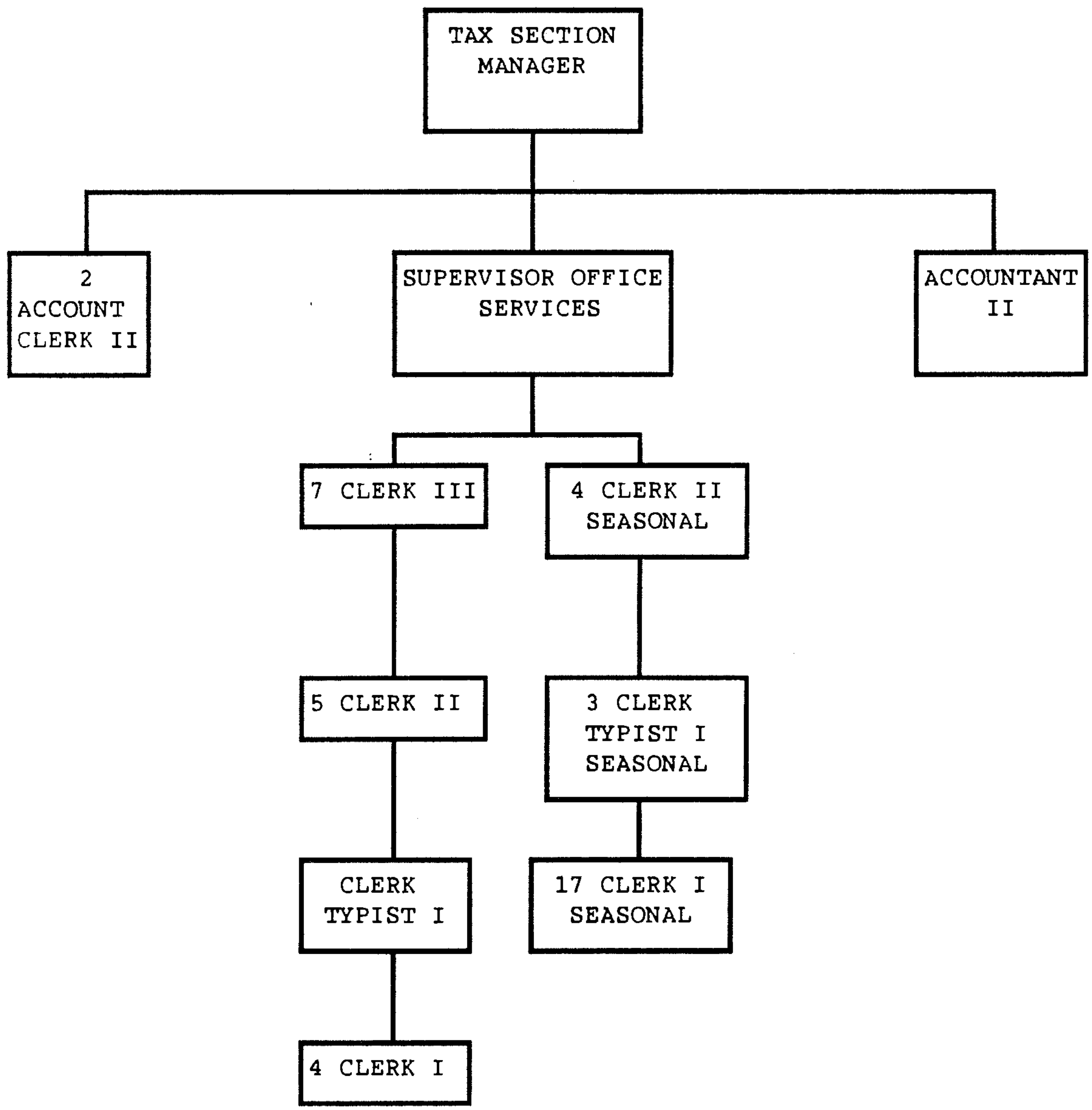
Efforts to work out technical problems between SLF and Bureau systems now should contribute to a smoother implementation process for MATS.

## STAFFING

Organizational charts for Business Services and Data Processing appear below.

**BUSINESS SERVICES SECTION**

**ORGANIZATION**



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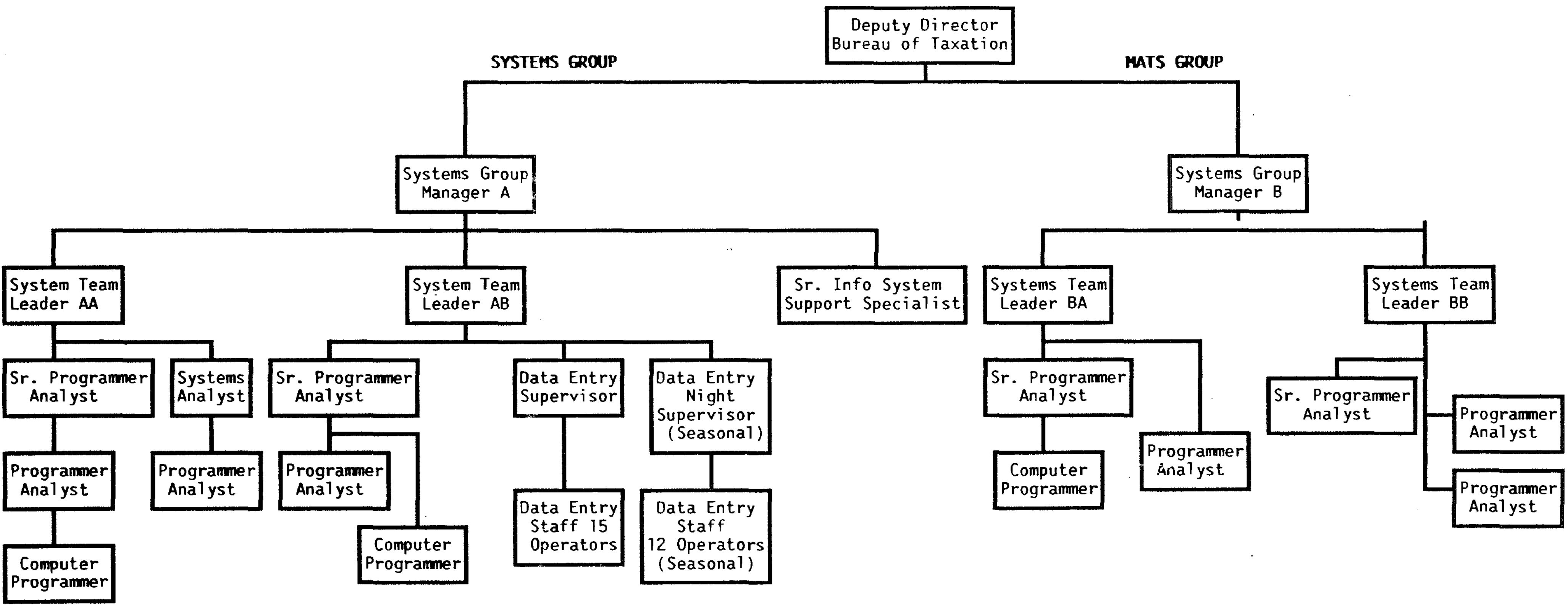
OPERATIONS DIVISION

DATA PROCESSING SECTION



Because of seasonal fluctuations in tax remittances, staffing for the Business Services section varies, with seasonal positions generally filled during the income tax filing season. From June through December, staff consists of 17 screeners and depositors. From January through May, an additional 16 screeners and depositors are employed by the unit. In addition to the annual cycles, the sales tax workload is heavy one week per month, and the Section has 4 intermittent positions, who work only that one week each month.

The Data Processing section is made up of two Systems Group Managers, 3 Team Leaders, 16 Programmer/Analysts, a Senior Information Systems Support Specialist, and a member data entry section recently transferred from the Business Services section.

The Committee found that the Section uses a 3-tier priority setting system for project requests, with the highest priority given to legislative mandates (law changes and new programs). Second in line are productivity related projects, i.e. revenue producing. Last are what one team leader referred to as the "wish list" --- those changes that would make users' jobs easier, more efficient, etc., but are not critical. The Committee found that those projects in the third category are generally not addressed, for lack of programming resources. In addition, the implementation of MATS will mean that many of the requested programming changes will not be carried out, because the entire system will be replaced instead.

The MATS project proposal included 9 new data processing positions, which were funded by the Legislature beginning July 1, 1990, and make up a separate unit, as displayed on the organizational chart.

## EXPENDITURES

No expenditure information is available on the Division level for the Bureau of Taxation. While the implementation of State's new administrative and financial systems (known as MFASIS) is intended to address many of the shortcomings of the old system, many of the report generating details of that system have yet to be worked out.

This and other MFASIS related issues are discussed in further detail in the sections on the Division of Administrative Services and the Bureau of Accounts and Control.

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| ADMINISTRATIVE | 1. | Pursue reorganization of the Property Tax section as a separate division, in order to more accurately reflect the function and responsibilities of this unit. |

Currently, each major tax type except the property tax is administered by a separate division within the Bureau of Taxation. The Property Tax section, established briefly as a separate Bureau of Property Taxation in 1974, was reabsorbed by the Bureau of Taxation as a separate division, and subsequently placed under the direction of the Operations Division in 1979.

According to the State Tax Assessor, the Property Tax section functions as a division, has the full responsibilities of a division, and administers an autonomous tax that is distinct from those administered by all other divisions. The other 2 sub-units of the Operations Division, Business Services & Data Processing, carry out administrative and technical support functions, unlike and substantially unrelated to the activities and responsibilities of the Property Tax section.

The Property Tax Section director position is at range 30, one range lower than the other Division Director positions. The Committee finds that the functions and responsibilities of the relevant units indicates that the current organization does not accurately reflect these relative responsibilities.

Therefore, the Committee instructs the State Tax Assessor to pursue reorganization of the Property Tax section as a separate division, in order to more accurately reflect the function and responsibilities of this unit.

## Research Division

### FUNCTION

The Research Division conducts statistical analyses of taxation policies, both current and proposed, for the State Tax Assessor. Other responsibilities include estimates of anticipated revenues by month, prepared annually for the Bureau of the Budget, and a tax expenditure report for the biennium that is generated and appears in Volume 1 of the Budget Document. Fiscal note information is prepared by this Division for proposed legislation. Annual updates of tax laws are provided and included in the Compendium of State Fiscal Information, Moody's Municipal and Government Manual, and Washington D.C.'s nationwide comparison of tax rates and tax burdens. In addition, the Division answers technical questions from corporate taxpayers and government officials concerning the application of Maine tax laws.

The Research Division's current Director is trained as an economist and is developing econometric forecasting models for the State's tax systems. The Director is currently engaged in a project to develop a microsimulation model for the individual income tax, which would project the outcomes of any changes in the various factors which impact this revenue source. The model will link income tax return information with federal data and permit forecasting by major taxpayer categories.

The quality, usefulness and accuracy of the analyses produced by the Division is wholly dependent on the quality, usefulness, and accuracy of the data available to it. According to the Director, the implementation of Maine Automated Tax System is essential to the State's future ability to plan its financial strategy in times of economic instability. The new system is expected to increase the efficiency of the Division significantly.

Eventual applications of Division expertise could include, among others, providing technical assistance in the audit selection process, by producing a profile of audit results that could assist in identifying potentially lucrative audits.

The Research Division consists of 2 positions: the Director and a Management Analyst II.

# Income & Estate Tax Division

## RESPONSIBILITIES

As its name implies, the Income & Estate Tax Division is responsible for the administration of the State's income tax laws related to individuals, corporations, and fiduciaries, as well as the franchise tax on financial institutions and succession taxes on estates and inheritances. In addition, this Division makes a determination of eligibility for the two property tax Circuit Breaker programs and the Elderly Low Cost Drug Card Program. The Income Tax Division administered the income tax rebate programs approved by the Legislature for tax years 1987 and 1988.

The Division is responsible for the design, printing, and distribution of all relevant forms, assisting taxpayers on a wide range of tax questions, processing and correcting tax returns, and issuing refunds and notices of additional taxes owed.

Over 550,000 income tax returns are received annually by the Bureau. Staff in this Division review and correct the approximately 65,000 problem returns - those rejected by data entry due to errors. The Division processes as many as 6,000 returns each week, generating the appropriate notices, assessments, and other communications. According to the Director, most returns are generally processed by early July. The Division also handles about 80,000 withholding and estimated tax payment accounts.

Income and Estate Taxes represented nearly half of the almost $1.25 billion generated through Bureau-administered taxes in fiscal year 1990.

This Divisions' Director also serves as Project Coordinator for the Maine Automated Tax System.

## STAFFING

The Income and Estate Tax Division has a staff of 36 permanent and 7 seasonal full time employees. An organizational chart of the Division appears on the following page.

This Division's Director encourages employees to take advantage of any relevant training offered by the Bureau of Data Processing, the University of Maine and other sources. He encourages his staff to give in-service training seminars in their particular area for other Division employees, and maintains a lending library of books, tapes, and videos on everything from word processing to stress reduction techniques.

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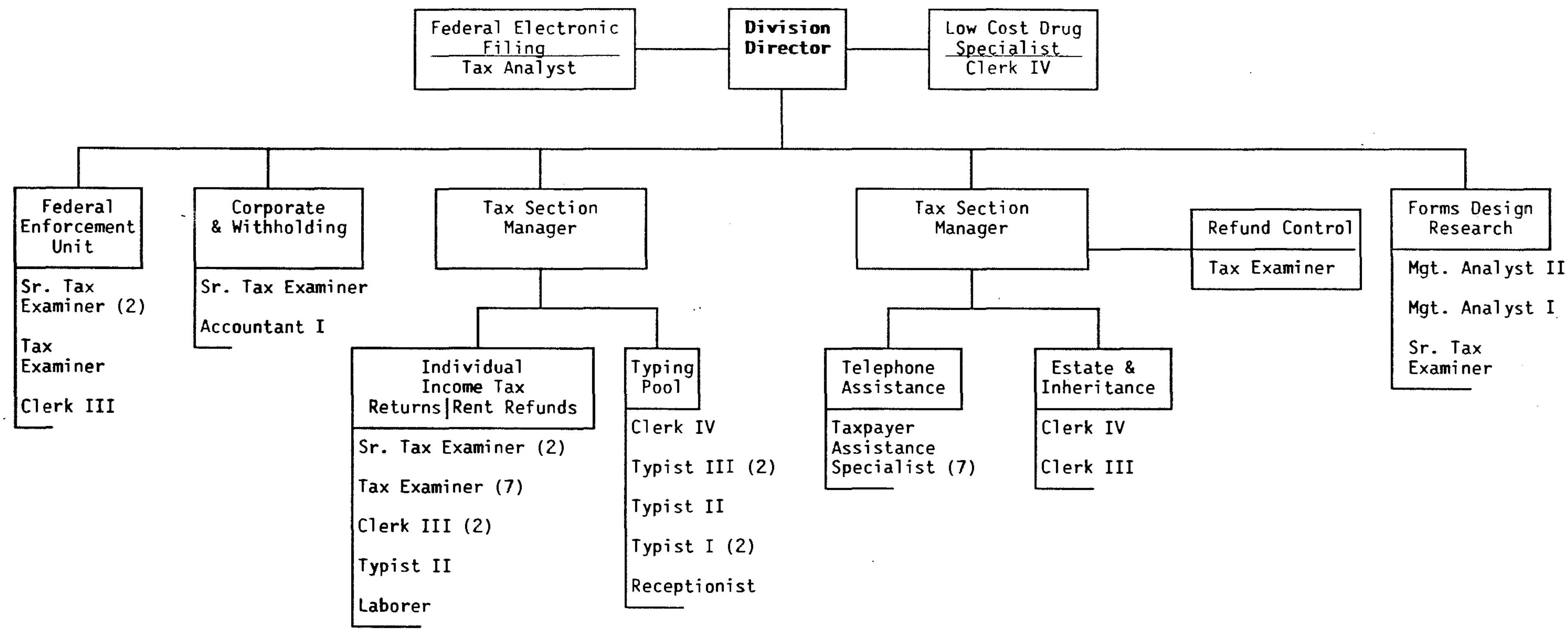
# INCOME & ESTATE TAX DIVISION
# ORGANIZATIONAL CHART



## TAXPAYER ASSISTANCE

In addition to two local state phone lines, the Bureau of Taxation maintains four toll free lines during the filing season to answer taxpayers' questions. While no count of incoming calls through the local lines is taken, detail of the toll free lines indicate that nearly 9,000 calls were taken in the month ending April 15, 1990, while over 42,000 "overflowed" (received a busy signal). According to Division staff, about 40% of the calls the Bureau receives are inquiries regarding the status of a refund.

The Bureau has been working with the Telecommunications Division (TELCO) of the Office of Information Services to install what's known as a System 85 switch on a pilot basis. System 85 is a menu system that will allow the caller to identify the nature of the call by dialing a number, which will then route the call to the appropriate personnel. Currently, there is no screening procedure, so that a senior tax analyst may receive simple refund status questions, making that analyst unavailable for those inquiries that may require this level of expertise. There will be a separate line installed specifically for people checking the status of their refunds. The Director indicated that the new system will approximate the effectiveness of adding 1 to 2 additional taxpayer assistants. The system is being installed at no cost to the Bureau. Coupled with a piece of equipment called a text reader, taxpayers will be able to receive a status report on their refunds without having to reach an operator or other Bureau personnel. In addition, taxpayers' calls would be answered as promptly and effectively as possible, without being shunted through several Bureau personnel. A similar system is currently used by the Internal Revenue Service.

## CIRCUIT BREAKER PROGRAM

The Maine Resident's Property Tax, or Circuit Breaker Program provides a tax refund of up to $3,000 for taxpayers whose property taxes exceed 4 1/2% of their income (defined as adjusted gross income), or renters whose rent exceeds 30% of their income. Applicants' household income for the general program can not exceed $60,000. For elderly taxpayers (62 or older), household income may not exceed $7,700 for a single applicant or $9,600 for a household of two or more. The maximum benefit under the elderly program is $400, however if an elderly applicant qualifies for a larger refund under the general program, the larger amount is refunded.

In 1989, the Bureau of Taxation received approximately 105,000 applications for property tax relief through the Maine Residents Property Tax Program (Circuit Breaker). Nearly 40,000 (38%) of those applications were determined to be ineligible by

Bureau staff. A Bureau management analyst testified that the single most recurrent reason for ineligibility is that the applicant was under the 4 1/2% of income threshold for eligibility. (See Recommendation 3 on pp. 33-34 for further discussion.)

### FEDERAL ENFORCEMENT UNIT

The Federal Enforcement Unit, recently transferred to Income Tax from the Enforcement Division, uses three types of information provided by the Internal Revenue Service to collect delinquent state income taxes.

**RAR** - When the IRS conducts an income tax audit of a Maine resident, it forwards the results in the form of a revenue agent report (RAR) to the Bureau. This unit reviews the RAR and computes a new amount of tax due the state based on federal audit results. The unit's computer system then compares the new amount with the taxpayer's original return, and issues a series of letters requesting payment. If the new computation indicates that an additional refund is due, the taxpayer is notified that s/he should review their state income tax status, but a refund is not automatically generated. The Unit receives about 3,500 RAR's each year, resulting in about 2,000 billings totalling just under a million dollars.

**CP-2000** - The IRS also transmits information to the Bureau on unreported income for Maine residents (called CP-2000 tapes) from interest and dividends and other non-wage income reported on the federal Form 1099. Unreported income information is received for about 13,000 taxpayers, resulting in about 6,000 billings. The Unit billed $667,458 and $866,320 respectively for tax years 1985 and 1986.

**EX** - The third and final Federal Enforcement Unit activity is derived from non-matching information on federal and state income tax returns. The items compared are federal adjusted gross income, filing status, and number of exemptions. The IRS provides the state with a list of all people with a Maine address who file a federal income tax return. The Unit's computer system compares this list with the State's filings for the year. Again, Maine tax is re-computed based on the federal filing information, and all accounts showing over $25 owed are billed. In 1989, about 4,500 assessments were made, for a total of just under $1 million.

**Non-filers** - From the IRS list mentioned above, the Bureau is able to identify non-filers. While there are many legitimate reasons that a federal taxpayer with a Maine address would not file (e.g. military personnel, those with a Maine address but no Maine income, etc.) the Bureau estimates that the state loses at least $5,000,000 in individual income taxes from about 18,000 non-filers each year. Prior to the recent creation of the 5 position non-filer unit in the Enforcement Division, the Bureau had no staff resources with which to pursue non-filers.

Accounts from all three of the above systems are transmitted to the Enforcement Division if no response or payment is received from the taxpayer in 3 to 4 months.

ADMINISTRATIVE 2. Assess the feasibility of altering the application form for the Maine Residents Property Tax Program to accommodate applicants who file an amended Maine income tax return.

Currently, applications for the Maine Residents Property Tax Program for a given year may be filed through December 31st of the following year. The application form asks for a resident's income information as it appears on his or her Maine income tax return (if applicable). There is no space on the application, however, that would allow the applicant to report adjusted income information in the event that the applicant subsequently filed an amended income tax return.

While the Committee understands and supports the need for simplicity of the application form for the program, the Committee finds also that accommodating alterations to income that may affect a person's eligibility for the Maine Residents Property Tax Program is compelling. Therefore, the Committee directs the State Tax Assessor to assess the feasibility of an altering the application form for the Maine Residents Property Tax Program to accommodate applicants who file an amended Maine income Tax return.

FINDING 3. The Committee finds that while the high percentage of ineligible applications (38%) for the Maine Residents Property Tax Program in 1989 would be unacceptable in the long term, it is prudent, given the level of effort and consideration given to the form's simplicity, to allow an additional year's experience before considering amendments to the current form.

For the 1989 tax year, the Bureau of Taxation received approximately 105,000 applications for property tax relief through the Maine Residents Property Tax Program (Circuit Breaker). Nearly 40,000 (38%) of those applications were determined to be ineligible by Bureau staff. According a to Bureau management analyst, the single most recurrent reason for ineligibility was that the applicant did not meet the 4 1/2% of income threshold for eligibility.

The Bureau was mandated and considerable care was taken to make the 1989 Circuit Breaker application as simple as possible (6th grade reading level), and a significant number of ineligible applications was not unexpected. However the Committee finds that the costs associated with processing and notification of nearly 40,000 ineligible applications is not insignificant.

The Committee notes that the Bureau has been exploring ways to amend the form to provide some additional screening, but finds that the form should be left alone for one more year, to permit an additional year's experience with the current application. Distribution of 1990's forms will not be nearly as extensive this year, because the Bureau now knows more precisely who the eligible applicants are. (Last year the Bureau mailed a form to everyone with incomes under $60,000.) In addition, the Bureau speculates that many filers who took a "try it and see" attitude toward submitting an application will probably not bother to try again if they were rejected this year. Thirdly, all parties with whom the Bureau worked to develop last year's form were happy with it. For all of the above reasons, the Committee finds that it is prudent to leave the form as is for the coming year, while acknowledging that a 38% ineligibility rate may not be acceptable in the long term.

# Sales and Excise Tax Division

## RESPONSIBILITIES

The Sales and Excise Tax Division administers the State's sales and use tax laws, as well as 18 various excise taxes and tax refund programs. The Division is broken down into 2 sections: Sales & Use, and Excise.

## SALES & USE TAXES

Pursuant to Title 36, Part 3, Maine imposes a 5% sales tax on most sales of tangible personal property and some services such as camp sites, telephone services, cable television, fabrication services, custom computer programming and rental of video tapes. The sales tax on accommodations (including camp sites) and automobile rentals was increased from 5% to 7% in July of 1986. As of December 1, 1989, the tax on liquor sold in eating and drinking establishments was raised from 5% to 10%. In fiscal year 1990, state revenues from the sales tax totalled about $425 million.

There are currently 76 statutory exemptions to the sales tax totalling an estimated $470 million in "foregone revenue" annually.

The **Use Tax** is the sales tax imposed on isolated sales of motor vehicles, watercraft, camper trailers, livestock trailers, aircraft, and special mobile equipment (36 MRSA §1764) or any tangible personal property or taxable service purchased in another state and "used" here, which would be subject to tax if it had been purchased in this state. In addition, pursuant to §1755, any property that is required to be registered (e.g. snowmobiles, ATV's) must file a certificate of tax liability which is forwarded to the State Tax Assessor by the registering agent. The Sales Tax Section then notifies the registrant of their tax liability, and requests payment of the tax.

Use taxes collected in fiscal year 1990 totalled approximately $55 million.

## EXCISE TAXES

The following is a brief description of the various excise taxes administered by the Division.

A. **Fuel Taxes:**

**Gasoline Taxes** (36 MRSA §2901 et seq) - Imposed on importers and distributors of internal combustion engine fuel, the tax is 17¢ on each gallon sold, distributed, or used. One hundred and twenty (120) taxpayers must file monthly reports within 30 days of the end of each month. Pursuant to §2903-A and §2903-B of Title 36, 2% and .5% of gasoline tax revenue is set aside for activities associated with boating and snowmobiles, respectively. The balance of the gasoline tax goes into the Highway Fund ($101,191,330 in FY 90) pursuant to the Constitution of Maine.

**Special Fuel Tax** (Title 36, c. 459) - "Special fuels" are all distillates used in internal combustion engines other than gasoline and ethanol (eg. kerosene, diesel fuel, propane, methane and alcohol based fuels). Fuel used for heating and cooking is exempt, as is fuel sold to the State or its political subdivisions. The rate per gallon is equal to the gasoline tax plus 3¢, except the rate for low energy fuels (90% or less the energy potential of gasoline) is the gasoline tax minus 1¢. All suppliers and users of special fuels must be licensed by the State. Suppliers collect the tax when sold. Users may claim a credit for taxes paid on fuel used and taxed out-of-state, off the highway (in tractors, boats, generators, etc), for heating or for industrial uses. About 350 suppliers file monthly returns, and about 7,000 users file quarterly returns. Failure to file or remit taxes or filing a false return may result in the prompt revocation of the supplier's or user's license. The Special Fuel Tax generated $24,420,778 in fiscal year 1990, credited to the Highway Fund.

**Regional Fuel Tax Agreement (RFTA)** (Title 36, c. 463-A) - The Regional Fuel Tax Agreement is designed to streamline the collection of motor fuel consumption taxes between states, for vehicles operated interstate. Currently operated with New Hampshire and Vermont, each fuel consumer files reports only to his or her "base jurisdiction" (home state) stating the number of gallons of fuel purchased and miles driven within each state in the region. Each participating state then computes the amount of fuel taxes paid that accrue to each state based on the information provided, and the appropriate payments are made between states.

**B. Business Taxes:**

**Insurance Premium Tax** (Title 36, c. 357) - Imposed on approximately 900 insurance companies for the privilege of doing business in this State, the tax is 2% of total premiums collected minus premiums and dividends paid to policyholders, except that the sale for long-term care policies is 1%. The Insurance Premium Tax generated $44,261,390 in General Fund revenue in fiscal year 1990. Returns are filed quarterly in most cases.

**Risk Retention Tax** (36 MRSA §2513-A) - The same as insurance premium tax, except imposed on risk retention groups (self-insured, business groups). Fiscal year 1990 revenue generated through this tax was $523,848.

**Fire Investigation and Prevention Tax** (25 MRSA §2399) - This tax on fire insurance companies generates about $1.5 million dollars annually, which is dedicated to the Commissioner of Public Safety and the State Fire Marshall's Office to fund fire prevention education program activities. About 400 companies submit quarterly filings. The rate of tax is .95 of 1% of net premiums.

**Employment Rehabilitation Fund Tax** (39 MRSA §57c) - This tax on workers' compensation insurers is imposed quarterly at the rate of 1% of actual losses paid in the previous quarter, and generates about half a million dollars annually. The Fund is a dedicated account to which employers can apply for benefits and rehabilitation costs, in the event that a worker is injured a second time after having completed an approved rehabilitation program.

**Hospital Excise Tax** (36 MRSA §2801) - Enacted in 1988 (P.L. 1987, c. 847, §5) this excise tax is based on a hospital's "financial requirements". The rate is set at .002 and is assessed and collected quarterly by the State Tax Assessor. Revenue generated in FY 1990 was $1,632,381, credited to the General Fund.

**Cigarette Tax** (Title 36, c. 703) - All distributors, wholesalers and importers of cigarettes must be licensed by the State. The State Tax Assessor sells cigarette stamps to distributors and dealers, who must affix stamps to each pack of cigarettes. The tax on cigarettes was increased from 14 mills to 15.5 mills per cigarette (28¢ to 31¢ per pack) in October 1989, 16.5% mills on January 1, 1991 and is scheduled to increase to 18.5 mills on July 1, 1991. The increases were passed by the Legislature as partial funding for the Maine Health Program (P.L. 1989, c. 588).

