

# MAINE STATE LEGISLATURE

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**JOINT STANDING COMMITTEE ON  
INSURANCE & FINANCIAL SERVICES**

**LD 1614 PART 2 BUDGET BILL**

**FY 04 - 05**

**THIS FILE CONTAINS THE FOLLOWING:**

**Departmental Impact Forms  
Testimony  
Committee Recommendations**

**2004-2005 "Part 2" Budget Bill**  
**Departmental Impact Form**  
**Joint Standing Committee on Appropriations and Financial Affairs**

**Department/Agency Name:** Department of Administrative and Financial Services

**Program Name:** Health Reform Reserve Fund

**Account Number(s):** New PART C, Insurance/Banking **Page # in Bill:** C-4

**FY 2003-04**

**FY 2004-05**

**Position or FTE Increase [i.e. (0.000)] / Decrease [i.e.(-0.000)]:**

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>		
<u>Other (please specify)</u>		

**Appropriation or Allocation Increase / (Decrease):**

<u>General Fund</u>	<u>\$374,368</u>	<u>\$374,630</u>
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>		
<u>Other (please specify)</u>		

**Revenue or Balance Transfer Increase / (Decrease):**

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>		
<u>Other (please specify)</u>		

**Description of Initiative:**

Provides for the appropriation of All Other funds to allow access to comprehensive, affordable health insurance for Maine small businesses and individuals through a not-for-profit organization.

**Description of Impact on Program(s) – BE SPECIFIC:**

Allows for access to comprehensive, affordable health insurance for Maine small businesses and individuals through a not-for-profit organization. Funds may be accessed by the not-for-profit health organization through a transfer by financial order recommended by the State Budget Officer and approved by the Governor. These funds shall not lapse but must be carried forward to be used for the same purpose.

**Does this Initiative have an impact on the 2006-2007 Biennium?**

NO

(please explain below)

This is a one-biennium appropriation.

2004-2005 "Part 2" Budget Bill  
Departmental Impact Form  
Joint Standing Committee on Appropriations and Financial Affairs

Department/Agency Name: Department of Administrative and Financial Services

Program Name: Statewide – Dental Insurance

Account Number(s): 010 18F 0016 PART C, Insurance/Banking Page # in Bill: C-3

FY 2003-04

FY 2004-05

Position or FTE Increase [i.e. (0.000)] / Decrease [i.e.(-0.000)]:

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>		
<u>Other (please specify)</u>		

Appropriation or Allocation Increase / (Decrease):

<u>General Fund</u>		<u>(\$161,243)</u>
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>		
<u>Other (please specify)</u>		

Revenue or Balance Transfer Increase / (Decrease):

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>		
<u>Other (please specify)</u>		

**Description of Initiative:**

Provides for the deappropriation of Personal Services funds from departments and agencies as a result of the refinement of dental costs for fiscal year 2004-05.

**Description of Impact on Program(s) – BE SPECIFIC:**

There is no impact as a result of this initiative. Funds remain available to cover dental insurance costs in FY05.

Does this Initiative have an impact on the 2006-2007 Biennium?

NO

(please explain below)

**The following items  
do not impact the General Fund  
and are not scheduled for the Public Hearing.**

**2004-2005 "Part 2" Budget Bill**  
**Departmental Impact Form**  
**Joint Standing Committee on Appropriations and Financial Affairs**

Department/Agency Name: Department of Professional and Financial Regulation

Program Name: Bureau of Financial Institutions

Account Number(s): 014 02A 0093 01 Page # in Bill:           

FY 2003-04

FY 2004-05

Position or FTE Increase [i.e. (0.000)] / Decrease [i.e.(-0.000)]:

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>	<u>*</u>	<u>*</u>
<u>Other (please specify)</u>		

Appropriation or Allocation Increase / (Decrease):

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>	<u>141,853</u>	<u>148,367</u>
<u>Other (please specify)</u>		

Revenue or Balance Transfer Increase / (Decrease):

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>	<u>30,202</u>	<u>128,438</u>
<u>Other (please specify)</u>		

**Description of Initiative:**

Provides for the allocation of funds for 2 limited period Bank Examiner positions to begin July 1, 2003 and terminate on June 30, 2005.

