

Supporting Maine's Economic Growth

A Report to the Legislature's Joint Standing Committees on:

Appropriations and Financial Affairs
and
State and Local Government

in response to

P.L. 2009, Chapter 571, Part JJJ



November 2010

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Executive Summary

Maine faces a period of unprecedented economic uncertainty coupled with major fiscal, economic, social, and demographic challenges. We know that:

- Maine has lost over 30,000 jobs since the start of the recession.
- Maine's population is the oldest in the nation and retiring workers will create a labor shortage.
- Maine's tax burden is 15th highest in the nation.¹
- We have a unit of government for every 2,500 people.
- 80% of Maine homes are heated with expensive, imported oil.
- Our infrastructure —roads, bridges, broadband, working lands —need significant new investment.
- Our communities face demands from citizens for increased services, despite fewer resources.

As the Governor-elect and his administration confront these challenges, the State Planning Office offers support in four key areas to help them improve the state's economic climate:

1. analyzing the state's fiscal health and leading interagency actions for improvement;
2. identifying and targeting efficient and effective public investments;
3. lowering energy costs and diversifying energy supplies; and
4. strengthening our communities

Since 1968, supporting the governor as he shapes and implements his agenda has been the State Planning Office's role through republican, democratic, and independent administrations. There are both short- and long-term aspects of this work. The State needs to maintain a focus on the long term even as we grapple with immediate challenges.

As directed by P.L. 2009, chapter 571, part JJJJ, we examined how the State Planning Office is organized to:

1. enhance policy development and interagency functions;
2. ensure coordination of community assistance and economic development;
3. locate waste management responsibilities to coordinate environmental, economic, and energy matters involving solid waste disposal; and
4. reduce administrative costs and enhance efficiencies.

¹ Source: Tax Foundation, 2008

In addition, we consulted Governor Baldacci's office and the commissioner of Administrative and Financial Services to seek any other recommended changes.

We do not recommend significant changes in the State Planning Office's structure at this time. Not because there are not options and alternatives, but because we feel that our current structure is effective in fulfilling the Office's core role of supporting the governor to develop and implement his agenda. Given this, it would be premature to second-guess what choices Governor-elect LePage will make or limit the resources available to him as he shapes his administration and policies.

We examined 15 or more options for relocating responsibilities currently held by the State Planning Office. While some functions could move to other agencies, it would not achieve budget savings (for some, it could cost more). In other cases, relocation of duties would undermine the kind of interagency collaboration needed for efficiency. Or a move would shift the programmatic approach from a voluntary to more regulatory one – certainly a possible choice but one that should be taken with a full understanding of the consequences. We provide an assessment of the alternatives we considered in Appendix E.

Finally we have made changes to achieve the \$225,000 reduction in the State Planning Office's general fund budget in the current fiscal year and going forward. After eight years of increasingly difficult budget choices, we cannot achieve this reduction simply through efficiencies and reorganization. To institute this cut, we will no longer be able to make general fund grants to regional planning commissions as part of the State's land use planning program. We are also dropping one general fund staff position in the land use program and focusing the technical support provided by our land use staff on coastal and multi-town initiatives. We expect to further streamline the local planning process to make it easier for cities and towns preparing comprehensive plans and to extend the deadline for updates of older local plans. We will achieve these last changes through rule-making early in 2011.

In sum, we believe the State Planning Office's role is to help Governor-elect LePage and the 125th Legislature implement new policy initiatives, especially those that need a multi-agency response. While the Office could be streamlined to focus more on its planning and policy mission by transferring community assistance programs to other agencies, there are pros and cons to each of these choices. The State Planning Office did not find compelling budget or efficiency reasons to move these programs. We hope we have laid out the policy choices, which are the next Governor and Legislature's to make.

I. Introduction

P.L. 2009, chapter 571, part JJJJ asks the State Planning Office to reorganize its functions to:

1. enhance the policy development and interagency functions currently conducted by the State Planning Office;
2. ensure coordination of community assistance and economic development;
3. locate waste management responsibilities to coordinate environmental, economic and energy matters involving solid waste disposal, including oversight of any state-owned landfill;
4. reduce administrative costs and enhance efficiency; and
5. achieve a permanent General Fund savings of \$225,000.

The State Planning Office supports the Governor's economic policy agenda by:

1. analyzing the state's fiscal health and leading interagency actions for improvement;
2. identifying and targeting efficient and effective public investments;
3. lowering energy costs and diversifying energy supplies; and
4. strengthening our communities.

The Office takes seriously its role to provide information and analysis to the Governor and Legislature to support their policy ideas. SPO is a key resource to the Governor to carry out his agenda, especially those policies that span multiple state agencies or levels of government. The Legislature relies on the Office as well to research and recommend policy alternatives to accomplish their aims.

At its core, the State Planning Office is the Governor's policy shop. Unlike other states that have policy divisions within a larger governor's office, Maine's governor has a small staff. In order for him to craft and carry out any kind of strategic, policy agenda, he needs staff resources. The State Planning Office fills that role.

The State Planning Office also is home to many of the state's community assistance programs. This helps ground policy development and gives the Governor tools to implement policy. It has the added advantage of *institutionally* connecting planning to implementation.

In this report, we look at the role of the State Planning Office in supporting the Governor and Legislature's policy initiatives. We discuss how the Office is organized and examine alternative ways to carry out our role. We describe how we have realigned our programs to better accomplish the purposes asked of us in part JJJJ. Finally, we outline how the Office will achieve the requisite General Fund savings.

II. Supporting Maine's Economic Growth

Maine needs more jobs. That is the singular challenge for the next Governor and Legislature. Yet, the next Governor and Legislature will begin their terms during a period of unprecedented economic uncertainty.

Consider that:

- Maine's state and local governments are under severe fiscal stress.
- Maine has not sustained investment in many of the things essential for economic growth.
- Maine's reliance on high-cost, imported fossil fuels for heating and transportation is a drag on our economy.
- Maine's communities struggle to keep pace with citizen demands for services.

If Maine is to thrive, changes have to be made—spending and taxing priorities need to be reevaluated; government efficiencies need to be found and exploited; new levels of government collaboration need to be forged; tax revenues need to be stabilized; efforts to lower tax burden must continue; energy costs have to be reigned in; and local communities need the capacity to deliver everyday services that protect the health and safety of Maine citizens.

The economic recession has rightfully focused attention on outmoded structures of government and high taxes and business costs. Maine's decentralized government structures have not kept pace with the changing economy. Our state sales tax structure is among the narrowest in the country, making it unstable and unreliable in times of economic upheaval. And the costs of doing business—taxes, energy, healthcare—are higher than average and burden Maine households and businesses.

Yet we know that efforts to reduce government and business costs won't by themselves stimulate economic recovery. Maine's aging population and the advanced skills required for today's jobs present real challenges to private sector job growth. We must also deal with numerous long-term policy challenges that affect the Maine economy. To name just a few:

How do we prepare new and existing Maine workers for the emerging economy?

How will businesses find the workers to replace those retiring?

How do we prepare for the future shortage of workers?

How does Maine keep and attract young, skilled people?

