OFFICE OF
THE GOVERNOR

NO. 05 FY 10/11
DATE November 20, 2009

November 20, 2009 ORDER CURTAILING ALLOTMENTS
Pursuant to Title 5 M.R.S.A. Section 1668

WHEREAS, on November 20, 2009, the Commissioner of Administrative and Financial Services reported to me in writing after receiving communication from the Revenue Forecasting Committee and the advice of his economic advisors within the Maine Revenue Services that the anticipated income and other available funds of the State General Fund will not be sufficient to meet the General Fund expenditures authorized by the 124th Legislature for Fiscal Year 2009-10; and

WHEREAS, the Consensus Economic Forecasting Commission recently met and concluded that while the Maine economy is now beginning to show signs of recovery, the recessionary period was much more severe than reflected in prior forecasts, leaving the state's economic condition in a very fragile condition that will persist throughout the remainder of the current fiscal year; and

WHEREAS, in light of the Maine Constitution's requirement for a balanced budget in each fiscal year, this presents a serious situation that must be addressed forthwith; and

WHEREAS, in these circumstances Title 5 M.R.S.A. Section 1668 provides me with the authority and discretion to curtail allotments "equitably" and in a limited manner so that expenditures in the General Fund will not exceed the anticipated income and other available funds of the State General Fund in Fiscal Year 2009-10; and

WHEREAS, in order to address the anticipated continued shortfall in Fiscal Year 2009-10, I have directed the following review process involving state departments and agencies:

- Departments and agencies were assigned reduction targets for Fiscal Year 2009-10;
- Departments and agencies have presented options and program impact analyses in connection with the reduction targets for Fiscal Year 2009-10;
- Discussions were held with affected departments and agencies about the options and program impact analyses they presented; and
- 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 M.R.S.A. 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 M.R.S.A. 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 designed to reduce expenditures so that they will not exceed the anticipated income and other available funds until such time as the Legislature can act; and

WHEREAS, I intend to propose a more comprehensive package of recommendations for the Legislature's consideration during the 2nd Regular Session of the Legislature in the form of a supplemental budget that will, in part, negate the need for some of these curtailments if adopted;

NOW, THEREFORE, I, John E. Baldacci, Governor of the State of Maine, do hereby order the Commissioner of Administrative and Financial Services to curtail Fiscal Year 2009-10 quarterly allotments by $63,144,713 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 Executive Order is November 20, 2009.

John E. Baldacci, Governor

Attachment (Financial Order)