**Description of Impact on Program(s) – BE SPECIFIC:**

The Bureau of Financial Institutions is obligated under both Maine Law and Cooperative Examination Agreements with its Federal counterpart to conduct examinations of Maine chartered financial institutions. The Bureau's present examination staff is not sufficient to fulfill that obligation. The number of examination hours required by the present number of institutions is, simply, greater than the number of hours available to the present staff. In order to remain current in its examination schedule, the Bureau requires the addition of two examiners. The consequence of an insufficient examination staff will be an increased backlog of uncompleted examinations, the ultimate loss of accreditation from the Conference of State Bank Supervisors and the necessity to cease chartering new financial institutions.

Does this Initiative have an impact on the 2006-2007 Biennium? (Yes)            (No) X  
 (please explain below)

2004-2005 "Part 2" Budget Bill  
Departmental Impact Form  
Joint Standing Committee on Appropriations and Financial Affairs

Department/Agency Name: Department of Professional and Financial Regulation

Program Name: Consumer Credit Regulation

Account Number(s): 014 02A 009101 Page # in Bill:           

FY 2003-04

FY 2004-05

Position or FTE Increase [i.e. (0.000)] / Decrease [i.e.(-0.000)]:

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>	<u>*</u>	<u>*</u>
<u>Other (please specify)</u>		

Appropriation or Allocation Increase / (Decrease):

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>	<u>74,234</u>	<u>76,605</u>
<u>Other (please specify)</u>		

Revenue or Balance Transfer Increase / (Decrease):

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>	<u>70,000</u>	<u>70,000</u>
<u>Other (please specify)</u>		

**Description of Initiative:**

Provides for the allocation of funds for one limited period Consumer Credit Examiner-in-Charge position to begin on July 1, 2003 and terminate on June 30, 2005.

**Description of Impact on Program(s) – BE SPECIFIC:**

This professional position will provide complex financial analysis services to the licensing personnel, the compliance examination function and the consumer complaint staff. This position will provide supervision to licensing, examination and complaint personnel, to the extent that financial analysis is a critical element of each function. The position is critical to the agency's functions for the following reasons: 1) In at least six distinct areas of its regulatory jurisdiction and responsibility, the Office of Consumer Credit Regulation (OCCR) must undertake reviews of the financial safety, soundness and profitability of individuals and companies for licensing, examination and/or investigative purposes. 2) As many as ten separate situations have occurred within the past year in which OCCR staffers have been required to attempt to analyze and pass judgment on unusually complex financial scenarios. These reviews contained elements which required expertise well beyond the education, training or experience of those responsible for making those judgments. 3) A review of the staffing practices of other states' consumer credit regulatory agencies reveals that the majority of those offices utilize supervisory-level financial analysts.

Does this Initiative have an impact on the 2006-2007 Biennium? (Yes)            (No) X  
(please explain below)

2004-2005 "Part 2" Budget Bill  
Departmental Impact Form  
Joint Standing Committee on Appropriations and Financial Affairs

Department/Agency Name: Department of Professional and Financial Regulation

Program Name: Office of Securities

Account Number(s): 014 02A 0943 01 Page # in Bill:         

FY 2003-04

FY 2004-05

Position or FTE Increase [i.e. (0.000)] / Decrease [i.e.(-0.000)]:

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>		
<u>Other (please specify)</u>		

Appropriation or Allocation Increase / (Decrease):

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>	<u>2,035</u>	<u>3,446</u>
<u>Other (please specify)</u>		

Revenue or Balance Transfer Increase / (Decrease):

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>		
<u>Other (please specify)</u>		

Description of Initiative:

Provides for the allocation of funds for the reclassification of a Securities Enforcement Supervisor Position to a Chief Assistant Securities Administrator.

Description of Impact on Program(s) – BE SPECIFIC:

The reclassification of this position was done in recognition of the actual duties assigned the position and to reflect parity with similar functions within the Department.

Does this Initiative have an impact on the 2006-2007 Biennium? (Yes) X (No)           
(please explain below)



2004-2005 "Part 2" Budget Bill  
Departmental Impact Form  
Joint Standing Committee on Appropriations and Financial Affairs

Department/Agency Name: Department of Professional and Financial Regulation

Program Name: Bureau of Insurance

Account Number(s): 014 02A 0092 01 Page # in Bill:         

FY 2003-04

FY 2004-05

Position or FTE Increase [i.e. (0.000)] / Decrease [i.e.(-0.000)]:

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>		
<u>Other (please specify)</u>		

Appropriation or Allocation Increase / (Decrease):

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>	<u>16,192</u>	<u>15,904</u>
<u>Other (please specify)</u>		

Revenue or Balance Transfer Increase / (Decrease):

<u>General Fund</u>		
<u>Federal Funds</u>		
<u>Other Special Revenue funds</u>		
<u>Other (please specify)</u>		

**Description of Initiative:**

Provides for the allocation of funds for the reclassification of two Actuary positions from Professional/Technical bargaining unit to Supervisory bargaining unit.