How do we reduce the cost of government while maintaining our core values?

How do we modernize government to facilitate investments in our economy and our people?

How do we reduce energy expenditures for Maine families and businesses and lessen our dependence on imported oil?

How do communities continue to provide local services that meet citizens' demands with fewer resources?

To address these challenges and support economic growth, Maine needs strategic policies that:

- A. improve our fiscal health;
- B. invest in our regional priorities;
- C. reduce our energy costs and diversify supply; and
- D. strengthen our communities.

The Legislature purposefully created the State Planning Office to provide thoughtful analysis on these kinds of issues. We do this through modeling economic impacts, examining implications of policy choices, and, on behalf of the Governor, coordinating implementation of policy across agency lines. The State Planning Office is also home to many of the state's community assistance programs, which give the Governor tools to implement policies.

A. Fiscal Health

Maine's state and local governments face significant fiscal challenges:

- The economic recession, which left 30,000 Mainers out of work, has driven state general purpose revenues to 2004 levels, even as the costs of providing services have risen.
- This revenue loss is compounded by a projected \$1.1 billion structural budget gap.
- This in turn puts enormous pressure on local government budgets, since much of state spending is distributed to municipalities for education and revenue sharing

Unless revenues pick up substantially and quickly, which is not expected, the revenue shortfall and structural budget gap will mean significantly lower levels of government services for Maine citizens. And while there are legitimate debates about the proper size and role of government, the precipitous decline in revenues and the resulting pressures are not healthy for long-term economic growth. It pits people against each other and focuses on short-term fixes to the detriment of long-term investments.

Maine's governments must be in a position to support economic growth and private sector job creation. Strategic public investments—in deteriorating infrastructure, schools and universities, new energy sources, working lands and downtowns—are needed to help Maine companies grow. These investments won't be possible unless our fiscal health is improved.

While there is no cure-all for these challenges, the State Planning Office has experience and expertise to help. Staff is knowledgeable on state and local tax issues and long-term economic and demographic trends. The Office has meaningful relationships with the business community, state agencies, and local government officials. And the State Planning Office has been “on-the-ground” in recent efforts to streamline and find savings in state and local governments. A few relevant examples:

- SPO staffs the Consensus Economic Forecasting Commission (an independent group of economists who forecasts key indicators of Maine's economy) and is a member of the Revenue Forecasting Committee that projects state budget revenues.
- SPO runs advanced economic models to estimate the impact of policies on the Maine economy and tax revenues.
- SPO provided staff to support Governor Baldacci's government efficiency initiatives, including efforts to consolidate state natural resource agencies, jails, and school administration, and to encourage municipal efficiencies.
- SPO analyzed the long-term fiscal savings of consolidating Maine's state prisons and county jails into a unified corrections system.
- Each year, SPO analyzes the progress made by Maine's state, county, and municipal governments and its school administrative units in achieving the tax burden reduction goals contained in Maine law, LD 1.

B. Efficient and Effective Public Investment

Maine has not sustained investment in many of the things essential for economic growth — workforce education, infrastructure, downtown revitalization, and conserving the working lands that support our fishing, farming, and forestry businesses. This is in part because our:

- investments are sporadic and spread too thin;
- spending priorities change frequently and
- weak regional government system diffuses budget and planning decisions.

Consider that:

- State government spends in excess of \$30 million per year to pay for the cost of redundant school construction and bussing triggered by sprawl.
- 70% of new growth occurs outside of the places where communities say they want it.
- In 1960, almost 60% of Maine residents lived in downtowns; by 2000, only 44% did.
- Between 1997 and 2002, Maine lost 40,000 acres of cropland or 7.5% of the total.
- Forestlands often have more value as house lots than for the timber products they generate.

We know from experience that coordinated investments can produce results. Look at Bangor, Waterville, Lewiston, Rockland, and Saco whose downtowns are re-emerging because of targeted investments in infrastructure, arts, and historic preservation. In another example, the communities along Route 1 are using shared approaches to land use planning to make transportation dollars go further. Public dollars for land conservation leverage private investments to develop our native assets, like Maine Huts and Trails, and attract visitors and new business. We know that investing in our strengths —our natural and built assets —will bolster Maine's reputation for quality, attract and keep skilled workers, and create jobs.

The State Planning Office assists policymakers with developing and implementing investment strategies to stimulate the Maine economy. It has researched and designed initiatives on behalf of past governors and legislatures that have yielded economic returns. For example:

- SPO manages the ongoing Keep Maine's Forest-based Economy initiative; an effort of forest-based businesses and the Maine Forest Service to get a greater share of federal resources to create jobs and income from Maine's forests.
- SPO steered the working waterfront coalition that conceived and drafted legislation for Maine's first-in-the-nation working waterfront access protection program. It has saved coastal access for nearly 1,000 fishing families, landing 16 million pounds of seafood and \$40 million in income annually.
- SPO manages the Land for Maine's Future Program that has conserved 247,000 acres of working, commercial forestland supporting woods and mill jobs and 8,000 acres of farmland that supports the state's agricultural economy.
- At the behest of the Governor, SPO drafted Maine's quality of place legislation that draws on local people (the people who know best about their area's assets) to shape economic strategies around the best use of those assets to create new jobs, products, and services.
- SPO works with communities to keep their rural lands in production through regional land use planning and investment initiatives.
- SPO crafted legislation to direct state capital spending into community centers to help bolster downtowns.

C. Energy Costs and Diversity

Maine's high energy costs are a burden to businesses and homeowners alike:

- Maine spends between \$4 and \$5 billion dollars annually on petroleum-based products.
- Energy costs consumed 25% of the Maine family budget in 2008 and are projected to grow to unsustainable levels in the coming decade.
- Approximately 80% of Maine homes are heated with oil and 84% are not adequately weatherized.
- Maine people depend on gasoline for transportation and commerce. Vehicle miles traveled in Maine increased from 9.5 billion miles in 1985 to 15 billion miles in 2006, 60 percent greater than population growth during that period.
- Retail electricity rates in Maine average 13.9 cents per KWH compared with an average of 9 cents nationally.
- Building sources of renewable energy requires upfront costs for long-term pay-off.

Lowering energy costs puts money into the hands of Maine people and helps businesses — especially manufacturing firms — be more cost-competitive. This will not be easy to achieve. It will take policy changes and significant private investment to lower Maine's energy costs,

including reducing energy consumption through improved energy efficiency; investing in renewable energies like biomass, solar, tidal, and wind; and improving the capabilities of existing energy sources like liquefied natural gas (LNG).

