

MAINE STATE LEGISLATURE

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Financial Order follows

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OFFICE OF
THE GOVERNOR

NO. 03 FY 11/12
DATE October 1, 2010

**October 1, 2010 ORDER CURTAILING ALLOTMENTS
Pursuant to PL 2009, chapter 571, Part OOOO**

WHEREAS, on March 31, 2010, PL 2009, chapter 571 was signed into law as emergency legislation; and

WHEREAS, PL 2009, chapter 571, Part OOOO requires a limited, equitable curtailment of allotments to offset General Fund budgeted savings of \$85,050,455 in the event that Congress failed to enact an extension of the provisions of Section 5001 of the American Recovery and Reinvestment Act of 2009, which provides increased Federal Medicaid matching rates, through June 30, 2011; and

WHEREAS, on August 10, 2010 the President of the United States signed into law the Education, Jobs and Medicaid Assistance Act (PL 111-226), which extends the increased Federal Medicaid matching rates (FMAP) under Section 5001 of the American Recovery and Reinvestment Act (ARRA) through June 30, 2011; and

WHEREAS, PL 111-226 provides for an extension of the hold harmless provisions of the ARRA enhanced Medicaid FMAP rate through June 30, 2011 and phases down the ARRA match rate enhancement from 6.2 percentage points to 3.2 percentage points from January 1, 2011 through March 31, 2011, and to 1.2 percentage points for the period April 1, 2011 through June 30, 2011; and

WHEREAS, the General Fund budget for fiscal year 2011 is based on an assumption that the provisions of the ARRA's enhanced FMAP rates would be extended at a rate of 6.2 percentage points for the full fiscal year; and

WHEREAS, the enactment of PL 111-226, while providing the state with significant additional fiscal help, does not fully offset the General Fund budgeted savings of \$85,050,455 specified in PL 2009, chapter 571, Part OOOO, instead providing \$76,225,352 in additional assistance, an amount that is \$8,825,103 less than the budgeted savings cited in Part OOOO of chapter 571; and

WHEREAS, in order to address the anticipated shortfall in Fiscal Year 2010-11, I have directed the following review process involving state department and agencies:

- Department and agencies were assigned reduction targets for Fiscal Year 2010-11;
- Departments and agencies have presented options and program impact analyses in connection with the reduction targets for Fiscal Year 2010-11;
- Discussions were held with affected departments and agencies about the options and program impact analyses they presented;
- Proposed reduction options and analyses were evaluated based on a number of factors, including without limitation the following:
 - The hierarchy of needs and the impact of proposed reductions in service on public health, safety, education, welfare and effective program operations;
 - Whether any such impact would be direct or indirect;
 - The extent to which an impact on program beneficiaries could be minimized;
 - The extent to which a department or agency had available other resources to support the program or to meet a public service need;
 - The extent to which efforts supported by new spending could be delayed to avoid or minimize adverse impacts;
 - The extent to which expenditure growth could be reduced so as to minimize any impact on services;
 - The extent to which a department or agency may be required to issue rules under the provisions of 5 MRSA chapter 375 in order to accomplish savings in a timely manner;
 - The availability of other options to achieve the same level of savings and avoid or minimize any impact on services to the public;
 - Whether an option avoids termination of a program or service; and
 - Whether proposed reductions could be made in a fair and equitable manner, and preserve insofar as practicable the intent of the Legislature.

WHEREAS, in ordering these curtailments, I have followed the guiding principles set forth in Title 5 MRSA section 1668, the Superior Court's decision in Butterfield et al. v. Department of Human Services CV-91-29 (Kennebec Cty., Jan 17, 1991)(Alexander, J.), and the June 18, 2002 guidance letter from Attorney General Steven Rowe; and

WHEREAS, reliance upon said factors constitutes a rational, reasonable, fair, just and therefore equitable means by which to exercise discretion in the curtailment of allotments; and

WHEREAS, the allotment curtailments ordered herein are made, insofar as practicable, consistent with the intent of the 124th Legislature by minimizing the impact to services involving protection and/or promotion of the health and safety of the public, the educational welfare of our students and the effective operation of state government; and

WHEREAS, this Order is a temporary measure to implement the intent of PL 2009, chapter 571, Part OOOO until such time as the Legislature can act; and

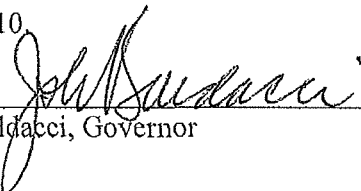
WHEREAS, I have identified an additional \$1.2 million in allotment that can be frozen within executive authority, will continue to seek additional opportunities for savings and will identify potential budget initiatives for consideration by the next Governor of Maine;

NOW, THEREFORE, I, John Elias Baldacci, Governor of the State of Maine, do hereby order the Commissioner of Administrative and Financial Services to curtail Fiscal Year 2010-11 quarterly allotments by \$8,825,103 in the General Fund accounts as 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.

Effective Date

The effective date of this Order is October 1, 2010.



John E. Baldacci, Governor

Attachment (Financial Order)