

# MAINE STATE LEGISLATURE

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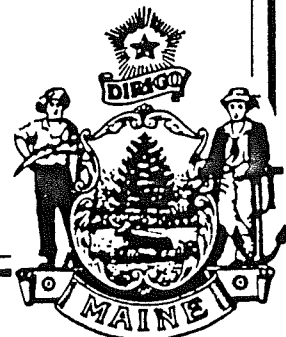
# Review of

- Secretary of State
- Department of Agriculture, Food and Rural Resources
- State Planning Office
- Department of Transportation
- Maine Educational Loan Authority
- Capitol Planning Commission
- Local Government Records Board

## Joint Standing Committee on Audit and Program Review

1991 - 1992

Volume 2 of 3





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 JOHN J. CLEVELAND, DISTRICT 22  
 DONALD L. RICH, DISTRICT 27

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OFFICE OF FISCAL AND PROGRAM REVIEW  
 CHERYL RING, PRINCIPAL ANALYST  
 LOCK KIERMAIER, ANALYST  
 KATHRYN VAN NOTE, ANALYST



STATE OF MAINE

ONE HUNDRED AND FIFTEENTH LEGISLATURE  
 COMMITTEE ON AUDIT AND PROGRAM REVIEW

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 WESLEY FARNUM, SOUTH BERWICK

April 30, 1992

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 1991-1992 study of the following agencies:

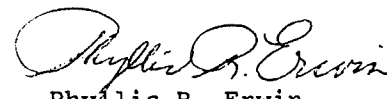
- Department of Agriculture, Food and Rural Resources
- State Planning Office
- Department of Secretary of State
- Local Government Records Board
- Driver Education and Evaluation Programs
- Maine Educational Loan Authority
- Board of Registration for Land Surveyors
- Capitol Planning Commission
- State Lottery Commission
- Maine High-Risk Insurance Organization
- Department of Public Safety
- Department of Transportation
- Board of Registration of Professional Engineers
- Maine State Pilotage Commission

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

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

Sincerely,

  
 Beverly M. Bustin  
 Senate Chair

  
 Phyllis R. Erwin  
 House Chair



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# Committee Organization

## AUDIT & PROGRAM REVIEW SUBCOMMITTEE #1 Review Assignment

- Department of Agriculture, Food, and Rural Resources;
- State Planning Office;
- Department of Secretary of State
  - Office of the Secretary of State;
  - Maine State Archives;
  - Bureau of Corporations, Elections, and Commissions;
- Local Government Records Board;
- Driver Education and Evaluation Programs;
- Maine Educational Loan Authority;
- Board of Registration for Land Surveyors;
- Capitol Planning Commission; and
- State Lottery Commission.

### MEMBERS:

**Senator Beverly M. Bustin, Chair**  
**Senator John Cleveland**  
**Senator Donald Rich**  
**Representative Phyllis Erwin, Chair**  
**Representative Beverly Daggett,**  
**Subcommittee Chair**  
**Representative John Aliberti**  
**Representative Catharine Lebowitz**  
**Representative Wesley Farnum**

### ADJUNCT MEMBERS:

**Representative Carolyne Mahany**  
Joint Standing Committee on  
Agriculture  
**Senator Georgette Berube**  
Joint Standing Committee on State  
and Local Government  
**Representative Carl Sheltra**  
Joint Standing Committee on  
Business Legislation



# Committee Organization

## AUDIT & PROGRAM REVIEW SUBCOMMITTEE #2 Review Assignment

- Maine High-Risk Insurance Organization
- Department of Public Safety;
- Department of Transportation;
- Department of Secretary of State
  - Division of Motor Vehicles [ONLY];
- Board of Registration of Professional Engineers
- Maine State Pilotage Commission;

### MEMBERS:

**Senator Beverly M. Bustin, Chair**  
**Representative Phyllis R. Erwin**  
**Representative Harold Macomber**  
**Representative Harriet Ketover**  
**Representative William Lemeke,**  
**Subcommittee Chair**

### ADJUNCT MEMBERS:

**Representative Donald Strout**  
Joint Standing Committee on  
Transportation  
**Representative Phyllis R. Erwin**  
**Representative Harriet Ketover**  
Joint Standing Committee on  
Banking and Insurance  
**Senator Jeffery N. Mills**  
Joint Standing Committee on Legal  
Affairs  
**Representative Ruth Joseph**  
Joint Standing Committee on State  
& Local Government  
**Representative Patrick Paradis**  
Joint Standing Committee on  
Judiciary

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# The Committee Process

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

The Committee process unfolds in five distinct phases:

## **PHASE ONE: RECEIPT OF PROGRAM REPORTS**

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

## **PHASE TWO: REVIEW BEGINS**

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

## **PHASE THREE: SUBCOMMITTEE MEETINGS**

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

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**PHASE FOUR: FULL COMMITTEE MEETINGS**

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

**PHASE FIVE: THE LEGISLATURE**

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

# Summary of Recommendations

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

## SECRETARY OF STATE MAINE STATE ARCHIVES

STATUTORY

- 
1. Create a definition of public records to clarify their use relative to the records management process administered by the State Archivist.
- 

STATUTORY

- 
2. Create a definition of state agency to clarify which entities are subject to the records management process administered by the State Archivist.
-

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ADMINISTRATIVE 3. Pursue federal funding support for local records management programs used by municipalities for the preservation of crucial records of local and municipal government.

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ADMINISTRATIVE 4. Enter into a lease agreement to acquire a new microfilming camera.

---

STATUTORY 5. Continue the Local Government Records Board under the provisions of the Maine Sunset Law.

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**SECRETARY OF STATE,  
BUREAU OF CORPORATIONS, ELECTIONS,  
AND COMMISSIONS**

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STATUTORY 6. Authorize that warrants used to announce public elections be sent directly to municipal clerks.

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STATUTORY            7.            Authorize the Secretary of State to work with the Attorney General in the preparation of explanatory statements published to describe each proposed constitutional amendment and statewide referendum.

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STATUTORY            8.            Eliminate the first of 2 currently required dates for the public advertising of explanatory statements regarding constitutional amendments and statewide referendum.

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STATUTORY            9.            Authorize the Secretary of State to charge fees for routine information requests made by the public.

---

STATUTORY            10.           Establish that all non-profit corporations will be required to report on an annual basis to the Secretary of State and to pay a \$20 reporting fee.

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STATUTORY            11.            Repeal the separate statutory reporting requirement for domestic Condominium Corporations.

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STATUTORY            12.            Repeal the present requirement that Trading Stamp Companies must file annually with the Secretary of State.

---

STATUTORY            13.            Allow the Secretary of State to designate any day of the week as the publication day for agency rulemaking notices under the Administrative Procedure Act.

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ADMINISTRATIVE      14.            Whenever possible use weekend papers for the publication of consolidated rule-making notices generated by state agencies under the Administrative Procedure Act.

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STATUTORY

15. Change the qualification process for Notaries Public, and other appointed state officials, to ensure that qualification requirements are completed before the beginning of their term of official appointment.
- 

ADMINISTRATIVE

16. Request that the Attorney General issue a legal opinion which indicates which executive employees are subject to the financial disclosure requirements of current law.
- 

ADMINISTRATIVE

17. Direct that the Secretary of State promulgate rules to clarify which executive employees are subject to financial disclosure. Report to the Joint Standing Committee on Audit and Program Review by April 1, 1993 with the appropriate rules.
- 

**SECRETARY OF STATE  
DIVISION OF MOTOR VEHICLES**

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STATUTORY

18. Change the title of the Division of Motor Vehicles to the Bureau of Motor Vehicles.
-



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ADMINISTRATIVE 19. Review and, if necessary, revise the form letters sent most frequently to members of the public. Submit a complete set of all form letters by June 1, 1993 to the Audit and Program Review Committee.

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ADMINISTRATIVE 20. Review the geographical location and staffing level of each branch office. Develop a report detailing the current status of each office with any subsequent recommendations. Submit the report by September 1, 1992 to the Joint Standing Committees on Audit and Program Review, Transportation, and State and Local Government.

---

ADMINISTRATIVE 21. Report to the Joint Standing Committees on Audit and Program Review and Transportation by May 1, 1993 on the status of the effort to develop and implement a fully integrated information services system. Include in that report cost comparisons regarding computers and related equipment relative to leasing, lease-purchase, purchase or any other potential cost-saving method.

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**CAPITOL PLANNING COMMISSION**

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STATUTORY            22.            Continue the Capitol Planning Commission for one year, pending future funding for the work of the Special Committee on the New Capitol Area Master Plan.

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**DEPARTMENT OF TRANSPORTATION**

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STATUTORY            23.            Continue the review of the Department of Transportation for one year under the provisions of the Maine Sunset Law.

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FINDING              24.            The Committee endorses the recent preliminary agreement regarding a revised funding and rate schedule between the Department of Transportation and the Maine Ferry Service Advisory Board.

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**DEPARTMENT OF AGRICULTURE, FOOD  
AND RURAL RESOURCES**

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STATUTORY            25.            Redefine the reporting requirements of the Department of Agriculture, Food and Rural Resources, in order to clarify the information required and increase efficiency.

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ADMINISTRATIVE      26.      Direct      the      Department      of  
Agriculture      to      renew      and  
reinforce its efforts to fulfill  
the affirmative action goals  
outlined in its 1989 plan.

---

FINDING              27.      The      Committee      finds      that      the  
State Soil and Water Conservation  
Commission and its staff should  
be commended for their continuing  
efforts      to      fulfill      the  
Commission's      broad      statutory  
responsibilities in the face of  
its recent staff cutbacks.

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STATUTORY            28.      Continue the State Soil and Water  
Conservation Commission under the  
provisions of the Maine Sunset  
Law.

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STATUTORY            29.      Reschedule the State Soil and  
Water Conservation Commission in  
the Sunset Law to be reviewed in  
the same year as the Department  
of Agriculture, Food and Rural  
Resources.

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STATUTORY

30. Authorize the State Soil and Water Conservation Commission to formulate its own budget, to be submitted by the Commissioner as a component of the budget of the Department of Agriculture, Food and Rural Resources.
- 

STATUTORY

31. Increase the period within which licensed dealers must pay for potatoes for which they have accepted shipment, from the current 20 (business) days to 30 calendar days.
- 

STATUTORY

32. Repeal the Maine Agricultural Promotional Assistance Matching Fund.
- 

STATUTORY

33. Clarify that only human medical uses of genetic engineering are excluded from the oversight responsibilities of the Commission on Biotechnology and Genetic Engineering.
-

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STATUTORY            34.            Replace or remove obsolete references to the non-existent Maine Potato Council.

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FINDING              35.            The Committee finds that the consumer representative slot on the Maine Potato Quality Control Board has been vacant for an extended period, and that this circumstance negatively impacts the effectiveness of the Board.

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ADMINISTRATIVE    36.            Direct the Commissioner of Agriculture, Food and Rural Resources to make every possible effort to ensure that all members of the Maine Potato Quality Control Board are appointed expeditiously when vacancies occur, including submitting recommendations for appointments to the Governor at least 60 days prior to the expiration of a member's term.

---

ADMINISTRATIVE    37.            Recommend that the Commissioner of Agriculture, Food and Rural Resources reinstitute truck stop inspections under the Maine Branding Law.

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STATUTORY            38.            Repeal the requirement that the  
Maine Potato Quality Control  
Board adopt a fee schedule to  
cover a portion of the expenses  
of the Board.

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STATUTORY            39.            Clarify the Potato Quality  
Control Board's authority to  
specify Maine bag identification  
by removing redundant language.

---

FINDING              40.            The Committee finds that sampling  
and analyzing products under  
Maine's feeds, seeds, fertilizer,  
liming material, and plant and  
soil amendments laws is an  
important factor in the  
effectiveness of those laws.

---

ADMINISTRATIVE      41.            Direct the Commissioner of  
Agriculture to establish and  
carry out minimum acceptable  
levels of product sampling and  
analysis for feeds, seeds,  
fertilizers, liming materials,  
and plant and soil amendments.

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ADMINISTRATIVE 42. Recommend that the Director of the Division of Regulations pursue every reasonable avenue to enable each of the Division's inspectors to carry out as many of the Division's mandated responsibilities as possible, in order to reduce travel costs and increase inspection activity.

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STATUTORY 43. Authorize the Department of Agriculture, Food and Rural Resources to institute a fee for any reinspection, after the first follow-up, for violations of the consumer food laws.

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STATUTORY 44. Authorize the Department of Agriculture, Food and Rural Resources to impose sanctions, in conformity with the Maine Administrative Procedures Act, for violations of its inspections-related laws and regulations, if necessary to ensure compliance or to protect the public health.

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STATUTORY            45.            Repeal the statutory authority of the Pull Events Commission to establish rules which set penalties for violations of pull events statutes.

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**STATE PLANNING OFFICE**

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ADMINISTRATIVE    46.            Direct the State Planning Office to coordinate with the Departments of Economic and Community Development, Inland Fisheries and Wildlife, Conservation, and Environmental Protection, and other interested parties to devise and implement an efficient and effective means to integrate the functions and resources of the Critical Areas Program, Natural Heritage Program, and the Endangered and Nongame Species Program. Provide the Committee with a proposal to accomplish this end by July 1, 1992.

---

FINDING            47.            The Committee finds that the position within the State Planning Office which provides liaison services to the Governor's office should be funded out of the Governor's account commencing FY 1992-93, in order to align the position with the most appropriate funding source.

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ADMINISTRATIVE 48. Direct the State Planning Office to assess Maine's storage capacity for petroleum products as well as Maine's access to the nation's Strategic Petroleum Reserve in order to ensure Maine's readiness in the event of a future energy emergency. Provide a report to the Committee on July 1, 1992

---

FINDING 49. The Committee finds that the State must ensure that energy planning and policy development is adequately implemented in order to avoid future energy crises.

---

STATUTORY 50. Clarify Legislative intent that the proper role of the State Planning Office is to facilitate planning and policy formulation within the Executive and Judicial branches and to perform an advisory, consultative, coordinating, research, and data gathering and analysis role, as opposed to actually administering or operating programs.

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STATUTORY

51.

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Continue the State Planning Office for one year pending further inquiry into the Office's program of energy planning and policy development.

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## SECRETARY OF STATE

### Purpose and Responsibilities

The Secretary of State is the office of state government which has the overall purpose of preserving and protecting the official records of the State of Maine. This broad functional responsibility has evolved into three discernible responsibilities; each of which corresponds to the existing organizational units within the Office of the Secretary of State. In no particular order, these major organizational units are as follows:

- Bureau of Corporations, Elections, and Commissions - depending on the activity; records, collects, and administers information and procedures relating to corporations, the Uniform Commercial Code, public elections in Maine, lobbyists, notaries public, boards and commissions, and rulemaking conducted by state agencies;
- Division of Motor Vehicles - administers the various regulatory processes and requirements for drivers and vehicles (licensing, registration, etc.) which are designed to help ensure the safe and responsible use of the State's roadways; and
- Maine State Archives - collects and preserves the official records of the State of Maine and administers a records management process designed to assist state agencies in identifying an efficient means of identifying and saving the most essential records generated by the agency.

As stated in law, the Department of the Secretary of State has a lengthy list of specific responsibilities. These responsibilities include the following:

- have **custody and exclusive use of the state seal** (1 MRSA §203);
- administer the set of laws (3 MRSA §311, et. seq.) governing **lobbyist disclosure**;
- appoint and administer the duties associated with **notaries public** (5 MRSA §82);

- 
- receive and administer the requirements for **certificates of qualification for appointed public officials** (5 MRSA §6);
  - administer the **financial disclosure process for executive employees** (5 MRSA §19);
  - administer the process(s) involved in **creating, using, maintaining, retaining, preserving and disposing of state records** (5 MRSA §95);
  - administer the requirements of the **Administrative Procedures Act** (5 MRSA §8051 et. seq.);
  - administer the **registration of telephone solicitors** (10 MRSA §1498);
  - administer the **registration of marks (trademarks) process** (10 MRSA §1521 et. seq.);
  - receive and file all **pardons** issued to convicts (15 MRSA §2166);
  - provide administrative assistance to the **Local Government Records Board** and advice and assistance to **local governments with regards to record management programs** (30-A MRSA §1705-1706);
  - administer **elections for the approval of low-level radioactive waste dump sites in unorganized townships** (38 MRSA §1527);
  - maintain and administer a **new car arbitration account** to be used in connection with Maine's Lemon Law (10 MRSA §1169);
  - **promulgate rules pertaining to uniform disclosure requirements for the sale of used cars by dealers** (10 MRSA §1471);
  - administer the **filing and reporting requirements for all corporations** doing business in the state (13 MRSA chapters 81, 85, 87, 35-A, 37, and 93; 13-A MRSA and; 13-B MRSA);
  - administer and oversee all **public elections** held in the State of Maine (21-A MRSA);
  - administer the **filing and registration**

---

requirements for the **Uniform Commercial Code** (11 MRSA, Article 9);

- administer the filing and registration requirements for **Limited Partnerships** (31 MRSA, Chapter 7);
- assist the **Commission on Governmental Ethics and Election Practices** in any investigations conducted by the Commission (21-A MRSA §1003); and
- implement the establishment of newly apportioned **election districts** (21-A MRSA §1201).

### History

The Secretary of State was constitutionally created in 1820 when Maine became a state. At first, the Secretary of State was charged with custody of the state seal and to preserve the official documents of the Executive Branch and the Legislature. Since that time, the responsibilities of the Secretary of State have increased significantly:

- in 1862, the Secretary of State was given responsibility for administering the registration of corporations. This responsibility resulted in the later creation of the Corporations Division in 1870;
- in 1891, the Secretary of State was given responsibility for overseeing and administering public elections in the state;
- in 1905, the Division of Motor Vehicles was created to administer licensing and registration functions;
- in 1919, the Secretary of State was made responsible for the registration of executive employees and legislative counsel;
- several important events occurred in 1963. First, the increased mission of the Secretary of State was formally recognized through statutory establishment of the Department of Secretary of State. Second, the Secretary of State was assigned responsibility for administering the filing requirements of the Uniform Commercial Code;

- 
- The Maine State Archives was established within the Department of Secretary of State in 1965;
  - In 1973, Maine State Archives was given Bureau status within the Department of Secretary of State; and
  - In 1989, the Division of Public Administration underwent significant reorganization and was renamed as the Bureau of Corporations, Elections, and Commissions.

#### Method of Operation, Organization and Staffing

As discussed earlier, the Secretary of State is organized into three principal service delivery organizational units. As implied by their descriptive titles, each of these units; the Bureau of Corporations, Elections, and Commissions, the Department of Motor Vehicles, and the Maine State Archives, is responsible for a discrete set of responsibilities.

All three of the organizational units report directly to the Assistant Secretary of State. The Assistant Secretary of State reports directly to the Secretary of State. As depicted in Chart 1, there is a relatively small central office which provides administrative services to the Secretary of State in particular and budget, policy, and general management to the overall Department.

At the present time (April 1992) the major organizational units with the Department of Secretary of State have the following staffing levels:

- Bureau of Corporations, Elections, and Commissions - 44 positions;
- Maine State Archives - 15 positions; and
- Division of Motor Vehicles - 382.5 positions.

For FY 92, the Department of Secretary of State has a total of 441.5 positions.

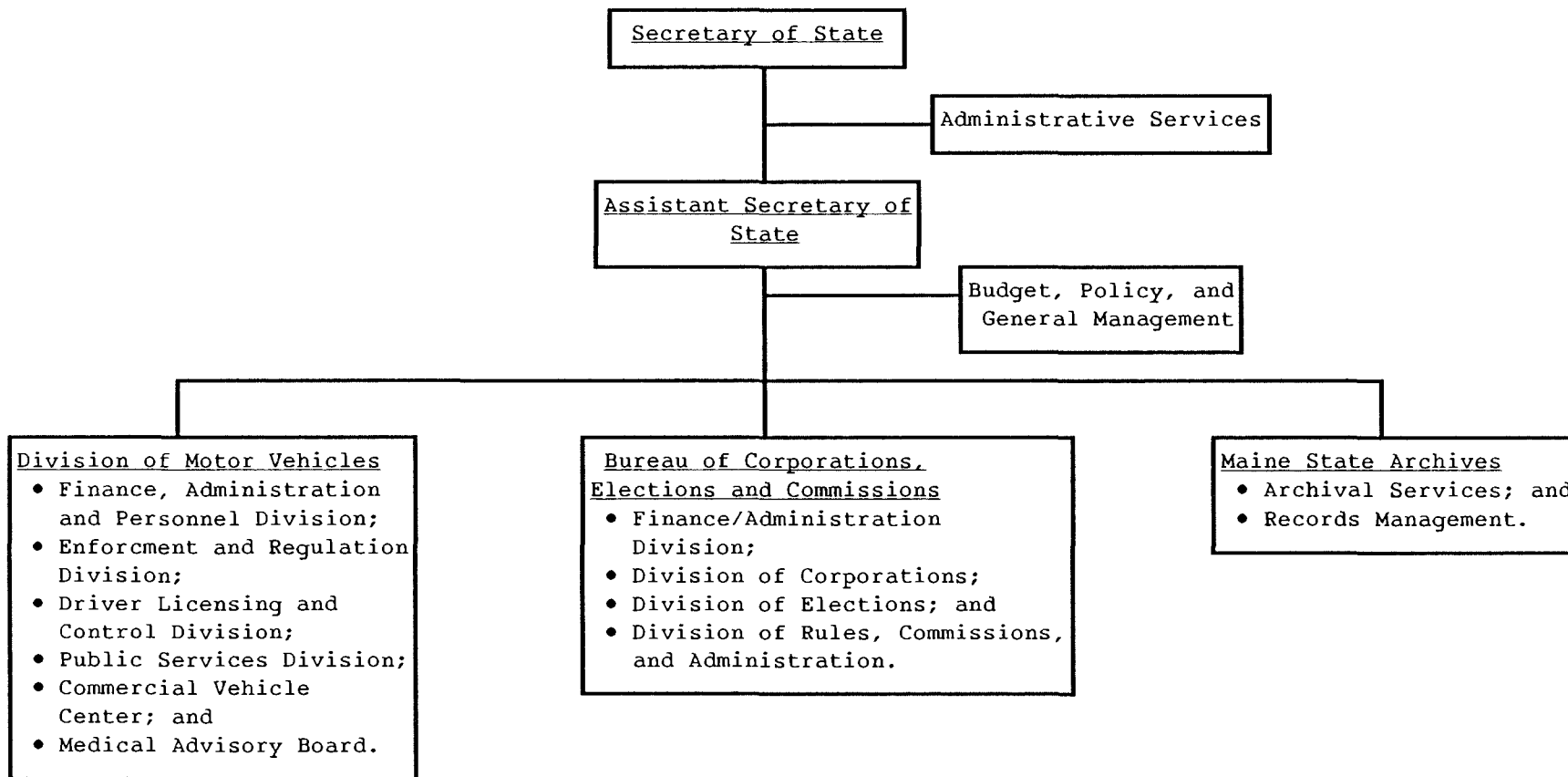
#### Funding and Expenditures

The Department of Secretary of State has 2 primary funding sources:

CHART 1

DEPARTMENT OF SECRETARY OF STATE

Organizational Chart



Compiled by Audit Staff  
Revised April 1992



- the General Fund is the primary funding source for the Central Office and the nearly exclusive funding source for the Maine State Archives and the Bureau of Corporations, Elections, and Commissions; and
- the Highway Fund is a secondary funding source for the Central Office and the nearly exclusive funding source for the Division of Motor Vehicles.

Recent expenditures for the Department of Secretary of State are as follows:

	<u>FY 1989</u>	<u>FY 1990</u>	<u>FY 1991</u>	<u>FY 1992*</u>	<u>FY 1993*</u>
Position Count	417	447.5	452	441.5	441.5
Personal Services	\$ 9,823,509	\$11,466,242	\$12,281,666	\$13,871,223	\$14,354,455
All Other	4,917,441	5,185,707	6,425,865	7,358,575	7,227,131
Capital Expenditures	<u>470,358</u>	<u>811,438</u>	<u>602,185</u>	<u>300,003</u>	<u>353,562</u>
TOTAL	\$15,211,308	\$17,463,387	\$19,309,716	\$21,529,801	\$21,935,148

#### Central Office

The Central Office within the Department of Secretary of State has several distinct functions:

- first, it is the organizational location of the position of Secretary of State;
- second, the Central Office provides the administrative and support services required by the Secretary of State; and
- third, through the Assistant Secretary of State, the Central Office provides budgetary and general policy management for the entire Department.

As shown in Chart 2, the Central Office is located at the apex of the overall organization of the Department of Secretary of State. When compared to the other 3 organizational units within the Department, the Central Office is the smallest organizational component.

A brief description of each position (or function) within the Central Office is as follows:

- 
- Secretary of State - The Secretary of State is the chief executive officer of the Department of Secretary of State. The Secretary of State is a constitutional officer who is elected by the Legislature for a 2 year term. As the Department's chief executive officer, the Secretary of State is responsible for administering the long list of statutory and constitutional duties listed earlier.

The position of Secretary of State is also charged by the Maine Constitution with the responsibility of notifying the Supreme Judicial Court when the Secretary believes that the Governor is unable to discharge the duties of that position. The Court then holds a hearing to determine whether the Governor is capable of discharging the duties of that office.

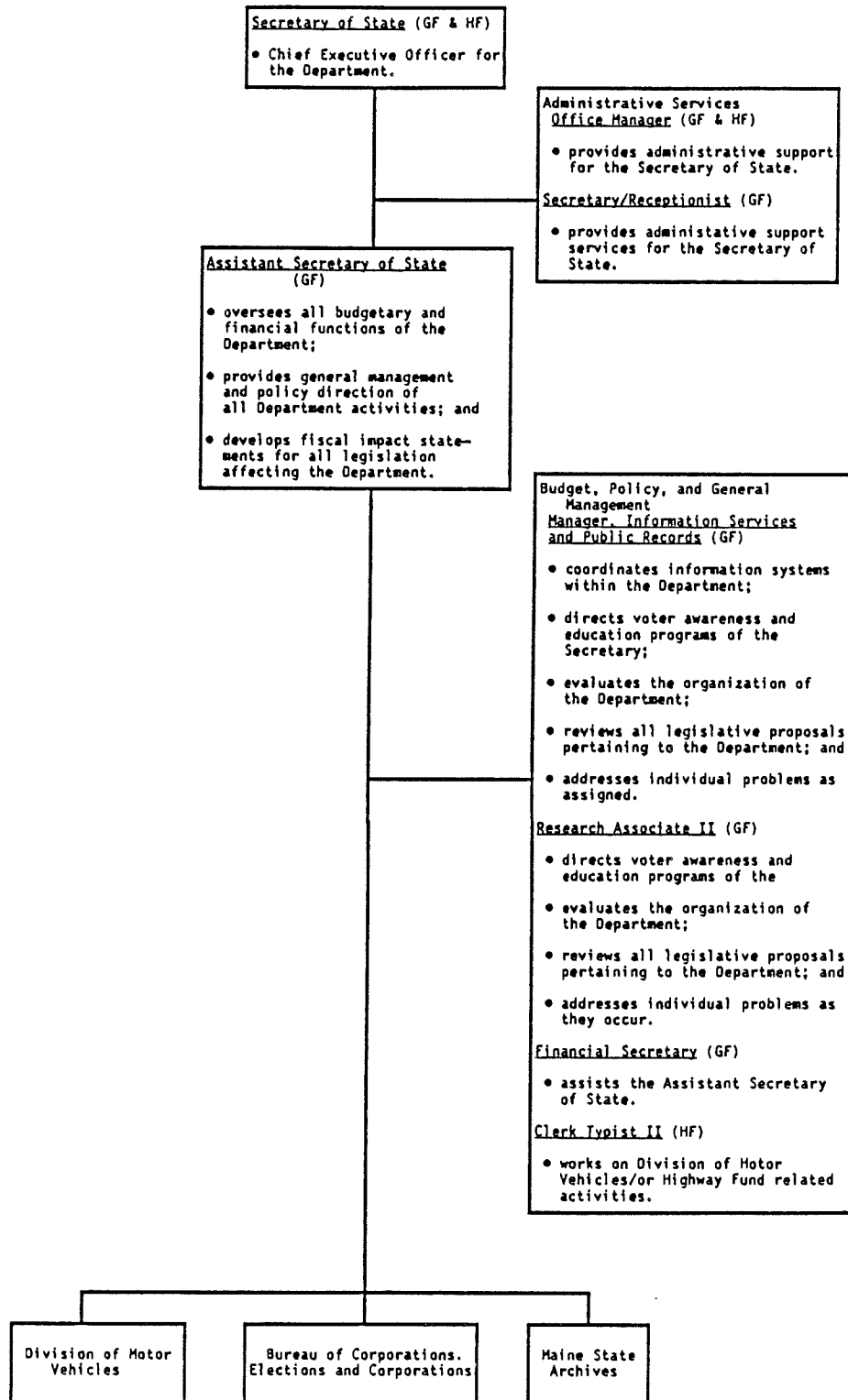
The Constitution identifies the Secretary of State as the fourth in line for assuming the duties of the governorship in case of vacancies. As specified by the Constitution (Art. 5, Pt. 1, §14) the order of succession is as follows: Governor, President of the Senate, Speaker of the House, and Secretary of State;

- Assistant Secretary of State - This particular position was created by the current Secretary of State, G. William Diamond, several years ago under the statutory authority of this position to appoint deputy secretaries of state. (5 MRSA §81) Although this position is classified as a "Deputy Secretary of State"; "Assistant Secretary of State" is the working job title.

This position was created to accomplish the following department-wide responsibilities:

- oversee the financial and budgetary functions of the Department;
- develop general programs;
- develop policy making;
- coordinate assessments of departmental activities;
- oversee the coordination and planning of information services;

CHART 2  
 DEPARTMENT OF SECRETARY OF STATE  
 CENTRAL OFFICE:  
Organizational Structure,  
Position Count, Duties, and Funding Sources



GF = General Fund  
 HF = Highway Fund

Compiled by Audit Staff  
 Revised April 1992

- 
- supervise the implementation of voter awareness education;
  - monitor legislation affecting the Department; and
  - perform any other needed administrative or coordinating function.

As shown in Chart 2, the Assistant Secretary of State is organizationally located below the Secretary of State; all units report directly to the Assistant Secretary of State. In addition, the current Assistant Secretary of State position has been designated by Secretary Diamond as the "first Deputy Secretary of State". As specified by law (5 MRS §81), this position would temporarily assume the duties of Secretary of State in the event of a vacancy in the Secretary of State position. In this scenario, the Assistant Secretary of State would serve as an Secretary of State until a new Secretary of State had been elected by the legislature;

- Administrative Services - This two-person unit, staffed by a Office Manager and a Secretary/Receptionist provide direct office support services to the Secretary of State. Specifically these 2 full time positions are responsible for the following tasks:
  - refer incoming telephone calls to the appropriate unit within the Department;
  - trace all correspondence received by the Secretary of State;
  - type all correspondence sent out by the Secretary of State;
  - under the direction of the Secretary of State, respond to specific inquiries from legislators, state agencies, and members of the public;
  - administer the official documents which require the Secretary of State's signature (The Office Manager has been appointed as a Deputy Secretary of State and can sign documents for the Secretary of State); and

- 
- provide clerical support for the other positions and functions within the Central Office;
  - Budget, Policy and General Management - This 4 person section works directly for the Assistant Secretary of State:
    - Manager, Information Services and Public Records - Like the Assistant Secretary of State position, this position was created several years ago by Secretary Diamond as a Deputy Secretary of State. However, the working job title of "Manager, Information Services and Public Records" more clearly reflects the responsibilities of this position:
      - coordinates information systems used by, or planned for, units within the Department;
      - directs the voter awareness and education activities of the Secretary of State;
      - evaluates the operation of the Department;
      - reviews and analyzes all legislation concerning the Department;
      - works on specific projects as assigned by the Assistant Secretary of State; and
      - supervises the Research Associate II position.
    - Research Associate II - This position works with the Manager of Information Systems on many of that position's responsibilities. In addition, this position is largely responsible for coordinating the Citizen Bee Program in Maine. In brief, the Citizen Bee Program is a civics oriented competition for school aged children modeled after the Spelling Bee Program;

- 
- Financial Secretary - This position provides office support services for the Assistant Secretary of State; and
  - Clerk Typist II - This position works on tasks related to, and emanating from, the Division of Motor Vehicles.

There are two sources of funding for the activities of the Central Office: the General Fund and the Highway Fund. In a proportional manner, these two funding sources fund the division of time spent by each individual working on functions funded by the General Fund (Bureau of Corporations, Elections and Commissions and State Archives) and those funded by the Highway Fund (Department of Motor Vehicles). Each position is currently funded in the following manner:

<u>50% GF/50% HF</u>	<u>100% GF</u>	<u>100% HF</u>
• Secretary of State	• Secretary/Receptionist	• Clerk Typist II
• Office Manager	• Research Assoc. II	
• Assistant Secretary of State		
• Manager, Inf. Systems		
• Financial Sec.		

For budgetary purposes, the Central Office is funded through the Bureau of Corporations, Elections, and Commissions.

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## MAINE STATE ARCHIVES

### Purpose

On behalf of the Secretary of State, the Maine State Archives exists to maintain and preserve the essential records of Maine State Government. The Secretary of State has a Constitutional mandate to, "...keep and preserve the records of all the official acts and proceedings of the Governor, Senate and House of Representatives, and, when required, lay the same before either branch of the Legislature..."(Art. 5, Pt. 2, §4)

The Legislature has amplified this fundamental mandate by issuing a statutory declaration of policy (5 MRSA §92) which states that:

"...it is the policy of the State to make the operations of State Government more efficient, more effective and more economical through current records management; and, to the end that the people may derive maximum benefit from a knowledge of state affairs, preserve its noncurrent records of permanent value for study and research."

The specific responsibility for maintaining and preserving the state's official record has been entrusted to the State Archives which is a part of the Department of Secretary of State. The head of the Maine State Archives is the State Archivist, who has been delegated a number of specific statutory duties and responsibilities (5 MRSA §95):

- to **administer** the State Archives;
- to have the authority to have reasonable access to **examine all public records**;
- to **promulgate any necessary rules** to administer the function of archives;
- to **accept gifts and bequests** intended to further the mandate of preserving the essential state records;
- to **publish** materials necessary to further the goals and objectives of preserving essential state records;



- 
- to **report biennially** to the Legislature and the Governor on the accomplishments and needs of the Maine State Archives;
  - to **establish a records management program** to enable the executive branch to efficiently save or dispose of its public records;
  - to effect the **transfer of state records** needing to be moved from agencies to the State Archives;
  - to authorize and verify the **destruction of non-archival public records**;
  - to **preserve the essential records of the Secretary of State**;
  - to provide reasonable **public access** to public records stored in the State Archives;
  - to **furnish copies** of archival materials at cost to members of the public or state agencies; and
  - to **provide photoreproduction and restoration services** for the use of state agencies.

#### History

The Maine State Archives was created by the Legislature in 1965 in response to a well-identified need in state government to have a coordinated and systematic approach towards records management and the preservation of permanently valuable public records. The Archives became fully operational in 1971 when it moved into the new Cultural Building.

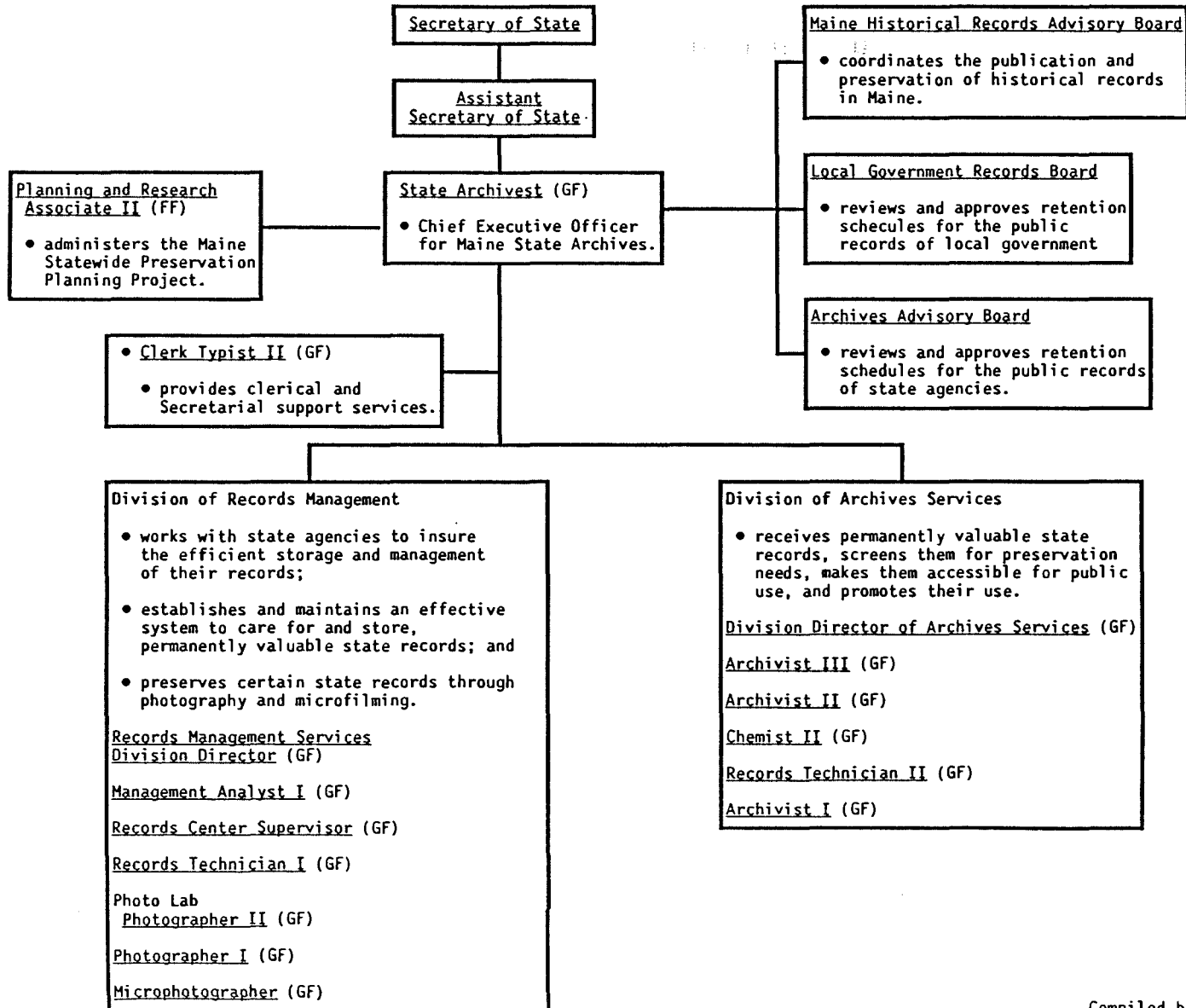
In 1986, the Maine State Archive received much needed space for the storage of non-archival public records through a recommendation of the Audit and Program Review Committee which designated the old Liquor Warehouse as a storage facility for the Maine State Archives and other cultural agencies.

#### Organization, Method of Operation, and Staffing

As mentioned earlier, the State Archives is headed by the State Archivist. Under current law (5 MRSA §93), the State Archivist is appointed by the Secretary of State for a 7 year term. The appointment is subject to review by the Committee on State and Local Government and confirmation by the Legislature. The salary for the State Archivist is determined by the Governor.

DEPARTMENT OF THE SECRETARY OF STATE  
 MAINE STATE ARCHIVES

Organizational Structure, Position Count,  
 Duties, and Funding Source



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The State Archives is identified by current law (5 MRSA §94) as a bureau within the Department of Secretary of State. That same provision also specifies that the State Archives consist of "at least two organizational units" as determined to be necessary by the Secretary of State and the State Archivist.

In accordance with the previously cited organizational requirements, the State Archives is currently organized into 2 major divisions: Records Management and Archives Services. Each of these organizational units is depicted in Chart 3 and described below:

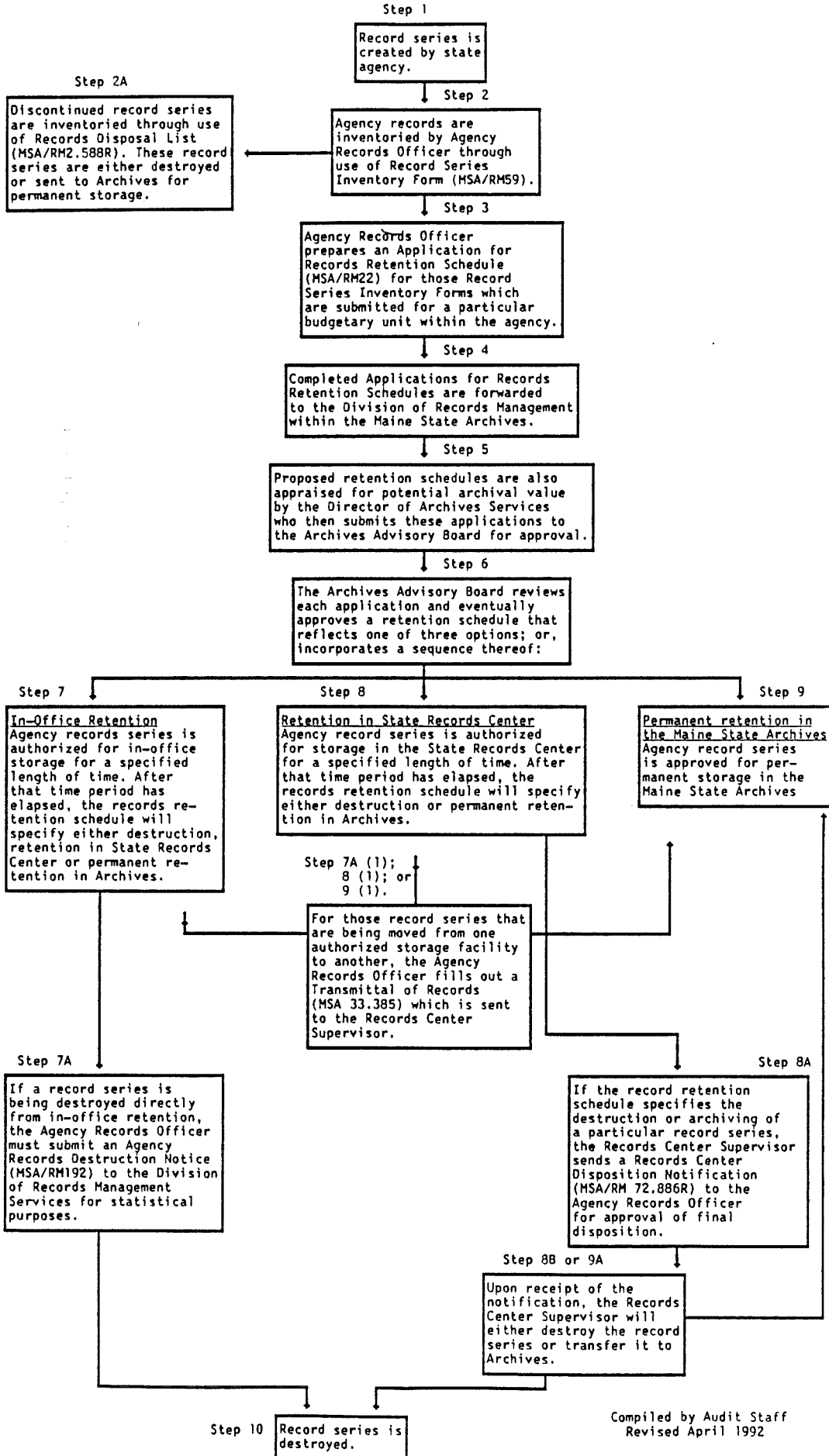
- Division of Records Management - In brief, the Division of Records Management is the organizational unit which administers the first sequence in the process by which state records are evaluated to assess the need to keep or preserve them. The role of the Division of Records Management in the records management/archival process is illustrated in Chart 4 and described in Appendix 1. More specifically, the Division of Record Management:

- works with state agencies to insure the efficient storage and management of their records;
- establishes and maintains an effective system to care for and store, permanently valuable state records; and
- preserves certain state records through photography and microfilming.

The Division of Record Management is headed by a Division Director. The Division Director is responsible for administering the Division which entails overseeing and managing the records management process with state agencies. Additional staffing for the Division of Records Management includes:

- Management Analyst I;
- Records Center Supervisor;
- Records Technician I;
- Photographer II;
- Photographer I; and
- Microphotographer;

CHART 4  
RECORDS MANAGEMENT/ARCHIVAL PROCESS  
AS ADMINISTERED BY THE MAINE STATE ARCHIVES



- Division of Archives Services - The Division of Archives Services is the organizational unit in the records management/archival process which receives permanently valuable state records, screens them for preservation needs, makes them accessible for public use, and promotes their use.

The Division of Archives Services is headed by a Division Director. Like the Director of Records Management, the Director of Archives Service administers the Division and is integrally involved in the archival process. The archival process is illustrated by Chart 4 and described in Appendix 1. The Division of Archives Service is staffed by the following positions:

- Archivist III;
- Archivist II;
- Chemist II;
- Records Technician II; and
- Archivist I.

As a part of the review of Maine State Archives, the Committee conducted a survey to all of the Records Officers in state agencies. The individuals in these designated positions regularly interact with the Maine State Archives in the administration of the Records Management/Archival process. In brief, the survey results reflected positively on the Maine State Archives. The complete survey results are included as Appendix 2.

#### Funding and Expenditures

The Maine State Archives is totally funded by the General Fund. In recent years, the Maine State Archives has had the following appropriations:

	<u>Personal Services</u>	<u>All Other</u>	<u>Capital</u>	<u>Total</u>	<u>Position Count</u>
FY 89	\$522,265	\$ 61,832	\$ 4,282	\$588,379	18
FY 90	555,521	60,451	19,929	635,901	18
FY 91	573,540	57,007	12,605	643,152	17
FY 92*	586,172	67,533	9,543	663,248	15
FY 93*	562,421	75,978	3,800	642,199	15

\* Budgeted

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## RECOMMENDATIONS

### Maine State Archives

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|-----------|----|--|
| STATUTORY | 1. | Create a definition of public records to clarify their use relative to the records management process administered by the State Archivist. |
|-----------|----|--|
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Upon review of the current statutes (5 MRSA ch. 6) governing the responsibilities of the Maine State Archivist, the Committee noted that these statutes make numerous references to "public record," "State record," and "record" in an interchangeable manner. In addition, none of these three terms is defined within the context of Archives law.

The Committee found that there is a need to define and make consistent use of one term when referring to the documents and other information mediums which are handled in the records management process which is administered by the Maine State Archives. The Committee is recommending that "public record" be used throughout the Archives statute and that this phrase be statutorily defined to accurately describe the different information mediums which are generated by state agencies. The definition decided upon by the Committee is identical in most respects to the definition of "public record" which is used in Maine's Freedom of Access Law [1 MRSA §402 (3)].

Therefore, to clarify what records are subject to the records management process for state agencies, the Committee recommends that a statutory definition of state records be created.