The State Planning Office has capacity to help craft the Governor's energy policies. While Maine's Office of Energy Independence and Security looks at short- and long-term solutions to energy issues, they have very limited staffing. The State Planning Office provides that office with staff positions and all of their administrative support. Given its experience and knowledge about energy trends, efficiency standards, and the impacts of policy choices, the State Planning Office has tackled energy policy questions at the behest of the Governor. For example:

- SPO drafted the Governor's omnibus energy bill that later resulted in establishing the Efficiency Maine Trust and setting the stage for increased energy conservation and reduced dependence on foreign oil.
- SPO staffed the Governor's Wind Energy Task Force that drafted landmark legislation, setting ambitious goals for siting wind energy projects in Maine and streamlining the environmental permitting. P.L. 2007 chapter 661 was enacted with strong bipartisan support.
- SPO staffed the Governor's Ocean Energy Task Force and drafted legislation to responsibly develop Maine's renewable ocean energy resources. Offshore windpower development has the potential to create hundreds of new high-quality jobs. Maine is now recognized as a national leader in renewable ocean energy.
- SPO is working to streamline state and federal permitting and environmental review processes for offshore wind development. SPO is championing a three-year approval process wind projects (the current process can take up to eight years). To accomplish this, SPO staff serves in high-level leadership positions in the Atlantic Offshore Wind Energy Coalition (formed by the Department of Interior and the Atlantic states governors) and as the point-of-contact for the federal Bureau of Ocean Energy Management, Regulation, and Enforcement (the agency responsible for permitting and leasing offshore wind).
- The Office assisted the Department of Conservation with research and public outreach to designate three environmentally-suitable offshore ocean energy research sites, which were also amenable to coastal and marine stakeholders. Work is ongoing with private and federal partners and university researchers to test advanced wind energy technology.
- With bipartisan leadership from the Business, Research, and Economic Development Committee, SPO crafted a legislative proposal to implement a uniform, statewide, building and energy code. The new code will improve the energy efficiency of new and renovated buildings and help businesses and developers by making codes administration more consistent, predictable, and efficient.
- With SPO's coordination, the State's natural resource agencies speak with one voice to the Federal Energy Regulatory Commission on matters regarding the federal licensing process for LNG terminals. SPO facilitates communication among developers, state agencies, affected municipalities, and the public about LNG projects in Maine.
- The Maine Commission for Community Service mobilized 4,857 volunteers to winterize 3,960 homes during the three years of Governor Baldacci's *Operation Keep ME Warm*.

D. Strong Communities

Even in the face of economic stress, Maine cities and towns face demands from citizens to provide new services, despite fewer resources. This is because:

- Population migration from cities to rural and suburban towns has increased demand for services in smaller towns.
- Residents expect new and more advanced services, including household hazardous waste collection, historic preservation, land conservation, habitat restoration, and open space protection, as well as new civic assets, such as theaters, parks, and bike trails.
- Some towns want more regulatory tools, such as wind power and mixed used zoning ordinances, energy efficiency building standards, more precise floodplain maps, and programs to address sea-level rise.
- Communities struggle to find and keep capable and dedicated volunteers for the myriad of citizen boards, elected positions, and local nonprofit agencies that service them.

Maine has a long and valued tradition of citizen volunteers carrying out all kinds of community work. In fact, Maine is one of the top five of states for its level of volunteer service and number of community agencies. Volunteers contribute \$1.1 billion of unpaid time to Maine's economy. Local communities rely on citizen boards and volunteers to deliver essential local services. These individuals —paid or unpaid —need tools, training, and technical assistance.

The State Planning Office recognizes that an engaged population and strong communities are essential to Maine's economy and quality of life. The Office supports and strengthens communities in two ways: by providing technical assistance to towns that request it and by coordinating volunteer services through the Maine Commission on Community Service.

Some examples of the State Planning Office's community assistance include:

- SPO developed tools to assist towns with local regulatory concerns. Examples include model ordinances for regulating cell phone towers and wind power facilities, webinars on shoreland and mixed use zoning, and information to help towns address increased storm activity and sea level rise. At last count, 45 towns have or are in the process of adopting local ordinances regulating wind power development in their communities.
- SPO provides hands-on assistance to set up and promote local recycling and composting programs. Over 300 public programs offer recycling and composting services to 98% of Maine's population.
- SPO assists towns with mapping and adopting floodplain management ordinances that allow them to participate in the National Flood Insurance Program. 8,780 Maine homeowners are insured against flood loss.
- SPO trains and certifies over 500 code enforcement officers, building officials, and plumbing inspectors and an expected 100 private, third-party inspectors in land use laws and plumbing, building, and energy codes.

- Since 2001, the Maine Commission for Community Service trained nearly 3,000 volunteer managers and granted \$7.3 million in AmeriCorps funds to Maine communities and local agencies to retrofit houses for energy efficiency, build trails, assist teachers with science and environmental education, expand volunteer programs in local nonprofits, support economic development in island communities, and equip volunteers to respond to local disasters.
- The Maine Commission for Community Service supports specific governors' initiatives. In the King Administration, the Commission organized volunteers to support youth mentoring; for Governor Baldacci the priority was marshaling volunteers to weatherize homes of low-income Mainers.

In sum, the State Planning Office can help the incoming administration tackle the policy challenges and changes that need to be made to put Maine on the path to prosperity. The Office can conduct research, reach out to stakeholders, draft legislation, and build coalitions of support. Particularly important in lean times, SPO has the experience and capacity to lead multi-agency initiatives that require efficient, coordinated, action. We are also able to design programs and deliver services to strengthen Maine communities.

III. Organizing SPO to Achieve JJJJ Purposes

Part JJJJ asks the State Planning Office to consider ways of reorganizing its functions to accomplish four purposes:

1. enhance policy development and interagency functions;
2. ensure coordination of community assistance and economic development;
3. locate waste management responsibilities to coordinate environmental, economic, and energy matters involving solid waste disposal; and
4. reduce administrative costs and enhance efficiencies.

A. Enhance Policy Development and Interagency Functions

We define policy support as the formal guidance needed to coordinate and execute activity throughout state government. On the ground, policy support provides the roadmap that links desired outcomes (like keeping forest products jobs) with action, such as leading interagency actions, pulling in stakeholder views, and developing strategies to move the policy forward (like Keeping Maine's Forest-based Economy).

The Governor needs policy support, especially for initiatives that span state agencies or levels of government. Individual agencies, intent on accomplishing their program missions, will not easily change direction or focus on new long-term issues. They don't have time. They don't have the resources. And they don't have the incentive since they are by and large held accountable for short-term deliverables, rather than long-term plans.

This policy support function could be housed in the Governor's Office, in another state department, or in a freestanding agency. There are advantages and disadvantages to each approach.

In some states, policy and budget functions are located in the same office. In Connecticut for example the budget staff functions as the governor's policy staff, providing information and analysis used to formulate public policy for the state. It has the advantage of linking policy and budget. However, there are drawbacks to this approach: staff is consumed by solving budget dilemmas and other policy support receives less attention, such as analyzing economic changes, projecting demographic and social trends, or mediating regulatory barriers to development. The same is true of putting the governor's policy support functions in another agency, like economic development or labor. The policy staff becomes immersed in the agency's mission.

A separate agency, with the backing of the governor, helps focus attention and action on new initiatives and provides guidance to help move state agencies in new directions. It has the advantage of being close enough to the governor that other agencies pay heed, but separate enough that it can provide credible and independent information and analyses. This is particularly important for economic forecasts, revenue projections, and long-range analyses. This is the approach Maine, through the State Planning Office, has taken.