**Description of Impact on Program(s) – BE SPECIFIC:**

The Bureau of Insurance employs two actuaries - one in the casualty area and one in the life and health area. Both individuals perform supervisory duties and report directly to the Deputy Superintendent of Insurance. Reclassification of these positions was sought and obtained based upon the fact the positions were not part of the supervisory bargaining unit and, therefore, did not reflect the added supervisory responsibilities. Further, the reclassifications represent an attempt to assure the retention of professional staff and facilitate the future recruitment of qualified staff.

Does this Initiative have an impact on the 2006-2007 Biennium? (Yes) X (No)           
(please explain below)

# TESTIMONY SIGN IN SHEET

COMMITTEE ON Appropriations and Financial Affairs

L.D. # OR CONFIRMATION: \_\_\_\_\_ LD 1614 Part 2 Budget Bill

DATE: \_\_\_\_\_ 8-May-03

**PLEASE PRINT!!**

## Insurance & Financial Services

	NAME	TOWN/AFFILIATION	PROPONENT	OPPONENT	NEITHER FOR NOR AGAINST
1.	Rebecca Wyke	Commissioner of DAFS			
2.	Howard Gray	Supt. Of Banking			
3.					
4.					
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6.					
7.					
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14.					
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16.					



TESTIMONY OF  
REBECCA WYKE, COMMISSIONER  
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

Before the Joint Standing Committee on Appropriations and Financial Affairs  
And the Joint Standing Committee on Banking and Insurance

Hearing Date: May 8, 2003

“An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government and Change Certain Provisions of the Law Necessary to the Proper Operation of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005.”

Senators Cathcart and LaFountain, Representatives Brannigan and O’Neil, and Members of the Committees on Appropriations and Financial Affairs and Insurance and Financial Services, my name is Rebecca Wyke and I am the Commissioner of Administrative and Financial Services. I am here to present testimony in support of those items presented in the Part II Budget Bill that pertain to the Department.

The first request may be found in Part C and provides for the deappropriation of Personal Services funds from departments and agencies as a result of the refinement of dental costs for fiscal year 2004-05.

The second request, which may also be found in Part C, provides for the appropriation of All Other funds to a reserve fund that will be used to support Health Reform efforts. These funds shall not lapse but must be carried forward to be used for the same purpose.

I would be happy to answer any questions you may have at this time.

# Memorandum

**To:** Rebecca Wyke, Commissioner, Dept of Administration  
**CC:** Robert Murray, Commissioner, Dept of Professional & Financial Regulation  
Frederick Winterberg, Director of Administrative Services  
**From:** Christine A. Bruenn, Securities Administrator  
**Date:** 5/1/03  
**Re:** Office of Securities Report for the Revenue Forecasting Committee

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This memo will provide an update on the status of the settlement of a group of large securities cases pursued by the Office of Securities. The settlement provides for substantial penalties to the Office of Securities. Penalties collected by the Office of Securities are general revenue.

As the Securities Administrator, I am authorized pursuant to the Revised Maine Securities Act ("the Act") to investigate, and pursue or settle cases involving violations of the Act. Settlements are agreements that can provide for restitution to investors, fines to the State and other regulatory sanctions. If fines are paid to the Office of Securities, they are deposited into the general fund.

The Maine Office of Securities participated in a multi-state, multi-firm, multi-regulator (federal and self regulatory organizations) investigation of the practices of research analysts at twelve major firms that may have impacted the offer and sale of securities. State securities regulators nationwide coordinated their investigative efforts through the national organization of state regulators, the North American Securities Administrators Association ("NASAA"). I am currently President of NASAA and in that capacity acted as the state securities regulators' chief negotiator and spokesperson. In October, after six months of investigation, the state securities regulators through NASAA came together with the U. S. Securities and Exchange Commission ("the SEC"), and the two self regulatory organizations, the New York Stock Exchange and the National Association of Securities Dealers (collectively "the federal regulators") to try to reach a global settlement with twelve firms.

In December, the group of regulators reached a settlement in principle with ten of the firms. As part of the settlement, the firms agreed to pay funds as directed one half by the federal regulators and one half by the state regulators. The state share

was allocated to the 52 states (includes the District of Columbia and Puerto Rico) based upon a population formula with a minimum floor for the smallest states. Maine will receive \$4 million if the settlements for the ten firms proceed to completion.