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- |           |    |  |
|-----------|----|--|
| STATUTORY | 2. | Create a definition of state agency to clarify which entities are subject to the records management process administered by the State Archivist. |
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Closely related to the preceding recommendation, the Committee also found a need to provide a statutory definition of what public entities are subject to the records management process administered by the State Archivist. Upon review, the Committee found that with the exception of the various institutions of public higher education, and the legislative and judicial branches, all units of state government should be included in this definition.

Therefore, the Committee recommends that law be enacted to create a definition of state agency to clarify which entities are subject to the records management process administered by the State Archivist.

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ADMINISTRATIVE 3. Pursue federal funding support for local records management programs used by municipalities for the preservation of crucial records of local and municipal government.

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As a part of its overall review of the Maine State Archives, the Committee spent time examining the current status of local records management programs. In particular, through its recommendation to continue the Local Government Records Board, (#5, page 22) the Committee has acknowledged the importance of a significant and effective local records management program.

The Committee noted that the 1991 report of the Maine Historical Records Advisory Board included the following recommendations:

- The Legislature should establish and fund a program to improve local government records management by providing technical and financial support to local governments through the Local Government Records Board;
- The Maine State Archives should continue to identify and schedule records of regional and quasi-governmental agencies so that comprehensive records management programs can be developed; and
- The Local Government Records Board should develop programs to make the best use of National

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Historical Publications and Records Commission  
resources.

During the review process, the Committee found that a number of federal agencies, including the aforementioned National Historical Publications and Records Commission and the National Endowment for the Humanities, do offer grant programs for the purpose of promoting records management programs for local government. As a rule, these grant programs provide a proportional match of federal funds to local funds. While the Committee recognizes that, due to the state's current budget problems, state funds are not likely to be available for this purpose, the Committee encourages the Maine State Archives and the Local Government Records Board to pursue any consortium of municipal or private funds which might be available to match federal funding for the purpose of preserving crucial records of local and municipal government.

Therefore to further the goal of more effective local records management, the Committee recommends that Maine State Archives pursue federal funding support for local records management programs used by municipalities for the preservation of crucial records of local and municipal government.

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ADMINISTRATIVE 4. Enter into a lease agreement to  
acquire a new microfilming camera.

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The Maine State Archives is authorized to provide centralized microfilming services to state agencies. By law, [5 MRSA §95 (13)] these services are offered at cost and all fees are deposited into the General Fund. Up until the Fall of 1991, the Maine State Archives had been offering, through its Photography Lab, a competitively priced microfilming service for over 2 years with antiquated equipment that could not be adequately and efficiently serviced. The Photo Lab used 2 microfilming cameras that were used to film large batches of documents in a rapid fashion. Unfortunately, both cameras were outdated, in very poor condition, and no longer were serviced by the manufacturers. These used cameras broke down frequently and Archives was forced to secure used parts through contacts with other camera owners.

In recent years, the Maine State Archives has attempted to receive an appropriation for a new state-of-the-art camera which would enable the Photo Lab to provide more efficient, high



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quality microfilming work to state agencies. In fact, the Archives did receive such an appropriation in the 1990-1991 biennial budget but had to "give back" the funds as a cost-saving measure.

The Committee reviewed a recent comparison of microfilming rates which included the Maine State Archives and approved private vendors. In brief, this comparison showed that on a per-image basis, the Photo Lab charges (\$.017) were significantly less than the surveyed private vendors (\$.025 to \$.035).

Upon review, the Committee found that the microfilming services provided by the Maine State Archives for state agencies represents a significant savings over the cost of these same services from the private sector. The Committee further found that the efficiency of these services would be enhanced through the leasing of a new microfilming camera, and that the current rate structure charged by Archives would allow such a camera to be leased at no appreciable increase in cost to state agencies.

Therefore, to increase efficiency at no additional cost to state agencies, the Committee recommends that Maine State Archives enter into a lease agreement to acquire a new microfilming camera.

The Committee notes that in anticipation of the Committee's apparent intent to make this recommendation, Maine State Archives has already leased a new microfilming camera.

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STATUTORY	5.	Continue the Local Government Records Board under the provisions of the Maine Sunset Law.
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The Local Government Records Board is authorized under current law (30-A MRSA ch. 15) to "... establish standards, procedures and regulations for the effective management of local government records." The Local Government Records Board is also directed under current law, to follow the principals of the overall records management program for State agencies administered by the Maine State Archives.

The Board consists of seven members:

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- the State Archivist who serves as chair;
  - the State Registrar of Vital Statistics; and
  - 5 members appointed by the Governor for 3 year terms.

Of the 5 gubernatorial appointees:

- two must be municipal officers recommended by the Maine Municipal Association; one of whom must be from a municipality of not more than 2,500 persons;
- two must be county officials; and
- one must be a public school official.

The Board is required to meet at least 4 times a year. Board members are not entitled to compensation for their Board related duties. Four members are required for a quorum. Maine State Archives is responsible for serving as secretarial to the Board and for providing any necessary administrative services.

Upon review, the Committee found that the Board has met regularly and has succeeded in working towards accomplishment of its responsibilities. In particular, the Board has adopted a set of rules for the disposition of local government records. These rules provide the legal basis by which municipal officials are required to retain certain records for a specified period of time. The Committee also noted that when possible, the Maine State Archives has worked to assist local governments with records management issues.

Therefore, to ensure the continued development of a records management process for local governments, the Committee recommends that the Local Government Records Board be continued under the provisions of the Maine Sunset Law.

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**BUREAU OF CORPORATIONS  
ELECTIONS, AND COMMISSIONS**

Purpose

The Bureau of Corporations, Elections, and Commissions has a number of principal responsibilities:

- to receive state-required records from all profit and non-profit corporation;
- to administer the registration of all marks used to signify or represent a product, service, business, or organization;
- to oversee all statewide elections and to enforce all federal election law requirements;
- to receive all commissions required from public appointees such as board members, public notaries and certain public officials;
- to administer the various filing and reporting requirements of the Uniform Commercial Code;
- to provide authentications for various types of documents;
- to administer the financial disclosure requirements for certain executive branch employees;
- to oversee and administer the requirements of the Maine Administrative Procedures Act which is followed by state agencies when they develop rules;
- to administer lobbyist registration and reporting requirements; and
- to accept and administer a wide variety of miscellaneous filings as required by state law.

History

In recent years, the Bureau of Corporations, Elections, and Commissions has experienced a significant increase in volume for

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most all of its different filing, reporting, and administrative responsibilities. This dramatic increase in activity resulted in a rather sizable backlog which drew public attention in the mid-1980's.

In response to this backlog and the mounting ineffectiveness of the Bureau's organizational predecessor, the Division of Public Administration, the Secretary of State initiated a comprehensive organizational and program review of the Division in 1988-89. As a consequence of that review, the Division of Public Administration was reorganized as the Bureau of Corporations, Elections, and Commissions.

Aside from a more appropriate organizational status, the 1989 reorganizational also realigned duties into a more cohesive and logical internal organizational framework. In addition, recommendations emanating from the review culminated in better defined administrative positions and increased professionalism for many of the subject areas.

Upon reviewing the Bureau of Corporations, Elections, and Commissions, the Committee noted that the recent reorganization had appropriately addressed many of the Bureau's long standing problems. The Committee's review of the Bureau focused on the implementation of the reorganization and any ways that it could be further refined.

Organization, Staffing,  
and Method of Operation

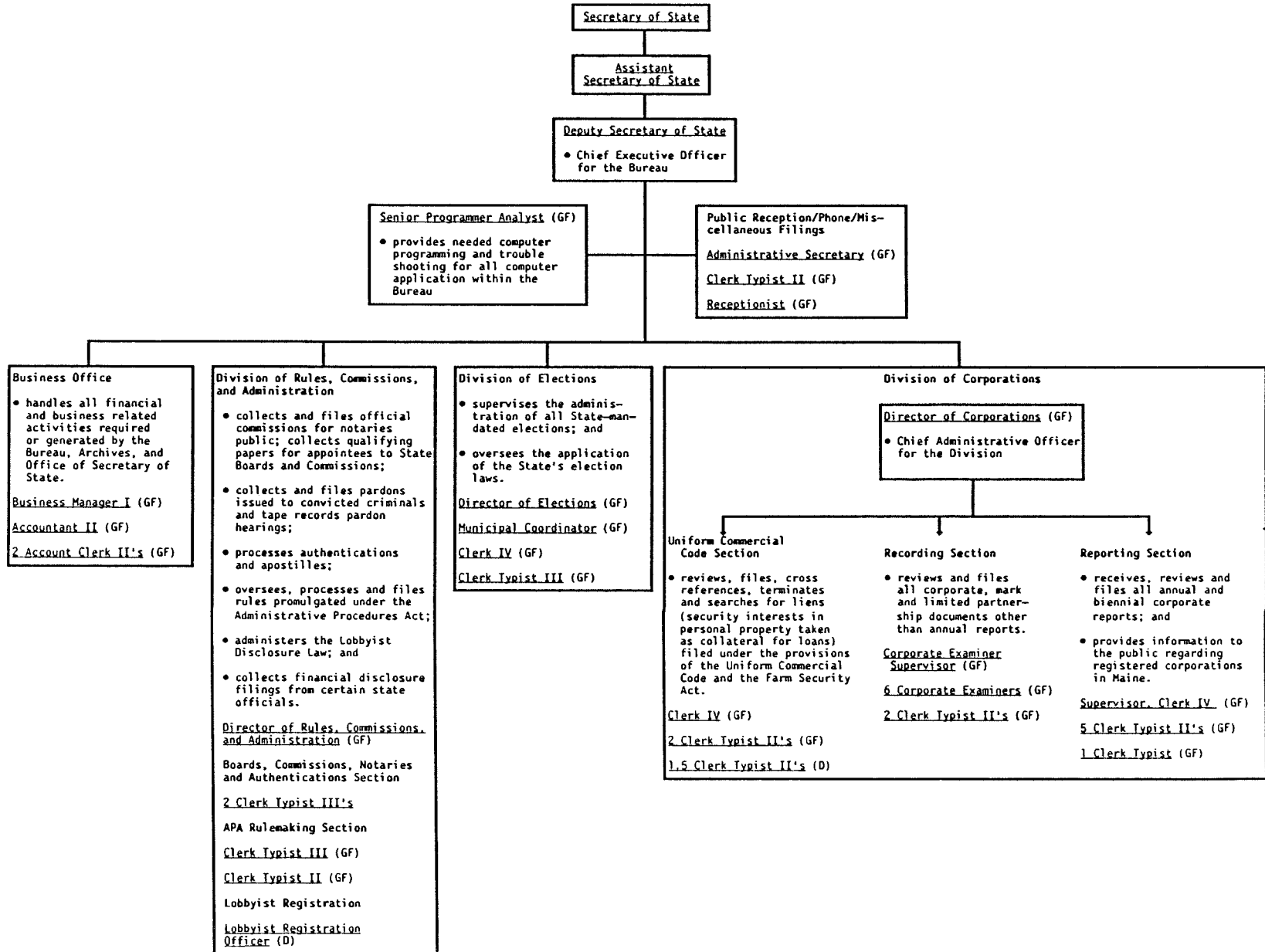
As shown in Chart 5, the Bureau of Corporations, Elections, and Commissions is headed by a Deputy Secretary of State. The Deputy Secretary of State reports to the Assistant Secretary of State who, in turn, reports to the Secretary of State.

The various duties and responsibilities assigned to the Bureau are accomplished by the organizational subunits shown in Chart 5 and briefly described below:

- Division of Corporations - administers the reporting and filing requirements for the Uniform Commercial Code, profit and non-profit corporations, registration of marks, and several other similar types of reporting/filing requirements. As of April 1992, this Division had a total of 20.5 authorized positions; 3 of which are part-time;

DEPARTMENT OF SECRETARY OF STATE  
BUREAU OF CORPORATIONS, ELECTIONS  
AND COMMISSIONS

Organizational Structure, Positions Count,  
Duties, and Funding Source



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- Division of Elections - provides technical administrative support to municipalities and general oversight for all statewide elections. As of April 1992, this Division had a total of 7 authorized positions, 3 of which are part-time; and
  - Division of Rules, Commissions, and Administration - administers a wide variety of filing requirements, the Administrative Procedures Act, the Lobbyist Disclosure Act, and financial disclosure requirements for executive officials. As of April 1992, this Division had a total of 6 positions; one of which is part-time.

In addition, the Bureau of Corporations, Elections, and Commission has the following staffing:

- a Business office which provides financial and business support services for all parts of the Department of Secretary of State except for the Division of Motor Vehicles. The Business Office is headed by a Business Manager I and is staffed by a total of 4 authorized positions;
- a staff of 3 authorized positions which performs public reception functions, answers and forwards telephone calls, and administers a large number of small miscellaneous filing requirements; and
- a Senior Programmer Analyst position which attends to the Bureau's overall computer needs on a daily basis.

#### Funding and Expenditures

With one exception, the functions of the Bureau of Corporations, Elections, and Commissions are totally funded by the General Fund. The lobbyist registration function, which is administered by a Lobbyist Registration Officer, is supported by dedicated revenues which consist of fees paid by registered lobbyists. For FY 1992, it is projected that \$44,649 will be collected in dedicated revenues from lobbyist registration fees.

For administrative purposes, the cost of the central office of the Secretary of State is included within the General Fund appropriation for the Bureau of Corporations, Elections, and Commission. In recent years, the Bureau of Corporations, Elections, and Commission has the following expenditures:

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	<u>Personal Services</u>	<u>All Other</u>	<u>Capital</u>	<u>Total</u>	<u>Position Count</u>
FY 89	\$ 861,173	\$741,528	\$ 17,344	\$1,620,045	35
FY 90	1,285,565	819,679	419,016	2,524,260	47.5
FY 91	1,430,483	927,282	408,787	2,766,552	46
FY 92*	1,472,339	540,703	30,040	2,043,082	44
FY 93*	1,464,384	653,033	125,000	2,242,417	43

\* Budgeted

## DIVISION OF ELECTIONS

### Purpose and Responsibilities

The Secretary of State is responsible for administering and overseeing all statewide elections.

As listed in Appendix 3, the Secretary of State has a lengthy set of specific constitutional and statutory responsibilities with regards to statewide elections. In general, on behalf of the Secretary of State, the Division of Elections receives and approves petitions; prepares and distributes election documents such as warrants, ballots, posters and instructional materials; and enforces various election law requirements.

### History

The Secretary of State first received responsibility for statewide elections in 1891. During that year, the Secretary of State was given the duties of printing and distributing ballots for municipalities, providing official election returns and other election returns, and administering other election-related duties.

Prior to 1989, the elections responsibilities lay within the former Division of Public Administration. The former division had 2 units which accomplished election related duties: Elections Administration and Elections Ballot Room. To provide a consolidated unit with stronger management, the 2 elections units were combined into a single Division of Elections which was one of three major divisions within the newly organized Bureau of Corporations, Elections and Commissions.

### Organization, Staffing and Method of Operation

As shown by Chart 5, the Division of Elections is headed by



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a Director. The Director reports directly to the Deputy Secretary of State, who is head of the Bureau of Corporations, Elections, and Commissions.

Currently, the Division of Elections is staffed by 5 full-time positions. These positions with a brief description of current are as follows:

- Director of Elections - This position administers the division, as well as perform many of the professional duties related to election law oversight and administration;
- Municipal Coordinator - This position functions as the Field Examiner which is authorized by statute (21-A MRSA §608) to "... instruct and assist municipal election officials in their administration of this title". In practice, the Municipal Coordinator spends a great deal of time in visiting different regions of the State to inform municipal clerks about current election law requirements and responsibilities. Whenever possible, the Municipal Coordinator tries to hold regional meetings so as to maximize coverage for large rural areas;
- Clerk IV - This position supervises the other support staff positions, orders elections materials, packs ballots, and checks initiatives and petitions for legal requirements; and
- Clerk Typist III and Clerk Typist II - Both of these positions assist in procuring and mailing election materials, perform required secretarial duties, assist in reviewing petitions/initiatives for legal requirements, enter election tabulations in the Division's computerized data base, enter names of candidates into the data base, prepare letters notifying candidates of acceptance of their petitions and placement on the ballot, and assist in the proofreading of ballots and other documents.

The Division uses these positions to accomplish the previously listed statutory duties. To illustrate how the Division works to achieve its various constitutional and statutory mandates, the Committee developed the following list of various activities:

- Objectives - The Division has formulated the following objectives:

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- to ensure the integrity of the public election process;
  - to properly print and distribute ballots and all related elections materials in a timely fashion;
  - to tabulate and certify the election results to the Governor in a timely fashion;
  - to print and distribute tabulated election returns to the public;
  - to inform the Legislature and the Governor of the impact of change in federal election laws;
  - to educate and assist municipalities in the legal requirements of the nomination, voting procedure, and reporting of election results;
  - to work with the Attorney General in certifying voting equipment for use in Maine; and
  - to propose changes in the election laws that improve the electoral process.
- Advisory Committee - The Division uses an administratively created Elections Advisory Committee to assist the Division on administrative and policy issues. This Committee is made up of municipal clerks, registrars of voters, and representatives from the League of Women Voters, the political parties and various civic groups;
  - Rules - To accomplish the more effective and consistent administration of election laws, the Division has promulgated the following sets of rules under the Administrative Procedures Act:
    - Election Recount Rules (Chapter 501); and
    - Annual waiver for making voting places more accessible to the elderly and the handicapped;

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- Voting Devices - Working with the Attorney General, the Division has formally approved the following types of voting equipment for use by municipalities in Maine:
    - Electronic voting machines which use a punch card technology (used by one municipality);
    - Shouptronic 1242 Election System which use an electronic touch pad technology (used by one municipality); and
    - Optech III-P and Optech III-C voting devices which use computerized scanning technology (used by 39 different municipalities).
  - Prepare and print ballots and other election materials for the 507 municipalities in the State

As mentioned previously, the Division is responsible for preparing election materials and the same to municipalities. For the election in 1990, the materials prepared by the Division included the following:

- 221 different paper ballots;
- a total of 100 different ballots for the various voting devices approved for use in the State of Maine;
- separate specimen ballots for each of the ballots listed above;
- 16 different warrants (by county) for use in the primary elections;
- 1 generic statewide warrant for the general election;
- a citizen's guide to the various bond issues, initiative and constitutional amendment that were on the November 1990 ballot;
- an informational poster for statewide use on the voting procedure; and
- an instructional booklet for statewide use.

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- Publications - The Division also publishes the following documents which are available to the public:

- Candidate List for Current Election
- Constitution of the State of Maine
- Election Law
- House and Senate District Maps
- Information on Initiative Legislation and the People's Veto
- Intent and Content Booklet for Referendum
- List of Cities, Towns, Plantations, Unorganized Townships with a Summary of Senate, House, County Commissioner, and Registry Districts
- List of County Commissioner Districts
- List of State House of Representatives Districts
- List of State Senate Districts
- Members of the \_\_\_th Legislature
- Municipal Clerks List
- Municipal Registrar List
- Municipalities, the County in Which Each is Located, the House and Senate Districts Each is In
- Registered and Enrolled Voters
- Running for Office in Maine
- State and County Officers

Tabulations, General Elections (each is a separate publication)

- Aroostook County Finance Committee
- County Officers
- Governor
- President and Vice-President
- Referendum Results
- State House of Representatives
- State Senate
- U.S. Congress
- U.S. Senate

Tabulations, Primary Elections (each is a separate publication)

- County Officers, Democratic
- County Officers, Republican
- Governor, Democratic
- Governor, Republican

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- State House of Representatives, Democratic
  - State House of Representatives, Republican
  - State Senate, Democratic
  - State Senate, Republican
  - U.S. Congress, Democratic
  - U.S. Congress, Republican
  - U.S. Senate, Democratic
  - U.S. Senate, Republican

### Recommendations

#### Division of Elections

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STATUTORY	6.	Authorize that warrants used to announce public elections be sent directly to municipal clerks.
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Current law (21-A MRSA §§621,622) requires that municipal officers announce elections through the use of a warrant. These laws also require that a majority of municipal officers must sign the warrant which is addressed to a constable or resident who is required to post the warrant conspicuously at least 7 days before election day. These laws prescribe the exact format and wording of each warrant.

Upon review, the Committee found that the Division of Elections produces and supplies the various municipalities with the necessary warrants. Currently, the Division sends 10 warrants to a municipal officer in each of the 670 voting precincts. At the same time, the Division also sends the same number of specimen ballots in a separate mailing to the municipal clerks in each of the 670 voting precincts.

The Committee concluded that this process could be made simpler, more effective, and cheaper by specifying in law that the warrants be sent to the municipal clerks who then obtain the signatures of a majority of the municipal officers. The Committee found that:

- the municipal officers often lose the warrants, thereby requiring a second mailing and perhaps not being able to comply with the 7 day posting deadline;
- the municipal clerk is generally responsible for

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calling the officers together for the purpose of signing the warrant; therefore, it would make sense to send the warrant to the clerk in the first place; and

- sending the warrants to the clerk would eliminate half of the costs (labor, materials, and postage) of making 2 separate mailings.

The specimen ballots sent to the clerks have the same 7 day posting requirement as the warrants. The Committee noted that a single mailing would save anywhere from several hundred to more than a thousand dollars for each warrant mailing, as well as, make more effective use of limited staff time.

Therefore, to reduce costs and simplify the overall administrative process, the Committee recommends that current law be amended to authorize that warrants used to announce public elections be sent directly to municipal clerks.

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STATUTORY            7.            Authorize the Secretary of State to work with the Attorney General in the preparation of explanatory statements published to describe each proposed constitutional amendment and statewide referendum.

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STATUTORY            8.            Eliminate the first of 2 currently required dates for the public advertising of explanatory statements regarding constitutional amendments and statewide referendum.

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Current law (1 MRSA §353) requires that the Attorney General must prepare a brief explanatory statement for each proposed constitutional amendment and statewide referendum that is presented to the voters of Maine. In addition, this provision of law requires the Attorney General to advertise this

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statement(s) in each daily newspaper not more than 45 days or less than 30 days prior to the voting and a second time, not more than 10 or less than 7 days, before the election.

Upon review, the Committee found the Attorney General has developed the required statements with the assistance of the Secretary of State but the advertising has always been arranged for, and paid by, the Secretary of State.

In 1991, the required advertising ran in the following daily newspapers:

- Bangor Daily News;
- Journal Tribune (Sanford);
- Kennebec Journal;
- Lewiston Sun;
- Times Record (Brunswick); and
- Waterville Morning Sentinel.

This advertising cost a total of \$9,392.05 which was paid by the Division of Elections.

The Committee found that the current law should be changed to:

- Authorize the Secretary of State to work with the Attorney General to develop and publish explanatory statements; and
- Eliminate the unnecessary first (30 to 45 day) advertising requirement. The Committee notes that such a change would:
  - leave the 7 to 10 day requirement which coincides with other statutory requirements that specimen ballots must be posted at least 7 days prior to the election (21-A MRSA §625) and that warrants must be posted at least 7 days prior to the election [21-A MRSA §621 (2)]; and
  - reduce current advertising costs by 50%. In 1991, this change would have saved the Secretary of State about \$4,650.

Therefore, to reflect current practice and to reduce costs, the Committee makes two recommendations. First, the Committee recommends that current law be amended to authorize the Secretary of State to work with the Attorney General in the preparation of explanatory statements published relative to each proposed

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constitutional amendment and statewide referendum. Second, the Committee recommends that current law be amended to eliminate the first of 2 currently required dates for the public advertising of explanatory statements regarding constitutional amendments and statewide referendum.

### **DIVISION OF CORPORATIONS**

As shown in Chart 5, the Division of Corporations is the largest organizational unit within the Bureau of Corporations, Elections, and Commissions. The Division is divided into 3 sections: Uniform Commercial Code (UCC), Recording and Reporting. Each section is described below followed by any subsequent recommendations.

#### **UNIFORM COMMERCIAL CODE SECTION**

##### Description and Mandate

The Uniform Commercial Code (Title 11 MRSA) governs a wide array of financial and commercial transactions. One very small part of the Uniform Commercial Code (11 MRSA §9-401) requires that filings of security interest be placed with the Secretary of State.

Upon review, the Committee found that, the purpose of a security interest, or a "lien," is to identify collateral used to secure a loan. The security interests filings that are received by the Secretary of State are similar in function to titles used for cars and mortgages used for permanent dwellings.

The "perfecting" or filing of a Uniform Commercial Code security interest with the Secretary of State has 2 main purposes:

- first, the lien acts as a public notice of the transaction in the same way as titles and mortgages; and
- Second, the filing helps to establish a priority of liens on a particular piece of collateral.

Different types of collateral that are typically financed under the Uniform Commercial Code include:

- mobile homes;
- boats;



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- snowmobiles;
  - equipment; and
  - futures (improvements to property).

In addition, the Uniform Commercial Code section also administers the Federal Farm Security Act which is similar to the Uniform Commercial Code, but specifies that crops used as collateral for financing must be secured through an Farm Security Act lien.

#### History, Organization and Staffing

The Uniform Commercial Code was enacted by the Legislature in 1963, with the filing requirement delegated to the Secretary of State. Up until 1989, the Uniform Commercial Code filings were administered by one of 7 sections within the former Division of Public Administration. To improve the administration of this duty, the Uniform Commercial Code section was placed within a newly formed Division of Corporations. This reorganization provided the section with more direct professional and managerial expertise.

As shown in Chart 5, the Uniform Commercial Code Section reports directly to the Director of the Division of Corporations. The Uniform Commercial Code Section is currently staffed by the following positions:

- Clerk IV (Permanent, Full-time);
- Clerk Typist II (Permanent, Full-time);
- Clerk Typist II (Permanent, Full-time);
- Clerk Typist II (Full-time, Project); and
- Clerk Typist II (Half-time, project).

#### Method of Operation

Currently, the Uniform Commercial Code Section processes most of the various Uniform Commercial Code filings through the use of a manual system. The Uniform Commercial Code Section is responsible for administering 3 types of Uniform Commercial Code Forms. These forms are approved by the Secretary of State, but are printed by a private publisher and obtained from that publisher. These 3 forms are briefly described as follows:

- Uniform Commercial Code 1 (UCC 1) - This form functions as the original financing statement. Each UCC 1 is valid for a 5 year period. After the 5 year period is up, a UCC 1 can be renewed through use of a UCC 3 (to be described below)

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within 6 months of the expiration date. If the UCC 1 is not renewed in that time period, a new UCC 1 must be filed.

The UCC 1 includes the following information:

- debtor(s) name and address;
- secured party(s) name and address;
- date and time of filing along with a sequential filing number assigned by the UCC Section;
- description of the collateral;
- name and address of assignee (if any) for secured party;
- signature of debtor (not necessary if a contract with debtor's signature is attached); and
- signature of secured party.

The filing fee for a UCC 1 is \$10. Upon receipt of a UCC 1, the first 2 copies are filed by the UCC staff; the first copy is filed alphabetically by debtor name, the second copy is filed numerically by filing number. The secured party keeps one copy and then receives a another copy from the Secretary of State as an acknowledgment of the filing. This copy can also be used by the secured party to terminate the transaction when the loan has been repaid. The debtor also keeps a copy of the original UCC 1.

Historically, the UCC Section has not experienced significant backlogs in the filing of these forms;

- Uniform Commercial Code 3 (UCC 3) - This form has 3 possible purposes or uses:
  - first, it can be used to amend information contained in the original UCC 1. The types of information that may be changed include address, a partial release of the lien, or assignment to a different secured party;
  - second, it can be used to continue the UCC

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1. If used in this manner, the continuation is valid for an additional 5 year period;

- third, it can be used to terminate a UCC 1. If a UCC 3 is used for termination, this action has a filing fee cost of \$15. If the previously mentioned 3rd copy of the UCC 1 is used for termination, this action requires a \$10 filing fee.

The content of the UCC 3 is similar to the UCC 1 with clearly marked boxes which are to be used to indicate the manner in which the form will be used; i.e. continuation, partial release, assignment, or other.

The filing fee for a UCC 3 which is not used for termination purposes is \$10. Upon receipt of a UCC 3, it is filed in the same manner as the UCC 1's; alphabetical filings are attached behind the original UCC 1. Numerical filings are also done. The filing process for a UCC 3 can be time consuming depending on the action taken. In recent times, there has been a significant backlog of UCC 3 filings. This backlog has varied dramatically with staffing levels of the UCC Section. The UCC 3 backlog tends to compete with UCC 11 backlogs (to be described below); and

- Uniform Commercial Code 11 (UCC 11) - This form has 2 different purposes or uses:
  - first, the UCC 11 can be used as an information request; i.e., are there any UCC 1's filed for a particular debtor? If used in this manner, the bottom part of the UCC 11 is filled in by the UCC Section to certify the existence of any UCC 1's for a particular debtor. In addition, copies of the top portions of any current UCC 1's are copied. An information request costs \$10 for the certification statement; the first six UCC filing copies are provided free, and any additional UCC 1's are charged at \$.50 per group of 6; and
  - second, the UCC 11 can be used to request complete copies of any UCC 1's for a particular debtor. This request will include copies of all other related

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documents such as attached contracts and UCC 3's. A UCC 11 used as a copy request costs \$2.00 for the first 3 page statement, and \$.50 for each additional page.

The content of UCC 11's is as follows:

- Debtor(s) name, address and business name and address;
- name and address of person requesting information or copies;
- date received by UCC section with filing number;
- indication as to whether it is an information or copy request; and
- certification/billing statement.

In practice, most information or copy requestors do not use the UCC 11; thereby necessitating the UCC Section staff to fill out the forms. Also, most requests are not accompanied by the proper fee and are billed upon the sending of the information or copy requested.

Processing of each UCC 11 is a very time intensive process. Each UCC 11 is double checked by staff for accuracy; this double checking requires a virtual duplication of the file search. There has been a historical backlog of UCC 11 filings. This backlog has also risen and fallen in accordance with UCC section staffing levels and competition from the termination backlog.

In Fiscal Year 1991, there was a total of 76,862 filings received by the UCC Section. Subtotals for these filings are as follows:

- UCC 1's and 3's (non-terminations) totaled 46,913;
- UCC 11's totaled 8,055; and
- UCC 1's and 3's used as terminations totaled 21,894.

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These various UCC filings generated a total of \$816,662 in revenues to the General Fund for Fiscal Year 1991. Subtotals for each type of filing are as follows:

- non-termination UCC 1's generated \$378,037;
- Non-termination UCC 3's generated \$53,184;
- UCC 11's generated \$161,411; and
- Terminations (UCC 1's and 3's) generated \$224,030.

The UCC Section is scheduled to be included in the Bureau's new computerized system by June of 1992. The implementation of this system will permit the section to enter information electronically for data retrieval purposes as well as to capture images of hard copy forms which can be electronically retrieved without further use of the hard (or paper) copy. The UCC Section will also be able to produce computerized reports which will more efficiently accomplish many of the present time consuming paper searches and photo copying.

It should be noted that, although the Committee did not issue any formal recommendations regarding the considerable past backlogs of Uniform Commercial Code filings, it did take action to temporarily help alleviate the problem. Appendix 4 consists of a letter dated June 18, 1991 sent by the Committee to the Joint Standing Committee on Appropriation and Financial Affairs. In brief, that letter strongly recommends the authorization of 3 project positions for the purpose of dealing with the increasing backlog of the Uniform Commercial Code filings.

The end result of this recommendation was the establishment of 1.5 project positions for FY 1992. As of April 1992, there is no longer a backlog in Uniform Commercial Code filings and the 1.5 project positions have been reauthorized for FY 1993.

### Recording and Reporting Sections

#### Description and Mandate

Current Maine law includes a number of legal requirements for corporations which do business or have activity in the State of Maine. These complicated and lengthy requirements are found in the following parts of Maine law:

- laws pertaining to **business corporations** are generally found in **Title 13-A**;

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- laws pertaining to **non-profit corporations** are found in **Ch.81 of Title 13** and in **Title 13-B**;
  - laws pertaining to **cooperatives** are found in **Chapters 85 and 87 of Title 13** and **Chapter 35-A of Title 13-B**; and
  - laws pertaining to **Religious Societies** are found in **Chapter 93 of Title 13**.

Spread throughout these sections are numerous **reporting** and **filing requirements**. In brief, all of these entities have to satisfy certain reporting and filing requirements with the Secretary of State. As with the many other varied tasks assigned to the Secretary of State, these corporate reporting and filing responsibilities are largely ministerial functions; i.e. the Division of Corporations acts on behalf of the Secretary of State in administering the process by which the various types of corporations provide public notice of their existence and what individuals are accountable for that entity's operation. The Secretary of State does not have any regulatory or oversight authority relative to the operations, activity, or conduct of a corporation.

#### History

The Secretary of State was first given responsibility for receiving corporate certificates of organization in 1862. The administrative requirements of this duty resulted in the formation of a Corporations Division in 1870.

In recent times, the former Corporations Division had been reorganized into a part of the former Division of Public Administration. Within that entity, there were two organizational units which were responsible for corporations:

- Reporting which was headed by a Supervisor (Range 15) and had a clerical staff of 5 full-time and 2 seasonal positions; and
- Recording which had identical staffing to that of Reporting.

The 1989 organizational study found that like other functions within the Division of Public Administration, the Reporting and Recording corporate functions were in need of more professional management positions to help increase efficiency and effectiveness. Accordingly, the Legislature approved a reorganization in 1989 which placed the corporate Reporting and

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Recording Sections (along with the UCC Section) in a new Division of Corporations.

Organization and Staffing

As can be seen in Chart 5, the Reporting and Recording Sections are within the Division of Corporations, which is itself a part of the Bureau of Corporations, Elections, and Commissions. The Reporting Section is headed by a Clerk IV who functions as Supervisor; the Recording Section is headed by a Corporate Examiner Supervisor. Both of these positions report directly to the Director of Corporations who in turn reports to the bureau head, a Deputy Secretary of State.

The Reporting and Corporate Sections have the following staffing levels:

Reporting

- Clerk IV; Supervisor;
- 5 Clerk Typist II's;
- 1 seasonal (15 weeks) Clerk Typist I

Recording

- Corporate Examiner; Supervisor
- 6 Corporate Examiners, and
- 2 Clerk Typist IIs.

Method of Operations; Reporting Section

The Reporting Section has several principal responsibilities:

- to file reports filed by different types of business and non-profit corporations. The purpose of these statutorily required reports is to provide public information on the primary individuals within the corporation; i.e. who is ultimately accountable for the corporation's activity? These reports are used by the general public and the legal, banking, business, and non-profit communities.

There are actually 3 different types of corporate reports filed with the reporting section:

1. Annual Reports for Business Corporations

Under current Maine law (13-A MRSA §1301) all business corporations on file with the Secretary of State as of December 31 for a calendar year must submit an Annual Report (Form No. MBC A-13 REV 91) by April 30 of the next calendar year. The annual reports must be accompanied by a \$60 filing fee.

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Currently, there are approximately 26,500 active Business Corporations which report annually to the Reporting Section; thereby generating roughly \$1,590,000 in undedicated revenue for the General Fund each year.

To facilitate the reporting process, the Reporting Section preprints a computerized report form for most corporations. The preprinted form includes the exact name and address of the corporation and the clerk (domestic) or registered agent (foreign); the corporation's file, or charter, number; and the corporation's jurisdiction of incorporations. The corporation returns the form with completed information relating to character of business, names and addresses of principal officers, the name and address of at least one shareholder, and an authorized signature.

Business corporations that are late in filing are subject to a late filing penalty of \$25 per month, or portion thereof, with a maximum penalty of \$300. Late reporting corporations are notified by a computer generated letter of their failure to report and are informed that their charter (or legal authority to do business in Maine) will be suspended 30 days after the date of the letter. The Reporting Section sent out more than 5000 of these letters for calendar year 1991.

Business corporations that have been suspended can be reinstated upon the payment of the required filing fee and penalty. 3829 corporations of all types had been suspended for failure to report for calendar year 1991.

2. Biennial Reports for Non-Profit Corporations. Current Maine law (13-B MRSA §1301) requires that each non-profit corporation must file reports with the Secretary of State on a biennial basis. The reporting requirements are essentially identical to those for business corporations except for 2 provisions.

- non-profit corporations are only required to report (Form #MNPCA-13 REV 91) every other year; and
- there is no filing fee for non-profit



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corporations that file on a timely basis. Similarly, the penalties and fees for non-profit corporations are generally lower than those charged for business corporations.

There are currently about 7,000 active non-profit corporations on file with the Secretary of State.

### 3. Annual Reports for Domestic Condominium Corporations

Current Maine law (13-B MRSA §1301-A) requires that all Domestic Condominium Corporations on file with the Secretary of State must file annual reports (Form #DCC1). Domestic Condominium Corporations are non-profit entities which were recently required by the Legislature to file annual reports with \$45 filing fees. There are approximately 500 Domestic Condominium Corporations on file with the Secretary of State; thereby generating \$22,500 in undedicated revenues to the General Fund on an annual basis.

- Aside from the duty of receiving corporate reports, the Reporting Section is also responsible for responding to requests for information about corporations. This responsibility is administered in several ways:

- First, the Reporting Section responds to about 200 telephone calls per day. These callers request information about corporations on file with the Secretary of State. The Reporting Sections will provide the following information over the phone:

- stock information;
- addresses;
- date of incorporation;
- status (active, suspended, good standing etc.);
- exact name and punctuation of corporate name; and
- name and address of clerk or registered agent.

The Reporting Section will not provide information over the telephone about principal offices and upper and lower case type set of the registered corporate name;

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- second, the Reporting Section also completes information searches upon written request. These information searches involve a sometimes lengthy search through various sources of corporate records held by the Secretary of State. The Reporting Section uses a standard form to respond to a written information request. The Reporting Section completed 4300 information requests during calendar year 1991. There is no fee for this service;
  - The Reporting Section also will issue, upon written request, Certificates of Good Standing. Corporations will request this documentation of their legal status when applying for a loan. Certificates of Good Standing will be issued for those corporations who have maintained a registered agent/clerk in an in-state office and have filed timely annual (biennial) reports. If a corporation does not qualify for a Certificate of Good Standing, the Recording Section will, when appropriate, issue a Certificate of Legal Existence.

These various certificates can be requested in either long or short forms. The long form provides an annotated list of any amendments (or changes) that have been filed with the Secretary of State. The fees for certificates range from \$35 for long forms for business corporations to \$5 for non-profit corporations. The Reporting Section issued a total of 3016 certificates (and Diligent Searches) for calendar year 1991.

Closely related to the issuance of Certificates, is the Recording Section's issuance of Diligent Searches. Diligent Searches are conducted when someone needs information regarding the inactive corporation (or the use of a registered name or mark). Less than 50 Diligent Searches are requested per year. Diligent Searches have a fee of \$45, and

- The final responsibility of the Reporting Section, is to provide, upon request, copies of the various filing forms used by corporations for their interactions with the Recording Section.

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Method of Operation; Recording Section

The Recording Section has several principal responsibilities:

- first, the Recording Section maintains public records that have to do with:
  - corporations;
  - limited partnerships;
  - marks; and
  - trading stamps;
- second, the Recording Section determines name availability for corporations, marks, and limited partnerships; and
- third, the Recording Section provides filing assistance to the public for all documents except annual and biennial reports handled by the Reporting section.

A brief description of these responsibilities is as follows:

- Filing requirements for corporations. All corporations intending to do business in Maine must meet certain filing requirements. Although there are many specific forms, there are a number of basic forms that are used frequently. Each type of corporation (profit, non-profit and foreign and domestic) have their specific forms for the various functions listed below. The following descriptions relate to the forms and fees used for domestic business corporations:
  - Application for Reservation of Corporate Name. Used by an applicant to assess name availability. If the corporate name is available, it is reserved for the applicant for 120 days. This form has a filing fee of \$20. In FY 1991, the Recording Section accepted for filing 942 of these applications;
  - Articles of Incorporation. Used by a business entity to incorporate in the State of Maine. This form requires basic information regarding the:

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- corporate name;
  - clerk;
  - Board of Directors;
  - type of stock;
  - meeting location;
  - preemptive rights; and
  - optional information.

For domestic business corporations, there is a minimum filing fee of \$105; \$75 for the filing of articles and an accelerated fee based on stock volume. For FY 1991, the Recording Section accepted 2,773 Articles of Incorporation for filing;

- Articles of Amendment. Used for any changes in corporate name, stock change, or the number of individuals on the Board of Directors. Depending on the type of change, filing fee for this form start at \$35;
- Statement of Intention to do Business Under an Assumed Name. Used by corporations who wish to do business under another name. This form has a filing fee of \$105;
- Change of Clerk or Registered Office or Both. Used by corporations to change clerks and/or registered offices. This form has a filing fee of \$20;
- Articles of Merger. Used for the merger of two corporations. This form has a variable fee which starts at \$80;
- Application for Excuse. Used by corporations which do not want to do business at the current time and thereby want to be exempted from the annual reporting requirement. Corporations that file this form have their corporate name protected for 5 years. This form has a filing fee of \$20;
- State of Intent to Dissolve. Used by those corporations that plan to dissolve. The purpose of this form is to provide public notice to all interested parties of the planned dissolution. Copies of the form must be sent to all creditors and the State

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Tax Assessor. This form has a filing fee of \$20;

- Articles of Dissolution. Used to dissolve a corporation. This form also attests to the absence of all debts and liabilities and that all assets have been distributed. The filing fee for this form is \$35.

The Recording Section revises all corporate filings for completeness. These documents, or any other corporate filing documents, that are not properly submitted are returned by the Recording Section through use of a Filing Assistance Notice which specifies the particular filing requirement that has not been met;

- Filing Requirements for Limited Partnerships. A Partnership is a voluntary association of 2 or more people who come together to do business. Partnerships have a certain tax status and each partner has a full liability exposure for the partnership. A Limited Partnership includes general partners with full exposure liabilities and limited partners whose liability is equal to their investment.

The current Limited Partnership Act has the following features:

- specific requirements for the filings of limited partnerships;
- the certificates will reflect a clear purpose of the Limited Partnership for the public reader; and
- Limited Partnerships will only have to disclose the names of limited partners when so requested by the Secretary of State.

The basic filing fee for certificates under current law is \$250. Currently there are more than 1,500 Limited Partnerships doing business in Maine. Originally, the Secretary of State was authorized a limited-period position (\$14,284) to help administer the provisions of the new law. However, this position was eliminated as a cost saving measure to help offset the budget shortfall for FY 1992.

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- Registration of Marks. Under current law (10 MRSA Ch. 301-A) any unique mark or symbol used by a person(s) to identify a particular product, service, business or organization may be registered with the Secretary of State for exclusive use. The term "mark" includes the meanings:
    - a trademark is any word, name, symbol, or device used to identify a particular piece of merchandise;
    - a service mark is any mark used to identify services provided by one person (or company);
    - a certification mark is used to signify that a particular product or service, was made, or provided by, a particular person or group. A certification mark is not used to identify the product (trademark) but rather the origin of how/where the product was made; and
    - a collective mark can be either a trademark or a service mark used to identify membership in an organization such as cooperatives and unions.

Individuals may apply to the Recording Section for registration of a mark by use of the Application for Registration of Marks. Marks are registered according to 45 different statutory classifications for goods and services such as farm products (goods) and insurance (service). The use of classifications allows the use of the same name, title, or symbol for different products and services.

Upon submission of the Application Form, which has a filing fee of \$50 for the first class and \$10 for each additional class, staff from the Recording Section will check the proposed mark against existing registered marks for any similarity. Each applicant must provide three copies of the mark to be registered. If the Recording Section staff finds that the proposed mark is too similar to a registered mark then the application is rejected unless the registered mark owner gives written permission for the use of the proposed mark.

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The registration for a mark is valid for a 10 year period, and can be renewed for successive 10 year periods. Marks can also be assigned from one individual to another through use of an Assignment of Trademark or Services Mark Form. These forms have a filing fee of \$40. There are currently more than 3,000 marks registered with the Secretary of State.

- Trading Stamp Registration. The final responsibility of the Recording Section is to administer the registration requirements (10 MRSA sub-§1251-1256) for any person distributing or redeeming trading stamps in Maine. Applicants are required to use a Statement of Registration of Trading Stamp Company. These forms have a filing fee which is based on gross income, with a minimum fee of \$100. Currently, there are only two trading stamp companies registered with the Secretary of State.

**Recommendations,**  
**Division of Corporations**

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STATUTORY	9.	Authorize the Secretary of State to charge fees for routine information requests made by the public.
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Upon review, the Committee found that the Reporting Section of the Division of Corporations presently responds to more than 4,000 requests per year for information on corporations. The Reporting Section makes use of a standard form to provide the following information about a corporation(s):

- name of corporation;
- state in which corporation is located;
- status (active, inactive, suspended, etc.); and
- name of Clerk/Registered Agent and Registered Office.

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The Committee gathered information which indicates that an information search can take anywhere from 5 minutes to one-half hour. An information search can involve the following steps:

- searching the electronic data base;
- searching the active card file for corporations that may not be on the data base;
- searching the inactive card file which includes all corporations within the past 3 years and all corporations excused within the past 5 years;
- searching through all excused cards dating back more than 5 years;
- searching through all suspended cards dating back more than 3 years;
- searching through all revoked foreign corporation cards;
- searching through all dissolved corporation cards;
- searching through old index card file for old, inactive corporations which may or may not have a known status; and
- searching the index for Private and Special Laws for the years 1820 to 1944 to review legislatively enacted charters.

The Reporting Section completed and sent out 4,300 information searches during calendar year 1991.

Given the potential length of an information search and the high frequency of information requests from the public, the Committee finds that a fee of \$5 for this service is justified. Therefore, the Committee recommends that current law be amended to authorize the Secretary of State to charge a \$5 fee for routine information requests from the public.

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STATUTORY

10.

Establish that all non-profit corporations will be required to report on an annual basis to the Secretary of State and to pay a \$20 reporting fee.

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STATUTORY            11.            Repeal the separate statutory reporting requirement for domestic Condominium Corporations.

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Current law contains a number of requirements relating to non-profit corporations:

- most non-profit corporations have to report on a biennial basis and do not have to pay a reporting fee (13-B MRSA §1301); and
- as of June 1, 1991, Domestic Condominium Corporations (which are non-profit) have had to report annually and pay a fee of \$45 (33 MRSA §1301-A). There are roughly 500 such corporations in the state; thereby generating \$22,500 in non-dedicated revenue to the General Fund on an annual basis.

Upon review, the Committee concluded that there are a number of administrative difficulties with these provisions:

- the biennial reporting requirements for non-profit corporations is accomplished by having those whose name starts with A to L report on even numbered years and those from M to Z on odd numbered years. This division is difficult to administer when corporations change names;
- the current computerized system has difficulty in determining which corporations should report in a given year. For example, the present computerized system cannot disregard the use of "The" as a first word in a title; and
- The Recording Section of the Division of Corporations has to manually administer the new Domestic Condominium Corporation reporting requirement and has had trouble determining which corporations need to comply. The name of a Domestic Condominium corporation may not reflect its identity as such a corporation.

After a consideration of these issues the Committee found the following:

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- there is no discernible public policy reason to single out domestic condominium corporations from other non-profit corporations and require them to pay a high (\$45) annual fee; and
  - to reduce the current difficulties in administering a "split" biennial reporting requirement for non-profit corporations and to partially reflect the cost of processing 7,500 non-profit reports, the Committee favors an annual reporting requirement for all non-profit corporations (including domestic condominium corporations) and authorizing the Secretary of State to charge a \$20 reporting fee for all non-profit corporations.

