

MAINE STATE LEGISLATURE

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121ST MAINE LEGISLATURE

SECOND SPECIAL SESSION-2004

Legislative Document

No. 1919

H.P. 1420

House of Representatives, March 15, 2004

An Act To Make 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)

Reference to the Committee on Appropriations and Financial Affairs suggested and ordered printed.

Millicent M. MacFarland
MILlicENT M. MacFARLAND
Clerk

Presented by Representative BRANNIGAN of Portland. (GOVERNOR'S BILL)
Cosponsored by Senator CATHCART of Penobscot.

Printed on recycled paper

2	Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and
4	
6	Whereas, the 90-day period may not terminate until after the beginning of the next Fiscal year; and
8	Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; and
10	
12	Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,
14	
16	
18	Be it enacted by the People of the State of Maine as follows:
20	PART A
22	Sec. A-1. Supplemental appropriations and allocations. There are appropriated from various funds for the fiscal years ending June 30, 2004 and June 30, 2005, to the departments listed, the following sums.
24	
26	
28	ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF
30	Accounts and Control - Bureau of 0056
32	Initiative: Provides funding to reorganize a vacant Data Entry Operator position, currently 64 hours biweekly, to a full-time Internal Control Specialist, Public Service Coordinator. I position in the Accounts and Control operations account. This reorganization will be self-funded through a permanent reduction to All Other in both the Accounts and Control operations account and the Accounts and Control systems account.
34	
36	
38	
40	General Fund
42	Personal Services 2003-04 2004-05
	All Other \$12,417 \$39,311
	(3,458) (16,905)
44	General Fund Total 8,959 22,406
46	Accounts and Control - Bureau of -
48	Systems Project 0058
50	Initiative: Provides funding to reorganize a vacant Data Entry Operator position, currently 64 hours biweekly, to a full-time

2 standard of living and for the support of any persons the
3 protected person is legally obligated to support. The court,
4 except as provided in this section, may not authorize any
5 transaction for the purpose of diminishing the protected person's
6 estate in order to qualify the protected person for federal or
7 state aid or benefits.

8 **Sec. BB-3. 18-A MRSA §5-425, sub-§(b)**, as enacted by PL 1979,
9 c. 540, §1, is amended to read:

10 (b) If the estate is ample to provide for the purposes
11 implicit in the distributions authorized by the preceding
12 subsections, a conservator for a protected person other than a
13 minor has power to make gifts to charity and other objects as the
14 protected person might have been expected to make, in amounts
15 which do not exceed in total for any year 20% of the income
16 from the estate. Such a gift may not be made other than to the
17 protected person's spouse unless the conservator has established
18 upon due inquiry that the estate of the protected person is
19 sufficient for the protected person's care and maintenance for
20 the present and the foreseeable future, including due provision
21 for the protected person's established standard of living and for
22 the support of any persons the protected person is legally
23 obligated to support. The conservator may not make any gift for
24 the purpose of diminishing the protected person's estate in order
25 to qualify the protected person for federal or state aid or
26 benefits. This subsection does not prohibit a transfer to a
27 trust established pursuant to 42 United States Code, Section
28 1396p(d)(4).

32 PART CC

33 **Sec. CC-1. 22 MRSA §1552**, as amended by PL 1999, c. 547, Pt.
34 B, §78 and affected by §80, is further amended to read:

35 **§1552. Application procedure**

36 1. **Application process; license fees.** An applicant for a
37 one-time an annual retail tobacco license shall file an
38 application in the form required by the department. The
39 department shall make provisions for applications under this
40 section. The fee for a one-time retail tobacco license is set by
41 the department at the actual cost of processing the application
42 and issuing the license, up to but not exceeding \$25 \$50
43 annually. The applicant shall enclose the fee with the
44 application for the license.

45 2. **Term of license.** All retail tobacco licenses are valid
46 indefinitely for one year unless suspended, revoked or not

2 subject to the transfer under section 1553. Licenses that have
3 been suspended or revoked may be reinstated, as permitted by the
4 District Court decision issued under subchapter II 2, upon the
5 receipt of an application for reinstatement and payment of all
6 penalties and an application fee of \$25 \$50.

7 3. **Multiple licenses.** A licensee applying for licenses to
8 operate more than one premises or more than one vending machine
9 shall obtain a separate license for each premises and each
10 machine and shall pay the fee prescribed for each premises and
11 each machine.

12 4. **Application fees.** All application fees must be
13 deposited in a ~~nonlapsing account to be used by the department to~~
14 ~~defray administrative costs~~ the General Fund.