A separate agency however often becomes a political target, seen as narrowly supporting whichever governor's party is in office. It is small and vulnerable. But, being small, it is also flexible –unlike larger, mission-focused departments –and able to shift focus to address emerging needs and new priorities.

B. Ensure Coordination of Community Assistance and Economic Development

Maine does not have a separate department of community affairs as is the case in other states. The Legislature put many of the state's community assistance programs at the State Planning Office in 1995. There are and remain good reasons to do so. For economic development policies to be effective, they must be connected with programs that implement those policies. Locating programs under one umbrella provides for management efficiencies and sharing of resources. Separating technical assistance programs from enforcement agencies makes communities less anxious with approaching the State for help.

There are also shortcomings to this choice. Programs concentrate on day-to-day needs; their management takes time away from governor's policy support functions. Programs are focused on specific outputs, while policies are concerned about choosing the right programs. Attaching programs to the policy shop may color objectivity when evaluating those programs.

The State Planning Office examined its community assistance programs and identified options for relocating these duties. Those options are provided in Appendix E. While several of the responsibilities currently held by SPO could move to other agencies, relocating these duties do not achieve budget savings (for some, it could cost more). In other cases, relocation of duties would undermine the kind of interagency coordination needed for efficiency. Or a move would shift the programmatic approach from a voluntary to more regulatory approach – certainly a possible choice but one that should be taken with a full understanding of the consequences.

C. Unique Role as Landfill Owner

In 1989, the Maine Legislature passed landmark waste management legislation that, among other things, banned the development of new commercial solid waste disposal facilities and set Maine state government on a course to own landfills. Under the commerce clause of the U.S. Constitution, states cannot restrict the flow of solid waste (considered a commodity) across state lines through use of its regulatory authority. If Maine wants to limit the importation of solid waste from other states to be disposed of here, it can only do so as the owner of the landfill. Under the 1989 law, existing commercial facilities are being phased out and the State² will site and own future landfills.

In 2003, as part of an economic development strategy to preserve paper mill jobs in Old Town, the Baldacci Administration negotiated an agreement whereby the state acquired the Georgia Pacific paper sludge landfill. The Legislature gave the responsibility for overseeing the landfill to the State Planning Office. The Office contracts with a private waste management company to operate the state-owned landfill, known as Juniper Ridge.

² In the 1989 law, the Waste Management Agency would have been the home to state-owned landfills. When the Legislature abolished the agency in 1995, it moved that responsibility to the State Planning Office.

The State Planning Office assumed the responsibility for overseeing Juniper Ridge with no new resources. The Office provides parts of four positions to supervise the administrative, management, legal, and operations aspects of owning a landfill, including overseeing the operating service agreement and the performance of the state's commercial operator, working with the Old Town Landfill Advisory Committee, monitoring landfill operations, ensuring substantial compliance with environmental license requirements, and reporting regularly to the Legislature. SPO is also working with its operator to file an application to expand the Juniper Ridge Landfill to maintain availability of statewide disposal capacity into the future.

In preparing this and other reports, the State Planning Office evaluated alternative ownership options for the State's landfill³:

- The Department of Environmental Protection (DEP) cannot manage Juniper Ridge as it is the entity that regulates the landfill. Overseeing the state-owned landfill would create a direct conflict of interest for DEP as it sought to regulate itself.
- The Bureau of General Services (BGS) might assume these duties. BGS is the state's property management agency and has expertise in contract management, property management, and related legal matters. This option would require new staff resources for BGS. SPO could transfer part of the staff needed by BGS to manage the landfill and its expansion. Part of the staff would be needed to conduct the statewide and regional planning and projections for disposal capacity (irrespective of the state landfill).⁴ In the event the State undertook a new landfill-siting, screening and selection process as provided in 38 MRS §2152, BGS would need additional staff resources to manage the process and to staff the Facility Siting Board, and specialized consulting technical expertise, as would SPO.
- A separate authority akin to the former waste management agency or a non-state public entity, such as a regional solid waste corporation would allow the state to maintain the ban on new commercial disposal facilities. This option would require resources and changes to the operating services agreement, state law, and certain license provisions.

With the exception of DEP, oversight of the state-owned landfill could be housed anywhere in state government given sufficient resources.

Alternately, the state could get out of the landfill business. If the Legislature were to amend state law to allow new commercial landfills, the state could sell the Juniper Ridge Landfill to a private owner. There are benefits and consequences to privatizing the landfill. On the plus side, the state would be relieved of the duties of overseeing the landfill operations, except for compliance with environmental regulations by DEP, and could realize revenues from the sale of the landfill, a valuable asset. There would be several contractual and legal issues to resolve with the current operator that, while not insurmountable, would take time and reparation to resolve. On the down side, the state would lose its ability to control the importation of solid waste.

³ We discuss the location alternatives for SPO's recycling and waste management planning functions in Appendix E.

⁴ State law requires annual capacity projections, analysis, and planning to ensure sufficient landfill and recycling capacity to serve all geographic areas of the state.

Over the past 20 years, legislatures have revisited the policy of banning commercial landfills and upheld it. Most recently, the Natural Resources Committee considered a bill in spring 2010 that would have allowed an expansion of the sole, privately-owned landfill in the state. The committee voted the bill down, but continued to study this question in the summer of 2010 with the intention of re-examining it in the 125th Legislature.

The policy question for the Governor and Legislature is whether owning a landfill is an appropriate state function versus does Maine want to be able to limit out-of-state waste from consuming landfill space that serves Maine residents and businesses.

D. Reorganization to Improve Policy Support and Program Delivery

In response to Part JJJJ, the State Planning Office has restructured its teams to streamline its organization and improve policy support and program delivery.

As the Office gets smaller⁵, it needs to respond both organizationally and programmatically. We need to accomplish more with fewer resources. We need to use the staff we have more effectively. And in some cases we need to do less.

Policy and Economics

Everything the Governor and Legislature does has been and will continue to be aimed at growing Maine's economy. It is crucial that State Planning Office resources augment these efforts. Consequently the Office has merged the economics and demographics team with its policy and management staff. This will ensure that improving Maine's economy drives any policy support work that the office undertakes for the Governor or Legislature.

A good example of this is Maine's quality of place legislation. The office economists demonstrated empirically the economic imperative of quality of place. Quality of place is Maine's chief economic asset. The work of the Maine Quality of Place council is designed to create jobs by making the most of that asset.

Good data, robust analysis, and strong economic impact models inform policymaking. Joining the staff into one team strengthens SPO's policy support role.

Coastal and Land Use Planning

The Legislature directs the State Planning Office to foster orderly growth. This is because Maine's population is spreading out, consuming productive working lands, depressing our downtowns, and wasting public dollars. Sprawling growth and development are the most costly for Maine's coast where population growth is the fastest.

The Office has aligned its land use and coastal programs. Federal coastal dollars will be used to carry out the Office's land use planning program elements. The unified team will focus on coastal issues and multi-town solutions. Instead of providing one-on-one technical assistance for individual towns, the office will construct generic, customizable, planning tools, such as model

⁵ Since 2008, we have eliminated our legislative liaison, land use planner, code enforcement program manager, floodplain associate, GIS coordinator, coastal senior planner, and secretary associate.

ordinances, planning manuals, and web-based resources. It will also foster regional responses to coastal growing pains, like transportation corridor planning, regional comprehensive planning, and multi-town bay management. Where practical, the Office will develop tools that can be customized and used by inland communities as well.