Therefore, to simplify the administrative process, to partially reflect the administrative costs incurred in the processing of reports, and to discontinue an unwarranted high filing fee requirement for a particular segment of the non-profit corporation population in Maine, the Committee makes two recommendations. First, the Committee recommends that current law be amended to establish that all non-profit corporations will be required to report on an annual basis with the Secretary of State and to pay a \$20 fee. Second, the Committee also recommends that current law be amended to repeal the separate statutory reporting requirement for Domestic Condominium Corporations.

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STATUTORY	12.	Repeal the present requirement that Trading Stamp Companies must file annually with the Secretary of State.
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Current Maine law (10 MRSA §§1251-1256) requires that any person (or organization) shall not distribute or redeem trading stamps without first filing with the Recording Section (Secretary of State). This filing requirement has a sliding scale which is based on gross income with a minimum fee of \$100.

Upon review, the Committee found that there are two small companies that currently file under the provisions of this law; both paying the minimum fee of \$100. The Committee also noted that, in recent years, the Division of Corporations has not

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received any public inquires about registered Trading Stamp Companies.

Given that the Division of Corporations never receives any public inquiries for information on Trading Stamp Companies, the Committee found that there does not appear to be any apparent reason for this registration requirement to continue. Therefore, to eliminate an obsolete filing requirement, the Committee recommends that current law be amended to repeal the present requirement that Trading Stamp Companies must file annually with the Secretary of State.

## **Division of Rules, Commissions, and Administration**

### Purpose and Responsibilities

As mentioned previously, the Secretary of State has the broad responsibility of preserving and protecting the official records of the state of Maine. More specifically, the Division of Rules, Commissions, and Administration has responsibility within the Bureau for virtually all such functions not pertaining to elections or corporations. As stated in law, these responsibilities include:

- administering the sets of laws (3 MRSA §311 et. seq.) governing **lobbyist disclosure**;
- administering the statutory duties (5 MRSA §82) associated with the appointment and registration of **notaries public**;
- administering the statutory requirements (5 MRSA §6) for **certificates of qualification for appointed public officials**;
- administering the statutory requirements (5 MRSA §19) for **financial disclosure by certain executive employees**;
- administering the statutory requirements (5 MRSA §8051 et. seq.) of the **Administrative Procedures Act**; and
- receiving and filing all **pardons** issued to convicts (15 MRSA §1521).

### History

The Division of Rules, Commissions, and Administration is a

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relatively new organizational unit within the Department of Secretary of State. In its 1989 report, the Organizational Review Committee recommended to the Legislature that such a division be created to promote efficiency and to build appropriate internal management structure. Prior to 1989, there was not a comparably distinct organizational unit to deal with the functions handled by the current Division.

### Organization

As shown in Chart 5, the Division of Rules, Commissions and Administration is headed by a Director who reports to the head of the Bureau, a Deputy Secretary of State.

The various functions within the Division report directly to the Director. In addition to being the chief executive officer and administrator for the Division, the present Director also has a number of additional duties:

- designated as the Bureau Chief when the Deputy Secretary of State is absent;
- Safety Officer;
- Records Manager;
- drafts department wide policies;
- Transition Team Coordinator (handles employee layoffs, bumping, etc.);
- Chief back-up to Computer System Administrator;
- Serves on Ad-hoc Computer Advisory Committees (Department);
- Space Coordinator;
- Inventory Control Officer; and
- Training Coordinator.

The Division of Rules, Commissions, and Administration is organized in a relatively simple fashion. Each specific responsibility is assigned to a particular staff person(s). This wide assortment of duties, the administrative process, and the staffing are described in the following sections:

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## 1. Administrative Procedures Act

Current Maine law (5 MRSA, Ch. 375), referred to as the Maine Administrative Procedures Act, requires that when mandated to do so applicable state agencies must develop rules which are designed to administer statutory law. Rules are specifically defined as the,

"...whole or any part of every regulation, standard, code, statement of policy, or other agency statement of general applicability, including the amendment, suspension or repeal of any prior rule, that is or is intended to be publicly enforceable and implements, interprets or makes specific the law administered by the agencies or describes the procedures or practices of the agency." (5 MRSA §8002 (9) A)

All state agencies do not necessarily have rule marking authority; such authority is usually mandated by statute for each agency on a case-by-case basis. When an agency has rule marking authority, it is required to follow the requirements of the Maine Administrative Procedures Act. The Administrative Procedures Act specifies a process which state agencies must follow. The Secretary of State has a mandated role of administering the Administrative Procedures Act and serving as a repository for a current copy of all rules promulgated by state agencies under the Administrative Procedures Act.

The present process for developing rules under the Administrative Procedures Act, and responsibilities of the Division, can be briefly summarized as follows:

### Step 1 - Planning

An agency ascertains the need for a particular rule and reviews its own authorizing statutes and the Administrative Procedures Act for procedural requirements.

### Step 2 - Notice of Proposed Rule

Agencies are required to have a "Notice of Rulemaking Proposal" published in a statewide newspaper 17-24 days before any scheduled hearing; and if no hearing has been scheduled, the agency must allow 30 days for public comment before the rule is to take effect. The Division, acting for the Secretary of State, is responsible for

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coordinating the advertising process. In particular, agencies are required to submit to the Division one copy of the following:

- Rulemaking proposal Form (MAPA 3). This form serves as the text for the actual newspaper advertisement;
- Copy of the proposed rule(s). A complete text of the proposed rule;
- Checklist. This statutorily prescribed form requires the agency to complete certain steps for issuing a proposed rule; and
- Rulemaking Fact sheet. This statutorily prescribed form requires the agency to provide concise summaries of need, purpose/operation, analysis, and fiscal impact. Agencies are also required to send copies of this form to the Legislative Council.

Upon receipt of these documents, the Division arranges for publication of all proposals (MAPA 3) received during the prior week in the following 7 newspapers every Wednesday:

- Bangor Daily News;
- Biddeford Journal Tribune;
- Brunswick Times-Record;
- Kennebec Journal;
- Portland Press Herald;
- Lewiston Sun-Journal; and
- Waterville Morning Sentinel.

The Division pays for these ads out of its own operating funds, and then bills agencies on a pro-rata basis for the cost of their ads.

### Step 3 - Public Participation

The Administrative Procedures Act mandates that the rulemaking agency provide the opportunity for public participation although hearings are not necessarily required. There is not any specific responsibility mandated by law for the Secretary of State in this step.

### Step 4 - Adoption

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After fulfilling any applicable notice and hearing requirements, the agency makes a decision as whether or not the rule should be formally adopted. The agency has to make such a decision within 120 days after the deadline for public comment.

#### Step 5 - Filing

If the agency has decided to adopt the rule the agency must submit the following to the Division:

- Cover sheet (MAPA-1) - provides factual information on rule and an authorized signature from a top agency official and the signature of the Attorney General attesting to the form and legality of the rule.
- Fact sheet - updated if necessary;
- Checklist - updated from proposal stage; and
- 3 copies of the Rule(s) - with a basis statement and content summary.

The Division has a number of specified formats by which an agency is required to comply for the filing of a rule. Rules are not effective until the filing requirements have been met. Upon receipt of the rule, the Division stamps each copy as "Accepted for Filing", keeps 2 copies for filing purposes, and returns the third copy to a previously designated liaison person with the agency.

#### Step 6 - Filings of current rules

The Division maintains an up-to-date collection of all current agency rules. These rules are available for public use and copies can be purchased at a price which is equal to the Division's actual cost of copying.

The Division administers this process through the services of one Clerk Typist III position. In addition, there is a 20 weeks per year Clerk Typist II position. As of April 1992, there were a total of 1,823 rules filed with the Division.

As a part of its review of the Division, the Committee examined the continuing need to have rules on a computer data base, or "machine-readable format". The Committee noted that having rules in a single data base would promote public

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accessibility, would achieve greater consistency in style and format, and would simplify the process, and reduce future costs for agencies when rules need to be amended. According to recent figures supplied to the Committee, 49 rules had been entered into a uniform data base, 37 rules needed final proofreading, and 157 rules had been entered but needed extensive editing for format and accuracy.

This issue has been recently addressed by the Commission on the Codification of Rules which recommended that agencies be required to submit rules in a uniform electronic data base format as resources permit. As a result of this recommendation, PL 1991 Ch. 554 was enacted which contained such a requirement.

Upon review, the Committee found that the Division has a goal of gradual codification of the rules, as resources permit. The Committee found that it would cost between \$50,000 to \$100,000 to contract with a private firm to convert all existing rules into a single machine readable format.

Finally, the Division has two other Administrative Procedures Act related responsibilities:

- First, upon request, the Division will provide certified copies of rules and the laws of Maine. Certificates are provided at a charge of \$5.00 and actual copies at 20¢ per page. On an annual basis, the Division processes approximately 80 requests for certified copies of parts of Maine law and 75 certified copies of different rules; and
- second, the Division is also responsible for receiving a copy of an agency's projected regulatory agenda for the upcoming year. This requirement is mandated by 5 MRSa §8060.

## 2. Lobbyist Registration

Current Maine Law (3 MRSa, Chapter 15) requires that individuals who seek to influence legislative action through direct communication with any official in the legislative branch, and are specifically reimbursed for that activity, must register with the Secretary of State as a Lobbyist. The Division is that part of the Department of Secretary of State which is responsible for administering this statutory requirement.

The Lobbyist Disclosure Procedures require that all Lobbyists employed specifically for lobbying purposes and who work more than 8 hours per month on lobbying must complete and



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submit, with his or her employer, a joint registration form no later than 15 days after lobbying activities have taken place. This joint registration form must be accompanied by a \$100 fee. Any registrations which are late are subject to a \$100 fine. The form collects information regarding:

- name and address of lobbyist and employer;
- date of lobbying commencement;
- compensation arrangement;
- if lobbyist is not an individual, what individuals will be acting as lobbyist(s) for the firm; and
- authorizing signatures.

Once registered, lobbyists are required to submit several other forms:

- Lobbyist Disclosure Monthly Reports - must be submitted by the 15th of the month following the month being reported on. Lobbyists are required to submit a monthly report, regardless of whether they lobbied or not. The Division uses 2 forms for this purpose; one for lobbying activity which occurred and one which indicates that no lobbying took place. Lobbyists are only required to submit these forms during regular sessions of the Legislature and any special sessions in which lobbying has occurred. Any monthly reports that are submitted late are subject to a \$50 fine; and
- Lobbyist/Employer Annual Disclosure Report - This report must be jointly filed by January 30 following the year in which lobbying activities occurred. Late reports are subject to a \$100 fine. This report solicits information regarding:
  - names and addresses of principal lobbyist(s) and employer;
  - total compensation, spent for lobbying activities;
  - total compensation paid to individual lobbyist;
  - total expenditures directed to or on behalf of any legislative official;
  - expenditures of more than \$25 per individual legislative official;

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- list of official documents that were the subject of lobbying activities;
  - list of legislative actions which the lobbyist attempted to lobby on; and
  - authorized signatures.

The lobbyist registration function is performed by one Lobbyist Registrar position. This position is unique within the Division in that it is funded exclusively through registration fees and penalties collected as dedicated revenues. For FY 92, it is projected that \$44,649 in revenues will be collected through the Lobbyist Registration Procedure.

As of April 1992, the Committee found that there were 298 principal lobbyists registered with the Secretary of State.

### 3. Executive Disclosure

Current Maine law (5 MRSA §19) requires that all compensated employees of the Executive Branch who are either appointed by the Governor and confirmed by the Legislature, or who serve in major policy-influencing positions as listed in 5 MRSA §931 et. seq., are required to annually file with the Secretary of State, "...a sworn and notarized statement of finances for the preceding calendar year."

By law, the executive disclosure form must gather the following information:

- each source of employment where the income is \$1,000 or more;
- each source of employment derived from self employment if those sources represent more than 10% of gross income or \$1,000; whichever is greater;
- specific source of each gift received that is valued at more than \$300;
- the type of economic activity representing each source of income greater than \$1,000 earned by immediate members of the employee's family;
- the name of each source of honoraria received by the employee;

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- a listing of each executive branch agency for which the employee, or members of their immediate family, either represented or assisted for compensation; and
  - a listing of each executive branch agency to which the employee, or members of their immediate family, has sold goods or services to, having a value of more than \$1,000.

Individuals in the affected positions are required to file a completed statement within 15 days of notification of this requirement by the Secretary of State. Failure to submit the required statement on a timely basis results in a penalty of not more than \$100.

The Executive Disclosure function within the Division is handled by the position of Lobbyist Registrar. Upon review, the Committee found that this position spends approximately 15% of total work time on administering the executive disclosure responsibility. 149 executive disclosure statements were received by the Secretary of State for calendar year 1991.

#### 4. Notary Public

Current Maine law (5 MRSA §82) authorizes the Secretary of State to appoint and renew the commissions of notaries public. Although current law does not appear to contain a definition of Notary Public, according to the "Notary Public Guide" published by the Secretary of State, "...Generally put, a Notary Public witnesses the signing of documents and attests to these acts. Some of the Notary's commonly exercised powers include: the administration of oaths, certification of affidavits, acknowledgement of instruments related to real estate transfers, and solemnization of marriages."

The Secretary of State is responsible for administering the following provisions of current law (5 MRSA §82):

- Notaries Public have renewable terms of 7 years;
- the Secretary of State is authorized to adopt rules to establish criterion and procedures for the appointment of notaries public;
- the Secretary of State must notify all notaries public 30 days prior to the expiration date of their commissions;

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- upon initial appointment of a Notary Public, the Secretary of State must notify the registrar of probate and the clerk of the judicial courts for the county in which the person resides; and
  - each Notary Public must pay a registration fee of \$25.

The process administered by the Division for receiving a commission for Notary Public is as follows:

1. the applicant requests application materials;
2. the Division sends applicant a copy of the "Application for Notary Public Commission" (SS-C19 Rev. 7-90) and the Notary Public Guide. The application serves two purposes. First, the applicant provides certain factual information such as name, address, phone number, etc. The application form also functions as a questionnaire to assess the applicant's knowledge of the notary public duties. The applicant is urged to review the guide book to become familiar with the field of notary public. In essence, the questionnaire functions as an open book exam;
3. the applicant returns the application to the Division whereupon it is evaluated by Division personnel. Any inappropriate answer to the questionnaire results in an opportunity for the applicant to provide the correct answer;
4. upon the successful completion of the application, the Division sends the applicant a certificate of qualification (SS-C25 Rev. 90) and "Blue Seal" certificate. The certificate of qualification must be signed by the appointee and by a Dedimus Justice. The Blue Seal certificate signifies the appointment as a Notary Public and is personally signed by the Secretary of State. However, the appointment is forfeited unless the appointee returns the qualification paper within 30 days of the date on the Blue Seal certificate. This situation also applies to the appointment process for other state officials.

The Division administers the appointment process for notaries public through the use of 2 Clerk Typist II positions. These 2 individuals also have a number of other responsibilities which will be discussed in following sections of this report.

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There are currently about 26,000 commissioned notaries public in the state of Maine. The revenues from initial applications and 7 year renewals will generate about \$94,000 for the General Fund during FY 1992.

#### 5. Appointment of State Officials

Current Maine law (5 MRS §6) requires that appointed officials of Maine state government must submit certificates of qualification within 30 days of appointment to the Secretary of State or the appointment is forfeited. There are 2 basic ways in which governmental officials are appointed:

- the governor or other appointing authority appoints without legislative confirmation; and
- the governor or other appointing authority appoints subject to legislative confirmation.

The process used to finalize the appointment of state officials such as commissioners, board and commission members, and justices, is somewhat similar to the Notary Public process:

1. the appointing authority posts a nomination which is forwarded to the Secretary of State;
2. upon receipt of the nomination, the Division sends the appropriate certificate of qualification (SS-C3 Rev. 85 for all appointees except governor and constitutional officers; SS-C39 Rev. 74 for governor and all constitutional officers) and a signed Blue Seal certificate; and
3. the appointee has 30 days from the date on the Blue Seal certificate to return the completed certificate of qualification to the Division or the appointment is voided.

Upon review, the Committee found that there are approximately 3,000 appointees which are subject to this process. The qualifying process is administered by the same 2 Clerk Typist II positions which are responsible for the Notary Public process.

#### 6. Authentications and Apostilles

Although not statutorily authorized to do so, in practice,

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the Secretary of State is responsible for the process used to verify the authenticity of various authorities who have validated a particular official document. There are two processes used:

- "Authentications" are used to verify one official, who then in turn verifies another; and
- "apostilles" are used as one stop shopping used to verify the validity of an official signature.

The use of either authentications or apostilles is determined by the requesting source; some sources require the detailed verifications provided by an authentication. Both processes are used to verify the signatures of officials on such documents as birth records, adoption documents, death certificates, and educational transcripts. Division personnel use the earlier cited certificates of qualification to verify the legal appointment (and signature) of involved appointed state official.

The process used for authentications and apostilles is as follows:

(1) The Division receives a request for either an authentication or an apostille;

(2) Division personnel check the validity of the signature according to the various legal requirements as to:

- whether the individual has a qualifying paper which is valid for the date on which the document was signed;

- whether the signature matches that on the qualifying paper; and

- whether the form of signature is valid; i.e. simple signature, embossed seal, etc.

(3) Division personnel determines whether an authentication or apostille is needed, and fills out the appropriate forms (SS-C47-89, authentication; no number, apostille);

(4) Division personnel inform the Bureau Business Office of necessary billing for the service provided; and

(5) completed form and bill are sent to the requesting party.

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The apostille and authentication processes are administered within the Division by the same 2 Clerk Typist II positions who handle the Notary Public process. On average, the Division processes 60 requests for apostilles or authentications per month at a charge of \$10 per transaction. All fees received for apostilles and authentications are deposited in the General Fund.

7. Pardons and Commutations

The Secretary of State has 3 responsibilities with regards to pardons (or commutations), which are granted by the Governor to individuals convicted of a particular crime:

- first, the Secretary of State is responsible for tape recording all hearings and meetings held by the Governor's Board on Executive Clemency;
- second, the Secretary of State acts as a paper repository for all actions taken by the Governor's Board on Executive Clemency. In particular the Secretary of State receives the initial, notarized petition for executive clemency and forwards it to the Governor's Board; and
- third, the Secretary of State is responsible for receiving all pardons and commutations granted by the Governor and for notifying the court of original jurisdiction of the action taken (15 MRSA §2166).

The Division administers these sporadic duties through the use of the same 2 Clerk Typist II positions used for the Notary Public process.

**Recommendations;**  
**Division of Rules, Commissions, and Administration**

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STATUTORY	13.	Allow the Secretary of State to designate any day of the week as the publication day for agency rulemaking notices under the Administrative Procedure Act.
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ADMINISTRATIVE 14.

Whenever possible use weekend papers for the publication of consolidated rule-making notices generated by state agencies under the Administrative Procedure Act.

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Current law [5 MRSA §8053(5)] requires the following:

- that the Secretary of State arrange for the weekly publication of a consolidated notice of rulemaking of all state agencies;
- that the Secretary of State will designate certain newspapers, which together have general circulation throughout the state, as papers of record for the aforementioned weekly publishing requirements; and
- that the Secretary of State will designate one weekday as rules day for publication purposes.

At the present time, the Secretary of State has designated Wednesdays as the rules publication day (i.e. advertising for Notices of Rulemaking) in the following newspapers:

- Bangor Daily News;
- Biddeford Journal Tribune;
- Brunswick Times Record;
- Kennebec Journal;
- Portland Press Herald;
- Lewiston Sun Journal; and
- Waterville Morning Sentinel

The Committee received an estimate from the Secretary of State that this advertising costs state agencies an approximate total of \$250,000 per year.

Upon review, the Committee concluded that if the Secretary of State was allowed to designate weekend papers for publication of APA rulemaking advertising, that the state could save \$81,800 and reach approximately 27,000 more people by advertising in the weekend Bangor Daily News and the Maine Sunday Telegram. The Committee also noted that if the Sunday Lewiston Sun were also used, savings would be decreased to \$40,000 and circulation increased by another 46,392 more people.



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Therefore, to reduce costs to state agencies while reaching more members of the Maine public, the Committee is making two recommendations. First, the Committee recommends that current law be amended to allow the Secretary of State to designate any day of the week as the publication day for agency rulemaking notices under the Administrative Procedures Act. Second, the Committee also recommends that, whenever possible, the Secretary of State should use weekend papers for the publication of consolidated rule-making notices generated by state agencies under the Administrative Procedures Act.

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STATUTORY	15.	Change the qualification process for Notaries Public, and other appointed state officials, to ensure that qualification requirements are completed before the beginning of their term of official appointment.
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Current Maine law (5 MRSA §6) requires that all appointed state officials, including notaries public, must submit completed qualification papers to the Secretary of State within 30 days of appointment or forfeit their appointment.

The Division of Commissions, Rules, and Administration currently sends each appointee a certificate of qualification, a blue seal certificate signed by the appointing authority, and a clearly worded notice which states the appointment will lapse if the qualification paper is not returned within 30 days of the date on the blue seal certificate.

The Committee found that one consequence of this practice is the occasional failure of the appointee to return the qualification paper within 30 days; in such a case, their appointment is then void. However, these individuals continue to serve in their appointed capacity, thinking that the blue seal certificate indicates their finalized appointment.

Upon review, the Committee concluded that current law should be amended to specify that a failure to qualify within 30 days, and not to have mailed the qualification paper to the Secretary of State, would result in a suspension until the qualification is returned. In addition, in such a case, the appointing officer would have the option of deciding whether the

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appointment should be forfeited. The Committee also suggests that the Secretary of State plan to change the blue seal certificate to clearly indicate that the appointment has not been finalized until all qualification requirements have been met.

Therefore, to help ensure that public appointees, such as notary publics, have completed all qualification requirements, the Committee recommends that current law be amended to change the qualification process for Notaries Public, and other appointed state officials, to ensure that qualification requirements are completed before the beginning of their terms of official appointment.

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ADMINISTRATIVE 16. Request that the Attorney General issue a legal opinion which indicates which executive employees are subject to the financial disclosure requirements of current law.

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ADMINISTRATIVE 17. Direct that the Secretary of State promulgate rules to clarify which executive employees are subject to financial disclosure. Report to the Joint Standing Committee on Audit and Program Review by April 1, 1993 with the appropriate rules.

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Current Maine law (5 MRSA §19) requires that all executive employees listed in Title 5, Ch. 71, as well as positions appointed by the Governor and confirmed by the Legislature, are required to submit annual financial disclosure statements to the Secretary of State.

The Committee noted that the Secretary of State has explicit statutory authority [5 MRSA §19(5)] to promulgate rules "to specify the reportable categories or types" for positions subject to financial disclosure. This rulemaking authority has never been used by the Secretary of State.

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The Committee found that, in practice, the Division of Rules, Commissions, and Administration has had difficulty in administering this law. The list of positions in Chapter 71 frequently has little bearing on how the actual positions are titled or classified. Apparently, a significant number of the positions listed in Title 5 have been altered through the personnel process administered by the Bureau of Human Resources. As a consequence, some incumbents of these altered positions have resisted complying with the disclosure requirements.

Upon review, the Committee finds that it may be useful to request a legal opinion from the Attorney General to interpret which executive employees listed in Title 5, chapter 71 are subject to the financial disclosure requirements. For example, should all positions which evolved from those listed be required to submit financial disclosure statements?

Further, the Committee finds that once the legal opinion has been written, the Secretary of State should use it to serve as a guide to promulgating rules which would further define which positions are required to file financial disclosure statements.

Therefore, to provide clarification as to which executive employees are subject to the financial disclosure requirements of 5 MRSA section 19, the Committee is making two recommendations. First, the Committee is requesting that the Attorney General issue a legal opinion indicating which executive employees are subject to the financial disclosure requirements of current law, Second, the Committee is directing the Secretary of State to promulgate rules to clarify which executive employees are subject to financial disclosure. Report to the Joint Standing Committee on Audit and Program Review by April 1, 1993 with the appropriate rules.

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## DIVISION OF MOTOR VEHICLES

### Purpose and Responsibilities

The Division of Motor Vehicles (DMV) has the primary responsibility for regulating drivers and vehicles which use public roads in Maine. Specific statutory responsibilities assigned to the Division of Motor Vehicles, on behalf of the Secretary of State, include the following:

- collect \$1 new car arbitration fees from new buyers for deposit into the General Fund [10 MRSA §1169 (11)];
- administer requirements of used car disclosure statutes (10 MRSA §217);
- promulgate rules to administer the used car disclosure requirements (10 MRSA §§1471-1478);
- maintain 13 full time offices in convenient locations across the state to administer various registration and licensure functions (29 MRSA §351-A);
- appoint municipal officers as agents to administer motor vehicle registration requirements (29 MRSA §52-A);
- oversee and administer the registration process for motor vehicles (29 MRSA §§101-260);
- oversee and administer the registration of motor vehicle dealers (29 MRSA §§341-367);
- oversee and administer the licensure of motor vehicle operators (29 MRSA §§530-675);
- oversee and administer the various requirements of motorists for financial responsibility and insurance (29 MRSA §§779-832);
- administer the relevant statutory requirements regarding the operation of vehicles; i.e. license revocations and suspensions, accident reports, OUI offenses, etc. (29 MRSA §§891-2306);

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- oversee and administer the issuance of motor vehicle titles (29 MRSa §§2350-2610); and
  - administer permitting process used to regulate for-hire motor carriers (29 MRSa §§2701-2713).

### History

The Division of Motor Vehicles was created in 1905 within the office of the Secretary of State. At that time, the Division's only responsibility was to issue lifetime drivers licenses. Later, in the 1920's, the Division of Motor Vehicles was made responsible for administering accidents and driver history records. The drivers license examination process was assigned to the Division of Motor Vehicles in the 1930's.

More recently, in 1971 the Division of Motor Vehicles was authorized to establish 4 full service branch offices. This total was increased to 12 in 1987 and to 13 in 1989.

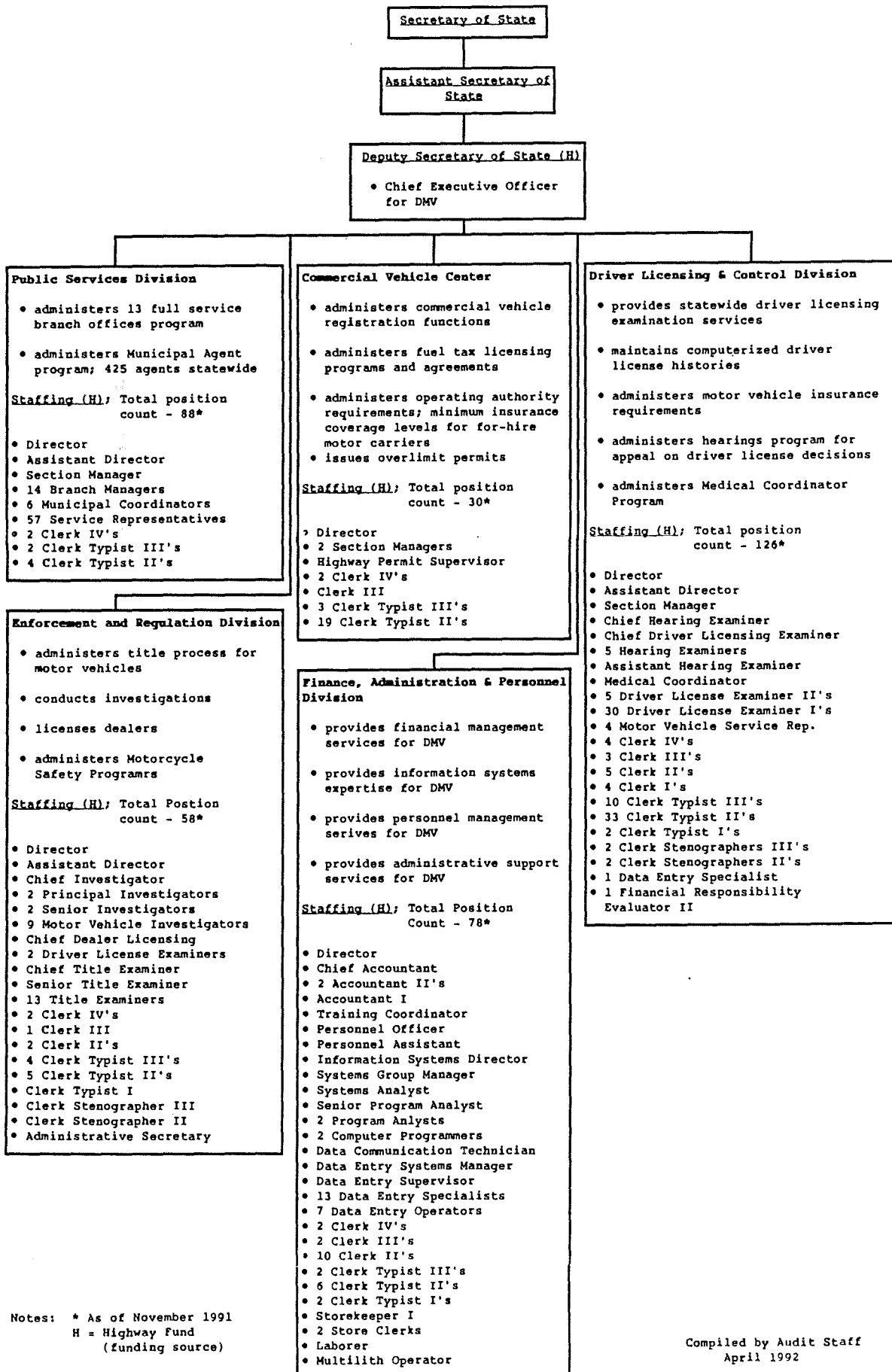
In 1990, several functions related to commercial vehicle regulation were consolidated in a new division-level unit which was titled the Commercial Vehicle Center. Formerly, these regulatory functions were performed by the Department of Public Safety, the Department of Transportation, and other divisions within the Division of Motor Vehicles.

Finally, the Division of Motor Vehicles will be moving into a new facility upon the completion of the building during the late summer of 1992. Planning for this new building began in 1987; construction started in December of 1990. The total construction budget for the facility is \$8 million. Funding for this capital improvement was secured through an allocation of \$1 million from the Highway Fund, and through the use of a Certificate of Participation (COPS) for the remaining \$7 million.

In brief, COPS are a form of public financing in which the lender provides the necessary funding and retains a collateral interest in the project. In the case of default in payments, ownership of the collateral would revert to the financier. The Division of Motor Vehicles will be repaying the financing over the course of a 10 year period. The Division of Motor Vehicles' COP was obtained at an average 5.62% interest rate; total financing costs for the new facility will be \$2,490,375.

SECRETARY OF STATE  
DIVISION OF MOTOR VEHICLES

Organizational Structure, Position Count,  
Duties and Funding Source



Notes: \* As of November 1991  
H = Highway Fund  
(funding source)

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Organization, Staffing, and Method of Operation

As shown in Chart 6, the Division of Motor Vehicles is the largest organizational unit within the Department of the Secretary of State. The Committee noted that the Division of Motor Vehicles is much larger (383.5 staff) than the Bureau of Corporations, Elections, and Commissions (43 staff) and it contains 5 organizational units which have divisional status. Later in this report, the Committee addressed this issue by making a statutory recommendation to rename the Division of Motor Vehicles as the Bureau of Motor Vehicles.

Like the Bureau of Corporations, Elections, and Commissions, the Division of Motor Vehicles is headed by a Deputy Secretary of State who reports to the Assistant Secretary of State, who, in turn, reports to the Secretary of State.

The Division of Motor Vehicles is divided into 5 smaller divisions. Each division is headed by a Division Director; each of whom report directly to the Deputy Secretary of State. A brief description of each division is as follows:

- Driver License and Control Division - This division, which is the largest organizational unit within the Division of Motor Vehicles, is responsible for:
  - providing statewide driver license examination services;
  - maintaining computerized driver license and accident histories;
  - administering driver and motor vehicle insurance requirements;
  - administering an appeals process by which a driver can appeal a license suspension or revocation; and
  - administers a medical review program which considers particular health issues as they relate to a person's ability to drive competently.

For Fiscal Year 1992, the Division has total staffing of 126 authorized positions;

- Public Services Division - The Public Services Division has 2 primary responsibilities. First,

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the Division administers the 13 branch offices which are in the following locations:

- Augusta;
- Bangor;
- Calais;
- Caribou;
- Ellsworth;
- Kennebunk;
- Springvale;
- Saco;
- Lewiston;
- Mexico;
- Rockland;
- Topsham; and
- Portland.

(In addition, there is a smaller office which is staffed by one full-time position at the Maine Mall in South Portland.)

The second primary responsibility of the Public Services Division is the administration of the municipal agent program. In brief, the Division uses municipal officers to perform, in a limited fashion, certain motor vehicle registration functions.

For FY 1992, the Public Service Division has a total of 88 authorized positions;

- Finance, Administration, and Personnel Division - This division is the only part of the Division of Motor Vehicles that is not primarily concerned with delivering services to the public. Instead, this division provides intra-organization support and services to the rest of the Division of Motor Vehicles. In particular, the Finance, Administration, and Personnel Division provides the following services to the rest of the larger division:

- financial management services;
- information services; i.e. computerized systems;
- personnel management services; and
- administrative support services.

The Finance, Administration, and Personnel



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Division has a total of 78 authorized positions for FY 1992;

- Enforcement and Regulation Division - This division has a number of varied responsibilities, which include the following:
  - oversees and administers the process by which motor vehicle titles are obtained and used;
  - oversees and administers the process by which car dealers are licensed;
  - conducts necessary investigations relating to motor vehicle titles, dealer licensure, salvage operations, and other related topics; and
  - administers the Motorcycle Safety Program to instructors.

For FY 1992, the Enforcement and Regulation Division is accomplishing these varied tasks with a total of 58 authorized positions; and

- Commercial Vehicle Center - This divisional sized part of the Division of Motor Vehicles is responsible for administering a number of responsibilities relating to the regulation of commercial vehicles. These responsibilities include the following:
  - registration of all commercial motor vehicles;
  - maintains various inter-state (and province) reciprocity agreements with respect to registrations and permitting;
  - administers the Fuel Use Identification Program; this program issues decals (280,000 - 300,00 per year) at a cost of \$5 per commercial vehicle. These decals are used to identify commercial vehicles as a basis for quarterly fuel tax collections by the State Bureau of Taxation;
  - administers Maine's participation in a regional fuel tax agreement;

- administers the statutory operating authority requirements which mandate a minimum public liability insurance coverage of \$350,000 for all for-hire motor carriers operating in the State;

- administers the permitting process required for the operation of overlimit (weight and/or size) commercial vehicles on Maine's public road systems; and

- administers the permitting process required for the transportation of hazardous waste by commercial motor vehicle carriers on Maine's public road system.

The Commercial Vehicle Center is the smallest divisional unit within the Division of Motor Vehicles. For FY 1992, the Commercial Vehicle Center has a total of 30 authorized positions.

Funding and Expenditures

The Division of Motor Vehicles provides revenue for, and is funded by, the Highway Fund. The Division of Motor Vehicles revenues for the Highway Fund are generated by fees collected from various licenses, registrations, permits and other similar functions. The following table reflects recent Division of Motor Vehicles revenues and allocations:

	<u>FY 1990</u>	<u>FY 1991</u>	<u>FY 1992</u>	<u>FY 1993</u>
<u>Revenues</u> to Highway Fund	\$53,758,348	\$53,905,583	\$60,598,978	\$56,466,502
<u>Budgeted Expenditures</u> from Highway Fund:				
- Personal Services	\$ 9,625,154	\$10,277,643	\$11,812,712	\$12,327,650
- All Other	\$ 4,305,577	\$ 5,441,576	\$ 6,750,339	\$ 6,498,120
- Capitol Expenditures	\$ 372,493	\$ 180,793	\$ 260,420	\$ 224,762
TOTAL	\$14,303,226	\$15,900,012	\$18,823,471	\$19,050,532
Net to Highway Fund (Revenues - Expenditures)	\$39,455,122	\$38,005,371	\$41,775,507	\$37,415,970
- Position Count	382	389	382.5	383.5

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**RECOMMENDATIONS,**  
**Division of Motor Vehicles**

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STATUTORY            18.            Change the title of the Division of Motor Vehicles to the Bureau of Motor Vehicles.

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As shown in Chart 1, the Division of Motor Vehicles is one of the 3 principal organizational units within the Department of the Secretary of State. In fact, the Division of Motor Vehicles is the largest organizational unit within the department followed by the Bureau of Corporations, Elections, and Commissions and the Maine State Archives.

From a functional perspective, the Division of Motor Vehicles operates as a Bureau. Like the Bureau of Corporations, Elections, and Commission, the Division of Motor Vehicles is headed by a Deputy Secretary of State. The Maine State Archives is headed by the equivalent position of State Archivist.

The Committee found that the Division of Motor Vehicles is organizationally misnamed as a Division. In fact, the Division of Motor Vehicles includes the Divisions of Administrative Services, Enforcement and Regulation, Driver Licensing and Control, Public Services, Commercial Vehicles, and the Medical Advisory Board.

A review of the Maine Revised Statutes Annotated reveals that there are numerous references to either the "Division of Motor Vehicles" or the "Motor Vehicles Division". These references identify different responsibilities assigned to the Division. There do not appear to be any provisions which establish the Division of Motor Vehicles as an organizational unit within the Department of Secretary of State.

The Division of Motor Vehicles was created in 1905 to issue lifetime drivers licenses. At that point in time, and probably for a number of early years, the Division of Motor Vehicles was properly named as a "Division". The Division was then a small part of a much smaller department of the Secretary of State. Since that time, the Division of Motor Vehicles has been assigned a multitude of other responsibilities which have necessitated the creation of large organizational divisions within the unit.

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Upon review, the Committee noted that a similar situation existed with the former Division of Public Administration. That division was reorganized in 1989 and renamed as the Bureau of Corporations, Elections, and Commissions to properly reflect its organizational status and expanded functions.

Therefore, to accurately reflect the present organizational status of the Division of Motor Vehicles, the Committee is recommending that current law be amended to change the title of the Division of Motor Vehicles to the Bureau of Motor Vehicles.

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ADMINISTRATIVE	19.	Review and, if necessary, revise the form letters sent most frequently to members of the public. Submit a complete set of all form letters by June 1, 1993 to the Audit and Program Review Committee.
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As an important part of its registration responsibilities for motor vehicles, and the people who drive them, the Division of Motor Vehicles routinely sends out a large volume of form letters to vehicle registrants and drivers. Upon review, the Committee found that the Division of Motor Vehicles has 350 to 400 different form letters which are sent in response to particular situations.

During the Committee's review of the Driver Education and Evaluation Programs (See Volume I), Committee members reviewed a copy of the form letter used by the Division of Motor Vehicles to send to a person who has been arrested for an OUI offense. This letter informs the person that the Secretary of State is administratively suspending their driver's license. Upon review of the form letter, members of the Committee were dismayed by the letter's overly legalistic language, the exclusive use of upper case font for printing the letter, and the generally difficult-to-read format.

Upon further review, the Committee found that many other of the Division of Motor Vehicle's form letters have the same problems. The Committee concluded that these letters could be revised by asking existing staff to review and, if necessary, revise at least one form letter a week.

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The Committee received information from the Division of Data Processing within the Department of Finance and Administration, indicating that the printing of the Division of Motor Vehicles form letters from the Bull Mainframe could be changed at the request of the Division of Motor Vehicles. The Committee was also informed that such a change could be accomplished at no additional expense to the Division of Motor Vehicles.

Therefore, to improve existing written communications from the Division of Motor Vehicles to members of the Maine public, the Committee recommends that the Division of Motor Vehicles review and, if necessary, revise the form letters sent most frequently to members of the public. Submit a complete set of form letters by June 1, 1993 to the Audit and Program Review Committee.

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ADMINISTRATIVE 20. Review the geographical location and staffing level of each branch office. Develop a report detailing the current status of each office with any subsequent recommendations. Submit the report by September 1, 1992 to the Joint Standing Committees on Audit and Program Review, Transportation, and State and Local Government.

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Upon review of the Division of Motor Vehicles, the Committee noted the current geographic distribution and staffing levels of the 14 different branch offices:

<u>Location</u>	<u>Staffing Level</u>
• Augusta	8 full time positions
• Bangor	8 full time, 1 part time position
• Calais	3 full time positions
• Caribou	4 full time positions

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- Ellsworth        3 full time  
                      positions
  - Kennebunk        5 full time  
                      positions
  - Springvale       4 full time  
                      positions
  - Saco              3 full time,  
                      1 part time  
                      position
  - Lewiston         6 full time  
                      positions
  - Mexico            2 full time  
                      1 part time  
                      position
  - Rockland         4 full time  
                      positions
  - Topsham          3 full time  
                      positions
  - Portland         11 full time  
                      positions
  - Portland-  
  Maine Mall        1 full time  
                      position  
  (Not a full-fledged  
                      branch office)

In addition, the branch offices are supervised by a Section Manager, receive clerical and secretarial support from one Clerk Typist III, and are supplemented by 5 full time positions which staff mobile office units.

Upon review, the Committee noted that there may be a geographical imbalance in the present location of certain branch offices in York County that are relatively close to each other; Saco, Kennebunk, and Springvale.

The Committee concluded that the present number of branch offices, and their location, is a subject worthy of more detailed study. Such a study should include comprehensive information on each branch office regarding:

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- staffing levels and personnel costs;
  - current facilities and any rental or lease expenses;
  - current operating expenses; and
  - statistics for the population served.

Therefore, the Committee recommends that the Division of Motor Vehicles review the geographical location and staffing level of each branch office. Develop a report detailing the current status of each office with any subsequent recommendations. Submit the report by September 1, 1992 to the Joint Standing Committees on Audit and Program Review, Transportation, and State and Local Government.

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ADMINISTRATIVE	21.	Report to the Joint Standing Committees on Audit and Program Review and Transportation by May 1, 1993 on the status of the effort to develop and implement a fully integrated information services system. Include in that report cost comparisons regarding computers and related equipment relative to leasing, lease-purchase, purchase or any other potential cost-saving method.
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In its justification report submitted to the Committee, the Division of Motor Vehicles identified the following priority:

"Redesign computer system: The present computer system was designed in the early 1980s. The system stores its data on the Bureau of Data Processing/BULL mainframe and uses IBM Series I computers for its distributed functions. IBM will withdraw its Series I's from the market in February, 1991, and anticipates discontinuing service to these computers in 1996. The Division of Motor Vehicles has a database of approximately 4 billion bytes of information. Upgrading the Division of Motor Vehicles' hardware and software systems to improve automation and integration both within the Division

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of Motor Vehicles and the Department of Secretary of State, is a priority."

In very basic terms, the Division of Motor Vehicles relies on a computer system which was designed, by some accounts, almost 20 years ago. Over the years, this system has been altered and adapted to meet specific Division of Motor Vehicles needs. However, the primary system has never been updated to keep pace with either modern technology or the overall needs of the Division of Motor Vehicles for an efficient automated information system.

The current Division of Motor Vehicles computer system is centered around a link-up to the Bull mainframe at the Bureau of Data Processing. The Committee found that the Division of Motor Vehicles pays about \$600,000 per year to the Division of Data Processing for time used on the Bull mainframe. The Division of Motor Vehicles' use of the Bull mainframe is based on a series of programs written in a functionally obsolete programming language known as "EDX, operating system". In practical terms, the Division of Motor Vehicles has had an increasingly difficult time in attracting, and retaining, computer service professionals who are trained, or willing to be trained, in this outmoded and obsolete technology.

From a non-technical perspective, Division of Motor Vehicle data which is sent to, and received from, the Bull mainframe, is controlled, edited, and formatted through use of 18 different IBM Series I computers. These machines are located at the main Division of Motor Vehicles office in the Transportation building, the Commercial Vehicle Center location in the Augusta Industrial Park, and at the 14 different branch office locations. Many of the IBM Series Is currently in use date back to the early 1970s. The IBM Series Is were withdrawn from the market on 2/1/91 by IBM and service for this machine will be discontinued in 1996.

The Committee found that the Division of Motor Vehicles use of the Bull mainframe is limited by the parameters of the existing programming. In essence, the Division of Motor Vehicles can enter routine information for a number of particular "screens", each of which represents a separate file. These screens allow information for a particular registrant to be entered, stored, and called up. The application of these screens is limited by the lack of complete integration between files and relative inflexibility to manipulate data into particular reporting formats.

In general, the present use of the Bureau of Data Processing's Bull mainframe provides the Division of Motor Vehicles with a limited series of programs; most of which



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functions independently from other programs. Because of the limitations of the original technology, the data stored on this system cannot easily be transferred to a new or updated system.

The automated information services function within the Division of Motor Vehicles is serviced and facilitated by a section within the Division of Finance, Administration, and Personnel. This section is called the Computer Systems Group and is staffed by a total staff of 10.25 positions. Upon review, the Committee found that most of the current staff's time is consumed by maintaining the current antiquated system.

The following represents a brief summation of the current levels of automation by organizational unit within the Division of Motor Vehicles, and their most pressing needs:

- Deputy Secretary of State - The Deputy Secretary of State, who functions as the bureau director for the Division of Motor Vehicles, has the use of several "stand alone" PCs for word processing purposes. There are no electronic information links between this office and any other part of the Division of Motor Vehicles or the Secretary of State;
- Division of Enforcement and Regulation - This Division is responsible for administering the issuance of motor vehicle titles, the registration of motor vehicle dealers, the motor cycle safety program, and investigations relating to compliance with the previously listed activities. This Division has the following levels of automation:
  - All motor vehicle titles are manually entered onto the Bull mainframe; current technology exists which would permit the scanning of the more than 250,000 titles processed by the Division on a yearly basis. Appropriate technology would cut the length of the current motor vehicle title process in half. In addition, there is also software technology which would efficiently screen VINs (Vehicle Identification Numbers) for stolen vehicles and parts;
  - Investigations are partially automated on the Bull mainframe, and make use of existing files. Appropriate automation would speed up investigations, and thus improve other related functions;

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- Most of the Dealer Registration Program exists in paper files which are voluminous. The only automated function is dealer licenses;
  - 90% of the Motorcycle Safety Program is done manually; and
  - overall office automation for this division is provided by several stand-alone PCs.
- Public Services Division - This Division administers the 13 Division of Motor Vehicles branch offices.

These branch offices permit local citizens to receive most Division of Motor Vehicles services such as driver licenses and vehicle registrations.

The Committee found that the branch offices have the following needs for updated information systems:

- the current link-ups with the Bull mainframe do not allow computerized validations (recording of paid transactions). All transactions on the Bull (i.e. licenses, registrations, etc.) must be accompanied by a cash box transaction with a paper tape total which is forwarded to the Division of Finance, Administration, and Personnel for entering onto the state's automated financial information system known as the Maine Financial and Administrative State-wide Information System (MFASIS). In addition, the branch offices have no capability to print forms for customers;
- the present automated system is running out of room to accommodate different registration classifications as approved by the Legislature, and
- none of the branch offices have any automated office functions, nor do they have a connection to the main Division of Motor Vehicles office other than electronic mail available through the Bull mainframe.

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- Division of Drivers License and Control

This division is responsible for maintaining records on accidents and financial responsibility, administering a hearing process for license suspensions, providing staffing for the Medical Advisory Committee, and most recently, administering the driver's license examination process.

