

MAINE STATE LEGISLATURE

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OFFICE OF
THE GOVERNOR

NO. 10 FY 90/91
DATE January 4, 1991

ORDER CURTAILING ALLOTMENTS
Pursuant to 5 MRS §1668

WHEREAS, the national economy entered a period of general recession in November of 1990; and

WHEREAS, this national economic recession has led the economy of Maine and the northeast to perform significantly below expectations; and

WHEREAS, on December 17, 1990 the Commissioner of Finance reported in writing to me that the anticipated income and other available funds of the State will not be sufficient to meet the expenditures authorized by the 114th Legislature for Fiscal Year 1991; and

WHEREAS, 5 MRS §1668 empowers me upon receipt of that report to curtail allotments "equitably" and "insofar as practicable" with the intentions of the 114th Legislature so that expenditures will not exceed the anticipated income and other available funds of the State in Fiscal Year 1991; and

WHEREAS, the Office of the Attorney General has opined that "equitable" means "just, fair and right, in consideration of the facts and circumstances of the individual case;" that §1668 does not require across-the-board curtailments; and that §1668 permits the exercise of discretion in determining what constitutes equity and what constitutes practicable compliance with legislative intent; and

WHEREAS, in guiding the exercise of discretion the following principal factors have been examined:

1. The amount of General Fund dollars available in the 3rd and 4th quarter allotments of each entity of State government;
2. The percentage that those amounts represent of an entity's budget;
3. The budget reductions already taken by an entity in this biennium;
4. The contractual obligations or significant administrative burdens that restrict an entity's ability to achieve curtailment savings;
5. The nature of the services that an entity provides and whether those services protect or promote:
 - a. public health and safety;

- b. educational welfare; or
 - c. effective operation of state government;
6. The type of services that an entity provides and whether those services are:
- a. informational or advisory;
 - b. regulatory; or
 - c. direct-care;
7. The nature of harm caused by a curtailment and whether that harm would be:
- a. certain or potential;
 - b. direct or indirect;
 - c. reparable or irreparable;
 - d. short-term or long-term; and

WHEREAS, the inquiry into factors like these constitutes a rational, reasonable, fair and therefore just means by which to exercise discretion; and

WHEREAS, the curtailments ordered faithfully preserve the priorities of the 114th Legislature by imposing insofar as practicable the least certain, the least direct and the least irreparable harm to the health and safety of our public, the educational welfare of our students, and the effective operation of our government; and

WHEREAS, this Order complements my good-faith efforts to date to reach agreement with the 115th Legislature on an amended budget for Fiscal Year 1991; namely the introduction of several bills, and the holding of numerous meetings and hearings thereon since early December, 1990 with legislative leaders and members of the Joint Standing Committee on Appropriations; and will complement like good-faith efforts that I intend to exert for the remainder of the legislative session.

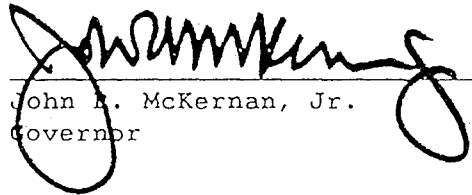
NOW, THEREFORE, I, John R. McKernan, Jr., Governor of the State of Maine, do hereby order the Commissioner of Finance to curtail Fiscal Year 1991 third quarter allotments for all General Fund accounts to the amounts specified in the attached financial order.

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Any portion of this Order declared by a court of this State to be invalid as a matter of law shall be severed from those portions not so declared, and shall be subject to revision by a subsequent Order. The effective date of this Order is January 4, 1991.



John R. McKernan, Jr.
Governor

Attachment