

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2003

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Legislative Document

No. 1636

H.P. 1213

House of Representatives, August 21, 2003

**An Act To Make Additional Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005**

(EMERGENCY)

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Received by the Clerk of the House on August 21, 2003. Referred to the Committee on Appropriations and Financial Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 218.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative BRANNIGAN of Portland. (GOVERNOR'S BILL)



2 ~~this--section---If--any--payment--made--in--accordance--with--this~~  
3 ~~subsection---is---subsequently---determined---to---be---subject---to~~  
4 ~~reoupment,--the--State--shall--reimburse--hospitals--for--all--such~~  
5 ~~reoupment--costs--paid--by--a--hospital. In the event that federal~~  
6 ~~financial participation is denied in any payments resulting from~~  
7 ~~adjustments made pursuant to this subsection, the State may not~~  
8 ~~recoup any such payments from the hospitals to which they were~~  
9 ~~made.~~

10 **Sec. A-2. PL 2003, c. 451, Pt. Z, §1, sub-§§1, 2, 3 and 5** are amended  
11 to read:

12  
13 1. The Chancellor of the University of Maine System,  
14 referred to in this section as "the chancellor," and any  
15 insurance company or 3rd-party administrator acting at the  
16 direction of the State, referred to in this section as "the  
17 carrier," insuring or administering the University of Maine  
18 System health plan for employees and retirees, referred to in  
19 this section as "the plan," shall negotiate agreements with  
20 hospitals participating in the carrier's provider network to  
21 reduce the expense incurred by the plan in state fiscal year  
22 2003-04 by the amount of \$2,250,000 and in state fiscal year  
23 2004-05 by the amount of \$2,250,000. It is not the intent of the  
24 Legislature to require negotiations to reduce such expenses  
25 beyond state fiscal year 2005. In undertaking such negotiations,  
26 the carrier is deemed at all times to be the agent of the State  
27 of Maine and the University of Maine System. The chancellor and  
28 the carrier, acting at the direction of the State, may offer or  
29 ~~demand~~ negotiate such terms and conditions as the chancellor  
30 considers to be in the best interest of the university to reduce  
31 the expense of the plan, including, but not limited to, offering  
32 or ~~demanding~~ negotiating reductions in standard hospital  
33 reimbursement rates, rebates and refunds and uniform terms  
34 relating to such reductions, rebates or refunds. The chancellor  
35 may not affect or seek to affect amounts paid to hospitals  
36 relating to any other customer of the carrier. The hospital  
37 discount rate resulting from this specific arrangement is not  
38 intended to affect the underlying premium rates for any purpose.  
39 This pooling of funds by the State is not intended to affect plan  
40 cost recoveries, plan cost structures or the university's ability  
41 to negotiate with carriers regarding the plan.

42  
43 2. The Commissioner of Human Services shall implement  
44 appropriate normalizing adjustments, no less than annually, to  
45 the public revenue component and the annual periodic interim  
46 payments of each hospital under subsection 1, consistent with the  
47 requirements of Title XIX of the federal Social Security Act, ~~to~~  
48 ~~offset--the--impact--of--any--plan--related--revenue--reduction--under~~  
49 ~~this--section. If--any--payment--made--in--accordance--with--this~~  
50 ~~subsection---is---subsequently---determined---to---be---subject---to~~

2 ~~recoupment, the State shall reimburse the hospital for all such~~  
3 ~~recoupment costs paid by the hospital.~~ In the event that federal  
4 financial participation is denied in any payments resulting from  
5 adjustments made pursuant to this subsection, the State may not  
6 recoup any such payments from the hospitals to which they were  
7 made.

8 3. Any carrier subject to this section is immune from any  
9 claim of or liability to any enrollee, any hospital or other  
10 health care provider for any action taken in furtherance of the  
11 authority and directives as set forth in this section. The terms  
12 of this section are deemed to amend the contract between the  
13 carrier and the University of Maine System and prevail over any  
14 inconsistent terms in the contract or certificates of coverage.  
15 A reimbursement rate, discount or rebate resulting from an  
16 agreement under subsection 1 may not be used by the carrier as a  
17 reference or base rate for any other contractual arrangement.  
18

