

MAINE STATE LEGISLATURE

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2 Date: 6/8/21

(Filing No. S-205)

3 HEALTH AND HUMAN SERVICES

4 Reproduced and distributed under the direction of the Secretary of the Senate.

5 STATE OF MAINE

6 SENATE

7 130TH LEGISLATURE

8 FIRST SPECIAL SESSION

9 COMMITTEE AMENDMENT "A" to S.P. 301, L.D. 949, "Resolve, To Restore the
10 MaineCare Nursing Facility COVID-19 Temporary Rate Increase"

11 Amend the resolve by striking out the title and substituting the following:

12 **'Resolve, To Provide Additional Funding to Nursing Facilities and Private**
13 **Nonmedical Institutions for Costs Related to COVID-19'**

14 Amend the resolve by striking out the emergency preamble and substituting the
15 following:

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

18 **Whereas,** nursing facilities and private nonmedical institution Appendix C facilities
19 face a shortfall of approximately \$180 million in operating funds in the current biennium;
20 and

21 **Whereas,** nursing facilities and private nonmedical institution Appendix C facilities
22 are facing historically low occupancy rates due to COVID-19 pandemic restrictions, fatigue
23 and staffing concerns; and

24 **Whereas,** despite tireless and heroic efforts of workers, the workforce shortage for
25 nursing facilities and private nonmedical institution Appendix C facilities has been
26 exacerbated due to the COVID-19 pandemic; and

27 **Whereas,** nursing facilities and private nonmedical institution Appendix C facilities
28 face insolvency within weeks if immediate action is not taken before July 1, 2021; and

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

33 Amend the resolve by striking out everything after the emergency preamble and before
34 the emergency clause and inserting the following:

COMMITTEE AMENDMENT

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Sec. 1. Department of Health and Human Services to appropriate funding for emergency rate relief. Resolved: That the Department of Health and Human Services, referred to in this resolve as "the department," shall appropriate \$20 million in general funds for emergency rate relief for nursing facilities to provide funding to account for increased costs related to coronavirus disease 2019, referred to in this resolve as "COVID-19." The department shall amend its rule Chapter 101: MaineCare Benefits Manual, Chapter III, Section 67, Principles of Reimbursement for Nursing Facilities, to increase reimbursement rates by the combined amount of \$20 million in state funds together with allowable federal matching Medicaid funds. The department shall implement the same accountability and transparency requirements, requirements regarding the appropriate use of funds, bonus payments for job performance and cost settlement requirements that applied to the use of temporary rate increases that were in effect from March 1, 2020 to May 31, 2020. The increased rates under this section must remain in effect until December 31, 2021 or until the state of emergency due to COVID-19 has ended as declared by the Governor, whichever is later. The department shall allocate the funds through a process modeled after the rate relief that was in effect from March 1, 2020 to May 31, 2020 and that targets lower-occupancy facilities beginning immediately and through December 31, 2021 but that applies to costs retroactive to the most recent quarter permissible under federal law.

Sec. 2. Department of Health and Human Services to allocate certain federal funds for grants to nursing facilities and private nonmedical institution Appendix C facilities to provide relief and avoid closures. Resolved: That the department shall allocate \$12.5 million in remaining available federal funding from the federal Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, for facility grants to nursing facilities and to private nonmedical institution Appendix C facilities for COVID-19 related expenses. Seventy percent of this amount must be allocated to nursing facilities and 30% must be allocated to private nonmedical institution Appendix C facilities. These grants must be disbursed by July 1, 2021 to provide immediate relief and avoid facility closures. The Department of Economic and Community Development shall allocate the disbursement using the same or similar guidelines used by the federal Department of Health and Human Services in its disbursement of CARES Act federal relief funding directed to facilities in the last 12 months.

Sec. 3. Department of Health and Human Services to waive certain audit cost settlement rules. Resolved: That the department shall amend its rules and practices so that the grant funds provided pursuant to section 2 are not cost settled under the department's nursing facility audit processes but are retained by nursing facilities. The department shall waive any reduction or adjustment to allowable MaineCare costs on filed or audited cost reports under department rule Chapter 101: MaineCare Benefits Manual, Chapter III, Section 67, Principles of Reimbursement for Nursing Facilities, that would otherwise result from the receipt of the rate relief from the grant funds.

Sec. 4. Department of Health and Human Services; Nursing Facilities account; lapsed balances. Resolved: That, notwithstanding any provision of law to the contrary, \$20 million of unencumbered balance forward from the Department of Health and Human Services, Nursing Facilities, General Fund carrying account, All Other line category lapses to the unappropriated surplus of the General Fund no later than December 31, 2021.

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Sec. 5. Stimulus funding. Resolved: That, to the extent resources are available from federal funding allocated to the State in any federal law enacted after December 15, 2020 that provides stimulus funds due to the ongoing pandemic related to COVID-19, the department shall designate a portion of this funding to nursing facilities for the purposes of this resolve instead of using state general funds.

Sec. 6. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF
Nursing Facilities 0148**

Initiative: Provides one-time funding for emergency rate relief for nursing facilities to provide funding to account for increased costs related to COVID-19.