The Committee found that from an information services perspective, the financial responsibility and accident sections of this division are badly outmoded. The Committee concluded that there is a need for up-to-date technology in the license services function (such as digital imaging). Finally, the Committee found that the inability of hearing examiners in branch offices to electronically access needed file materials has resulted in significant time delays and additional costs.

The Division has several stand alone PCs for office automation purposes;

- Commercial Vehicle Center

This division is responsible for administering the many statutory requirements for commercial vehicles and commercial drivers which include:

- the registration of commercial vehicles;
- participation in the International Registration Plan which will soon allow single registration in a jurisdiction which will be recognized by other participating jurisdictions;
- participation in bilateral reciprocity agreements with nearly every state and province which allows registered drivers to drive through other jurisdictions;
- various truck permits for excess weight;
- full use identification decal program;
- operating authority which required for-hire carriers to have certain liability coverages; and

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- trailer registration.

Upon review, the Committee found that the Commercial Vehicle Center is hampered by the relative inflexibility and limitations of the Bull mainframe. In particular, the Bull mainframe is unable to generate needed reports and does not allow the Center to effectively administer many of the particular requirements of the programs it has responsibility for.

As a result, the Commercial Vehicle Center has resorted to the time consuming process of creating its own data bases on its 3 stand-alone PCs. These data bases duplicate information which exists on the Bull mainframe. However, the Commercial Vehicle Center cannot easily or cheaply access the data which resides on the Bull mainframe. Thus, the Center has resorted to entering the same data into its own machines which can more easily and cheaply produce the needed information in the required formats.

- Division of Finance, Administration and Personnel

As it's name implies, this Division is responsible for providing intra-division administrative and financial services. Other than through the limited screen formats provided by the Bull mainframe, the Division is not electronically linked to any part of the Division of Motor Vehicles.

Like the Commercial Vehicle Center, this Division often creates its own data bases on 3 of its PCs; these data bases duplicate difficult to access data on the Bull mainframe. The Division has 4 other PCs which are linked to MFASIS. All financial information for the Division of Motor Vehicles must be entered onto these PCs; none of which are linked back to other parts of the Division of Motor Vehicles. As mentioned previously, the Division of Motor Vehicles manages the revenues it collects for the Highway Fund through the manual collection of paper receipts from the other divisions. The Division of Motor Vehicles does not currently have any integrated system of electronic cash or budgetary management.

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At the present time, the Division of Motor Vehicles has \$660,000 budgeted for FY 1992 to implement the first phase of an effort to improve the overall Division of Motor Vehicles information services system. As of May 1992, an RFP process will soon be completed to retain a vendor to accomplish the following tasks:

- develop an overall direction or plan for a new system; and
- initiate the replacement of several of the IBM Series I machines with new machines to function as a prototype for eventual system reconfiguration.

This effort to develop a Request for Proposal is being supplemented by several other actions:

- The Manager for Information Systems and Public Records, from the central Secretary of State office, is conducting an in-depth analysis of the information systems needs of the Division of Motor Vehicles. This analysis is drawing on experience gained from the recent development of the integrated information system for the Division of Corporations; and
- Several vendors, including IBM and BULL, are developing their own analysis of the Division of Motor Vehicles' overall information system needs. These studies are being conducted at no cost to the State. In particular, IBM is conducting an "Automated Transfer Study" which will identify exactly what the Division of Motor Vehicles is currently doing with automated services and what it needs to be doing.

In conclusion, the Committee found that there is a pressing need for the improvement of the Division of Motor Vehicles' automated information services system. Therefore, the Committee recommends that the Division of Motor Vehicles report to the Joint Standing Committees on Audit and Program Review and Transportation by May 1, 1993 on the status of the effort to develop and implement a new, fully integrated information services system. Include in that report cost comparisons regarding computers and related equipment relative to leasing, lease-purchase, purchase or any other potential cost-saving method.

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## CAPITOL PLANNING COMMISSION

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STATUTORY            22.            Continue the Capitol Planning Commission for one year, pending future funding for the work of the Special Committee on the New Capitol Area Master Plan.

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The Capitol Planning Commission is established in Maine law (5 MRSA, Chapter 14-A) to institute the development of a master plan to guide future State policy in the expansion of the State's physical plant and in the locating of state buildings and other public improvements in the Capitol area; to submit the completed plan to the Legislature for adoption; and to submit amendments as it deems necessary to the Legislature for adoption and inclusion in the official State master plan. The intended policy for development of the Capitol area is to proceed with economy, careful planning, aesthetic consideration, and with due regard to the public interests involved.

The Capitol Planning Commission was originally established in 1967, and recreated in 1973 following a one year hiatus. The Commission consists of the Director of the State Planning Office, a member of the Augusta City Council and 7 members appointed by the Governor representing the Capitol district, the city, and the State. In addition, the Director of the Bureau of General Services serves as secretariat for the Commission.

In 1989, the Legislature created the Special Committee on the New Capitol Area Master Plan to oversee the competition and selection of a master planner for the Capitol area. Four members of the Capitol Planning Commission serve on the Special Committee, including the Chair, who chairs both bodies.

The Committee finds that the work of the Special Committee has superseded that of the Commission and caused the temporary suspension of the activities of the commission. In addition, the Committee finds that because of the state's recent budgetary problems, additional funding has not been provided to enable the Special Committee to complete its work. Therefore, the Committee

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recommends continuing the Capitol Planning Commission for one year, under the provisions of Maine law, pending future funding for the work of the Special Committee on the New Capitol Area Master Plan.

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**DEPARTMENT OF TRANSPORTATION**

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STATUTORY            23.            Continue the review of the Department of Transportation for one year under the provisions of the Maine Sunset Law.

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This year the Committee has initiated a review of the Department of Transportation. In brief, as one of the largest state agencies, the Department of Transportation has the responsibility of developing and providing an appropriate statewide transportation system which serves the need of Maine people and contributes to the economic growth of the State.

To accomplish this massive responsibility, the Department of Transportation has close to 2,500 employees and total annual expenditures of almost \$300 million dollars.

Due to a variety of reasons, the Committee was unable to complete the review of this large state agency. In no particular order, the reasons for this incomplete review include:

- the Committee dealt with a number of controversial and time consuming issues pertaining to other agencies and was further hampered in its overall effort by a reduction in its professional staff; and
- the Department of Transportation is in the midst of several significant changes which include.
  - complying with the requirements of the recent referendum known as the Maine Transportation Policy Act which could result in a significantly changed planning and project development process;
  - complying with the provisions and requirements of the 1991 federal Intermodal Surface Transportation Efficiency Act which will provide more than \$95 million for



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various transportation projects to Maine in federal FY 1993;

- implementing the results of a possible multi-million transportation bond package which may be considered by Maine voters in 1992.

The Committee spent considerable time in reviewing the planning function at the Department of Transportation, as well as the Bureau of Transportation Services, and several ancillary functions. However, with the exception of one finding regarding a proposed rate schedule for the Maine state Ferry Service, the Committee found that it was inadvisable to make further recommendations, without first gaining a more detailed understanding of how the Department of Transportation actually functions.

Therefore, to ensure an adequate review of one of the largest agencies in state government, the Committee recommends that the review of the Department of Transportation be continued for one year under the provisions of the Maine Sunset Law.

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FINDING	24.	The Committee endorses the recent preliminary agreement regarding a revised funding and rate schedule between the Department of Transportation and the Maine Ferry Service Advisory Board.
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Current Maine Law (23 MRSA §§4401-4406) requires the Department of Transportation to operate ferry routes between the mainland and the towns of North Haven, Vinalhaven, Islesboro, Matinicus Isle, and Swans Island. These ferry routes are to provide transportation for vehicles, freight, and passengers going to and from these islands.

The law also states the following:

- The Department of Transportation may operate a ferry route to and from Frenchboro;
- ferry service to Matinicus shall at least 12, but not more than 24, times per year;

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- ferry service may be provided by either state-owned or privately-contracted vessels;
  - the Department of Transportation may operate a special charter service to Hurricane Island;
  - upon determination by the Public Utilities Commission that existing ferry transportation to the islands in Casco Bay can no longer be feasibly provided by private carriers, the Department of Transportation shall be responsible for providing the service;
  - the Department of Transportation shall, in a manner consistent with the Administrative Procedure Act, establish necessary tolls;
  - students from North Haven, Vinalhaven, Islesboro, Swan's Island, and Frenchboro can use the ferry service for free for school related functions during the school year.

The Maine State Ferry Service was established in 1957. During that year, the Maine Port Authority was authorized to take over existing ferry services to the aforementioned islands; these ferry services were either privately operated or operated by the municipalities. The Ferry Service was placed within the Department of Transportation when that department was created in 1973.

During the last Audit and Program Review look at the Department of Transportation in 1980, the Committee issued a recommendation that a formula be established which would ensure a certain proportion of costs to be borne by the General Fund and by user revenues. More specifically, the Committee's recommended that the General Fund bear the costs of all capital and maintenance expenses and 40% of all operating costs. The remaining 60% of operating costs would be covered by ferry ticket revenues.

Although the Committee's recommendation was statutory, the recommended formula was never made part of law. Instead, the Committee approved an agreement between the Maine State Ferry Service Advisory Board and the Department of Transportation. In essence, this agreement:

- established a 55% share for the General Fund in operating costs, with user fees picking up 45%; and

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- established that the General Fund would be responsible for 100% of all capital and maintenance costs incurred by the Ferry Service.

Although the 55/45 formula was never statutorily mandated, it has been followed since 1980. The following information represents different aspects of the Ferry Service's current overall operation and financial status:

- the 4 larger Ferry Routes have usually generated ticket revenues in excess of the 45% share. By agreement, this additional farebox revenue "belongs" to the island which generated it. In recent times, several islands have used the revenue for extra ferry trips and capital improvements to their pier facilities. Because of the uneven revenue stream (heaviest in the summer), the Ferry Service has relied on these surplus funds for daily cash purposes. The case balances are carried forward on a yearly basis;
- the General Fund has continued to pay 55% of the operating costs and 100% of all maintenance and capital costs incurred by the Ferry Service;
- aside from a recent temporary fuel surcharge, rates for the Ferry Service have remained unchanged for a number of years;
- in Fiscal Year 1991, the state's 55% share of operating costs totaled \$1,251,579. Of this figure, the Department of Transportation estimates that \$519,405 is being used to subsidize (or lower) the cost of tickets used by tourists;
- operating expenditures for the Ferry Service have increased, but the total General Fund appropriations have decreased. The State continues to keep its commitment to fund 55% of total operating costs but as it does so, this has the effect of decreasing the amount available for maintenance and capital costs; and
- the anticipated General Fund appropriation to the Maine State Ferry Service for Fiscal Year 1993 will be reduced by \$263,694 thereby leaving a total appropriation of \$1,317,195.

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At the time (March 1992) this report was being written, the Department of Transportation appears to have reached an agreement in principal with the Maine State Ferry Service Advisory Board regarding a new funding and rate structure. Although specific dollar figures have not yet been finalized, these 2 parties have agreed on a two-tiered flat rate structure in which Islesboro will have one set of rates and the rest of the routes will have another set of rates. Revenues from these rates will be roughly equal to current farebox revenues and will be used to cover the aforementioned decrease in General Fund appropriations.

In addition, the new rate structures will feature a new "off-island" round trip rate which will be set at a low price throughout the year. This ticket can only be used from the island, to the mainland and back. Although the ticket can be purchased by anyone, in practice, only long term residents will tend to be able to make consistent use of them.

In considering this tentative agreement, the Committee found that, like many state agencies, the Maine State Ferry Service has been adversely affected by the significant reductions in General Fund appropriations. Although the Committee would prefer that the State continue its past levels of financial support, the Committee supports the current effort of the Maine State Ferry Advisory Board and the Department of Transportation to work cooperatively towards a resolution which will ensure the current levels of ferry services to the islands.

Therefore, the Committee issues a finding which endorses the recent preliminary agreement regarding a revised funding agreement and rate schedule between the Department of Transportation and the Maine Ferry Service Advisory Board.

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## MAINE EDUCATIONAL LOAN AUTHORITY

### Purpose and Mandate

As stated in current law (20 MRSA §11412) the Maine Educational Loan Authority (MELA) has the overall purpose of providing assistance to those higher education students or the families of students who are residents of the state and nonresidents who attend a Maine school. The assistance provided by Maine Educational Loan Authority is intended to supplement federal guaranteed loan programs, grant programs, other student loan programs, scholarship programs and other existing means of supporting both students and higher education institutions.

The Maine Educational Loan Authority is created as a "public body corporate and politic and a public instrumentality of the state". (20A MRSA §11414) This same statutory provision goes on to identify MELA as performing "...an essential public function by and in behalf of the state".

As is customary to "instrumentalities of the state", MELA has the following powers and functions (20A MRSA §11417):

- to borrow money in its own name;
- to lend money and function as a creditor;
- to insure or guarantee the performance of any loan agreement;
- to enter into financial transactions (rent, purchase, mortgage, etc.) necessary to conduct business;
- to engage in the financial transactions (purchase, sell, service, etc.) necessary to conduct loans;
- to obtain or disseminate information necessary to carry out its functions. MELA has the authority to conduct hearings, hear testimony under oath, issue subpoenas, and other similar powers;
- to procure necessary insurance;
- to allow any of its functions to be carried out by a non-profit corporation;

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- to obtain necessary certification in order to carry out its duties;
  - to employ necessary personnel;
  - to sue and be sued;
  - to maintain an office in the state;
  - to adopt an official seal;
  - to adopt rules subject to the Maine Administrative Procedures Act;
  - to make any agreement necessary to its functions;
  - to do any necessary or useful act to carry out its responsibilities;
  - to carry out one or more financial assistance programs that have the purpose of financing the cost of attendance at higher education institutions;
  - to develop policies necessary to the creation of financial assistance programs;
  - to contract with the secondary market for necessary clerical and administrative services; and
  - to issue bonds for any corporate purpose.

#### History

MELA was created by Ch. 807, PL 1987 which was enacted by the Second Regular Session of the 113th Legislature. MELA came into legal existence on April 28, 1988. A brief chronology of events since that date is as follows:

- May 1988 - the Governor appointed the members of the Authority;
- June 1988 - the Legislature confirmed the Governor's appointments. In that same month, the Authority members elected their officers and appointed Richard Pierce as Executive Director;
- July 1988 - MELA issued its first bonds in the amount of \$35,000,000;

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- September 1988 - MELA began making loans to students for the 1988-1989 school year. The initial loans were serviced by contractual agreement with CSX Technology;
  - 1988-1989 - During this school year, MELA made approximately \$6.46 million in loans;
  - 1989-1990 - During this school year, MELA made \$6.37 million in loans;
  - 1989 - The Legislature authorized the transfer of student Financial Assistance programs other than those administered by MELA from the Department of Educational and Cultural Services to the Finance Authority of Maine. The intention of this change was a move towards consolidating educational loan programs into one agency for the purpose of creating "one-stop shopping." The Governor had proposed that this be done through creation of a new semi-autonomous agency, Maine Education Authority, but this proposal was not approved;
  - 1990 - MELA changed service providers from CSX Technology to New England Educational Loan Marketing Corporation (Nellie Mae) and Education Loan Services, Inc. (ELSI). The new services provider offered a more favorable fee schedule;
  - 1991 - The Legislature authorized FAME (Ch. 603, PL 1991) to establish a Supplemental Loan Program. This authority is virtually identical to that granted to MELA. It appears that the authorization for FAME to do a Supplemental Loan Program was the consequence of a recommendation to do so by the statutorily created Student Financial Aid Transition Advisory Committee. In a December 1990 Report, that committee had also recommended that:
    - the MELA statute be amended to allow MELA to contract with FAME to administer the existing Supplemental Loan Program through the depletion of the original MELA bond issuance; and
    - FAME and MELA should negotiate on the transfer of the current MELA program to FAME.



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Neither of these recommendations were enacted into law.

- 1991-1992 - For the current school year, MELA anticipates the issuance of more than \$8 million in loans.

#### Organization and Staffing

MELA has 7 statutorily authorized members who, in effect, serve as its Board of Directors. Five of the members are appointed by the Governor for 3-year terms. The appointed members are subject to review by the Joint Standing Committee on Education and confirmation by the Senate. Of the 5 appointed members, 2 must be involved in higher education as either trustees, directors, officers, or employees and at least one of them must be from a private institution of higher education.

The other two members are the Treasurer of State (ex officio) and the president of the secondary market (ex officio). The term "secondary market" refers to the non-profit corporation authorized by the Governor under the provisions of 20-A MRSA §11407 to acquire student loan notes incurred under the Federal Higher Education Act of 1965. In Maine, that organization is the Maine Educational Loan Marketing Corporation (MELMAC) which is headed by Mr. Richard H. Pierce.

All Authority members must be residents of the state and are entitled to legislative per diem for the performance of their duties. The Authority is authorized to elect a Chairman, Vice Chairman, Secretary, and other officers as needed on a yearly basis.

Current members of the Authority are as follows:

<u>Member</u>	<u>Principal Occupation</u>
Mr. Gordon A. Pow, Chairman	Executive Vice President, Key Bank of Maine
Mr. Walter H. Moulton Vice Chairman	Director of Financial Aid, Bowdoin College
Mr. Richard A. Crabtree Secretary	Senior Vice President, Central Maine Power Company
Mr. Ronald P. Milliken	Director of Financial Aid, University of Maine at Farmington

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Mr. Frederic A. Reynolds	President, University of Maine at Machias
Mr. Richard H. Pierce Executive Director (Ex officio)	President, Maine Educational Loan Marketing Corporation
Mr. Samuel D. Shapiro (Ex officio)	Treasurer, State of Maine

In practice, Authority members hold several meetings per year. Since its inception, the Authority has met:

- 2 times in 1988;
- 4 times in 1989;
- 3 times in 1990;
- 4 times in 1991; and
- 1 time in 1992; as of May.

In addition, during that time span, the Authority has conducted 3 public hearings to adopt rules under the APA.

As mentioned earlier, the Executive Director of MELA, Mr. Richard H. Pierce is also the President of MELMAC. Mr. Pierce serves as Executive Director of MELA without salary.

MELA itself does not have any paid employees. Instead, it has several contractual arrangements for the provision of services:

- MELA has contracted with MELMAC to administer MELA and its supplemental Loan Program. This contract covers all MELA expenses including rent, legal services, administrative services, audit expenses, per diem for Authority members, and other operational costs. The annual contract with MELMAC involves a payment of \$125,000 from MELA to MELMAC for all services and costs. This contract amount has not changed in the 4 years that MELA has existed; and
- On behalf of MELA, MELMAC contracts with 2 organizations for the origination and servicing of the supplemental loan program. First, MELMAC has contracted with the New England Educational Loan Marketing Corporation (Nellie Mae) for the origination of loans. Loan applications are processed, evaluated and decided upon by Nellie Mae. Second, after the loan has been made, the servicing of the loan is administered by

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Education Loan Services, Inc. (ELSI). Both the Nellie Mae and ELSI contracts are based on a fee schedule which varies according to the loan amount.

#### Method of Operation

Although many of the aspects of how MELA works have already been touched upon, this section will further describe the overall operation of MELA.

First, MELA provides a supplemental loan program for Maine citizens who are attending an approved institution of higher education or out-of-state residents who are attending Maine institutions of higher education. MELA's loan program is intended to supplement loan programs offered by other entities. The MELA loan program is the only program which is credit based; i.e. loans are made on the basis of the applicant's ability to pay back the requested amount. Other loan programs currently administered by FAME (Maine Student Incentive Scholarship Program, Blaine House Scholars and Financial Assistance Program, and others), MELMAC (PLUS, SLS, and others) and Maine Education Services (Maine Medical Association Loan Program and Operation Opportunity) are all need based; i.e. based on an applicant's income level or from a financial perspective, who needs the loan most?

The MELA Supplemental Education Loan Program is operating from the proceeds of an initial \$35 million bond issuance. The start-up costs of \$735,282 necessary to issue the bond were loaned to MELA by MELMAC. This loan is being paid back to MELMAC over the course of several years.

MELA publicizes its Supplemental Education Loan Program through newspaper ads, direct mailings to prospective students, high school guidance counselors and institutions of higher education.

The application fee for a MELA loan was increased from \$30 to \$50 on June 1, 1991. As mentioned earlier, loans are originated (approved) by Nellie Mae and serviced (administered) by ELSI.

Those individuals who are approved for a MELA loan get the loan directly and have several choices as to payment provisions. First, the borrower can choose the term of the loan with a maximum of 20 years. The borrower can prepay the loan at any time with no penalty. In addition, the borrower has two further options for when and how the loan is to be repaid. First, the borrower can choose to pay interest on the loan while in school

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(up to a maximum of 4 years) and then begin paying on the principal 45 days after graduation or leaving school. Second, the borrower can decide to start paying back interest and principal immediately.

Interest rates for MELA loans are determined on a monthly basis by a calculation of the bond yield for that month. This calculation is performed by a bond trustee who communicates the monthly rate to the servicer, who in turn sends the borrower a monthly statement indicating the current interest rate and the amount of payment due. The interest rate for May of 1992 was 7.67%.

As of 3/31/92, MELA had made a total of 6,200 loans. This total includes an undetermined number of loans made to the same person, i.e. one individual may have several MELA loans.

#### Finances

MELA does not receive any state or federal appropriations. Its assets are reflected in whatever the unspent balance of the original \$35,000,000 bond issue is. Recently, MELA had disbursed a total of approximately \$26,270,000 in loans. By prior agreement, MELA is holding \$3,500,000 in a reserve fund for bond holders. Therefore, MELA had approximately \$5,230,000 left to disburse in loans. The Committee found that an additional \$2 - \$3 million will be disbursed in the current (1991-1992) school year. The Committee noted that in May 1992, MELA successfully issued a second bond which will provide \$60,900,000 in proceeds for future supplemental loan purposes.

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The Committee noted that MELA is listed under the provisions of the Maine Sunset Act as an "agency" [3 MRSA §927 (3) A (4)]. As an "agency," MELA is not subject to automatic termination unless continued by law. Instead, in accordance with the provisions of current law [3 MRSA §923 (1)], the Committee reviewed all aspects of MELA operations.

At this time, the Committee did not choose to make any recommendations concerning MELA. To provide detailed information about MELA, the Committee has included the preceding description of MELA in this report.

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## DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES

### History

The Maine Department of Agriculture, Food and Rural Resources has its roots in the 1852 creation of the State Board of Agriculture, which existed until the Department was created in 1901. The following events mark the evolution of the Department of Agriculture:

- 1887 - Establishment of a State Cattle Commissioner;
- 1905 - Creation of Veterinary Examiners Board;
- 1911 - Duties of Cattle Commissioner folded into a broader Livestock Sanitary Commissioner;
- 1919 - Creation of the Division of Plant Industry;
- 1978 - Creation of the Division of Administrative Services within the Office of the Commissioner;
- 1980 - Passage of the Agricultural Development Act, which created the Bureaus of Agricultural Production, Agriculture and Rural Resources, Public Service, and Agricultural Marketing; and
- 1991 - Reorganization due to budget cuts resulting in the merging of the Bureaus of Marketing and Production, and the Bureaus of Public Service and Agriculture and Rural Resources.

### Purpose

Title 7, section 1-A expresses the legislative intent regarding the Department of Agriculture, as follows:

#### **"§ 1-A. Legislative intent**

The Legislature finds agriculture to be a major industry in the State, contributing

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substantially to the state's overall economy, essential to the maintenance and strengthening of rural life and values and necessary to the preservation of the health, safety and welfare of all of the people of this State.

The survival of the family farm is of special concern to the people of the State, and the ability of the family farm to prosper, while producing an abundance of high quality food and fiber, deserves a place of high priority in the determination of public policy. For this purpose there is established the Department of Agriculture, Food and Rural Resources."

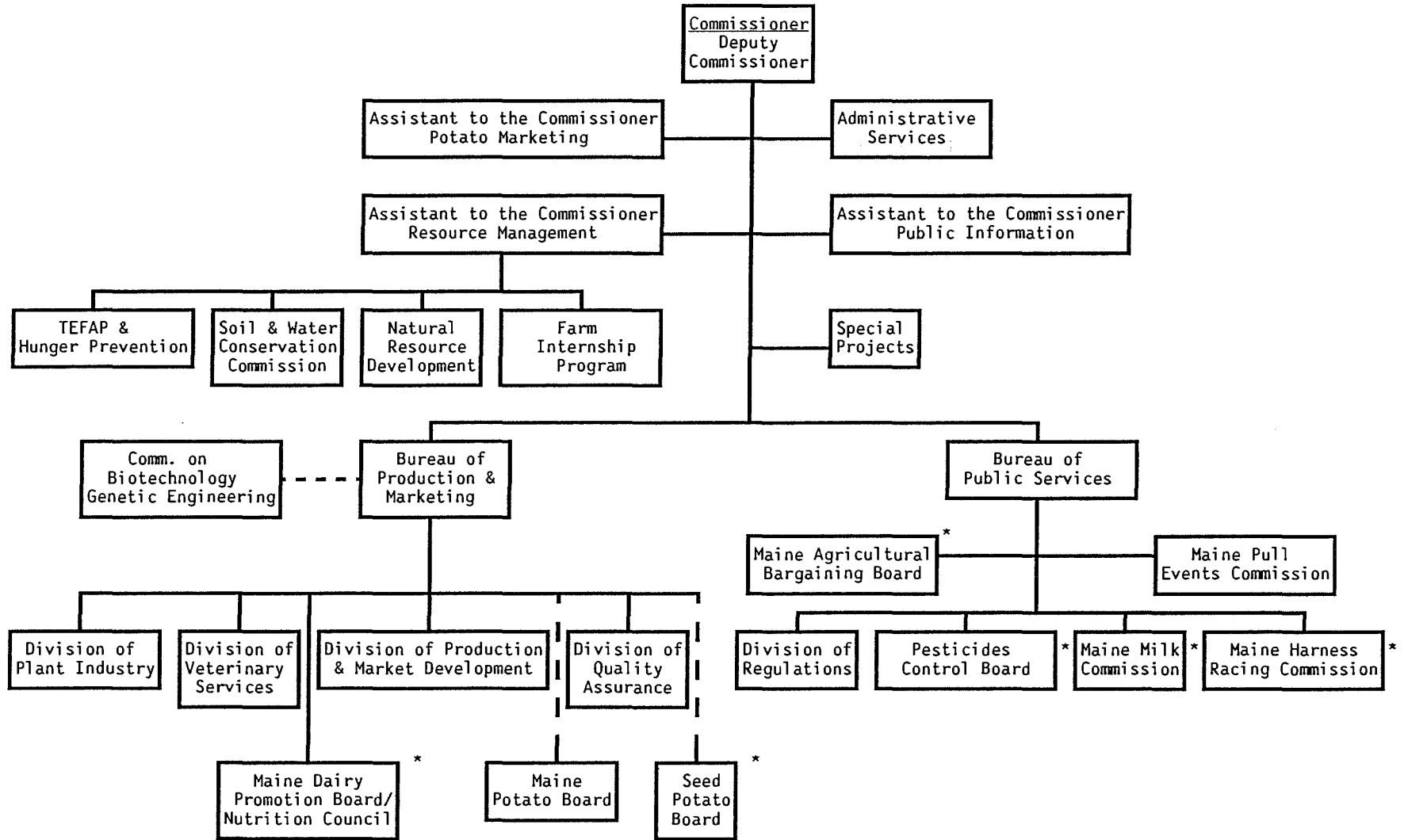
Specific goals related to this broad mandate include: the survival and prosperity of the family farm; production of an abundance of high quality food and fiber; improvement of the economy and quality of life in rural Maine; and preservation of rural life and values. These goals are accomplished through the following activities: monitoring of the progress of scientific and practical agriculture elsewhere, with a view toward the more complete development of natural resources; gathering and publishing statistical information; securing farm labor; promoting increased production through superior seed; reporting to the Legislature concerning methods of stimulating and encouraging growth and modernization of agricultural enterprise; promotion of farm financing and rural development proposals; conservation and preservation of agricultural land; increased and improved livestock production; expanded and improved vegetable, fruit and horticulture production; foreign and domestic marketing of agricultural products; crop development and integrated pest management; research and educational programs; encouragement of individuals to enter agricultural or other rural enterprise; instituting litigation beneficial to the agricultural industry; and preparing and distributing printed and audio visual materials on matters within the department's statutory jurisdiction. A more detailed discussion of Department's goals and activities will appear in the sections on the various bureaus and divisions contained in this report.

#### Organization

The Department of Agriculture has recently undergone reorganization due to budget cuts. The Department's four bureaus have been combined into two, and administrative and field positions eliminated. The Department's current organization is depicted in Chart 1.

CHART 1  
DEPARTMENT OF AGRICULTURE

Organizational Structure



\* Reviewed last year



### Staffing

The Department of Agriculture, Food and Rural Resources, including all of its related boards and commissions, is currently authorized 186 full time and 100 seasonal or intermittent positions. One half of the full time positions are General Funded, 12% are federally funded, 27% are funded through various dedicated sources and 9% are funded by the Seed Potato Enterprise Fund. Twenty four full time and 43 seasonal positions are currently vacant.

The following table displays a breakdown of Department positions by unit and funding sources.

<u>UNIT</u>	<u>GF</u>	<u>FF</u>	<u>OSR</u>	<u>ENTERPRISE</u> <u>(Seed Potato)</u>
Commissioner's Office	17.5 (1 V)		1.5	
Bureau of Agricultural Production and Marketing				
Production	16.5	1	18.5 FT (4V) 15 INT (12V)**	
Marketing	16 FT 2 S	21 FT (10V) 9 S (2V)	6 FT (1V) 42 S (21V) 14 INT (6V) 6 (1V)	
Me. Potato Board				
Bureau of Public Service	34 (3V)		1.5 FT 2 S	
Resource Management*				
Agriculture and Rural Resources	1.5			
Soil & Water Conservation	1			
Harness Racing Commission	5 FT 6S			
Board of Pesticides Control		2 FT 6 S	9 FT 2 S (1V)	
Maine Milk Commission			4	
Maine Dairy Council			3.5	
Dairy Promotion			1.5	
Seed Potato Board				18 FT (3V) 2 S (1V)

TOTAL, Dept. of  
Agriculture

91.5 FT (4V)    24 FT (10V)    52.5 FT (6V)    18 FT (3V)  
8 S                    15 S (2V)            75 S (40V)        2 S (1V)

186 FULL TIME            100 SEASONAL OR INTERMITTENT\* (NOT FTE)

\* Positions being transferred to new unit in Commissioner's Office

\*\* Intermittent positions are approximately 1/4 time positions, e.g. 1/2 time for 25 weeks

Expenditures

Most recently (May 1992), the Department of Agriculture, Food and Rural Resources had the following budget for FY 1992:

<u>Funding Source</u>	<u>Appropriation/Allocation</u>	<u>% of</u> <u>Total</u>
General Fund	\$ 4,976,379	16%
Other Special Revenues (OSR)		
• Dedicated	• 17,914,714	
• Highway Fund	• 30,297	
• Enterprise Account, Seed Potato Board	• 1,583,430	
• Potato Marketing Improvement Fund	• 201,934	
Other Special Revenues		
Subtotal	19,730,374	73%
Federal	2,013,401	7%
FY 1992 TOTAL	<u>\$26,720,154</u>	

Related Programs

The Department has several objectives in common with the Department of Economic and Community Development, and maintains close working relationships with the other natural resource agencies, the Department of Environmental Protection and the State Planning Office. The Commissioner or a designee has served on the following boards and committees:

- the Governor's Rural Development Committee (co-chair);
- the federal/state Rural Development Council;
- the Geographic Information Steering Committee;

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- the Land and Water Resources Council;
  - the State Soil and Water Conservation Commission (ex-officio);
  - the Land for Maine's Future Board; and
  - the Finance Authority of Maine Board of Directors.

In addition, the Potato Marketing Improvement Fund is co-administered by the Commissioner's Office and FAME.

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STATUTORY	25.	Redefine the reporting requirements of the Department of Agriculture, Food and Rural Resources, in order to clarify the information required and increase efficiency.
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Under current law, the Commissioner of Agriculture is required to submit separate reports to the Legislature and the Governor, as follows:

- 7 MRSA §2, sub-§5 requires that the Commissioner submit annual reports with subsequent recommendations, to the Legislature. These reports must address; "... methods of stimulating and encouraging the growth and modernization of agricultural enterprises in this State." This statutory provision also mandates specific reporting dates for each legislative session and authorizes the Department to hold public hearings for the purposes of collecting relevant information. Upon review, the Committee found that no report of this nature has been submitted by the Department since 1987; and
- Additionally, 7 MRSA §10 requires the Commissioner to submit a biennial report to the Governor. This report is to include detailed reports from the Maine State Pomological Society and the Maine Dairymen's Association. The Committee found that these reports have been submitted as required.

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The Committee noted that, typically, reports that are required of the various State departments and programs are stipulated to be submitted to both the Governor and the Legislature - often to a specific committee(s). Upon review, the Committee found that the present reporting requirements are outdated and represent inefficiencies for both the legislative and executive branches of government. The Committee further found that these reporting requirements could be simplified by consolidating them into one reporting requirement with a uniform reporting date.

Therefore, to improve the efficiency and overall relevance of the Departments reporting requirements, the Committee recommends that the reporting requirements be redefined and consolidated.

## Office of the Commissioner

### Composition

The Office of the Commissioner has recently undergone some restructuring, due to the elimination of positions throughout the Department. The Office is comprised of the Commissioner, one Deputy Commissioner, 3 Assistants to the Commissioner (for Resource Management, Public Information, and Potato Marketing), the Administrative Services Division (10.5 positions), a Special Projects (Research) Director, and 2 clerical staff. The organization and staffing of the Commissioner's Office is shown in Chart 2.

Several programs that formerly comprised the Bureau of Agricultural and Rural Resources have been consolidated under the Resource Management Unit. This unit is headed by an Assistant to the Commissioner position that was created as a result of the recent downgrading of a second Deputy Commissioner position. In addition to the downgraded position, the Office lost 2 clerical positions (1 filled, 1 vacant) and a part-time Planning and Research Associate.

Each organizational unit within the Commissioner's office is depicted in Chart 2 and described below:

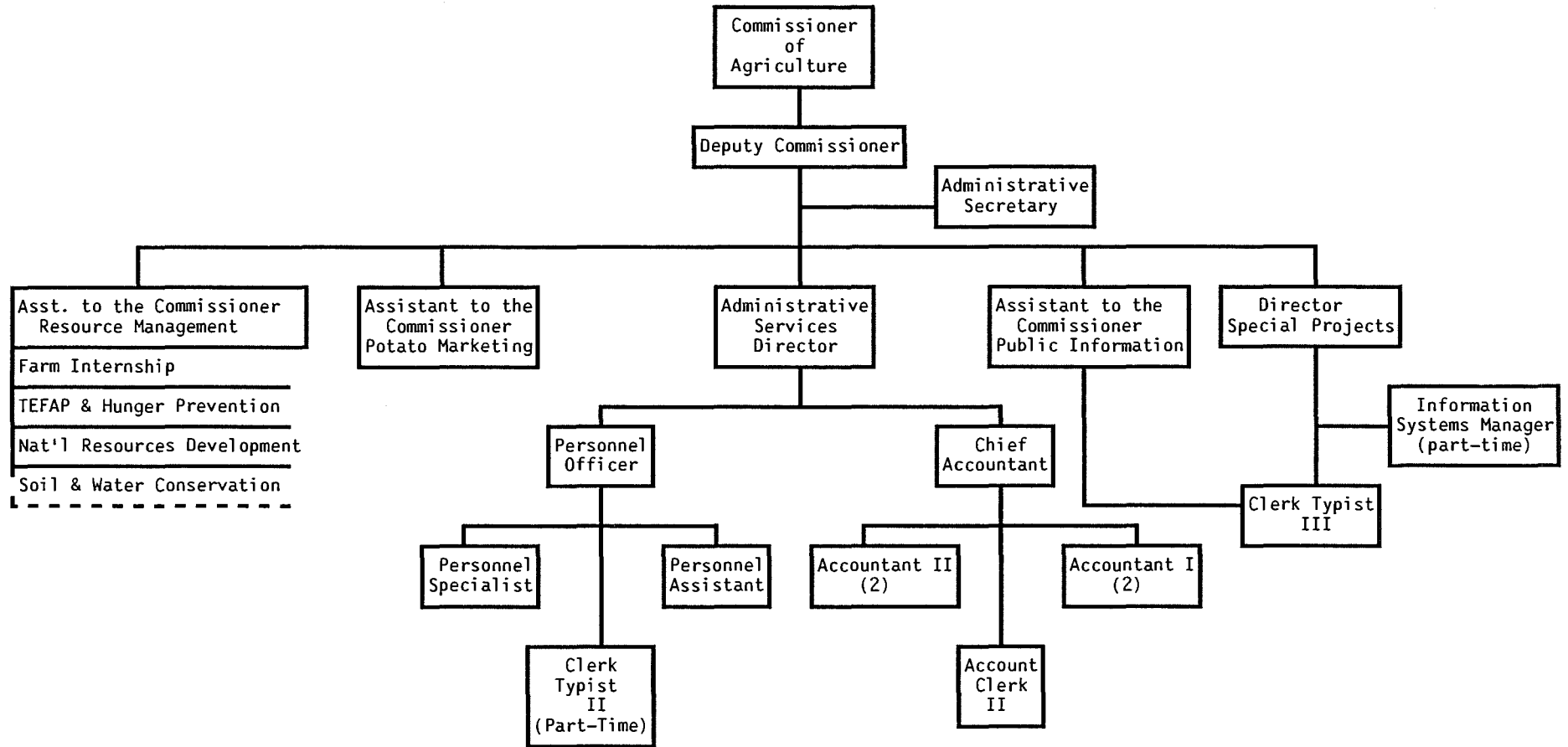
- **Deputy Commissioner** - Acts as primary legislative liaison, fills in for Commissioner when that person is absent, performs legal review of Department materials and communications, is involved with administrative and personnel

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issues, and works with the Commissioner on policy formation.

- **Division of Administrative Services** - Established in 1978 to coordinate and centralize common administrative staff support functions of the Department. This Division carries out fiscal operations, including budget preparation, accounting and control, purchasing of equipment, supplies and services, and personnel functions including payroll, position classifications and employee records, contract negotiations, workers' compensation claims, affirmative action, safety programs and staff development. The Division consists of 10.5 positions.
- **Research Unit** - Staffed by a Director of Special Projects, a half time Information Systems Manager (who is shared with the Department of Conservation) and a clerical (shared with the Public Information Assistant), this unit has a wide range of information collection and distribution related activities. The Director is responsible for reviewing the agricultural portion of each municipality's comprehensive plan; reviewing the Federal Register daily; conducting agricultural surveys and compiling statistics; answering phone and written requests for information; compiling weekly agricultural commodity, price reports, including milk prices provided to the Maine Milk Commission; preparing the Department's weekly report to the Governor and annual report to the Legislature; and serving as back-up legislative liaison. This unit also oversees the Department computer system, serves as the repository for federal agriculture rules and regulations, and maintains a library containing a wide range of agricultural statistics, reports, and policies.
- **Public Information** - The primary function of the Assistant to the Commissioner for Public Information is the publication of the Department's weekly newsletter, Mainely Agriculture. The newsletter features the weekly market report (prices received for agricultural commodities in primary Northeast markets), a classified "marketplace" section, a cost-cutting column and a calendar of events, in addition to a feature article. The newsletter has about 2,000 subscribers. Subscriptions are \$10 per year.

CHART 2  
 DEPARTMENT OF AGRICULTURE  
 OFFICE OF THE COMMISSIONER  
 Organization and Staffing



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The Assistant to the Commissioner for Public Information also works, when requested, with other natural resource agencies on special projects (e.g. Earth Day) and environmental focus issues, and occasionally speaks publicly to food producer and commodity groups. The Assistant to the Commissioner performs design, graphic and lay-out functions for all Department forms, brochures, logos, etc., and works with the Department of Education on "Agriculture in the Classroom" curriculum materials.

- **Resource Management** - Headed by an Assistant to the Commissioner for Resource Management, a former Deputy Commissioner position that was vacated and downgraded, this unit is intended to consolidate several pieces that were left over after budget cuts and others that were transferred to Agriculture from the Division of Community Services. As displayed in Chart 2, the unit includes the Planning and Research Associate and the Farm Internship program (1/2 time position) that were part of the eliminated Bureau of Agriculture and Rural Resources, the emergency food assistance (TEFAP) and Hunger Prevention (surplus food) programs transferred from the Division of Community Services, and the independent Soil and Water Conservation Commission with its one remaining staff person;
- **Potato Marketing** - The position of Assistant to the Commissioner for Potato Marketing was established in 1984 as a result of amendments to the Potato Price Stabilization Program. The primary purpose of the resulting Market Advisory Program, is to provide the Department with a professional analysis of potato marketing and pricing, and to share that analysis with the potato industry in an effort to reduce destructive price competition and stabilize potato prices over the long run.

This program is overseen by the Maine Marketing Advisory Board, established by Title 7, section 1008-B, to advise the Commissioner on potato marketing issues. This Board consists of 5 members appointed by the commissioner for 2-year terms, from nominations submitted by growers and dealers. The duties of the Board, as outlined in statute are to:

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- annually study the supply of and potential markets for potatoes, and recommend a pricing strategy for the year;
  - recommend to the commissioner a schedule for establishing premiums and discounts to reflect differences in quality, container type, transportation cost, etc.; and
  - identify and report marketing information on broccoli and other rotational crops that affect the economic viability of the potato industry in Maine.

Based on the information provided by this Assistant, the Commissioner of Agriculture has the authority to determine guidelines for a daily fair market value for potatoes, pursuant to 7 MRSA §1008-C. The Assistant for Potato Marketing serves as advisor to the Commissioner's Office and Bureau directors on issues and developments in the potato industry, represents the Commissioner at potato industry-related public meetings, and assists in the formulation of policy and legislative initiatives regarding the potato industry.

Under the Bureau of Agricultural Marketing prior to its consolidation, this position was recently moved organizationally into the Commissioner's Office. Funding for this program was eliminated by the Legislature effective January 1st, 1991. In response to the concerns interest expressed by many in the potato industry across the country, the Legislature reinstated the position, without the funding. Private donations from potato interests have kept the program alive while the transition to paid subscriptions to its weekly newsletter, previously mailed free to over 800 potato growers, is being effected. The Committee found that 1,000 paid subscriptions will be necessary to maintain the program without other financial support.

Prior to 1991, the Marketing Advisory Board only met once annually and, practically speaking, the duties of the Board were carried out by the Assistant to the Commissioner. Since funding for the program was eliminated however, the Board has



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been meeting monthly and has been active in establishing a nationwide network of subscribers to the newsletter and to support the work performed by the Assistant to the Commissioner for Potato Marketing.

The Assistant to the Commissioner for Potato Marketing is based in Presque Isle.

#### Expenditures

Fiscal Year 1991 expenditures for the Office of the Commissioner were \$1,246,198, or about \$22,000 less than Fiscal Year 1990 expenditures:

<u>FY 90</u>		<u>FY 91</u>
\$ 891,610	GF	\$ 894,210
<u>376,213</u>	OSR	<u>351,988</u>
\$1,267,823		\$1,246,198

Approximately \$192,000 in dedicated funds was carried over into Fiscal Year 1992. The source of these funds is a Stipend Fund comprised of a percentage of harness racing purses established pursuant to 8 M.R.S.A. §274. The majority of the funds are redistributed to legally incorporate agricultural clubs, societies, counties and fair associations, and also funds a State Fair Coordinator. The Administrative Services Division handles the accounting and distribution of these funds. One part-time clerical position is funded from this source.

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ADMINISTRATIVE	26.	Direct the Department of Agriculture to renew and reinforce its efforts to fulfill the affirmative action goals outlined in its 1989 plan.
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A review of the 17 current positions at the Department of Agriculture that fall into the "Officials and Administrators" category (i.e. involved in policy formation and oversight, but not including the Commissioner) shows that 16 of these positions are filled by men. The one directorship filled by a women is the

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Director of the Milk Program (Dairy Nutrition Council and Dairy Promotion Board). The salary range for that position (23) is 2 ranges lower than any other position in the "Officials and Administrators" category, the next lowest being that of the Assistant Director for Quality Assurance (range 25). One position is currently being established in this category - the Assistant to the Commissioner for Natural Resource Management, which is replacing a second Deputy Commissioner position that was downgraded last session.

The Department has an affirmative action plan, developed by its Personnel Officer two years ago. At that time, there were 22 positions in this category, 2 of which were filled by women. The Workforce Utilization Analysis included in the Department's affirmative action plan indicates that the percentage of the available workforce qualified to fill positions in this category is 33%. The Department established a goal of increasing the number of women in this category by a total of 5 women and additionally, stated that "... attention will be placed on efforts to promote women into the higher pay ranges of this category".

Six of the relevant positions are appointed, four are confidential, and eight are part of a bargaining unit. The Committee found that all advertising for positions in classes in which women are underrepresented do display a specific statement encouraging women to apply. According to the Department's plan, expanded certifications are expected to be used to increase the number of women in this category. However final hiring decisions are ultimately made by, or with the approval of, the Commissioner.

As a part of the review, the Committee contacted and interviewed several women that have been, but are no longer, employed by the Department of Agriculture as well as current employees. Those interviews generally indicated that, while there is no conscious discrimination that bars women from professional or upper level positions in the Department, it was suggested that there may be a simple lack of awareness of the need to be attentive to affirmative action goals, and the reasons for them. Nearly all employees asked, men and women alike, agreed that it was a problem that should be actively acknowledged and attended to.

Upon review, the Committee found that the Department's Affirmative Action goals of 1989 were laudable and deserve more follow-through. Therefore, to increase the number of women in upper-level administrative positions, the Committee recommends that the Department of Agriculture, Food and Rural Resources should renew and reinforce its efforts to fulfill the affirmative action goals outlined in its 1989 plan.

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## MAINE SOIL AND WATER CONSERVATION COMMISSION

### Creation and Purpose

The State Soil and Water Conservation Commission was established in 1941 to represent state soil and water conservation concerns and district interests on state level committees, and to serve as a liaison between districts and state and federal agencies. Each local district is considered, as is the State Commission, by statutory definition, "an agency of the State."

### Organization and Membership

The State of Maine is divided into 16 Soil and Water Conservation Districts. Each District is directed by a Board comprised of 5 District Supervisors, three of which are elected by local land occupiers dedicated to soil and water conservation and 2 of which are appointed by the State Soil and Water Conservation Commission. For the purposes of representation on the State Commission, the statute divides the State into 6 areas, as follows:

- Area 1 - Aroostook County (contains 3 separate SWCD's);
- Area 2 - Washington and Hancock SWCD's;
- Area 3 - Penobscot, Piscataquis, and Somerset SWCD's;
- Area 4 - Kennebec, Knox-Lincoln, and Waldo SWCD's;
- Area 5 - Androscoggin Valley (includes Sagadahoc County), Oxford and Franklin SWCD's; and
- Area 6 - Cumberland and York SWCD's.