19 5. Notwithstanding the provisions of the Maine Revised  
20 Statutes, Title 24-A, including sections 2174, 2185 and 2677-A,  
21 the agreement negotiated in accordance with subsection 1 may  
22 provide for adjustments to the amounts payable to providers on an  
23 aggregate services basis and on a retrospective basis, ~~and such~~  
24 ~~adjustments may not require any change to previously calculated~~  
25 ~~coinsurance amounts, deductibles, lifetime maximums, benefit~~  
26 ~~differentials or other benefit calculations relating to services~~  
27 ~~to individual enrollees covered under the plan provided by or~~  
28 ~~arranged by the University of Maine System.~~ The aggregate share  
29 of financial responsibility contributed by employees and retirees  
30 for their coverage through coinsurance amounts, deductibles,  
31 lifetime maximums, benefits differentials or other benefit  
32 calculations may increase a portion of the total cost. The  
33 changes made by this subsection may not require any changes in  
34 the current dollar level of employee cost sharing under the plan  
35 provided by or arranged by the University of Maine System. The  
36 chancellor shall provide notice to all such covered persons that  
37 the State has arranged for a reduction negotiated reductions in  
38 the cost of medical services to the University of Maine System  
39 and that such reduction will not be taken into consideration in  
40 and shall describe the effect on the calculation of coinsurance  
41 amounts, deductibles, lifetime maximums, benefit differentials or  
42 other benefit calculations applicable to the plan benefits  
43 provided by or arranged by the system. Such notice must include  
44 any additional disclosures necessary to fully inform such persons  
45 of the implications of this arrangement. It is not the  
46 responsibility of the carrier to provide such disclosure or  
47 notice.

48 **Sec. A-3. Retroactivity.** That section of this Part that amends  
49 Public Law 2003, chapter 20 applies retroactively to July  
50

1, 2003 and that section of this Part that amends Public Law 2003, chapter 451 applies retroactively to June 12, 2003.

**PART B**

**Sec. B-1. Supplemental appropriations and allocations.** There are appropriated and allocated from the various funds for the fiscal year ending June 30, 2004, to the departments listed, the following sums.

**HUMAN SERVICES, DEPARTMENT OF**

**Elder and Adult Services - Bureau of 0140**

Initiative: Provides for the appropriation and allocation of funds for Alzheimer's respite services, homemaker services and the long-term care ombudsman program.

|                                    |                 |
|------------------------------------|-----------------|
| <b>General Fund</b>                | <b>2003-04</b>  |
| All Other                          | \$128,915       |
| General Fund Total                 | <hr/> \$128,915 |
| <b>Other Special Revenue Funds</b> |                 |
| All Other                          | \$11,700        |
| Other Special Revenue Funds Total  | <hr/> \$11,700  |

**Congregate Housing 0211**

Initiative: Provides for the appropriation of funds for independent housing with services and assisted living programs.

|                     |                |
|---------------------|----------------|
| <b>General Fund</b> | <b>2003-04</b> |
| All Other           | \$67,843       |
| General Fund Total  | <hr/> \$67,843 |

**Long Term Care - Human Services 0420**

Initiative: Provides for the appropriation of funds for long-term care assessments.

|                     |                 |
|---------------------|-----------------|
| <b>General Fund</b> | <b>2003-04</b>  |
| All Other           | \$186,000       |
| General Fund Total  | <hr/> \$186,000 |

**HUMAN SERVICES, DEPARTMENT OF**

|   |                                     |                  |
|---|-------------------------------------|------------------|
| 2 | <b>DEPARTMENT TOTALS</b>            | <b>2003-04</b>   |
| 4 | <b>GENERAL FUND</b>                 | <b>\$382,758</b> |
| 4 | <b>OTHER SPECIAL REVENUE FUNDS</b>  | <b>11,700</b>    |
| 6 | <b>DEPARTMENT TOTAL - ALL FUNDS</b> | <b>\$394,458</b> |

8  
10  
**PART C**

12 **Sec. C-1. 22 MRSA §1815**, as amended by PL 2003, c. 20, Pt. K,  
12 §4, is further amended to read:

14 **§1815. Fees**

16 Each application for a license to operate a hospital,  
18 convalescent home or nursing home must be accompanied by a  
18 nonrefundable fee. Hospitals shall pay ~~\$100~~ \$40 for each bed  
20 contained within the facility. Nursing and convalescent homes  
20 shall pay ~~\$45~~ \$26 for each bed contained ~~with~~ within the  
22 facility. Each application for a license to operate an  
22 ambulatory surgical facility must be accompanied by the fee  
24 established by the department. The department shall establish  
24 the fee for an ambulatory surgical facility, not to exceed \$500,  
26 on the basis of a sliding scale representing size, number of  
26 employees and scope of operations. All licenses issued must be  
28 renewed annually upon payment of a like fee. The State's share of  
28 all fees received by the department under this chapter must be  
30 deposited in the General Fund. A license granted may not be  
30 assignable or transferable. State hospitals are not required to  
32 pay licensing fees.