A new organizational chart for the State Planning Office in Appendix D shows these changes.

IV. Achieving General Fund Savings

Part JJJJ directs the State Planning Office to permanently reduce its general fund budget by \$225,000. To achieve these savings, the State Planning Office dropped one general fund position from the land use program. It also eliminated general fund grants made to the state's eleven regional planning organizations to provide technical services in their regions. Both the staff and grant dollars helped municipalities develop local land use plans and ordinances and their removal will reduce direct land use planning services to towns.

The Office's federally-funded coastal program will absorb the land use planners and their statutory duties.⁶ Given the federal requirements for the use of coastal funds, the Office's land use planners will largely focus on solving problems that arise in developing coastal areas and addressing regional-scale issues there.

To mitigate the impact on inland towns, the Office will attempt to be resourceful in the use of its coastal funds. We will create technical assistance resources that, while addressing coastal towns' needs, may also be applicable to inland communities. For example, our land use planners developed a model wind energy facility ordinance, guidebook, and scenic inventory assessment tool for coastal communities. The model ordinance provides one approach that municipalities can customize for their own use to regulate wind energy development. The companion guidebook helps municipal officials, citizens, and prospective wind energy permit applicants better understand and interpret the ordinance. The scenic inventory tool lays out a methodology to identify, evaluate, and document scenic viewsheds in which local windpower ordinances might regulate development. While these resources were developed with coastal funds for coastal communities, inland municipalities may also use them for their needs.

While the Office's shift of its planning resources to coastal Maine will reduce direct service to inland towns, other state-funded programs, also designed to help reduce sprawl and preserve productive working lands, can aid in accomplishing inland communities' planning objectives. These include Keeping Maine's Forest, Land for Maine's Future, Beginning with Habitat, and MaineDOT's transportation corridor planning.

The coastal-funded land use staff will continue to carry out the Office's statutory duties under the Growth Management Act to review comprehensive plans for consistency with legislated goals. To accomplish this, the Office is streamlining further⁷ the process and content for making local comprehensive plans consistent with state law and extending the sunset date on the 115 plans that are set to expire in 2012. This will give towns more time to update their local plans and the Office more time to process them.

⁶ The Office preserved one general fund land use position to match the federal dollars that support these services to municipalities.

⁷ In 2008, the Office substantially reformed the local comprehensive planning process by providing a template for local plans and narrowing the Office's consistency review to those elements that are of state significance.

VI. Appendices

A. Public Law 2009, chapter 573, Part JJJJ

Sec. JJJJ-1. Executive Department, State Planning Office. By November 30, 2010, the Commissioner of Administrative and Financial Services, the Director of the State Planning Office within the Executive Department and a policy advisor in the Governor's office selected by the Governor shall report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and state and local government matters a plan, including any necessary implementing legislation, to reorganize certain functions of the State Planning Office to:

1. Enhance the policy development and interagency functions currently conducted by the State Planning Office;
2. Ensure coordination of community assistance and economic development;
3. Locate waste management responsibilities to coordinate environmental, economic and energy matters involving solid waste disposal, including oversight of any state-owned landfill;
4. Include any other functions recommended by the Commissioner of Administrative and Financial Services, the Director of the State Planning Office and the policy advisor in the Governor's office that reduce administrative cost and enhance efficiency; and
5. Achieve General Fund savings of \$225,000 during fiscal year 2010-11.

Sec. JJJJ-2. Distribution of savings. Notwithstanding any other provision of law, the State Budget Officer shall distribute the savings identified in section 3 to the appropriate accounts and line categories by financial order upon approval of the Governor. These adjustments are considered an adjustment to appropriations in fiscal year 2010-11.

Sec. JJJJ-3. Appropriations and allocations. The following appropriations and allocations are made.

EXECUTIVE DEPARTMENT

Planning Office 0082

Initiative: Deappropriates savings to be established pursuant to this Part.

GENERAL FUND	2009-10	2010-11
Unallocated	\$0	(\$225,000)
GENERAL FUND TOTAL	\$0	(\$225,000)

B. SPO Statutory Citations

Title 5 §3305. State Planning Office

This section outlines the general powers and duties of the State Planning Office to 1) conduct continuing economic analysis, including economic forecasting, 2) coordinate development and implementation of economic, natural resource, energy, land use, and fiscal and regulatory policy; 3) provide technical assistance to towns and regions; and 4) assist the Governor and Legislature by undertaking special studies and plans and preparing policy alternatives.

Title 5 §57. Maine Regulatory Fairness Board

This section describes the purposes and duties of the Regulatory Fairness Board, which the State Planning Office staffs.

Title 5, Chapter 151-B. Consensus Revenue Forecasting

This section describes the State Planning Office's role in forecasting the state's revenues and economic indicators.

Title 5 §3331. Land and Water Resources Council

This section describes the purposes and duties of the Land and Water Resources Council, on which the State Planning Office serves and staffs.

Title 5, Chapter 353. Land for Maine's Future

This section describes the purpose and duties of the Land for Maine's Future Board, on which the State Planning Office serves and staffs.

Title 5, Chapter 363. Maine Quality of Place Jobs Creation and Investment Strategy

This section describes the state's strategy for creating jobs from regional quality of place investments and SPO's role serving on and staffing the Maine Quality of Place Council.

Title 5, Chapter 373: Maine Commission for Community Service

This section describes the purpose and duties of the Maine Commission for Community Service, for which the State Planning Office provides staff and administrative services.

Title 30-A, Chapter 187. Growth Management Act

This section describes the State Planning Office role in assisting municipalities with land use planning and reviewing local comprehensive plans for consistency with legislated goals.

Title 30-A §4451. Code Enforcement Training and Certification Program

This section describes the State Planning Office's responsibilities for training and certifying municipal code enforcement officers and building officials, local plumbing inspectors, and private-sector third-party inspectors.

30-A §4350. Community Preservation Advisory Committee

This section describes the purpose and duties of the Community Preservation Advisory Committee, on which the State Planning Office serves and staffs.

Title 30-A, Chapter 187, Subchapter 3-a. Informed Growth Act

This describes the State Planning Office's duties under the Informed Growth Act to pre-qualify consultants to prepare local economic impact studies for retail development.

Title 38, Chapter 19, Coastal Management Policies

This section spells out the Legislature's coastal management policies that conserve and develop the State's coastal resources. The State Planning Office is the lead agency for the federal/state Coastal Zone Management Program in Maine.

Title 5 §3305-1 (D). Maine Floodplain Management Program

This section directs the State Planning Office to assist municipalities with minimizing the impact of development in flood ways. The Governor designated the State Planning Office to administer the federally-funded National Flood Insurance Program in Maine in 1995.

Title §33. Conservation Easement Registry

This section directs the State Planning Office to maintain and administer an online registry of conservation easements throughout the state to ensure the proper stewardship of these public trust interests.