The 12 member State Commission is made up of one representative from each of the six areas, elected annually by the District Supervisors in each area; the Commissioners (or designees) of the Departments of Agriculture, Food and Rural Resources, Conservation, Inland Fisheries and Wildlife, Marine Resources and Environmental Protection; and the Vice-President

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for Research and Public Service at the University of Maine. The State Conservationist for the USDA Soil Conservation Service serves as a non-voting, advisory member to the Commission.

#### Powers and Duties

The State Soil and Water Conservation Commission has the statutory responsibility to:

1. assist local districts and supervisors in carrying out their programs;
2. keep supervisors of each district informed of activities and experience of all other districts;
3. coordinate programs of the several districts;
4. secure the cooperation and assistance of federal government agencies;
5. carry out measures for the control and prevention of soil erosion and floods, and the conservation, development, utilization and disposal of water;
6. conduct research and disseminate information about the character of soil erosion, floodwater and sediment damages, and effective preventive and control measures;
7. acquire, administer, and dispose of property and any income derived therefrom;
8. construct, improve, operate, and maintain structures related to floodwater and sediment damage control;
9. administer the Soil and Water Conservation Districts Fund for its own and local districts' authorized functions;
10. serve as local sponsoring organization under the Watershed Protection and Flood Prevention Act, where a watershed is located in the Unorganized Territory;
11. inspect dams and appurtenant structures;

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12. gather and compile soils data and information, presented in maps and reports for general public use, as part of the Cooperative Soil Survey by the USDA Soil Conservation Service; and
  13. administer the Challenge Grant Program (not currently funded).

Local districts have extensive, related statutory mandates of their own. These mandates include the development of comprehensive plans for the conservation of soil and water resources; to include specific engineering operations, cultivation methods, landscaping, cropping programs, tillage practices, and changes in use of land. These plans and related information are required to be published and brought to the attention of land occupiers within the district.

The State Soil and Water Conservation Commission also coordinates the development review process between the Department of Environmental Protection, the Land Use Regulation Commission (LURC) and the local SWCDs. The Commission also maintains close ties through membership and activities, to all the state natural resource agencies, as well as the Soil Conservation Service (USDA) and the Maine Association of Conservation Districts (MACD), which is affiliated with the National Association of Conservation Districts (NACD) in Washington. These latter two organizations represent conservation's state and national lobbying arms.

The local Districts also work closely with the federal Soil Conservation Service, which provides office space and technical expertise for district staff, and is responsible for implementing and overseeing federal programs in the districts.

#### Staffing

Recent budget cuts eliminated 2 of the 3 employees of the State Soil and Water Conservation Commission. The director and clerical positions were cut, leaving one Soil Scientist position to carry out the mandates of the Commission. The Committee noted that the lack of clerical support has created problems with getting and responding to messages, dissemination of information, and routine administrative functions. The Soil Conservation Service has temporarily agreed to provide 2 days of technical assistance staffing per week to the Commission, to assist with the backlog of work created by the loss of the Executive Director's position.

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Expenditures

Fiscal Year 1991 General Fund expenditures of the State Soil and Water Conservation Commission were \$233,893. Cuts of about \$90,000 in each year of the current biennium have reduced the Commission appropriation to about \$151,000 and \$160,000 in fiscal years 1992 and 1993, respectively. Nearly half of these amounts are funnelled directly to the local districts.

Challenge Grant Program

Established by the Legislature in 1983 in response to shrinking federal dollars for conservation projects, the Challenge Grant Program channelled \$100,000 in state funds to Maine's 16 Districts on a competitive basis. During the seven years that the program was funded (1984-1990), it generated over a million dollars in matching funds for 125 projects. Project areas included Education, Resource Management, and Erosion Control and covered all 16 SWCD's in the State. Funding for this program was eliminated in 1990.

**STATE SOIL AND WATER CONSERVATION COMMISSION**

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FINDING	27.	The Committee finds that the State Soil and Water Conservation Commission and its staff should be commended for their continuing efforts to fulfill the Commission's broad statutory responsibilities in the face of its recent staff cutbacks.
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After a careful review of the State Soil and Water Conservation Commission, the Committee concluded that, given its current staffing level, the Commission appears to be fulfilling its mandate, and enjoys constructive working relationships with federal and state agencies and local soil and water conservation districts. The Committee notes that the Commission has recently had its total staffing reduced from three positions to just one position.

Therefore, to acknowledge the commendable work of the State Soil and Water Conservation Commission, the Committee issues a

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finding which states that the State Soil and Water Conservation Commission and its staff should be commended for their continuing efforts to fulfill the Commission's broad statutory responsibilities in the face of its recent staff cutbacks.

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STATUTORY            28.            Continue the State Soil and Water Conservation Commission under the provisions of the Maine Sunset Law.

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STATUTORY            29.            Reschedule the State Soil and Water Conservation Commission in the Sunset Law to be reviewed in the same year as the Department of Agriculture, Food and Rural Resources.

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In accordance with the previous finding, which commended the State Soil and Water Conservation Commission, the Committee found a compelling need for the continued existence of the Commission under the provisions of the Maine Sunset Law. Upon further review of that law, and the Commission's place in the schedule, the Committee noted that the Commission had been mistakenly grouped with the Department of Conservation for review in 1995. The Committee reviewed the Commission as a part of its review of the Department of Agriculture, Food and Rural Resources and found that it should be similarly scheduled for future reviews.

Therefore, the Committee is making two recommendations. First, the Committee is recommending that the State Soil and Water Conservation Commission be continued under the provisions of the Maine Sunset Laws. Second, the Committee is recommending that the sunset review of the State Soil and Water Conservation Commission be rescheduled for the same year as the Department of Agriculture, Food and Rural Resources.



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STATUTORY

30.

Authorize the State Soil and Water Conservation Commission to formulate its own budget, to be submitted by the Commissioner as a component of the budget of the Department of Agriculture, Food and Rural Resources.

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Upon review of the State Soil and Water Conservation Commission, the Committee noted the following facts:

- the State Soil and Water Conservation Commission is statutorily identified as "an agency of the State" (12 MRSA §51);
- the Commission's budget is prepared and submitted by the Department of Agriculture, Food and Rural Resources as part of the departmental budget;
- the Commission's office is located in the Department of Agriculture;
- commission employees are employed "with the approval of the Commissioner of Agriculture" (12 MRSA §52); otherwise, the Commission has statutory autonomy;
- four other state department Commissioners are members of the Commission;
- the Commission's staff is funded through the General Fund; and
- the Commission had no significant input into the recent budgetary decision that eliminated two-thirds of its staff.

After a careful review of all of the above factors, plus the present positive and cooperative working relationship between the Commission and the Department, the Committee concluded that it would be appropriate to authorize the Commission to formulate its own budget, to be submitted as a part of the overall budgetary submission of the Department of Agriculture, Food and Rural Resources. In arriving at this decision, the Committee notes that there are several precedents in the Executive Branch for this type of budgetary autonomy; namely, the 4 cultural

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agencies (Museum, Library, Arts, and Historic Preservation) and the Maine Science and Technology Commission.

Therefore, to establish a more appropriate and responsive budgetary process for the State Soil and Water Conservation Commission, the Committee recommends that current law be amended to authorize the State Soil and Water Conservation Commission to formulate its own budget, to be submitted by the Commissioner as a component of the budget of the Department of Agriculture, Food and Rural Resources.

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## Bureau of Agricultural Production & Marketing

### Purpose

The Bureau of Agricultural Production was established in 1980 through passage of the Agricultural Development Act, to facilitate increased development of livestock and crop production enterprises in the State. To accomplish this end, the Bureau administers programs to:

- prevent, control, and/or eliminate plant and animal diseases;
- encourage improved potato production, both in quantity and quality;
- encourage development of diversified field crops;
- promote horticulture and animal husbandry; and
- stay current on and develop strategies to address evolving issues that impact agricultural production.

The Bureau of Agricultural Marketing was created in 1983 to coordinate, expand and improve the marketing of Maine agricultural products both interstate and internationally.

These two Bureaus were combined under the recent reorganization, necessitated by budget reductions, to become the Bureau of Agricultural Production and Marketing. The Commission on Biotechnology and Genetic Engineering is also staffed by this Bureau.

### Organization

The current Bureau of Agricultural Production and Marketing is comprised of the following divisions: Plant Industry, Veterinary Services, Production and Marketing Development, and Quality Assurance. The Maine Dairy Promotion Board and Dairy and Nutrition Council are also located here, as well as the aforementioned Commission on Biotechnology and Genetic Engineering, and the operationally autonomous Maine Potato Board. The Bureau's organization and staffing levels are shown in Chart 3.

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### Activities

A brief description of the responsibilities of each component of the Bureau is as follows:

**Division of Plant Industry** - This Division administers the State's Horticulture Program, Apiary Program, Integrated Pest Management Program, Seed Certification Program and the Potato Variety Development Program, and coordinates the activities of the Seed Potato Board. (19 FT/3 PT positions)

**Division of Veterinary Services** - This Division operates the State - Federal Diagnostic Laboratory and the Milk Quality Laboratory. The Division's veterinarians work to prevent or control the spread of a wide variety of animal diseases or conditions that threaten either the public health (e.g. salmonella) or the economic viability of an industry (e.g. mastitis) through outreach and education efforts, testing, herd certification, etc. The Division also investigates animal welfare complaints, and licenses livestock dealers and auctioneers. (11 FT/1 PT positions)

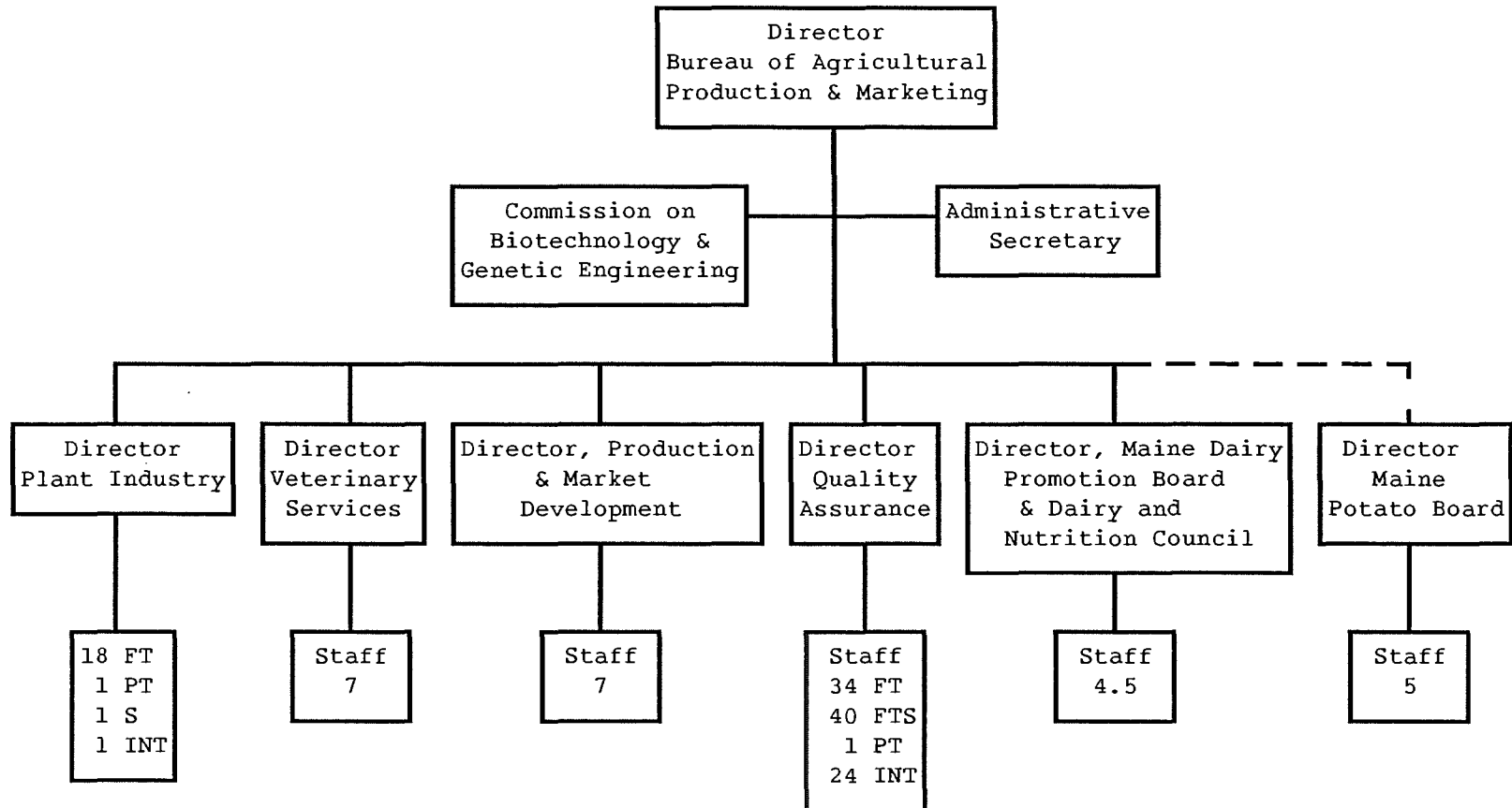
**Division of Production & Marketing Development** - Program priorities for the Production side of this Division include commodity planning assistance, agricultural issues assessment, new crop and livestock evaluation and development, and crop and livestock production and genetic improvement assistance. Marketing activities include information and technical assistance, advertising, direct marketing, market service, operation and maintenance of the State of Maine at the Eastern States Exposition in West Springfield, MA, and administration of the Apple Market Order. Three successful grant programs were administered by these units prior to the elimination of grant funds. They were the Technology Transfer and Special Research Projects Program, the Maine Agricultural Promotion Assistance Fund, and the Agricultural Market Research and Development Fund. (8 positions)

## CHART 3

## DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES

## BUREAU OF AGRICULTURAL PRODUCTION AND MARKETING

## Organization and Staffing



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**Division of Quality Assurance** - Division inspectors provide a voluntary quality control service for Maine's produce, poultry, and egg processors on a fee-for-service basis; control the use of the State of Maine Quality Trademark; administer the Branding Law Inspection Program and the Market News Program (potatoes); participate in the Objective Yield on Potatoes Program in cooperation with the USDA; and enforce the Maine Potato Licensing Law, the Dry Bean Licensing Law, and the Minimum Standards for Planting Law (potatoes). (35 FT, 40 FT seasonal, 1 PT, 24 intermittent positions)

**Maine Potato Board** - Statutorily established within the Department of Agriculture but operating autonomously, the Maine Potato Board exists to advance the Maine potato industry. (6 positions)

**Commission on Biotechnology and Genetic Engineering** - Established by statute (7 MRSA, c. 8-C) to conduct the following activities regarding biotechnology and genetic engineering: promote and encourage research; review and determine the adequacy of federal regulations; formulate and coordinate state policies; serve as a liaison between the State and federal agencies; assess potential risks to the public; establish standards for issuance and renewal of permits; and adopt rules. The Commission is currently involved in reviewing federal permits and drafting standards and rules for a State permitting process.

The Commission has no budget nor does it have its own staff. Upon review, the Committee found that Commission members, who meet monthly, are statutorily entitled to reimbursement for expenses. However, because the Commission has no funding of its own, it has had to rely on the Bureau to pay these expenses out of its own All Other budget. The Commission has received occasional staffing support from the Bureau Director, the Director of Plant Industry, and the Veterinary Supervisor.

Expenditures

In Fiscal Year 1991, the Bureaus of Agricultural Production and Marketing had not yet been combined. Total fiscal year expenditures of those 2 Bureaus appear below.

	Bureau of Production			Bureau of Marketing			
	GF	FF	OSR	GF	GF-PQC*	FF	OSR
PS	680,173	29,076	547,617	633,665		411,034	807,021
AO	33,923	1,185	158,948	219,019	213,158	110,721	228,621
CAP	7,334		18,028	159			
<b>TOTAL</b>	<b>921,430</b>	<b>30,261</b>	<b>724,593</b>	<b>852,843</b>	<b>213,158</b>	<b>521,755</b>	<b>1,035,642</b>
<b>% of</b>							
<b>TOTAL</b>	<b>55%</b>	<b>2%</b>	<b>43%</b>	<b>41%</b>		<b>20%</b>	<b>39%</b>
<b>TOTAL EXPENDITURES: \$1,676,284</b>				<b>TOTAL EXPENDITURES \$2,623,398</b>			
<b>COMBINED TOTAL = \$4,299,682</b>							

\*Potato Quality Control program, overseen by the Maine Potato Board

**% by LINE CATEGORY**

	<u>Personal Services</u>	<u>All Other</u>	<u>Capital</u>
Production	75%	23.5%	1.5%
Marketing	71%	29 %	-

Fiscal Year 1992 General Fund appropriations for the 2 Bureaus combined total \$1,634,073, which represents a \$353,358 reduction (17.8%) from actual expenditures for FY 1991. Marketing activities were hardest hit, with an overall GF reduction of 20.5%. The General Fund appropriation for Production for FY 1992 represents a 3.7% increase (\$34,254) over actual expenditures for FY 1991.

Staffing

Currently authorized positions for the combined Bureau are 85 (32.5 GF) full time, including the Maine Potato Board's 6 positions, 51 seasonal (2 GF) and 29 intermittent positions. These figures represent positions funded by all sources.



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Positions in these Bureaus lost to recent budget cuts include the following:

Production

Assistant Horticulturist  
Agricultural Development Agent  
Clerk Typist II  
Account Clerk I \*\*  
2 Clerk I (seasonal)\*\*

Marketing

Bureau Director - Marketing  
Director of Market Development  
Produce Inspector III  
Clerk Typist II  
Assistant to the Commissioner  
for Potato Marketing\*  
Store Clerk (part-time)\*\*

\* Transferred to Commissioner's Office & dedicated funding

\*\* Deauthorized for 92-93 biennium only

In addition, Production lost All Other funding used to hire a contract apiarist during that Program's busiest months.

Operation

The Bureau operates according to a priority - setting annual goals and objectives process. Each program manager is responsible for identifying program goals and the intended steps to attain them for the upcoming year. These goals are reviewed, discussed, and amended through a participatory process at the Division level and then for the Bureau as a whole. The Committee found that the Bureau Director delegates as much responsibility for day-to-day program operations as possible. The Director's role is to provide coordination and oversight; to respond to issues that require strategic planning and cooperative effort; and to keep the Commissioner informed on events and issues impacting the Bureau's programs and activities.

Current Issues

The Bureau of Agricultural Production and Marketing is involved with a number of significant issues in several areas. Currently, these issues include:

- working with the Department of Environmental Protection on the agricultural component of the Non-Point Source Pollution Program enacted by the Legislature, including establishing "best management practice" guidelines for manure and carcass handling;

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- developing an interstate strategy for controlling the migration of Africanized bees;
  - developing and conducting a testing program for the recently discovered Potato Virus Y=Neurotic Strain (PVY-N) that is threatening Canada's seed potato industry;
  - developing a strategy to deal with a potential rabies epidemic in Maine;
  - staying abreast of developing biotechnology and genetic engineering issues, mandates, and concerns;
  - developing a working relationship with the Board of Pesticides Control to enable a collaborative response to current and emerging pesticides issues (e.g. Ridomil and Bravo); and
  - developing, in concert with the Department of Inland Fisheries and Wildlife, an animal damage control program.

### **Division of Plant Industry**

#### Responsibilities

The Division of Plant Industry was established in 1919. The current responsibilities of the Division of Plant Industry include the following:

- enforce the statutes related to the certification of seed potatoes;
- ensure an adequate supply of foundation seed potatoes to State's commercial seed potato growers board (Seed Potato Board);
- license and inspect greenhouses, nurseries, and plant material moving across state lines for regulated pests;
- license beekeepers and inspect hives; and
- assist vegetable and small fruit growers in the optimal use of pesticides.

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### Programs

The Division of Plant Industry administers a number of programs:

- **Horticulture Program** - The purpose of the Horticulture Program is to ensure that nursery stock, fruit, seed, and other plant material is free of insect and plant diseases that could pose a threat to one of the State's primary horticultural enterprises, or to the public. This end is met through:
  - annual inspections of all establishments that grow, store or sell nursery stock (approx. 1600 /yr);
  - licensing of persons dealing in nursery stock (approx. 1700/yr.);
  - inspection and certification of plant material exported from Maine and periodical inspection of imported materials;
  - provision of information to businesses, commodity groups, and the general public on horticulture issues; and
  - assisting officials in enforcing federal plant quarantines.

Recently, this program has been called upon to inspect used blueberry containers that Maine processors must use to pick up blueberries that have been grown in Quebec. Canadian regulations require this inspection to prevent the spread of blueberry maggots from the U.S. to Canada. The Division is currently evaluating an appropriate fee schedule for this new activity, which has placed a further strain on available staff resources. This program is staffed by one Assistant State Horticulturist and a clerical position, in addition to the State Horticulturist, who oversees the programs.

The Committee notes that the Horticulture Laws were completely revised during the 2nd Regular Session of the 115th Legislature. The Committee

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strongly supported the changes reflected in this law. (PL 1991, ch. 785).

- **Apiary Program** - The Apiary Program was created to prevent the spread of contagious diseases in apiaries (bee hives) and to assure that healthy bee colonies are available for the pollination of apple and blueberry crops. Approximately 30,000 hives of bees are imported annually for pollination purposes. This program certifies all commercial beekeeping operations involved in interstate crop pollination. There are over 500 beekeepers in Maine, who register nearly 7,000 colonies.

The State Apiarist also attends apple, blueberry, and small fruit industry meetings to provide information and help to identify the program-related needs of these industries. Finally, the Program staff educates beekeepers, growers, and the general public about Africanized bees and their potential impact in Maine. The Joint Standing Committee on Agriculture recently studied the Africanized bee problem. The report of that Committee (March, 1990) recommended the addition of 3 seasonal staff to assist in the workload associated with the increasing number of migratory colonies entering the State each year, and to monitor for Africanization by collecting and identifying samples. This program recently lost its All Other funding that was used annually to hire an assistant for the State Apiarist on a contract basis for the summer months, leaving the Apiarist as the only funded staff position for this program.

- **Integrated Pest Management (IPM) Program** - This program provides timely information on the status of agricultural pest populations; especially new pests or pests of new crops (e.g. cranberries). Integrated Pest Management staff also researches, evaluates, and disseminates information on potentially significant biological control agents. The Department of Agriculture's Integrated Pest Management entomologist works in cooperation with the University's research and Extension Service staff. Current objectives include:

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- increasing the knowledge of insects associated with native cranberry bogs in Maine, to determine which will be significant to the State's new cranberry industry;
  - determining the destruction of the northern corn rootworm and the cereal leaf beetle in Maine;
  - monitoring the development of sweet corn insects in Central Maine and reporting to the interagency Sweet Corn Integrated Pest Management Program; and
  - providing technical assistance to Department staff who investigate public nuisance complaints of a pest-related agricultural origin.

To date, biocontrol and Integrated Pest Management efforts have focussed primarily on fresh vegetable and small fruit crops. However, recent survey activities have also included grains, dried beans, forage, and fodder crops. Because the goal of Integrated Pest Management is the optimal use of pesticides (i.e. least amount for effective results), the entire population and environment of the State benefit from this program, from the reduction in use of agricultural chemicals. The Integrated Pest Management Program is staffed by a State Entomologist, whose position is funded through fees charged for the licensing of pesticides.

Legislation was recently enacted (P.L 1991, C. 609), which was designed to enhance the agricultural community's IPM capabilities, and established an Advisory Committee made up of 9 members appointed jointly by the Commissioner of Agriculture and the Director of the University's Cooperative Extension. The Department and University must each appoint a staff member with relevant expertise to serve in a non-voting advisory capacity to the Committee. The duties of the IPM Advisory Committee are to:

- consider and study IPM techniques;

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- assess the need for IPM work with respect to particular pests and commodities, and the extent to which pesticide use might be realistically reduced;
  - evaluate proposals for funding through the IPM Fund;
  - advise the Commissioner regarding grant proposals and all other relevant IPM topics;
  - evaluate the need for IPM education, including for the public and consumer; and to
  - advise the University Cooperative Extension on the development of its IPM work plan.

The Committee is also authorized to conduct forums and seminars, disseminate information promoting IPM, and, subject to the approval of the Commissioner, expend any funds provided to the program.

Current law includes authorization for an Integrated Pest Management Fund to provide research and development, promotion, and demonstration project grants to the University, the Bureau, and the private sector. However, no funding has been provided for this fund or for the activities of the Advisory Committee. The IPM Advisory Committee is required to meet 4 times each year, and may meet more often if requested jointly by the Commissioner and the C.E. Director.

- **Seed Certification Program** - The major activity of this unit is the certification of seed potatoes, although more than 1,000 acres of grain (oats) are also certified through the program.

Maine law requires that growers of seed potatoes not plant the same seed stock for more than five generations, and additionally, can only plant certified seed. This unit ensures compliance with the seed potato laws through

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inspection of approximately 25,000 acres of seed potato fields and 2 million hundredweight of seed potatoes during packing and shipping. This activity is voluntary for the farmer, done on a fee basis, and is self-supporting.

This unit also administers the **Foundation Roguing Program**, which was transferred from the Seed Potato Board in 1988. Roguing is a voluntary program to which seed potato farmers apply for participation. The program utilizes seasonal produce inspectors from the Division of Quality Assurance to inspect potato fields during the growing season and remove (rogue) any diseased plants. This is done 3 to 4 times during the growing season and costs the farmer \$90 - \$100 per acre. Over 450 acres of seed potatoes were involved in the Roguing Program this year, up 50% from last year. The Program also provides experienced inspectors to participate in a Roguing School, coordinated by the University of Maine, to train farmers and their field people to conduct their own roguing procedure.

This unit also issues phytosanitary certificates (about 90 annually) that allow the exportation of potatoes to overseas markets.

The Seed Certification Program is staffed by 15 positions: 12 full time; 1 part time; 1 seasonal; and 1 intermittent.

#### Staffing

The Division's Organization and current staffing levels are shown by Chart 4.

#### Expenditures

Expenditures of the Division of Plant Industry in FY 1991 were as follows:

	<u>GF</u>	<u>OSR</u>
Plant Industry	\$146,135	
Horticulture	131,965	
Apiary	66,342	

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IPM		\$ 46,875
Seed Certification		
Rouging		<u>10,258</u>
TOTAL	<u>\$344,442</u>	\$ 57,133

All dedicated revenue funded programs are self-supporting. The dedicated Certified Seed account had the following activity in FY 1991:

<u>Balance Forward</u>	<u>Cash Rec'd</u>	<u>Expended</u>	<u>Carried</u>
\$737,508	\$609,576	\$672,109	\$674,974

This program receives a large percentage of its income at the very end of the fiscal year, creating the large balance brought forward. In addition, the unit's inspectors positions were recently reclassified (up 2 ranges from 14 to 16), which was retroactive to 1988, necessitating a payment of approximately \$100,000 in salaries in Fiscal Year 1992. The Committee found that the balance forward will continue to decline. However, this total is likely to be more than is absolutely essential for the program for perhaps the next three years.

### **Division of Veterinary Services**

#### Origin and Purpose

The Division of Veterinary Services began in 1919 as the Division of Animal Industry within the Department of Agriculture. In 1980, the Division was renamed Poultry & Livestock and became Veterinary Services in 1985.

The primary purpose of this Division is to prevent the introduction and spread of contagious, infectious, and parasitic diseases among poultry and livestock - especially those that are transmittable to humans, either directly or indirectly, and those of significant economic importance. Other goals and responsibilities include:

- maintaining equitable practices in buying and selling of poultry and livestock, aimed at eliminating diseased or unfit animals;
- supervising the State-Federal Diagnostic Laboratory for disease control;
- supervising and maintaining the Department's Milk Quality Lab, which tests milk and milk products in accordance with FDA requirements;

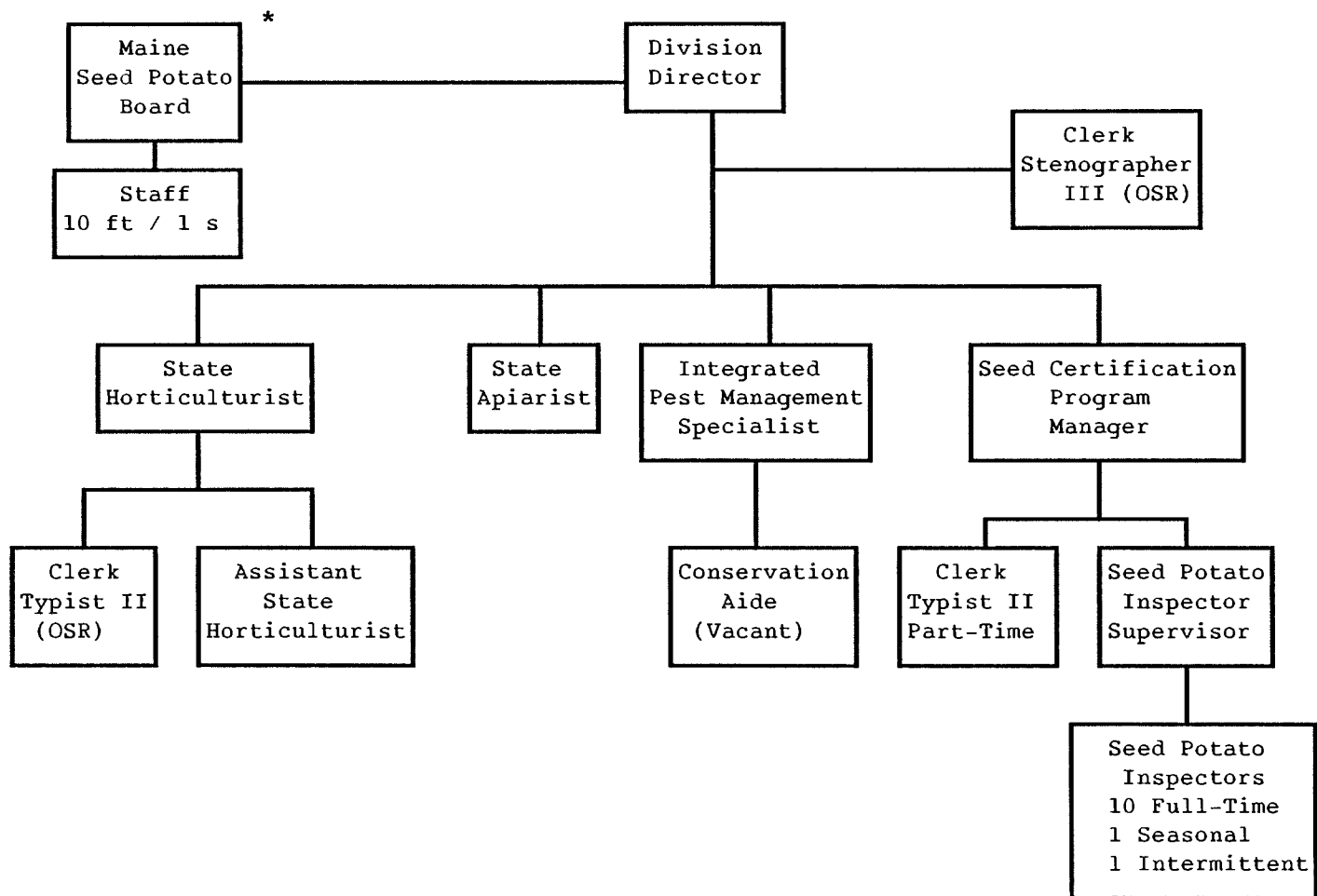


CHART 4

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES

Bureau of Agricultural Production and Marketing

DIVISION OF PLANT INDUSTRY



\* Reviewed last year  
 ft = full time / s = seasonal

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- evaluating and certifying private milk labs in the State;
  - promoting animal husbandry;
  - overseeing animal welfare laws as they relate to agriculture; and
  - promoting environmentally sound agricultural practices (e.g. manure and carcass disposal/handling) through investigation and recommendations.

#### Programs

The Division of Veterinary Services conducts and administers several programs aimed at accomplishing the above stated goals:

- **Food Safety Programs** - The Division conducts testing programs for diseases that threaten both food safety and animal health. Food safety programs include trichinosis testing (pork); the salmonella enteriditis program (eggs), which has become a serious human health issue nationwide and has negatively impacted the egg industry; brucellosis testing in swine and cattle (this organism causes undulant fever in humans); and testing of "suspect" animals for tuberculosis. The Division also operates the Milk Quality Program, which is designed to upgrade husbandry practices through testing and education with the goal of reducing the need for antibiotic use. The corresponding benefit is a decreased likelihood of drug residues in milk and meat.

Other public health related programs include regulation of the importation of birds into Maine, cooperation with the University of Maine in the Pet Bird Mortality Project, and public education efforts to increase awareness of pet diseases that pose a threat to humans. The Division of Veterinary Services works with the Public Health division of the Department of Human Services to assist in the surveillance of Lyme disease, Q-fever and rabies, and has recently been involved in soil and around water testing in response to public complaints regarding the proper handling of agricultural wastes.

- **Livestock industry health and profitability** - Veterinary Services offers livestock producers a number of disease control and certification programs for "economically significant" diseases such as bovine leukemia; Johnes disease (paratuberculosis - occurs in cattle, sheep and goats), brucellosis, tuberculosis, scrapie, ovine progressive pneumonia, caprine arthritis, and encephalitis. Serologic tests are conducted on blood samples submitted to the State-Federal Diagnostic Lab. Tests conducted during Fiscal Year 1991 were as follows:

TESTS CONDUCTED IN THE STATE-FEDERAL DIAGNOSTIC LABORATORY  
Fiscal Year 1991

<u>Test</u>	<u># conducted</u>	<u># positive</u>
Bluetongue	2,134	0
Anaplasmosis	988	0
Bovine Leucosis	2,126	323
Pseudorabies	894	1
Caprine Arthritis Encephalitis	992	408
Ovine Progressive Pneumonia	106	8
Salmonella Pullorum	19,842	116
Mycoplasma Gallisepticum	40,451	0
Mycoplasma Synoviae . . .	18,215	0
Brucellosis	20,354	29*
Equine Infectious Anemia	4,171	1

\* Vaccination related positive test

- **The Maine Milk Quality Program** involves Division veterinarian consultations with dairy farmers on mastitis and milk quality issues, including farm visits to observe milking procedures, analysis of milking equipment performance, bacterial culture of milk samples, and a stray voltage survey. Once the information has been gathered and reviewed, the Division veterinarian meets with the dairy farmer, his or her veterinarian, the milk plant supervisor, and any other relevant people to review the results and discuss the

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Division's recommendations. The Division's orientation to the process is to educate, inform, and assist; not criticize and punish. The Committee found that the Milk Quality Program has been well-received by the entire dairy industry, including producers, dairies, and milking equipment dealers.

The Milk Quality Laboratory used to be located at the University of Maine (Orono), through a contract with the Maine Department of Agriculture, Food and Rural Resources. In 1986, the University did not chose to renew the contract and the Lab was moved to the Department. The Lab conducts testing required under the Maine Milk Law (7 MRSA §2901) and the Interstate Milk Shippers Program, a cooperative state-federal program under which dairies are permitted to ship milk across state lines. Both producer and finished product testing are conducted on an ongoing basis (4 times in each 6 month period). The Lab Technician III from the Milk Lab also acts as the Maine Laboratory Evaluation Officer (L.E.O.), who certifies other milk testing laboratories in the state. The Maine L.E.O. also conducts an annual evaluation and statistical analysis for the tri-state region.

- **National Poultry Improvement Plan (NPPI)** - Departmental rule requires that all commercial poultry operations must participate in the NPPI, thus requiring inspection of poultry operations by Division veterinarians for 3 primary diseases: salmonella pullorum, mycoplasma galliseptium, and mycoplasma synoviae. Poultry operations are environmentally tested monthly, and blood tests are performed quarterly to monitor the presence of these diseases. The State has 5 major egg farms and 2 breeder farms (1 broiler, 1 layer).

The Division is also responsible for poultry testing at exhibitions, and conducts backyard poultry testing of 60 to 70 flocks. The Poultry program establishes regulations for poultry importation and is involved with vaccine biologic licensing (approval of new vaccine products).

- **Livestock Dealers and Auctions** - To promote fair trade practices and to control the spread of diseased livestock and poultry, dealers are

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required to sell animals that are free of infections or contagious diseases, and all dealers must be licensed. The Division investigates dealers suspected of being in noncompliance with the law, and may conduct testing and quarantine herds if necessary. In an effort to encourage compliance through education, annual meetings are conducted for all livestock dealers.

- **Garbage feeding** - Swine producers who feed garbage must be licensed and inspected, to reduce the chances of introducing hog cholera and the spread of trichinosis.
- **Import Test Requirements** - The Division of Veterinary Services ensures that all State and federal requirements for testing are met before any domestic livestock is transported into the State.
- **Animal welfare** - Pursuant to State law, any animal welfare complaint involving commercial farmers, harness racing horses, and pulling animals must be investigated by the Division of Veterinary Services. The Division tries to work with those persons using improper husbandry practices, to educate and encourage the adoption of sound practices. A report of findings resulting from any investigation is made to the Animal Welfare Board. The Division often works with the Animal Welfare Board and inspectors from the Department's Division of Regulations on other categories of animal welfare complaints.
- **Environmentally safe agriculture** - The Division's Agricultural Compliance Inspector investigates complaints regarding the disposition of manure and/or carcasses, in an effort to prevent the pollution of both surface and ground water. The Department was charged last year with establishing "Best Management Practices" for manure handling, and works closely with the Department of Environmental Protection on this issue. The Non-Point Source Pollution law passed this year strengthens this joint collaborative effort to protect water quality and includes participation by the Departments of Transportation, Forestry and Economic and Community Development to develop "best management

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practices" to control non-point source pollution associated with their regulated activities.

#### Organization and Staffing

The Division of Veterinary Services employs a staff of 11 full time and 1 part time positions. One Lab Technician and 1 part time stenographer are federally funded. All other positions are funded through the General Fund.

The Division's current organization and staffing levels is shown in Chart 5.

One of the laboratory technicians in the State-Federal Diagnostic Lab is cross-trained to also be able to perform the testing conducted in the Milk Quality Lab. This provides the Division with more flexible staffing capabilities, and enables them to respond more effectively to uneven work flows in the 2 labs, maintaining staffing during vacations, etc.

#### Funding and Expenditures

The Division of Veterinary Services is funded through the General Fund, dedicated revenues from laboratory testing fees, and federal funds provided for the State-Federal Diagnostic Lab through a cooperative agreement. Fiscal Year 1991 funding and expenditures were as follows:

<b>Funding Source</b>	<b>Balance Forward</b>	<b>Received</b>	<b>Expended</b>	<b>Carried</b>
General Fund	--	509	359,747	
Federal Fund	540	32,288	30,261	2,667
Dedicated	<u>141,049</u>	<u>75,635</u>	<u>50,905</u>	<u>165,778</u>
TOTAL	141,589	108,432	440,913	168,445

General Fund dollars are appropriated to the Bureau as a whole. Division expenditures of approximately \$360,000 represent about 38% of the total expenditure of General Fund dollars for the Bureau in FY 1991.

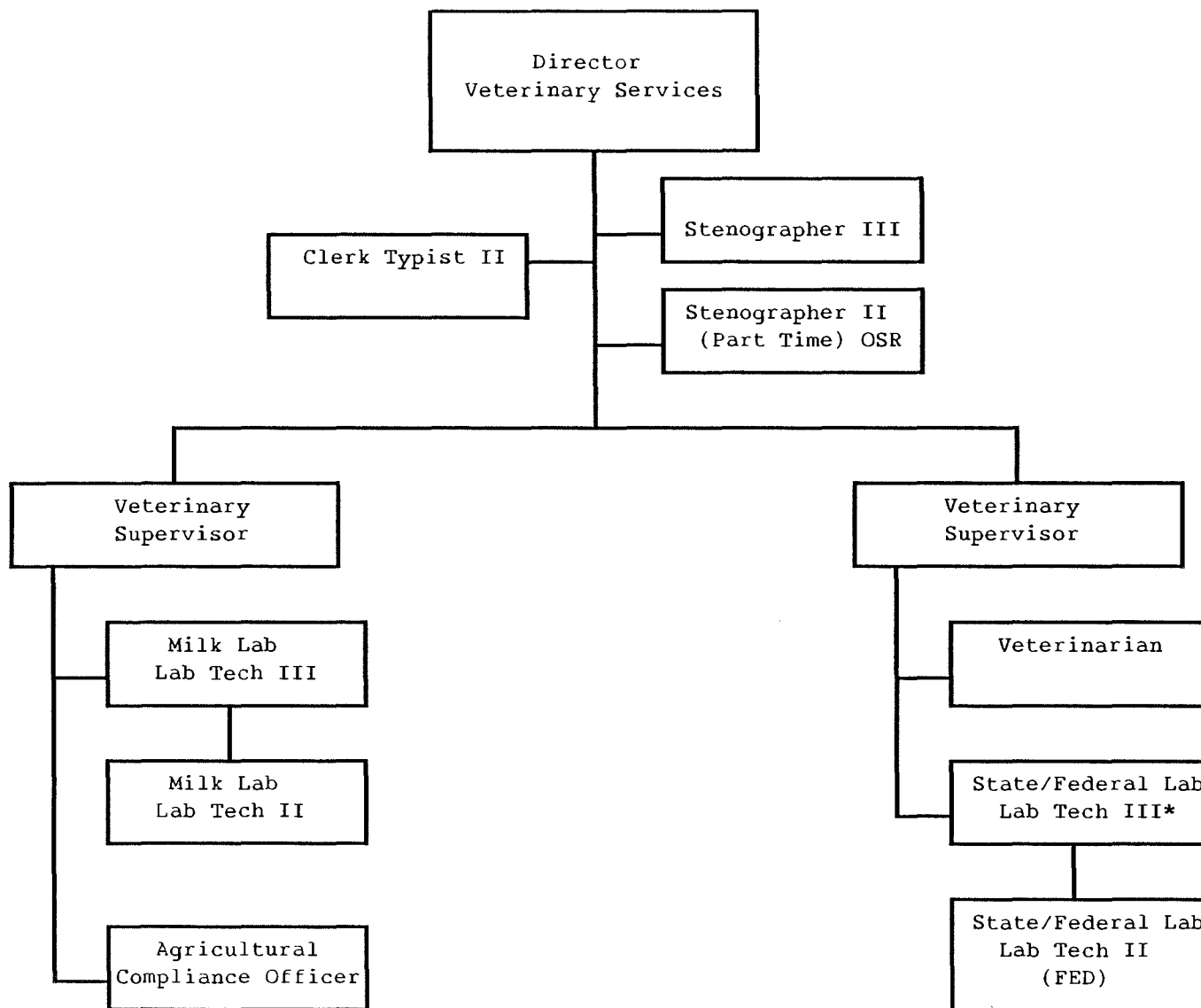
Federal funds for the State-Federal Lab have been declining in recent years, with Fiscal Year 1991 funds of \$32,388 just a little over half of the Fiscal Year 1987 funding level of \$61,212. This decline necessitated the transfer of the second Lab Tech position to the General Fund account in FY 1990. The dedicated fund account balance has been increasing steadily however, and stood at \$165,778 at the end of FY 1991.

CHART 5  
DEPARTMENT OF AGRICULTURE FOOD AND RURAL RESOURCES

BUREAU OF AGRICULTURAL PRODUCTION AND MARKETING

DIVISION OF VETERINARY SERVICES

Organization and Staffing



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## Division of Production & Marketing Development

### Purpose

The Division of Production and Marketing Development is a newly reorganized unit which combines the Division of Production Development and the Division of Marketing Development, the latter formerly belonging to the disassembled Bureau of Marketing. The functions of the unit are to assist agricultural commodity groups in strategic planning, evaluating and expanding agricultural production, storage, and processing systems, new crops and livestock enterprises; to acquire data needed to develop programs and policies; to recommend policy options for agricultural production to the Commissioner; and develop a comprehensive marketing program to address marketing issues relevant to all agricultural products.

### Programs

The Division works toward the above stated goals through administration of the following programs:

- **Commodity Planning Assistance** - Division staff work with planning committees of various commodity groups to conduct needs assessments and write planning documents for the commodity organization. This planning assistance enables those organizations to develop strategic plans, improve organizational development, increase communication among members and develop educational programs. Division staff initiated the creation of AGCOM, the first broad-based alliance of agricultural producers and businesses, in an effort to unify and strengthen the agricultural community's ability to strategize and plan for its future development. Farmers, Extension Service staff and Soil and Water Conservation District representatives typically work with the Department of Agriculture, Food and Rural Resources on development of these plans.
- **Agricultural Issues Assessment** - At the request of the Commissioner, the Division provides professional research assistance in collecting and analyzing information on issues that may impact the profitability or sustainability of a



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particular agricultural enterprise. Division staff also conduct meetings and workshops with farm organizations on relevant issues, and research the impact of proposed state legislation.

- **New Crop and Livestock Evaluation and Development** - Division staff respond directly to clients interested in investigating a new agricultural enterprise with technical assistance and information on the suitability of that enterprise for Maine conditions. Staff may gather information, assist with business plan development, and/or conduct promotional programs. These activities are prioritized with all other responsibilities of the Division to determine what level of assistance the State can realistically provide. This Division contributed considerable background work on the feasibility of cranberry production in Maine, and has worked with the Department of Environmental Protection on the necessary amendments to the State's wetlands regulations.
- **Crop and Livestock Production and Genetic Improvement Assistance** - Division staff provides technical assistance to individual farmers and small groups in the form of farm visits, phone or written consultations, and small community meetings on improving crop and livestock breeds in Maine, and increasing production.
- **Information and Technical Service** - As a marketing function, Division staff compiles information on current market conditions; marketing infrastructures; state, federal and international packaging and labeling regulations; and available market resources (e.g. manufacturers, suppliers, brokers, trade shows and publications, etc.).
- **Advertising** - Marketing staff administer any funds that are made available for increasing the sale of Maine farm products.
- **Direct Marketing of Agricultural Commodities** - This program was designed to gather and disseminate information on the various methods of direct marketing, such as farmers' markets, roadside stands, cooperative marketing and mail order. Information provided may include the

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topics of promotion, advertising, pricing, management, and insurance concerns. Lists of names and addresses of producers of Maine farm products are produced, updated, and distributed.

- **Market Service** - Established to provide information on wholesale and retail prices, given availability of current supply, quality, quantity, consumer preferences, demand in local and foreign markets and other pertinent data. Information on long term marketing decision factors such as production costs, profitability, and market structure is also provided.
- **Eastern States Expo** - For the past 20 years, the Department has operated and maintained the State owned State of Maine Building (built in 1923) at the Eastern States Exposition in West Springfield, Massachusetts. For twelve days in each September, Maine products and resources, agriculture, industry, fisheries, forests, wildlife, and recreation are exhibited, publicized, and promoted to over 40,000 people each day. The Maine Potato Board recently generated 10% of its operating budget at the Exposition from the sale of over 53,000 baked potatoes. The Maine Publicity Bureau handed out more than 115,000 pieces of literature about Maine, about a third of which were from State Chambers of Commerce and other statewide organizations. Participation in the Eastern States Expo costs the state about \$18,000.
- **Apple Market Order** - Administered by this Division, the Apple Market Order consists of a fee per bushel collected from producers and used to promote the sale of fresh apples both in Maine (25% of funds) and through the New York/New England Apple Institute (75%).

