

# MAINE STATE LEGISLATURE

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## HEALTH AND HUMAN SERVICES

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## STATE OF MAINE

## SENATE

## 128TH LEGISLATURE

## FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 512, L.D. 1466, Bill, "An Act To Address Severe and Ongoing Shortfalls in the Funding of Direct Care Workers in Long-term Care Settings and To Establish the Commission To Study Long-term Care Workforce Issues"

Amend the bill in section 1 by striking out all of subsection 2 (page 1, lines 33 to 35 in L.D.) and inserting the following:

**'2. Rate increases for fiscal year 2018-19 and thereafter.** For the state fiscal year ending June 30, 2019 and each year thereafter, the MaineCare payment rates for personal care and related services under each of the provisions under this section calculated under subsection 1 must be increased by an inflation adjustment cost-of-living percentage change in reimbursement in accordance with the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index medical care services index.'

Amend the bill in section 2 by striking out all of subsection 2 (page 2, lines 8 to 11 in L.D.) and inserting the following:

**'2. Rate increases for fiscal year 2018-19 and thereafter until completion of rate study.** For the state fiscal year ending June 30, 2019 and each year thereafter until the completion of the rate study under subsection 3, the MaineCare payment rates attributable to wages and salaries for personal care and related services under each of the provisions under this section calculated under subsection 1 must be increased by an inflation adjustment cost-of-living percentage change in reimbursement in accordance with the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index medical care services index.

**3. Rate study.** Cost-of-living increases as described in subsection 2 must continue on an annual basis until the Department of Health and Human Services has completed a rate study conducted by a 3rd party, including participation of providers, for adult family care services, adult day services or homemaker services and the rates in the rate study have been implemented.'

**COMMITTEE AMENDMENT**

1 Amend the bill in section 3 by striking out all of subsection 2 (page 2, lines 30 to 41  
2 in L.D.) and inserting the following:

3 **'2. Rate increases for fiscal year 2018-19 and thereafter until completion of rate**  
4 **study.** For the state fiscal year ending June 30, 2019 and each year thereafter until the  
5 completion of the rate study under subsection 3, an additional extraordinary circumstance  
6 supplemental allowance must be made as required by section 34 of the Principles of  
7 Reimbursement for Nursing Facilities equal to the amount of an inflation adjustment cost-  
8 of-living percentage change in reimbursement in accordance with the United States  
9 Department of Labor, Bureau of Labor Statistics, Consumer Price Index medical care  
10 services index of the portion of each facility's prospective and final prospective rate that  
11 is attributable to wages and wage-related benefits in both the direct care cost component  
12 and the routine care cost component. This supplemental allowance must be provided as  
13 part of each facility's prospective rate, notwithstanding any otherwise applicable caps or  
14 limits on reimbursement. This supplemental allowance must also be allowed and paid at  
15 final audit to the full extent that the facility has reported increased costs for wages and  
16 wage-related benefits, notwithstanding any otherwise applicable caps or limits on  
17 reimbursement, including without limitation the amount of the supplemental allowance  
18 added to prospective payment rates.

19 **3. Rate study.** Cost-of-living increases as described in subsection 2 must continue  
20 on an annual basis until the Department of Health and Human Services has completed a  
21 rate study conducted by a 3rd party, including participation of providers, for nursing  
22 facilities and the rates in the rate study have been implemented.'

23 Amend the bill in section 4 by striking out all of subsection 2 (page 3, lines 17 to 29  
24 in L.D.) and inserting the following:

25 **'2. Rate increase for fiscal year 2018-19 and thereafter until completion of rate**  
26 **study.** For the state fiscal year ending June 30, 2019 and each year thereafter until the  
27 completion of the rate study under subsection 3, additional reimbursement by a  
28 supplemental payment in the amount of an inflation adjustment cost-of-living percentage  
29 change in reimbursement in accordance with the United States Department of Labor,  
30 Bureau of Labor Statistics, Consumer Price Index medical care services index over the  
31 payment rate calculated under subsection 1 of the portion of the facility's per diem rate  
32 that is attributable to wages, wage-related benefits and workers' compensation must be  
33 added to the per diem rate until the department adjusts the direct care pricer, the routine  
34 limit and the personal care services limit, as applicable, to incorporate this increase going  
35 forward. This increase must be provided as part of each facility's per diem rate  
36 notwithstanding any otherwise applicable caps or limits on reimbursement. This  
37 supplemental payment must also be allowed and paid at final audit to the full extent that  
38 the facility has reported increased costs for wages, wage-related benefits and workers'  
39 compensation, notwithstanding any otherwise applicable caps or limits on  
40 reimbursement, including without limitation the amount of the supplemental payment  
41 added to prospective payment rates.