GENERAL FUND	2021-22	2022-23
All Other	\$20,000,000	\$0
GENERAL FUND TOTAL	<u>\$20,000,000</u>	<u>\$0</u>

FEDERAL EXPENDITURES FUND	2021-22	2022-23
All Other	\$58,480,484	\$0
FEDERAL EXPENDITURES FUND TOTAL	<u>\$58,480,484</u>	<u>\$0</u>

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	\$5,009,393	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$5,009,393</u>	<u>\$0</u>

Nursing Facilities 0148

Initiative: Provides one-time allocation of available federal funding from the federal Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, for facility grants to nursing facilities for COVID-19 related expenses.

FEDERAL EXPENDITURES FUND	2021-22	2022-23
All Other	\$8,750,000	\$0
FEDERAL EXPENDITURES FUND TOTAL	<u>\$8,750,000</u>	<u>\$0</u>

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	\$525,000	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$525,000</u>	<u>\$0</u>

Nursing Facilities 0148

ROS

COMMITTEE AMENDMENT "A" to S.P. 301, L.D. 949 (S-ROS)

1 Initiative: Provides one-time allocation of available federal funding from the federal
2 Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, for facility grants to
3 private nonmedical institution Appendix C facilities for COVID-19 related expenses.

4	FEDERAL EXPENDITURES FUND	2021-22	2022-23
5	All Other	\$3,750,000	\$0
6			
7	FEDERAL EXPENDITURES FUND TOTAL	<u>\$3,750,000</u>	<u>\$0</u>

9	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
10	All Other	\$225,000	\$0
11			
12	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$225,000</u>	<u>\$0</u>

14	HEALTH AND HUMAN SERVICES,		
15	DEPARTMENT OF		
16	DEPARTMENT TOTALS	2021-22	2022-23
17			
18	GENERAL FUND	\$20,000,000	\$0
19	FEDERAL EXPENDITURES FUND	\$70,980,484	\$0
20	OTHER SPECIAL REVENUE FUNDS	\$5,759,393	\$0
21			
22	DEPARTMENT TOTAL - ALL FUNDS	<u>\$96,739,877</u>	<u>\$0</u>

24 Amend the resolve by relettering or renumbering any nonconsecutive Part letter or
25 section number to read consecutively.

SUMMARY

- 27 This amendment replaces the resolve. It does the following.
- 28 1. It requires the Department of Health and Human Services to appropriate \$20 million
29 in state general funds, along with allowable federal matching funds, to nursing facilities in
30 increased rates. The increased rates must remain in place until December 31, 2021 or the
31 end of the state of emergency related to COVID-19, whichever is later.
 - 32 2. It requires the Department of Health and Human Services to allocate \$12.5 million
33 in available funding from the federal Coronavirus Aid, Relief, and Economic Security Act
34 to nursing facilities and private nonmedical institution Appendix C facilities. Seventy
35 percent of this funding must be allocated to nursing facilities and 30% must be allocated to
36 private nonmedical institution Appendix C facilities.
 - 37 3. It requires the Department of Health and Human Services to waive any reduction or
38 adjustment to allowable MaineCare costs on filed or audited cost reports that would result
39 from receipt of grant funds.
 - 40 4. It lapses \$20 million of unexpended funds in the Department of Health and Human
41 Services, Nursing Facilities, General Fund carrying account no later than December 31,
42 2021.

COMMITTEE AMENDMENT

ROS

COMMITTEE AMENDMENT "A" to S.P. 301, L.D. 949 (S-205)

- 1 5. It requires any federal stimulus funds related to the COVID-19 pandemic to be used
- 2 instead of state general funds for the purposes of this resolve.
- 3 6. It adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)



130th MAINE LEGISLATURE

LD 949

LR 1294(02)

Resolve, To Restore the MaineCare Nursing Facility COVID-19 Temporary Rate Increase

Fiscal Note for Bill as Amended by Committee Amendment "4" (S-205)
 Committee: Health and Human Services
 Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	\$0	\$0	\$0	\$0
Appropriations/Allocations				
General Fund	\$20,000,000	\$0	\$0	\$0
Federal Expenditures Fund	\$70,980,484	\$0	\$0	\$0
Other Special Revenue Funds	\$5,759,393	\$0	\$0	\$0
Revenue				
Federal Expenditures Fund	\$70,980,484	\$0	\$0	\$0
Other Special Revenue Funds	\$5,759,393	\$0	\$0	\$0
Transfers				
General Fund	\$20,000,000	\$0	\$0	\$0

Fiscal Detail and Notes

The bill includes a one-time General Fund appropriation to the Department of Health and Human Services of \$20,000,000 in fiscal year 2021-22 for emergency rate relief for nursing facilities to provide funding to account for increased costs related to COVID-19. Federal Expenditures Fund allocations are also included for the FMAP match and Other Special Revenue Funds allocations for the Health Care Provider Tax.

The bill also includes a one-time Federal Expenditures Fund allocation to the Department of Health and Human Services of \$12,500,000 in fiscal year 2021-22 for available federal funding from the Coronavirus Aid, Relief and Economic Security Act, or CARES Act, for facility grants to nursing facilities and private non-medical institutions, Appendix C facilities for COVID-19 related expenses. Other Special Revenue Funds allocations are also included for the Health Care Provider Tax and the Service Provider Tax.

Additionally, the bill requires \$20,000,000 of unencumbered balance forward from the Department of Health and Human Services, Nursing Facilities, General Fund carrying account, All Other line category to lapse to the unappropriated surplus of the General Fund no later than December 31, 2021.