The Division used to administer a series of grant programs geared to expansion of resources to research production, storage, processing, and marketing of Maine agricultural products. Funding for all of these grant programs was eliminated during the 1990-91 budget cuts, however their authorizing legislation remains intact. The programs are as follows:

- **Technology Transfer and Special Research Projects Program** - Pursuant to 7 MRSA c. 10 (P.L. 1985, c. 438), this program provided cost-share grants to

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researchers and farmers for projects aimed at increasing the adoption rate of appropriate new production, storage, and processing technologies. Grants were capped at \$5,000 or 50% of project costs, whichever was less. Projects were approved by an Advisory Committee which included representatives of the Cooperative Extension Service, the Maine Agricultural Experiment Station, the Finance Authority of Maine and the Department. In the five years the program was funded, \$243,633 in General Funds were awarded, combined with \$144,740 in Exxon overcharge funds allocated to the program. These dollars generated \$1,091,758 in matching funds and in-kind contributions, for a total of \$1,480,132 spent to fund 95 projects (out of 172 grant proposals submitted). General Fund dollars constituted 16.5% of the total; General Fund and Exxon monies combined totalled 26.2%.

- **Maine Agricultural Promotion Assistance Matching Fund** - Established in 1983 to provide grants to individuals, firms, or organizations for promotional efforts that effectively expend or strengthen markets for Maine agricultural products, pursuant to 7 MRSA §401-C. Approximately \$225,000 was awarded in grants between 1984-1988.
- **Agricultural Market Research and Development Fund** - Established in 1987 to "encourage careful and thorough analysis of market potential and more extensive development of markets for Maine agricultural products" (7 MRSA §401-D), by providing up to 75% project costs for market research and/or development. Grants totalling \$65,513 were awarded to ten different organizations and businesses under the program.

#### Organization and Staffing

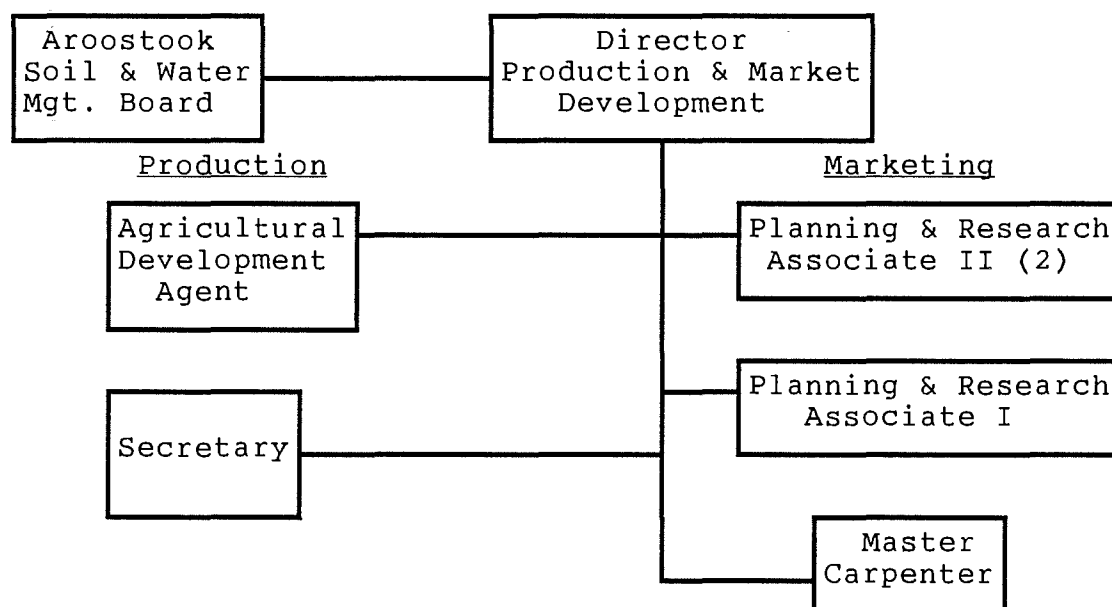
The Division of Production and Marketing Development currently has a staff of 8. Combining the Bureaus of Production and Marketing and the Divisions of Production and Marketing resulted in the elimination of both the Marketing Bureau Director and the Director of the Market Development Division, as well as a clerical position. Marketing staff is now comprised of 3 Planning and Research Associates, a Master Carpenter, and a Clerk Steno III. Production lost a second Agricultural Development

Agent in the cuts. There remains one Agricultural Development Agent and the Division Director, who works primarily on Production related projects and issues, and a Secretary on the Production side.

The Division's organization and staffing levels are shown in Chart 6.

**CHART 6**  
**DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES,**  
**BUREAU OF AGRICULTURAL PRODUCTION AND MARKETING**

Division of Production & Marketing Development  
Organization and Staffing



Expenditures

Combined expenditures of these two divisions, including a pro-rated share of their respective Bureaus administration, totaled \$487,894 in FY 1991, as follows:

	<u>Production</u>	<u>Marketing</u>
General Fund	\$149,934	\$262,380
Other Special Revenue	--	75,580

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Total	\$149,934	\$337,960
Percent of Total Divisional Expenditures	30.7%	69.3%

Because General Fund dollars for the current year continue to be appropriated to two separate units, it is not possible to separate out a "budgeted" amount for these activities in the current year. Expenditures will inevitably be reduced however, due to savings associated with the elimination of 4 positions (1 production, 3 marketing).

#### AROOSTOOK SOIL AND WATER MANAGEMENT BOARD

The Aroostook Soil and Water Management Board was created by the Legislature in 1988 to receive federal funds for a major irrigation and water conservation research project on potato production in Aroostook County. The project had been recommended by the Army Corps of Engineers in a feasibility report issued in 1980, that resulted from a water quality study that identified sediment as a major water quality problem and sediment erosion from agricultural practices as the source of that problem.

The process of getting this project underway has been extremely complex, involving years of negotiation and re-negotiation between the Corps, the USDA, the Department, and the University (which has been conducting relevant research on a small scale during the whole negotiation process). It appears that the project will go forward --- \$300,000 has been appropriated by Congress and the Army Corps of Engineers has finally agreed to oversee the \$5.2 million project (they had felt it was more appropriately under the purview of the USDA). The Maine Legislature appropriated \$120,000 in matching funds, which will suffice through FY 93. However, the 116th Legislature will need to provide additional matching funds if the project is to continue.

#### **Division of Quality Assurance**

##### Purpose

The Division of Quality Assurance, formerly a unit of the Bureau of Agricultural Marketing, was established to provide a voluntary quality inspection service for Maine agricultural industries and to regulate the quality of certain products not

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utilizing the voluntary service. The Division is also responsible for enforcing the Minimum Standards for Planting Law (potatoes) and licensing dealers, brokers and, processors of potatoes and dried beans.

### Activities

Staff of the Quality Assurance Division administer the following programs:

- **Fruit and Vegetable Inspection** - This program is utilized primarily by potato growers, although some blueberries, apples, broccoli and Christmas trees are also inspected. At the request of the producer, inspectors certify the quality, condition, and grade of the commodity at packing or shipping points. This inspection provides "proof" that protects the grower in the event the product is damaged or mishandled during transport. About 25,000 truckloads of potatoes underwent voluntary inspection under the program in 1990; which represented 100% of seed potatoes, about 40% of table stock, and about 1/3 of processing potatoes. Additionally, about 200 trailers of apples (primarily for export), 350,000 pints of blueberries, and 11,000 Christmas trees were inspected under the program. (4 FT/47 FTS/18 INT positions)

Upon review, the Committee found that prior to 1980, about 85-90% of harvested potatoes were voluntarily inspected. In that year, the Legislature eliminated funding for the mandatory Branding Law program (see Quality Assurance, below).

Between 1980 and 1983, there was essentially no regulation of potatoes, and voluntary inspection dropped to about 16%. The Branding Law was reinstated in 1984, and voluntary inspection has since increased to about 40-44%.

Inspection of potatoes was expected to be down in 1991 due, in part, to the Legislature's recent deappropriation of \$79,000 in inspection subsidies under the Maine Bag Program. The subsidy equalled 7.5 cents of the 13 cents per hundredweight inspection fee, so its elimination essentially more than doubled the cost of

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inspection for packers using Maine bags. As a result, some growers are opting not to use the bags. Those growers who are still using the bags are being inspected under the Maine Quality Trademark program, which requires a higher quality standard but is still subsidized. Unfortunately, contrary to statutory requirement, there is some evidence that some Maine bags are leaving the State without being inspected. This may be partly due to the fact that shippers had already procured 10 million Maine bags (\$600,000 worth), prior to the Legislature's deappropriation.

- **Poultry and Egg Grading** - Also a voluntary program, Poultry and Egg Grading is operated under a federal trust agreement whereby producers pay the USDA for grading services, which then reimburses the State. About 90 million dozen eggs are graded and then, after packing, inspected to ensure that the grade of the product matches the label on the container. Inspectors also ensure that minimum sanitation standards are maintained for facilities, equipment, chemical compounds, and solutions. (15 FT/7 INT positions)
- **Maine Quality Trademark** - This program allows producers to affix a trademark seal to their product, increasing its marketability, if the product meets an above minimum quality standard, as determined by rule by the Commissioner. Commodities currently eligible for participation in this program are potatoes and seed potatoes, blueberries, broccoli, lumber, Christmas trees, bottled water, and milk. (1 position)
- **Quality Assurance** - The non-voluntary Branding Law inspection Program involves inspection of a random sample of all agricultural products produced and sold in the State, to ensure that minimum standards for grading, certification, and packaging are maintained. Inspections may take place at production, distribution, or retail sites, or during transport through a "truckstop" program. Violations require the retailer or packer to repackage the product. Over 5,000 inspections of potatoes, apples, eggs, maple syrup, blueberries, and broccoli were conducted under this program last year, with close to 3 million pounds of mislabeled or misrepresented

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products seized for failure to meet minimum quality standards. (4 positions)

- **Objective Yield on Potatoes** - This is a scientific data collection project conducted annually by the New England Agricultural Statistics Service of the USDA, and staffed by Quality Assurance Division inspectors through a cooperative agreement. Potato fields are randomly sampled during growing and harvesting operations, then the sample potatoes are graded, sized, and weighed using strict laboratory procedures. The resulting data is used to estimate the size and quality of the potato crop.
- **Market News Program** - A daily potato bulletin issued during the shipping season, the Market News details information related to the marketing of potatoes in Maine, the U.S., and limited foreign markets. An annual marketing summary is also available through the Market News's Presque Isle Office. (2 seasonal positions)

#### Staffing

The Division of Quality Assurance is staffed by 28 full time, 48 full time seasonal (43 weeks), one part time and 25 intermittent positions. Positions are funded through General Fund, dedicated revenues, and federal sources, with the Poultry and Egg Inspection Program receiving federal funds (fee-for-service paid by the producers), and the Fruit and Vegetable Inspection Program funded through dedicated revenues (also inspection fees). The Division lost one Quality Compliance inspector (Quality Trademark program) due to recent budget cuts. The Division's organization and staffing levels are shown in Chart 7. Positions by funding source are as follows:

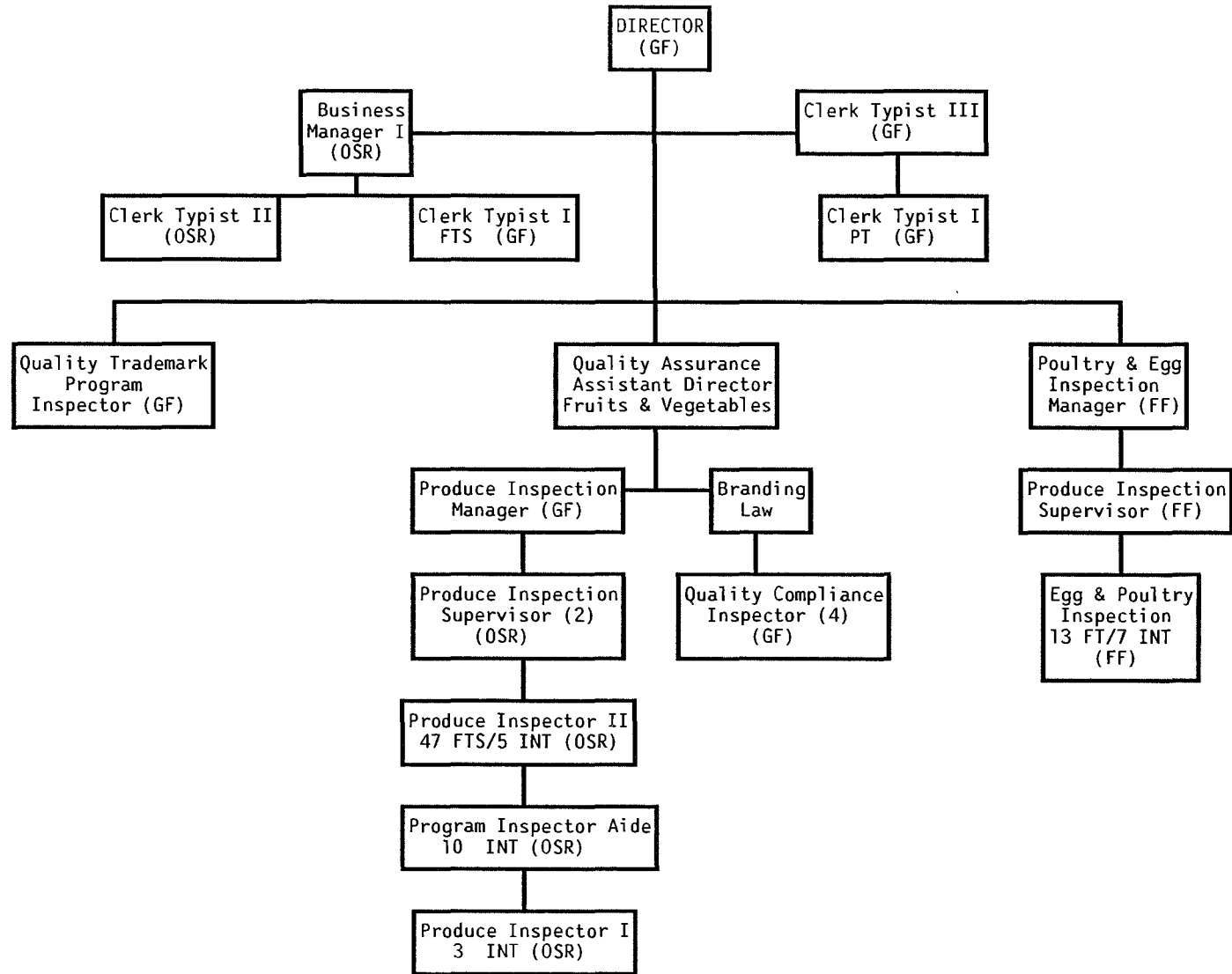
<u>GF</u>	<u>FF</u>	<u>OSR</u>
9 FT	15 FT	4 FT
1 FTS	7 INT	47 FTS
1 PT		18 INT

Quality Assurance inspectors are also utilized for the Foundation Roguing Program and seed potato certification during the slow months.

With the exception of the Poultry and Egg Inspection staff, the majority of the staff and activities of this Division are located in Aroostook County.



**CHART 7**  
**DEPARTMENT OF AGRICULTURE FOOD AND RURAL RESOURCES**  
**BUREAU OF AGRICULTURAL PRODUCTION AND MARKETING**  
**DIVISION OF QUALITY ASSURANCE**



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The Division Director sits on the Maine Potato Quality Control Board as the departmental representative.

Funding and Expenditures

Expenditures associated with the activities of the Division of Quality Assurance for Fiscal Year 1991 are as follows:

	<u>Available</u>	<u>Expended</u>	<u>% of Total</u>
General Fund	*	\$ 547,032	27.5%
Federal Funds	\$ 521,992	521,756	26.2%
Dedicated Funds	1,053,001	921,039	46.3%
		\$1,989,827	100%

\*General Fund dollars not allotted by division

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STATUTORY	31.	Increase the period within which licensed dealers must pay for potatoes for which they have accepted shipment, from the current 20 (business) days to 30 calendar days.
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Under current law (7 MRSA §1015), potato dealers and processors must file a bond with the Commissioner of Agriculture in an amount ranging from \$35,000 to \$200,000 for dealers and \$50,000 to \$300,000 for processors, in order to insure the financial responsibility of the licensee to the producer. Current law (7 MRSA §1017) also requires that growers be paid for their products within 20 days of shipment, but this requirement is routinely ignored by many licensees, according to the Department and Maine Potato Board staff. While some dealers do a large volume of business but keep accounts payable low, others accrue large accounts payable balances that are not sufficiently protected by the amount of the bond filed with the Department.

By statute, the amount of the bond processors must file is based upon the "anticipated monthly volume of purchases," however nothing is stated, other than the range, about the amount of bond to be posted by a dealer. However, the Department reported to

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the Committee that the bond required is based on the amount of potatoes shipped by the dealer.

In one recent instance where a bond had to be called to cover defaulted payments, producers received only 20-25 cents on the dollar for their potatoes because the bond posted was substantially inadequate to cover the accounts payable, primarily because the 20 day payment period had been exceeded.

The Committee also noted that current law (7 MRS §1017) lists an array of violations for which the Commissioner, after providing for proper notice and hearing under the Maine Administrative Procedure Act, may refuse to grant a license. Nonpayment within 20 days for goods received is one such violation; however, this enforcement mechanism does not appear to have been used.

Upon review, the Committee found that it made sense to amend the mandated payment period to a standard payment period of 30 days. The Committee found that such a change would provide a more reasonable enforcement mechanism. Therefore, the Committee recommends that current law be amended to increase the period within which licensed dealers must pay for potatoes for which they have accepted shipment, from the current 20 (business) days to 30 calendar days.

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STATUTORY	32.	Repeal the Maine Agricultural Promotional Assistance Matching Fund.
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Current law (7 MRS §401-C) authorizes the Maine Agricultural Promotion Assistance Matching Fund. In brief, this fund was created to provide financial support for promotional efforts, "... which promise [in the judgment of the Commissioner] to effectively expand or strengthen the markets of Maine Agricultural products."

The Maine Agricultural Promotional Assistance Matching Fund was created in 1983. Between 1983 and 1988, approximately \$225,000 was disbursed in matching grants. In recent years, the fund has not received any appropriations from the General Fund.

Upon review, the Committee found that the Fund did not represent the most effective use of either private or public

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sector funds. Therefore, to improve the effective use of limited amounts of private and public funds, the Committee recommends the repeal of the Maine Agricultural Promotional Assistance Matching Fund.

## COMMISSION ON BIOTECHNOLOGY AND GENETIC ENGINEERING

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STATUTORY	33.	Clarify that only human medical uses of genetic engineering are excluded from the oversight responsibilities of the Commission on Biotechnology and Genetic Engineering.
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The Commission on Biotechnology and Genetic Engineering is authorized by current law (7 MRSA, chapter 8-C) to, "... conduct and encourage research designed to further new and more extensive uses of the resources of the State, and to promote and encourage the advancement of biotechnological and genetic research." Upon further review of the Commission's authorizing statues, the Committee noted that the statutory definition of "genetic engineering" excludes "medical uses of this technology. "[7 MRSA §232 (2)].

Upon review, the Committee found that the Commission has interpreted this exclusion as banning the use of this technology in terms of human medical applications. The Committee agreed that this interpretation was as the Legislature had intended, but that current law should be amended to remove any possible ambiguity.

Therefore, to clarify legislative intent, the Committee recommends that current law be amended to state that only human medical uses of genetic engineering are excluded from the oversight responsibilities of the Commission on Biotechnology and Genetic Engineering.

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## MAINE POTATO BOARD

### Creation and Purpose

The Maine Potato Board was created in 1986 by Public Law 1985, chapter 754:

"to create a unified organizational structure, under the auspices of a state agency, to provide for the advancement of the Maine potato industry in the public interest and for the public good. Under this new organizational structure, all elements of the potato industry will be represented and will work together under the leadership of a unified, public board to solve the problems facing the industry."

The Maine Potato Board replaced three independent bodies: The Maine Potato Council, the Maine Potato Commission, and the Maine Potato Sales Association.

The Maine Potato Board advances the interests of the Maine potato industry by attempting to provide:

- a unified voice;
- joint leadership for all segments of the industry;
- direction in policy development, promotion and research;
- improved technological skills to further long range interests of the industry;
- improved sales and marketing;
- a communication vehicle to members; and
- pursuit of other goals consistent with its authorizing legislation and intent.

The Board undertakes these objectives through goals established in an annual Plan of Work, compiled by the Executive Director and approved by the Board. To better focus members efforts on specific tasks, the Board has several subcommittees - Research, Education, Advertising, and Long-Range Planning. The Board works closely with the Agricultural Experiment Station, the Cooperative Extension Service, Agricultural Bargaining Board, Soil and Water Conservation districts, the Department, the Potato

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Quality Control Board, and others to ensure fully coordinated efforts whenever possible.

The Plan of Work is divided into eight separate focus areas: seed/variety development, agricultural practices, harvest and storage, marketing/produce specifications, transportation, finance, processing, and agricultural commodities. Goals, action steps, key players, and staff assignments are designated for each area.

### Organization

The Maine Potato Board's authorizing legislation detailed a complex organizational structure for industry-wide representation and participation. The statute divides the State into seven specified districts (six are in Aroostook County). Each district must have an assembly of tablestock growers, an assembly of seed growers, and an assembly of processing growers. All growers in the district are entitled to membership in their respective assembly. Additionally, there are two statewide assemblies; one for dealers and one for processors. Each category of assembly elects an executive council to serve as liaison between the assemblies and the Maine Potato Board. Tablestock, seed, and processing assemblies each elect 1 member to their respective 7 member executive council. The dealers assembly also elects 7 members to their council. The processor's executive council is made up of 5 members, elected by the processor's assembly.

Each executive council must elect officers annually and meet at least 4 times each year. Assemblies are required by law to meet at least once a year at the call of their executive council or the Board. All meetings are open to the public.

The Maine Potato Board itself is made up of eleven members: six growers (2 of each); 2 processors; and 3 dealers, one of which must be a dealer who is also a grower. All members are elected by their respective executive councils for two year terms, and may not serve more than three consecutive terms. The Maine Potato Board meets at least 10 times a year (monthly, excluding May and September). Members receive per diem and travel expenses.

### Funding and Expenditures

The Maine Potato Board is funded by a tax on all merchantable potatoes grown in the State (except those consumed or used for seed by the grower) at the rate of 5¢ per hundredweight. Shippers are responsible for reporting and

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remitting the tax to the State Tax Assessor monthly. The grower and "first handler" (shipper) each pay half the tax. The Bureau of Taxation's costs for collecting and enforcing the tax are paid out of the funds collected - about \$58,000 last year.

In Fiscal Year 1991, the potato tax netted \$910,918 in revenue for the Maine Potato Board. Additional revenue of \$132,500 came from selling baked potatoes at the Eastern States Expo in West Springfield, MA (12 days each early September) and other miscellaneous activities. Expenditures for Fiscal Year 1991 totalled \$1,022,739.

Upon review, the Committee also noted a number of other significant items regarding the Maine Potato Board:

- while some reduced revenues from the potato tax are anticipated for the current year due to reduced yield of the harvest, the Board's \$378,000 carried forward from Fiscal Year 1991 should adequately protect the Board's budget for the foreseeable future;
- During its 1990-1991 review, the Audit and Program Review Committee issued a recommendation that the Maine Potato Board cover any Fiscal Year 1991 budget deficit of the Seed Potato Board, up to a maximum of \$40,000;
- the Maine Potato Board has also contributed \$15,000 to the Market Advisory Program; and
- The Maine Potato Board also receives a General Fund transfer for the Potato Quality Control Board's Director and miscellaneous overhead costs. This figure amounts to \$39,586 in Fiscal Year 1992.

#### Staffing

The Maine Potato Board is required by statute to appoint an executive director, who may employ additional staff at the direction of the Board. Board staff are not subject to the Personnel Law, and salaries are set by the Board and approved by the Governor.

In addition to the Executive Director, the Board employs an Assistant to the Director, a secretary, and an administrative clerk. A second administrative clerk position is currently vacant. The General Funded Director of Quality Control is also

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overseen by and considered to be, by statute, an employee of the Maine Potato Board.

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STATUTORY	34.	Replace or remove obsolete references to the non-existent Maine Potato Council.
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During its review of the Maine Potato Board, the Committee noted a couple of obsolete statutory references (7 MRSA §1012 (8) and §1015) to the discontinued Maine Potato Council. The Maine Potato Council was terminated in 1985 and replaced (along with the Maine Potato Commission and the Maine Potato Sales Association) by the Maine Potato Board.

Therefore, to delete the references to the defunct Maine Potato Council, the Committee recommends that current law be amended to replace or remove obsolete references to the non-existent Maine Potato Council.

## MAINE POTATO QUALITY CONTROL BOARD

### Origin and Purpose

The Maine Potato Quality Control Board (PQCB) was created in 1981 "to use a public and private partnership to create a voluntary potato quality control system" (P.L. 1981, c. 513, §10). This language was amended in 1987 to "create a voluntary potato quality control system to promote the sale of Maine potatoes" (P.L. 1987, c. 99, §1). Duties of the PQCB are to:

- promote the quality control of potatoes, pursuant to statute;
- adopt identification to be used on consumer packs of potatoes (Maine bags);
- hear and resolve grievances regarding inspections;
- require reports of inspections performed under the program;
- adopt a fee schedule sufficient to cover necessary board expenses; and



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- to recommend to the Commissioner a maximum "Maine Bag" inspection fee and to advise the Commissioner of actions required to achieve full industry participation (7 MRSA §1033, sub-§2).

#### Membership and Staffing

The Maine PQCB is made up of 11 members:

- two elected by the dealer's executive council;
- seven representatives of tablestock growers, one elected by the growers' assembly in each of the State's 7 districts;
- a department representative, appointed by the commissioner; and
- a consumer representative, appointed by the Governor.

The Potato Quality Control Board was originally independent. However, the Potato Quality Control Board was placed under the oversight of the Maine Potato Board in 1987. The PQCB submits an annual work plan and budget to the Maine Potato Board for its approval. The PQCB's director is, by statute, an employee of the Maine Potato Board (7 MRSA §1033, sub-§4), though funded by the General Fund.

#### Funding and Expenditures

The statute states that the Maine Potato Board may require and expend funds from any source in furtherance of the mandated duties of the PQCB or promoting tablestock potatoes (7 MRSA §1033, sub-§3). The Potato Board receives a General Fund appropriation of nearly \$40,000 to cover the personal service, rent, and meeting costs for the QCB's staff.

#### Activities

The current work plan for the Potato Quality Control Board includes:

- support for industry efforts to solve cull disposal problems (top priority);

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- continuation of study methods to develop pricing guidelines to assist packers;
  - continue to promote Maine Bag and Quality Trademark programs;
  - continue to monitor and analyze data relative to bruised potatoes under the Anti-Bruise Campaign; and
  - several promotional efforts regarding potatoes and management and handling techniques.

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FINDING

35.

The Committee finds that the consumer representative slot on the Maine Potato Quality Control Board has been vacant for an extended period, and that this circumstance negatively impacts the effectiveness of the Board.

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ADMINISTRATIVE

36.

Direct the Commissioner of Agriculture, Food and Rural Resources to make every possible effort to ensure that all members of the Maine Potato Quality Control Board are appointed expeditiously when vacancies occur, including submitting recommendations for appointments to the Governor at least 60 days prior to the expiration of a member's term.

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As previously described, the Maine Potato Quality Control Board is made up of 7 tablestock growers, 2 dealers, 1 Department representative, and 1 consumer representative. The consumer representative has historically been a buyer for one of the larger supermarket chains - Hannaford Bros. or Shaw's. Recently,

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the Consumer representative position has been vacant for a lengthy period of time.

The Committee found that the consumer representative provides essential input to the Board's deliberations. The consumer is the party who ultimately determines the acceptability of the quality of the products being produced, through his or her willingness to purchase the product and the price that is paid.

Upon review, the Committee found that the recent consumer representative vacancy has deprived the Board of a consumer perspective. The Committee further found that the prolonged vacancy of the consumer representative member is unnecessary and detrimental to the Board's overall effectiveness.

Therefore, to address this issue, the Committee takes two actions. First, the Committee issues a finding that the consumer representative slot on the Maine Potato Quality Control Board has been vacant for an extended period, and that this circumstance negatively impacts the effectiveness of the Board. Second, the Committee issues a recommendation directing the Commissioner of Agriculture, Food and Rural Resources to make every possible effort to ensure that all members of the Maine Potato Quality Control Board are appointed expeditiously when vacancies occur, including submitting recommendations for appointments to the Governor at least 60 days prior to the expiration of a member's term.

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ADMINISTRATIVE 37.

Recommend that the Commissioner of Agriculture, Food and Rural Resources reinstitute truck stop inspections under the Maine Branding Law.

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Up until 1989, the Division of Quality Insurance used the provisions of Maine Branding Laws to conduct random "truck stops" as an enforcement tool to help insure the existing potato quality standards. This practice was discontinued by the Commissioner in response to a number of complaints made by potato growers.

Upon review, the Committee found the following:

- through the use of "truck stops," the Division of Quality Insurance used to identify 24% of the quality violations through the use of only 2.8% of total staffing resources;

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- each truck stop inspection had a "cost" of \$639 in previously budgeted Divisional resources;
  - during the last year (1989) for which complete records were kept, the Division of Quality Assurance collected a total of \$7,650 in penalties emanating from truck stop inspections;
  - the elimination of truck stop inspections is likely to have reduced the incentives for growers to initiate and conduct voluntary inspections; thereby resulting in the decreasing quality of Maine potatoes; and
  - recently a number of growers have taken legal action to contest the constitutionality of the Branding Law.

The Committee concluded that to maintain the continued high quality of Maine potatoes, it is necessary to have a vigorous program of quality enforcement. The Committee further found that truck stop inspections represent a relatively effective and efficient means of helping to ensure the higher quality of Maine potatoes. Therefore, the Committee recommends that the Commissioner of Agriculture, Food and Rural Resources reinstitute truck stop inspections under the Maine Branding Law.

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STATUTORY	38.	Repeal the requirement that the Maine Potato Quality Control Board adopt a fee schedule to cover a portion of the expenses of the Board.
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Title 7, section 1033, subsection 2 lists the duties of the Maine Potato Quality Control Board. These duties include the following:

"F. To adopt a fee schedule and require the payment of a fee to cover such portion of the expenses of the board as the board determines necessary;"

Upon review, the Committee found that this section does not

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refer to inspection fees, which the Board may recommend to the Commissioner under another paragraph. The Committee also found that the Board has no such fee schedule, nor does the statute indicate who should be charged the fee, or on what basis. The Committee was not able to determine what the original intent of this statute was. However, it appears that the costs of the PQC Board, now General Funded, were expected to be offset, at least in part, by this fee.

In conclusion, the Committee found that there is not any reason to retain this statutory authority. Therefore, the Committee recommends that current law be amended by repealing the requirement that the Maine Potato Quality Control Board adopt a fee schedule to cover a portion of the expenses of the Board.

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STATUTORY	39.	Clarify the Potato Quality Control Board's authority to specify Maine bag identification by removing redundant language.
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In listing the duties of the Potato Quality Control Board, current law [7 MRSA §1033 (2)] specifies the following:

"B. To adopt identification to be used on consumer packs of potatoes to be packed in Maine bags, as authorized in this article;"

Upon review, the Committee found that this provision is in need of some clarification. In particular, the Committee noted that the phrase, "... to be packed in" is already implied in the provision. The Committee further found that the section could be made more succinct by deleting that phrase and replacing it with the words, "... known as."

Therefore, the Committee recommends that current law be amended to clarify the Potato Quality Control Board's authority to specify Maine bag identification by removing redundant language.

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## BUREAU OF PUBLIC SERVICE

### Creation and Purpose

The Bureau of Public Service was established in 1980 to consolidate the regulatory and consumer protection functions of the Department of Agriculture, Food and Rural Resources under the Agricultural Development Act. The various functions of the current Bureau have come into being over the course of the evolution of Maine State Government, beginning with the authorization of the State Sealer of Weights and Measures in 1839.

The Bureau administers regulatory programs designed to protect the public by ensuring food safety, monitoring grades and weights of foods, feeds, seeds, fertilizers, and fuel, and by enforcing the State's labeling laws. Public Service is also responsible for administering the State's returnable container law, and providing State oversight and contact with harness racing, pesticides control, and pull events bodies. Specific programs will be discussed in more detail within the section of the report concerning the Division of Regulations.

### Organization and Staffing

The Bureau of Public Service consists of the Division of Regulations, the Pull Events Commission, the Agricultural Bargaining Board, the Maine Milk Commission, the Harness Racing Commission, and the Pesticide Control Board. The latter three were reviewed by the Committee during the 1990-1991 review. Harness Racing and Pesticides were recently transferred to the Bureau of Public Service from the abolished Bureau of Agricultural and Rural Resources. The Bureau's organizational structure is shown in Chart 8.

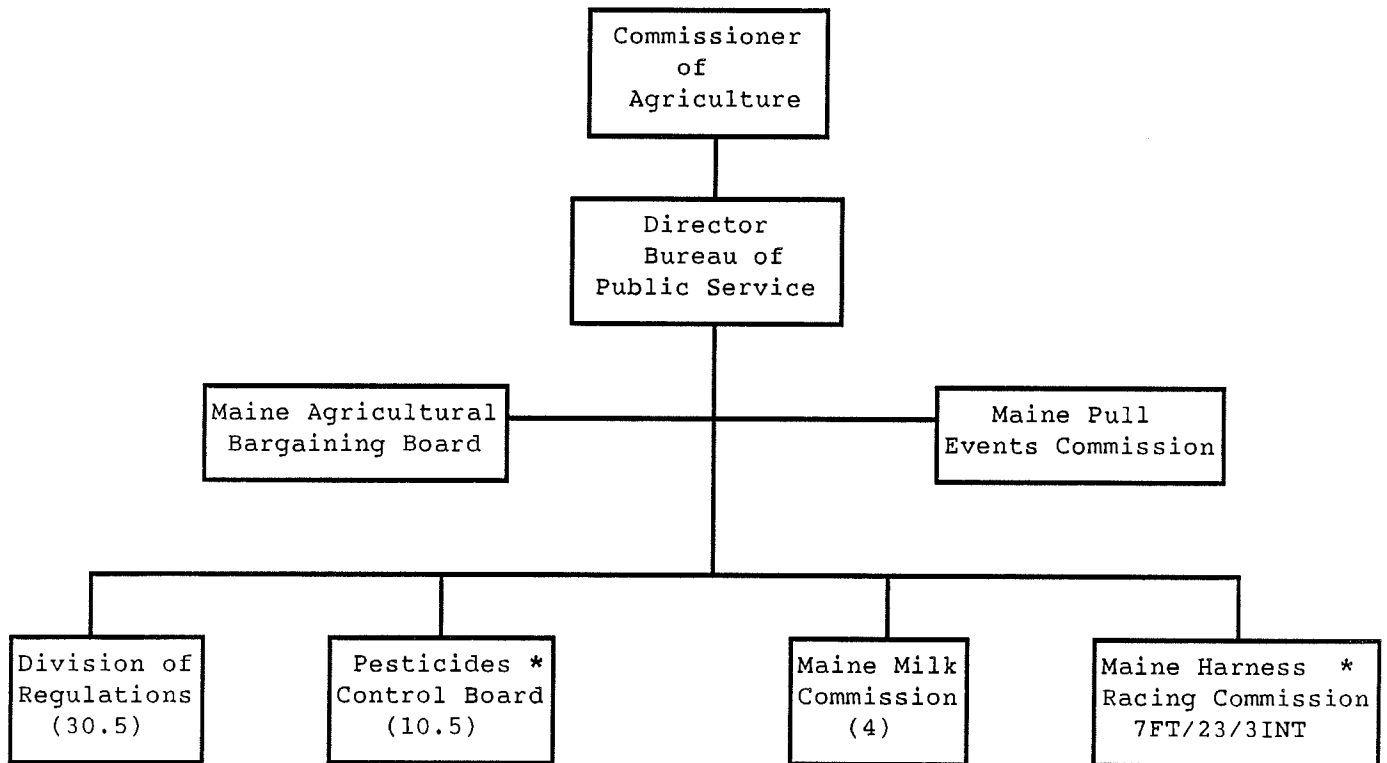
### Funding and Expenditures

In Fiscal Year 1991, funding and expenditures for the Bureau of Public Service were as follows:

	<u>General Fund</u>			<u>Other Special Revenues</u>	
	<u>APP.</u>	<u>EXP.</u>	<u>REC'D</u>	<u>REC'D</u>	<u>EXP.</u>
Bureau Admin.	1,408,222	62,800	--	--	--
Regulations	*	1,282,261	382,109	181,320	157,281
Milk Commission	_____	_____	_____	<u>4,232,758</u>	<u>4,247,788</u>
Total	1,408,222	1,345,061	382,109	4,414,078	4,405,069

\*Included in above

Chart 8  
BUREAU OF PUBLIC SERVICE



\* Recently transferred from the abolished Bureau of Agricultural & Rural Resources

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The "Received" column indicates the amount of revenue generated by the program. In the case of the General Fund revenues, these dollars help to offset the cost of the regulatory functions.

## **Division of Regulations**

### Responsibilities

The Division of Regulations is responsible for ensuring a safe food supply through its inspection of all foods, food processing establishments, food salvage operations, dairy farms, stores and other food outlets, feeds, seeds, fertilizers and hazardous substances (food & packaging additives), and to perform the duties of the State Sealer of Weights and Measures. Regulators may sample and analyze all substances that they have the authority to inspect. The Division responds to consumer complaints about food items and the Commissioner has the power to embargo adulterated or misbranded food.

This Division also reviews regulations and consumer concerns about new food processing technologies and biotechnology influences on food, ice, and game husbandry practices for the consumer food market. The Division receives and assesses information and testimony from other agencies, the public, and industry on whether given levels of carcinogenic substances are harmful to the public food supply, and the reduction of toxics in packaging.

The Division works in cooperation with the federal FDA on the recall of products, and is additionally responsible for investigating food product damage that occurs through fires, floods, extended power outages, or damage in transit.

By statute, the Commissioner of Agriculture is the official State Sealer of Weights and Measures, and these responsibilities are carried out by the Division of Regulations.

The Division has been formerly known as the Division of Inspections (1919-1967) and the Division of Consumer Protection (1967-1972).

### Programs

**Consumer Foods** - This program administers inspection and licensing of retail food stores, home food processing



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businesses, commercial food processing establishments, food warehouses, food salvage operations, ice manufacturers, mobile food vendors, beverage plants (including bottled water), apple cider presses, bakeries, maple syrup processing plants, and bottle redemption centers. Inspectors attempt to gain voluntary compliance with food safety laws through educational efforts. Uniformity of inspections is a high priority, and all food inspectors have received standardized training approved or sponsored by the FDA.

In 1990, 4,710 inspections were conducted by the unit. Two hundred randomly selected reports were analyzed for forty different violations. Eleven hundred and sixty four (1,164) violations were found, ranging from 1% in violation of ventilation and sewage and wastewater disposal standards, to 43% without accurate, conspicuous thermometers in food storage areas.

Other activities of the Consumer Food Unit include:

- plan reviews of food establishment remodeling projects;
- 24-hour on-call status for safe disposition of foods involved; in fires, floods, highway accidents, etc.;
- consumer complaints;
- investigation of foodborne illness reports;
- recall of unsafe foods;
- participation in workshops and training seminars;
- participation in Maine Yankee's Pathway Ingestion Program;
- market basket survey involving quarterly sampling and testing for pesticide residue on produce; and
- inspection of fallow deer raising and slaughter operations.

New responsibilities required by recent acts of the Legislature include enforcement of new labeling laws - country of origin, post-harvest treatments, MSG

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notification, irradiated foods, and food salvage operation regulations. The continued expansion of the "bottle bill" required significant outreach efforts to suppliers, distributors, and retailers. Twenty five hundred (2,500) stores were inspected for compliance with the 1990 expansion of deposits to liquor and wine bottles, resulting in 475 violations involving over 7,000 containers found to be in non-compliance.

Recently, with the repeal of the Sardine Inspection Program and the elimination of the 3 corresponding positions, the Consumer Food Unit has taken over sanitary inspections of the sardine packing facilities.

**Dairy Inspection** - This program is responsible for enforcing requirements under the Interstate Milk Shippers Program (47% of Maine-produced milk is shipped out of state) and the Pasteurized Milk Ordinance. Maine's 800+ dairy farms are inspected twice a year and milk processing plants quarterly to ensure proper pasteurization equipment and milk products are all sampled, tested, and/or calibrated. Milk dealers and ice cream manufacturers are licensed and bulk milk haulers are also inspected and certified. The Committee noted that there are no penalties for violations of the certification requirements for bulk milk haulers (such as revocation of the certification) which makes them difficult to enforce.

**Weights and Measures** - This program is designed to economically protect the public by ensuring that all quantity-measuring equipment is functioning properly. This task involves the inspection and calibration of all commercial large-capacity scales (825), liquid flow makers and LP gas meters (301), 80% of the small capacity scales (2,143), gas pump meters (3,351); and 95% of linear measuring devices. The Weights and Measures unit also spot checks packages put up for retail sale for correct labeling, net weight, and measure (15,355), verifies the accuracy of radar guns used by state and local police, is responsible for the enforcement of the Wood Measurement Law (10 MRSA §2361-A et. seq.) (170), calibrates bulk milk tanks (89), sardine carrier holds (8), and tankers (76). Bulk oil pressure meters (264), retort thermometers (159), taxi meters (96), and fuel truck meters (89) are also inspected and, if necessary, adjusted. The unit occasionally samples and tests fuel for octane levels and investigates firewood (58) and other consumer complaints (169).

Weights and Measures inspectors undergo continual

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certification training by the National Institute of Standards and Technology. The State Sealer may also certify local sealers, who handle other measuring devices, such as parking meters, and increasingly, gas pumps and small scales located within the local sealer's area.

The Department has been attempting to appoint more local sealers, and about 100 municipalities are now serviced by local sealers. The aim is to decentralize much of the workload of testing and sealing gas pumps to the local level, in order to free up state inspectors to do more of the other types of inspections.

The State also owns a Metrology Lab which is part of this unit. The Metrology Lab provides "traceability" to the National Bureau of Standards for all measuring equipment in the State. The Lab includes equipment for testing and calibrating weights, liquid measuring devices (including fuel tankers), and linear measuring devices, and equipment to measure frequency. In addition to testing all of the State's equipment, municipalities that perform any type of measurement must have their equipment inspected and sealed annually, as do dealers and repairmen who install, repair, or maintain weighing and measuring devices. The Lab also has a mobile unit for calibrating large capacity (e.g. truck) scales.

**Feed, Seed, Fertilizer** - This program is responsible for the regulation of all animal feeds, seeds, and fertilizers, liming materials and soil and plant amendments. Feed and fertilizer products must be registered and sampling is authorized to determine whether there is any misbranding or adulteration. Plant and soil amendment products are also registered and limited sampling is performed.

#### Organization and Staffing

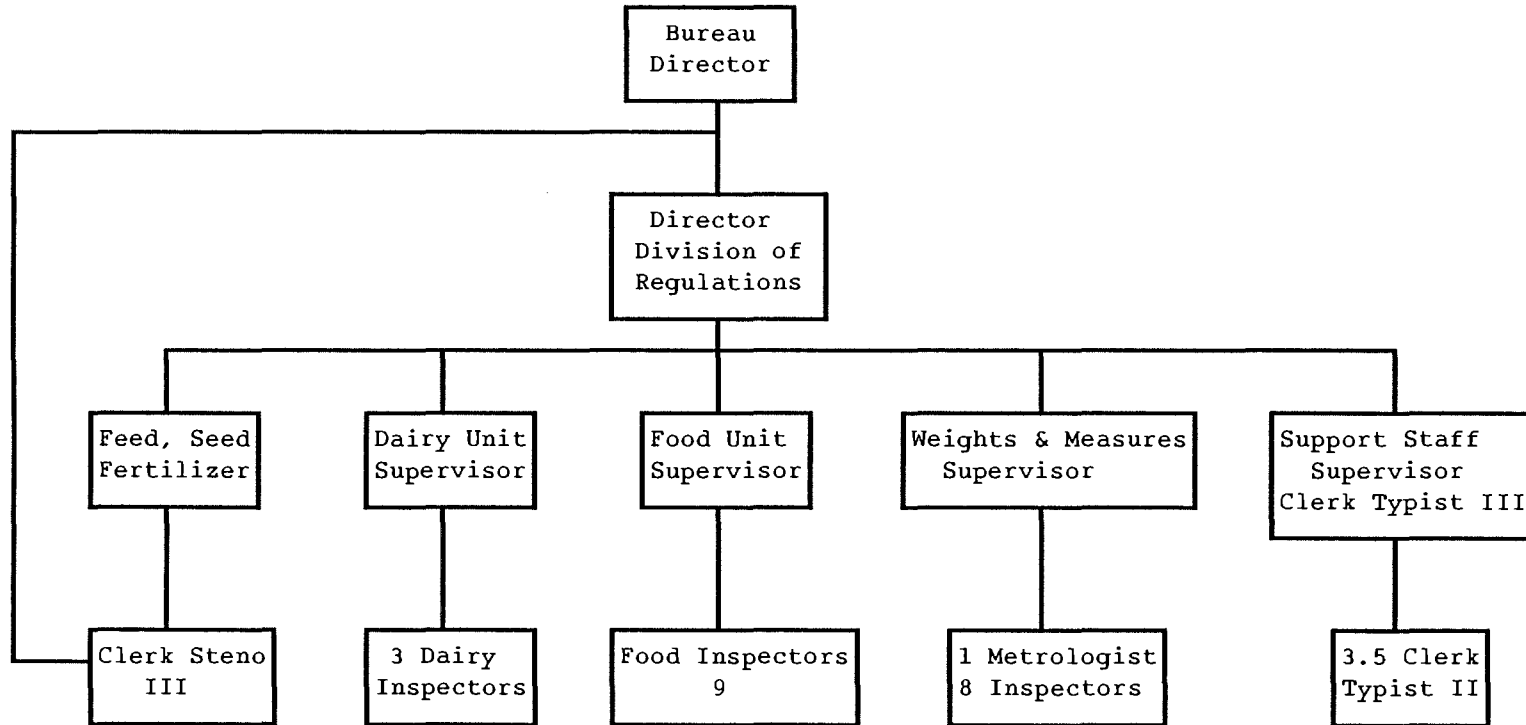
The Division of Regulations has 30.5 authorized positions. Chart 9 shows the organizational structure and staffing levels for the Division of Regulations.

#### Funding and Expenditures

The Division of Regulations expended \$1,439,542 in Fiscal Year 1991, including \$70,809 for the Milk Quality Lab that is essentially part of the Division of Veterinary Services. The unit also produced \$382,109 in General Fund revenues and \$181,320 in dedicated revenues, primarily from licensing fees. Dedicated account balances carried forward into Fiscal Year 1992 totaled \$74,041.

CHART 9

DIVISION OF REGULATIONS



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The Division of Regulations is funded 89% through the General Fund. General Fund revenues equalled about 30% of General Fund expenditures for Fiscal Year 1991.