Cigarette taxes generated about $43 million in fiscal year 1990, and are projected to increase incrementally by about 6% per year through fiscal year 1992.

**Tobacco Products Tax** (Title 36, c. 704) - Imposed at the time of entry into the State (as manufacture, if in-state), the tax on smokeless tobacco is 50% of wholesale price, increasing to 55% as of January 1, 1991 and 62% as of July 1, 1991. The tax on cigars, pipe and other tobacco is currently 13%, increasing to 14% and 16% respectively on the above stated dates. Monthly returns are filed by 28 taxpayers, generating about $1.3 million in revenue in fiscal year 1990.

**Illegal Drugs** (Title 36, c. 704-A) - Enacted in 1987 (P.L. 1987, c. 343, §9), this excise tax is imposed on convicted dealers of marijuana and scheduled drugs at the rate of $3.50 per gram for marijuana; $200 per gram for scheduled drugs (cocaine, heroin, etc); and $2,000 per 50 dosage units for scheduled drugs sold by portion, rather than weight (e.g. LSD). The prosecuting district attorney's office is responsible for notifying the State Tax Assessor within 30 days of conviction, with the relevant information. $332,031 were assessed under this chapter in fiscal year 1990.

**Railroad Tax** (Title 36, c. 361) - The railroad excise tax is assessed at varying rates, based on the percentage that net railway operating income comprises of a railroad's gross receipts. The rate varies from 3 1/4% to 5 1.4% of gross receipts, and can be partially offset by capital investment. Eight railroad companies paid $523,730 in excise taxes in FY 1990, which were credited to the General Fund.

## C. Industry Taxes:

**Potato Tax** (Title 36, c. 710) - Imposed on shippers of potatoes grown in Maine, the tax is 5¢ per hundred weight. Revenue generated ($921,020 in FY 89) is used to fund the activities of the Maine Potato Board. 140 taxpayers file monthly returns.

**Blueberry Tax** (Title 36, chapter 706) - Imposed 1/2 on the seller (grower) and 1/2 on the processor or shipper, the tax is 1¢ per pound of fresh fruit. The resulting revenue ($628,890) is allocated, as follows:

- first $20,000 to the General Fund;
- at least 25% for promotion, advertising and market development;

- 30% (but not over $85,000) to the University of Maine System to supplement "research and extension programs related to improved methods of growing, harvesting, processing, and marketing of blueberries" (§4311-A, sub-§3); and

- 15% cap for administration.

All disbursements are authorized by the Maine Blueberry Commission. Twenty nine taxpayers submit returns on or before November 1st annually.

**Sardine Tax** (Title 36, chapter 713) - Imposed on sardine packers, the tax is 30¢ per case, and is used to fund the merchandizing, advertising, research, data collection and inspection related to sardines, as well as for the administration of the tax, as determined by the Maine Sardine Council. Seven packers submit monthly returns, generating $214,822 in FY 1989.

**Mahogany Quahog Tax** (Title 36, chapter 714) - Imposed on dealers of mahogany quahogs, the tax is levied at the rate of $1.20 per bushel. Monthly returns are filed by 26 taxpayers, generating $92,534 in FY 1989, credited to the General Fund.

**Fertilizer Tax** (Title 36, chapter 705) - Imposed on anyone who manufactures, sells, distributes, or transports mixed fertilizer (but not more than once on the same fertilizer), the tax is 12¢ per ton. An annual filing (by September 1st) by 181 taxpayers resulted in $8,330 in General Fund revenue in fiscal year 1989.

## ORGANIZATION AND STAFFING

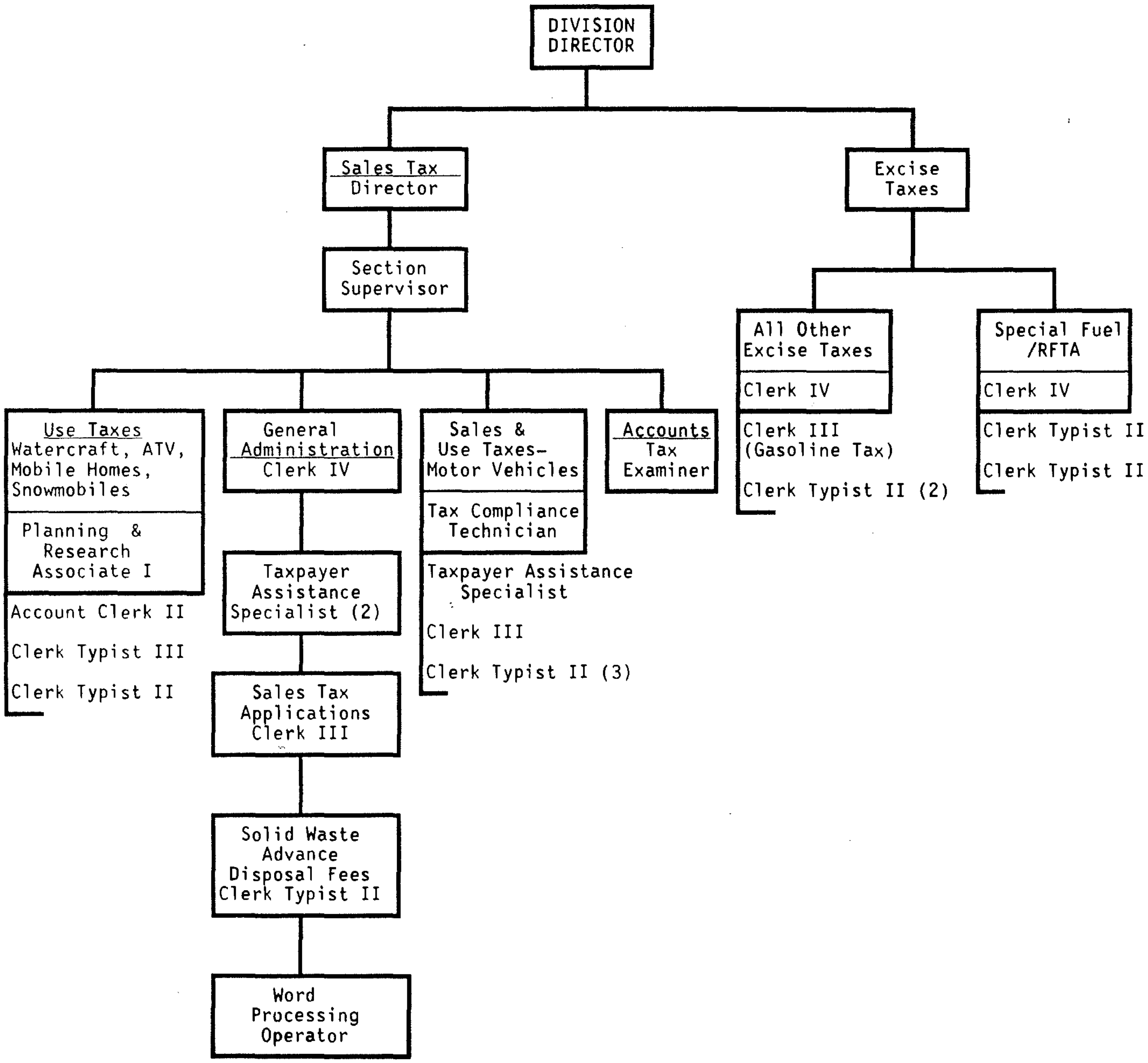
The Sales and Excise Tax Division has a staff of 27. An organizational chart of the Division appears on the following page.

## FUEL TAX AUTOMATED SYSTEMS

As previously described, the Sales and Excise Tax Division administers the gasoline tax, the special fuel use tax on distributors and users, the Regional Fuel Tax Agreement (RFTA), and several refund provisions associated with these taxes. In May of 1989, a comprehensive analysis of these systems was completed by the Bureau of Data Processing, which outlined the necessary requirements for updating the systems. The Committee finds that shortcomings of the current systems include:

**SALES & EXCISE TAX DIVISION**

**ORGANIZATIONAL CHART**



- batch printouts for the RFTA do not include the taxpayer's name, necessitating a manual matching of taxpayer ID # to review accounts;

- manual computation of average miles per gallon driven in each state is required prior to data entry of the RFTA returns;

- balances are not carried forward from year to year, resulting in refunds being paid when prior year tax liabilities exist;

- the system generates bills only for the current quarter. Billings for prior quarters must be manually typed, addressed and mailed; and are not included in the current quarter billing;

- amended returns can not be entered onto the system;

- no records are kept on off-highway refunds. If a taxpayer submits more than one refund application for the same period, s/he is likely to receive more than one refund;

- there are no provision for recording bounced checks;

- there is no ability to track transactions over time; and

- lag time in data entry results in billings for taxes which have already been paid.

The Committee finds that, due to the decision to proceed with a Bureau-wide automation plan (MATS), the systems designed by BDP for fuel taxes were not implemented. The State Tax Assessor acknowledged the problems of the current systems, and simply hopes that current operations can be maintained until the fuel tax component of MATS is developed and implemented (currently scheduled for the last half of 1993).

ADMINISTRATIVE 4. **Conduct an analysis of the costs vs. the benefits of adjusting the thresholds governing the frequency of sales tax filings, in order to determine whether the current categories are the most fiscally beneficial to the State.**

The schedule for filings returns and remitting sales taxes is determined by the amount of tax liability incurred per month, as established by agency rule. The current filing thresholds were last amended established in July 1980, and are as follows:

- monthly - total sales tax liability of $100 or more per month (19,633);
- quarterly - sales tax liability of $50 - $100/mo. (6,385);
- semiannually - sales tax liability of $25 - $50/mo. (5,253);
- annually - less than $25 per month (13,283).

The Committee finds that simple inflation in the last decade render these thresholds 45% lower in real dollar terms than their value at the time the levels were set. Doubling the threshold amount would partially alleviate the administrative burden on small liability taxpayers of filing such frequent returns, and on the Bureau of processing upwards of 50,000 returns each year. The Committee finds that this change could help to alleviate the chronic data entry problems that have been identified throughout the Bureau of Taxation review.

Furthermore, the Committee finds that another less timely impact of raising the filing frequency thresholds would be to delay by 2 to 6 months the collection of the revenue associated with those returns.

Given the State's current financial situation, the Committee could not at this time support a proposal that would delay the collection of any revenue.

In addition, the Committee finds that delinquencies among the smaller, seasonal sales tax payer population could increase if the thresholds were raised.

In light of these potentially conflicting factors, and because the need for the utmost efficiency is pronounced, the Committee requests that the State Tax Assessor conduct an analysis of the costs vs. the benefits of adjusting the thresholds governing the frequency of sales tax filings, in order to determine whether the current categories are the most fiscally beneficial to the State.

STATUTORY 5. **Ensure statutory consistency with the current practice of applying the use tax to casual sales of snowmobiles and all-terrain vehicles.**

Under current law, the term "motor vehicle" is defined as "any self-propelled vehicle designed for the conveyance of passengers or property on the public highways". (36 MRSA, §1762 sub-§7) While the Attorney General has interpreted the definition to include snowmobiles and all-terrain vehicles for the purposes of application of the use tax law, the Committee finds that the reference to "on the public highways" continues to cast doubt on their inclusion in the definition of motor vehicle. The Committee finds that specifically adding snowmobiles and all-terrain vehicles to taxation's statutory definition of "motor vehicle" would clarify the applicability of the use tax to these vehicles. Therefore the Committee recommends clarifying the statute to ensure consistency with the current practice of applying the use tax to casual sales of snowmobiles and all-terrain vehicles.

STATUTORY 6. **Require the Department of Inland Fisheries and Wildlife to collect the use tax on casual sales of snowmobiles and all-terrain vehicles (ATV's) at the time of registration, in order to increase revenues, streamline the tax collection process and reduce administrative costs.**

Under current law, taxpayers must pay, through the registering agent, any applicable use tax on casual sales of motor vehicles, watercraft, camper trailers and other vehicles as a condition of registration of the vehicle. Although Maine use tax laws apply to casual sales of snowmobiles and ATV's, pursuant to Title 36, §1955, the Committee finds that payment of the tax is not currently a condition of registration. The Department of Inland Fisheries & Wildlife, which administers the registration of snowmobiles and ATV'S, sends registration information to the Bureau of Taxation, which then proceeds with the collection of the use tax from applicable registrants.

The Committee finds this practice to be inconsistent with other registration and use tax collection procedures, and causes some confusion to taxpayers. In addition, the practice would appear to be in conflict with §1952-A, which reads:

> "The tax imposed ... on the sale or use of any vehicle or watercraft shall, except when the dealer thereof has collected such tax in full, be paid by the purchaser or other person seeking registration of the vehicle or watercraft at the time and place of registration of such vehicle or watercraft."

The Bureau of Taxation testified that at least $40,000 in revenue go uncollected each year because it is not cost effective for the Bureau to pursue payment, beyond a notification of taxes due, in cases where the tax owed is less than $50. The Committee found that it is logical, consistent, and most efficient and effective to have the use tax on the casual sale of snowmobiles and ATV's be collected at the time of registration, and noted that an additional position for the Department would be required.

To address the issue of the need for another position, the Committee noted that current law (12 MRSA §7793-A) allows the Department of Inland Fisheries and Wildlife to retain $1.25 for each use tax certificate processed for watercraft (approximately $20,000 per year) to defray the cost of administration. The Committee found that by eliminating this fee retention allowance, these funds can be deposited directly into the General Fund to offset the cost of the necessary position. The Committee finds that the General Fund will experience a net increase in revenues due to the increased use taxes collected as a result of streamlining the process.

Municipalities and counties, as agents of the Commissioner of Inland Fisheries & Wildlife, register about 80% of watercraft, ATV's and snowmobiles. A one dollar service charge, in addition to the registration fee, is allowable by law, to be retained by the agent. Municipalities or counties also receive $6 of each snowmobile registration fee. The Committee finds that the collection of the use tax on snowmobiles and ATV'S does not constitute a significant burden for municipalities, and therefore does not require additional resources.

The Committee finds that collection of use taxes on casual sales of snowmobiles and ATV's at the time of registration is more efficient, consistent with the registration practices for other vehicles, and will result in the payment of significant additional taxes currently going uncollected. Therefore the Committee recommends requiring the Department of Inland Fisheries and

Wildlife to collect the use tax on casual sales of snowmobiles and all-terrain vehicles (ATV's) at the time of registration, in order to increase revenues, streamline the tax collection process and reduce administrative costs.

STATUTORY 7. **Amend reporting and remittance dates for potato, sardine, and mahogany quahog taxes, in order to streamline and simplify tax return processing efforts.**

Currently there are several different statutory filing dates for various natural resource industry taxes (1st, 10th and 15th). The Committee finds that multiple reporting dates makes tracking the various tax due dates difficult, and additionally, creates a situation where these small volume returns arrive at the same time as the 19,000+ monthly sales tax returns. The Director expressed that generally changing filing dates to the end of the month would both increase consistency and avoid the "mid-month rush", allowing for more prompt data entry and processing of these returns. Affected taxes are the potato, sardine, and mahogany quahog taxes, which are currently due on the 15th (potato) and 10th (sardine and quahog) of the month.

The Committee finds that there would be no significant administrative burden associated with amending forms to effect the changes, and that efficiency of processing would be enhanced. Therefore the Committee recommends amending reporting and remittance dates for potato, sardine, and mahogany quahog taxes in order to streamline and simplify tax return processing efforts.

## Enforcement Division

### RESPONSIBILITIES

The Enforcement Division of the Bureau of Taxation carries out collection activities on delinquent tax payments and non-filings on behalf of the State. The inventory of accounts in non-compliance with relevant tax laws as of November 30, 1990 totalled nearly 65,000.

### OPERATIONS

The Enforcement Division receives delinquent accounts from the other tax divisions by various means, depending on the type of tax. Delinquent income tax accounts are transmitted electronically to Enforcement through the TRACE accounting system, which orders accounts according to the amount of taxes estimated to be owed. Each collector is assigned approximately 500 individual income tax accounts, leaving a pool of about 9,000 unassigned accounts which collectors draw from as time allows. The Division also receives weekly printouts of new delinquent sales and withholding accounts, and collections chooses those with high apparent liability, several missing returns, etc. Many accounts are not actively pursued, due to the high account per collector ratio (over 5,700 accounts per collector). These nonactive accounts continue to receive monthly computer-generated notices of their liability. Average account liability is about $837, ranging from under $10 to over $100,000.

Collection activities begin with phone calls, followed by a series of increasingly demanding letters. The final letter, a notice and demand for payment, gives the taxpayer 10 days to pay the liability, including all interest and penalties, before levy or lien proceedings are initiated. In practice, one or two additional communications are generally made before these more intrusive collection methods are employed. The Bureau levies wages or accounts on approximately 50 cases per month, and has nearly a thousand (1,000) liens currently filed on real or personal property.

The State Tax Assessor also has the authority to revoke liquor and motor vehicle dealer licenses and deny issuance or renewal of any state-issued license, certification, or authority to conduct a profession, trade or business, for failure to pay taxes or file tax returns. Warrants may be requested of and issued by the Superior Court, which have "the force and effect of execution issued upon a judgment in a civil action for taxes" (36 MRSA §173, sub-§2). About 25 such warrants are issued each month. Intentional evasion of or failure to pay taxes is a Class

D criminal offense, and a repeat conviction within a 10 year period was recently designated a Class C crime, as one of the penalty strengthening provisions of the Tax Amnesty proposal (P.L. 1989, c. 880).

According to the collections unit manager, over half the delinquent taxpayers the unit contacts "want to pay" their taxes but are simply forgetful, negligent or unable to pay. Generally, acceptable payment schedules can be agreed upon, with a 9 month limit imposed on personal income tax liabilities and 12 months on other tax types. Collectors try to arrange plans of only 2 payments. Plans negotiated with more than 2 payments must be approved by the unit manager. Cases are negotiated by the collectors on an individual basis, with payment plans established and/or full or partial waiver of penalties granted dependent upon the circumstances and behavior of the taxpayer.

The Division's collections declined 31%, or about $1,040,000, in the four month period directly preceding the Tax Amnesty program (July - October 1990), when compared with collections during the same period in 1989. Preliminary results of the amnesty program are discussed later in this report.

## ACCOUNTS RECEIVABLE

The number of people liable for Maine taxes who are not paying them has increased dramatically in recent years. While the total number of tax accounts handled by the Bureau increased by 45% between 1980 and 1989, the number of accounts receivable increased 75% (from 38,300 to 67,000) in just the last 3 years. The dollar amount has increased by 100% between 1987 (22.8 million) and 1990 ($49.6 million as of 6/30/90). These amounts also indicate that unpaid taxes as a percentage of total annual revenues is also increasing significantly, from about 1.9% in FY 87 to nearly 2.9% in fiscal year 1990, a 52% increase.

Accounts receivable figures reported by the Bureau are somewhat understated, due to the fact that for a period of about five years during the early 1980's, no interest or penalties were entered onto the computer systems. This was a decision made by the previous Division Director, resulting in a significant understatement of accounts receivable during that period. As Enforcement staff have worked these accounts they have updated them. However, for many accounts with a relatively small tax liability, these adjustments have never been made, due to the sheer volume of accounts and because performing manual calculations of several years worth of interest and penalties is extremely time consuming. There are an estimated 6,000 accounts on the systems that have not yet been recalculated, primarily individual income tax debtors.

## ORGANIZATION AND STAFFING

The Enforcement Division currently has a staff of 39. Three positions were recently eliminated as part of the emergency budget bill (PL 1991 c. 9), however these and 24 other revenue producing positions for the Bureau of Taxation have been proposed in the Governor's current services budget for the 1992-1993 biennium. An organizational chart of the Division appears on the following page.

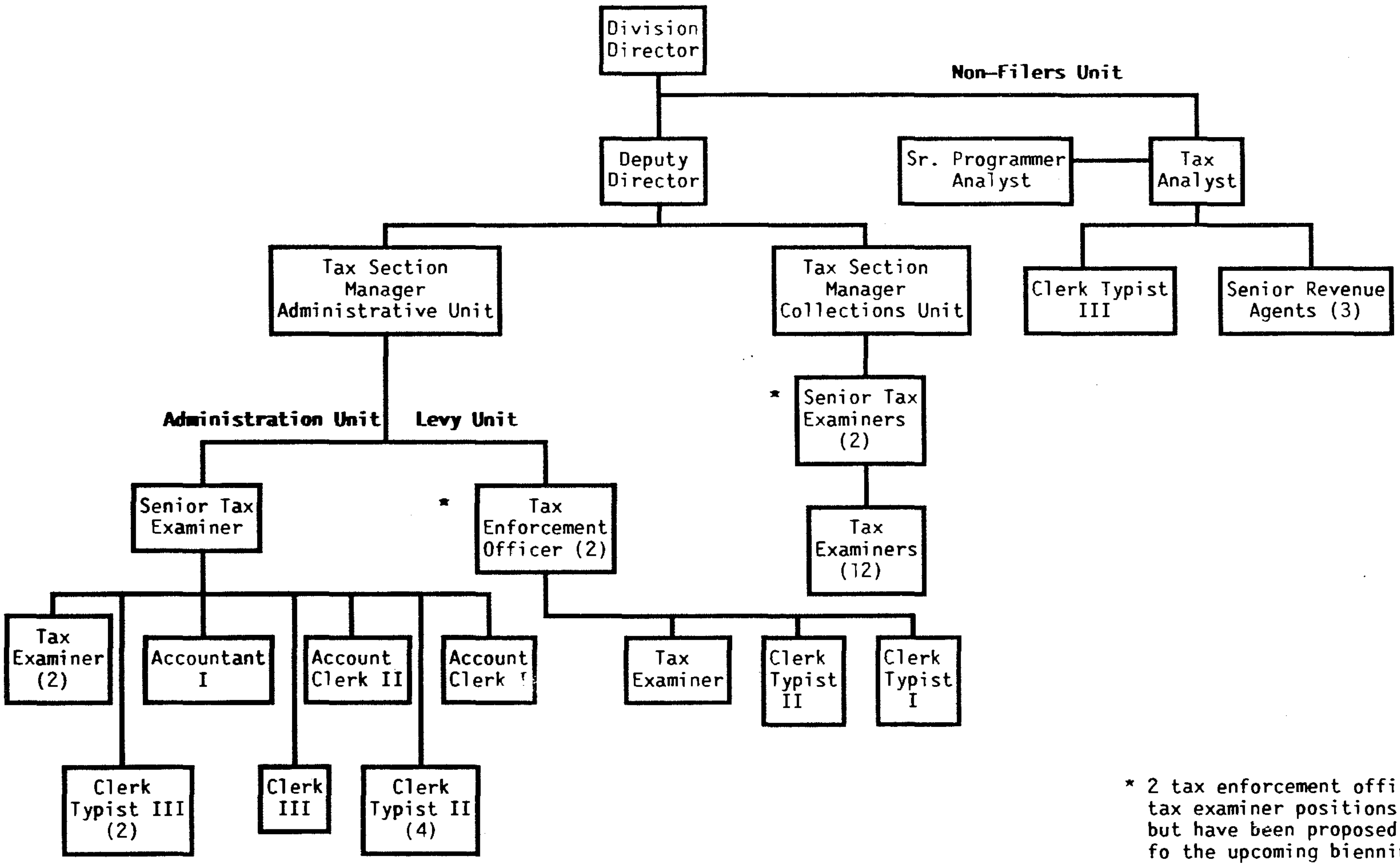
In addition to the regular staff, 2 temporary (6 month) and 2 permanent positions were appropriated by the Legislature to assist in administering the Tax Amnesty Program. The two permanent positions were intended to provide the increased tax compliance enforcement activity promised by the Administration post-Amnesty, however these positions have been eliminated as a result of the current revenue shortfall. Seven additional compliance and support positions were appropriated as part of the Tax Amnesty legislation, whose mission will be to collect enough receivables to fund the Maine Automated Tax System. Two of these positions were allocated to the Bureau's Audit Division, five to Enforcement. Four of these five have, thus far, survived the budget cuts.

Six of the Division's positions make up the new non-filers unit, discussed in a later section.

Clerical staff provide essential support to compliance officer positions. The clerks in the administrative unit of the Division:

- monitor payment plans;
- manage accounts;
- control the state agency set-off program;
- monitor outside collection agency accounts;
- control protested checks and sales tax bonds;
- manage bankruptcy accounts, civil court cases and tax liens;
- control personal income tax refunds which are applied to other tax liabilities;
- manage levy files;
- control adjustments to the personal income tax and sales tax systems; and
- perform all typing and computer system coding for the Division.

# ENFORCEMENT DIVISION




* 2 tax enforcement officer and 1 senior tax examiner positions were eliminated, but have been proposed for restoration fo the upcoming biennium.

Staffing in this unit, as in the Bureau as a whole, has not increased in proportion to the workload. While the number of delinquent tax accounts has increased well over 100% since 1980 (a more precise figure is not possible because records of accounts from that period are unreliable), the number of enforcement staff has increased only 46% during the same period. This includes the new non-filers unit, which essentially serves to increase the Division's caseload by identifying new accounts.

**Overtime** - Enforcement staff work a significant amount of overtime --- over 3,500 hours in fiscal year 1990, at a cost of nearly $65,000. The Division is generally staffed Tuesday and Thursday evenings and Saturdays, when efforts are focused on personal income tax accounts that may be hard to contact during the normal work week. All overtime hours are voluntary, and must be worked for pay rather than compensatory time off. According to the unit manager, overtime is cost effective relative to additional staff because, while employees receive time-and-a-half pay, their benefits costs do not increase, and the fact that current employees are highly experienced nets productive results.

## COLLECTIONS

Comprehensive figures on the delinquent taxes collected through the efforts of this Division are not available, because only the personal income tax system accounts for receipts generated by collection activities. Sales and withholding taxes collected are simply included in the totals of current period sales and withholding tax returns, and are not identified separately. In the twelve month period ending May 31, 1990, personal income taxes collected by the Division totaled $8,052,144. About 35 to 40% of collector time is spent on personal income tax collection.

**Private Collection Agencies** - The Division also utilizes the services of private collection agencies, primarily for out-of-state debtors. According to the Director, while the Division's employees are more effective at extracting payment, private agencies have far more resources to employ locating the relevant individuals. Because it takes a considerable amount of time to prepare a case for a private agency, use of this resource is limited. Total debt assigned to private collection agencies in fiscal year 1990 was just under $500,000 dollars, of which $77,696 was collected. Fees paid to these agencies in that same year were $12,659, representing approximately 2.5% of debt assigned and approximately 16% of debt collected.

Generally, if acceptable results are not seen within 6 months of assignment, the contract is terminated and the case reverts back to the Division.

## NON-FILERS UNIT

Five compliance positions were appropriated to the Bureau beginning in January of 1990 (P.L. 1989, c.501), with the intention of generating additional revenue. A special unit to pursue income tax non-filers was established, an area in which the State has done very little enforcement in the past. The unit is made up of a tax analyst, a senior programer analyst, 3 senior revenue agents and a clerk-typist transferred from the administrative unit. The programmer analyst, working with the unit manager and the Division Director, has been developing a computer program that will draw information from corporate income tax forms, real estate transfer forms, federal 1040 returns, W-2 forms, and licensing information provided by 36 regulatory boards overseen by the Department of Professional and Financial Regulation.

As described previously, the Bureau receives tapes from the Internal Revenue Service listing federal returns filed with Maine addresses or income sources. The Division anticipates significant results from tying in real estate transfer form information, because capital gains from the sale of real estate by a non-resident is frequently the only Maine tax liability a person has, and in the past has been relatively easy to evade. The Federal Enforcement unit in the Income Tax Division estimates that there are 18,000 people with Maine income tax liability each year who do not file returns.

The new automated system is about 40% completed at this writing. The basic system is scheduled to be up and running by April 1, 1991, and fully operational by July 1st.

Each collector works approximately 200 cases at any given time. According to the Division Director, the unit, which is currently operating manually using primarily I.R.S and real estate transfer tax information, has produced results of about $75,000 per week. The implementation of the automated system is expected to increase this amount significantly.

## TAX AMNESTY

P.L. 1989, c. 880 enacted a tax amnesty program for Maine. The designated amnesty period was the two month period from November 1 to December 31 of 1990. During this period, delinquent taxpayers had the opportunity to pay back taxes due without having to pay any assessed penalties or one half of the accrued interest on their debt. The program provides significant benefits, as many accounts delinquent for extended periods have interest and penalty liabilities far exceeding the actual taxes owed.

