

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 370

H.P. 268

House of Representatives, January 31, 1995

An Act to Strengthen the General Fund's Unappropriated Surplus.

(EMERGENCY)

Reference to the Committee on Appropriations and Financial Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative KERR of Old Orchard Beach.
Cosponsored by Representatives: BOUFFARD of Lewiston, CLARK of Millinocket,
DiPIETRO of South Portland, POULIOT of Lewiston, TRUMAN of Biddeford, WINN of
Glenburn, YACKOBITZ of Hermon, Senators: BERUBE of Androscoggin, CARPENTER of
York, HANLEY of Oxford.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 **Whereas,** current law allows numerous transfers from the
General Fund's unappropriated surplus or other available balances
to certain reserve, contingency and special expenditure accounts;
8 and

10 **Whereas,** many of these transfers were funded at the end of
fiscal year 1993-94 only due to receivables "booked" in June
12 1994; and

14 **Whereas,** this practice erodes the General Fund's cash flow
position; and

16
18 **Whereas,** the General Fund's unappropriated surplus,
approximately \$163,100,000 at the end of fiscal year 1988-89, was
only \$3,800,000 at the end of fiscal year 1993-94; and

20
22 **Whereas,** without instituting changes, these year-end
transfers will take place at the end of this fiscal year; and

24 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
26 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
28 safety; now, therefore,

30 **Be it enacted by the People of the State of Maine as follows:**

32 **Sec. 1. 5 MRSA §1507, next to the last ¶,** as amended by PL 1993,
c. 410, Pt. QQQ, §4, is repealed.

34
36 **Sec. 2. 5 MRSA §1507,** as amended by PL 1993, c. 410, Pt. QQQ,
§§1 to 4, is further amended by adding at the end a new paragraph
to read:

38
40 After the close of each fiscal year, the Governor may
request a General Fund appropriation from the next session of the
Legislature in an amount as may be available to bring the total
42 available in the State Contingent Account to a maximum of
\$2,350,000 for the current fiscal year.

44
46 **Sec. 3. 5 MRSA §1511,** as amended by PL 1993, c. 707, Pt. G,
§2, is further amended to read:

48 **§1511. Reserve for General Fund operating capital; Loan**
Insurance Reserve

50

2 ~~The State Controller may, at~~ After the close of each fiscal
year, ~~transfer from the Unappropriated Surplus of~~ the Governor
3 ~~may request a~~ General Fund appropriation to the Reserve for
4 General Fund Operating Capital ~~such amounts as may be available~~
~~from time to time up to~~ from the next session of the Legislature
5 in an amount of up to \$1,000,000 a year, except for fiscal year
6 1993-94 when an amount up to \$2,500,000 may be transferred, until
7 a maximum of \$25,000,000 is achieved. ~~The State Controller is~~
8 ~~further authorized, at~~ After the close of each fiscal year, ~~to~~
9 ~~transfer from the Unappropriated Surplus of~~ the Governor ~~may~~
10 ~~request a~~ General Fund appropriation to the Loan Insurance
11 Reserve ~~amounts as may be available from time to time, up to~~ from
12 the next session of the Legislature in an amount of up to
13 \$1,000,000 per year. The balance of this reserve must be paid to
14 the Finance Authority of Maine if such payment does not cause the
15 balance in the reserve fund maintained by the authority, when
16 added to amounts held in the Finance Authority of Maine Mortgage
17 Insurance Fund that are not committed or encumbered for another
18 purpose, to exceed \$10,000,000. Any balance in the Loan
19 Insurance Reserve is appropriated for this purpose. ~~The State~~
20 ~~Controller on or before June 30, 1993 must transfer the balance~~
21 ~~in the Reserve for General Fund Operating Capital to the~~
22 ~~unappropriated surplus of the General Fund.~~

24 **Sec. 4. 5 MRSA §1589, first ¶,** as enacted by PL 1993, c. 476,
25 §2, is amended to read:

26 At the end of each fiscal year, unencumbered appropriation
27 and allocation balances lapse into the appropriate fund ~~or~~
28 ~~account balance~~ and are not available unless authorized by law,
29 ~~or as provided for in subsections 1 to 5.~~ Encumbered balances
30 may not be carried forward more than once at the end of a fiscal
31 year.

32 **Sec. 5. 5 MRSA §1589, sub-§1,** as repealed and replaced by PL
33 1993, c. 707, Pt. BB, §2, is repealed.