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FINDING 40. The Committee finds that sampling and analyzing products under Maine's feeds, seeds, fertilizer, liming material, and plant and soil amendments laws is an important factor in the effectiveness of those laws.

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ADMINISTRATIVE 41. Direct the Commissioner of Agriculture to establish and carry out minimum acceptable levels of product sampling and analysis for feeds, seeds, fertilizers, liming materials, and plant and soil amendments.

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Prior to recent budget cuts, the Feed, Seed, and Fertilizer program was staffed by a Supervisor and 2 Seasonal Inspectors. Both seasonal inspector positions have been eliminated, leaving the supervisor with no one to supervise; therefore the Bureau of Human Resources would not permit that position classification to be maintained. Due to bumping privileges, this Supervisor replaced the Dairy Inspection Supervisor, leaving the Feed, Seed, and Fertilizer program unstaffed.

The Division Director had assigned one of the divisional support staff position to monitor product registrations and send out renewal forms. However, with no one in the field to see what products are out there, the Committee was concerned that the substantial revenues (over \$180,600) generated from these registrations may decline.

The Committee found that each products subchapter of the statute (feed, seed, fertilizer, lime, and plant and soil amendments) has a section authorizing, and in some cases

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requiring, (§767-liming materials) samples to be taken and analyzed. The Committee was also concerned that the required sampling did not appear to be taking place.

The Committee concluded that the registration and sampling functions of the Feed, Seed, and Fertilizer Program are important to maintaining certain aspects of the public health and welfare. Therefore, the Committee took two actions. First, the Committee issues a finding that sampling and analyzing products under Maine's feeds, seeds, fertilizer, liming material, and plant and soil amendments laws is an important factor in the effectiveness of those laws. Second, the Committee makes an administrative recommendation that the Commissioner of Agriculture should establish and carry out minimum acceptable levels of products sampling and analysis for feeds, seeds, fertilizers, liming materials, and plant and soil amendments.

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ADMINISTRATIVE 42.

Recommend that the Director of the Division of Regulations pursue every reasonable avenue to enable each of the Division's inspectors to carry out as many of the Division's mandated responsibilities as possible, in order to reduce travel costs and increase inspection activity.

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Currently, the Division of Regulations operates three primary inspection programs. Each program has inspectors who either travel or are located in different regions throughout the state in order to perform their duties. Upon review, the Committee found that it is not practical to expect that each of the Division's 20 inspectors and three supervisors would have equal skill and knowledge in the broad range of inspection, sampling, and monitoring activities carried out by this regulatory division. However, the Committee also found that cross-training would provide inspectors with some increased efficiencies, especially in the area of travel time.

The Committee also found that the consumer food and dairy inspection programs offered the greatest possibilities for cross-training, because weights and measures inspectors carry a significant amount of specialized equipment. The Committee noted that some cross-training efforts have already taken place; the

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Consumer Food Unit inspectors have assumed some of the activities of the previously separate Sardine Inspection Program and the Feed, Seed, and Fertilizer program.

Upon final review, the Committee found that cross training is an invaluable concept for promoting greater efficiencies and use of existing staff positions. Therefore, the Committee recommends that the Director of the Division of Regulations pursue every reasonable avenue to enable each of the Division's inspectors to carry out as many of the Division's mandated responsibilities as possible, in offering to reduce travel costs and increase inspection activity.

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STATUTORY	43.	Authorize the Department of Agriculture, Food and Rural Resources to institute a fee for any reinspection, after the first follow-up, for violations of the consumer food laws.
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As mentioned earlier, one of the principal responsibilities of the Division of Regulations is to ensure a safe food supply through an inspection process. The inspection process includes all stores and food outlets that are affected by consumer food laws.

Upon review of this process, the Committee found that out of the approximately 5,000 inspections of food establishments that take place each year, about 3% (150) of the food establishments need to be reinspected. Currently, the reinspections are conducted without any fees. The Committee also found that most of the reinspections are for smaller establishments that tend to be in more remote areas, thus increasing the cost of the reinspection process.

After a careful review of this topic, the Committee found that:

- violations of safe food supply laws that require reinspections should be responded to with a written citation specifying the nature of the violation and a date by which corrective action needs to be taken; and
- if the corrective action has not been taken

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within the specified time, and a 3rd inspection is required within a year's time, the Commissioner should be authorized to charge a reinspection fee of not more than \$50.

Therefore, the Committee recommends that law be enacted to authorize the Department of Agriculture, Food and Rural Resources to institute a fee for any reinspection, after the first follow-up, for violations of the consumer food laws.

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STATUTORY	44.	Authorize the Department of Agriculture, Food and Rural Resources to impose sanctions, in conformity with the Maine Administrative Procedures Act, for violations of its inspections-related laws and regulations, if necessary to ensure compliance or to protect the public health.
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Upon review of current law, the Committee found that the Department of Agriculture, Food and Rural Resources has no recourse or enforcement authority to ensure that violations of its inspection laws and regulations are corrected, with the exception of turning cases over to the Attorney General's Office. Seldom does the Attorney General's Office consider a case compelling enough to devote the resources to prosecute, therefore mitigation of violations is more-or-less dependent upon good faith.

The Committee noted that Public Law 1991, chapter 591 recently established the authority of the Department of Human Services to impose penalties when a violation of its restaurant (or other eating establishment) licensing laws occurs, or to protect the public health (22 MRSA §2498).

Finally, the Committee found that studies in other states reveal that instituting a penalty structure increases voluntary compliance with the laws, rather than generating a significant amount of revenue from fines. The Committee concluded that administrative costs would likely be decreased because the potential for a fine would eliminate the need for the lengthy process of letters and re-inspections currently employed by the Division for repeated violations.



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Therefore, the Committee recommends that law be enacted to authorize the Department of Agriculture, Food and Rural Resources to impose sanctions, in conformity with the Maine Administrative Procedures Act, for violations of its inspections-related laws and regulations, if necessary to ensure compliance or to protect the public health.

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STATUTORY            45.            Repeal the statutory authority of the Pull Events Commission to establish rules which set penalties for violations of pull events statutes.

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The Pull Events Commission was established in 1988 "to develop rules for the certification of pull superintendents and for actions to be taken in the event of violation of pull laws and rules." In brief, pull events refer to any public or private pulling contest between animals. (7 MRSA §75, sub-§6). In addition, the Commission has the responsibility to review the statutory rules for pull events (7 MRSA §75, sub-§2), and recommend necessary changes to the Legislature, hold hearings on individual violations and on rule-making, and advise the Commissioner on pull events related issues.

Membership of the 8 member Commission consists of: one horse puller, one pony puller, one ox puller, one Fair Superintendent, the Executive Director of the Animal Welfare Board, a representative of the Maine Federation of Humane Societies, a representatives of the Maine Animal Coalition, and the Commissioner of Agriculture or a designee. The Director of the Bureau of Public Service serves as the Commissioner's designee and chairs the Commission.

Current law [7 MRSA §75 (5)] requires the Pull Events Commission to promulgate rules, in accordance with the Maine Administrative Procedure Act, to spell out actions and penalties to be followed regarding violations of laws and rules governing pulling events. However, the Committee received information from the Attorney General's Office which indicated that, in the absence of any statutory parameters, penalties cannot be set by rule.

The Committee also found that the authority of this

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Commission to be involved in violations appears to be somewhat redundant, as there are animal welfare laws that cover potential pull event abuses and the enforcement section of the pull events statute refers to those laws. In addition, the Division of Veterinary Services has authority in the investigation of animal welfare complaints involving pull or racing animals.

Upon final review, the Committee concluded that there is no apparent need to have the Pull Events Commission involved in the violation aspect of the law and that the existing animal welfare laws are sufficient to protect animals involved in pulling events. The Committee noted that the Pull Events Commission has not been able to implement this authority.

Therefore, the Committee recommends that current law be amended to repeal the statutory authority of the Pull Events Commission to establish rules which set penalties for violations of pull events statutes.

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## STATE PLANNING OFFICE

### Purpose

The purpose of the State Planning Office is to "carry out...research, analysis, and the formulation, coordination and management of policy (5 MRSA §3303). In addition, the law clarifies that the State Planning Office is "directly responsible to the Governor and [serves] as an advisory, consultative, coordinating, administrative and research agency..."

The Committee found that the State Planning Office is mandated to assist in the development of economic, energy, fiscal, and regulatory policy, the identification of issues and problems of long-term significance to the State, and the coordination of state policy and its implementation on issues of interagency concern. In addition, the statute also mandates the Office to assist in the management of the State's natural and physical resources.

### History

The State Planning Office was established in 1968 with 5 positions (4 transferred from the Department of Economic Development) and \$159,550 General Fund dollars. Nearly \$35,000 were also transferred from the Department of Economic Development in fiscal year 1969. The Office also received matching federal dollars associated with some of the General Fund appropriations. Table 1 charts the growth of the State Planning Office.

**Table 1**

#### State Planning Office Expenditures - Selected Years 1969 - 1991

Fiscal Year	# of Auth. Employees*			Total Expenditures	% GF    % FF    % OSR			Net Transfers
	GF	FF	OSR					
1969	5			99,238 <sup>1</sup>	100%			(60,248)
1972	8			253,560 <sup>1</sup>	100%			--
1976	11	40		1,180,503	43.5%	56.5%		102,317
1983	19 <sup>2</sup>	33		2,387,029	36.4%	63.3%	.3%	(454,000)
1988 <sup>3</sup>	18	15.5	1	2,640,433	35.7%	63.2%	1.2%	(849,518)
1991	23 <sup>5</sup>	23	1 <sup>4</sup>	2,414,973	51.9%	42.3%	5.8%	(2,947,685)

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\* not necessarily filled

1 - GF only. No other data available

2 - 7 positions transferred from FF in FY 83 - only 21 FF positions funded

3 - Does not include CDBG program, which was transferred to DECD in October 1987

4 - plus 3 project positions

5 - 2 positions transferred from abolished OER

### Duties

In addition to the originally established statutory duties, the Committee finds that the State Planning Office has been involved in many other State government initiatives, such as:

- the comprehensive state government reorganization of 1970 - 1973;
- coastal zone management (1970 through present);
- State Socioeconomic Data Center (1971);
- Critical Areas Program (1974 to present);
- A-95 Project Notification and Review (1979-1984), now the Intergovernmental Review process;
- administration of various federal grant programs: Economic Development Administration 302(1) grants, Farmers' Home Administration III planning grants, Small Cities CDBG program and Department of Housing and Urban Development (HUD) 701 grants;
- State assistance program for national flood insurance (1980);
- local planning assistance (1981);
- a four volume study on poverty in Maine (1984);
- analysis and recommendations for affordable housing (1986);
- the Governor's Task Force on home heating oil prices (1990);
- an ecological reserves design study (1990);

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- special projects involving management of solid waste, growth, and water resources; and
  - the Commission on Maine's Future.

#### Programs

Current program areas of the Office may be summarized as follows:

- economic planning, analysis, and information;
- census data coordination;
- energy resource planning;
- education research;
- defense realignment strategies;
- nuclear safety review;
- hydropower relicensing;
- comprehensive river management plans;
- Maine Coastal Program;
- Gulf of Maine program;
- aquaculture development strategy; and
- Land for Maine's Future Board staffing.

The Deputy Director for the State Planning Office also serves as Director of the **Land and Water Resources Council** which was established in 1976 by Executive Order to advise the Governor, Legislature, and state agencies in the development of a comprehensive, integrated land and water resources planning and management program for Maine. The State Planning Office Director is Chair of the Council, which also includes the Commissioners of Agriculture, Conservation, Environmental Protection, Human Services, Inland Fisheries and Wildlife, Marine Resources, Transportation, and Economic and Community Development, the Chair of the Regional Planning Commissions Directors' Association, and the Vice President for Research and Public Service for the University of Maine.

The Council is currently organized into the following

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standing committees: Water Resources, Marine Policy, Growth Management, Hydropower Relicensing, Natural Areas and Natural Resource Inventories, and Development and Marketing. These standing Committees were the result of a reorganization approved last April (1991). While the Council's policy suggests that standing committees of the Council meet monthly and the full Council meet quarterly, the Council has met only twice in the last 2 years. The Committee found that the Chair of the Council continues to support the existence of the Council and has explained that the infrequent meetings of the Council have been due to other pressing matters, most particularly the budget crises.

The State Economist, an employee of the State Planning Office, is engaged in economic forecasting, rather than revenue forecasting, pursuant to the Office's mandate to "conduct...continuing economic analysis of the economy and resources of the State, including economic forecasting" (5MRSA § 3305, sub-§1, ¶C). The Economic and Energy Policy Division of the State Planning Office is mandated to "assist the Governor, the Legislature, and the various State departments in formulating economic goals and programs and policies to achieve these goals".

The Committee finds that the Division has also conducted long term forecasting (10 to 15 years) since the early 1980's and short term economic forecasting (1-3 years) since 1987. Maine purchases economic models for both long and short term forecasting. The "Regional Economic Models Inc.", or REMI model, provides an extended forecast for the U.S. and the State with information updated annually. The State Planning Office uses this information to reformulate its long term economic forecast for the State by examining underlying principals, at least biennially. This model also enables staff to hypothetically test the impact and implications of possible or potential public policy decisions. The cost of the yearly maintenance contract for the model, to purchase annual data updates, advancements in the model's design, and technical assistance, has been \$8,800 until this year, when the cost increased to \$10,800.

The short term model, WEFA, provides a forecast of economic indicators for the U.S. generally and Maine specifically, which are updated quarterly. These indicators are used by the Department of Labor and Bureau of Taxation in addition to the State Planning Office, and the \$10,900 annual cost is split between these three entities, with the State Planning Office paying \$4,900.

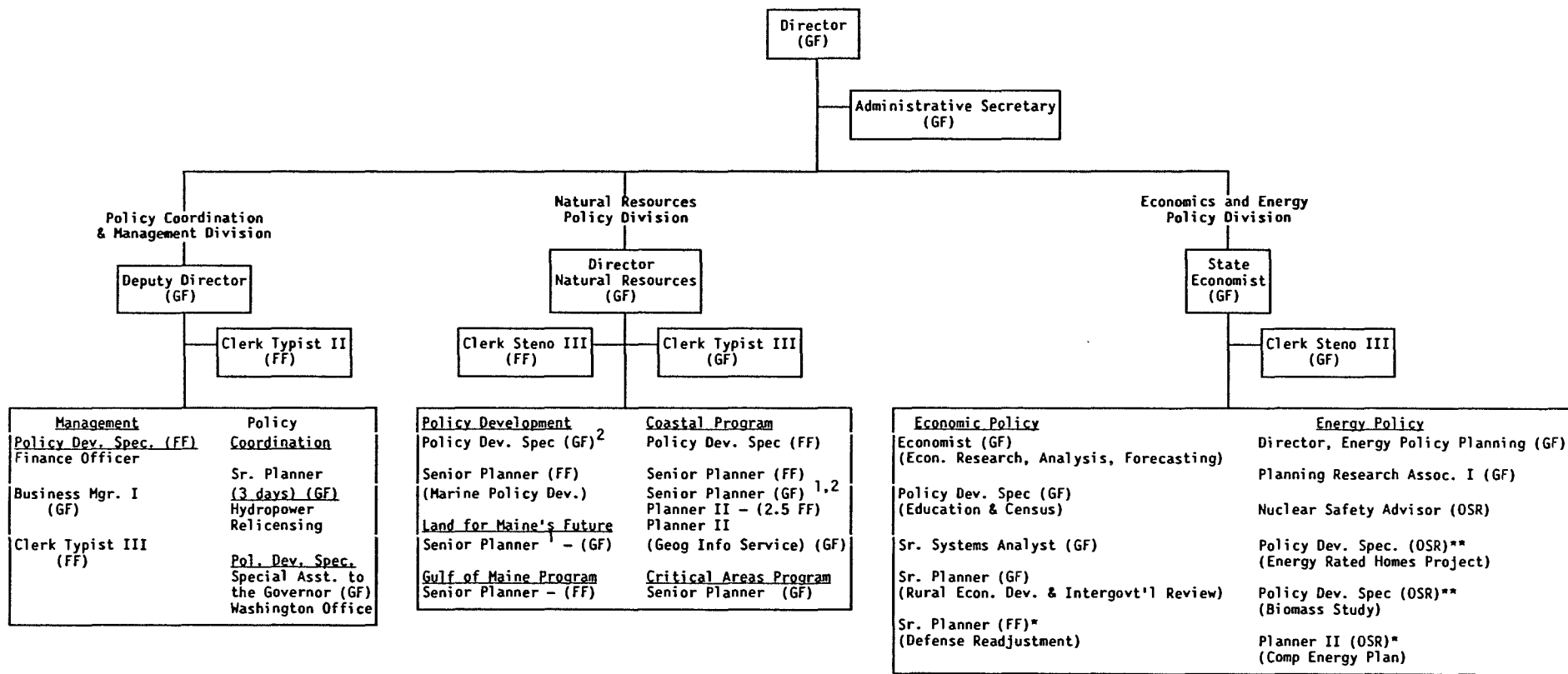
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Staffing

The Office currently has 21 General Fund positions, with 2 more due to terminate on June 30, 1992. There are 10.5 funded permanent federal positions (out of 14 authorized) and 1 federal project position. Dedicated sources fund 1 permanent and 3 project positions. The organizational structure current staffing levels, and funding sources for the State Planning Office is shown in Chart 1.



**CHART 1  
STATE PLANNING OFFICE**



1 - eliminated as of 6/30/92  
 2 - currently 3 days per week  
 3 - transferred to other functions

\* One year Project position    \*\*2 year Project position

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**Recommendations,**  
**STATE PLANNING OFFICE**

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ADMINISTRATIVE    46.        Direct the State Planning Office to coordinate with the Departments of Economic and Community Development, Inland Fisheries and Wildlife, Conservation, and Environmental Protection, and other interested parties to devise and implement an efficient and effective means to integrate the functions and resources of the Critical Areas Program, Natural Heritage Program, and the Endangered and Nongame Species Program. Provide the Committee with a proposal to accomplish this end by July 1, 1992.

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**CRITICAL AREAS PROGRAM:**

The Maine Critical Areas program, currently located within the State Planning Office, has been suspended until June 30, 1993 [PL 1991 c. 622, Part I and LD 2185 Part O]. The purpose of the program has been to "facilitate the preservation... of sites or areas of unusual natural, scenic, or scientific significance". The Critical Areas Program accomplishes this goal by compiling a "statewide inventory and an official, authoritative listing of the natural, scenic, and scientific areas of overriding state interest" called the "Register of Critical Areas" [5 MRSA §3311]. The Register now lists over 640 "critical" areas.

The Legislature also highlighted the importance of native plants for "human enjoyment, scientific purposes, and as components of their ecosystems" and directed that "[n]ative species of plants...that are reduced in number shall be identified as endangered or threatened...to encourage their protection and to maintain and enhance their numbers" [5 MRSA §3311].

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Accordingly, the Critical Areas Program has developed a detailed database on significant botanical and geological subjects for the State, such as peatlands, cobble beaches, coastal areas, old growth forests, bedrock geological areas, rare plant species, waterfalls, and lakes. The program advises owners of their land's significance, suggests appropriate management for these areas, and provides expert management assistance for specific problems. The program has also generated 90 planning reports and 30 educational brochures on these topics since the program's inception in 1973.

Finally, information about Maine's critical areas is in the process of being computerized by the Natural Heritage Program within the Department of Economic and Community Development, described next.

**MAINE NATURAL HERITAGE PROGRAM** - Department of Economic and Community Development

The Maine Natural Heritage Program was first operated by the private non-profit Maine Nature Conservancy in 1983. The program was transferred to State government in 1989 via a Memorandum of Agreement negotiated among the Departments of Economic and Community Development, Inland Fisheries and Wildlife, and Environmental Protection, the State Planning Office, and the Nature Conservancy. The Natural Heritage Program was codified in 1991 [PL 1991 c.591 §D-1, then repealed and reestablished in PL 1991 c.622 §§ F-13 and F-14]. Current law clarifies that the program is established to perform the following functions:

- to conduct an ongoing inventory of the State's critical natural resources, such as rare plants, animals, natural communities, and ecosystems;
- to maintain a biological and conservation data base to support conservation and land use planning, environmental review, scientific research, and education;
- to coordinate inventory and data management activities with the Departments of Inland Fisheries and Wildlife, Environmental Protection, Conservation, and the State Planning Office in order to prevent duplication, increase efficiency, and increase the flow of data and communication among these agencies;
- to provide grants to inventory and research rare,

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endangered or threatened plants, animals, and natural communities or ecosystems from the Maine Natural Heritage Fund;

- to levy appropriate charges for the commercial use of information provided by the program; and
- to enter cooperative agreements with other agencies to further the program's mandate. [5 MRS §13074-A].

**ENDANGERED AND NON-GAME WILDLIFE PROGRAM** - Department of Inland Fisheries and Wildlife

The Endangered and Non-game Wildlife program within the Department of Inland Fisheries and Wildlife is a component of the Department's overall Wildlife Management program conducted by the Bureau of Resource Management. The Committee finds that the Department is committed to the development of a comprehensive approach to the management of the State's wildlife resources and that Department personnel conduct species management programs for a large number of game and non-game species.

The Wildlife Management Division is funded with a combination of General Funds, federal funds, and Other Special Revenue. Other Special Revenue comes to the program from the "chickadee check-off" on State tax forms. These funds support two staff positions and related program costs for the endangered species program. Also, the Division has recently initiated a new five year federal program regarding non-game and endangered species conservation.

In considering these three programs, the Committee finds the following:

- all three have substantial elements in common regarding identification, management, and conservation of natural resources;
- combining resources effectively may result in strengthening the overall program without the need for additional resources;
- the cumulative resources of all three programs could constitute a complete natural resource conservation and management program; i.e. research; data collection, analysis, and management; inventory capabilities; on-the-ground survey capability; a habitat protection and

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management component; acquisition capability; public education; and law enforcement;

- the Department of Inland Fisheries and Wildlife currently conducts a comprehensive wildlife management program - a mandate which does not currently include rare or endangered plants or a full-scale information management component;
- consensus is not yet clear regarding in which agency these three programs should be consolidated and further discussion on this point is necessary;
- interest in consolidating these programs is apparent by conservation interests both within and outside state government
- the business community may be assisted in acquiring information on rare and endangered species through this consolidated effort which may, in turn, facilitate the environmental permitting process; and
- management programs developed by a unified effort may serve to incorporate and reflect the views of all interested parties in the conservation, business, and sporting community.

Accordingly, the Committee recommends that the State Planning Office coordinate with the Departments of Economic and Community Development, Inland Fisheries and Wildlife, Conservation, and Environmental Protection, and other interested parties to devise and implement an efficient and effective means to integrate the functions and resources of the Critical Areas program, Natural Heritage Program, and the Endangered and Nongame Species program. Provide the Committee with a proposal to accomplish this end by July 1, 1992.

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FINDING

47.

The Committee finds that the position within the State Planning Office which provides liaison services to the Governor's office should be funded out of the Governor's account commencing FY 1992-93, in order to align the position with the most appropriate funding source.

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In 1989, the position of "Special Assistant to the Governor" was established in the Governor's Office [PL 1989, c. 596, Part A, (eff. 8/23/89)] in order to staff the State of Maine Office in Washington, D.C. Accordingly, this position has served as a liaison between Maine's Congressional delegation and the Executive Department; informing the Governor about issues of State concern in the Congress, such as Medicaid reimbursement and military base closings.

However, this position was recently eliminated from the budget (P.L. 1991, c. 591). Upon review, the Committee found that the incumbent in the Special Assistant position was moved into a vacant Policy Development Specialist position funded by the General Fund within the State Planning Office. The State Planning Office had agreed to support the position through FY 1991-92 by moving a Finance Officer into a federal account, thereby making General Fund dollars available for the Policy Development Specialist position.

The Committee finds that the new Policy Development Specialist has continued providing liaison services between Washington and the Governor's office. Furthermore, the Committee finds that funding this position through State Planning Office accounts serves to obscure the position's primary affiliation with the Governor's office, as well as to confuse the State Planning Office's actual position account. Accordingly, the Committee finds that the position within the State Planning Office which provides liaison services to the Governor's office should be funded out of the Governor's account commencing FY 1992-93, in order to align the position with the most appropriate funding source.

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ADMINISTRATIVE 48. Direct the State Planning Office to assess Maine's storage capacity for petroleum products as well as Maine's access to the nation's Strategic Petroleum Reserve in order to ensure Maine's readiness in the event of a future energy emergency. Provide a report to the Committee on July 1, 1992

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FINDING 49. The Committee finds that the State must ensure that energy planning and policy development is adequately implemented in order to avoid future energy crises.

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The State Planning Office is mandated to perform many functions and duties regarding energy use, planning, and policy in the State of Maine. Many of the Office's energy-related mandates were transferred to the Office following the abolition of Maine's Office of Energy Resource. For example, the State Planning Office is now mandated to "formulate a biennial state energy resources plan" [5 MRSA §3304]. The office is also required to:

- "coordinate the preparation of policies to guide and carry forward the wise and coordinated development of the State's...energy resources [5 MRSA §3304, sub-§1, ¶A];
- provide technical assistance...by undertaking special studies and plans...in the areas of energy...[5 §3305, sub-§1, ¶B];
- coordinate the development of energy policy, including...collecting and analyzing energy data from all available energy sources,...preparation of an energy resources plan...every two years..., encouragement and direction or sponsorship of

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research, experiments, and demonstration projects...to develop alternate energy sources [such as] solar energy, water of tides and rivers, forests, winds,...provision of conservation alternatives to proposed new electric power generating plants and assessment of the long-term and short-term energy savings realized by...conservation alternatives [5 MRSA §3305, sub-§1, ¶K].

Other energy related duties of the Office include surveying fuel oil prices on a weekly basis, establishing a "set-aside" program for petroleum products to address potential emergencies and hardships due to fuel shortages or dislocation in distribution systems [5 MRSA §3307-D], and reviewing Federal Energy Regulatory Commission applications [Executive Order 11 FY 1981-82 and #13 FY 1986-86].

Furthermore, the Committee notes that the Office responded to the December 1989 heating oil price spike as well as the propane gas supply crises in that same year.

In addition, the Committee notes that the State Planning Office is mandated to "administer a program of energy research and demonstration activities related to both the use of indigenous, renewable resources and more efficient use of energy" [5 MRSA §3307-B]. Administration of the program is predicated on available funding and, since funding has never been provided, the Office has never activated the program.

Another duty of the State Planning Office has been to staff the "Commission on Comprehensive Energy Planning", established in 1991, to "establish a comprehensive energy plan for the State" [Resolve 1991, ch.50]. The Commission included unprecedented representation from the Legislative and Executive branches, including 10 Legislators, the Director of the State Planning Office; the Chair of the Public Utilities Commission; the Public Advocate; and the Commissioners of Transportation, Conservation, and Environmental Protection.

The Commission's Draft Report [3rd Revision - March 13, 1992] stresses that Maine has "moved well beyond the era in which its energy future [can] be molded by a specific energy 'plan'" [page 7] listing a specific energy prescription to follow in order to secure Maine's energy future. Instead, the report focuses on the need for energy decision-making "process", to ensure that specific energy issues and options are discussed in an open and balanced process that weighs the implications of a particular energy decision against the State's broader policy goals and objectives.



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The Commission finds that Maine's energy goals must continue to include the two traditional goals of reliability and low cost but must be augmented by the two new goals of impact on the environment and impact on Maine's economy. The report summarizes the goal of Maine energy policy to:

"... meet the State's energy needs with reliable energy supplies at the lowest possible cost, while at the same time, ensuring that our energy production and use is consistent with Maine's goals for a healthy environment and a vibrant economy" [page 13].

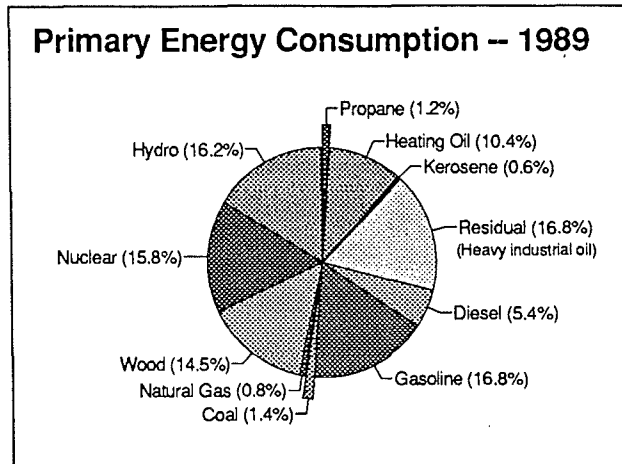
The Commission recommends achieving this overall goal through ten objectives:

1. promoting energy efficiency;
2. controlling energy costs;
3. supporting energy education;
4. promoting greater diversity in Maine's energy resource base;
5. improving the State's flexibility to respond to unforeseen events;
6. ensuring the continued development of renewable and indigenous resources;
7. ensuring adequate levels of competition and promoting market-based approaches to energy problems;
8. overcoming market barriers; and
9. promoting consistency among specific energy policies and programs, and;
10. coordinating energy policy with other State goals and policies. [pp13-14]

The Commission's report points out that, even though total energy consumption increased by over 30% from 1980 to 1989, Maine's overall energy expenditures (in real dollars) fell by 10% due to falling oil prices.

Chart 2 shows that Maine's energy mix is heavily dependent on oil - nearly 50%, which is a reduction from a 70% reliance in the 1960's and 1970's. The report also points out that Maine is more dependent on renewable energy sources than is the nation as a whole.

Chart 2



The Committee finds that a particular need exists to focus on objective #5 - - **the need to improve the State's flexibility to respond to unforeseen events.** The Commission concludes that "flexibility and responsiveness mean being prepared and recognizing that we cannot foretell our energy future. ...[W]e cannot predict with any accuracy future oil prices, economic trends, or other factors that affect how we will use energy in the future. But while we can't always anticipate what energy challenges may lie ahead, we can work to improve our ability to respond to [challenges] quickly and appropriately as [these challenges] arise"

The Committee notes that the report points out that "a broad array of factors will affect the future demand for energy in Maine [such as], oil and other energy prices, the relative health of the State's economy, federal and State regulatory initiatives, technological advances, and consumer preferences - all of which cannot be predicted "with any great degree of accuracy".

The Committee also identifies a need to link energy planning and policy development to actual implementation. The Committee finds that the Commission's goal of creating an energy policy based on cost, reliability, environmental impact, and economic impact is laudable and must be pursued. However, the Committee is concerned that adequate resources may not be in place to ensure that policy is appropriately implemented.

Due to the critical importance of ensuring that Maine is well prepared for any future period of energy crises, the Committee is concerned that Maine has ready access to the nation's Strategic Petroleum Reserve. The Strategic Petroleum Reserve is a federal program managed by the Department of Energy, which buys crude oil on the open market and stores the oil in

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underground caverns, primarily on the Gulf Coast. The stockpiled oil serves as a hedge against an Arab oil embargo or other political crises and its reserves are released at the direction of the President. When the oil is released, the oil is available for purchase on the open market. The purchaser must refine the oil which is then marketed to the nation. Currently, about 1 billion barrels of crude oil is being stored.

The Committee is also concerned about the adequacy of the State's current storage facilities. The Committee found that tank farms in Maine currently have storage capacity of 130 million gallons, retailers have ~30 million gallon storage capacity, and the residential sector has storage capacity of ~80 million gallons. Maine burns 350-400 million gallons of heating oil per heating season.

In order to pursue the issue more thoroughly, the Committee recommends that the State Planning Office assess Maine's storage capacity for petroleum products as well as Maine's access to the nation's Strategic Petroleum Reserve in order to ensure Maine's readiness in the event of a future energy emergency and provide a report to the Committee on July 1, 1992

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STATUTORY	50.	Clarify Legislative intent that the proper role of the State Planning Office is to facilitate planning and policy formulation within the Executive and Judicial branches and to perform an advisory, consultative, coordinating, research, and data gathering and analysis role, as opposed to actually administering or operating programs.
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In reviewing the purpose of the State Planning Office, the Committee finds that the purpose of the Office in statute is to "carry out...research, analysis, and the formulation, coordination and management of policy (5 MRS §3303). In addition, the law clarifies that the State Planning Office is "directly responsible to the Governor and [serves] as an advisory, consultative, coordinating, administrative and research agency..."

The Committee further notes that the State Planning Office

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is mandated to assist in the development of economic, energy, fiscal, and regulatory policy, the identification of issues and problems of long-term significance to the State, and the coordination of state policy and its implementation on issues of interagency concern. However, the statute also mandates the Office to assist in the management of the State's natural and physical resources.

The Committee finds that three primary options exist for organizing a planning function within State government. These are:

- locating the planning function within a separate office, which is the model employed in Maine;
- combining the planning function with the State's budget entity, reminiscent of a State-level OMB (Office of Management and Budget); or
- decentralizing planning capabilities within the various line agencies.

The implications of each of these approaches can be summarized as follows:

- Maintaining a stand-alone planning office provides visibility for the planning function, but may create jurisdictional tension and confusion between the planning agency and the line agencies;
- The "OMB" approach incorporates planning into the functional agency (budget), most immediately in need of planning-generated data and analysis. However, in this approach the visibility of an independent planning unit is obscured; and
- The decentralized approach provides line agencies with the resources needed for both long range management planning as well as the day-to-day administration of programs. However, ensuring a balanced, integrated, comprehensive, statewide approach to policy formulation may be more difficult than with a centralized planning effort.

The Committee notes that the Special Commission on Governmental Restructuring considered the consolidated budget/planning approach as a replacement to the current "stand-alone" approach to the State's planning needs. The Commission's final recommendation was to strengthen budget

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planning and analysis capabilities within the consolidated Department of Finance and Administration by including economic and revenue forecasting, budget options evaluation, design of a fiscal program, biennial budget preparation and design and implementation of "effective information systems to track program performance".

The Committee agrees with the Commission's conclusion that the State Planning Office should "continue as a separate Executive Department Office, charged with responsibility of information-gathering and analysis related to strategic planning for State Government, facilitating planning in the several Executive Branch departments and agencies, and serving as a source of planning information for the Legislative and Judicial Branches and state advisory boards and commission. The State Planning Office should not be assigned operation program responsibilities".

Accordingly, the Committee finds that the mandate of the Office must focus on planning and research exclusively and that the Office's current mandate to assist in the management of the State's natural and physical resources must be amended to reflect the Office's more proper role in assisting in "planning and policy development" for the State's natural and physical resources. Therefore, the Committee recommends that current law be amended to clarify Legislative intent that the proper role of the State Planning Office is to facilitate planning and policy formulation within the Executive and Judicial branches and to perform an advisory, consultative, coordinating, research, and data gathering and analysis role, as opposed to actually administering or operating programs.

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STATUTORY	51.	Continue the State Planning Office for one year pending further inquiry into the Office's program of energy planning and policy development.
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As a component of the Committee's review, the Committee surveyed approximately 150 members of nine groups which were either staffed by the State Planning Office or chaired by the State Planning Office Director, as follows:

- Governor's Council on Rural Development;
- Special Commission on Governmental Restructuring;

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- Land for Maine's Future Board;
  - Land and Water Resources Council;
  - Critical Areas Advisory Board;
  - Commission on Comprehensive Energy Planning;
  - Governor's Task Force on Defense and the Maine Economy;
  - Governor's Business Task Force; and
  - Gulf of Maine Council on the Marine Environment.

The Committee received 86 responses, or a return rate of 57%. (A statistical compilation of the survey results has been included as Appendix 5.) The Committee found that the overall response to the Committee's survey was positive, with the majority of people responding that:

- staffing services were knowledgeable, valuable, prompt, efficient, and responsive;
- leadership and guidance was very effective;
- the State Planning Office managed the diverse interests of the group in a well-balanced and effective manner; and that
- working with the State Planning Office is a pleasure.

The Committee also found that a small minority offered negative criticism of the Office, regarding the need for and value of the Office's services and the leadership style of the Office's director.

As the preceding recommendation indicates, the Committee continues to have questions and concerns regarding the adequacy of the State Planning Office's efforts in energy planning, policy development, and the State's implementation of these efforts. In order to pursue these questions to the Committee's more thorough satisfaction, the Committee recommends continuing the State Planning Office for one year pending further inquiry into the Office's program of energy planning and policy development.

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**APPENDIX 1**

**Description of the  
Records Management/  
Archival Process  
as administered by  
Maine State Archives**



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## APPENDIX 1

### MAINE STATE ARCHIVES

#### DESCRIPTION OF THE RECORDS MANAGEMENT/ARCHIVAL PROCESS

This appendix describes the various steps in the process used to determine the ultimate fate of the official records created by the executive branch of Maine State Government. In addition, this section will identify and describe the various personnel, facilities, and procedural forms that are involved in this process. This process is also depicted in brief form in Chart 5, and is described as follows:

**STEP 1.** - A state agency creates a **record series**. As defined, in the guidelines published by the Maine State Archives, a record series is "... a group of identical or related records that are normally used and filed as a unit." Common examples of different record series include general correspondence, case files, and personnel records.

**STEP 2.**- Upon their creation, an agency's record series are inventoried by the agency **Records Officer**. Under rules promulgated by the Maine State Archives, the head of each state agency must appoint a Records Officer at the managerial level. (Ch. 1, §6) This individual is to be responsible for supervising the efficient management of the agency's records in accordance with the requirements of the Maine State Archives. In addition, each agency is required to appoint an Assistant Records Officer for each discernible organizational unit within the agency.

According to recent figures supplied to the Committee, there are 74 Records Officers in 383 agencies (Agencies are defined as budgetary units). A review of this list reveals that many of the present Records Officers do not have managerial status. Upon review, the Committee noted that the lower the position appointed as Records Officer, the less authority that the Records Officer has to effectively manage the agency's records.

Additional data shows that 113 agencies do not have a Records Officer and that there are 210 Assistant

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Records Officers for 115 agencies. A further review of this data, shows that many agencies do not have the required Assistant Records Officers.

Records Officers inventory their agency's record series through use of a **Record Series Inventory Form** (MRSA/RMSS).

**STEP 2-A.** - If a record series has been discontinued, it is inventoried through use of a **Records Disposal List** (MRSA/RM2.588R) which is completed by the agency Records Officer. Depending on its overall importance; a discontinued record series may either be destroyed; or sent to Archives for permanent storage.

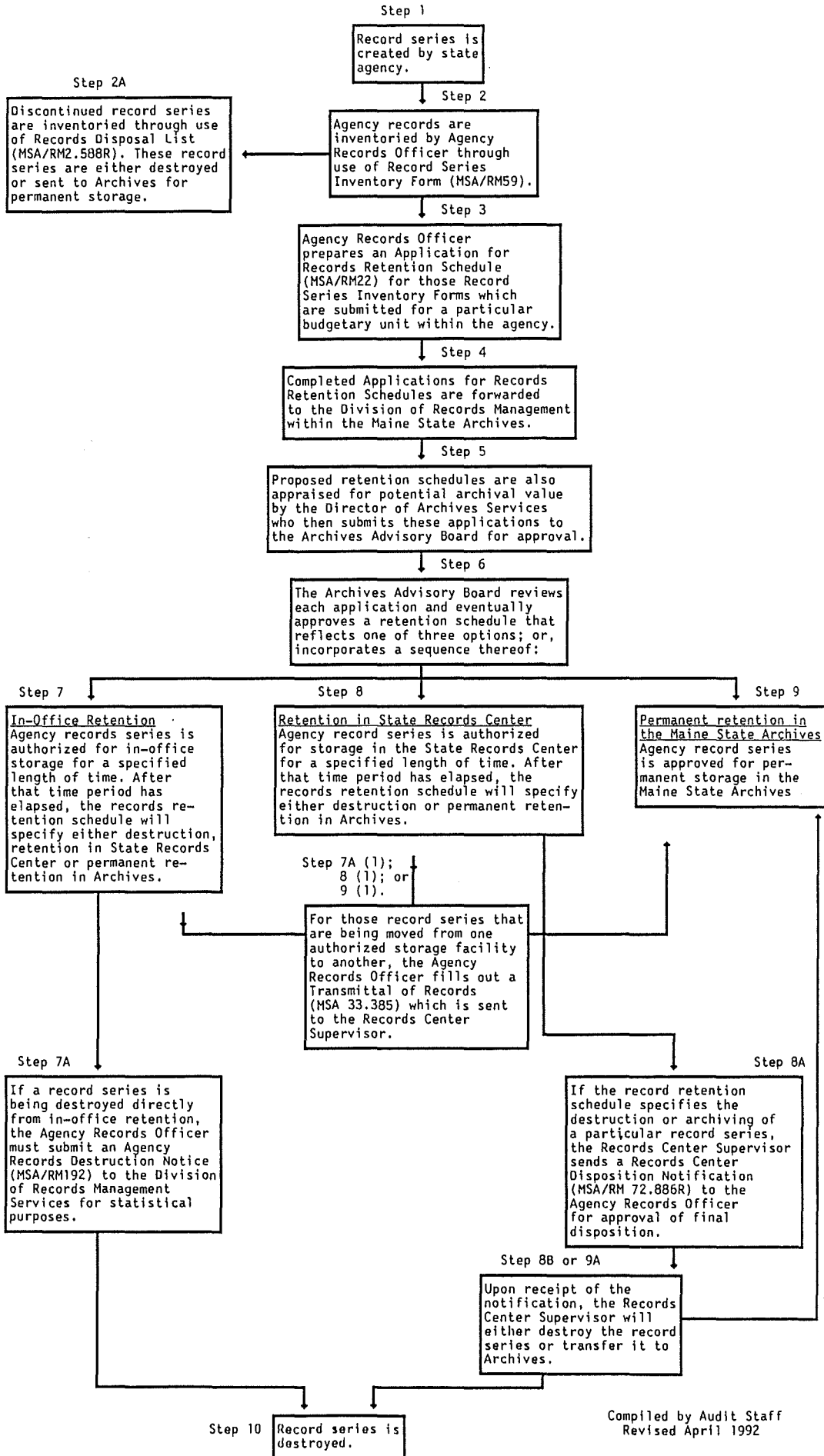
**STEP 3.** - Upon completion of the Record Series Inventory Form, the agency Records Officer then prepares an **Application for Records Retention Schedule** (MRSA/RM22). The Records Officer will often work with the Records Management Analyst from the Maine State Archives to develop these proposed disposition schedules. A separate application is developed for each budgetary unit within the agency.

**STEP 4.** - Completed Applications for Records Retention Schedules are forwarded to the Director of the Division of Records Management Services within Maine State Archives. The Director reviews the proposed schedules for appropriateness and legal requirements and then forwards the applications to the Director of Archives Services.

**STEP 5.** - The Director of Archives Services reviews the application to appraise the record series under review for any potential archival value. The applications are then forwarded to the Archives Advisory Board.

**STEP 6.** - Upon receipt of a Application for Records Retention Schedule which is presented by the State Archivist, the Archives Advisory Board ultimately approves a disposition schedule. Briefly described, the Archives Advisory Board is a statutorily created [5 MRSA §12004-I (8)] board consisting of 9 members who are "especially interested in the history of the State". Members are appointed by the Governor for overlapping 6 year terms. Members of the Archives Advisory Board are entitled to reimbursement for expenses only. In practice, the Board meets on a semi-monthly basis.

CHART 4  
RECORDS MANAGEMENT/ARCHIVAL PROCESS  
AS ADMINISTERED BY THE MAINE STATE ARCHIVES



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As prescribed by current law [5 MRSA §95 (9)] the Archives Advisory Board, with the State Archivist, must decide on whether a record series has any archival, or permanent, value to the State. Accordingly, the Board's ultimate authority is to approve disposition schedules which specify the destruction of a particular record series, or parts thereof.

In practice, the Board approves a retention schedule that reflects one of three steps; 7, 8, 9, or incorporate a series thereof.

**STEP 7.** - A record series can be authorized for **in-office retention** for a specified period of time. After that time period has elapsed, the records retention schedule will specify either destruction, retention in the State Records Center for a specified length of time, or permanent retention in Archives.

**STEP 7-A.** If a record series is being destroyed directly from in-office retention, the Agency Records Officer must submit an Agency Records Destruction Notice (MRSA/RM192) to the Division of Records Management Services for statistical purposes.

**STEP 8.** - A record series can be authorized for **retention in the State Records Center** for a specified length of time. The State Records Center is presently located in the old State Liquor Warehouse. The Maine State Archives received the use of this facility, which is shared with several other agencies, as a result of a recommendation made by the Committee on Audit and Program Review in 1985. Currently, the Maine State Archives has about 44,000 cubic feet of usable storage space. Of that space, the Maine State Archives is currently storing about 20,190 cubic feet of record series material. The amount of record series referenced to the Records Center can vary greatly; 47,717 items were referenced in May of 1991 and only 3,815 in March of 1991.

All record series material that is designated for storage in the State Records Center is eventually destined to be destroyed after the specified retention period has elapsed. While a record series is being stored in the Records Center, it is still "owned" by the agency which generated it. Agencies are permitted to access this material. To access its materials stored in the State Records Center, an agency is required to designate one or more

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individuals for authorization to have a **Record Center Use Card** (MRSA 41.372). As of July 1991, there were about 924 Records Center cards that had been issued.

Cardholders can access materials by submitting a **Request for Reference Service** (D125/MRSA RM 70) to the Division of Records Management Services. These requests can also be filled out by Records Center staff from a telephone request. Requested materials are available within 24 hours for pick-up by the requesting agency. Recent reference requests of all types average around 240 per month.

Finally, some record series are identified for retention in the state Records Center with a final destination in Archives. For convenience and efficiency purposes, these pre-archival materials are stored in the archives facility. Therefore, when the scheduled retention as Records Center Material has elapsed, these records do not need to be moved. As of July 1991, there was a total of approximately 5,476 cubic feet of this pre-archival material in storage at the Archives.

**STEP 9.** - As alluded to in the other two options, the Archives Advisory Board can also approve a record series for **permanent retention** in the principal Archives facility which is located in the Cultural Building. Approximately 2% of all record series are identified as being permanently valuable or archival material. As of July 1991, the Division of Archives Services had approximately 34,000 cubic feet of potential storage space in the Cultural Building and approximately 24,500 cubic feet of archival material in actual storage.

All records materials which are transferred to Archives are processed to insure that they are pest and mold free and then placed in storage. The processing of archival materials is a labor intensive and professionally demanding process which requires extensive knowledge about preservation, historical significance, and indexing. Due to limitations of staffing and resources, the Division of Archives Services prioritizes which materials need further attention. The overall preservation of

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Archives materials is enhanced by the extensive climate controls which exist for the Archives storage areas.

Finally, all documents and materials which have been archived are no longer "owned" by the agency which generated them. Archive materials are the property of the Maine State Archives.

**STEP 8-A.** - If a particular record retention schedule specifies the destruction or archiving of a record series held in the State Records Center, prior to the scheduled date of disposition, the Records Center Supervisor sends a **Records Center Disposition Notification** (MRSA/RM 72.886R) to the Agency Records Officer for approval of final disposition.

**STEP 8-B. or 9-A.** - Upon receipt of the signed Notification, the Records Center supervisor will either transfer the record series to Archives or proceed to destroy it.