The Bureau had originally estimated $15 million as the amount that would be collected as a result of the Amnesty Program. Preliminary returns indicate that actual returns exceeded expectations significantly, with $27 million collected and an additional $2 million pledged for payment within 6 months. although final figures are not yet available, the Division Director estimated that approximately 20,000 accounts receivable were closed as a result of the Amnesty program.

ADMINISTRATIVE 8.

Compile a report estimating the aggregate amount of penalties imposed under State law for nonpayment of taxes that were waived by the Enforcement Division in fiscal year 1990, as well as totals for individual Division tax collectors.

ADMINISTRATIVE 9.

Establish guidelines for granting waivers of penalties imposed under Maine's tax laws, within which individual collector discretion may be employed.

Currently, Enforcement Division collection officers are delegated the statutory authority of the State Tax Assessor to waive penalties imposed for late payment or non-payment of taxes or non-filing of returns. According to the Division Director, there are no established guidelines or policies that the collectors follow in determining the appropriateness of waivers, nor must waiver decisions be approved or reviewed by anyone. There is no report of amounts waived, either by collector or in the aggregate.

The Committee finds that there is a need for flexibility and discretion in making waiver decisions; each taxpayer's circumstances and behavior are different and create a unique profile to which the collector must respond in a way that best serves the interests of the State.

In reviewing penalty waiver policies of several other states, the Committee found that the stringency of waiver policies varies tremendously among the states, from officers having authority to waive up to $5,000, with supervisor approval (Colorado), to waiver authority only at the Commissioner level and then only up to $100 (Connecticut). Vermont allowed collectors to waive up to $100 in penalties. All other states contacted required more than one signature or level of approval. Most had several levels of approval procedures depending on the amount being waived.

The Committee finds that, while there is no indication that the waiver discretion has been misused by collection staff, a flexible oversight policy for the review of waivers is indicated. Furthermore, the Committee finds that because virtually no guidelines, oversight, controls, or statistics on waivers exist, there is no way to ensure or document this activity. Other state's policies would indicate that it is generally accepted that some level of oversight, accountability, and control is necessary to protect the state's interests. Additionally, the Committee finds that documentation would also serve to protect collection staff, both individually and collectively, from any claims or charges as to the appropriateness of their actions, and would provide the unit manager and Director with a seemingly important management report.

The Committee acknowledges that it would be disadvantageous to direct programming resources to this project at this time, because this documentation will be provided by the system once the Maine Automated Tax System (MATS) is fully implemented in 1993. However, the Committee finds that the need for at least estimated figures of waiver activity could be compiled manually prior to the full implementation of the automated system. Therefore, the Committee directs the State Tax Assessor to compile a report estimating the total amount of penalties for nonpayment of taxes waived, as well as totals for individual Enforcement Division tax collectors.

In addition, the Committee finds that some written guidelines on the State's waiver policies within which collectors' discretion may be employed is indicated, and recommends that the State Tax Assessor establish these guidelines.

**IN SUMMARY**

As revenues have grown scarcer, state officials, both executive and legislative, have searched for ways to meet the financial needs of state government without placing an undue economic burden on any one segment of the population. While many public officials have differing views about the best method(s) to employ to balance the budget, efficiency in tax administration and collection of unpaid taxes due under current Maine tax laws is clearly one piece of an equitable solution. Whether additional revenues are imperative or not, efficient, effective, equitable administration of taxes makes sense.

As observed throughout the Committee's review of the Bureau of Taxation, the tax collection systems currently utilized are antiquated and inadequate. The Committee acknowledges that this situation did not evolve overnight, but rather over the period of the last 15 to 20 years. Although accounts receivable have increased dramatically in the last three years, there have always been significantly more delinquent accounts than could be pursued and/or discovered by enforcement and audit staff. Given its level of staffing, Maine's taxation bureau has been efficient in collecting taxes due, when compared to the other New England states.

One of the factors leading to the deterioration of Taxation's systems to their current level is that Maine has been relatively revenue rich over the last decade. The inefficiency of operations, inadequacy of collection efforts, and unavailability of accurate, comprehensive forecasting and management information, therefore, have not been seen as highest priority by government leaders.

It is fortunate for the State, given our current, short-term financial outlook, that considerable effort had gone into the analysis of Bureau operations and the development of a comprehensive plan to address the majority of the identified shortcomings, even before the severity of the economic downturn became known. While the commitment of time and resources now necessary to update systems, streamline operations, increase enforcement efforts, and improve service to taxpayers is significant, the costs of not making, or further delaying that commitment may well have been even greater.

The continued support of both the Governor and the Legislature, as displayed last year with the proposal of and first year funding for the Maine Automated Tax System, will be essential to the successful transition of the Bureau of Taxation into an efficient, integrated, well-informed tax administration agency.

# ADMINISTRATIVE SERVICES DIVISION

## ORIGIN & PURPOSE

The Administrative Services Division was established on July 1, 1977 to provide the Commissioner and Department of Finance agencies with personnel, budget, purchasing and support services, pursuant to Title 5, section 284. Accounting functions for Alcoholic Beverages were transferred to the Division from the Bureau of Accounts and Control in 1987 when the then Department of Finance and Administration was separated into two separate departments. Prior to the establishment of this Division, all personnel, payroll, budgeting, and accounting functions were performed by the individual Bureaus that comprise the Department. With the advent of collective bargaining, centralization of these functions was adjudged to be necessary to provide consistency in personnel actions and a more efficient and specialized operation.

## ORGANIZATION, STAFFING AND EXPENDITURES

The Administrative Services Division is comprised of 15 positions. An organizational chart of the Division appears on the following page.

Seven of the Division's 15 positions are involved primarily with the functions associated with Alcoholic Beverages, although only 6 are currently filled (1 employee is out on worker's compensation). Two people each handle personnel, payroll, and accounting for the remainder of the Department of Finance.

Expenditures of the Division totalled about $539,000 for fiscal year 1990.

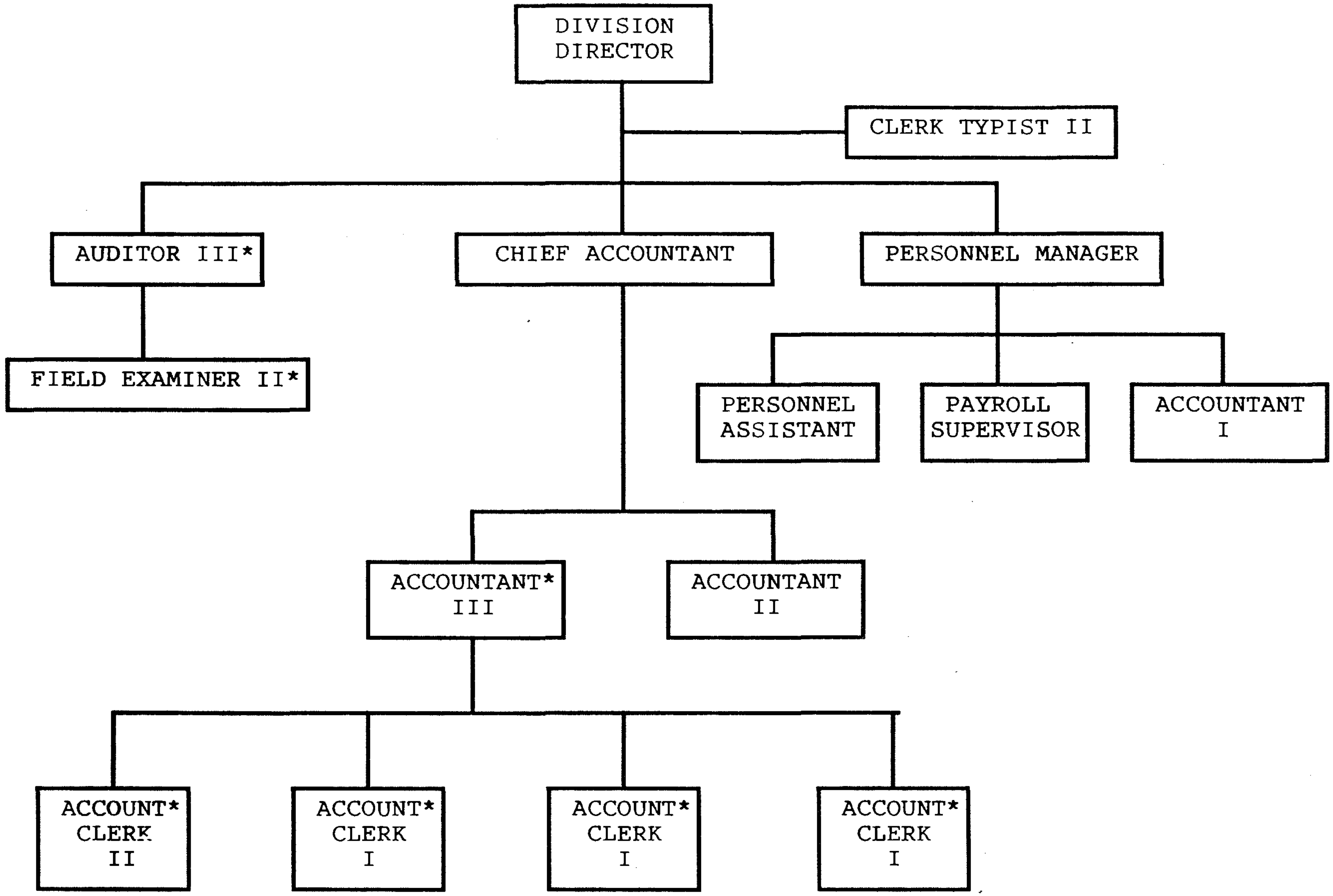
## ACCOUNTING FOR ALCOHOLIC BEVERAGES

Each of the State's 71 liquor stores is required to perform a daily accounting and submit a report to the Division, which maintains a cash ledger for each store. This system was installed on a personal computer in 1988, which reduced the time required to do the liquor store accounting from 12 hours a day to 3 to 4 hours. The Division has maintained a vacant account clerk position as a result, which has been targeted for elimination in the current budget deliberations.

The Division also conducts an audit of each liquor store at least once each year, maintains and updates inventory records, and controls purchases through wholesalers.

## ADMINISTRATIVE SERVICES DIVISION

## ORGANIZATIONAL CHART




* Primarily Associated w/Alcoholic Beverages

In the last year, several store managers were replaced, and a Director of Operations position was created in the Bureau to provide more direct oversight of inventory control and other aspects of Alcoholic Beverages operations.

These other related issues will be explored and discussed in more detail in the Bureau of Alcoholic Beverages section of this report.

**MFASIS**

The Administrative Services Division appears to have gradually adjusted to the new statewide computerized human resources, accounting and budgeting systems known as MFASIS. However the Committee heard testimony from this agency, in concert with others, that inadequacies of systems implementation included training, a user needs assessment prior to the design of the system, and the system generation of necessary management reports.

Two Change Advisory Committees (one for each system) were established to receive, prioritize and recommend changes to address system shortcomings and user requests for additional features. The Committees are made up of representatives from both central and user agencies. Specific staff were designated in the Bureau of Accounts and Control, the Bureau of Data Processing, and the Bureau of the Budget who agencies could call with questions or problems with particular functions of the systems.

One aspect of the implementation of the new systems has been to shift the data entry of all bills and personnel and payroll information from the Bureau of Accounts and Control to all on-line agencies. The Administrative Services Division, therefore, is now responsible for the performance of this function for the entire Department of Finance. While current Division staff appear to be managing the overall workload, there appears to have been some misalignment of staff created. The Division has no data entry positions, leaving the Division's accountants and auditors doing data entry.

The Committee finds that efforts are being made to improve the management information reports generated by the new system to meet the needs of the agencies, and that there has been a significant improvement in timeliness of bill processing and payments to vendors.

On the human resources side (personnel and payroll), the Committee notes a number of issues resulting from the implementation of the new system, including checks issued to terminated employees, complications in making name and deduction changes and the inability to reissue checks when originally issued erroneously. In addition, the system was designed not to allow the entry of a change (e.g. a merit increase or leave of absence) prior to the effective date of the change.

Further discussion regarding MFASIS and related issues appears in the Bureau of Accounts & Control section of this report, which follows.

# BUREAU OF ACCOUNTS AND CONTROL

## ORIGIN AND PURPOSE

The Bureau of Accounts and Control was established in 1931 as one of three bureaus that then comprised the Department of Finance (along with Purchases and Taxation). The powers and duties of the Bureau, which have not been altered substantially in the last sixty years, include:

- to maintain an official system of general accounts that embraces all financial transactions of state government;
- to examine and approve all contracts, orders and documents that incur financial obligation against the state; and to determine that funds have been appropriated and allotted to meet those obligations;
- to audit and approve all bills, invoices, accounts and payrolls to determine legality and accuracy of these claims;
- to inspect the quality and quantity of materials and labor to determine the reasonableness of prices charged therefore;
- to make monthly reports on all receipts and expenditures of state government to the Governor and State Auditor; and monthly reports on appropriations, allotments, encumbrances, and authorized payments to the Governor, State Auditor, and agency heads;
- to prescribe the forms of bills, vouchers, and receipts to be filed with the Department of Finance;
- to provide for subsidiary (detail) accounts as agencies may acquire;
- to examine the accounts of every agency receiving state appropriations;
- to report to the Attorney General, upon request, any facts showing illegality in the expenditure of public funds or the misappropriation of public properties;

- to establish and maintain separate accounts to receive and expend federal funds for designated purposes; and funds collected and expended for conferences, workshops and seminars;

- to establish policies for travel expense reimbursement; and

- to prepare the official annual financial report of State government.

(5 MRSA §1541 et seq.)

**ACTIVITIES**

The Bureau of Accounts and Control is the central accounting agency for Maine State Government. All payments made by the State (to employees, vendors, other state agencies); revenues received by the State (in taxes, federal grants, enterprise funds, dedicated revenues); or transfers of funds from one state agency to another, are reviewed, recorded, approved and accounted for by this Bureau.

Nearly all functions of the Bureau have increased significantly in volume over the last 10 years. The following activities were recorded by the Bureau for the fiscal year which ended June 30, 1990. The percentage in parentheses indicates the volume increase in that activity since 1980.

In FY 90, the Bureau:

- issued nearly 2 million checks (approximately 20% payroll) (279%);

- maintained files on nearly 85,000 vendors (1982%);

- issued over 15,000 IRS Form 1099's (payments to vendors for services) (282%);

- paid and maintained payroll records on nearly 16,000 state employees (8%);

- processed nearly 16,000 purchase orders (42%); and

- maintained 1,677 appropriation accounts made up of 16,460 separate cost centers (sub-units) (49% and 102% respectively).

The above listed activities are accomplished by seven separate units within the Bureau. The functions of each are summarized below:

**Administration** - Includes the State Controller and his Deputy. The unit exercises oversight over both global and day-to-day Bureau activities, and is primarily responsible for issuing the annual Maine Financial Report and fulfilling other federal reporting requirements. Three positions are responsible for the training and coordination activities associated with the implementation of MFASIS and are funded through June 1991. The State Controller serves as the MFASIS project coordinator.

**General Accounting** - This unit maintains the system of general accounts and encumbrance files for all State agencies, monitoring expenditures against available appropriations, allotments, and cash. One of the unit's primary responsibilities is to ensure that no payments are made unless there is sufficient allotment to cover the obligation. This unit performs the final review of all cash receipts and journal vouchers, and enters budget and financial orders into the system. General Accounting also prepares the monthly undedicated revenue report.

**Payroll** - This unit pre-audits the payroll information for approximately 16,500 state employees, which is entered onto the automated payroll system by payroll clerks in each agency. Small, off-line agencies supply payroll information to the unit, where it is then entered. Payroll personnel only actively review exceptions to normal (80 hour) biweekly pay. Payroll technicians also review a daily report generated by the system which indicates changes that have been made to an employee's compensation, deductions, leave status, etc.

Payroll personnel are also responsible for making sure all payroll deductions are accurately directed, e.g. union dues, deferred compensation plans, etc. Finally Payroll is responsible for the application of garnishments (child support, tax levies, etc.) to the compensation of approximately 300 state employees.

**Pre-Audit** - The Pre-Audit Unit is responsible for auditing all invoices paid by the State (approximately 2200 to 2500 per day), including expense accounts, payment vouchers, internal billings and payments, travel expenses, etc. Pre-Audit staff compare the expense information entered by the agencies with the hard copy invoice for coding and calculations, and determine the legality of the expense. The system automatically checks for sufficient allotment/cash to cover the obligation. The unit maintains a signature file for all agency personnel authorized to approve payments at the agency level. All out-of-state travel must be approved by the agency Commissioner. All payments approved by Pre-Audit are processed overnight; checks are cut automatically in 10 days, unless the agency enters an alternate scheduled pay date (5 days minimum required).

**Data Entry** - The Data Entry Unit enters payment vouchers, invoices, internal billings and payments, etc. for all "off-line" agencies. The unit also processes weekly workers' compensation benefits and updates the State's 85,000-entry vendor file. Agencies with particularly large volumes of like transactions (Taxation, Retirement, Human Services, etc.) provide their transaction information on tapes, which are run by this unit weekly.

**Records/File Room** - This unit microfilms all accounts payable records for the State, which constitute the official documentation of payment of state obligations. The Records section also maintains a file retrieval system, and researches vendor and state agency inquiries about invoice payments. Original documents are maintained for 3 months. The State Archives, which has statutory authority to determine government records retention schedules, receives the original microfilm, the Bureau maintains one, and a copy is made for the Department of Audit. Accounts payable records are retained for seven years, payroll records for 60 years. Microfilming of records began in November of 1986. Prior to that time the File Room at the Bureau retained hard copies of all invoices for 3 fiscal years. The unit currently films about 2,700 records per day.

**Systems and Programming** - Prior to MFASIS, this unit provided the technical support needed to maintain and improve the Bureau's automated systems. In addition to the 6 programming positions on the payroll of Accounts and Control, there are an additional 9 programmers employed by the Bureau of Data Processing that have been dedicated to the MFASIS project (3 for the accounting system and 6 for human resources). BDP staff were primarily involved in the design and implementation of the new systems. BAC programmers maintained the old systems until conversion, and have slowly been "brought on board" since the new systems have been in operation.

## ORGANIZATION AND STAFFING

The Bureau of Accounts and Control currently has 54 authorized positions, as follows:

51 full time (4 vacant)
1 intermittent (12 weeks) (vacant)
1 limited period
1 project

The limited period and project positions are associated with MFASIS, and are authorized until June of 1991. The Bureau is currently organized into the 7 functional units described above. An organizational chart of the Bureau appears on the following page, displaying the current distribution of positions.

While the volume of transactions processed by the Bureau has increased over the last decade, staffing levels have decreased, from 64 (of 68 authorized) in fiscal year 1980 to 55 (of 56.5 authorized) in fiscal year 1989. There are currently 49 people employed full time by the Bureau.

The conversion to the MFASIS system has created some adjustment of functions performed by the Bureau, most notably the elimination of the majority of the data entry function. Three (3) data entry positions were deappropriated from the Bureau, effective July 1, 1990, and there are 2 positions currently vacant in this unit. The Committee notes that some consolidation and reorganization of the Bureau may be indicated.

## EXPENDITURES

Expenditures of the Bureau totalled $2,194,945 in fiscal year 1990 (MFASIS not included), a 5% increase over FY 1989, and a 98% increase over FY 1980. Overall expenditures of Maine State Government have increased nearly 250% in the last decade.

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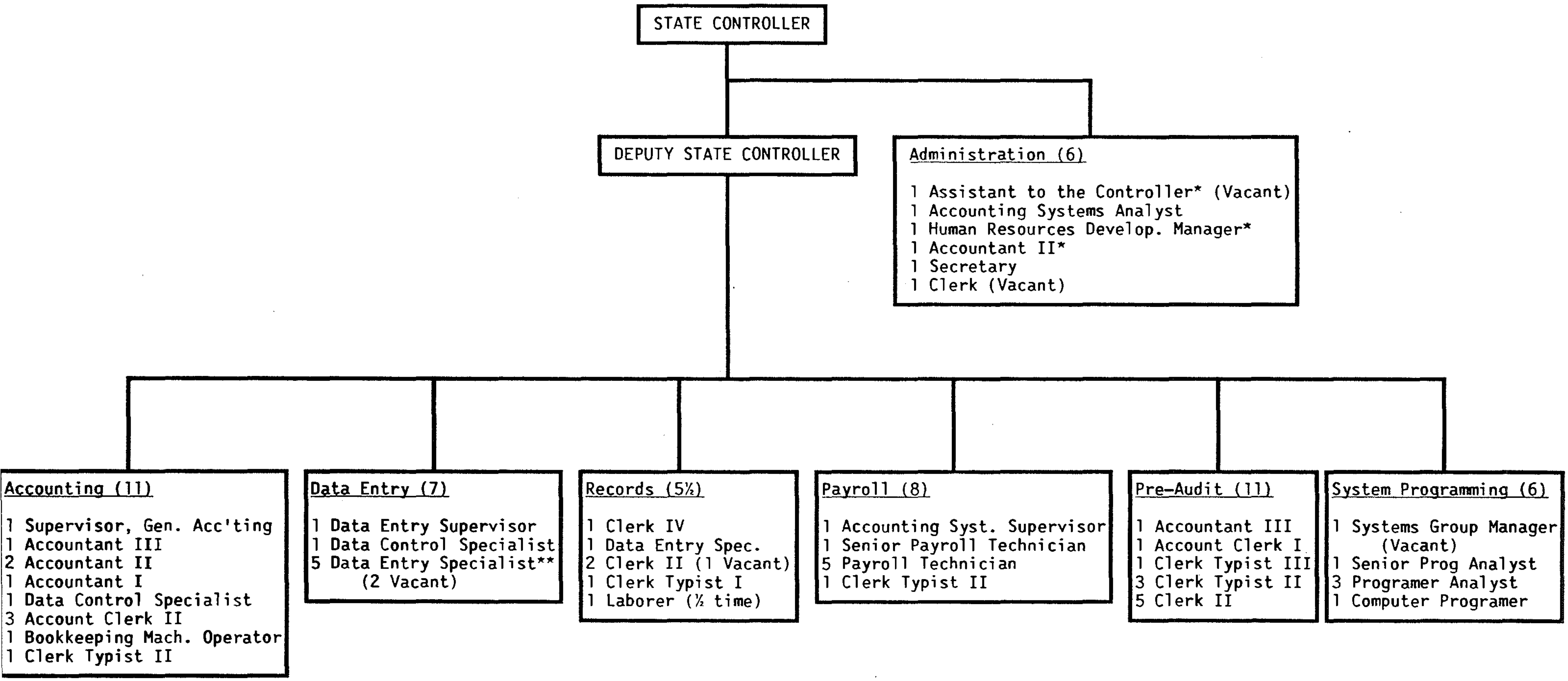
# BUREAU OF ACCOUNTS AND CONTROL
## ORGANIZATIONAL CHART




* These positions are funded out of the Systems Project account (MFASIS)

** 1 Intermittent (12 weeks maximum)

Note: As of this writing the following positions had been proposed for elimination: Data Entry Supervisor, Data Control Specialist, Data Entry Specialist (3), Clerk I, Clerk Typist I, Clerk Typist II (3), Account Clerk II, Laborer.

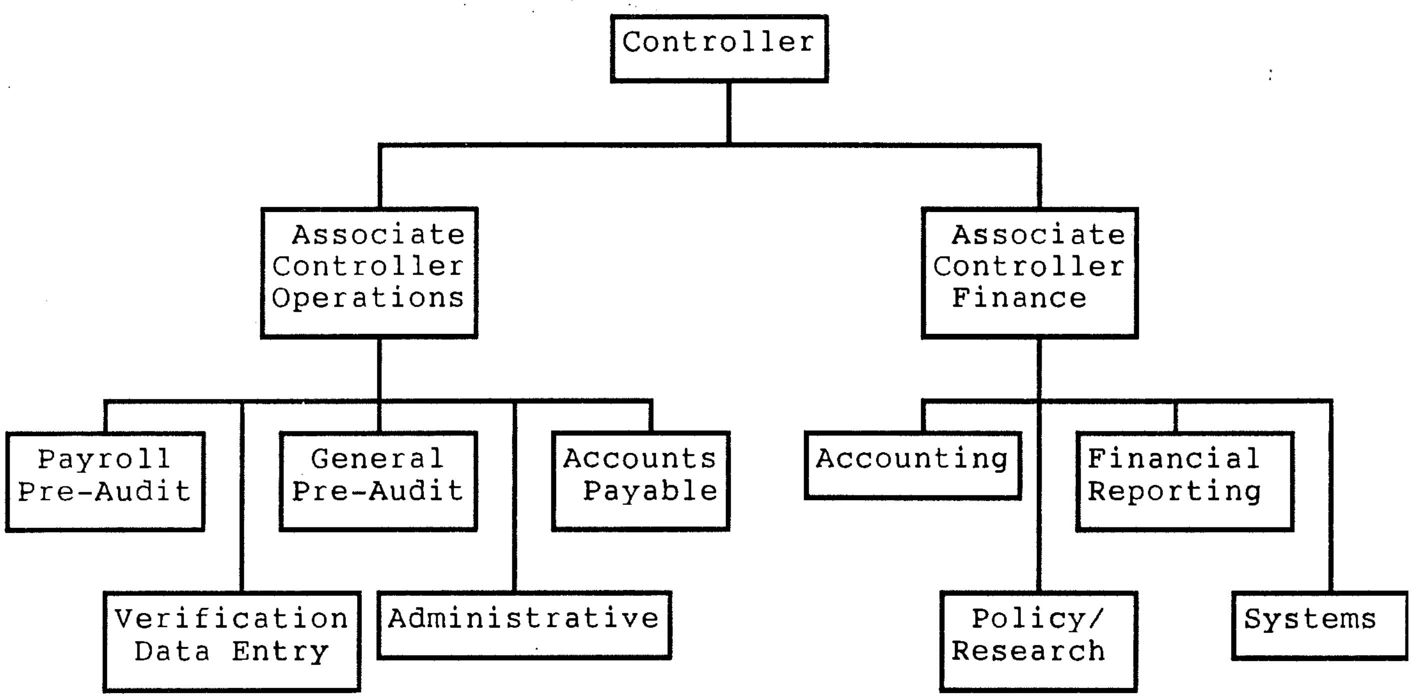
FINDING 10. The Committee finds that the State Controller's concept for reorganization of the Bureau of Accounts and Control has merit, and should be pursued as resources permit.

In March 1989, a Management Performance Improvement report was issued by Peat Marwick based on a review of the Rhode Island Controller's Office. Prior to reorganization, the Controller's Office in that state was organized very much like Maine's, with all units reporting to the Deputy Controller. The report recommended dividing the functions into 2 basic units: an Operations Division that would incorporate the day-to-day pre-audit, payroll, data entry and administrative functions; and a Finance Division that would be responsible for accounting, financial reporting, systems development and maintenance, and policy research. Each division would be headed by a deputy or associate controller (see organizational chart).

The Committee finds that a similar model may better address the shifting demands placed on the Bureau, as the pressure to more fully comply with generally accepted accounting practices and other federal reporting requirements increases. In addition, the Committee finds that the Bureau is currently experiencing a need for an ombudsman-type resource to respond more effectively to agencies' needs, questions, and requests regarding MFASIS.

Pending at the time of this report is a proposal to eliminate 11 of the Bureau's positions, including 4 vacant positions and 7 layoffs. The targeted positions are identified at the bottom of the organizational chart. The precise post-reduction configuration of the Bureau has not been ascertained as yet. The Committee finds that the State Controller's plans for a reorganization will be set back by the elimination of these resources, necessitiated by the State's current and projected revenue shortfalls. The Committee finds however, that the State Controller's plan for reorganization of the Bureau of Accounts and Control has merit, and should be pursued at such time as resources permit.

**RHODE ISLAND STATE CONTROLLER**
**PROPOSED ORGANIZATION**




Source: Management Performance Improvement:
A Look at the Rhode Island Controller's Office
- Mark D. Abrahams, Partner
Peat Marwick Main & Co.

## Maine Financial and Administrative Statewide Information Systems (MFASIS)

### ORIGIN OF THE PROJECT

The MFASIS project originated in 1987 out of 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. An ad hoc Committee made up of the State Controller, the Commissioners of the Departments of Finance and Administration, the Directors of the Bureaus of Human Resources and Data Processing and the Deputy Commissioner of the Office of Information Services and his Special Assistant, met on September 9, 1987 to review an RFP for assistance in developing a plan for replacing the State's primary accounting and administrative computer systems. The RFP was refined and issued on September 21st, and awarded to Price Waterhouse on October 15, 1987.

