

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 7, 1994 to June 30, 1995**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 29, 1995**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1995**

substantive rules that are required by federal law and that do not exceed federal requirements with the Legislature in the same manner as it files notice of proposed rules under section 8053-A.

**Sec. 3. Administrative rules inventory; report.** Upon completion of the inventory of agency administrative rules provided in Executive Order 6 FY 94/95, the Governor shall submit a report on the results of that inventory, including recommended actions to ensure that rules are updated periodically and that rules comply with legislative intent, and on efforts to codify rules in a standard format and to provide electronic access to those rules. The Governor shall submit the report to the Joint Standing Committee on State and Local Government by January 31, 1996.

See title page for effective date.

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## CHAPTER 464

### H.P. 268 - L.D. 370

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

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

**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; and

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

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

**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

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

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

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

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

**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:

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 available in the State Contingent Account to a maximum of \$2,350,000 for the current fiscal year.

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

#### **§1511. Reserve for General Fund operating capital**

The State Controller may, at the close of each fiscal year, transfer from the Unappropriated Surplus of the General Fund to the Reserve for General Fund Operating Capital such amounts as may be available from time to time up to an amount of \$1,000,000 a year, ~~except for fiscal year 1993-94 when an amount up to \$2,500,000 may be transferred,~~ until a maximum of ~~\$25,000,000~~ \$50,000,000 is achieved. The State Controller is further authorized, at the close of each fiscal year, to transfer from the Unappropriated Surplus of the General Fund to the Loan Insurance Reserve amounts as may be available from time to time, up to an amount of \$1,000,000 per year. The balance of this reserve must be paid to the Finance Authority of Maine if such payment does not cause the balance in the reserve fund maintained by the authority, when added to amounts held in the Finance Authority of Maine Mortgage Insurance Fund that are not committed or encumbered for another purpose, to exceed ~~\$10,000,000~~ \$20,000,000. Any balance in the Loan Insurance Reserve is appropriated for this purpose. ~~The State Controller on or before June 30, 1993 must transfer the balance in the Reserve for General Fund Operating Capital to the unappropriated surplus of the General Fund.~~

**Sec. 4. 5 MRSA §1517** is enacted to read:

#### **§1517. Transfer to Retirement Allowance Fund**

At the close of each fiscal year, the State Controller shall transfer from the unappropriated surplus of the General Fund to the Retirement Allowance Fund established in section 17251 an amount equal to 1/2 of the balance remaining after all other required transfers from the excess of total General Fund revenues received over accepted estimates in that fiscal year and all required deductions

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

General Fund revenue estimates may be made once during the First Regular Session of the Legislature and adjustments to these accepted revenue estimates may be made once during the Second Regular Session of the Legislature without mandatory transfer of funds to the Retirement Allowance Fund. If adjustments are made to those initial estimates presented to each regular session of the Legislature, an amount not to exceed 1/2 of the excess of the estimated revenue over the amounts required by law to be set aside for other purposes must be appropriated to the Retirement Allowance Fund.

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

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

**Sec. 6. 5 MRSA §1589, sub-§1,** as repealed and replaced by PL 1993, c. 707, Pt. BB, §2, is repealed.

**Sec. 7. 5 MRSA §1589, sub-§1-A** is enacted to read:

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

**Sec. 8. 5 MRSA §1589, sub-§2,** as enacted by PL 1993, c. 476, §2, is repealed and the following enacted in its place:

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

**Sec. 9. 5 MRSA §1589, sub-§§2-A and 2-B,** as enacted by PL 1993, c. 707, Pt. BB, §3, are repealed.

**Sec. 10. 5 MRSA §1589, sub-§3,** as amended by PL 1993, c. 707, Pt. BB, §4, is further amended to read:

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

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

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

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

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

**Sec. 13. 5 MRSA §1589, sub-§§4 and 6,** as enacted by PL 1993, c. 476, §2, are amended to read:

**4. Copies of proposals to Bureau of the Budget and Office of Fiscal and Program Review.** Copies of each approved proposal for the expenditure of funds ~~transferred into~~ available in each departmentwide and statewide account in accordance with

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.

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

- A. The total amount ~~authorized for transfer ap-~~ propriated or allocated, by department, under ~~subsection 4~~ this section;
- B. A description of initiatives submitted under subsection 4; and
- C. A recommendation from the Maine Quality Management 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.