Title 38, Chapter 24. Solid Waste Management and Recycling

This section outlines the State Planning Office duties related to solid waste management and recycling, including assisting municipalities with recycling and composting, developing policies and strategies for improving the management of Maine's municipal solid wastes, and ensuring disposal capacity for municipal solid wastes.

PL 2003 Resolve 93. Juniper Ridge Landfill

This legislative resolve directed the State Planning Office to acquire and oversee the operation of the state-owned Juniper Ridge Landfill.

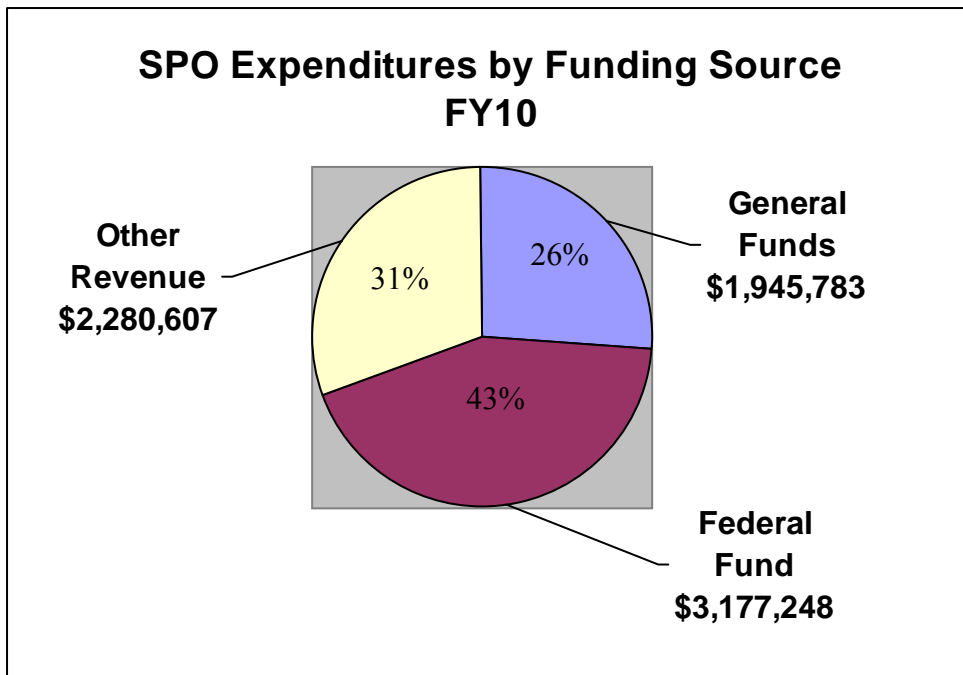
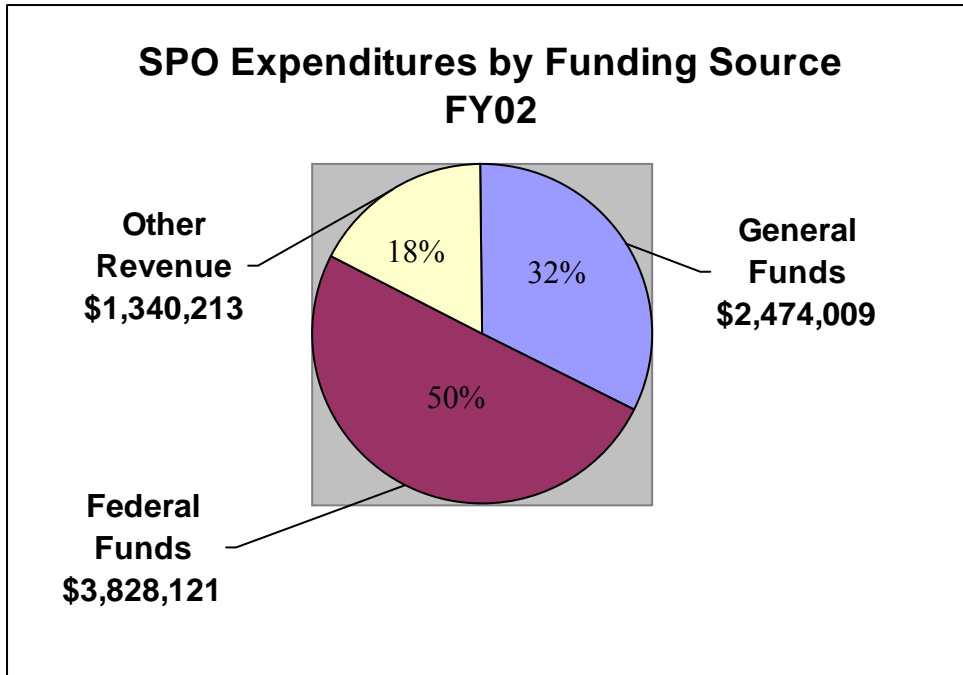
Title 2 §9. Governor's Office of Energy Independence and Security

This section describes the role of the Office of Energy Independence and Security for which the State Planning Office provides staff and administrative support.