A Steering Committee was then formed to advise the contractor and monitor the progress of the systems plan development. The original Steering Committee members included those listed above, and in addition, the State Budget Officer, and agency representatives from the Departments of Transportation, Conservation, and Mental Health and Mental Retardation. The Steering Committee's first meeting with Price Waterhouse occurred on October 29, 1987, and twice monthly meetings were subsequently held.

Based on Price Waterhouse's preliminary findings, the Governor included an appropriation request in his supplemental budget for FY 1988.

The systems plan submitted by Price Waterhouse:

- called for the development and implementation of a five component system, comprised of
    - an integrated payroll, personnel, position control system,
    - a statewide accounting system,
    - a budget preparation system,
    - a purchasing system, and
    - a fixed asset system;

- outlined a process that the State should follow to accomplish a successful conversion;

- advised the maintenance of the Steering Committee to oversee the project;

- recommended that the State obtain consulting assistance with experience in large scale government projects;

- suggested timeframes for initiation and completion of successive stages of the project;

- estimated levels of effort and cost associated with each system component; and

- identified several opportunities and risks which the State should consider along the way.

The Price Waterhouse report estimated total project costs at $7.5 to $11.2 million, excluding the Fixed Assets component, distributed as follows ($ in millions):

| Project Component | State Staff | Consultants | Software | Total |
|---|---|---|---|---|
| Project Management | $ .1 | $ .5 - .8 | | $ .6 - .9 |
| Payroll/Personnel/ Position Control | .2 | 1.3 - 1.9 | $.25 -.50 | 1.75 - 2.6 |
| Accounting | .2 | 2.8 - 4.2 | .25 -.50 | 3.25 - 4.9 |
| Budget Preparation | .1 | .6 - 1.0 | | . 7 - 1.1 |
| Purchasing | .1 | 1.1 - 1.6 | | 1.2 - 1.7 |
| **TOTAL** | **.7** | **$6.3 - 9.5** | **. 5 -1.0** | **$ 7.5 -11.2** |

After the consultant's final report was issued in January, members of the Steering Committee met with Appropriations to discuss the plan, resulting in the issuance of a second RFP, this one for the design and implementation of the new systems. Appropriations of $500,000 and $4,000,000 for FY 88 and 89 respectively, were approved to fund the human resources and accounting system components. Price Waterhouse also won the second contract, awarded May 31, 1988, and began the systems design process a week later.

## PROJECT DESIGN AND CONSTRUCTION PROCESS

During the initial systems planning process, Price Waterhouse conducted interviews with 112 state agency personnel to get a general overview of the shortcomings of the current systems. After the decision to move ahead with the design and implementation of new systems, the analysis of specific requirements of the new systems proceeded in greater depth.

Throughout the spring and summer of 1988 the systems requirements definition process continued, involving detailed interviews, research of labor contracts and other relevant documents, etc., resulting in published system requirements documents in August (human resources) and September (accounting). RFP's for systems software were issued on September 1st and September 26, 1988 respectively. Two Software Evaluation and Selection Committees were formed to review commercially available software packages, and measure their applicability based on the defined system requirements. Although peculiarities of Maine's system requirements precluded an easy match between needs and available software packages, it was determined that purchasing and subsequently modifying commercially available software would be preferable to attempting to build software from scratch.

Responses to the software RFP's were evaluated, and packages selected and purchased, as follows:

| System | Vendor | Cost | Date Purchased |
|---|---|---|---|
| Human Resources Mgt. System | McCormack & Dodge, Inc. | $481,500 | 11/88 |
| Government Financial System | American Mgt. Systems, Inc. | $491,250 | 12/89 |

During the same period, implementation plans were being developed for the two systems, which described and plotted in detail, the steps that would take the project from the software purchase through systems implementation.

Modifications to the software were designed and initiated, and systems construction continued. Quality Assurance Teams, made up of central and line agency representatives and staffed by Price Waterhouse and members of the State project team, were established to monitor and test the functioning of the software and modifications (i.e. - did the software do what it was supposed to?).

## TRAINING

Concurrent with software modification, training plans were being formulated. Both human resources and accounting systems were going to require a very large number of state employees to learn to perform their jobs in a new way.

A full time MFASIS Human Resources Coordinator was established to coordinate the training effort. A train-the-trainer strategy was formulated, designed to provide each major agency with an "in-house" training resource (see Appendices F & G). Training for users of the human resources system began in September of 1989 and continued through November 15th. Accounting systems training began November 1 and continued through December.

Formal accounting system training was suspended when the system went "on-line" January 1st; and was not reinstated until early June. Continued training on the accounting system documentation (reports) is currently scheduled to continue through mid-December. No training was scheduled between July 19th and September 6th, due to the number of personnel on vacation during this period.

In addition to formal training, meetings with agency project coordinators occurred throughout the planning and implementation process, beginning in July of 1988. In addition, weekly user meetings were held during the conversion phase of each system, in order to provide a forum to discuss users' experiences, complaints and requests.

## GOING LIVE

The payroll/personnel/position control system went on-line in October. Parallel payroll systems (both old and new) were operated for 9 weeks, in order to ensure that the new system was operating properly. The new accounting system went live January 1st with 16 agencies initially on-line. The sheer volume of transactions prevented the option of running both old and new systems simultaneously as a test period. While bill processing was a little slow for the first few weeks while people adjusted to the new system, no major hitches were encountered during the conversion, according to the State Controller.

## FEATURES OF THE NEW HUMAN RESOURCES SYSTEM

Prior to the implementation of the new system, payroll, personnel and position control functions existed as separate systems which did not communicate with one another. Agency payroll was primarily manual, recorded and calculated by hand, with each agency maintaining hard copy personnel records. Only 4 out of 19 agencies had access to the central personnel system.

**Payroll** - Under the old system, all information between agencies and the central payroll and in the BAC was transmitted on paper. All data entry was performed centrally on key punch machines that were thirty years old. Multiple manual calculations were required to process exceptions to normal pay (e.g. overtime, leave without pay, etc.) and 3,500 to 5,000 exceptions occur each week. The system maintained information that was also maintained by the personnel system in BHR and the position control system in the Budget Office. Because systems were not integrated and the volume of paper so great, updates to one file frequently did not occur in others, causing inconsistent personnel records in the three Bureaus.

**Position Control** - The Bureau of the Budget is statutorily mandated to control the number of positions that have been authorized by the Legislature. The Bureau translates legislatively appropriated positions into position classifications based on background documentation and hearing proceedings indicating agency and legislative intent. The primary weakness of the old system was its lack of integration with payroll and personnel. This lack of integration required that manual edits be performed against payroll runs to ensure adequate budget authority for each paid position. In addition, personnel information was generated by BDP in alphabetical order, while Budget's position control system was ordered by appropriation account code, making cross-referencing difficult.

**Personnel** - Again, the lack of integration with other systems meant that there existed a nearly complete duplication of both data, and effort required to make changes to personnel data, between this unit and payroll.

**MFASIS** - Under the new system, the three component systems are linked. The position control component is the system "driver", establishing, maintaining, and abolishing positions on the basis of authorized position data received through the budget process. The basic relationships between the systems are that

- an employee can only be assigned to a valid position; and
- an employee must have an active personnel record in order to be paid.

The system is date-driven, meaning that certain key dates maintained in the position control file (eg. beginning, ending, termination, leave, etc.) dictate whether a check can be issued for a particular position. This position control function is entirely centralized in the Bureau of the Budget.

Personnel and payroll information is now entered at the agency level, rather than being centralized at BHR or BAC. Personnel and payroll changes (eg. name, deductions, dependents) are performed by the agency, as well as time and attendance information. System components calculate pay, maintain employee histories, perform leave accounting and generate several types of reports.

## FEATURES OF THE NEW ACCOUNTING SYSTEM

**Accounting** - The old accounting system was implemented in the 1960's. The Committee finds that some of its shortcomings included:

- centralized data entry necessitated the handling of erroneous transactions by several people, because those familiar with the content of the transaction (agency) were not those doing the data entry (Bureau of Accounts & Control);
- the lag time in transaction processing (generally 10 days or more) rendered accounting reports outdated before they were run;
- the old system required user agencies to maintain their own set of records, either manual or automated, for management purposes. Thirteen out of nineteen major agencies maintained their own separate automated accounting systems, in addition to the system maintained by Accounts and Control; and
- modifications required to update the old systems were estimated to be at least as expensive as replacing them, and less effective.

**Accounts Payable** - The accounts payable system handles payments made by the State for goods and services (excluding payroll). Under the old system:

- payment dates were unpredictable and delayed, controlled entirely by the internal processing time frame, causing a high volume of vendor inquires, late payment charges, and missed discounts;
- invoices were processed by agency rather than by vendor, resulting in a single vendor possibly receiving several checks from the State, all from different agencies, and
- inefficient repetitive data entry was required because of the lack of a centralized vendor file, utilization of batch processing, etc.

**Revenue** - Revenue processing was almost entirely manual prior to MFASIS, with agencies making deposits either directly to the State Treasurer or to one of the State's 35 bank accounts. Accounts were balanced manually, only gross receipts were recorded by the State's accounting system. Few management reports were produced due to the manual nature of the recording and reconciliation procedures.

**MFASIS** - The new system requires the agency to enter transaction information, the system itself checks for certain types of data entry errors and prompts the user to correct the error. Centralized data entry in Accounts and Control has been virtually eliminated, as has the delay in state payments to vendors. Current allotment information is available to agencies on-line, eliminating the processing of transactions based on outdated or unavailable information.

The accounting system was designed to make detailed information available on as small an organizational basis as an agency desires. For example, rather than getting a breakdown of expenditures by character and object code for an entire Bureau, agencies can create whatever accounting units work well for them.

The new system treats Maine's line item appropriation practice as three separate appropriations: one for Personal Services, one for All Other, and one for Capital Expenditures. It would appear that a great deal of the dissatisfaction with the management reports generated by the system is caused by this system assumption. There is currently no report that displays appropriation and expenditure amounts all on one page. Several different reports must be accessed to compile the information that used to appear on the old analysis reports. There have already been several programming modifications, in response to agencies' requests, on the accounting system reports, and more are anticipated.

## STAFF COMMITMENT

The Project Team primarily responsible for carrying out this project included seven full time state personnel and seventeen Price Waterhouse consultants. Dozens of additional individuals have been involved during various stages of the planning, design, construction, training, implementation and modification processes. In addition to the Human Resources Coordinator, other positions were specifically funded through the project to provide additional coordination and outreach resources to the Bureau of Accounts and Control throughout the process. Programmers in the Bureau of Data Processing employed on the project are paid on a fee-for-service basis out of the project account.

In the original systems plan, Price Waterhouse estimated that the project would require between 51 and 68 person years to fully implement.

## PROJECT COST

As of the end of FY 1990, approximately $8.1 million had been expended on the project, out of the $8.4 million appropriated. An additional $1.5 million were appropriated for the current fiscal year, to cover the continuing costs of the budget preparation system and further modifications to the two previously implemented systems.

The breakdown of expenditures on the project since its inception is as follows:

| | | |
|---|---|---|
| Human Resources System | $2,097,500 | |
| Price Waterhouse staff | (16,960 hours @ $85/hr.) = | 1,442,000 |
| BDP staff | ( 4,970 hours @ $35/hr.) = | 174,000 |
| Software (McCormack & Dodge) | | 481,500 |
| Accounting System | $3,187,250 | |
| Price Waterhouse staff | (28,265 hrs) | 2,400,000 |
| BDP staff | (8.450 hrs) | 296,000 |
| Software (American Management Systems Inc.) | | 491,250 |
| Budget Management System | $1,090,000 (to date) | |
| Price Waterhouse staff | (11,150 hrs) | 950,000 |
| BDP staff | (4,000 hrs) | $ 140,000 |

The remaining $1.7 million expended to date has been primarily for data processing costs (computer time) and printing. These expenses are not allocated to a particular system component.

Comparison with original estimates reveal the project to be on budget, with somewhat lower payments to consultants than originally anticipated. Increased data processing costs were not included in the original estimate.

## CHANGE REQUESTS

Agencies which have a particular problem with the functioning of the new systems can submit a formal change request. Two Change Advisory Committees, one for each system, have been established to discuss and prioritize these requests for modification to the systems. The project technical team advises the Committees on the programming resources required to accomplish a requested change. The Committees make recommendations to the Systems Management Committee (made up of central bureau managers), which makes the final decision on requested modifications.

Technical teams are currently working on at least 20 modifications to the human resource system with about 50 more "in the wings". User change requests must compete with "have-to-do" re-programming such as general salary increases, other collective bargaining agreement, stipulations, installation of new software versions (already issued and purchased for both systems), etc. Some requested changes - those that would require an inordinate amount of programming resources for a narrow application - will likely never be made.

The list on the accounting side is shorter, however complaints - especially about reports - have been more numerous. Until agencies have received adequate training in understanding what many of the system generated reports are telling them and where to find what they need, they may be unable to determine what changes they require or whether they require changes at all.

## RESULTS OF AGENCY OPINION SURVEY

In order to ascertain the current level of agency satisfaction with the human resources and accounting components of MFASIS, the Committee surveyed financial officers in 45 agencies, instructing that surveys could be reproduced and distributed to other appropriate agency personnel. The survey, together with the responses received, appear as Appendix A, which begins on page 112 of this report.

STATUTORY 11. Transfer a data entry position from the Bureau of Accounts and Control to the Judicial Department's Administrative Office of the Courts, in order to partially reflect the shift in the workload between these two departments.

Of all agencies responding to the Committee's survey about MFASIS, the Committee found that the Judicial Department appeared to be the least well served by the implementation of the new systems for several reasons:

- the Department was not represented on the Steering Committee nor on either of the Software Evaluation and Selection Committees;

- the nature of the Department's function results in several activities which are unique to this agency, eg. juror fees, witness fees, indigent defense attorney payments, etc.

- the Administrative Office of the Courts is responsible for central administrative functions for 50 court locations, most of which are not computerized;

- the Judicial Department has a bifurcated grade salary structure, which isn't compatible with the human resources system programming;

- the Department processes large volumes of relatively small value transactions, the 4th largest volume in State Government, according to the Finance Deputy. This makes the impact of decentralized data entry particularly severe for this Department;

- prior to MFASIS, the Department had developed a computerized system that produced high quality accounting management reports that addressed their needs well. This system had to be abandoned in order to keep up with the data entry necessitated by the new system;

- the AOC is located in Portland, geographically removed from the central bureaus, inhibiting timely communications and system report distribution.

The Committee finds these to be some of the factors that make Judicial's "fit" with the new systems problematic.

According to an analysis performed by the Deputy State Court Administrator of Finance, personnel resources required to accomplish the AOC's accounting and personnel functions has increased by 2.8 FTE positions. The Office spent $28,750 on temporary data entry positions in the last 5½ months of fiscal year 1990 (annualized = $62,725). In addition, according to the official, a number of management analysis projects have had to be halted due to the additional administrative burden, including development of an indigent defense analysis data base, management audits of cash handling procedures, and constructions project accounting. In addition, the Committee found that the MFASIS accounting system has reportedly provided no management reports to the Department, and the Administrative Office of the Courts has not been able to continue producing their own.

Also, the Committee found that payments through the centralized system for indigent defense attornies is another area that has posed problems, due to the fact that the accounting system's vendor file only allows for one address, and many law firms have offices in several different locations. This results in payments being made to the wrong office, and numerous telephone calls being required to identify and properly credit the payment.

The Committee notes that conversion to the new systems has been a major and expensive undertaking and that the the Judicial Department will continue to be required to utilize the new systems to a large degree, but that the State Court Administrator should have the opportunity to work out solutions to some of these problems with the central bureaus which are responsible for the design and implementation of the new system.

The Committee finds that: no mutually agreeable solutions have been reached between the two Departments; a significant amount of work was permanently shifted from the Bureau of Accounts and Control to the Department with no transfer of resources; and at the time of the Committee's deliberation, several of the Bureau's data entry personnel were filling in for other vacant clerical positions, and 2 positions (1 full time and 1 intermittent) were vacant.

The Committee notes that, although several of the Bureau's data entry and data control positions have been targeted for elimination, the need to address the data entry needs of the Judicial Department remains. Therefore the Committee recommends transferring a data entry position from the Bureau of Accounts and control to the Judicial Department, in order to reflect the shift in the workload between these two departments.

## STATE LIQUOR COMMISSION

## BUREAU OF ALCOHOLIC BEVERAGES

### INTRODUCTION

The Bureau of Alcoholic Beverages originated in the 1933 establishment of the State Liquor Licensing Board. Repeal of Prohibition nationally left the regulation and distribution of liquor to the option of each state. Seventeen states and one county, in addition to Maine, opted for a control system, which includes not only the licensing of the industry, but the actual distribution and sale of liquor as well. Four of the "control" states regulate only wholesale distribution (Iowa, Michigan, Mississippi, and Wyoming). Michigan operates some retail outlets, but state sales comprise less than 4% of total retail sales, so the state is classified in "wholesale only" control category.

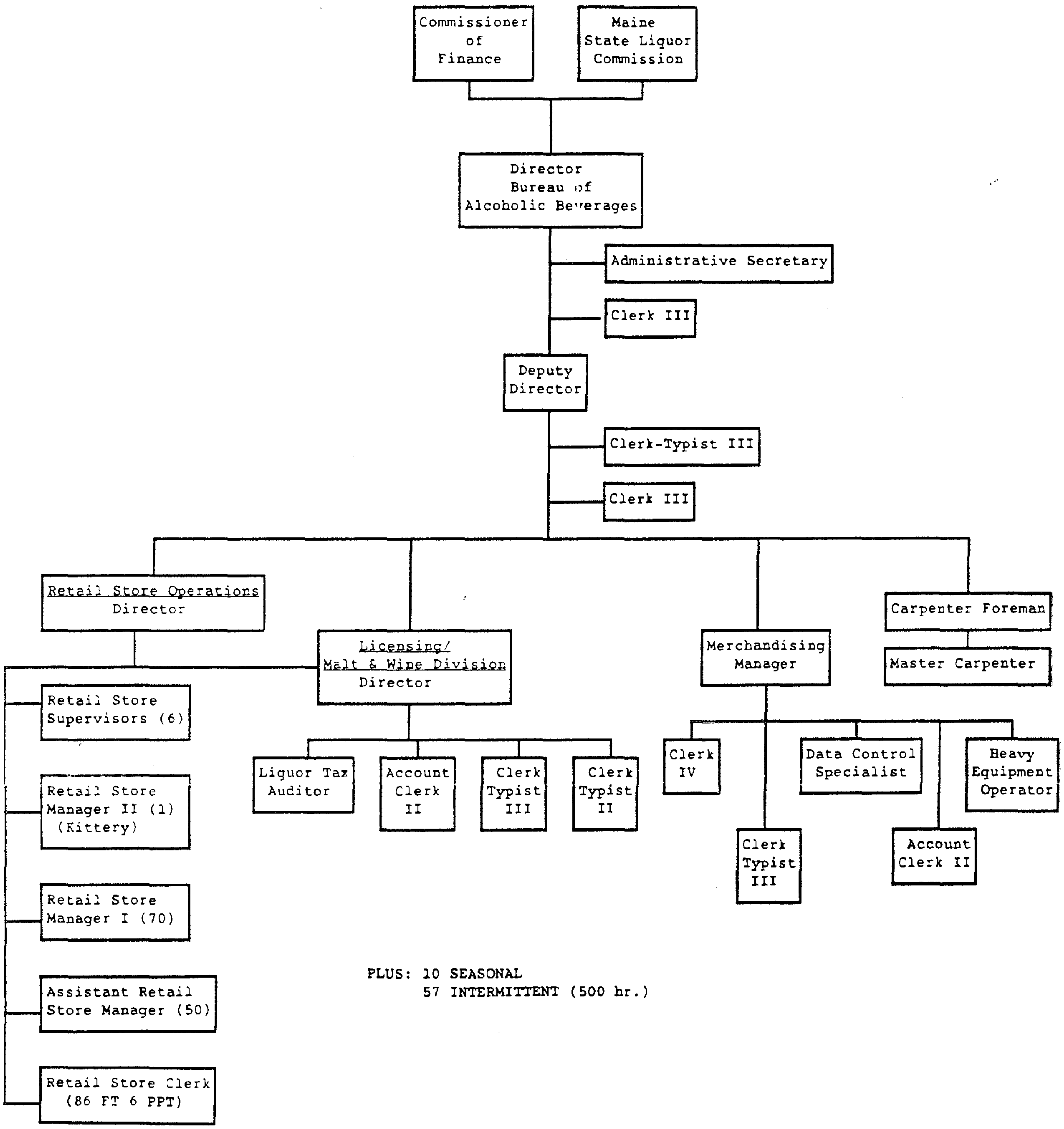
Operations of the Bureau of Alcoholic Beverages are overseen by a five member State Liquor Commission, appointed by the Governor and confirmed by the Joint Standing Committee on Legal Affairs for 3 year terms. Accounting, liquor store auditing, and other administrative functions are performed by the Administrative Services Division of the Department of Finance.

### ORGANIZATION & STAFFING

The Bureau is comprised of four units: administration; retail store operations; merchandising; and licensing and malt & wine. An organizational chart for the Bureau appears on the following page.

The Bureau of Alcoholic Beverages currently has 236 FTE positions (8.5 vacant), as well as 10 seasonal (6 vacant) and 57 intermittent (17 vacant) positions. The Bureau lost 14 positions as a result of the voluntary retirement program, and one that was abolished in order to fund a reclassification. The Director of Store Operations has been moving toward more part time staffing in the stores, in order to increase store productivity. According to his figures, staffing has been reduced by over 57,000 hours since last year.

BUREAU OF ALCOHOLIC BEVERAGES




PLUS: 10 SEASONAL
57 INTERMITTENT (500 hr.)

## OPERATIONS

The Bureau of Alcoholic Beverages either imports (distilled spirits) or monitors the importation of (beer & wine) all alcoholic beverages coming into the State. The Bureau is responsible for the collection and auditing of the various state taxes on alcohol, licensing all non-state sellers of alcoholic beverages; and for the operation of the 71 state liquor stores and supervision of alcohol sales in the 78 agency liquor stores currently doing business in the State. The Bureau is not responsible for the enforcement of the State's liquor laws, which is carried out by the Liquor Enforcement Division of the Department of Public Safety. The responsibilities of the Bureau's four divisions are described below.

### Administration

The Administration Division, including the Director, Deputy, and 4 clerical staff is responsible for:

- administering the policies and rules of the Commission;
- conducting a myriad of administrative duties (mail, distributing payroll, purchasing supplies, drafting correspondence, etc);
- attending vendor presentations;
- negotiating store leases;
- determining buying policies;
- developing marketing plans;
- selecting promotional items; and
- public relations.

Special projects, such as the proposal to handle bottle returns, generally fall to the Deputy Director.

The Division of Administrative Services within the Department of Finance is responsible for the Bureau's accounting, payroll, budget preparation and liquor store audits.

### Retail Store Operations

Maine is divided into six different districts, for the purpose of supervising alcohol sales. Each district has a supervisor, who is responsible for coordinating staffing; monitoring inventory and general store appearance; interviewing prospective employees; assisting store managers with shelf set-up, displays, understanding and meeting productivity goals; and conducting performance evaluations.

# BUREAU OF ALCOHOLIC BEVERAGES

## STORES DIVISION

**Retail Store Operations Director**

### Supervisor District I
- Retail Store Mgr. (12)
- Asst. Store Mgr (7)
- Retail Store Clerk (7)

State Stores: 12
Houlton
Millinocket
Caribou
Madawaska
Lincoln
Van Buren
Fort Fairfield
Fort Kent
Presque Isle
Limestone
Ashland
Patten

Agency Stores: 9
E. Millinocket
St. Francis
Portage
Sherman Mills
Lille
Eagle Lake
St. Agatha
Topsfield
Connor

### Supervisor District II
- Retail Store Mgr. (12)
- Asst. Store Mgr. (8)
- Retail Store Clerk (12)

State Stores: 12
Bangor (Hammond St.)
Bangor (Mall)
Calais
Old Town
Machias
Dexter
Greenville
Milo
Dover-Foxcroft
Brewer
Bangor (School St.)
Woodland

Agency Stores: 12
Abbott Village
Orono
Orono
Hampden
Eastport
Lubec
Rockwood
Jackman
West Jonesport
Harrington
Carmel
Pembroke

### Supervisor District III
- Retail Store Mgr. (12)
- Asst. Store Mgr. (9)
- Retail Store Clerk (14)

State Stores: 12
Rockland
Ellsworth
Bar Harbor
Belfast
Bath
Boothbay Harbor
Damariscotta
Bucksport
Camden
Milbridge
Stonington
Waldoboro

Agency Stores: 14
Southwest Harbor
New Harbor
Notheast Harbor
Blue Hill
Washington
Wiscasset
Richmond
Birch Harbor
West Sullivan
Castine
Liberty
Vinalhaven
Islesboro
Trenton (s)

### Supervisor District IV
- Retail Store Mgr. (13)
- Asst. Store Mgr. (6)
- Retail Store Clerk (14)

State Stores: 13
Augusta
Waterville
Pittsfield
Waterville, Kennedy Dr.
Skowhegan
Madison
Newport
Farmington
Livermore Falls
Rangeley
Fairfield
Mexico
Winslow

Agency Stores: 16
Carrabassett Valley
Wilton
Bethel
Norridgewock (Mercer)
Belgrade Lakes
Unity
Harmony
Bingham
Avon
Palermo
Canton
Andover
New Portland
Coburn Gore
Freedom
West Forks

### Supervisor District V
- Retail Store Mgr. (12)
- Asst. Store Mgr. (8)
- Retail Store Clerk (14)

State Stores: 12
Lewiston (Canal St.)
Gardiner
Brunswick
Bridgton
Winthrop
Lewiston (North)
Lisbon Falls
Mechanic Falls
North Windham
Falmouth
South Paris
Auburn

Agency Stores: 13
West Buxton
Fryeburg
Gray
East Sebago
Freeport
Oxford
Cornish
Monmouth
Lovell
Turner
Yarmouth
Naples
No. Waterford

### Supervisor District VI
- Retail Store Mgr. (10)
- Asst. Store Mgr. (10)
- Retail Store Clerk (32)

State Stores: 8*
Biddeford
Portland
Old Orchard
Sanford
So. Portland (Mall)
So. Portland (Mill Crk)
Kennebunk
Portland (No. Gate)

Agency Stores: 13
Wells
Moody
Saco
Westbrook
Saco
Gorham
Cape Elizabeth
Acton
Scarborough
Westbrook
Old Orchard Beach (s)
Kennebunk (s)
Waterboro (s)

(s) = Seasonal Store
* Kittery Store is supervised by the Bureau Director

Supervisors are also responsible for reviewing and making recommendations on interested agency store locations, licensing on and off premise retailers, and monitoring the quality of operations of the agency stores in their district. The following chart lists both state and agency liquor stores that are located in each of the six regions.

The overall direction of the retail operations is provided by the Director of Store Operations. This position was created two years ago, as were three of the six supervisor positions, in an effort to increase the efficiency and integrity of liquor store operations. These and other initiatives were undertaken in response to a series of recommendations that resulted from a study of liquor operations performed by Hannaford Bros. and L.L. Bean, at the request of former Finance Commissioner Jean Mattimore. Productivity goals are now developed for each store, and managers are required to submit several reports detailing sales (both bottles and dollars), labor hours, actual sales compared to the goal and prior year sales, in order to improve administration of retail sales.

Agency liquor stores and all licensees (restaurants, hotels, etc.) must purchase their liquor through a state store, pursuant to section 455 of Title 28-A, although full case purchases directly through the Bureau are encouraged by free delivery.

## Merchandising

The Merchandising Division is responsible for:

- processing stock orders;
- verifying the daily warehouse inventory report;
- scheduling merchandising shipments;
- pricing;
- updating pricing schedules for the stores;
- determining buy-in quantities;
- monitoring weekly sales reports;
- maintaining agency store payments;
- overseeing inventory control measure;
- overseeing computer file maintenance;
- verifying and distributing computer reports;
- development and requesting programming revisions;
- making recommendations to Commission on listing and delisting decisions;
- developing new merchandising plans and programs aimed at maximizing profits;
- negotiating contracts with U.S. and foreign companies for procurement of merchandise at lowest cost to the Bureau;

- negotiating contracts with U.S. Customs brokers and ocean freight carriers for direct importation;
- negotiating with suppliers for promotional advertising.