**Sec. 14. 5 MRSA §1666**, as amended by PL 1993, c. 707, Pt. R, §1, is further amended by adding at the end a new paragraph to read:

A biennial budget bill transmitted by the Governor or Governor-elect must include a part that asks the Legislature whether it wishes to continue funding each individual tax expenditure, as defined in section 1664, provided in the statutes. The part must include for each tax expenditure a statutory section reference, a brief description of each tax expenditure and the loss of revenue estimated to be incurred by funding source and fiscal year. This paragraph applies with respect to the preparation of the budget document and biennial budget bills for the 1998-1999 biennium and thereafter.

**Sec. 15. 5 MRSA §17253, sub-§3** is enacted to read:

**3. Components of unfunded liability contribution.** The annual valuation report prepared by the actuary in accordance with section 17107 must include identification of the impact on the employer contribution rate of any excess General Fund revenues transferred to the Retirement Allowance Fund pursuant to section 1517.

**Sec. 16. 30-A MRSA §5683, sub-§3**, as amended by PL 1993, c. 707, Pt. N, §1, is further amended to read:

**3. Property Tax Relief Fund established.**

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

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

General Fund revenue estimates may be made once during the First Regular Session of the Legislature and adjustments to these accepted revenue estimates may be made once during the Second Regular Session of the Legislature without mandatory transfer of funds to the Property Tax Relief Fund. If adjustments are made to those initial estimates presented to each regular session of the Legislature, an amount ~~equal to~~ not to exceed 1/2 of the excess of the estimated revenue over the amounts required by law to be set aside for other purposes must be appropriated to the Property Tax Relief Fund.

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

**Sec. 17. 30-A MRSA §5683, sub-§6**, as enacted by PL 1989, c. 534, Pt. F, is amended to read:

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

**Sec. 18. Effective date.** Those sections of this Act that repeal or enact paragraphs of the Maine Revised Statutes, Title 5, section 1507 take effect July 1, 1997.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved, except as otherwise indicated.

Effective July 3, 1995, unless otherwise indicated.

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## CHAPTER 465

### H.P. 181 - L.D. 229

#### An Act to Abolish the Maine Waste Management Agency

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

**Whereas,** this legislation proposes to abolish the Maine Waste Management Agency and to transfer certain of its functions to other state agencies; and

**Whereas,** the Governor's budget plan for fiscal year 1995-96 provides no funding for continued activities of the Maine Waste Management Agency; and

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

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

#### PART A

**Sec. A-1. 2 MRSA §6, sub-§2,** as repealed and replaced by PL 1993, c. 349, §1, is amended to read:

**2. Range 90.** The salaries of the following state officials and employees are within salary range 90:

Superintendent of Banking;

Bureau of Consumer Credit Protection Superintendent;

State Tax Assessor;

Superintendent of Insurance;

Associate Commissioner for Programs, Department of Mental Health and Mental Retardation;

Associate Commissioner of Administration, Department of Mental Health and Mental Retardation;

Associate Commissioner for Institutional Management; and

~~Executive Director, Maine Waste Management Agency; and~~

Deputy Commissioner, Department of Administrative and Financial Services.

**Sec. A-2. 2 MRSA §6, sub-§4,** as amended by PL 1991, c. 780, Pt. Y, §4, is further amended to read:

**4. Range 88.** The salaries of the following state officials and employees are within salary range 88:

Director of the Bureau of Parks and Recreation;

Director of Public Lands;

Director of Employee Relations;

Director, Bureau of Air Quality Control;

Director, Bureau of Land Quality Control;

Director, Bureau of Water Quality Control;

Director, Bureau of Oil and Hazardous Materials Control;

Director, Bureau of Administration; and

~~Director, Office of Planning;~~

~~Director, Office of Waste Reduction and Recycling;~~

~~Director, Office of Siting and Disposal Operations; and~~

Executive Director, Board of Environmental Protection.

**Sec. A-3. 3 MRSA §927, sub-§9, ¶B,** as repealed and replaced by PL 1991, c. 376, §11, is amended to read:

B. Independent agencies:

(1) Maine Conservation School;

(2) Office of State Historian;

(3) Maine Arts Commission;

(4) Maine State Museum Commission;

(5) Maine Historic Preservation Commission;

(6) Maine Health Care Finance Commission;