34 **Sec. 6. 5 MRSA §1589, sub-§1-A** is enacted to read:

35 1-A. Total quality management efforts. Notwithstanding any
36 other provision of law, upon the approval of the department or
37 agency head, non-General Fund and non-Highway Fund accounts may
38 contribute resources on an allocated basis to an administrative
39 account for the support of department or agency total quality
40 management efforts except that the provisions of section 1585 and
41 Public Law 1993, chapter 410, Part A, section 25 or its successor
42 apply.

43 **Sec. 7. 5 MRSA §1589, sub-§2,** as enacted by PL 1993, c. 476,
44 §2, is repealed and the following enacted in its place:

2 **2. General Fund Total Quality Management accounts; Highway**
3 **Fund Total Quality Management accounts.** After the close of each
4 fiscal year, the Governor may request a General Fund
5 appropriation, Highway Fund allocation or allocation from other
6 available resources to a specific department, agency or to a
7 statewide Total Quality Management account to carry out total
8 quality management efforts in accordance with subsection 3.

10 **Sec. 8. 5 MRSA §1589, sub-§2-A and 2-B,** as enacted by PL 1993,
11 c. 707, Pt. BB, §3, are repealed.

12 **Sec. 9. 5 MRSA §1589, sub-§3,** as amended by PL 1993, c. 707,
13 Pt. BB, §4, is further amended to read:

14 **3. Total quality management initiatives.** ~~Except--as~~
15 ~~provided in subsection 3-C, available balances transferred into~~
16 Amounts appropriated or allocated to each departmentwide and
17 statewide account in accordance with subsection 2 must be used
18 for the payment of nonrecurring expenditures representing total
19 quality management initiatives in the same department or agency
20 or on a statewide basis, respectively.

21 **Sec. 10. 5 MRSA §1589, sub-§3-A,** as enacted by PL 1993, c.
22 707, Pt. BB, §5, is amended to read:

23 **3-A. Office of State Quality Management General Fund**
24 **account established.** There is established in the Executive
25 Department a General Fund account entitled Office of State
26 Quality Management to receive and expend funds in accordance with
27 ~~subsection 3-C and~~ chapter 523.

28 **Sec. 11. 5 MRSA §1589, sub-§3-C,** as enacted by PL 1993, c.
29 707, Pt. BB, §5, is amended to read:

30 **3-C. Funding; general.** ~~Notwithstanding any other provision~~
31 ~~of law, funds~~ Appropriations or allocations may be transferred
32 ~~requested by the Governor in each fiscal year from the Statewide~~
33 ~~--Total Quality Management General Fund account in the Department~~
34 ~~of Administrative and Financial Services to~~ for the Office of
35 State Quality Management General Fund account in the Executive
36 Department established in subsection 3-A and section 20094 and
37 the Human Resources General Fund account in the Department of
38 Administrative and Financial Services ~~to be allotted by financial~~
39 ~~order upon the approval of the Governor for the personal~~
40 ~~services, all other and capital expenditures requirements for 2~~
41 ~~positions in the Office of State Quality Management authorized by~~
42 ~~section 20094 and 2 training positions in the Bureau of Human~~
43 ~~Resources to be established for total quality management training~~
44 ~~and coordination.~~

2 **Sec. 12. 5 MRSA §1589, sub-§§4 and 6**, as enacted by PL 1993, c.
476, §2, are amended to read:

4
6 **4. Copies of proposals to Bureau of the Budget and Office
of Fiscal and Program Review.** Copies of each approved proposal
8 for the expenditure of funds ~~transferred-into~~ available in each
10 departmentwide and statewide account in accordance with
12 subsection 2 must be submitted from each department's or agency's
quality management council and the Maine Quality Management
Council, respectively, to the Bureau of the Budget and the Office
of Fiscal and Program Review.

14 **6. Report required.** The Department of Administrative and
16 Financial Services and the Maine Quality Management Council shall
report to the joint standing ~~committee~~ committees of the
18 Legislature having jurisdiction over state and local government
19 matters and appropriations and financial affairs annually no
later than February 1st, the following:

20 A. The total amount ~~authorized-for-transfer~~ appropriated or
22 allocated, by department, under ~~subsection-1~~ this section;

24 B. A description of initiatives submitted under subsection
26 4; and

28 C. A recommendation from the Maine Quality Management
30 Council and the Department of Administrative and Financial
Services on any changes ~~in-the-transfer-amount-authorized~~
under-subsections-1-and-2 needed to further total quality
management efforts in State Government.