The State purchases liquor through a bailment arrangement with Fore River Warehouse in Portland. Under bailment, the State does not own the inventory until it is shipped from the warehouse. The Bureau initiated the bailment arrangement in 1984, when growth had indicated the need for a new warehouse and a study revealed considerable savings to be realized by the State not operating its own warehouse. Much of the savings result from eliminating state owned inventory, other than what's in the stores.

The Merchandising Division is comprised of a manager, four clerical/data entry personnel, and a truck driver.

## Licensing, Malt & Wine

This division is responsible for controlling and monitoring the importation and distribution of approximately 24 million gallons of beer and 3.3 million gallons of wine into the State each year. The Division also collects the excise and premium taxes on beer and wine and all licensing fees from manufacturers, wholesalers, and on and off premise retailers of beer and wine. The above activities generated nearly $13 million dollars in FY 90 - 36.8% of total Bureau revenues - while Division expenditures of about $270,000 represented only 2.6% of the operational expenses of the Bureau.

The Division licenses 40 malt beverage and 114 wine suppliers out-of-state, and 13 in-state wholesalers. Each time a wholesaler orders from a supplier, the Division receives a copy of the order, accompanied by a pre-numbered permit assigned to the wholesaler by the Division. When the supplier ships the order, the Bureau also receives a copy of the invoice, which is also accompanied by the numbered permit. No beer and wine shipments can enter the State without a permit. In this way, the Division is able to track each shipment to a specific wholesaler. Wholesalers are responsible for the payment of excise and premium taxes to the State upon shipment of the product to the retailer.

Bonded wholesalers file monthly returns with the Division, which matches the data provided with the relevant invoices. Comprehensive documentation of shipments of beer and wine results in the collection of virtually all taxes due.

The Division's licensing responsibilities are now shared with the retail store supervisors. Prior to the reorganization two years ago, this division had two full time licensing inspectors. These positions were abolished when the three new store supervisor positions were established (both previous licensors became supervisors), and the licensing inspection responsibilities were transferred to the six supervisors.

The Bureau issued over 11,500 licenses in fiscal year 1990.

This Division also lost two Account Clerk positions due to voluntary retirement incentives, that were responsible for verifying beer/wine wholesalers reports and making additional assessments, preparing monthly and annual summary reports on taxes and gallonages, receiving and depositing tax revenues, maintaining the Division's financial records and other related functions. Each of the four other Division employees have been pitching in to cover the work. The recent automation of these functions will help ease the administrative burden, and efforts are underway to re-hire one of the retired clerks on a part time basis.

## REVENUES AND EXPENDITURES:

The Bureau of Alcoholic Beverages represents one of the State's three primary Enterprise Funds. On the following page appears a summary of the revenues and expenditures of the Bureau for the last seven years. The far right column displays the percentage of change between fiscal year 1984 and fiscal year 1990 for each line category.

The figures show that expenses, as a percentage of gross income have increased 43% over the period, from 16.3% in 1984 to 23.3% in 1990. The increase is primarily in selling expenses, up 59% or over $3.3 million. The accompanying graph displays the relative change in total sales, selling expenses, and net income from sales over the period.

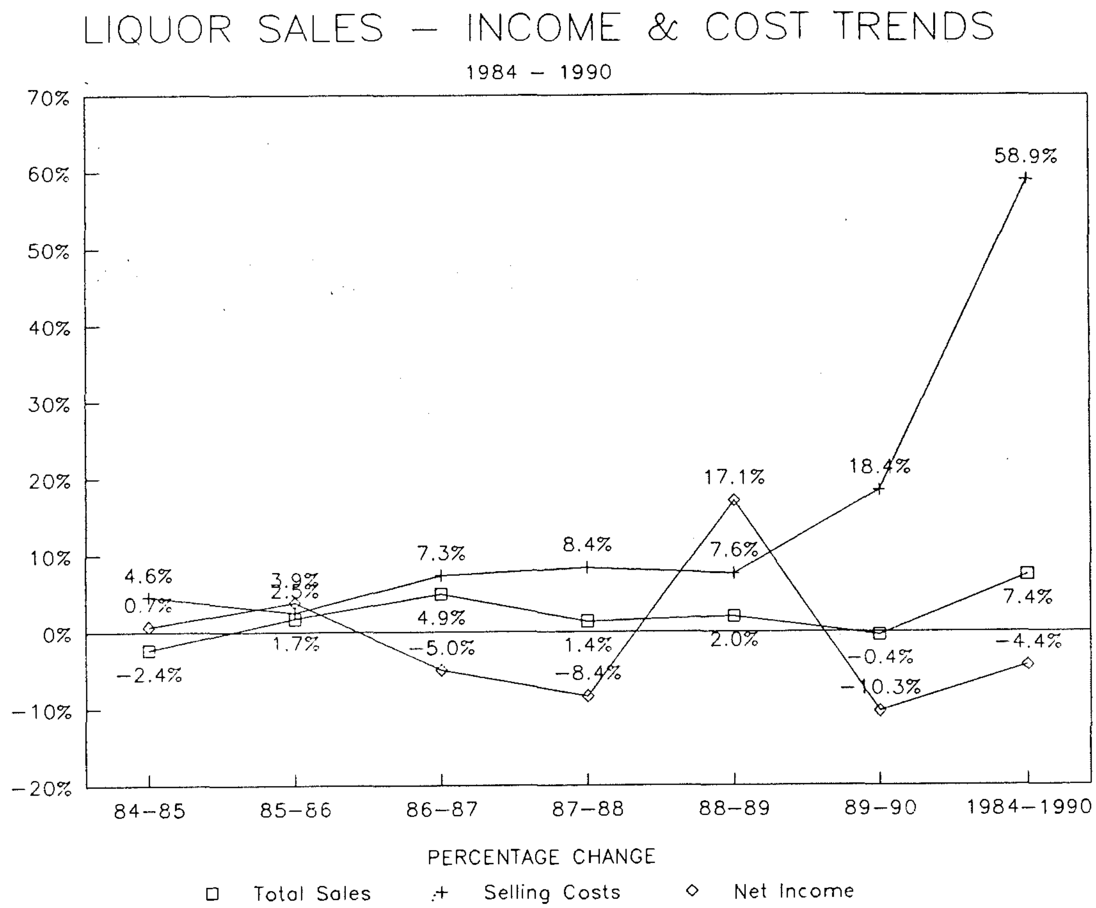
It should be noted that the figures represent actual dollars, unadjusted for inflation, which at a 4% average annual rate would account for a 26% increase. Applying the same inflation analysis to sales figures, however, would indicate that 1990 sales were $13 million short of flat, representing a 19% <u>decrease</u> over the 6 year period.

The decrease in net income from sales swells from 4.4% to nearly 31%, and transfers to the General Fund shrink by nearly 30%, after accounting for inflation at 4% annually.

OFPR FILE: ALCOHOL
DATE: 12-Oct-90

# BUREAU OF ALCOHOLIC BEVERAGES
## Comparative Statement of Operations

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 | % Change 1984-1990 |
|---|---|---|---|---|---|---|---|---|
| SALES: | | | | | | | | |
| Retail | 41,406,428 | 52,618,188 | 54,660,797 | 57,838,808 | 58,150,218 | 59,412,579 | 59,372,773 | 43.4% |
| Wholesale | 26,571,574 | 13,748,019 | 12,849,756 | 12,999,100 | 13,695,192 | 13,855,753 | 13,594,398 | -48.8% |
| Returns | (43,661) | (29,034) | (28,152) | (40,147) | (71,815) | (29,152) | (18,024) | -58.7% |
| TOTAL | 67,934,340 | 66,337,173 | 67,482,401 | 70,797,761 | 71,773,595 | 73,239,179 | 72,949,148 | 7.4% |
| COST OF GOODS SOLD | 40,575,099 | 38,567,527 | 38,722,318 | 42,716,394 | 44,942,517 | 42,498,846 | 43,188,446 | 6.4% |
| GROSS INCOME FROM SALES | 27,359,241 | 27,769,646 | 28,760,083 | 28,081,367 | 26,831,078 | 30,740,333 | 29,760,702 | 8.8% |
| SELLING EXPENSES: | | | | | | | | |
| Store Operations | 5,006,000 | 5,535,567 | 5,714,809 | 6,187,271 | 6,697,638 | 7,210,907 | 8,470,445 | 69.2% |
| Store Supervision | 113,613 | 127,431 | 148,606 | 144,372 | 170,907 | 205,966 | 351,302 | 209.2% |
| Merchandising | 87,451 | 96,211 | 101,076 | 106,928 | 157,058 | 151,969 | 164,515 | 88.1% |
| Warehousing | 440,427 | 152,618 | 101,284 | 77,009 | 32,740 | 28,830 | 30,565 | -93.1% |
| Agency Store Expense | 53,467 | 49,745 | 44,833 | 41,835 | 49,756 | 51,060 | 40,071 | -25.1% |
| TOTAL | 5,700,958 | 5,961,573 | 6,110,607 | 6,557,415 | 7,108,099 | 7,648,731 | 9,056,898 | 58.9% |
| NET INCOME FROM SALES | 21,658,283 | 21,808,073 | 22,649,476 | 21,523,953 | 19,722,979 | 23,091,602 | 20,703,804 | -4.4% |
| OTHER INCOME: | | | | | | | | |
| Beer & Wine Excise Tax | 7,146,665 | 7,365,663 | 6,975,995 | 7,510,030 | 7,573,081 | 7,457,485 | 7,455,038 | 4.3% |
| Liquor Licenses | 1,582,188 | 1,650,073 | 1,758,283 | 1,803,609 | 1,881,160 | 1,928,493 | 1,912,965 | 20.9% |
| Miscellaneous | 43,395 | 88,017 | 104,379 | 75,365 | 134,538 | 153,494 | 113,235 | 160.9% |
| Premium Tax | 2,737,712 | 2,723,879 | 2,634,555 | 5,239,666 | 5,528,885 | 5,436,307 | 5,366,397 | 96.0% |
| TOTAL | 11,509,959 | 11,827,632 | 11,473,212 | 14,628,670 | 15,117,665 | 14,975,779 | 14,847,636 | 29.0% |
| TOTAL GROSS INCOME | 38,869,201 | 39,597,278 | 40,233,295 | 42,710,037 | 41,948,742 | 45,716,112 | 44,608,338 | 14.8% |
| OTHER EXPENSES: | | | | | | | | |
| Administrative Expenses | 454,080 | 502,188 | 624,252 | 652,241 | 831,098 | 849,474 | 1,087,314 | 139.5% |
| Licensing Expenses | 181,960 | 183,069 | 200,755 | 206,478 | 230,657 | 276,296 | 269,981 | 48.4% |
| TOTAL EXPENSES | 6,336,998 | 6,646,830 | 6,935,614 | 7,416,134 | 8,169,854 | 8,774,500 | 10,414,193 | 64.3% |
| | | | | | | | | |
| NET INCOME | 32,532,203 | 32,950,447 | 33,297,681 | 35,293,903 | 33,778,889 | 36,941,611 | 34,194,145 | 5.1% |
| PREMIUM TAX | 2,737,712 | 2,723,879 | 2,634,555 | 5,239,666 | 5,528,885 | 5,436,307 | 5,366,397 | 96.0% |
| TRANSFERS TO GENERAL FUND | 29,794,491 | 30,226,569 | 30,663,126 | 30,054,237 | 28,250,003 | 31,505,304 | 28,827,747 | -3.2% |
| | | | | | | | | |
| SELLING EXPENSES TO SALES | 8.39% | 8.99% | 9.06% | 9.26% | 9.90% | 10.44% | 12.42% | 47.9% |
| COGS TO SALES | 59.73% | 58.14% | 57.38% | 60.34% | 62.62% | 58.03% | 59.20% | -0.9% |
| EXPENSES TO GROSS INCOME | 16.30% | 16.79% | 17.24% | 17.36% | 19.48% | 19.19% | 23.35% | 43.2% |




The Bureau has been attentive to profit maximization in recent years, through a combination of staffing cutbacks, inventory reduction, astute buying practices, and a minimum profit pricing policy that raises the price on lower priced products to equal the profit earned on the most popular brands. However decreased revenues from alcohol sales and/or taxes has occurred nationwide. While Maine has shown somewhat less of a reduction in sales than many states, the number of gallons of distilled spirits sold annually has dropped over 7% (161,408 gallons) in the last 5 years.

The Committee finds that accounting and statistical information appear to be somewhat inadequate at the Bureau, and that discussions with the Bureau of Data Processing (BDP) regarding the Bureau's accounting and information systems have taken place. BDP is currently scheduled to begin analysis of BAB's information needs in late winter, at a cost of $21,000. BDP estimates that designing an adequate system will cost in the vicinity of $200,000.

Data processing fees charged to Alcoholic Beverages totalled $209,876 and the cost of accounting and auditing services provided by Administrative Services totalled $214,710 in fiscal year 1990.

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| STATUTORY | 12. | Clarify that agency liquor stores may order stock directly through the Bureau of Alcoholic Beverages. |
| STATUTORY | 13. | Clarify that licensees may not use a credit card to purchase liquor at state liquor stores, but that they may pay by check. |
| ADMINISTRATIVE | 14. | Amend State Liquor Commission rules to ensure consistency with current law and enforceability. |

Upon reviewing the liquor laws as part of its review of the Bureau of Alcoholic Beverages, the Committee found that the following statutory language would benefit from clarification.

> **"§455. Liquor for agency liquor stores**
>
> Agency liquor stores shall buy their liquor from state liquor stores ...."

The Committee discovered that in practice, agency liquor stores are encouraged to purchase the majority of their liquor directly through the Bureau of Alcoholic Beverages rather than at state liquor stores. Noting that ordering through the Bureau has always occurred, and that the Bureau itself was set up as "Store 3" for accounting and ordering purposes, when the State operated its own warehouse, the Committee finds that clarifying the language in §455 to specifically refer to direct ordering through the Bureau will help avoid any questions or confusion about this established practice. Replacing "state liquor stores" with "the commission" effectively includes both options.

Additionally, §352, last amended in 1987, reads:

> " **§352. Purchase of liquor in state liquor stores agency liquor stores**
>
> **1. All sales shall be for cash; exception.** Except as provided in paragraph A, all persons buying liquor at state liquor stores or agency liquor stores shall pay in cash or by major credit card.
>
> A. Agency liquor stores may accept payment by check."

Current wording does not expressly prohibit an agency store or other licensee from purchasing stock at a state liquor store using a credit card. The Committee finds that this practice was not intended to be permitted when the amendment allowing credit card purchases was passed, nor has it occurred. However, prudence would suggest clarifying this point, in order to eliminate any potential challenge. In addition, the current wording would appear to prohibit licensees from purchasing liquor at state liquor stores using a check, which is, in fact, current practice.

The Committee finds that these amendments to the liquor laws will bring the language more closely into line with the accepted interpretations and current practices. Therefore the above stated amendments are recommended.

In addition, the Committee found that Chapter 14 of the State Liquor Commissions Rules and Regulations contains one provision that is not enforced and one that is in conflict with current law.

**Regulation 14.2** states that:

> **14.2** Agents must maintain an adequate stock of at least one-half the brands in each class listed by the State Liquor Commission, and an adequate supply of items listed with the Commission by Maine concerns.

The Committee found that few agency stores comply with this provision, and furthermore that it is unrealistic to expect many of the smaller agents to carry such a broad array of inventory. (The rule translates into a 315 different bottle requirement.)

**Regulation 14.6** states that:

> **14.6** All liquor sales by agents, their employees and servants must be for cash.

However §352 of the liquor laws specifically allows liquor purchases by major credit card (both state and agency stores) and by check (agency stores only). Therefore the Committee finds that the rule is inaccurate and unenforceable.

While Regulation 14.6 can simply be amended to reflect current law, the Committee finds that regulation 14.2 was intended to provide a standard of service to the citizens that live in areas where agency stores are the most viable option. Finding that some minimum standard is still desirable, it would appear necessary for the Commission to review the range of current inventory practices and establish reasonable new requirements. It is the Committee's position that an agency's rules and regulations should be sufficiently relevant and realistic to be both enforceable and enforced, the Committee directs the State Liquor Commission to amend its rules to ensure consistency with current law and enforceability.

FINDING 15. The Committee finds that there may be some inconsistency in the laws related to credit sales of liquor to non-licensee individuals, and refers its finding to the Joint Standing Committee on Legal Affairs for further consideration.

In reviewing the Bureau of Alcoholic Beverages, the Committee heard testimony that, while an individual can purchase liquor with a major credit card at both state and agency liquor stores, that same individual could not charge the liquor on a charge account extended by a private merchant that sells other goods (e.g. groceries) in addition to serving as an agency liquor store.

The Committee finds that the State has no financial interest in the liquor inventory of an agency store, which must be paid for prior to shipment. Additionally, the provision allowing liquor purchases by major credit card would appear to express a legislative position on allowing credit liquor purchases by individuals.

The Committee understands however, that all liquor credit sale issues have been the subject of ongoing debate and careful consideration before the Joint Standing Committee on Legal Affairs. Therefore the Committee refers its finding to the Committee of jurisidiction for further consideration.

STATUTORY 16. Raise the license fee for alcoholic beverage sales representatives, in order to reflect the inflation that has occurred since the fee was originally established.

Under recent law, persons selling liquor to the State of Maine must be licensed by the State Liquor Commission, disclosing the person, firm or corporation represented. Licenses are valid for the calendar year in which they are issued, and must be renewed annually, (28-A MRSA §1502). Two hundred and twenty eight (228) sales representatives were licensed by the Bureau in 1990.

The Committee finds that the fee for the sales representative license was established at $10 in 1953, and has never been increased in the subsequent 37 years. Inflation of nearly 500% has occurred since the $10 fee was originally established. Therefore, the Committee recommends amending the statute to raise the license fee for alcoholic beverages sales representatives, in order to reflect the inflation that has occurred since the fee was originally established.

Liquor Commission rule 4.3 would also require an amendment to reflect the fee increase.

ADMINISTRATIVE 17. In consultation with the Bureau's Merchandising Manager, develop rules that specify the information required to be submitted by a product's promoter at least two weeks prior to any listing presentation for the product before the State Liquor Commission.

Decisions about what products, brands and sizes that will be carried in the State's liquor stores are made by the State Liquor Commission. Each company's sales representative is given listing appointments with the Commission once each year (however one salesperson may represent several companies, and therefore be accorded several audiences annually). The vendor makes his or her presentation to the Commission, after which the Commission decides whether or not to list the product.

Currently, the only information that Maine requires prior to the listing presentation is a formal price quote and a specification form describing what the product is, who produces and distributes it, sizes available, etc. No market analysis, promotional strategy or other information about whether there is a demand for the product is required. The Committee finds that the current practice leaves the Merchandising Manager with either very little information upon which to base a listing recommendation to the Commission, or a considerable amount of work to research the product herself. The Committee finds that the vendor should be required to provide the Commission with enough information on which to base a rational, informed listing decision. Required information, in addition to a formal price quote, could include:

- a list of other states where the product is sold;
- the sales trend of the product in other states;
- the vendor's projection of sales in Maine, if product is listed;
- any planned promotions or advertising support;
- profile of product's outstanding features, pricing history, market strategy, and history of the availability of supply; and
- a visual, such as a color photo or dummy package.

The Committee finds that after this information was reviewed, Bureau of Alcoholic Beverage's Merchandising Manager, could go on to review other areas with the Commission such as category growth, market share of the particular brand within its category, potential profitability and the adequacy of the company's Maine-assigned personnel to promote the product. In this way, listing decisions made on the basis of anecdotal evidence, unsubstantiated claims, etc. could be eliminated, and the burden of providing relevant product information could be shifted to the seller and/or producer.

Therefore the Committee directs the State Liquor Commission to consult with the Bureau's Merchandising Manager to determine the specific information to be required by rule, to be submitted by a Product's Promoter at least two weeks prior to any listing presentation for the product.

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| ADMINISTRATIVE | 18. | Make every reasonable effort to schedule meetings at such intervals as to enable the Commission to conduct a full day's business. |

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| STATUTORY | 19. | Reduce the number of meetings for which State Liquor Commission members may be compensated each year to 25 for regular members and 30 for the chair. |

Members of the Maine State Liquor Commission receive the legislative per diem of $55 and reimbursement of travel and meal expenses for each day the Commission meets. Pursuant to Title 28-A, §61, sub-§7, members may be reimbursed for 50 meetings each year. About 30 meetings, on average, are actually held. The Committee noted that the State Lottery Commission, which has a similar mandate, is statutorily authorized 20 compensated meetings a year.

For the period of 11/1/89 - 10/10/90, the Commission's meetings averaged 3 hours in length and cost $288.33 each, with attendance averaging 3.36 Commissioners. Lunch and expenses totalled about $31 per Commissioner per meeting, in addition to the $55 per diem.

Approximately 50% of the Commission's meeting time is spent on listing presentations and decisions, a process that is expected to be streamlined somewhat as a result of the Committee's recommendation to require the liquor vendors to provide more adequate supporting documentation on their products prior to their presentation before the Commission.

Given the State's current budgetary considerations, the Committee finds it reasonable to urge the Commission staff to make the most effective use of Commissioners' time by scheduling meetings at such intervals as provides for longer meetings. Such scheduling would both save the State money and the Commissioners' time spent commuting back and forth to 3 hour meetings. Additionally, if short meetings should occasionally be necessary, the Committee suggests they be scheduled so as not to incur meal costs.

In consideration of the above findings, the Committee directs the Chair of the State Liquor Commission to make every reasonable effort to schedule meetings at such intervals as to enable the Commission to conduct a full day's business.

Amend the statute to reduce the number of meetings for which Commissioners may be compensated to 25 for regular members and 30 for the chair.

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| FINDING | 20. | The Committee finds that the Bureau of Alcoholic Beverages is not providing an adequate level of oversight of agency liquor stores. |
| ADMINISTRATIVE | 21. | Ensure at least quarterly visits to each agency liquor store by the assigned district supervisor. |
| ADMINISTRATIVE | 22. | Distribute to each agency liquor store a notice that identifies the district supervisor assigned to that store, provides an effective means of contacting the supervisor and lists the services available from the supervisor. |

In the course of reviewing Bureau of Alcoholic Beverages operations, the Committee contacted several agency liquor stores to discuss any issues that may be of concern to them in their role as agents of the State Liquor Commission. In regard to the agent's relationship with the district supervisor responsible both for state and agency liquor store oversight, the Committee found that agents generally reported receiving very little supervision and oversight. With one exception, agents expressed that it would be helpful to have a "local" contact person, of whom they could ask questions and seek assistance from time to time.

The Committee notes that at least quarterly visits to agency stores are one component of a district supervisor's responsibilities (and is included in the formal job description). While the Committee finds that the effective operation of the state stores in their districts is of the highest priority, stops at agency stores could and should be built into their scheduled visits. The Committee acknowledges that supervisors have reported that time is the limiting factor.

While supervisors have no legal enforcement mandate, the Committee finds that agency store oversight is intended to ensure at least minimum standards of service (inventory, cleanliness, etc.) to those citizens not served by state liquor stores, as well as provide the agent with advice on shelf set-up, inventory control practices, etc. The Committee finds that the Bureau of Alcoholic Beverages is not providing an adequate level of oversight of agency liquor stores and directs the Bureau to ensure at least quarterly visits to each agency liquor store by the assigned district supervisor and directs the Bureau to distribute a notice to each agency liquor informing them of the identity of, an effective means of contacting, and the services available from, the district supervisor.

STATUTORY 23. Establish 1960 Federal Census data as the uniform standard in determining room requirements for all hotels applying for or renewing liquor licenses.

Under current law, one of the criteria for eligibility for a hotel liquor license is a requirement that the establishment have a minimum number of rooms. The number of rooms required is based upon the population of the municipality in which the hotel is located. Current requirements are:

- 12 rooms if located in a municipality with a population of 3,000 or less;
- 20 rooms if located in a municipality with a population over 3,000 but under 7,500;
- 30 rooms if located in a municipality with a population of 7,500 or more.(28-MRSA §1061,sub-§4)

A grandparent clause exempts previously licensed hotels from the requirement for any population increases that occur subsequent to their original licensing.

In reviewing this issue, the Committee found that the grandparent clause was supposed to have been eliminated when the liquor laws were recodified in 1987 (P.L. 1987, c. 45, §A.4). Furthermore, there are no current licenses issued to hotels which do not meet the minimum room requirements based on 1960 U.S. Census data (the standard specified when the clause was last amended), therefore the clause is unnecessary.

The Committee finds that an amendment that would standardize the population data used to determine hotel liquor license eligibility for <u>all</u> hotel applicants would be beneficial for two reasons. First, it appears inequitable, to require a new establishment to have a greater number of rooms to qualify for a liquor license in the same town as an existing establishment that may be subject to a lesser requirement. Using the 1960 U.S. Census data uniformly is reasonable, because all existing hotels conform to this standard and no exceptions would be necessary. The Committee finds that such a uniform standard would simplify that aspect of the eligibility criteria significantly for the Division's licensors.

Second, given the mobility of today's population, using current population statistics can create a seemingly unnecessary burden on would-be hotel operators in communities which have experienced rapid population growth. The Committee finds that the original intent of the provision was simply to ensure that an establishment applying for a hotel liquor license was, in fact, a hotel. The Committee finds also, that intent is adequately met by the 12 room minimum requirement, and that using a uniform population standard is more equitable and easier to administer. Therefore the Committee recommends amending the statute to establish 1960 Federal Census data as the uniform standard in determining room requirements for all hotels applying for a renewing liquor licenses.

## Recommendations Resulting from the Investigation Conducted at the Committee's Request by the Commissioner of Finance

In October of 1990, the Committee reviewed several alleged problems of a primarily personnel/management nature that had emerged during the review of the Bureau of Alcoholic Beverages, and referred them to the Commissioner of Finance and the State Liquor Commission for further investigation and recommendations. The Commissioner assigned the inquiry to his Assistant, who devoted full time to the investigation from November 19 to December 10, 1990.

The 20 findings and recommendations that follow represent the areas where the Committee is in agreement with the report submitted by the Commissioner, on the actions that need to be taken to address many of the shortcomings identified during both the Committee's review and the Commissioner's subsequent investigation of the Bureau of Alcoholic Beverages.

The Committee requested that the Department submit an interim report on July 1, 1991, indicating the progress made toward addressing the issues and concerns raised during the review of the Bureau and Commission.

FINDING 24. The Committee finds that the dual governance and oversight of Bureau operations by the Commissioner of Finance and the State Liquor Commission is not effective.

FINDING 25. The Committee finds that communications, between the Bureau and the Department, the Liquor Commission, state and agency liquor stores, and between divisions within the Bureau are inadequate, resulting in ineffective relationships, frustration and mutual distrust between parties.

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| ADMINISTRATIVE | 26. | Urge each administration, through its Commissioner of Finance, to clearly communicate to the State Liquor Commission its mission, goals, and priorities regarding the State's role in alcoholic beverage control. |
| ADMINISTRATIVE | 27. | Recommend that the Bureau Director and Director of Administrative Services meet monthly to discuss and resolve issues of mutual concern and responsibility. |
| ADMINISTRATIVE | 28. | Instruct the Bureau Director to hold monthly staff meetings attended by supervisory staff from each Bureau division or unit. |
| FINDING | 29. | The Committee finds that, while the majority of Bureau employees support the goals of increased efficiency, productivity, and accountability in Bureau operations, the methods used to promote these goals have garnered universal criticism. |

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| ADMINISTRATIVE | 30. | Recommend that the Director responsible for the oversight of store operations provide an opportunity at least quarterly, for a representative(s) of store managers and assistants to present and discuss issues of concern at the district supervisors meeting. |
| FINDING | 31. | The Committee finds that very low morale is evident among district supervisors and, to a lesser degree, among store employees and within the Licensing Division. |
| FINDING | 32. | The Committee finds that the current practice of joint supervision of district supervisors by two separate division directors is not effective. |
| FINDING | 33. | The Committee finds that there is an overemphasis on the retail store operations of the Bureau, due in part to the State's need for revenue, and that a recommitment to the Bureau's licensing and control functions by the Commission and the Bureau Director is indicated. |

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| ADMINISTRATIVE | 34. | Direct the Bureau Director to schedule informational presentations by Bureau staff at each Commission meeting, to ensure that the Commission is adequately aware of current operational issues requiring its oversight. |
| FINDING | 35. | The Committee finds that seasonal demands need to be given more consideration in allocating district supervisors' time, and that oversight should be sufficient to ensure that all responsibilities of these supervisors are being adequately met. |
| FINDING | 36. | The Committee finds that adequate licensing training has not been provided to district supervisors and that adequate time to conduct required licensing inspections is not routinely accorded. |
| ADMINISTRATIVE | 37. | Direct the Bureau Director to ensure development of comprehensive training programs for district supervisors. |

ADMINISTRATIVE 38. Encourage the Bureau of Alcoholic Beverages to work together with the Bureau of Human Resources to develop training programs for store employees that address both current job responsibilities (mandatory) and preparation for advancement within the Bureau (voluntary).