**STEP 7-A (1); 8 (1); or 9 (1)** - Any of steps 7, 8, or 9, or a combination thereof, approved for a record retention schedule can involve a transfer from one authorized storage facility to another. To accomplish a scheduled transfer, the Agency Records Officer fills out a **Transmittal of Records** form (MRSA33.385) which is submitted to the Maine State Archives.

**STEP 10.** - Non-confidential record series are scheduled for pick-up by a contracted recycling vendor. The actual destruction of records is accomplished by the recycling of the printed materials. Confidential materials are personally delivered by Records Center staff to the recycling center whereupon the staff member observes the destruction of these records.

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**APPENDIX 2**

**Survey of Record Officers  
Regarding the Records  
Management Division,  
Maine State Archives**

**Conducted by the  
Committee on Audit  
and Program Review**



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Total Population: 124  
Total Population Surveyed: 124  
Total number of surveys returned: 81  
Return Rate: 65%

ID1611

SURVEY OF RECORD OFFICERS  
REGARDING THE RECORDS  
MANAGEMENT DIVISION, MAINE  
STATE ARCHIVES

CONDUCTED BY THE COMMITTEE ON  
AUDIT & PROGRAM REVIEW

1. To the best of your knowledge, does your agency have a records retention schedule(s)?

Yes 95%                      No 3%                      Not Sure 1%

Comments:

- #1. Our Agency (Treasury) maintains a complete retention schedule
- #2. Requested 4/29/91
- #11. World War I Discharge Documents.
- #12. There are undoubtedly other document series in the Legislature which should be scheduled, but I feel we have made a very good start.
- #26. The records brought to OSA from the Office of Alcoholism and Drug Abuse Prevention are scheduled. Records from the Alcohol and Drug Abuse Planning Committee are not. Plans are to have all records scheduled by Fall 1991.
- #30. We have had record retention schedules on 90% of our records since 1981. We are continuing to need our goal of 100%.
- #40. It has become a valuable tool in managing our records.
- #46. Only two Bureaus within the agency are not on the retention schedule process.
- #48. The Board of Examiners of Podiatrist has no administrative staff or office space. Administrative Support is provided by the staff of the Board of Registration in Medicine. The Medical Board has a full scale records management program including a retention schedule. Recently, Archives staff was quite helpful to the medical board staff in drawing up a retention schedule for availability which is in process of adoption.
- #56. Have not been approved by Archives. Advisory Board - expected 8/91. The Maine State Housing Authority is presently undertaking the effort to inventory, schedule, and move records to the Records Center - expect to have paperwork approved 8/91 - boxes moved by 10/91.
- #60. Three years ago, with the assistance of Records Center staff, the department created schedules for all professional and occupational licensing boards.

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#65. All records are not yet scheduled.

#73. Since our Agency was established by PL 1989, ch. 585 in 1989, we have not yet had a need to send records to the Records Retention Center, or the State Archives.

#78. Despite the fact that this agency has existed since 1964, no one had ever bothered with a records retention schedule until I arrived and we had absolutely run out of storage space.

2. Does your agency follow its records retention schedule?

64% All the time    19% Sometimes    1% Never    14% No Answer

Comments:

#2. Never had one accepted

#7. Most of the time. I have been able to work with Archives staff to successfully change schedules which needed to be changed.

#19. We try to follow the schedule, but it is difficult to find the time to package destroy and make list for Archive a follow with our other schedule.

#20. Not yet.

#23. Retention of some tax records had to be extended because of the Tax Amnesty Program.

#24. 2 years ago, the schedule was further updated.

#25. We are in the process of revising our filing system according to the records retention schedule. In past years the retention schedule has not been followed. After attending a very informative records management workshop at Archives, we have learned the benefits of following the schedule and are attempting to do just that.

#26. Some staff members initially were not aware of the record scheduling requirements.

#30. Usually our disposal of records takes place 6 mo. to one year following the schedule. We receive notices from the Records Center when records stored with them are due for disposition.

#36. As I have a large storage vault and a means of obtaining files easily, there are years when I keep records on site rather than send to the Records Division.

#37. It is still in the process of being re-worked as there are a lot of problems that have arisen after implementation.

#40. Yes, I have just re re-evaluated our schedules and updated to our need.

- 
- #43. We are currently in the process of working with the Records Center to update our retention schedule and set up a procedure for a consistent schedule for records retention.
- #48. NA no schedule in force. One in process of adoption now.
- #49. We have not been in existence long enough. The 3-5 year retention period is not up yet.
- #51. Conceivably, the records retention schedule could be revised, although this has not occurred for our agency.
- #56. The departments that had retention schedules - had been following them. MSHA does not have formal policy - expected 8/91.
- #58. Records have not yet been destroyed - both BMHI & AMHI are retrieving older records from Archives, to remove a small amount of designated essential material - before destruction begins.
- #59. We follow to the extent that we have scheduled. We still have quite a few files to go through and determine what needs to go to Archives/Records Center.
- #61. It has just recently been implemented.
- #62. To the best of my knowledge.
- #66. We started to destroy misc l files and then received notice no longer destroy. These take up alot of space and do not mean very much.
- #73. A State Archives training program was extremely helpful in understanding retention schedules. Follow up training would be welcome.
- #79. Following the schedule is dependent on frequency of audits.

3. If your agency does have a record retention schedule, how effective is that schedule in reducing the amount of outdated records held in your office?

48% Very effective 33% Effective 4% Not effective 3% No Answer

Comments:

- #15. The problem I have is taking time from other court functions to prepare them to be sent to archives.
- #16. The State Records Center gives us the opportunity to keep our files that are outdated to a minimum; however, due to our heavy caseload and understaffing, we don't get a chance to "ship" the files we should and free up office space.
- #17. Effective - as time allows
- #19. The schedule is good, but can't find time with the busy grow Court.

- 
- #20. No effective yet - We are in the beginning stages of sorting files and packing archive boxes. We have not transmitted files under the new records retention schedule.
  - #22. Somewhat effective - regional offices still like to keep a lot of records.
  - #26. It's beneficial to have a schedule for disposal. Staff are comfortable knowing what they are throwing away is not needed any longer.
  - #30. The schedules allow record keepers to retain records longer than planned if desired. It also provides authority to dispose. I believe it is most effective in reducing record value.
  - #38. We often do not have time to pack records for shipment to Archives. This is no fault of the Archive personnel, we are just understaffed.
  - #40. We are at present separating our records since they are large in volume and getting ready to send to Records Center.
  - #45. executive staff reluctant to use system - afraid they'll never see it again - but they also have a difficult time with a regular filing system.
  - #48. NA See 2
  - #49. See above. It is nice to know when we will be able to dispose of old records.
  - #60. We have to purge records to allow for space for the storage of incoming records.
  - #62. Habits are hard to break.
  - #66. Probably would be effective if had time to really work on the cases and still were allowed to destroy misdemeanor files.
  - #78. The amount of old data was incredible.

4. Approximately how often do you or others in your agency interact with the Records Management Division?

<u>7%</u> More than once a week	<u>14%</u> Once a week	<u>25%</u> Once a month	
<u>22%</u> Once every 6 months	<u>8%</u> Once a year	<u>13%</u> Hardly ever	<u>      </u> Never
<u>8%</u> No Answer			

Comments:

- #2. Only when we have a request for something from them.
- #5. No problems. We find all of the staff to be curious and congenial and most helpful.

- 
- #6. Mostly on an as-needed basis and generally when a retention schedule is being developed for a new division/bureau. Probably 4 to 5 times a year.
- #8. Sometimes more than once a week and sometimes not more than once a month. It depends on whether we have requests for our records.
- #11. Our working agreement is very effective. We have been able to retrieve records in as little time as 20 minutes when needed.
- #12. In my capacity of records management Coordinator for the Legislature, I am in touch with the Records Management Division fairly often.
- #17. Once every 6 months - Approx
- #19. Once a year - If possible.
- #24. May even be once every 4-5 months.
- #25. Our interaction with the Records Center is sporadic. We have probably requested records two or three times in the past two years.
- #29. approximately six times a year.
- #30. On average contacts made at least monthly for a variety of issues/matters.
- #34. Once a month approximately.
- #36. Sometime more often but at least once a month.
- #40. I have always found my interaction with Records Management a positive experience and with answers to my questions.
- #42. As the minutes of the Archives Advisory Board are stored in Archives rather than the Records Center, we have no interaction with the Records Management Division.
- #43. At this time we are working them on a regular basis. Once our records retention is up to date I would expect to be working with them about twice a year.
- #48. Speaking for Board Medicine rather than Podiatry, I can say that all contacts with Archives have been exceptionally efficient and we have received excellent service and support.
- #56. In the development of our system we have relied heavily on their assistance - prior to May of '91 we hardly ever interacted with the division except receiving their mailings.
- #58. Our contact varies according to requests we receive for records at Archives.
- #62. I do not keep track.
- #67. Once every 3 months.

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#68. It varies.

#73. Archives personnel keep in contact, updating Agencies with schedule updates, training programs, etc.

#74. Once every 6 months - only because this Court has not transferred the older cases. Only a few file boxes have been transferred.

#78. It tends to be sporadic. As I have time to check into the files to see what can be weeded out, I contact them with questions or to send them destruction records notices.

5. Please rate the effectiveness of the State Records Center in the following areas:

A. Ease of making request for documents held in the State Records Center

76% request process works well

\_\_\_\_\_ request process does not work well

23% No Answer

B. Promptness in filling the agency request for documents

70% requests for documents are filled promptly

4% requests for documents are sometimes filled promptly

\_\_\_\_\_ requests for documents are never filled promptly

23% No Answer

C. Accuracy in providing requested document

72% The requested documents are always provided by the State Records Center

2% The requested documents are sometimes provided by the Records Center

\_\_\_\_\_ The requested materials are rarely provided by State Records Center.

24% No Answer

Comments:

#1. Mike Lawrence is an example of what all State employees should be.

#2. We do not have records stored by them.

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- #4. The requested documents are always provided by the State Records Center if they have been sent over in the first place.
  - #5. If the records are there, they will find them. There are situations where some years ago, the dates, SSN'S names may not have been correct or changed since going over to Center, we then have a problem and solve it the best way we can.
  - #6. I am not personally aware of any records of DMH&MR being misplaced or lost.
  - #7. Record Center Staff always respond with courtesy and efficiency.
  - #12. I have no direct personal experience in requesting documents from the Records Center yet, but the process seems to work quite well for other legislative offices.
  - #14. At this time, no requests have been made from this office.
  - #20. 5-A. Not applicable in our particular situation. 5-B. Not applicable at this point in time. 5-C. Not applicable.
  - #22. 5-A & 5-B never used it.
  - #24. 5-A. request process works well - very well
  - #26. Have not had occasion to make requests in several years.
  - #30. 5-A. request process works well - the card system works well. 5-B. requests for documents are filled promptly - very cooperative and professional. - We've had "0" errors to date - very accurate.
  - #33. 5-B. Have not requested any documents yet. 5-C. No documents requested yet.
  - #47. Due to the huge number of files the Commission must retain, the Records Center allows up to retrieve and retain files. This work is done on schedule once per week by Commission employees.
  - #48. The problem is not finding records rests in the agency when a problem occurs. We don't have copies of RHA transmittals going back more than a few years.
  - #49. 5-A. At this time we do not have any records stored at Archives.
  - #50. 5-A. request process works well (have had very limited need). 5-B. requests for documents are filled promptly (have had very limited need). 5-C. The requested documents are always provided by the State Records Center (limited need-see A & B.
  - #56. No experience yet.
  - #61. 5-A. Have not used.
  - #66. 5-A. Have not dealt with them as this court is so busy we have not had time to send over records.



- 
- #70. Have not had to request records for some time.
- #72. Sometimes they cannot locate a file - might possibly be misfiled in the box.
- #74. If there are any question from the Center or this Court, the answers are always forth coming and in a very pleasant manner.
- #78 5-A. No knowledge. We have nothing stored in Records Center as yet.

6. What priority does the management of your agency appear to attach to record management activities:

37% High    41% Moderate    14% Low    \_\_\_\_\_ None    4% No Answer

Comments:

- #1. Treasury retains canceled checks which are of high priority. The Agency knowing the importance reacts in an excellent fashion.
- #3. Because we deal with cases that are sometimes similar we use the agency to retrieve the files necessary for a review to see how similar the case transcript testimony evidence etc. was to make a comparison.
- #12. The Legislature has perhaps less experience with records management activities than some other state agencies, so "catching up" has been a priority for us. However, less attention can be devoted to this during the session. Staff of Records Management are very understanding of this.
- #14. Due to limited personnel and full court schedule, I have not been able to complete the process of sending files that date from 1960 to 1990 t the State Record Center.
- #19. Could provide help in getting records ready to ship we have all we can do with just our daily work load.
- #24. I think the management has realized how much space is needed for storage at the Courts so they improved the retention schedule drastically.
- #30. Records Officer responsibilities require 20% of my time, however due to other duties I'm able to contribute only 5% or less. Am trying to improve this ratio.
- #36. Evidently it rates quite highly as the regional administrators are very aware of where what type of cases should be and are stored for any given year and they, Dana Hagerthy and Norman Ness both have been active in packing and transporting files from Pownell to Records & Archives.
- #40. Since few people recognize the importance of records, it is reassuring to find an area that has set up an organized system.

- #56. New management has commitment to process.
- #59. Workloads are such that files are not necessarily rated low priority, but are low on the totem pole as essential and important work takes precedence.
- #60. Since it runs so well, management does not have to focus on activities.
- #73. At this point records are needed on a daily basis for research. Record Retention Schedules will become more important in the next 1-2 years.
- #79. It really depends on backlog of work and how often the auditors appear. Unfortunately, due to short staffing, record management is frequently neglected.

7. How would you rate the services provided by the Records Management Division?

66% Excellent    23% Good    1% Fair    \_\_\_\_\_ Poor    7% No Answer

Comments:

- #1. Storage recovery is excellent
- #2. No experience to judge by.
- #12. All Records Management Division staff are extremely helpful. My questions are always answered promptly. Everyone seems to really care about the records management program. The staff is the program's strongest asset.
- #19. I have had no problems will this agency as of yet.
- #23. We have not had any problems dealing with the State Records Center.
- #25. Staff at Records Management Division have always been very helpful and are even willing to come to the office to help set up a schedule. I have called them on occassion and always found them to be very pleasant and helpful. I feel they provide an excellent service for the state.
- #26. Very helpful during the records scheduling process.
- #30. They do an excellent job administering the laws related to records. I've seen a tremendous improvement in the recent 3 year period in there cooperative efforts and support.
- #33. Lloyd Bennett was a great help in assessing record management needs of one of our divisions and helping that division to select proper equipment and accessories. This system will take care of our filing needs for quite some time into the future and help us to keep a very high volume of filing material organized. They are very good about answering questions or providing help when we have a records management problem. I am pleased with their promptness in providing their services.
- #36. I have to say that that their services are par excellence. They are always efficient and

---

professional in the performance of their dutie. I have thus far had "one day service" and have not found any area for improvement.

- #37. All requests have been promptly filled. The staff at the Records Center has always been extremely pleasant and helpful.
- #41. The Authority does not store records in the State Archives since it produces minimum storage data.
- #45. Staff very helpful - trainings are excellent.
- #47. Records Center employees always make themselves available.
- #48. Nina Osier and Lloyd Bennett should be singled out as especially knowledgeable and helpful.
- #49. When setting up a records retention schedule they were extremely helpful. Coming to our office and reviewing our files with me. I have found that the staff has always been very helpful with any questions I may have.
- #50. We especially like the fact that this unit provides annual training for newly appointed records officers.
- #56. Our dealings with the Division have been very good - staff are prompt and helpful.
- #60. Staff is very cooperative and helpful.
- #78. The one-day training they gave was excellent. It's nice to be aware of the capabilities available for saving historically valuable documents.

8. In what ways could the services provided by the Records Management Division be improved?

- #3. Can not really offer a comment due to the fact that we find them to perate pretty efficiently.
- #4. This office has never had any reason to question the services of Records Management, especially since the new system has been adopted. We have been completely satisfied and appreciate the attention to our requests that has been forthcoming from Records Management.
- #5. As far as I am concerned, we make out just fine with the communication we have with the Records Management Division.
- #6. Services from Records Management Division have been running very smoothly from my department's perspective. All requests for assistance or handled expeditiously.
- #10. The services provided by Records Management for my purpose are sufficient for all my Record Management requests and needs.
- #11. Each of the staff in our State Office has been trained by Records Center program. The result an excellent working relationship.

- 
- #12. It would be wonderful if the records management course could be offered at a time which would be good for legislative staff, perhaps shortly after the sessional people arrive and before things get terribly busy. Also, some legislative staff have found it difficult to spend the better part of a day in taking the course.
- #14. Because of the limited contact, I have not suggestions.
- #18. Due to limited number of people and time, we have not sent our material down to Archives yet. When we were working on it, anytime we called with questions, the people at Archives were very helpful. We have not been able to work on this since last winter, but we have gotten several boxes ready. We just haven't had time to double check them and type up a list of what's in them.
- #19. Assistants in packing and shipping records. This is very time consuming.
- #21. None known at this time.
- #24. I don't see how they could better suit our office. They have always provided the case asked for and usually within 5 working days. No one who requests a case expects the case so soon once they find out it is in storage.
- #25. I think they are doing a fine job by providing workshops and making themselves available at all times to help with records management.
- #30. I would suggest that current policies employed by Nina Osier be continued and enhanced. She has made several efforts to communicate to the using Dept's and is understanding of their records predicaments.
- #34. We are very pleased with the service we receive when requesting records.
- #40. I have only experienced the best of service and advise from this division. We are at present gearing up for scanning and Records Management has really been a great help and I feel their expertise is exceptional.
- #45. provide full management training for all staff within a department.
- #46. The staff has always been very cooperative. Lloyd Bennett has assisted in setting up the retention schedules of several Bureaus on numerous occasions. Continued cooperation is appreciated.
- #47. I believe the reason we're allowed to retrieve and return our own files is due to the volume of cases we deal with. Records Management personnel probably would not be able to keep up with our requests due to their small staff.
- #48. In my opinion, based on limited contact, the services cannot be imposed except to add additional staff to help in a "hands on" way with small agencies who have insufficient internal resources to maintain an ongoing program on their own.
- #50. How can one improve on perfection???

- 
- #51. The needs of the Records Management Division by the SPO are infrequent. Our needs to date have been through storage and destruction of records and some use of the State Archives.
- #55. This Dept needs more storage space for case records.
- #56. It would appear that staffing levels could be a problem. Also, staff not overly familiar with the "independent state agencies" and their operation though they have become quick learners and provided assistance as requested.
- #57. The data base which provided Gina Ellis as the contact person for this information needs to be updated to SDO is now DECD.
- #58. Already excellent.
- #59. Faster turnaround would be appreciated. It takes a long time for records to be scheduled and therefore people lose interest in getting things ready in boxes, and are not as anxious to cooperate next time around, if they don't get a go ahead to send the files to Record Center quickly.
- #60. Schedules pickup.
- #61. We are just beginning to use the service. I have no comment for improvements at this time.
- #64. The lottery has alot of computer generated reports that could be put on film. It has been discussed briefly but nothing every seems to be resolved. A plan needs to be developed that is useable by both parties.
- #65. None.
- #67. I really have no problems with the service provided to this court by the State Records Center, and can't see any room for improvement at this time.
- #69. System seems to be working well.
- #71. Fairly new division, seems to be working well.
- #72. They could be more prompt in locating the files.
- #74. I attended the work shop at the Center and it was most helpful. However time and people at the site is limited therefore making it difficult to fix up the files and send them to the center.
- #75. Computerized records need to be dealt with. Access programs, storage, readability, equipment upgrades, and similar issues.
- #80. I think it is fine the way it is. Don't think it needs improving.
- #81 Staff finds the new voice activated answering machine difficult to use at time.

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Background Information

Name:  
Position:  
Agency:

The results of this survey will maintain the confidentiality of each individual respondent.

Please return this Survey to the:

Office of Fiscal and  
Program Review  
State House Station #5  
Augusta, Maine 04333

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**APPENDIX 3**

**Secretary of State  
Bureau of Corporations,  
Elections, and Commissions  
Division of Elections**

**List of Constitutional  
and Statutory Responsibilities**



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**SECRETARY OF STATE**  
**BUREAU OF CORPORATIONS,**  
**ELECTIONS, AND COMMISSIONS**  
**DIVISION OF ELECTIONS**

As specified by Constitutional and statutory law, the Secretary of State has the following election responsibilities:

- receive vote tabulations from municipalities regarding elections held for the Maine House of Representatives and Senate (Art. 4, Pt. 1, §4 and Art. 4, Pt. 2, §3);
- receive petitions, signed by a number of voters which is at least equal to 10% of the total votes cast in the most recent gubernatorial election, which seek to have an act passed by the Legislature referred to the people for their decision [Art. 4, Pt. 3, §17 (1)];
- ensure that properly filed petitions of referendum be put before the voters for public election [Art. 4, Pt. 3, §17 (3)];
- receive petitions, signed by a number of voters which is at least equal to 10% the total votes caste in the most recent gubernatorial election, which seek to initiate a piece of legislation to be considered by the Legislature, and if not enacted, then put before the voters in public election (Art. 4, Pt. 3, §18);
- ensure that properly filed direct initiative petitions be placed before the voters for public election (Art. 4, Pt. 3, §18);
- upon written application from a duly registered voter in the State, provide necessary petition forms (Art. 4, Pt. 3, §22);
- prepare public ballots which present measures submitted for public vote in a form which presents the question(s) "concisely and intelligently" (Art. 4, Pt. 3, §22);

- 
- may establish the form and content of all documents (including forms, lists, ballots, and records) used in statewide elections (21-A MRSA §21);
  - receive statements from each political party verifying that required municipal caucuses have been held (21-A MRSA, §301);
  - receive declarations of intent from voters wishing to form a new political party either around a candidate or by petition (21-A MRSA §§302-303);
  - determine whether a proposed political party has met all legal requirements (21-A MRSA §305);
  - receive certification from the state committee of each political party which states the adopted platform and the names of presidential electors (21 MRSA §322)d
  - receive and approve valid petitions for primary nomination from each political party (21-A MRSA §§335-337);
  - receive notices of enrollment qualifications for primary voters from each political party and notify all municipal clerks of such qualifications (21-A MRSA §340);
  - receive and approve all nomination petitions (21-A MRSA §§354-356);
  - receive and approve all nominations to fill candidate vacancies as well as persons selected as members of political committees (21-A MRSA §§31-393);
  - receive written notice of withdrawal signed by the candidate (21-A MRSA §367);
  - receive notification of presidential primary dates from a single political party and the need to hold a primary (21-A MRSA §§401-402);
  - receive and approve valid petitions of nomination of candidates to be included in a presidential primary (21-A MRSA §405);

- 
- provide each municipality with necessary ballots, specimen ballots, instruction posters, election return forms, test ballots for electronic voting systems (if required), posters of specimen ballots for constitutional resolutions, statewide referenda, and any other materials necessary to conduct statewide elections (21-A MRSA §606);
  - provide official ballot boxes for each voting district (21-A MRSA §607);
  - may appoint a field examiner to instruct and assist municipal officers in the administration of public elections (21-A MRSA §608);
  - ensure that voting places meet all legal requirements (21-A MRSA §627);
  - ensure that each municipality have the required number of voting booths (21-A MRSA §629);
  - promulgate rules to allow waivers of requirements for alternative voting places for physically handicapped, and approve waivers for the same (21-A MRSA §630);
  - receive attested certificates regarding the establishment of voting districts within each municipality (21-A MRSA §631);
  - receive notifications of contracted provisions for voting places to be used by voters of unorganized territories (21-A MRSA §632);
  - supervise, receive, tabulate, and print the results of all public election returns (21-A MRSA §§721-722);
  - oversee the recount process (21-A MRSA §§736-739);
  - assist the Commission on Governmental Ethics and Election Practices in any investigation of a disputed election (21-A MRSA §743);
  - provide each municipality with a reasonable number of absentee ballot applications and voting materials (21-A MRSA §752);
  - facilitate absentee voting by members of the Armed Forces (21-A MRSA §783);

- 
- may adopt rules governing all types of voting devices and shall print a list of approved voting devices (21-A MRSA §809);
  - furnish ballot labels for all elections except municipal (21-A MRSA §817 and §848);
  - may promulgate rules governing the use of electronic voting systems (21-A MRSA §844); and
  - implement the election districts authorized by state law. "Implementation" includes the duty of informing all municipal clerks of election district lines through the use of maps and narrative descriptions. The Secretary of State also has authority to resolve any ambiguities about election district lines (21-MRSA §1201).

In addition, the Secretary of State has responsibility to administer all federal election requirements as well as the provisions of the federal Voting Rights Act of 1965.

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**APPENDIX 4**

**Letter sent to  
the Joint Standing  
Committee on Appropriations  
and Financial Affairs;**

re: staffing shortages  
within the Uniform Commercial Code  
Section, Division of Corporations,  
Bureau of Corporations, Elections and Commissions,  
Secretary of State

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SENATE

BEVERLY MINER BUSTIN, DISTRICT 19, CHAIR  
JOHN J. CLEVELAND, DISTRICT 22  
DONALD L. RICH, DISTRICT 27

STAFF

OFFICE OF FISCAL AND PROGRAM REVIEW  
CHERYL RING, PRINCIPAL ANALYST  
LOCK KIERMAIER, ANALYST  
KATHRYN VAN NOTE, ANALYST



STATE OF MAINE

ONE HUNDRED AND FIFTEENTH LEGISLATURE  
COMMITTEE ON AUDIT AND PROGRAM REVIEW

HOUSE

PHYLLIS R. ERWIN, RUMFORD, CHAIR  
HARRIET A. KETOVER, PORTLAND  
BEVERLY C. DAGGETT, AUGUSTA  
HAROLD M. MACOMBER, SOUTH PORTLAND  
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WILLIAM LEMKE, WESTBROOK  
ELEANOR M. MURPHY, BERWICK  
CATHARINE KOCH LEBOWITZ, BANGOR  
WESLEY FARNUM, SOUTH BERWICK

June 18, 1991

Senator Michael D. Pearson, Chair  
Representative Lorraine N. Chonko, Chair  
Joint Standing Committee on  
Appropriations and Financial Affairs  
115th Maine State Legislature  
Augusta, Maine 04333

Dear Senator Pearson, Representative Chonko,  
and Members of the Committee,

The Audit and Program Review Committee has recently begun a review of the Department of Secretary of State. During that short time, we have identified a serious staffing problem for the upcoming biennium which can be remedied at no additional expense to the General Fund.

The staffing problem that we have identified exists in the Uniform Commercial Code (UCC) Section within the Division of Corporations which is a part of the Bureau of Corporations, Elections and Commissions within the Department. Briefly stated, this section administers filings and other transactions which involve security interests in personal property taken as collateral for loans.

Through the recent efforts of your Committee, the Bureau of Corporations, Elections and Commissions was reorganized several years ago and several staffing and funding inequities were addressed. In particular, by 1990, the UCC section had eliminated a 6 month backlog in filings which had existed as recently as January of 1989.

However, like all other agencies in state government, the Department of Secretary of State has lost funding and positions during the state's recent budgetary problems. Through the voluntary cost savings program, the UCC section lost 1.5



positions. Out of a previous total of 4.5 positions, the loss of these positions represents a 33% reduction in staffing levels.

As a temporary solution to this problem, the Audit and Program Review Committee unanimously endorses a request that you have before you from the Secretary of State for the authorization of 1.5 one year project positions to be funded at a cost of \$31,000 through the use of existing dedicated revenues (\$62,000) for expedited fees. In fact, to address the severity of this problem, the Committee is going one step further and is recommending that the Secretary of State be authorized a total of 3.0 temporary one-year positions to comprehensively address the existing backlog. The Committee found that the Secretary of State's request for 1.5 positions will not provide the necessary staffing levels to eliminate the backlog and keep current with UCC filings.

Not surprisingly, the magnitude of the aforementioned staffing reductions has significantly reduced the output of the UCC section. Most recently, UCC filings are backlogged by at least 55 days. Our Committee has reviewed data which compellingly correlates fluctuations in UCC staffing levels to a proportional backlog in Uniform Commercial Code filings. The Committee found that in recent months, the UCC section has been successful in keeping the backlog within manageable levels through a combination of paid overtime and the use of project and seasonal positions. As you know, the Bureau of Corporations, Elections and Commissions has lost all overtime funding and previous authorizations for numerous project and seasonal positions and will no longer be able to stem the backlog in the beginning of the new fiscal year.

The Committee received testimony from the Department and the private sector which indicated the significant damping effect that a sizable UCC backlog has on economic activity for both consumers and financial institutions. In short, lending activities which require a collateral, such as for the purchase of mobile homes, is delayed for at least the length of the backlog. In particular, Mr. Carl Kandutsch, representing the Savings Bank Association of Maine, stated emphatically that any increase in the existing UCC backlog will significantly hinder the ability of banks to make loans for the purchase of such items as mobile homes, watercraft, and different types of vehicles.

In considering this situation, the Audit and Program Review Committee notes that the Secretary of State has existing statutory authority (13-A MRSA § 1403-A) to collect fees for expedited service in processing particular UCC filings. Pursuant to the establishment of this authority, which was granted by PL 1989, chapter 501, the Secretary of State has collected some \$62,000 in expedited fees which have been deposited into a dedicated account. Upon review, the Committee found that, because of the aforementioned staff reductions, and the subsequent backlog, more and more expedited requests are being made. Paradoxically, because of the fewer staff positions, the

processing of expedited requests becomes the norm instead of the exception, thus in effect, reducing the ability of the existing staff to deal with an ever-increasing backlog of non-expedited UCC filings.

In conclusion, the Audit and Program Review Committee is well aware of the many pressures and demands that your Committee is facing as the session draws to a close. We offer this recommendation to you as a means of solving a problem which has a direct negative effect on the State's economy, at no cost to the General Fund. We would expect that the Secretary of State would report to the Legislature in a year's time on the current status of UCC filings.

We have enclosed a copy of the Secretary of State's Part II request for 1.5 project positions to be funded through existing dedicated revenues. Again, the Audit and Program Review Committee endorses this request and strongly recommends that this temporary allocation request be doubled to 3 positions.

Please do not hesitate to call on either of us or Committee staff for any further information.

Sincerely,

*Beverly M. Bustin*  
Beverly M. Bustin  
Senate Chair

*Phyllis R. Erwin*  
Phyllis R. Erwin  
House Chair

cc: Members of the Appropriations & Financial Affairs  
Audit and Program Review Committees  
Secretary of State, G. William Diamond  
Carl Kandutsch, Savings Bank Association of Maine

UMBRELLA: 02 Secretary of State  
 UNIT: 250 Secretary of State - Admin DEPT.  
 PROGRAM: 0044 Secretary of State - Admin  
 ACCOUNT: 010 29A 0044 01

PRIORITY NUMBER: \_\_\_\_\_  
 DATE ASSIGNED: \_\_\_\_\_  
 DATE ASSIGNED: \_\_\_\_\_  
 E

NEW Y \_\_\_ N \_\_\_ ORIGINAL SUBMISSION # \_\_\_  
 REVISION # \_\_\_ TO ORIGINAL SUBMISSION # \_\_\_  
 DELETION # \_\_\_ TO ORIGINAL SUBMISSION # \_\_\_  
 DATE SUBMITTED \_\_\_\_\_

PROPOSED EXPENDITURE LEVEL

PROPOSED NEW OR EXPANDED ACTIVITY	LINE CATEGORY	PROPOSED FOR -92	PROPOSED FOR -93
COMPLETE IN 25 WORDS OR LESS			
Provides funds for (Example: Provides funds for the continued development of the Maine Environmental Monitoring Program) (Additional: Include all position titles and position numbers involved in the proposal)	Positions Legis. Count	( 1.5)	( )
	Positions Other Count	( )	( )
	Personal Services	30,923	
	All Other		
	Capital		
	TOTAL \$	30,923	

DEPARTMENT HEAD'S EVALUATION OF THE REAL BENEFITS TO BE REALIZED IF THE ABOVE ACTIVITIES ARE IMPLEMENTED:

Due to the loss of two Clerk Typist II positions in the UCC section, a 55 day backlog has emerged in the UCC section. At the same time the Department is undergoing a conversion to an automated database of over 500,000 filings which actually translate into 1,000,000 documents. In Public Law, Chap 501, the Department was given the authority to collect expedited fees for processing corporate documents. Given the 55 day backlog in UCC, a high volume of expedited activity has been requested.

This request would reinstate the 1 1/2 UCC positions on "expedited" fees for FY '92. Once the backlog is caught up it is uncertain that expedited service will still be requested, therefore these position are being established for a one year time period.

Without the reinstatement of these positions, the Department is seriously concerned about the ability of the UCC area to carry out its function at any level.

1/All requested new positions must be identified by proposed classification on a separate listing  
 2/Attach appropriate completed budget forms

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APPENDIX 5

Survey of membership of  
various Boards, Councils, Commissions,  
and Task Forces which are affiliated  
in some manner with the  
State Planning Office

Conducted by the  
Committee on  
Audit and Program Review

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Total Population - 150  
Total number of Surveys sent - 150  
Total number of Surveys returned - 86  
Return rate - 57%

N = 85

STATE PLANNING OFFICE SURVEY

Please check the ONE RESPONSE to each question that most accurately describes your experience with the State Planning Office.

1. Did the State Planning Office provide staff assistance to the body on which you served as a member?
- |       |     |      |    |    |            |      |    |
|-------|-----|------|----|----|------------|------|----|
| 96.5% | YES | 1.2% | NO | 0% | DON'T KNOW | 2.3% | NA |
|-------|-----|------|----|----|------------|------|----|

#48. However majority of staff work provided by OPLA.

#85. Mr. Hank Tyler, Jr., especially, and Mr. James Bernard.

If no, skip to Question 4, otherwise please continue with question 2.

2. How would you describe the staffing services provided to your body by the State Planning Office?

a. Knowledgeable	81.3%	very well informed on subject matter
	14.7%	moderately well informed
	0%	not particularly well informed
	3.5%	NA

#48. Very well informed on subject matter that specifically related to them.

b. Valuable	80.0%	yes, their services were essential to the effectiveness of our body's work.
	14.1%	yes, their services made our work somewhat easier
	2.4%	no, we could have accomplished our goals without the State Planning Office's assistance.
	3.5%	NA

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c. Prompt & Efficient 67.1% yes, assigned work was always completed satisfactorily and on time.

25.3% yes, most work was done reasonably well and in a timely fashion.

2.7% no, assigned staff work was frequently late and/or incomplete.

6.7% NA

#3. Work load, at times was overwhelming.

#65. Responses were fine, but often lagged, probably due to demands from other groups.

#85. Yes, most work was done reasonably well and in a timely fashion. The CAP's staff consists solely of Hank Tyler, who is doing the best he can under severe budget cutbacks.

d. Responsive 76.5% [ ] yes, State Planning Office staff was very responsive to requests for information and/or assistance.

16.5% [ ] yes, reasonably responsive

2.4% [ ] no, not very responsive

4.7% NA

#85. Yes, reasonably responsive. The CAP's staff consists solely of Hank Tyler, who is doing the best he can under severe budget cutbacks.

3.a. Could another agency, firm, or individual have staffed your body in an equally or more effective manner?

8.2% YES 37.6% NO 49.4% DON'T KNOW 4.7% NA

#20. The Office of Policy and Legal Analysis was also very helpful in our process. signed

#50. No - Due to subject matter.

#51. Both the State Planning Office and the Legislature's Office of Policy and Legal Analysis provided excellent staffing.

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#68. Comm. on Re-structuring State Gov't was also staffed by Office of Legal Policy Development and they were also excellent. It was extremely helpful to have the services of both agencies since the Commission's time frame was so short and the task monumental.

#70. Possibly - in some issues it is SPO mandate.

**b. If yes, please identify the party that you feel could have provided staff services to your body.**

#1. Other state line agencies = DMR, IFW, DEP, DOL

#4. Outside consulting firm. (at a much higher cost).

#14. The Office of Policy and Legal Analysis also provided staff support to the Commission and excellent service.

#25. While another agency could have staffed the Working Group/Council for the GOM, the State Planning Office provided expertise, dedicated services, and other tangible activities. I am not fully familiar with other elements of the Maine State government but felt the Planning Office did a "First Rate" (or did). signed

#35. The Special Commission on Governmental Restructuring was staffed by both the State Planning Office and the Office of Policy and Legal Analysis. Their responsibilities were parallel, but their perspectives different. That difference was important to the Commission.

#36. Legislative Office of Policy and Research which also provided staffing.

#45. Labor and Taxation Dept.

#48. OPLA provided most of staff.

**4. Does (or did) the State Planning Office Director or staff serve as Chair of your body?**

34.1% YES      62.4% NO      2.4% DON'T KNOW      1.2% NA

If yes, please complete Questions 5 and 6 below. If no, skip to #7.

#4. Director was Chair but sent a Representative who I will evaluate.

#61. I served on 2 of the named "bodies." The Director chaired one of them but not the other.

#85. No, I am the Chair of the Critical Areas Advisory Board.





- 
8. Please share any other observations about the State Planning Office's activities, role, or staff that you feel might assist the Committee in its performance evaluation.
- #1. Duplicate other agencies efforts - often without even contracting/involving them. Good way to save State moneys - Eliminate SPO.
- #2. The staff has been cooperative and effective.
- #4. My dealing with staff have been excellent. However, I find the Director to be very inflexible and even devious.
- #7. This survey is a waste of time and money!!!
- #8. The staff performed in a very positive manner with tight time schedules during the process of the Restructuring Commission. (signed)
- #13. The restructuring commission could NEVER have completed our task without the outstanding support of our staff! They were absolutely top of the line!!!
- #14. The Planning Office and OPLA both provided staff support to the Special Commission; both did an excellent job.
- #17. Jim Bernard and Harry Tyler are the two individuals we worked with in the SPO. I found them to be very capable and knowledgeable about our area of interest (Critical Areas) and indispensable to the running of the Critical Areas Program.
- #20. I believe their work was very critical to our Commission. (signed)
- #21. Hank Tyler, Director of the Critical Areas Program is a model of devotion to and enthusiasm for his program, and Jim Bernard was always ready and very able to be helpful and informative, and an efficient liaison with other echelons of bureaucracy.
- #25. I received your correspondence of December 18, 1991 and wanted to respond promptly before the holiday season begins in earnest. I have completed the State Planning Office Survey questionnaire, including narrative typed in Items 3B and 8.

I worked with the State Planning Office during the past three years as a member of the Gulf of Maine Working Group, a body responsive to the Gulf of Maine Council.

As you probably are aware, the State Planning Office had a lead responsibility in the implementation of the Council. Initially, staff people, including Anne Johnson-Hayden, played a significant role in bringing together representation from the various states and provinces as well as certain federal agencies. Subsequently, Mr. Dave Keeley began to have a larger role, along with several of his staff. I found the whole process

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functioning very well and we have come to a point where we have the Gulf of Maine Program, and its associated Council and Working Group, firmly in place. Certain tasks have been initiated, including activities associated with the development and implementation of a well-defined Action Plan, activities concerned with long- and short-term monitoring, coordinated efforts that are required for data management and exchange, and various other tasks. The Secretariat for the Gulf of Maine Program recently has been moved from the State Planning Office to a comparable entity within the province of New Brunswick (in a year or so, it will be moved to another state or province). This move was done smoothly, efficiently, and with no loss of momentum. This is a tribute to the Maine State Planning Office.

I want to note that the State Planning Office staff was always dedicated, very business-like, pleasant to work with, and had the best interests of the Gulf of Maine at heart.

If you need additional information beyond what is contained in this letter or what I provided on the questionnaire, please telephone me at \_\_\_\_\_, ext \_\_\_\_ (signed)

- #28. I don't believe we could have operated very well without the State Planning Office and staff. - Commission on Comprehensive Energy Planning.
- #30. The Land for Maine's Future Board was well served by SPO personnel - Jim Bernard and Lissa Widoff - and also by agency personnel, e.g., Herb Hartman, Gary Donovan, etc. Also excellent private sector support from the Nature Conservancy and Maine Coast Heritage Trust. (signed)
- #31. The Energy Planning Commission has yet to complete its work so, in important respects, this evaluation is premature.
- #35. See the section on the State Planning Office in the final report of the Special Commission on Governmental Restructuring, p. 13.
- #38. Without the vision and leadership provided by the State Planning Office, the Gulf of Maine Council on the Marine Environment either would not exist, or would be very ineffective. In particular, David Keeley, Director of the Coastal Program, has been extremely competent, effective, and far-sighted.
- #40. High performance marks for Lissa Widoff who tackled a seemingly impossible task during the land proposal period. Her meticulous work and careful judgement was a tremendous asset to the Board. Another observation. Sometimes as a board member I felt that staff department heads exerted too much influence upon what should be selected as properties and that the Board acted as a rubber stamp. However, overall non public board members' knowledge of properties and keen appreciation of the common goal for the State was admirable.
- #42. I do not usually give such high marks on questionnaires, but my relationship with this office proved highly satisfactory. I was much impressed with the high quality of professionalism. (signed)

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- #44. SPO staff has provided the focus and thrust of the group - while always being responsive to the Chairs and members.
  - #45. I believe it is a key department in giving effective data on which to rely for economic issues.
  - #47. SPO plays a critical role in State government.
  - #48. SPO at times had difficulty separating staff and policy rules.
  - #51. The SPO staff seemed more than willing to put in long hours to get the job done. Very helpful.
  - #53. Joyce Benson is an extremely competent and qualified individual who is a pleasure to work with.
  - #57. Staff of Energy Planning Office were especially good at arranging special presentations for the Energy Commission and in coordinating information from a variety of State agencies - their technical assistance was invaluable. (signed)
  - #58. This was the first time I had ever worked with the State Planning Office, and I was very impressed by the quality and diversity of its staff.

SEPARATE LETTER ATTACHED:

This is in response to your letter of December 18 in regard to the review of the State Planning Office by the Joint Standing Committee on Audit and Program Review.

As Co-Chair of the Special Commission on Governmental Restructuring, I had an opportunity this summer and fall to work for the first time with the staffs of both the State Planning Office and the Legislature's Office of Policy and Legal Analysis. I was extraordinarily impressed by the quality, diligence, and thoughtfulness of both staffs. The Special Commission on Governmental Restructuring could not have completed its work by its statutory December 15 deadline without the superb staff work provided by both the State Planning Office and OPLA.

I have completed the questionnaire which you forwarded and I am returning it to you herewith. I would like to add a couple of observations in addition to the information requested in the questionnaire.

First, the State Planning Office staff for the Special Commission on Governmental Restructuring and its six committees performed very valuable services. We found all of the staff members to be very well informed and willing to play an appropriate staff roll without trying to direct the Commission or its committees in any particular direction. The quality of their research and their hard work in meeting our difficult deadline was truly remarkable.

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Second, Richard Silkman and Carol Michael worked closely with Donald Nicoll and myself as Co-Chairs of the Commission. Their guidance and their assistance in establishing reasonable parameters for the many tasks the Commission and its committees were undertaking was especially helpful throughout the Commission's work.

Third, in its relationships with the Commission, the State Planning Office functioned exactly as I believe a State Planning Office should function in providing expertise and staff to government agencies and departments. I feel strongly that the State Planning Office should continue in this advisory role. I do not feel it would be appropriate for the State Planning Office to be assigned executive responsibilities as opposed to staff responsibilities. In other words, I feel that it is inappropriate for the State Planning Office to be directly involved in the supervision of specific programs. It should function as a staff agency for all of state government which it does extraordinarily well.

If there is any additional information which I can furnish the Committee on Audit and Program Review in regard to the State Planning Office, please let me know. (signed)

- #61. The State Planning Office for many years has been a credit to our State. It is unfortunate that the Legislative process does not have the sort of long-term perspective fostered by the Planning Office.
- #63. The Maine State Planning Office is instrumental in (the) success of (the) Gulf of Maine Council on Marine Environment activities. They have been involved in all facts of Council's activities and have been responsible for gaining both Federal and Private funds for Council activities within the State of Maine. Their work has proven to be invaluable to the Council
- #65. A function like the SPO is vital in a complex, modern State Government - it should serve as a coordinator of agency comments to the feds, a State policy initiative generator, an economics analysis capability for the State, and assume such other responsibilities as the executive needs from time to time.
- #69. We believe this Critical Areas Program is unique in Maine. It is totally voluntary. It depends on finding, and then getting voluntary cooperation of private landowners, to be aware of and protect unique natural areas on their land. The board also serves in a completely voluntary capacity too. It's "1000 Points of Light" at its best! Thank you!
- #71. My involvement with the State Planning Office has been enlightening. I believe that the Federal Government could learn a great deal from the way the organization functions. ( US EPA - Office of Wetlands, Oceans, and Watersheds)
- #72. The Maine Group continues to make a major contribution to the GOM (Gulf of Maine) Program. (signed)

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SEPARATE LETTER:

#76. Thank you for the opportunity to respond to the survey the Committee is conducting as part of the review process of the State Planning Office.

I am returning the survey without response because to the best of my knowledge, the Division has not participated on any of the committees listed in your December 18th correspondence. It is possible that the former director may have had a role on one of the committees, however, I have not participated directly myself.

On behalf of the State Planning Office, I would like to say that the opportunity we have had to deal with the staff at the Planning Office have been notably pleasant. The staff have been responsive, cooperative and professional whenever called upon to assist with a concern or issue, primarily dealing with the fuel assistance program.

Again, thank you for the chance to comment. (signed)

#79. The Land & Water Resource Council is a very good vehicle for providing coordinations among the State Agency's various programs. However, meetings of time group have been far and low between although subcommittees are actively involved in developing reports, etc.

SEPARATE LETTER:

Reference is made to your correspondence of December 18, 1991 regarding the Audit and Program Committee's Review of the State Planning office committee activities.

In this regard, the Maine Department of Transportation has membership on the following committees:

1. Governor's Council on Rural Development
2. Land & Water Resources Council
3. Commission on Comprehensive Energy Planning

Enclosed you will find the completed questionnaires on items 1 and 2 listed above and it is my understanding that Jane Lincoln of my staff has already forwarded item number 3. (signed)

#80. Joyce Benson (State Planning Office) serves as secretary for the committee. She is instrumental in keeping the committee moving. Question - How does this committee interact w/the President's Rural Development ???

#82. Joyce Benson from State Planning served effectively on the Governor's Council on Rural Development with and other representatives of State &

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Federal agencies. The Governor's Council has now been abolished and some members now serve on Maine Rural Development Council (MRDC).

#82 SEPARATE LETTER

Pursuant to your request, I am pleased to provide you with a completed survey for the Governor's Council on Rural Development which is staffed by State Planning Office personnel.

If you have any questions, please feel free to contact me. (signed).

#83. The State Planning Office was consistently up-to-date on the information needed by the Council on Rural Development as well as extremely knowledgeable on all the issues confronting rural development in Maine and in the nation. The State Planning Office staff performed their support to the Council with efficiency, great knowledge, and with good humor.

#85. The CAP is officially suspended, with its citizen's advisory board, until June 30, 1992. We are very concerned that this important program may not be brought back at all. We would appreciate any help you Committee can provide in urging that the CAP receive a HIGHER PRIORITY in the S.P.O. I will be glad to answer your questions (signed)