15 5. **False answer given intentionally.** A person who
16 intentionally gives a false answer in an application for a retail
17 tobacco license violates Title 17-A, section 453.

20 PART DD

21 **Sec. DD-1. 22 MRSA §3174-F, sub-§1**, as amended by PL 1997, c.
22 159, §§1 and 2, is further amended to read:

23 1. **Coverage provided.** The Department of Human Services
24 shall ~~may~~ provide dental services, reimbursed under the United
25 States Social Security Act, Title XIX, or successors to it, to
26 individuals 21 years of age and over, limited to:

27 A. Acute surgical care directly related to an accident
28 where traumatic injury has occurred. This coverage will
29 only be provided for the first 3 months after the accident;

30 B. Oral surgical and related medical procedures not
31 involving the dentition and gingiva;

32 C. Extraction of teeth that are severely decayed and pose a
33 serious threat of infection during a major surgical
34 procedure of the cardiovascular system, the skeletal system
35 or during radiation therapy for a malignant tumor;

36 D. Treatment necessary to relieve pain, eliminate infection
37 or prevent imminent tooth loss; and

38 F. Other dental services, including full and partial
39 dentures, medically necessary to correct or ameliorate an
40 underlying medical condition, if the department determines
41 that provision of those services will be cost-effective in
42

2 State Controller shall transfer \$10,000,000 along with interest
3 from the General Fund to the Retiree Health Insurance Fund as
4 repayment. The transfer is considered an interfund loan to be
5 repaid with interest of 8% compounded annually on the unpaid
6 balance.

8 PART VV

9 **Sec. VV-1. Position authorization.** Notwithstanding any other
10 provision of law, the Department of Public Safety is authorized
11 to establish 2 State Police Sergeant project positions to be
12 temporarily assigned to the Maine Criminal Justice Academy for
13 each training class.

14 **Emergency clause.** In view of the emergency cited in the
15 preamble, this Act takes effect when approved, except as
16 otherwise provided.

18 SUMMARY

19 This bill does the following.

21 PART A

22 Part A makes appropriations and allocations of funds.

24 PART B

25 Part B makes appropriations and allocations of funds for
26 approved reclassifications and range changes.

28 PART C

29 Part C does the following.

30 1. It authorizes the Commissioner of Administrative and
31 Financial Services to appoint an associate commissioner for
32 administrative services as a major-policy influencing position
33 within the Department of Administrative and Financial Services.

34 2. It amends Public Law 2003, chapter 20 as it relates to
35 positions established in Maine Revenue Services for the tax
36 amnesty and enforcement programs by removing the stipulation that
37 they are limited-period positions.

38 3. It amends the provisions of Public Law 2003, chapter 20
39 to clarify the lease-purchase language for Central Fleet
40 Management that applies for each year of the biennium.

41 4. It authorizes the State Budget Officer to transfer
42 savings resulting from the retirement incentive program from
43 General Fund and Other Special Revenue Fund accounts to the
44 General Fund Salary Plan account and from Highway Fund accounts
45 to the Highway Fund Salary Plan account.

46 5. It authorizes payment to be made to those employees in
47 the executive branch, departments of constitutional officers and
48 the Department of Audit who were denied merit increases in fiscal
49 year 2003-04.

50 6. It authorizes payment to be made to those institutional
51 services employees who would have been eligible to receive a step
52 increase from Step 6 to Step 7 during the period July 1, 2003 to
53 June 30, 2004.

54 7. It provides for the calculation and transfer of
55 statewide savings in the General Fund in the cost of health
56 insurance for fiscal year 2004-05 that are identified in Part A,
57 section 1.

58 8. It authorizes the allotment of funds in the Bureau of
59 Alcoholic Beverages and the Alcoholic Beverage Freight accounts
60 in the Department of Administrative and Financial Services to be
61 made by financial order during fiscal year 2004-05 upon the
62 request of the State Budget Officer and approval of the Governor.

63 9. It authorizes the Department of Administrative and
64 Financial Services to manage the State Retiree Health Insurance
65 Fund on a cost-reimbursement basis of funding and accounting
66 beginning June 30, 2005 and to calculate and return the amount of
67 the excess equity to each participating fund and ancillary group
68 contributing to the Retiree Health Insurance Fund, after
69 retaining a reasonable amount of working capital.

70 10. It authorizes the State Controller to recover, through
71 the state cost allocation program, \$915,640 associated with prior
72 years' payments by the General Fund to the Maine State Retirement
73 System.