FINDING 39. The Committee finds that direct supervision of the Kittery Liquor Store and the frequent Commission meetings interfere with the Bureau Director's management of day-to-day operations.

ADMINISTRATIVE 40. Direct that, at the time of the Committee's compliance review of the Bureau, the Kittery liquor store be supervised in the same manner as all other state liquor stores by the supervisor responsible for the district in which the store is located.

ADMINISTRATIVE 41. Instruct the Bureau Director to actively address all internal problems, including those associated with the dual supervision of district supervisors.

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| STATUTORY | 42. | Redefine and more clearly delineate the powers and duties of the Director of Alcoholic Beverages. |
| ADMINISTRATIVE | 43. | Pursue amendments to the job descriptions for the Deputy Director and the Director of Retail Stores to accurately reflect the operational responsibilities of the two positions. |
| STATUTORY | 44. | Continue the Maine State Liquor Commission under the provisions of the Maine Sunset Act. |

The Committee has reviewed the mandate and activities of the State Liquor Commission and made several recommendations aimed at improving the operations of the Bureau of Alcoholic Beverages, currently overseen by the Commission. In addition, the Committee has requested that the Department report to the Committee on July 1, 1991 on the progress made toward addressing the issues and concerns identified during the review. The Committee finds that the mandated purpose of the State Liquor Commission --- to regulate and oversee the importation, distribution and sale of alcoholic beverages in this state --- remains compelling. Therefore the Committee recommends continuation of the State Liquor Commission under the provisions of the Maine Sunset Act.

# BUREAU OF THE LOTTERY

# STATE LOTTERY COMMISSION

## EVOLUTION OF LOTTERY GAMES IN MAINE

The State Lottery Commission was established in 1974 by P.L. 1973, c. 570, the same legislation that first authorized lottery games in the State. The Commission and its employees were independent until 1987, when they were placed under the jurisdiction of the Commissioner of Finance and established as a separate Bureau within the Department. Prior to 1987, the Governor appointed the Director of State Lotteries. Currently the Bureau Director's position is appointed by and serves at the pleasure of the Commissioner of Finance.

From 1974 through 1981 the Bureau operated only scratch-off, instant ticket games. A 3-digit daily numbers game was added in 1982, Megabucks and a 4-digit numbers game in 1985, and low-tier instant tickets and free ticket games in 1986 and 1987. Last session, the Legislature voted to authorize the commission to enter into an interstate compact to participate in Lotto America, which will soon involve 16 states. This 6 of 54 numbers lotto game became available to consumers in July of this year.

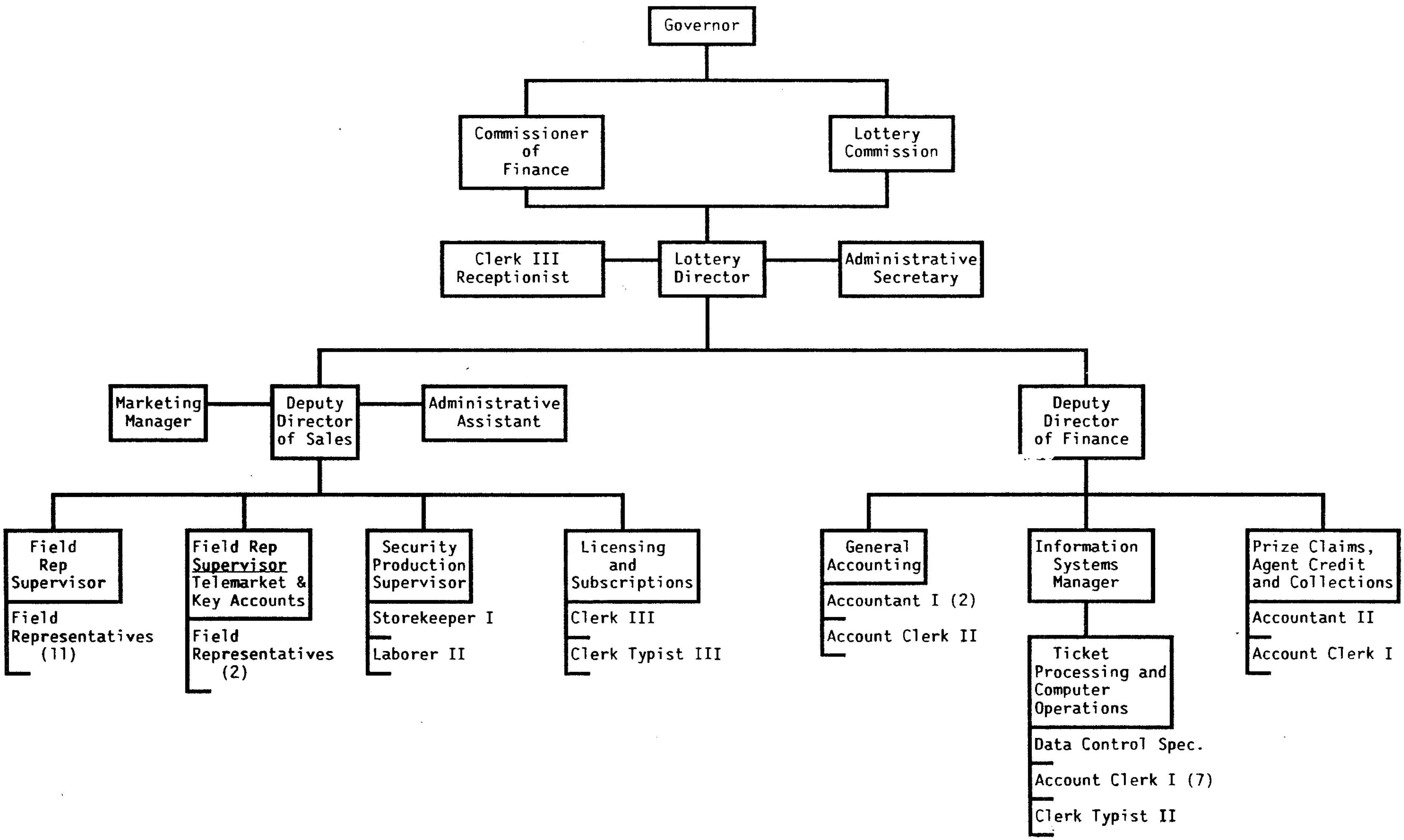
## ORGANIZATION AND STAFFING

The **State Lottery Commission** is made up of 5 members, appointed by the Governor for staggered 5 year terms. No more then 3 members of the Commission may be members of the same political party.

The Bureau of the Lottery is authorized 43 positions. One accountant and one part-time (32 hr.) data entry operator position are vacant. An organizational chart of the Bureau appears on the following page.

Lottery has attempted to keep operating costs down by utilizing the most efficient technology available to lottery systems. While gross lottery sales increased over 500% between 1984 and 1990, the number of lottery employees has increased only 59%, from 27 to the current 43, over the same period.

# BUREAU OF THE LOTTERY



## TRI-STATE LOTTO COMMISSION and LOTTO AMERICA BOARD

The **Tri-State Lotto Commission** was created in 1985 by the Tri-State Lotto Compact legislation (8 MRSA §401, et. seq.) adopted by each participating state for the purpose of operating Tri-State Megabucks. This commission is composed of one member from each of the 3 state commissions, and all actions must have unanimous support. The Tri-State Commission has the power to decide:

- the type of lottery to be conducted;
- the price of tickets;
- the number and sizes of prizes on winning tickets;
- the manner of ticket selection and payment of prizes;
- the frequency of the drawings;
- where and how tickets may be sold;
- sales agents' commissions; and
- how internal security (to prevent player fraud) is to be assured.

All money received from Megabucks ticket sales, minus any allowable commissions, is delivered weekly to the commission of the state where the sale was made. Fifty percent of the gross sales figure is paid to the Tri-State Lotto Prize Account (minus the amount paid for lower tier prizes). Interest on this account is distributed to the member states based on their proportional contributions. All major prizes ($600 and over) are certified by the Commission and paid from this account.

The statute authorizes the Tri-State Commission to assess the states an additional sum, not to exceed 15% of gross sales, for the Tri-State Lotto Operations Account. Any unused operating funds are returned to the contributing states, with interest, on a quarterly basis. Maine's share of actual operating costs for Megabucks were $3,678,870 in FY 90 - about 9% of Maine's gross Megabucks sales.

Each participating state performs some necessary function associated with the Megabucks game. Maine oversees the central computer facility and ensures that the correct numbers are entered into the computer after each draw. New Hampshire handles the bi-weekly drawing. Vermont runs the business office and sets up the annuities.

For Lotto America, Maine entered into an agreement with the **Multi-State Lottery Association.** The authorizing legislation (P.L. 1989, c. 879, §1) limited Maine's participation to 3 years, and provided that any agreement must allow the State to withdraw at any time, upon giving reasonable notice.

Lotto America is overseen by a Board of Directors, made up of each participating state's lottery director. The Lotto America Board employs a staff of 5, and has operating expenses of about $1.25 million annually. Each participating state wires 45% of its gross sales to the LA prize fund each week. Maine's share of operating expenses is about $43,000 this year.

## LOTTERY OPERATIONS

Lottery games operated by the Bureau break down into 2 basic categories: instant tickets and on-line games. The latter include the daily Pick 3 and Pick 4, Tri-State Megabucks, and Lotto America. While instant games constitute about half of all lottery sales, they require about 80% of the Bureau's staff resources, according to the Director.

The State contracts with an outside vendor for both instant and on-line games. Originally, all contracts went out to competitive bid in accordance with standard Bureau of Purchases procedures. However, the last contract for the instant games was a negotiated contract with the previous vendor, due to that vendor's sole ability to meet Maine's unique ticket criteria. The contract for the on-line games still goes out to competitve bid. Scientific Games is the current vendor for both instant and on-line games.

**Instant Games** - The State generally operates 3 instant games simultaneously, and has been experimenting with the duration of the games to determine the optimum length. It appears that introducing a new instant game every 6 to 8 weeks works well to retain players' interest, without being overly confusing. About 1,550 businesses throughout the State serve as licensed agents of the Lottery Commission for the sale of lottery tickets. Agents receive an 8% commission for instant tickets sales, and 5% for on-line games.

The Bureau operates a telemarketing system for instant games, whereby each agent is called biweekly to determine the number of tickets the agent desires. Tickets are then delivered by the Bureau's 11 field representatives, and 30 days after the date the tickets were ordered, the Bureau electronically withdraws payment for the tickets from the agent's bank account. This system replaced the old system where field reps delivered tickets, kept manual records, and collected payment from the agents for tickets sold. The Committee finds that the current system provides for better control and accountability, is more efficient, ensures payment to the State for tickets, and has reduced delinquencies.

About a year ago, the Commission established an **Agents Advisory Board**, to provide input to the Commmsion, serve as representatives of the agents, and provide a liason between agents, Bureau, and Commission.

**On-line games** - Of the State's 1,550 lottery ticket agents, 950 (61.3%) have the computer terminals that dispense tickets for Tri-State Megabucks, Pick 3, Pick 4, and now, Lotto America. Terminals are allocated on the basis of sales and accessibility for consumers. The Commission looks for at least $600 per week in ticket sales from each terminal, and sales of under $350 may be cause for removal of a terminal. Each agent's sales and payouts are recorded, commission subtracted, and a statement showing the balance due generated weekly by the automated instant games accounting system. This statement is transmitted to each agent, and the amount due electronically withdrawn from the agent's specified account each week.

For Megabucks, all ticket purchases in the 3 participating states are logged on a central computer owned by the vendor, Scientific Games, and located on the Whitten Road in Augusta. Megabucks ticket sales are discontinued ten minutes before each biweekly drawing to allow all bets to be recorded and the drawing pool closed prior to the numbers selection. Lotto America ticket sales are terminated two hours prior to the drawing, which allows time for bets to be compiled and FAXed to Des Moines, Iowa, where central staff is located and the drawing held.

While New Hampshire and Vermont share the daily numbers for the Pick 3 and Pick 4 games, there is no pooling of prize money. Each state keeps its sales receipts, pays its winning tickets and keeps its profit.

## EXPENDITURES

Expenditures of the Bureau of the Lottery totalled $6,141,044 in fiscal year 1990. Forty percent (40%) of the amount, or $2,462,174 represents the operating expenses of Maine's Bureau. Sixty percent ($3,678,870) represents expenses of participation in the Tri-State Megabucks. Lotto America, which became available in the current fiscal year, requires additional expenses of about $900,000, about 85% of which is for advertising. Operational expenses of the Lottery in fiscal year 1990 constituted nearly 17% of gross profit and 6.4% of gross sales.

Lottery's contracts with Scientific Games were renewed with favorable adjustments last June. The cost of the current contract for instant games is $19.08 per thousand tickets (down from $28.75) plus 1.75% of gross sales for the instant ticket accounting system (down from 1.95%). The vendor fee for the on-line games is now 3.44% of gross sales, compared to the previous fee of 4.5%.

The Bureau has also negotiated a contract with New England Telephone to install digital phone service, which will save the Bureau $200,000 annually in phone costs over a five year period.

## REVENUES

In fiscal year 1990, the Lottery transferred over $30.5 million to the General Fund, which represents a nearly 600% increase over fiscal year 1985 revenues of $4.4 million. However the $30.5 million figure is only $136,436 higher than the prior year's figure --- an increase of less than 1/2 of 1%. Lottery revenues in the current year are running nearly flat, with end-of-October figures showing $9,355,538 transferred to the General Fund in the first 4 months --- .78% over last year and 24.9% under the $12,456,437 that was projected by the Budget Office to have been generated thus far.

Lottery revenues projected by the Department for the current year are $43,188,351, a 41% increase over last year. Participation in Lotto America was supposed to net the State an additional $7 million this year, and adding a second weekly Megabucks drawing was projected to increase ticket sales by about 20%, with a corresponding $2.6 million additional General Fund dollars.

As of the end of last week, Lotto America ticket sales had grossed about $4.8 million, netting a little over $1.5 million in General Fund revenues. Annualized, these figures indicate $3.8 million generated by Lotto America sales by the year's end. Because the game was just introduced in July and public awareness of the game continues to increase, ticket sales are expected to be somewhat higher in the last half of the fiscal year.

Megabucks ticket sales appear to be running about 14% over last year, with a corresponding $740,000 additional generated thus far this year. Additionally, an infrequent player survey recently conducted on behalf of the Commission indicated that Lotto America ticket sales may increase dramatically in the event of an over $20 million jackpot, which could considerably boost revenues.

With the overall lottery revenue picture flat, these gains are being offset by losses in the daily and instant games. The Committee notes a nearly 25% drop off in instant ticket sales and 61/2 and 9% drops in Pick 3 and Pick 4 sales respectively. Annualized, these decreases represent about $4 million in General Fund revenues - matching almost dollar-for-dollar the Lotto America increase thus far. Increased Megabucks sales should, by year's end, represent a net gain to the General Fund of $1.8 to $2.0 million.

**WHO PLAYS THE LOTTERY?**

An analysis prepared for the Tri-State Lottery Commission completed last January by the Opinion Research Corporation of Princeton, New Jersey provided the following profile of lottery participants in the tri-state area:

- 56% of tri-state residents are frequent lottery players, 25% are infrequent players, and 19% have never played the lottery;
- frequent lottery players dropped from 67% to 56% since the last survey (1987), while infrequent players rose from 15% to 25%;
- frequent players are **most** likely to be age 35-54 (61%), have high school educations (64%), have household incomes of $30,000 - $40,000 (68%), and be employed in blue collar occupations (64%);
- frequent players are **least** likely to be over 55 (49%), be college graduates (45%), have incomes under $20,000 (52%), and be retired or unemployed (48%).

Other statistics include:

- 93% of frequent players play Megabucks, 55% play instant games, 20% play Pick 3 and Pick 4;
- Megabucks players average 10 tickets per month; instant game players, 11; Pick 3/Pick 4, 5 & 7 respectively;
- 71% of Megabucks players play weekly; and
- more lottery tickets are sold in convenience stores (42%) then any other outlet.

In addition, an August 1990 report prepared for the Lottery Commission by Columbia Information Systems indicated that the Maine Lottery enjoys a considerably above average level of public confidence in the integrity of the games --- 88.3% as compared to the national average of 72.9%. In spite of this, Maine residents play the lottery less than the national average.

| | | |
|---|---|---|
| STATUTORY | 45. | Continue the State Lottery Commission for one year, pursuant to the provisions of the Maine Sunset Act. |

The State Lottery Commission is the 5 member panel that meets monthly to oversee the operation of State-administered lottery games.

After hearing testimony from the Lottery Bureau Director, the Commissioner of Finance, the legal advisor to the Commission and other Bureau employees, the Committee finds that the Commission carries out its mandate in an informed, inclusive and responsible manner. However, the Committee is disturbed at the administration's recommendation to privatize a portion of the Lottery Bureau's activities, thereby eliminating 23 state employee jobs. Therefore, the Committee recommends continuation of the State Lottery Commission for one year, pursuant to the provisions of the Maine Sunset Act, pending the resolution of the privatization issue currently pending before the Joint Standing Committee on Appropriations and Financial Affairs..

# Appendix A

**THE FOLLOWING RESULTS REPRESENT THE PERCENTAGE OF 38 RESPONDENTS THAT ANSWERED AS INDICATED. WRITTEN COMMENTS ARE INCLUDED VERBATIM.**

**SURVEY ON AGENCIES' EXPERIENCE
WITH HUMAN RESOURCES AND ACCOUNTING SYSTEM COMPONENTS OF MFASIS**

**Please check the ONE ANSWER to each question that best describes your experience.**

**1. a. To your knowledge, were the systems-related needs of your agency assessed prior to the design of the human resource and accounting systems of MFASIS?**

**63% Yes** **37% No**

Comments:

#4. Yes - partially.

#13. Accounting System - No.

#15. Don't know.

#25. I was the coordinator for our agency and our needs were not incorporated in the system.

#27. Yes and No.

**b. If "yes" to 1a, did your agency participate, either directly or indirectly, with that assessment?**

**42% Yes, directly** **16% Yes, indirectly** **18% No, no input from the agency was sought**

**24% N/A**

Comments:

#4. Yes, indirectly - Education Sub-Committee.

#25. No, no input from the agency was sought. Except for superficial compliance areas.

#27. Person who was supposed to go unable to attend many meetings - No technical people attended or asked. MORE "THIS IS THE WAY MFASIS will work, hope it doesn't make too many problems for you."

**2. Has the implementation of the MFASIS systems expedited your operations?**

**a. Human Resources system** **53% Yes** **26% No** **22% N/A**

Comments:

#10. Not sure.

#15. Don't know what it was like before.

#21. Yes to processing of "Actions," especially for payroll purposes. No regarding reports and usefulness.

#35. DCS was off-line for the first six months. Paperwork has doubled. Fair degree of dissatisfaction with the way the system is working at present.

**b. Accounting system** **47% Yes** **53% No** **11% N/A**

Comments:

#1. Yes - Bill paying only.

#11. I would think that such an expensive and up-to-date system would be able to provide account balances without our having to compile different figures from the screen and figure the balance ourselves. Batching on the system cuts down on productivity and efficiency. The new system generates more work than previously required. For instance on PV'S (payment vouchers) with multiple invoices, I've had up to 32 lines required on the new system as opposed to the two lines previously needed. The entire system seems inefficient and generates more paper, cost and work than before.

#12. I find that batching documents drastically slows us down. We could process bills faster without batching because if we have an error in a document or an invalid vendor code, we would know immediately. When batching, if we have a document that the system won't take, we have to go back find out which document, delete it change our batch totals and then make the changes on the batch sheet. In my opinion this is a more costly and inefficient way to process documents.

#16. Real time processing of some of the transactions that were batched under MSA saves time and effort. Integration of payroll/personnel a big step forward.

#19. Somewhat - bills paid faster in general.

#20 Accounting System - Yes - No (Somewhat).

#22. On-line train(ing) not avail(able) to department until 6/90.

#27. Yes for tapes; No for manual. But more of our time to do it.

#32. Yes - some aspects. No - some aspects.

#36. Yes and No - We were not on-line until 8-6-90. Problems arose with coding as printing was not crosswalked. Also many data entry problems with AC. Deadlines were met easily.

**3. If you answered "No" to 2a or 2b, do you think the lack of improvement is a permanent or temporary condition?**

**a. Human Resources system** **16% permanent** **8% temporary** **76% N/A**

#32. A small office like Treasury has infrequent transactions which makes it difficult to navigate through an elaborate system (can't remember!).

#35. Temporary - "IT BETTER BE TEMPORARY!!!"

**b. Accounting system** **28% permanent** **25% temporary** **48% N/A**

Comments:

#8. I do not feel 2 (no) is a lack of improvement.

#18. Permanent? - Unless drastic improvements are made in system and especially the reports generated!

#25. Promises have been made but not fulfilled.

#27. Temporary - Hope only temporary.

#32. Permanent - some. Temporary - some.

#36. We should have another position to assist in Data Entry etc.

#38. Feel will be permanent until we don't have to supply paper backup.

**4. If you have a problem with one of the systems:**

**a. Do you know whom to call?** **85% Yes** **8% No** **3% N/A**

**5% Other (see comments)**

Comments:

#7. Sometimes.

#16. We have called Joe Klapatch at Payroll on various questions but needs to be a fulltime person available for MFASIS problems, questions, training, etc...

#18. Sometimes.

#20. Not always.

#27. Yes and No.

**b. If yes to 4a, how responsive is the person to your problem or need?**

**24% very responsive** **57% reasonably responsive**

**10% not very responsive** **2% unresponsive** **7% N/A**

Comments:

#1. Not very responsive - Accounting. Reasonably responsive - Human Services.

#4. Unresponsive - most of the time.

#18. Reasonably responsive if available.

#19. Reasonably responsive - depends on what the problem is.

#20. Some reasonably responsive - Others not very responsive.

**5. Has your agency submitted any formal (written) requests for changes to the systems?**

**a. Human Resources system** **21% Yes** **53% No** **26% N/A**

**b. Accounting system** **37% Yes** **47% No** **16% N/A**

Comments:

#4. Yes - verbal.

#15. Don't know.

#21. 5a.b. As "Coordinator" for Agency, most done through Questionnaires and solicited input (recommendations).

#32. Note - I have worked on many changes in conjunction with Accounts and Control but have not needed formal (written) requests. I was on the Quality Assurance Group during detail design.

**6. If "yes", to 5a. or 5b., please indicate how many formal requests for changes have been made by your agency.**

**a. Human Resources system:**

**5% more than 10    5% 6 - 10    8% 3 - 5    8% 1 - 2    76% N/A**

**b. Accounting system:**

**5% more than 10    8% 6 - 10    13% 3 - 5    11% 1 - 2    63% N/A**

**7.a. Are the systems generating the management reports that you were told would be available once the systems were operational?**

**24% Yes, all of the reports    50% some of the reports    13% No, none of the reports**

**13% N/A**

Comments:

#4. Don't really know. Up until now we came under the Department of Educational and Cultural Services and really never received too many reports. At times we had to wait as long as 3-4 weeks for our monthly analysis sheets.

#7. Yes, but many are difficult to read or understand quickly. One must reference the manual in order to understand the reports. This is very time consuming.

#17. "you were told" - We were never involved.

#19. Yes, all of the reports - although still not familiar with all reports and capabilities.

#35. Reports are not very readable - hard to decipher.

**b. If you answered "some" or "none" to question 7a, have you been told that these currently unavailable reports will be available:**

**8% within 2 months    13% within 6 months**
**18% within the next year    26% may never be available from the new system    47% NA**

Comments:

#25. May never be available from the new system - depending on the report).

#27. Did not give time table, some said never.

#34. May not be possible to achieve a consensus on reports that this Department would find useful.

#36 Have not discussed it at this point.

**8. Are the systems generating the management reports that you need?**

42% Yes    47% No    8% Some    3% N/A

Comments:

#4. Can't comment on reports, as we don't get too much of anything.

#7. Yes - However, the info is usually spread out into several reports, rather than on one concise report as in the past.

#20. (An outstanding P.O. list) All I ever needed before was the analysis sheets (I cannot use the current ones as I cannot find the information I need as clearly as before)

#21. Yes - SOME.

#26. Yes - the most needed was the CASH report have received one (May). Would like to receive it on a monthly basis.

#34. Some (All except selected payroll data).

**9. Are the systems generating management reports that you don't need?**

84% Yes    8% No    8% N/A

Comments:

#20. The analysis sheets had everything on them expenditures/encumbrances/allotment balances and cash reports.

#24. Maybe; we don't need A 203 - Revenue Report, as we use B 919.

#32. Swamped by reports, can't see everything in one place like before. Too much garbage comes throughout month, never sure what looking at.

#34. Some information is not needed by this department.

**10. a. Do you feel that adequate training on the new systems was provided to your agency?**

63% Yes    42% No    5% N/A

Comments:

#1. Yes/Human Resources - No/Accounting.

#4. No. - However through time, everything has been picked up.

#17. Yes - did not receive any and do not see the need to do so.

#18. No one seems to understand most of the reports!

#20. No - some areas never were. The following were not made clear: Cash reports; Accounts Receivables; Sales Tax Reports.

#22. Agency was off-line until 6/30/90

#24. Could always use more.

#27. Also did not realize how many (people) we should send (to training).

#35. No - on projects/grants mgt.

**b. If you answered "No" to question 10a, what percentage of the training that you estimate your agency needed did it receive?**

**8% 75% or more    8% 50% to 74%    21% 25 to 49%    8% Less than 25%    55% N/A**

Comments:

#18. (Needed training on) how to use and interpret all reports.

**11. Please add any comments that you think would be useful to the Committee's review.**

Comments:

#1. I realize it is a large undertaking but in the meantime the accounting portion leaves the agencies lacking in necessary information needed to properly manage. The system does have potential.

#3. I have had a number of questions that when you think you call the right agency, they don't seem to be able to help. I feel a list should be generated to let us know who has the information we are looking for (Instead of giving a run around!).

#4. I think it would be nice now to go through the training again as we seem to understand now what the system is about. However time doesn't permit this to happen. Our questions on daily operation are very minimal and can be addressed on a case by case situation.

#5. The State implemented a major system within a two year time frame. Unheard of elsewhere. MFASIS has been a major success for the State. There are some issues that need to be resolved along the way, however, they are minor when reviewed as part of the whole effort. Victor Fluery and David Bourne should be commended for the effort made.

#7. The Add'l paperwork generated by this system is a great burden to off-line agencies whom do not have adequate personnel to absorb the work.

#8. The MFASIS System did not expedite our operation as more of the accounting function was given to the agencies, but the information is faster than the manual system and much more information is available to the agencies via a computer terminal.

#13. A main factor in the shift to MFASIS is the fact that the data entry responsibilities have been added to the agency. Also, there is no longer a second set of books, the agency's book(s), to provide a double check. The added burden of data entry for the agency has increased (MFASIS takes more time) the Agency's workload, even though the agency does not maintain its own books.

#16. In the near future: Need to revise the documentation to correct errors, add more information and generally keep up with the ongoing changes - staff person needs to be assigned to work in documentation and provide ongoing training and technical assistance.

#17. We have very few transactions with MFASIS as a result of our design. Whenever we do need to work with the system we have not had any problems.

#18. MFASIS has been a major disappointment! What could have been a user friendly system is a monstrosity to work with instead. I think that all of the "Not used by the State of Maine" categories should be blanked from all screens and documentation. The documentation for HR needs total revision in many cases - ex -"merit Increase procedure." The accounting documentation is better, but no one knows how to explain the VOLUMES of paper reports issued on a daily basis. Everyone I know is keeping manual books and/or running separate computer programs PLUS MFASIS.

#19. Where we are an offline agency, many of the above questions do not directly apply to us. However, I feel that it is important for us to understand the system. Off-l ne agencies were kept informed during implementation, but I still feel that I would like to know/learn more on an on-going basis. Case in point being - what if I change jobs to an office totally on-line. I feel that it is important to feel comfortable with online processing as well as off-line. The Maine Committee on Aging is currently off-line with regard to MFASIS. We do anticipate acquiring "look-up" ability this fall. In general, I think the system will be a good one - it's just a matter of time.