34 **Sec. C-2. Federal funds to be nonlapsing.** Notwithstanding any  
34 other provision of law, the carry-over balance of federal funds  
36 received by the Department of Human Services from the federal  
36 Department of Health and Human Services' Administration on Aging,  
38 as a result of the federal Older Americans Act of 1965 and  
38 granted to the Area Agencies on Aging or Maine Alzheimer's  
40 Project from fiscal year 2002-03, may not lapse back to the State  
40 but must be carried forward until September 30, 2005 by the Area  
42 Agencies on Aging or Maine Alzheimer's Project to carry out the  
42 missions of their programs.

44 **Sec. C-3 Department of Human Services; revenue.**  
46 Notwithstanding any other provision of law, the Department of  
46 Human Services shall deposit to the General Fund, no later than  
48 June 30, 2004, undedicated revenue in the amount of \$382,758,  
48 generated from fiscal year 2002-03 funds returned from providers.

2           **Sec. C-4. Retroactivity.** That section of this Part that amends  
the Maine Revised Statutes, Title 22, section 1815 applies  
retroactively to July 1, 2003.

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

8  
**SUMMARY**

10  
12                           **PART A**

14           Part A corrects errors in the original language of the  
budget bills, which failed to specifically segregate the  
16 deappropriations in the state employees health insurance and  
university employees insurance programs from appropriations made  
18 to the MaineCare program. The appropriations were for the  
purpose of funding improvements in Medicaid reimbursement for  
20 hospital services and achieving greater parity with payments to  
providers of public employee health services.

22                           **PART B**

24           Part B provides for the appropriations and allocations of  
26 funds to the Department of Human Services for elder and adult  
services, congregate housing and long-term care.

28                           **PART C**

30           Part C lowers the license fees to operate a hospital from  
32 \$100 to \$40 for each bed and to operate a nursing or convalescent  
home from \$45 to \$26 for each bed. Part C provides for a  
34 carry-over of federal funds from fiscal year 2002-03 to September  
30, 2005 for use by the Area Agencies on Aging. Part C also  
36 requires that undedicated revenue returned from providers be  
deposited into the General Fund, which provides an offset to Part  
38 B.

**FISCAL NOTE REQUIRED**  
(See attached)



**121st Maine Legislature  
Office of Fiscal and Program Review**

**LD xxxx**

**An Act to Make Additional Supplemental Appropriations and  
Allocations for the Expenditures of State Government and to Change  
Certain Provisions of the Law Necessary to the Proper Operations of  
State Government for the Fiscal Years Ending June 30, 2004 and June  
30, 2005**

LR 2199(01)

**Fiscal Note for Original Bill****Sponsor: Rep. Brannigan****Committee: Not Referred****Fiscal Note Required: Yes****Fiscal Note**

|                                   | 2003-04   | 2004-05 | Projections<br>2005-06 | Projections<br>2006-07 |
|-----------------------------------|-----------|---------|------------------------|------------------------|
| <b>Net Cost (Savings)</b>         |           |         |                        |                        |
| General Fund                      | \$0       | \$0     | \$0                    | \$0                    |
| <b>Appropriations/Allocations</b> |           |         |                        |                        |
| General Fund                      | \$382,758 | \$0     | \$0                    | \$0                    |
| Other Special Revenue Funds       | \$11,700  | \$0     | \$0                    | \$0                    |
| <b>Revenue</b>                    |           |         |                        |                        |
| General Fund                      | \$382,758 | \$0     | \$0                    | \$0                    |

**Fiscal Detail and Notes**

Section B-1 of the bill provides one-time fiscal year 2003-04 General Fund appropriations totaling \$382,758 to the Bureau of Elder and Adult Services in the Department of Human Services to fund contracts affected by the loss of fiscal year 2002-03 carry-over balances. These one-time 2003-04 appropriations are to be offset by the recovery of the 2002-03 carry-over balances from the affected contractors as specified in Sec. C-3 of the bill. Section C-2 of the bill allows Department contractors to retain and use carry-over balances of certain federal funds that would otherwise be returned to the State and subsequently to the Federal government. Part A and Section C-1 of the bill have no fiscal impact.