

MAINE STATE LEGISLATURE

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CLERK OF COURSE
AUGUSTA, MAINE



OFFICE OF
THE GOVERNOR

NO. 11 FY 91/92

DATE November 27, 1991

ORDER CURTAILING ALLOTMENTS
Pursuant to 5 MRSA §1668

WHEREAS, the national economic recession continues to struggle in recovery and the economies of Maine and the northeast continue to perform below expectations; and

WHEREAS, on November 1, 1991, 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 115th Legislature for Fiscal Year 1992; and

WHEREAS, 5 MRSA §1668 empowers me upon receipt of that report to curtail allotments "equitably" and "insofar as practicable" with the intentions of the 115th Legislature so that expenditures will not exceed the anticipated income and other available funds of the State in Fiscal Year 1992; and

WHEREAS, the Office of the Attorney General has opined and the Superior Court has held 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 2nd quarter allotments of each entity of State Government;
2. The percentage that those amounts represent of an entity's budget;
3. The contractual obligations or significant administrative burdens that restrict an entity's ability to achieve curtailment savings;
4. 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;

5. The type of services that an entity provides and whether those services are:
 - a. informational or advisory;
 - b. regulatory; or
 - c. direct-care;

6. 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

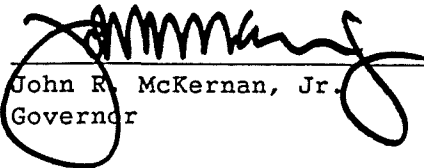
WHEREAS, the inquiry into factors like these constitutes a rational, reasonable, fair and therefore just means by which to exercise discretion; and

WHEREAS, the curtailments ordered faithfully preserve the priorities of the 115th 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 1992; namely the proposal of necessary deappropriations, and the holding of numerous meetings and hearings thereon since early October, 1991, 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 this fiscal year.

NOW, THEREFORE, I, John R. McKernan, Jr., Governor of the State of Maine, do hereby order the Commissioner of Finance to curtail Fiscal Year 1992 second quarter allotments for all General Fund accounts to the amounts specified in the attached financial order.

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 November 27, 1991.



John R. McKernan, Jr.
Governor