#20. I feel payments are cleared and processed much faster but it has put a great deal more responsibility on the agencies as far as detail work is concerned - we have to keep a lot more numbering systems and make out a lot of forms to accompany each invoice plus enter on line and there just seems to be a lot more work involved (hard to list it all); also the H.R. side puts a lot more on our shoulders. I do not feel I have enough detailed records of my accounting process so I can justify where my balances differ from on line figures so I am concerned - I cannot balance out the year as I previously did the past 20 years on this job. I will not be able to answer questions if the Auditors have a problem. We have always had good audits in the past. We also get some "un-called for" remarks on batch sheets that are returned for corrections - it seems to me with all the work we do before sending them over they could be a little more understanding about the few mistakes we make, and a little more helpful in correcting errors. Also there should be someone on hand to help when we have questions - they all seem to "pass the buck" to Victor Fleury (he is only one man with too many responsibilities).

#24. We have been discussing some report format changes with the Controller's Office; they have been receptive. In summary, given that many career State workers had little or no computer training and experience prior to MFASIS, I believe the conversion has gone extremely well. Further, the MFASIS data resource will be invaluable to running State government's huge budget more efficiently and effectively into the 21st Century.

#27. VERY FRUSTRATING EXPERIENCE FOR US ALL - <u>SEE ATTACHED</u>! (Attached was a series of memos re: problems and needs associated with MFASIS)
NEED BETTER ACCOUNTING REPORTS.
Need breakdown of each account receivable account separately. Also Revenue reports not adequate - do not show sum total of daily tape runs.

#28. Continued improvement in the system is anticipated.

#30. I appreciate the opportunity to work with my staff in respond to your survey.

To a large degree, MFASIS is still young and in its implementation state. The transition period after conversion is still on-going. By January, we would hope that the system would be stable in timing and accuracy, that report capabilities would have improved, and that we would be able to download information on our ORACLE System so that we can develop our own reports.

We have just begun to download the Human Resources information and that has been very helpful in developing internal reports and analyses already.

The volume and complexity of accounting system transactions together with the added work from budget reductions and managing tight budgets has made implementation of the accounting system difficult for all. The ability to download the information should be helpful to us as long as the internal effort to manage the system is reasonable.

At this point, it is incumbent upon us as a line agency to make sure we bring our issues to the MFASIS Steering Committee, the Management Committee, or the Change Management Committee. The process is in place to respond to issues and that's important even if we don't always like the answer.

#31. Most of the training was aimed towards these agencies who were on-line. We are a very small agency with no access to the computer. We have one person who assumes all the duties for personnel and accounting. Most of the manuals explain how to access the computer. Although we did have much opportunity to train, very little information was useful until we actually began working with the forms, It has been trial by error for us, as well (I think) as for those who we call upon for help. It is imperative that the small agencies have a person who has general knowledge of the whole system to guide those small agency employees who are trying to handle both jobs of personnel and accounting officer.

#32. System and reports still evolving. Bugs still being worked out. Learning ???? on reports slowed by intricacies and changes. Getting better with time. Must learn to use available info better. Problem area - Payroll deductions and taxes not properly coordinated between Human Resources and Accounting. 941 reports of withholding to feds unreliable. Amounts sent to feds does not match liability records in payroll.

#33. When the system was being set up I was the Business Manager for an on-line Agency and a lead trainer for the System Training received was some of the best the State of Maine has done in a very long time.

I'm now a Chief Accountant for an off-line Agency. In the first few weeks on the job it became very apparent that off-line agencies were treated very differently and received very little guidance. We have now been on-line for about six weeks and training has been available for the employees. Would suggest training be continued as system continues to improve.

I'm also on the Change Management Committee for the Accounting system. I have found the Committee an excellent way to get agency needs voiced and acted upon.

#34. We would like to access the databases more readily.

#36. When we are operational on-line many problems should be alleviated. We will discuss reports at a later date.

#38. Training should have been done by qualified experienced people. Central agency training not adequate to assist outside agencies with problems.

## MAINE HUMAN RIGHTS COMMISSION

## MAINE HUMAN RIGHTS COMMISSION

### ORIGIN AND PURPOSE

The Maine Human Rights Commission was established in 1971 as a provision of the adoption of the Maine Human Rights Act. (P.L. 1971, C.501, §1). The Act declares it to be the policy of the State to "keep continually in review all practices infringing on the basic human right to a life with dignity, and to prevent discrimination in:

- employment;
- housing;
- access to public accommodations;
- extension of credit; and
- education.

(5 MRSA §4552)

The Maine Human Rights Commission (MHRC) is the state entity charged with investigating barriers to and enforcing the State's anti-discrimination laws. The table below displays the bases upon which people may not be discriminated against under the laws.

| | Race | Sex | Mental Handicap | Ancestry | Age | Color | Religion | Physical Handicap | Nat'l Origin | Whistleblower's Retaliation | Worker's Comp. Ret. | Source of Income | Children | Marital Status |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Employment | x | x | x | x | x | x | x | x | x | x | x | | | |
| Housing | x | x | x | x | | x | x | x | x | | | x | x | |
| Pub. Accom. | x | x | x | x | | x | x | x | x | | | | x | |
| Credit | x | x | | x | x | x | x | | x | | | | | x |
| Education | | x | x | | | | | x | | | | | | |

The Commission is also mandated to uphold the State's Code of Fair Practices and Affirmative Action requirements for all state government financed agencies, political subdivisions, quasi-independent agencies, and school districts (5 MRSA §781 et seq.).

The Commission is made up of 5 members, appointed by the Governor and confirmed by the Judiciary Committee for staggered five year terms. No more than 3 members may be of the same political party. The Commission Chair is designated by the Governor.

The Commission sets overall policy, appoints an Executive Director, and makes final finding on all charges of discrimination that have been investigated by Commission staff and not withdrawn, settled, or closed administratively prior to a formal determination.

## ORGANIZATION AND STAFFING

The Maine Human Rights Commission has a staff of 15. Four positions are funded by federal dollars received through the Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Housing and Urban Development (HUD). An organizational chart of the Commission and its staff appears on the following page.

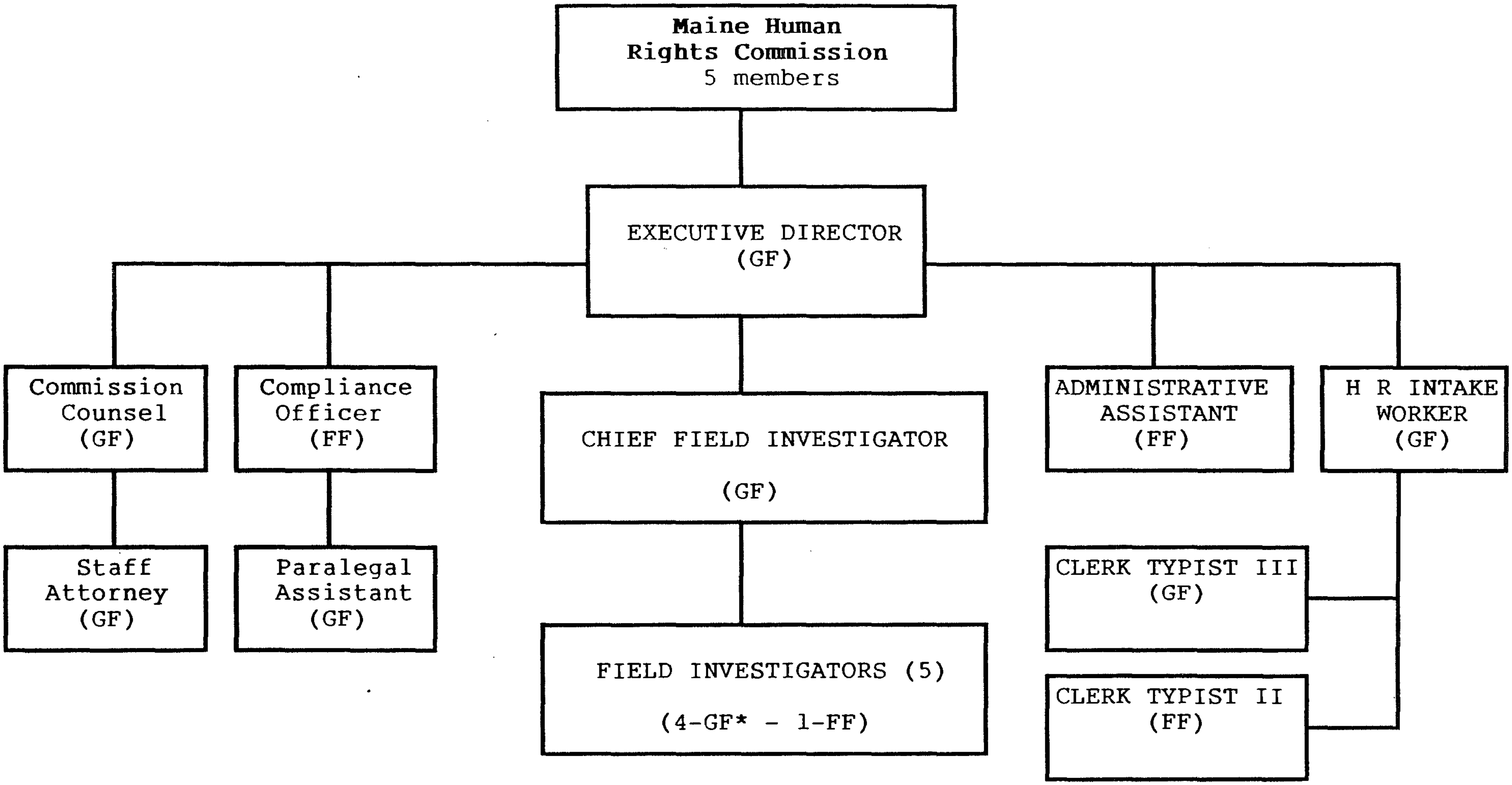
The Commission has also employed several limited period positions funded through federal HUD grants to work on specific projects, usually for about a year's duration. The most recent of these positions ended in February of this year.

While the Commission's caseload has increased 127% since fiscal year 1981, the number of investigators handling these charges has increased only 20% (from 5 to 6) in the same period. Overall Commission staff has increased 36% over the decade, from 11 to the current 15. One field investigator position has been targeted for elimination in the current budget deliberations. Two clerk typists support 11 professional staff.

The Commission staff is divided into four primary units, as follows:

**MAINE HUMAN RIGHTS COMMISSION**

ORGANIZATIONAL CHART




* 1 GF field investigator has been targeted for elimination

- Investigation (6 positions) - Staff investigators are responsible for all aspects of complaint processing. Tasks include determining jurisdiction and legal adequacy of the allegation(s), conducting fact-finding conferences, interviewing witnesses, verifying evidence, analyzing facts, applying discrimination law and relevant court decisions to those facts, writing the Investigator's Report and making specific recommendations to the Commissior.

- Compliance (2 positions) - The Compliance Officer is responsible for approving and monitoring all settlement efforts (except withdrawal with settlement) of the agency. This unit negotiates conciliation agreements between parties after findings of reasonable grounds by the Commission, and monitors those agreements to ensure terms are met. (Cases are not considered closed until settlement and conciliation agreement terms have been carried out). This Division also provides technical assistance to employers in reviewing affirmative action and personnel policies, and conducts the majority of the public education efforts of the Commission.

- Legal (2 positions) - The Legal Division is responsible for Commission sponsored litigation, and for providing legal counsel to the staff and Commission. The unit reviews Investigators Reports, provides legal opinions, drafts legislation and proposed regulations, and advises the Executive Director on contract matters involving both governmental agencies and private parties, in addition to litigating.

- Administration (5 positions) - The Administration Division is responsible for day-to-day operation of the office, including all personnel, budget and fiscal duties, case intake, and overall supervision (Executive Director).

The Executive Director has also had recent discussions with the Department of Human Services and the Governor's office on the possible reallocation to the Commission, of two positions currently housed in the Bureau of Rehabilitation. These positions are:

the **State 504 Coordinator**, required under the Rehabilitation Act of 1954. Any program or facility that receives federal funds must be handicapped accessible. The coordinator primarily provides technical assistance to ensure compliance; and

the **Executive Director of the Governor's Committee on the Employment of People with Disabilities**, who works primarily with employers to promote technology in the workplace that can serve to increase the employability of disabled persons.

In testimony before the Committee, the Maine Human Rights Commission Director stated that incorporating these positions under the umbrella of the Commission could eliminate some current duplication of effort, help provide a coordinated response, and significantly improve the Commission's technical assistance to employers and other respondent groups, and to disabled persons generally.

## COMPLAINT PROCESS

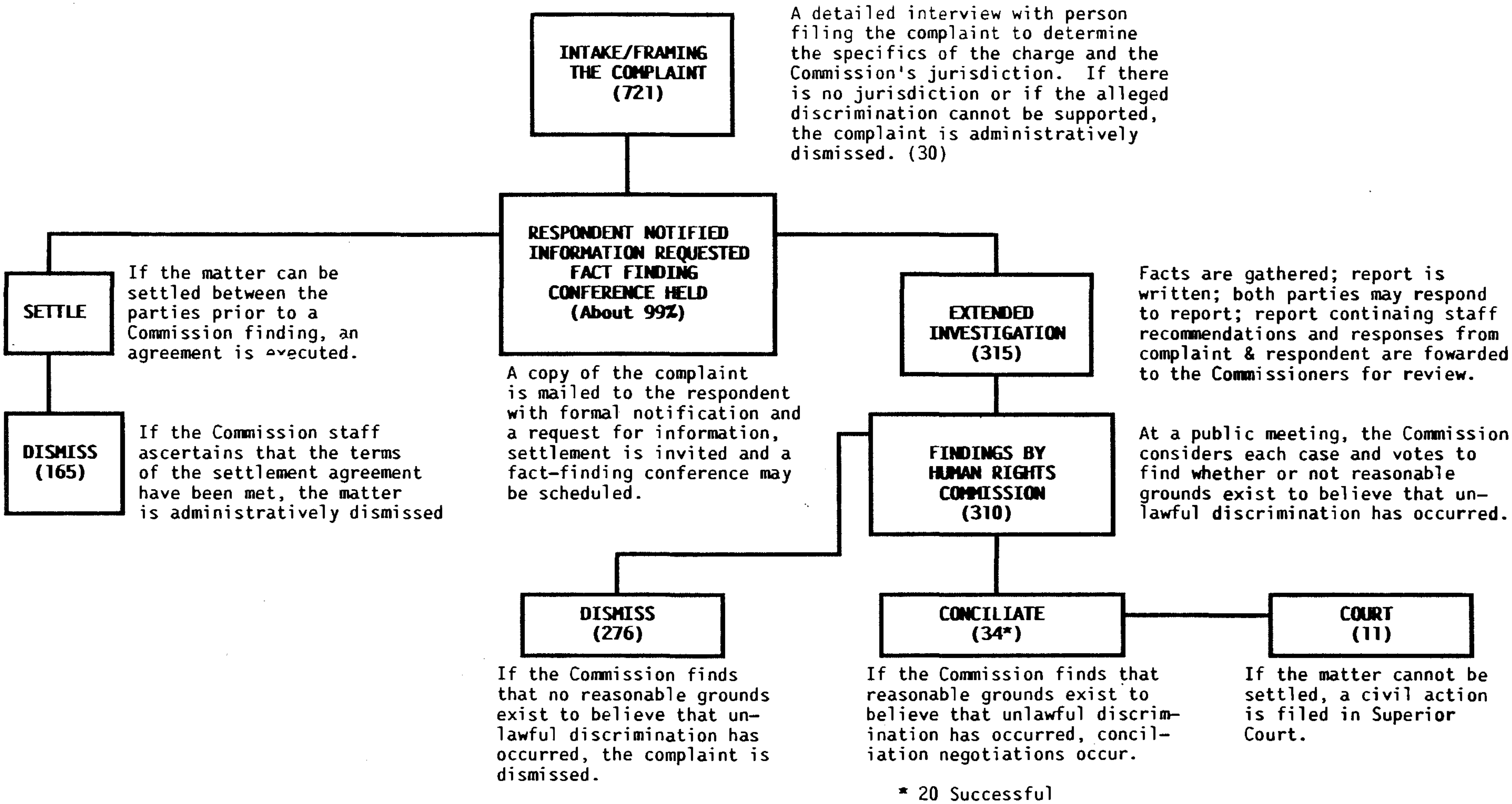
Anyone who believes that they have been unlawfully discriminated against may file a complaint with the MHRC within 6 months of the alleged discrimination. The chart on the following page displays the steps through which a complaint generally proceeds.

Not reflected in the figures on the procedure chart are those cases that were withdrawn by complainants, generally after the fact-finding conference (88 cases) or dismissed by the Executive Director for failure to cooperate with the investigation (26 cases).

In addition to the 721 claims actually filed in FY 1990, the Commission estimates that the Intake Officer had detailed conversations with over 1,200 other people who contacted the Commission wishing to file charges, and then did not proceed. Another 10,000 - 12,000 people were told, after briefly describing their complaint, that the Commission had no jurisdiction in the area of complaint.

Parties to a complaint are increasingly being represented by attorneys. Historically, according to the Director, employer representation has exceeded that of the complainants. She indicated that, while this has begun to even out, employers and other respondents are still represented nearly twice as often as complainants, about 80-85% to 40-45% respectively. These figures

# PROCEDURE FOR HANDLING A CHARGE OF DISCRIMINATION



represent an estimated 20-25% increase in employer representation, and a 50-60% increase in complainant representation, over the last 5-6 years.

There appears to be a trend, though the numbers are uneven, of a decreasing number of settlements prior to formal Commission determination. An increase of 71% has occurred in complaints taken through the formal determination stage for which the Commission found no reasonable grounds to believe that unlawful discrimination took place (from 161 to 276 in fiscal year 1990). In the 9 preceding years (fiscal years 1981-1989), case closures that ended in pre-determination settlements averaged 37.8% and no reasonable grounds (NRG) determinations by the Commission averaged 33.2%. Last year, those figures were 26.7% settled and 44.5% NRG determinations.

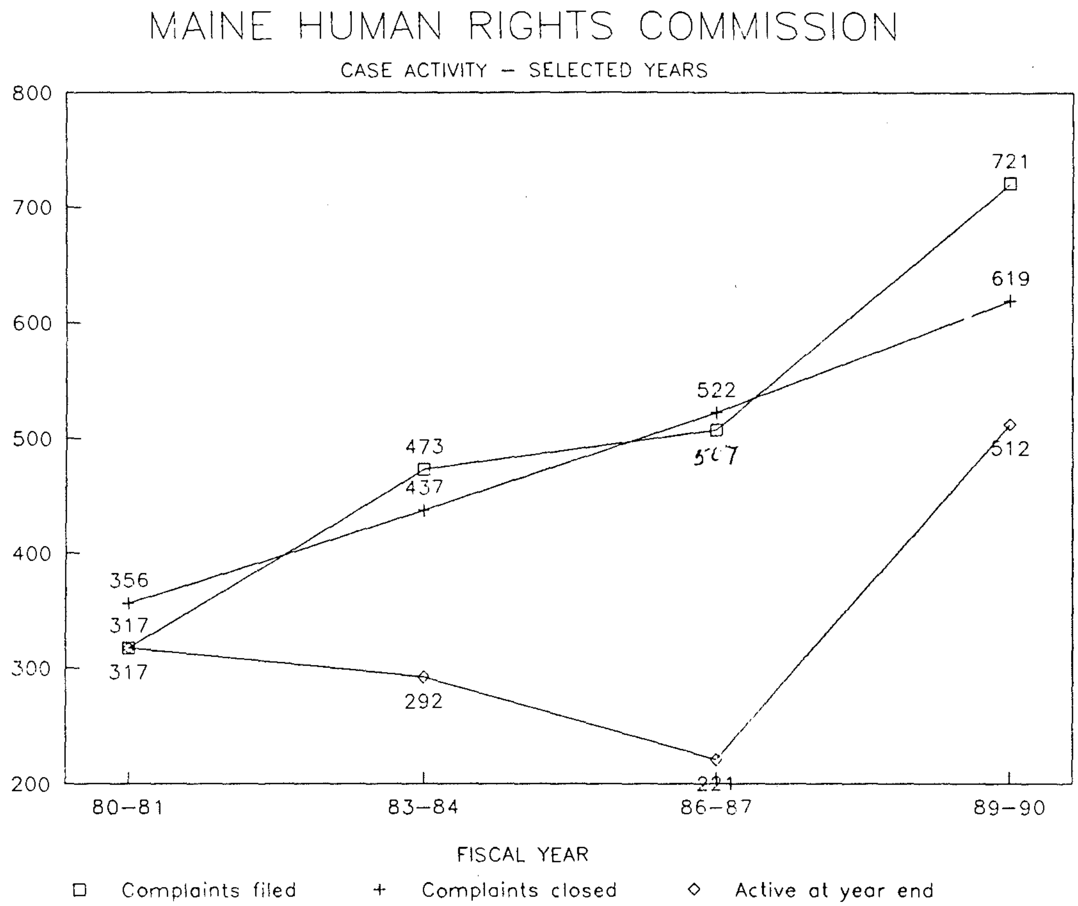
An average investigation and analysis results a report eight to twenty pages long. The typical case file contains between 50 and 150 pages of documentation.

While staff investigators inform complainants of the strength of their case and the likelihood of the Commission to find reasonable grounds, an increasing number choose, as is their right under current regulation, to "have their day in court". Due to the resources expended on cases that may have little substance, a rule change is under consideration would give the Executive Director the authority to dismiss a limited category of cases that are determined to be trivial or unsubstantive. The Commission may decide, after further consideration, that it is appropriate for it to hear all cases, triviality notwithstanding, in order to fully protect the rights of the claimant under the Act.

## BACKLOG

The steady increase in the number of new complaints filed each year has created a dramatic increase in backlogged cases in the last two years. This is true even though the number of complaints processed and closed by the Commission annually has also increased. The graph below displays the trends in complaints filed, closed, and active at the end of the year at 3 year intervals between fiscal 1981 and 1990.

The following chart shows that while the number of cases closed by the Commission has increased at a steady rate totalling 74% over the decade, caseload has increased 127%, much of the increase occuring in the last two years. While backlogged cases actually decreased between FY 1981 and FY 1987 by 30%, they increased by 132% in the final 3 year period, making the overall increase (over the decade) 61%.




**RELATIONSHIP WITH FEDERAL AGENCIES**

The Maine Human Rights Commission has contracts with the U.S. Equal Employment Opportunity Commission and the U.S. Department of Housing and Urban Development to process cases under the federal Civil Rights Act (42 USC §20000c) and the Fair Housing Amendments Acts of 1988 (42 USC §3601 et seq.).

The federal EEO law allows for the filing of a complaint within 300 days of the alleged discrimination (compared to Maine's 6 months), but certain employer criteria (eg. minimum of 15 employees) must be met for federal law applicability. The Commission receives partial reimbursement for a specified number of cases under its contracts with the federal agencies.

Congress has flat funded this reimbursement program for the last six years, so as caseload increases across the country, the percentage of cases for which reimbursement is received by state agencies declines. Last year the Commission requested and received an appropriation to transfer a federally funded investigator position to the General Fund, due to the declining level of federal reimbursement.

In addition to reimbursement for complaint processing, the Commission has received several project grants from HUD to carry out specific projects related to the Fair Housing Act. The most recent HUD grant project involved the production of a fair housing video and manual that was used to train social service providers about illegal dicrimination in housing practices. The $150,000 grant was awarded jointly to Maine and New Hampshire, with the MHRC acting as the lead agency.

In Fiscal Year 89, funded by another grant from HUD, the Commission was able to conduct a fair housing testing program in Portland and Bangor. Results of the program confirmed the Commission's hypothesis that there was a significant amount of discrimination occurring against single women with children, particularly those receiving public assistance. Several court cases against landlords were filed, and extensive landlord training conducted.

## FUNDING AND EXPENDITURES

Expenditures of the MHRC totalled just over $704,000 in fiscal year 1990, an overall increase of 20% over the previous fiscal year. The following table displays actual expenditures for the Commission since 1984.

| | General Funds | | | Federal Funds | | | OSR | | TOTAL | |
|---|---|---|---|---|---|---|---|---|---|---|
| FY | $ | % change | % of Total Funds | $ | % change | % of Total Funds | $ | % of Total Funds | $ | % change |
| 1984 | 193,385 | | 60.1% | 128,461 | | 39.9% | 0 | | 321,846 | |
| 1985 | 227,629 | 17.7% | 70.0% | 145,699 | 13.4% | 30.0% | 0 | | 373,328 | 16.0% |
| 1986 | 253,218 | 11.2% | 64.9% | 135,233 | - 7.2% | 34.7% | 1714 | .4% | 390,165 | 4.5% |
| 1987 | 292,473 | 15.5% | 68.7% | 132,975 | - 1.7% | 31.2% | 85 | | 425,533 | 9.1% |
| 1988 | 324,427 | 10.9% | 61.3% | 198,463 | 49.2% | 37.5% | 6577 | 1.2% | 529,467 | 24.4% |
| 1989 | 397,106 | 22.4% | 67.9% | 187,867 | 5.3% | 32.1% | 0 | | 584,973 | 10.5% |
| 1990 | 466,007 | 17.4% | 66.2% | 237,202 | 26.3% | 33.7% | 885 | .1% | 704,094 | 20.4% |
| Ave. Increase | $ 45,437 | 15.9% | | $ 18,124 | 12.5% | | | | $ 63,708 | 14.2% |

As can be seen from the above table, Commission expenditures have increased an average of 14.2%, or $63,708 annually for the last six years. This compares with an average annual increase of 13.3% for Maine State Government as a whole. Federal dollars, as a percentage of total Commission expenditures have fluctuated between 30 and 40%, averaging 34.2% over the period.

The Commission was recently notified of EEOC approval of their request for a $30,000 increase in reimbursement from the EEOC, based on increased caseload. In addition, the Executive Director expects significant additional federal dollars beginning in FFY 1992 (begins October 1991), associated with the recent passage of the Americans with Disabilities Act. For the first time, in fiscal year 1990, complaints filed on the basis of physical handicap comprised the greatest proportion of the Commission's new filings (see chart following).

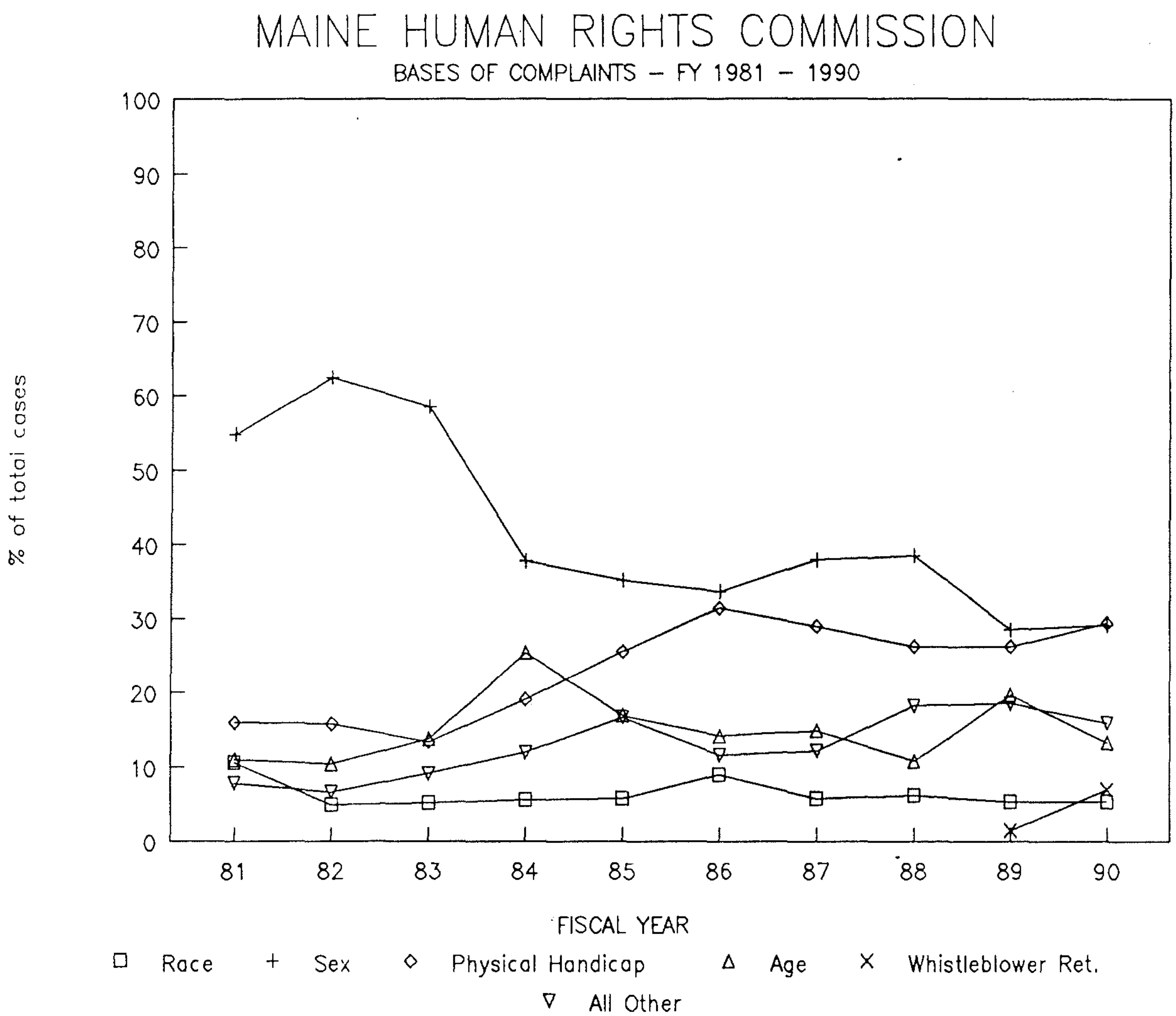
The Director speculated that the Commission could receive an additional $100,000 per year in federal reimbursement. She also stated, however, that she anticipates that the number of disability related complaints filed will also continue to increase in the coming years.