On Monday, April 28, 2003, the settlements with 9 of the firms for a total of \$3,875,000 were finalized with agreement by all the parties regarding the documents that incorporate the terms of the settlements. The Maine Office of Securities expects to receive and execute its Maine documents over the next 2 weeks.

Most investors, including Maine investors, have lost significant amounts of money since the spring of 2000 in the stock market. Securities regulators collectively investigated whether there was fraud by research analysts that caused stocks to be fraudulently overvalued thereby causing losses when the market ultimately valued those stocks correctly. In seven of ten firms, the investigations did not show fraud as described above, but did indicate that firm structures allowed conflicts of interest which created an environment in which problems could occur. In three firms, the investigations indicated that fraud had occurred, but only by a limited number of analysts or units of analysts. The findings for all of the investigations gave rise to actionable regulatory proceedings because of the firms' failure to maintain appropriate structures to protect against the conflicts of interest. These types of violations would ordinarily be remedied with regulatory sanctions requiring better structures and fines.

The cases described generated significant media attention and the attention of the U.S. Congress. Legislation was passed requiring that the SEC contribute any disgorgement received in any case to a fund to be distributed for the benefit of investors. Although the SEC is compelled to set up an investor fund, distribution of settlement monies will be very challenging. In my view, demonstrating a nexus between specific investor losses and the violations by the firms is impossible. The SEC, using a court administrator, may be able to identify some investors whose losses are at least in part attributable to the violations. However, it will be impossible to know how much of the loss is attributable to those violations. Even if the loss can be determined, the payment to any investor will be such a small sum it may generate animosity from the investors over the paltry return.

### Conclusion

- The settlement is actually 9 settlements with separate documents for each case;
- My staff and I will be reviewing and completing the Maine documents over the next 2 to 3 weeks. As we complete a firm's documents, we will send them to the firm requesting signatures and checks. We will not hold up settlement documents waiting for all 9 sets to be completed; and

- I expect that the firms will receive and hold the documents until they receive a minimum number from the states collectively giving them comfort the deal is successful with the states.

We will begin to receive checks in 60 to 90 days straddling the fiscal year and making it difficult to predict when we will receive any specific amount of penalties. I anticipate that we will receive one or two of the payments in FY03 with the remainder in FY04. Here's a list of the firms and the penalties to be received from them.

Bear Stearns	\$250,000
Credit Suisse First Boston	\$750,000
Goldman Sachs	\$250,000
JP Morgan	\$250,000
Lehman Bros	\$250,000
Morgan Stanley	\$250,000
Salomon Smith Barney	\$1.5 million
UBS/PaineWebber	\$250,000
Piper Jaffrey	\$125,000

Total	\$3,875,000
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There is another case that has been delayed due to some irregularities in the evidence, but if that is resolved, it will bring an additional \$250,000.

I hope this is helpful. Please do not hesitate to contact me if you need further information.

LLOYD P. LAFOUNTAIN III, DISTRICT 32, CHAIR  
 NERIA R. DOUGLASS, DISTRICT 22  
 ARTHUR F. MAYO III, DISTRICT 19



COLLEEN MCCARTHY REID, LEGISLATIVE ANALYST  
 FLORENCE DUNBAR, COMMITTEE CLERK

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 RICHARD G. WOODBURY, YARMOUTH

## ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

## COMMITTEE ON INSURANCE AND FINANCIAL SERVICES

## MEMORANDUM

To: Senator Mary R. Cathcart, Senate Chair  
 Representative Joseph C. Brannigan, House Chair  
 Joint Standing Committee on Appropriations and Financial Affairs

From: Senator Lloyd P. LaFountain, Senate Chair  
 Representative Christopher P. O'Neill, House Chair  
 Joint Standing Committee on Insurance and Financial Services

Date: May 9, 2003

Re: Recommendations on the Governor's Draft "Part 2" Budget Items Within the Jurisdiction and Oversight of the Insurance and Financial Services Committee

The committee makes the following recommendations on those portions of Governor Baldacci's draft "Part 2" budget items relating to the Department of Professional and Financial Regulation, the dental insurance program for state employees, and the establishment of a Health Reform Reserve Fund.

**Department of Professional and Financial Regulation:**

The draft budget document proposes the following allocations of Other Special Revenue.