42 **3. Rate study.** Cost-of-living increases as described in subsection 2 must continue  
43 on an annual basis until the Department of Health and Human Services has completed a  
44 rate study conducted by a 3rd party, including participation of providers, for residential  
45 care facilities and the rates in the rate study have been implemented.'

1 Amend the bill in section 5 in subsection 9 in the first line (page 5, line 30 in L.D.) by  
2 striking out the following: "October 15" and inserting the following: 'December 2'

3 Amend the bill by inserting after section 5 the following:

4 'Sec. 6. Appropriations and allocations. The following appropriations and  
5 allocations are made.

6 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

7 **Developmental Services - Community 0122**

8 Initiative: Provides appropriations for an increase to rates for certain services.

|    |                     |                 |                 |
|----|---------------------|-----------------|-----------------|
| 9  | <b>GENERAL FUND</b> | <b>2017-18</b>  | <b>2018-19</b>  |
| 10 | All Other           | \$66,990        | \$96,465        |
| 11 |                     |                 |                 |
| 12 | GENERAL FUND TOTAL  | <u>\$66,990</u> | <u>\$96,465</u> |

13 **Long Term Care - Office of Aging and Disability Services 0420**

14 Initiative: Provides appropriations for an increase to rates for certain services.

|    |                     |                  |                    |
|----|---------------------|------------------|--------------------|
| 15 | <b>GENERAL FUND</b> | <b>2017-18</b>   | <b>2018-19</b>     |
| 16 | All Other           | \$929,673        | \$1,421,378        |
| 17 |                     |                  |                    |
| 18 | GENERAL FUND TOTAL  | <u>\$929,673</u> | <u>\$1,421,378</u> |

19 **Medical Care - Payments to Providers 0147**

20 Initiative: Provides appropriations and allocations for an increase to rates for certain  
21 services.

|    |                     |                    |                    |
|----|---------------------|--------------------|--------------------|
| 22 | <b>GENERAL FUND</b> | <b>2017-18</b>     | <b>2018-19</b>     |
| 23 | All Other           | \$6,405,351        | \$9,585,335        |
| 24 |                     |                    |                    |
| 25 | GENERAL FUND TOTAL  | <u>\$6,405,351</u> | <u>\$9,585,335</u> |

|    |                                  |                     |                     |
|----|----------------------------------|---------------------|---------------------|
| 26 | <b>FEDERAL EXPENDITURES FUND</b> | <b>2017-18</b>      | <b>2018-19</b>      |
| 27 | All Other                        | \$20,085,327        | \$35,811,906        |
| 28 |                                  |                     |                     |
| 29 | FEDERAL EXPENDITURES FUND TOTAL  | <u>\$20,085,327</u> | <u>\$35,811,906</u> |

|   |  |                  |                    |
|---|--|------------------|--------------------|
| 1 | <b>OTHER SPECIAL REVENUE FUNDS</b>       | <b>2017-18</b>   | <b>2018-19</b>     |
| 2 | All Other                                | \$773,294        | \$1,214,774        |
| 3 |  |                  |                    |
| 4 | <b>OTHER SPECIAL REVENUE FUNDS TOTAL</b> | <u>\$773,294</u> | <u>\$1,214,774</u> |

5 **Nursing Facilities 0148**

6 Initiative: Provides appropriations and allocations for an increase to rates for certain  
7 services.

|    |                           |                     |                     |
|----|---------------------------|---------------------|---------------------|
| 8  | <b>GENERAL FUND</b>       | <b>2017-18</b>      | <b>2018-19</b>      |
| 9  | All Other                 | \$18,901,499        | \$24,563,125        |
| 10 |                           |                     |                     |
| 11 | <b>GENERAL FUND TOTAL</b> | <u>\$18,901,499</u> | <u>\$24,563,125</u> |

|    |  |                    |                    |
|----|--|--------------------|--------------------|
| 12 | <b>OTHER SPECIAL REVENUE FUNDS</b>       | <b>2017-18</b>     | <b>2018-19</b>     |
| 13 | All Other                                | \$1,661,427        | \$2,609,923        |
| 14 |  |                    |                    |
| 15 | <b>OTHER SPECIAL REVENUE FUNDS TOTAL</b> | <u>\$1,661,427</u> | <u>\$2,609,923</u> |