## THE REST OF THE MANDATE

The primary purpose of the Maine Human Rights Act is to prevent discrimination. Section 4566 of Title 5 describes the additional powers and duties of the Maine Human Rights Commission as:

> . . . investigating all forms of invidious discrimination, whether carried out legally or illegally, and whether by public agencies or private persons. Based on its investigations, it has the further duty to recommend measures calculated to promote the full enjoyment of human rights and personal dignity by all the inhabitants of this State."

The Committee notes that case-by-case processing is known not to be the most effective tool in eliminating discrimination, and that systemic investigations, education, and technical assistance are the primary methods that should be employed to further the Act's stated goals. However the Committee finds that the Commission's caseload necessitates that the vast majority of the Commission's resources must be applied to the processing of complaints.




FISCAL YEAR

| BASES | 81 | 82 | 83 | 84 | 85 | 86 | 87 | 88 | 89 | 90 |
|---|---|---|---|---|---|---|---|---|---|---|
| | % | % | % | % | % | % | % | % | % | % |
| RACE/COLOR | 10.6 | 5.0 | 5.2 | 5.6 | 5.8 | 9.0 | 5.8 | 6.2 | 5.4 | 5.4 |
| SEX | 54.8 | 62.5 | 58.5 | 37.8 | 35.2 | 33.7 | 38.0 | 38.5 | 28.5 | 29.1 |
| PHYSICAL HCP. | 16.0 | 15.8 | 13.4 | 19.1 | 25.5 | 31.5 | 29.0 | 26.2 | 26.2 | 29.4 |
| AGE | 11.0 | 10.4 | 13.8 | 25.4 | 16.9 | 14.2 | 14.9 | 10.8 | 19.7 | 13.3 |
| WHISTLEBL OWER RETALIATION | | | | | | | | | 1.5 | 7.0 |
| ALL OTHER | 7.8 | 6.6 | 9.1 | 12.0 | 16.7 | 11.6 | 12.2 | 18.2 | 18.6 | 15.9 |

## UPCOMING LEGISLATION

The Commission has sponsored several pieces of legislation in the current session, including:

- amending the Maine Human Rights Act to include sexual orientation, to prohibit discrimination in employment, housing, access to public accommodations, and extension of credit;
- adding race to the education section of the Act;
- changing references in the Act from "handicap" to "disability";
- allowing the Commission to recover litigation costs, and possibly attorneys fees, in cases when it prevails in court; and
- clarifying the law on the basis of discrimination in cases of pregnancy as sex discrimination rather than a physical disability. The Commission contends that two current sections of law are in conflict on this point.

FINDING 46. The Committee finds that diligence must be employed to ensure that all publications distributed by the Commission be written in language that is accessible to all its clients, without sacrificing the accuracy of the information presented.

During its review of the Maine Human Rights Commission, the Committee reviewed a brochure used to describe to a complainant the steps in the complaint investigation process, the role of the investigator, and the rights of the various parties to the complaint. Review of the brochure revealed that it contains a significant amount of language that few people other than lawyers use commonly. Some examples include "expediting", "convened", "pursuant to statutory mandate", and "should litigation prove unavoidable".

While there is no direct evidence that complainants withdraw cases or are otherwise intimidated or alienated by the language in the brochure, the Committee finds that simpler language would result in a more accessible brochure, without sacrificing the clarity or accuracy of the information presented.. The Committee finds that for instance, "party" could be replaced with "person", "in your stead" with "for you", "attain" with "work out", and "in any subsequent court proceeding should litigation prove unavoidable" with "if the case goes to court".

Therefore, the Committee finds that diligence must be employed to ensure that all publications distributed by the Commission be written in language that is accessible to all its clients, without sacrificing the accuracy of the information presented.

STATUTORY 47. **Continue the Maine Human Rights Commission under the provisions of the Maine Sunset Act.**

Upon reviewing the statutory mandate and the activities of the Maine Human Rights Commission, the Committee finds that the State's goal of eliminating discrimination in employment, housing, credit, education and public accommodations has yet to be attained. The ever-increasing caseload of the Commission would indicate that the need for the existence of the Commission continues to be compelling. Especially in light of those increases, the Committee finds that the Commission and its staff carry out its duties with a high degree of integrity and commitment. The Committee therefore recommends that the Maine Human Rights Commission be continued under the provisions of the Maine Sunset Act.

# MAINE COMMISSION FOR WOMEN

# MAINE COMMISSION FOR WOMEN

## ORIGIN

The Maine Commission for Women was established by Executive Order in 1964 by Governor John H. Reed. Originally called the Governor's Commission on the Status of Women, Maine's Commission was the first in the Northeast, formed in response to a recommendation issued the previous year by President John F. Kennedy's Commission on the Status of Women. The original Commission was made up of 27 members, appointed by the Governor. Its mandate was to "study the progress which women have made in achieving opportunity in the State, and to explore the social, economic and legal problems with which they are confronted."

In 1968, the Legislature affirmed the need for a women's commission by the passage of P&S 1967, c. 179, which established the Governor's Advisory Council on the Status of Women, which was to be reactivated biennially by the Legislature. The Council was made up of 17 members, appointed by the Governor.

In 1973, the Council was placed within the then Department of Health and Welfare, (P&S 1973, c. 129, Part B), to act in an advisory capacity and to promote and coordinate activities assigned to meet the problems of women on the state and community levels.

The Maine Commission for Women was established as a permanent, independent entity in 1976 (P&S 1975, c. 147, Part G) to continue the Council's work of promoting opportunities for women in the state. The current Commission is made up of 17 members, 9 appointed by the Governor, 4 by the President of the Senate and 4 by the Speaker of the House. Its mandate continues to be to advise and consult with the Governor and Legislature with the goal of improving opportunities for women through research, local activism, advocacy, information, and public hearings and conferences.

## ORGANIZATION AND STAFFING

The 17 member Commission employs a staff of 3: an Executive Director, an Assistant to the Director, and a clerical (Clerk Typist II). All three paid staff positions are hired subject to Civil Service law through the Bureau of Human Resources, with final interviews conducted by a subcommittee of the Commission. The Executive Director's position was filled on October 22, after a 16 week hiatus.

The Commission established 3 regional advisory committees in the northern, eastern, and southern regions of the State in 1987 and 1988. Through the regional commissions, statewide programs are promoted as well as regional projects relevant to the individual areas. Each Regional Commission is selected locally, an together involve forty-five active volunteers on the regional level. Each Regional Commission has a chair, who maintains communication with the Maine Commission for Women through one Commissioner chosen to act as the MCW liason.

The Maine Commission for Women also sponsors an internship program, through which college students perform research on timely women's issues, as well as gain valuable experience in working in both a state government and an advocacy environment. A volunteer coordinator works with the interns to coordinate research efforts. Testimony before the Committee indicated that these volunteers are critical to the MCW's ability to fulfill its research mandate. Activities in many other areas are necessarily limited by the current level of staffing.

The Commission has established 3 standing committees: Education, Public Relations, and Legislation, and a single Commissioner serves as editor of the Commission's newsletter, INFORM. In addition, two advisory committees to the Commission were established in January of this year: a Legislative Advisory Committee and a Business and Professional Advisory Committee.

## PRIORITIES AND OBJECTIVES

The Commission adopts a set of priority issues for a several year period, which is subject to annual review and modification. The Commission's focus issues since 1986 have been women, work and family; quest for equality; and creating a nonviolent future. The new three year plan (1990 - 1993) will have a primary focus on women, work, and family, but will include issues of equality, education, violence and health.

The objectives of the Commission are to:

- serve as a resource for governmental decision-making, by reviewing and proposing legislation, advising advocacy groups on proposed government initiatives, and serving in an advisory capacity to boards, councils, and committees on issues of importance to women;

- provide a central information processing and referral service on women's and family issues by facilitating communication between policy-makers and advocacy groups; promoting regional information exchanges through forums, roundtables, and panels; publishing and distributing newsletters, pamphlets, booklets; developing and promoting educational programs in cooperation with other public and private agencies, and issuing press releases regarding Commission programs and positions;

- identify and research issues of concern to women; and

- promote increased participation of women in public, private and nonprofit policymaking roles by monitoring and recommending appointments to state boards, commissions, and managerial positions, and increasing the awareness of employment opportunities for women in all occupations.

## ACTIVITIES

The Maine Commission for Women meets 7 times each year (recently reduced from 9) with subcommittees meeting in the off months. One meeting each year is held in the seat of each of the Regional Commissions - Presque Isle, Bangor, and Portland - with other meetings held in Augusta. Commission staff also provide support to Regional Commissions and cooperate on joint projects.

**Legislation** - The Maine Commission for Women works to fulfill its legislatively-mandated role as an advocate for Maine women and girls by supporting targeted legislative actions through monitoring, testimony and participation in work sessions. The Commission's legislative agenda is adopted annually and provides policy direction for members and staff in advocating for legislative action. The Commission's agenda has included legislation relating to health care, equity in employment opportunity, workplace safety, dependent care, family support services, domestic violence, and reproductive choice. During the last legislative session, the Commission:

- led the effort to remove the Sunset provision from the Family Medical Leave Law;

- participated in the Blue Ribbon Task Force to Promote Equity of Opportunity for Women in Public School Administrative Positions, and actively supported the Task Force recommendations;

- promoted continuity of health insurance coverage and screening mammographies;

- supported improved protective measures for victims of domestic abuse; and

- supported legislation to protect the rights of minors seeking abortions.

The Maine Commission for Women's legislative advocacy is extended through its involvement with the Women's Legislative Agenda Coalition (WLAC), whose 19 member organizations unite to develop and present an agenda of concerns relating to women, children, and families during each legislative session.

**Advisory Boards** - Fulfilling part of its role as a resource for governmental decision-making, representatives of the Commission have participated in several task forces, advisory boards, etc, including:

- the Child Care Advisory Committee;

- the AFDC Advisory Committee;

- the Robert Wood Johnson Foundation Advisory Committee;

- the Medicaid Advisory Committee;

- the Sex Equity Network;

- the Blue Ribbon Task Force on Employment Equity in Education;

- the Common Core of Learning;

- the Choice Coalition;

- the Insurance Consumer Advisory Group;

- the Governor's Commission on Domestic Violence; and

- the State Apprenticeship and Training Council.

**Information and Referral** - The Commission staff regularly respond to constituent inquiries for information, research, and referral, which provides the Maine Commission for Women with continual feedback on current issues of importance and concern to women. Through its participation and membership in the New England Regional Commissions for Women and the National Association of Commissions for Women, the MCW confers on the development of initiatives and regulations at the state and federal levels.

The Maine Commission for Women hosted the annual Northeast Regional Commissions meeting, which took place in Portland, October 25-27, 1990, in conjunction with the Women and Employment Conference also presented by the Commission.

**Educational Programs** - Sponsorship and support of a variety of educational programs designed to promote awareness of women's issues and increase understanding of the legislative process are provided by the Maine Commission for Women. The annual Women's History Month Essay and Drawing Competition is cosponsored by Maine Commission for Women and the Department of Education to raise the awareness and aspirations of elementary and secondary school students, as well as to highlight women's contributions throughout history.

The Commission also cosponsored Women's Day at the Legislature in March of 1989, in cooperation with several women's organizations. Legislator conferences and educational workshops promoted participants' understanding of and access to the political process.

As noted above, the Commission's Women and Employment Conference held in Portland on October 27 featured workshops on issues such as skills development, effective communication, preparing for a job change, financial management and decision making. Over 190 registrants, exhibitors, and presenters participated in the day long conference.

**Publications** - The Maine Commission for Women's newsletter, <u>INFORM</u>, is circulated to over 4,000 individuals and organizations. Budget reductions have forced a cutback in the number of editions from 4 to 3 per year.

The Commission has also published several brochures and pamphlets. The most recent effort, funded by an IOLTA grant (Interest on Lawyers Trust Accounts), is a set of 10 Legal Rights Fact Sheets entitled "Women's Rights, Women's Responsibilities.

The interns have also assisted the Commission by researching and producing fact sheets on gender bias in the courts, women and employment, family medical leave, and feminization of poverty.

## EXPENDITURES

Funding for staff was first provided to the Commission in fiscal year 1980 (2 positions). The third position was appropriated in fiscal year 85.

Total fiscal year 90 expenditures of the Commission were $127,984. Ninety seven percent (97%) of the Commission's funding comes from the General Fund, with the remaining income associated with the annual conference fees. Personal services costs constitute about 76% of total Commission expenditures.

STATUTORY 48. **Amend the law to specify the appointing authority responsible for each mandated representative to the Maine Commission for Women, and to ensure the awareness of each such member of the representational responsibilities associated with the appointment.**

Under the section of law that authorizes the appointment of the Maine Commission for Women "members of the commission, chosen from throughout the State, shall include but not be limited to representatives of minority, low income, youth and elderly groups." (5 MRSA §7022).

During the course of the review, the Committee found that, in regard to these representational mandates, the interests of the elderly are reasonably well-represented by veteran Commission member Caroline Gentile, and that several Commissioners could represent the youth population through their work as teachers, girl scout volunteers, and child care advocates. Additionally, the Committee finds that several Commissioners have had experience with low income populations through work in the areas of employment training, general assistance, domestic violence and substance abuse. There are no minority representatives included in the current makeup of the Commission. The Committee understands that no appointed members are informed of any representational status or responsibility.

The Commission is appointed as follows: 9 members by the Governor, 4 by the President of the Senate and 4 by the Speaker of the House, all for 2 year terms. Six new appointments and 3 reappointments were made in August and September of 1990, just prior to the Committee's review.

Upon inquiry, the Committee discovered that neither the appointment secretaries for the legislative leaders nor the Governor's appointment secretary was aware of the statutory requirement, and each of them supported specific statutory language that would clearly delineate the appointing authority for each mandated appointment.

The Committee finds that, given the statutory mandate of the Maine Commission for Women, the need for the specified groups to be actively represented continues to be compelling. Therefore, the Committee recommends amending the statute to specify which appointing authority is responsible for appointing each mandated representative, and to ensure the awareness of each such member of the representational responsibilities associated with the appointment.

| | | |
|---|---|---|
| STATUTORY | 49. | Amend the law to unclassify the position of Executive Director of the Maine Commission for Women. |

Currently, the Executive Director of the Maine Commission for Women is a confidential, classified position under the Maine Civil Service law.

In reviewing the hiring process for the Executive Director, the Committee found that the Commission is not entitled to review the applications for the position, not permitted to sit on the panel that performs the oral screening interview, are only permitted to interview 6 candidates out of over 150 applications, and that the Board experienced the current hiring practice as frustrating.

Section 7028 of Title 5 states that "The commission is authorized to employ staff and consultants..." to carry out its mandate. The Committee finds that with unclassification, the Bureau of Human Resources would still identify minimum standards for the position, however the Commission itself would advertise, screen applications, conduct interviews and make the final hiring decision. Given the uniqueness of the Maine Commission for Women's responsibilities, the Executive Director's role as directly responsible to the Commission for carrying out its directives, its status as an "independent commission" (5 MRSA §7021), and the problems that the Commission has experienced in getting what it considers to be some of the most qualified applicants through the process, the Committee finds it reasonable to unclassify the position.

| | | |
|---|---|---|
| STATUTORY | 50. | Continue the Maine Commission for Women under the provisions of the Maine Sunset Law. |

Upon reviewing the mandate and activities of the Maine Commission for Women, the Committee finds that the Commission continues to play a useful and necessary role in promoting awareness and advocating for policies that benefit the women and girls of the State of Maine. The Committee is aware that there has been criticism of the Commission and that it has been targeted for elimination by another legislative committee. This Committee acknowledges that the Maine Commission for Women has not been all things to all people and that maintaining a focus on certain areas (i.e. women and employment) has inevitably reduced activities that may have been devoted to other important and worthwhile areas of advocacy. The issues of focus and priority setting are important ones and should remain open to review and discussion. However, the Committee finds that, given the level of staff resources appropriated to the Commission, the Maine Commission for Women has worked to responsibly execute its mandate. Therefore the Committee recommends continuation of the Maine Commission for Women under the provisions of the Maine Sunset Law.

## STATE BOARD OF PROPERTY TAX REVIEW

# STATE BOARD OF PROPERTY TAX REVIEW

## ORIGIN

The State Board of Property Tax Review was created by the Legislature in 1986 (P.L. 1985, c. 764) to consolidate the functions of the Municipal Valuations Appeals Board (1931 - titled Board of Equalization prior to 1969), the State Board of Assessment Review (1973), and the Land Classification Appeals Board (1977). At the time of its creation, the Board was also given jurisdiction over valuation appeals of non-residential properties assessed at over $500,000. In 1987, the Board was extended jurisdiction over appeals of payments made to municipalities in lieu of taxes by the Maine Low Level Radioactive Waste Authority pursuant to 38 MRSA §1505, sub-§2. In 1989, appeals under the Homestead Exemption Act were added to the Board's responsibilities.

## PURPOSE

The State Board of Property Tax Review is an appellate body, established to hear appeals of cases involving property valuation, tax exempt status decisions, land classification decisions (Tree Growth, Farm and Open Space), municipal valuations established by the Property Tax Division of the Bureau of Taxation, mine site valuations, homestead exemptions, and the previously mentioned payments in lieu of taxes by the Maine Low Level Radioactive Waste Authority. If a property owner or a municipality believes that an inequitable assessment, valuation, abatement or exemption decision has occurred under any of the above stated provisions of law, the taxpayer may file an appeal with the State Board of Property Tax Review for a review of the original decision or valuation.

The Declaratory Judgments Act (14 MRSA §5951, et. seq.) also allows an aggrieved party to request a judgment from the Superior Court on whether laws governing property tax exemption decisions were properly applied by the assessing authority.

## COMPOSITION

The State Board of Property Tax Review is made up of 15 members, appointed by the Governor for staggered 3 year terms. Appointees must include an equal number of attorneys, real estate brokers, engineers, retired assessors, and public members (36 MRSA §271, sub-§1). The Board elects its own chair annually.

## STAFFING AND EXPENDITURES

The Board has been operating without staff since July 1st of 1990, when the Board's secretary took advantage of the early retirement incentive offered to state employees. Negotiations are nearing completion on an arrangement to share administrative staff with the State Claims Commission. Additionally, the Property Tax Review Board office is being moved to the State Office Building from its current location at the Bond Brook Mini Mall in Augusta, resulting in annual savings of $3,600 in rental costs.

Expenditures of the State Board of Property Tax Review for fiscal year 1990 were $36,059. An additional $3,766 in appropriations were unspent and lapsed at the end of the fiscal year. Seventy percent (70%) of expenditures were personnel costs associated with the secretary's position, 14% was per diem and expenses of Board members, and 16% represented all other expenditures of the Board, (primarily rent and utilities).

For the first four months of the current fiscal year, expenditures of the Board totaled $12,226, including $7,385 in personnel costs associated with the early retirement of the board's secretary.

Members of the Board receive $50 per diem plus expenses for attendance at hearings and full Board meetings. Per diem and expense costs totalled $5,194 last year, averaging $346 per Board member.

## OPERATIONS

Upon receipt of an appeal, the chair selects a 5-member panel from among the Board members to hear the appeal. The Board is divided into 3 such panels, with one member of each representational group on each panel. Three members of any 5 member panel constitute a quorum, and may hear and decide appeals. Actions of each panel carry the weight and authority of the entire Board.

A petition to the Board for a property tax abatement must include:

- the assessed value of the property, as originally determined by the assessing authority;
- amount of any previously granted abatement;
- the valuation alleged proper by the Petitioner;

- a brief description of all prior proceedings before the assessing authority concerning the disputed assessment;

- a statement of the factual basis for the abatement appeal;

- a statement of the legal grounds for the appeal.

Respondents to the petition then have 20 days to file a written response either affirming or denying the allegations, and a statement of the reasons for the denial of the abatement.

If a municipality disputes the Bureau of Taxation's determination of its equalized valuation or its failure to meet minimum assessing standards, it may file a written appeal within 45 days of its receipt of the Bureau's determination.

The Board may require parties, on a case-by-case basis, to submit, prior to the hearing, any information determined by the Board to be necessary for a responsible decision. The Board, at its discretion, may hold a pre-hearing conference for the purposes of formulating or simplifying issues, obtaining admissions of fact, arranging for the exchange of proposed exhibits or prepared expert testimony, identifying witnesses, establishing the procedure to be followed at the hearing, or for any other purposes that "may expedite the orderly conduct and disposition of the proceeding" (Rules, section 4 (D)(2)).

The Board has the power to subpoena witnesses and any records, files or documents relevant to the proceeding. Hearings generally take place in the Board's office facilities in Augusta. All decisions of the Board are appealable to the Maine Superior Court.

The Board's caseload has increased dramatically over the last year, as the table below illustrates.

| | **Fiscal Year** | | | | |
|---|---|---|---|---|---|
| | **87** | **88** | **89** | **90** | **91** |
| Hearings/Decisions Rendered | 15 | 12 | 10 | 12 | 7* |
| Cases Withdrawn | 2 | 4 | 3 | 3 | 1 |
| Cases Pending | 4 | 6 | 6 | 9 | 31 |
| Total | 21 | 21 | 19 | 24 | 39 |

*7 hearings held, 2 decisions rendered as of 12/11/90

A breakdown of the cases before the Board as of 12/04/90 is as follows:

| | |
|---|---|
| Appeals of municipal valuation | 12 |
| Appeals of state valuation | 9 |
| Farm & Open Space | 8 |
| Tree Growth Classification | 3 |
| Nonresidential property exceeding $500,000 | 7 |
| | 39 |

Legal counsel and decision drafting assistance is provided to the Board by an Assistant Attorney General, who attends all Board hearings and meetings. The Committee finds that this assistance, and the Board's practice of circulating all its written decisions to each of the panels, helps to ensure consistency in the decisions of the three relatively independent panels. The full Board meets at least once annually.

FINDING 51. The Committee finds that recent amendments to Maine's property tax laws, combined with dramatically increased market values in many areas of the State have significantly increased the number of appeals before the State Board of Property Tax Review.

STATUTORY 52. Continue the State Board of Property Tax Review under the provisions of the Maine Sunset Act.

Upon review of the State Board of Property Tax Review's mandate and activities, the Committee noted the dramatic increase in the number of cases appealed to the Board in the last year, due to recent changes to Maine's Farm and Open Space Tax Law (36 MRSA §1101, et. seq), the expanded jurisdiction of the Board to include valuation appeals of nonresidential property valued at over $500,000, and the sharp rise in property values, especially in southern and coastal sections. The Board's figures show that the number of cases pending, only five months into fiscal year 1991, totalled 162.5% of total cases filed in the previous year. While the Committee commends the Board for its apparently effective operations, the Committee is concerned with whether this volunteer board could sustain the level of effort required if the rate of appeals continues to increase. The Committee expressed its intention to revisit the Board during its compliance review, to ascertain whether any additional action may be required at that time. To note its concern, the Committee finds that recent amendments to Maine's property tax laws, combined with dramatically increased market values in many areas of the State have significantly increased the number of appeals before the State Board of Property Tax Review.

In addition, the Committee's review indicates that the State Board of Property Tax Review carries out its mandate in an effective, efficient manner. Therefore the Committee recommends that the State Board of Property Tax Review be continued under the provisions of the Maine Sunset Act.

## MAINE HIGH RISK INSURANCE ORGANIZATION

STATUTORY 53. Continue the Maine High Risk Insurance Organization for one year, under the provisions of the Maine Sunset Act.

The Maine High Risk Insurance Organization was created in 1987 (P.L. 1987, c. 452, §H,5) to provide access to health insurance to those individuals who had been denied coverage due to a pre-existing medical condition. As of November 30, 1990, there were 392 policies in effect under the program.

A sunset provision was included in the MHRIO's original authorizing legislation (24-A MRSA §6061) that required the organization to be reviewed by both the Audit and Banking and Insurance Committee by June 30, 1991. The Maine High Risk Insurance Organization was also placed in the Audit Committee's statute in the 1991 review cycle (3 MRSA §927). The MHRIO's sunset provision was amended last session to require the Organization's reviews by June 30, 1992, however the Sunset Law was not amended. Therefore the Organization will terminate this June, if not continued by an act of the Legislature.

Due to the time limitations imposed on the current year's cycle (i.e. the February 1st deadline for the Committee's bill) a one year continuation of the Maine High Risk Insurance Organization is necessary to ensure continuance of the Organization while the Committee conducts its review. The amendment will also create statutory consistency with the Title 24 review requirement. Therefore the Committee recommends continuation of the Maine High Risk Insurance Organization for one year.

## DEPARTMENT OF LABOR

### Recommendations Resulting from the Follow-Up Compliance Review March 1991

The Audit and Program Review Committee issued its findings and recommendations resulting from its review of the Department of Labor in 1989. At the time of the Department's compliance review in the spring of 1990, the Committee found that its recommendation for a supportive services checklist for job training participants had not been successfully implemented. The Committee reiterated its original directive and requested that the Department report the results of its renewed efforts at the 1991 compliance review. The following recommendations emerged from that follow-up discussion.

FINDING 54. The Committee finds that all participants in state-administered job training programs should, at the time of enrollment, be provided with an informational packet that explains the scope of and procedures for obtaining all services available under any program in which the participant is enrolled, to be retained by the participant throughout the period of his or her enrollment.

ADMINISTRATIVE 55. Direct the State's three service delivery areas to implement state-wide, a uniform, post-termination, job training client satisfaction survey that includes questions that measure the adequacy of support services provided to job training participants, and provide the Committee with compiled, first quarter survey results by November 30, 1991.

The Committee heard testimony during its deliberations that, while it is important to give job training participants the opportunity to express their need for support services by completing the Committee-recommended checklist, it is also true that clients' needs may change over the period of their enrollment in job training. The Committee finds that all job training participants should be given an informational packet when they are first enrolled in one or more programs, that describes all of the components and services available, the policies and procedures associated with, and the participant's rights and responsibilities under, the program(s). This packet should be retained by the enrollee throughout the training period to provide a ready reference should questions arise or client conditions change.

The Committee also noted that significant time has elapsed since data from the Committee's job training client satisfaction survey was compiled and discussed, and that the responses to this survey were the primary cause for the Committee's concern about the job training system's commitment to provide an adequate level of support services to those in job training.

The Committee finds that the implementation of a post-termination survey of all job training participants could provide valuable program evaluation information to the Bureau of Employment Training programs, the private industry councils (PICS), the Legislature and the service providers themselves. The Committee finds also that such a survey is already administered by one service delivery area administrator and is planned for implementation in the 12-County service delivery area beginning July 1, 1991. The Committee recommends that this survey be standardized and implemented statewide, and that it include questions that measure the adequacy of support services provided to participants. The Committee requests also that the compiled survey results from the first quarter, July 1 - September 30, 1991, be submitted to the Committee no later than November 30, 1991.