74 11. It authorizes the State Controller to recover, through
75 the state cost allocation program, \$28,000 in fiscal year 2003-04
76 and \$142,000 in fiscal year 2004-05 associated with home land
77 security grant programs awarded to the Department of Defense,
78 Veterans and Emergency Management.

79 12. It authorizes the Department of Administrative and
80 Financial Services, Bureau of General Services to use funds no
81 longer required for the Thomaston State Prison demolition project

2 5. It authorizes the department to raise the permit fee from
3 \$100 to a maximum of \$750 and to include travel costs when
4 billing the applicant.

6 **PART BB**

8 Part BB amends the law to clarify MaineCare's authority to
9 include nonprobate assets in estate recovery, specifically those
10 in which the individual had any legal title or interest at the
11 time of death, including such assets conveyed through joint
12 tenancy, tenancy in common, survivorship, life estate, living
13 trust or other arrangement.

14 **PART CC**

16 Part CC amends the law to require that retail tobacco
17 licenses be renewed annually and directs the revenue to the
18 General Fund.

20 **PART DD**

22 Part DD does the following.

24 1. It amends the law to change the requirement mandating
25 that the MaineCare program provide dental services to adults 21
26 years of age and older.

28 2. It amends the law related to the medical eye care
29 program to redefine the income levels, copayment provisions and
30 conditions requiring coverage.

32 3. It authorizes unencumbered balances of funds in the
33 general assistance program in the Department of Human Services to
34 be carried forward each fiscal year to be used for the same
35 purposes.

36 4. It amends the law to provide the Department of Human
37 Services with access to information on real estate transfers for
38 the purpose of determining financial eligibility for MaineCare
39 services.

42 5. It authorizes the State Controller to accept fiscal year
43 2002-03 balances returned by providers as General Fund
44 unappropriated surplus in fiscal year 2004-05.

46 6. It authorizes the Commissioner of Human Services to make
47 changes in coverage and place limitations on the extent of
48 coverage for adults qualifying for MaineCare coverage.

2 7. It authorizes the Department of Human Services to
3 implement a retroactive rule to recover funds for return on
4 equity, previously allowable as an expense to nursing facilities.

6 8. It authorizes the Department of Human Services to
7 establish minimum record-keeping requirements for agencies
8 administering Temporary Assistance for Needy Families programs.

10 9. It specifies that \$1,100,000 of unencumbered balance
11 forward in fiscal year 2003-04 in the State Supplement to Federal
12 Supplemental Security Income, General Fund account in the
13 Department of Human Services lapses to the General Fund in fiscal
14 year 2003-04.

16 **PART EE**

18 Part EE amends the law to allow for a partial transfer of
19 funds from the General Fund to the Maine Clean Election Fund to
20 occur on September 1, 2004.

22 **PART FF**

24 Part FF amends the law to require group health insurance
25 policies and contracts, other than those covering employees of
26 employers with 20 or fewer employees, to provide coverage for
27 crisis and crisis residential services.

28 **PART GG**

30 Part GG amends the law to allow fees from borrow pits and
31 mining to be deposited in the Maine Environmental Protection Fund
32 consistent with the merger of the Borrow Pit Account into the
33 Maine Environmental Protection Fund as a subaccount in Part A of
34 the bill.

36 **PART HH**

38 Part HH does the following.

40 1. It amends the law to increase the allowable level of tax
41 that may be imposed on hospital net revenues up to but not
42 exceeding 2.03%.

44 2. It amends the law to allow hospitals to pay any tax
45 levied against them in 2 equal payments, one due in November and
46 the other due in May of the state fiscal year for which the tax
47 is being imposed.

48 **PART II**

FISCAL NOTE

ADJUSTMENTS TO BALANCE

General Fund Unappropriated Surplus

	2003-04	2004-05	BIENNIUM
Part UU, Section 1			
Administrative and Financial Services, Department of		(10,066,667)	(10,066,667)
Part WW, Section 2			
Administrative and Financial Services, Department of		(3,359,705)	(3,359,705)
Total	1,501,814	36,650,860	38,152,674

ADJUSTMENTS TO BALANCE

Highway Fund Unallocated Surplus

	2003-04	2004-05	BIENNIUM
Part C, Section 14			
Administrative and Financial Services, Department of		12,500,000	12,500,000
Part SS, Section 2			
Statewide Activities		(5,000,000)	(5,000,000)
Part SS, Section 6			
Statewide Activities		(6,400,000)	(6,400,000)
Total		1,100,000	1,100,000