16 **PNMI Room and Board Z009**

17 Initiative: Provides appropriations for an increase to rates for certain services.

|    |                           |                    |                    |
|----|---------------------------|--------------------|--------------------|
| 18 | <b>GENERAL FUND</b>       | <b>2017-18</b>     | <b>2018-19</b>     |
| 19 | All Other                 | \$1,031,058        | \$1,619,699        |
| 20 |                           |                    |                    |
| 21 | <b>GENERAL FUND TOTAL</b> | <u>\$1,031,058</u> | <u>\$1,619,699</u> |

|    |                                     |                            |                            |
|----|-------------------------------------|----------------------------|----------------------------|
| 22 | <b>HEALTH AND HUMAN SERVICES,</b>   |                            |                            |
| 23 | <b>DEPARTMENT OF (FORMERLY DHS)</b> |                            |                            |
| 24 | <b>DEPARTMENT TOTALS</b>            | <b>2017-18</b>             | <b>2018-19</b>             |
| 25 |                                     |                            |                            |
| 26 | <b>GENERAL FUND</b>                 | <b>\$27,334,571</b>        | <b>\$37,286,002</b>        |
| 27 | <b>FEDERAL EXPENDITURES FUND</b>    | <b>\$20,085,327</b>        | <b>\$35,811,906</b>        |
| 28 | <b>OTHER SPECIAL REVENUE FUNDS</b>  | <b>\$2,434,721</b>         | <b>\$3,824,697</b>         |
| 29 |                                     |                            |                            |
| 30 | <b>DEPARTMENT TOTAL - ALL FUNDS</b> | <u><b>\$49,854,619</b></u> | <u><b>\$76,922,605</b></u> |
| 31 |                                     |                            |                            |

32 **SUMMARY**

33 This amendment, which is the majority report of the committee, makes the following  
34 changes to the bill.

1. Instead of the 10% increase proposed in the bill, the amendment provides that rate increases for fiscal year 2018-19 for all services in the bill must be paid according to the inflation adjustment cost-of-living percentage change to reimbursement in accordance with the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index medical care services index.

2. The amendment provides that rate increases for fiscal year 2019-20 and annually thereafter for those services must be paid using the same adjustment as fiscal year 2018-19 until a rate study has been completed by the Department of Health and Human Services, conducted by a 3rd party and including the participation of providers, and the rates in the rate study have been implemented.

3. It changes the date of the report from the Commission To Study Long-term Care Workforce Issues from October 15, 2017 to December 2, 2017.

4. It adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**

**(See attached)**

**128th MAINE LEGISLATURE****LD 1466****LR 1387(02)****An Act To Address Severe and Ongoing Shortfalls in the Funding of Direct Care Workers in Long-term Care Settings and To Establish the Commission To Study Long-term Care Workforce Issues****Fiscal Note for Bill as Amended by Committee Amendment "A" (S-186)****Committee: Health and Human Services****Fiscal Note Required: Yes**

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**Fiscal Note****Legislative Cost/Study**

|                                   | <b>FY 2017-18</b> | <b>FY 2018-19</b> | <b>Projections<br/>FY 2019-20</b> | <b>Projections<br/>FY 2020-21</b> |
|-----------------------------------|-------------------|-------------------|-----------------------------------|-----------------------------------|
| <b>Net Cost (Savings)</b>         |                   |                   |                                   |                                   |
| General Fund                      | \$27,334,571      | \$37,286,002      | \$47,277,606                      | \$55,530,669                      |
| <b>Appropriations/Allocations</b> |                   |                   |                                   |                                   |
| General Fund                      | \$27,334,571      | \$37,286,002      | \$47,277,606                      | \$55,530,669                      |
| Federal Expenditures Fund         | \$20,085,327      | \$35,811,906      | \$47,987,727                      | \$61,827,858                      |
| Other Special Revenue Funds       | \$2,434,721       | \$3,824,697       | \$4,993,336                       | \$6,161,975                       |
| <b>Revenue</b>                    |                   |                   |                                   |                                   |
| Federal Expenditures Fund         | \$20,085,327      | \$35,811,906      | \$47,987,727                      | \$61,827,858                      |
| Other Special Revenue Funds       | \$2,434,721       | \$3,824,697       | \$4,993,336                       | \$6,161,975                       |

**Legislative Cost/Study**

The general operating expenses of this study are projected to be \$2,750 in fiscal year 2017-18. The Legislature's proposed budget includes \$10,000 in fiscal year 2017-18 for legislative studies. Whether this amount is sufficient to fund all studies will depend on the number of studies authorized by the Legislative Council and the Legislature. The additional costs of providing staffing assistance to the study during the interim can be absorbed utilizing existing budgeted staff resources.

**Fiscal Detail and Notes**

The bill includes General Fund appropriations to the Department of Health and Human Services of \$27,334,571 in fiscal year 2017-18 and \$37,286,002 in fiscal year 2018-19 for an increase to rates for certain services. Federal Expenditures Fund allocations are also included for the FMAP match and Other Special Revenue Funds allocations for the healthcare provider tax and the service provider tax.

Additional costs to the Department of Labor related to the Commissioner or the commissioner's designee participating on the commission can be absorbed within existing budgeted resources.