C. SPO Finances

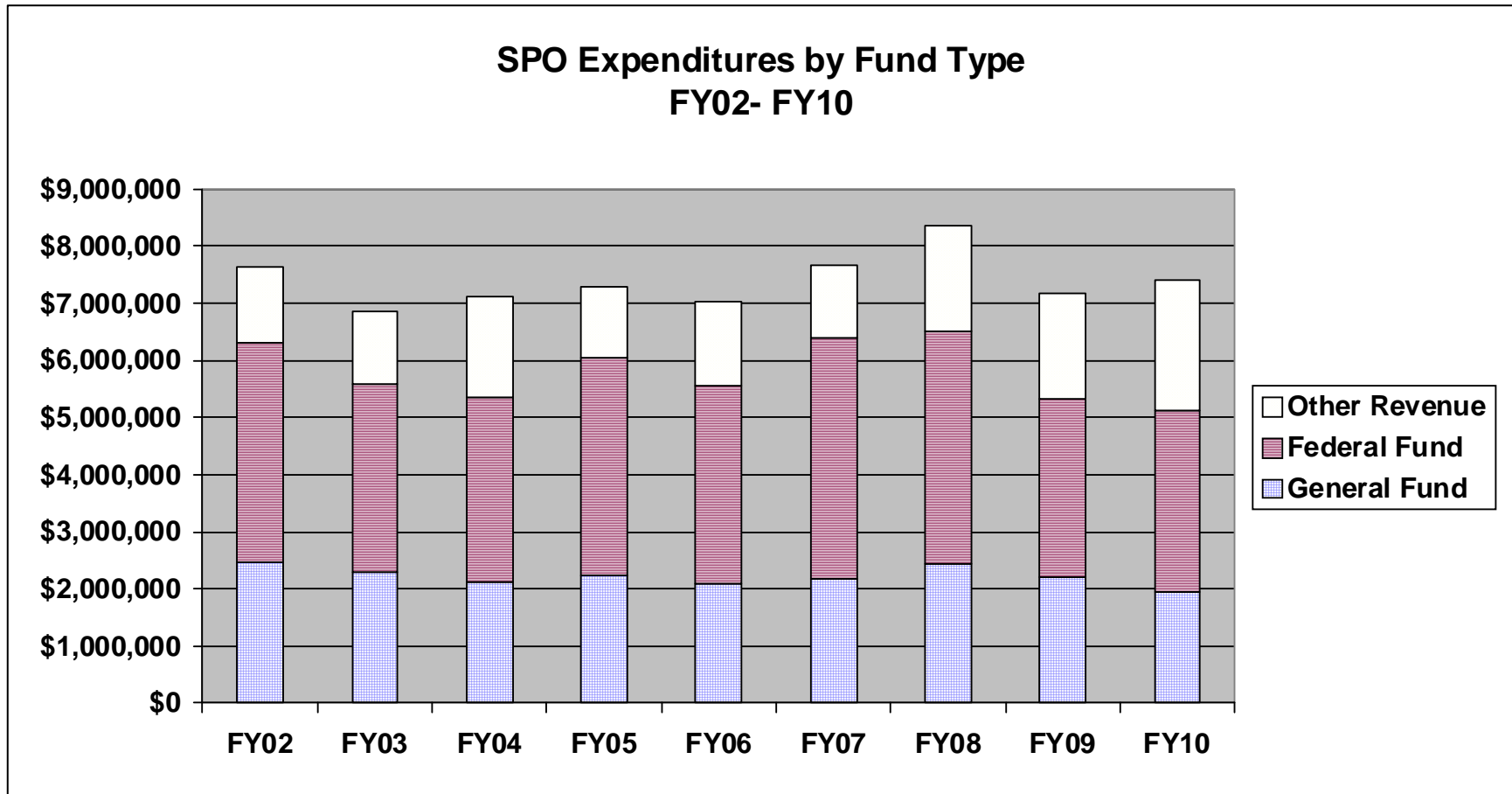
SPO Funding Sources

Today, about one-quarter of the State Planning Office's budget is funded with general funds. This is down from 32% in FY02. We rely on federal funds and other revenues to carry out the majority of SPO duties.

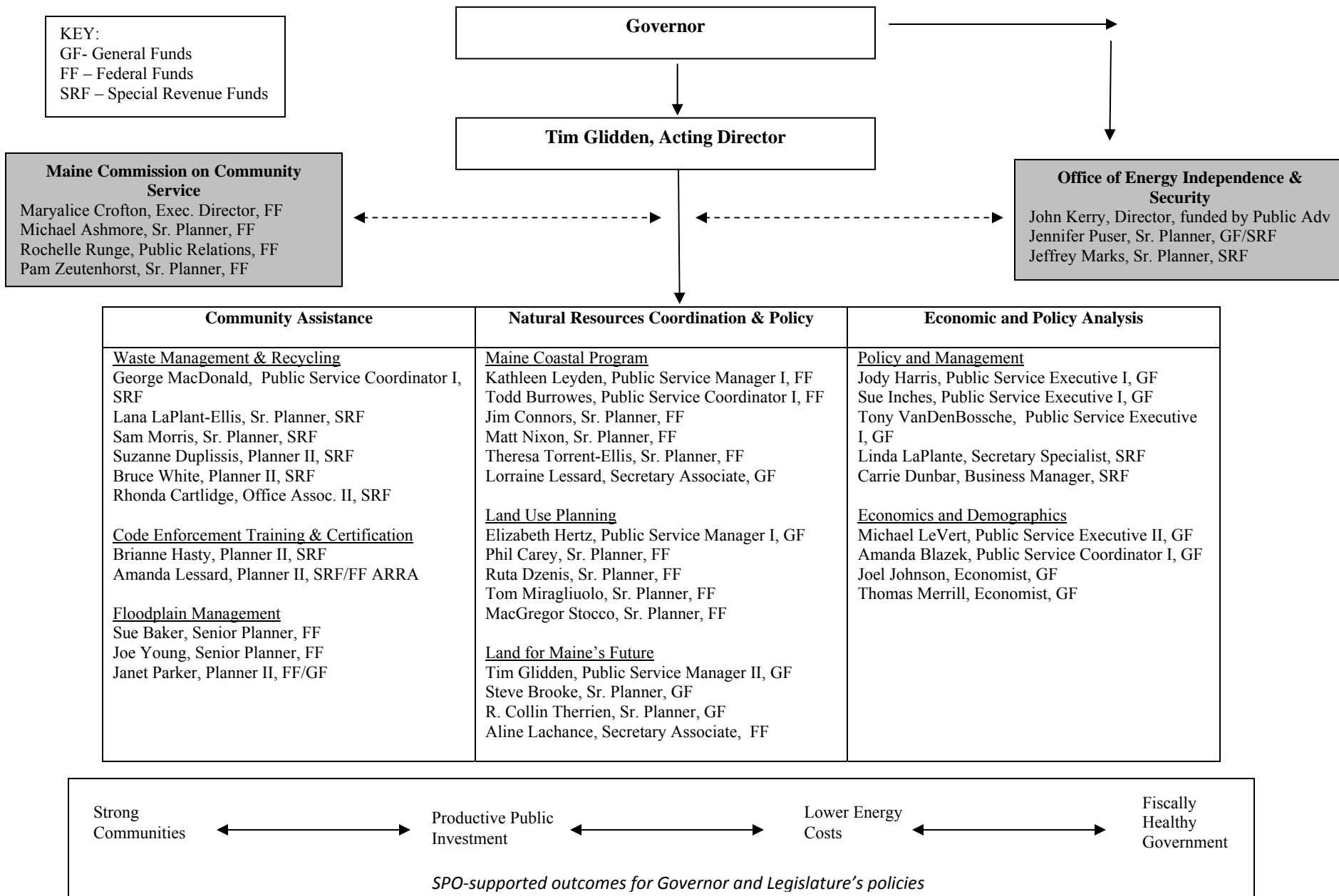


SPO 10-year Financial Summary

Each year, SPO general fund expenditures have been below FY02 levels. To some degree the Office has replaced general fund expenditures with federal and other revenue funds. Most recently in FY09 and 10, SPO federal funds have declined.



D. SPO Organizational Chart



E. Options for Re-locating Community Assistance Programs

The Legislature consolidated many of the state's community assistance programs at the State Planning Office in 1995, including:

- Land Use Planning
- Code Enforcement Officer Training and Certification
- Floodplain Management
- Waste Management and Recycling

The Governor or Legislature designated the State Planning Office as the lead on other programs because of their cross-agency missions:

- Maine Commission for Community Service
- Maine Coastal Program
- Land for Maine's Future Program

More than eighty percent (80%) of these programs is funded with federal dollars or other revenue sources that are matched by the State Planning Office's general fund staff.

The following provides options of where the state's community assistance programs might be housed and an assessment of those options.

Land Use Planning

The Land Use Planning program assists communities with comprehensive planning, zoning, and other planning tools to foster orderly growth that will guide development and conserve rural, working lands. The program, along with the floodplain management and code enforcement officer training programs, was originally housed at the State Planning Office in 1988 when the Legislature created them as part of the Growth Management Act. They were then moved to the Department of Economic and Community Development (DECD) in 1991. The Legislature, at the Governor's request, moved the programs back to the State Planning Office in 1995 primarily so DECD could focus its attention on business attraction.