- Allocates funds for 2 limited-period Bank Examiner positions in the Bureau of Financial Institutions;
- Allocates funds for 1 limited-period Consumer Credit Examiner-in-Charge position in the Office of Consumer Credit Regulation;
- Allocates funds for the reclassification of a Securities Enforcement Supervisor position to a Chief Examiner position in the Office of Securities; and
- Allocates funds for approved reclassifications and range changes in the Bureau of Insurance.

The committee accepts these items as presented.

**Department of Administrative and Financial Services:**

The draft budget document proposes the following appropriations and allocations of General Fund Revenue.

- Deappropriates funds from state department and agencies Personal Services funds due to a recalculation of dental insurance costs for state employees; and
- Appropriates approximately \$375,000 in each year of the biennium to establish a reserve fund to support health care reform initiatives.

Letter to AFA

5/9/03

Page Two

The committee accepts the item relating to the costs of dental insurance. The committee also accepts the recommendation relating to the establishment of a Health Reform Reserve Fund, but would like some more specific information about the function and purpose for which the funds will be used. It is anticipated that more specific information will be provided by the Governor's Office of Health Policy and Finance as the Legislature's Joint Select Committee on Health Care Reform considers the Governor's health care reform proposal in the coming weeks.

Thank you for your consideration. If you have any questions or would like additional information, please contact us or our legislative analyst, Colleen McCarthy Reid.

cc: Office of Fiscal and Program Review  
Members, Insurance and Financial Services Committee



## **Dirigo Health: Justification for Appropriations**

The Governor's Office of Health Policy and Finance seeks \$700,000 over the biennium to support the state health reform initiatives listed below. We will need specific, short term expertise best met by outside consultants with specialized knowledge in health care finance and health planning.

### Public Purchasers Steering Committee

The Governor will create by Executive Order a committee of all agencies and organizations that purchase health care with tax payer dollars (eg: state employees, MaineCare, University System, Teachers, municipal employees) to enhance coordination and collaboration and maximize effective purchasing.

§103 Data (2) Public Purchasers to Present Report requires that public purchasers submit a consolidated state health expenditure report by 1/1/04 sharing what public programs spent on health care. Data are not always comparable across programs, so we seek funds to contract for consultants to design and complete this report. This is a one time expenditure. It is anticipated that once the prototype is designed, members can complete future reports.

In addition, we seek funds to support a workshop designed to educate public purchasers about successful public purchasing ventures in other states. These funds will be used to carefully structure an agenda and bring state officials with experience in collaborative public purchasing to Maine to meet and discuss lessons learned to guide Maine's new venture.

### Maine Quality Forum (Chapter 2 §6951)

Start-up funds are sought to launch the Maine Quality Forum. To meet the Forum's obligation to measure health care provider performance, a consultant will synthesize all the existing research about performance measures, summarize the work of the Maine Performance Council and make recommendations to the Forum concerning appropriate measures for Maine. The Forum will also provide a website to assist consumers and providers to learn more about quality of health care and about preventive activities to improve health. The website will link to other sites and will be a "one stop shopping" source of information about health promotion and health care quality. Funds are sought to finance the development, testing and launch of this website.

### State Health Plan (Chapter 5 §101)

The creation of a state health plan to guide investment in health care and set measures for the system's performance requires public input. We seek funds for information dissemination, statewide public meetings and hearings convened by the 11 person Advisory Council, and for distribution, review and comment, of draft documents and of final documents. In addition, we seek funds to hire expert consultants to provide economic analysis to establish financing goals and objectives in the plan.

Certificate of Need – We seek funds to contract with health economists and actuaries to establish the Capital Investment Fund, guiding CON investment and to help set the budget for the Plan for Hospitals for Maine's Future.

Dirigo Health (\$6901)

Dirigo Health requires start up funds to initiate its work. The entity will be self supporting but only after assessments begin and the program is operational and collecting premiums. 5% of assessments will be used to fund DH administration.

Start-up costs include: creation of DH by-laws and incorporation; drafting job descriptions and establishing positions; developing policies and procedures; meeting with employers and carriers to discuss benefit design; crafting a request for proposals for insurance carriers to bid.

Part G Medicare and Veterans' Health

We seek funds to contract with experts in Veterans' Health and Medicare to examine how those Federal funds are now being distributed in Maine and help build a credible case to seek and secure additional Federal resources. Specifically, we shall convene a task force of interested parties to examine if and how Veteran's programs could be expanded through better coordination with Maine's health care delivery system.

Electronic Billing (\$6912, CI)

LD 1611 requires physicians to submit bills electronically and creates a fund to help develop software and to assist physicians to purchase equipment through a revolving loan fund.