32
34 **Sec. 13. 30-A MRSA §5683, sub-§3**, as amended by PL 1993, c.
707, Pt. N, §1, is further amended to read:

36 **3. Property Tax Relief Fund established.** There is
38 established the Property Tax Relief Fund for the purpose of
distributing unanticipated surplus revenues accruing in the
40 General Fund to municipalities experiencing high rates of
population growth. The purpose of the fund is to assist
42 municipalities in meeting their infrastructure needs.

44 ~~The-State-Controller-shall-at~~ After the close of each fiscal year
~~transfer-from-the-unappropriated-surplus-of,~~ the Governor may
46 request a General Fund appropriation to the Property Tax Relief
Fund from the next session of the Legislature in an amount not to
48 exceed 1/2 of the balance remaining after all other required
transfers or appropriations from the excess of total General Fund
50 revenues received over accepted estimates in that fiscal year and
all required deductions of appropriations, financial commitments,

2 designated funds, transfers from the unappropriated surplus of
the General Fund or transfers from the available balance
4 remaining in the General Fund have been made.

6 General Fund revenue estimates may be made once during the First
Regular Session of the Legislature and adjustments to these
8 accepted revenue estimates may be made once during the Second
Regular Session of the Legislature without mandatory transfer of
10 funds to the Property Tax Relief Fund. If adjustments are made
to those initial estimates presented to each regular session of
12 the Legislature, an amount equal to 1/2 of the excess of the
estimated revenue over the amounts required by law to be set
14 aside for other purposes must be appropriated to the Property Tax
Relief Fund.

16 The ~~fund~~ appropriation may not exceed \$25,000,000 and may not
lapse, but must remain a continuing carrying account to carry out
18 the purpose of this section.

20 **Sec. 14. 30-A MRSA §5683, sub-§6**, as enacted by PL 1989, c.
534, Pt. F, is amended to read:

22 **6. Treasurer of State.** The Treasurer of State shall
24 distribute the appropriation balance in the Property Tax Relief
Fund ~~as of July 1, 1989, on or before September 15, 1989, and~~
26 ~~thereafter the balance in the fund on July 1st of each year shall~~
~~be distributed on or before September 15th of each following year~~
28 no later than 30 days after the legislation appropriating funds
for this purpose has been enacted by the Legislature and signed
30 into law by the Governor.

32 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.
34

36 STATEMENT OF FACT

38 Current law authorizes numerous transfers from balances
40 estimated to be available at the end of each fiscal year for
specific purposes such as:

- 42 1. Restoring the amount available to the Governor in the
44 State Contingent Account to \$2,350,000;
- 46 2. Transferring up to \$1,000,000 to the Reserve for General
Fund Operating Capital;
- 48 3. Transferring up to \$1,000,000 to the Loan Insurance
50 Reserve;

2 4. Transferring 30% of available General Fund
appropriations and Highway Fund allocations balances to Total
4 Quality Management accounts to a maximum of \$2,500,000 in the
General Fund and \$500,000 in the Highway Fund;

6
8 5. Transferring up to 1/2 of remaining General Fund
revenues to the Property Tax Relief Fund after all other required
transfers have been made; and

10
12 6. Transferring up to 1/2 of excess General Fund revenues
to the Maine Rainy Day Fund.

14 In addition, legislation has authorized one-time transfers
at the close of recent fiscal years for specific purposes such as
16 a \$2,600,000 transfer from the General Fund's unappropriated
surplus at the close of fiscal year 1993-94 for the newly
18 authorized Maine Quality Centers.

20 Recently, the number of transfers that have been authorized,
as well as the dollar impact to the General Fund's unappropriated
22 surplus, have increased dramatically. For example, at the end of
fiscal year 1983-84, 3 statutory transfers were authorized
24 totalling approximately \$2,200,000; at the end of fiscal year
1993-94, 7 transfers were authorized totalling over \$23,500,000.

26
28 With the exception of the Maine Rainy Day Fund, for which no
changes are being proposed, this bill eliminates the authority of
the State Controller to transfer General Fund unappropriated
30 surplus, or any other estimated balances, to the State Contingent
Account, Reserve for General Fund Operating Capital, Loan
32 Insurance Reserve, Total Quality Management Accounts and Property
Tax Relief Fund. In its place, those available funds would stay
34 in unappropriated surplus until the next session of the
Legislature when the Governor could request a General Fund
36 appropriation for these purposes.