Land use planning could be moved to either the DECD or Department of Conservation (LURC). If the Governor and Legislature want to bolster the community development role of DECD's mission, land use planning might be consolidated there to foster that objective. There is logic to having code enforcement training and floodplain management together with community development as those programs are part of local land use planning. LURC manages development activity in Maine's unorganized territory. Sound land use planning whether in urban or rural places has similar principles and approaches and could be combined. Alternately, the state's community development program and/or LURC functions could be consolidated at the State Planning Office.

SPO's land use program is largely funded with federal coastal dollars. The program has four federally-funded positions and one general fund position that serves as match. There would be no

cost savings from moving the programs. But the Governor could use these programs to give greater weight to his policy emphasis for a particular agency.

Code Enforcement Training and Certification

The State Planning Office trains and certifies over 500 local code enforcement officers (CEOs) and plumbing inspectors in enforcement and legal issues, shoreland zoning, internal and external plumbing, and land use regulations. In 2010, it began training and certifying building officials and private, third-party inspectors for the state's new uniform building and energy code.

The program has two full-time staff. Staff salaries and training activities are funded by revenues from fees on state plumbing permits and commercial building plan reviews for fire safety. The training and certification functions could be moved to one of several other state agencies or dispersed among them, including:

- Department of Economic and Community Development (Office of Community Development)
- Department of Professional and Financial Regulation (Office of Licensing and Registration)
- Department of Public Safety (Bureau of Building Codes and Standards)
- Department of Health and Human Services (Division of Health Engineering under the State Plumbing Inspector)
- Department of Environmental Protection (under the shoreland zoning program)

There would be no cost savings to moving the code enforcement and building code training to another agency. Program cutbacks and fee reductions make it difficult to transfer to another agency with adequate resources.

It would be inefficient for the state to administer decentralized training and certification activities across the agencies with related programmatic responsibilities. CEOs would also then have to deal with multiple state agencies for training and exams administered by different agencies.

Floodplain Management

SPO has 2.6 federally-funded staff (0.4 FTEs provide general fund match) that helps communities participate in the National Flood Insurance Program. Flood insurance is not commercially available. Homeowners can only purchase flood insurance through the federal program, and only if their community meets certain federal standards for participation. The program works closely with local code officers and both programs benefit from being housed together.

The flood program could be transferred to the Maine Emergency Management Agency (MEMA), Department of Environmental Protection (DEP), or linked with code enforcement training, the Department of Public Safety. There are no cost savings associated with a move.

However, if better compliance⁸ with state and federal laws is an objective, moving both the code enforcement and floodplain management programs to an emergency-response or regulatory line agency, such as DEP, MEMA or Public Safety could change the culture of the programs to be more enforcement-oriented.

Waste Management and Recycling

Some of the state's waste management responsibilities were transferred to the State Planning Office upon abolition of the Maine Waste Management Agency in 1995. SPO carries out three waste management tasks:

1. assisting municipal and regional recycling programs;
2. planning for statewide recycling and solid waste disposal capacity needs and recommending the development of new capacity; and
3. overseeing the state-owned Juniper Ridge Landfill.

To pay for these tasks, the state assesses a dedicated fee on the disposal of certain solid wastes, such as ashes and sludges.

The State Planning Office houses the state's waste management and recycling program separate from DEP's Bureau of Waste Remediation to carry out the state's voluntary approach to recycling and to avoid potential conflicts of interest between those programs that plan and develop state landfill capacity and those that regulate it.

SPO and DEP explored how the state's waste management programs might be consolidated at DEP and offered a proposal to the Legislature's Natural Resources Committee in 2009. There would be a slight increase in cost to preserve the landfill capacity and oversight functions at SPO (or elsewhere),⁹ while moving the recycling responsibilities to DEP. This is a case where splitting duties into two places, creates the need for new staff capacity in both places.

There is a policy choice in where to house the state's recycling technical assistance and waste management planning functions. Policymakers might choose to regulate or mandate more recycling in order to achieve a 50% recycling rate and reduce our state's reliance on landfilling. That approach would be more effective at DEP, which has the regulatory authority to affect it.

Maine Commission for Community Service

The Maine Commission for Community Service is a conduit for 1.5 million dollars annually in federal funds to foster strong, viable communities through volunteerism. The State Planning Office provides the Commission with administrative staff and services.

Other states house state service commissions in governor's offices, offices of secretary of state, or line departments. Federal regulations preclude the Commission from granting funds to the

⁸ Today 93% of municipalities employ a certified code officer and 91% of municipal flood ordinances meet NFIP standards.

⁹ We address the question of where to house the landfill oversight function in section III of this report.

state agency in which it is housed, making it unfeasible to move the commission to most of the state's line agencies. The Commission's funds target public safety, education, health, human services, and environmental needs. Its broad span of constituent interests makes a neutral location like the State Planning Office, the Governor's Office, or Secretary of State preferable. That way, the mission of the agency in which it is housed cannot unduly influence the allocation of commission grant funds. There would no savings from transferring the Commission to another location.

Maine Coastal Program

The Governor designated the State Planning Office as the lead agency to administer the federal/state Coastal Zone Management Program in Maine in 1978. The Maine Coastal Program coordinates state, local, and research institutions to sustain Maine's coastal resources and maritime economy. SPO administers the federal funds and leads interagency efforts on coastal policy development. The Coastal Program was originally located at SPO because Maine does not have a unified natural resource agency. Its current location allows for more effective coordination across several state agencies with coastal management responsibilities.

The Maine Coastal Program could be housed at the department of Marine Resources (DMR) or Environmental Protection (DEP), depending on whether policymakers want a resource- or environmental-protection focus for the program. DMR and DEP could give the program a more regulatory or enforcement-oriented framework. There would be no cost savings to moving MCP to a line agency.

An advantage of having the coastal program at the State Planning Office close to the governor is that its focus and deliverables can be shifted to support each administration's priorities. In the past, the coastal program supported Governor McKernan's river resource management planning, Governor King's smart growth and Atlantic salmon restoration initiatives and Governor Baldacci's wind and ocean energy projects.

Land for Maine's Future Program

The Land for Maine's Future (LMF) Program seeks to conserve natural areas, recreational access, working landscapes, and working waterfronts through land acquisition and conservation easements. The State Planning Office doesn't own land or conservation easements itself, but makes grants to state agencies, towns, and land trusts to achieve these objectives. SPO staff supports the LMF board to evaluate and score proposals. Once the board selects a project for funding, staff conducts the legal and administrative work required before a parcel can be purchased.

The four LMF staff and the public-private board could be housed at any of the state's natural resource agencies –agriculture, conservation, or inland fisheries and wildlife. It would fit logically into a single, consolidated, natural resource agency. However, with the several agencies and other public partners competing for LMF support, moving the program to an existing natural resource agency creates a potential conflict of interest for that agency granting itself funding for projects it sponsors. There would be no cost savings to moving LMF to a line agency.