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Date: (Filing No. H- )

**HEALTH AND HUMAN SERVICES**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
126TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 137, L.D. 162, Bill, “An Act To Repeal the Maine Certificate of Need Act of 2002”

Amend the bill by inserting after section 1 the following:

**Sec. 2. 22 MRSA c. 106** is enacted to read:

**CHAPTER 106**

**PRIOR APPROVAL OF PROJECTS**

**§375. Definitions**

As used in this chapter, "health care facility" or "facility" means a hospital, psychiatric hospital, nursing facility, intermediate care facility for persons with intellectual disabilities, end-stage renal disease facility, rehabilitation facility, residential care facility, ambulatory surgical facility, independent radiological service center, independent cardiac catheterization center or cancer treatment center.

**§376. Prior approval required**

A health care facility may not enter into any agreement for the financing of a project that requires funding from or will increase costs to the MaineCare program under chapter 855 without first obtaining prior approval from the department in conformance with this chapter.

**1. Application.** A health care facility that is subject to the prior approval process shall file an application with the department and complete the process required by rules.

**2. Factors to be considered.** In determining whether to approve an application for prior approval under this section, the department shall take into consideration the qualifications and experience of the applicant, the economic feasibility of the proposed project, the public need for the project and compliance with standards for budget neutrality with respect to the MaineCare program.

**COMMITTEE AMENDMENT**

1 **3. Public comment and participation.** The process for prior approval of a project  
 2 must include, prior to approval by the department, an opportunity for public comment.  
 3 The process may include public information meetings, public hearings and notification,  
 4 as specified by rule.

5 **4. Reserved beds.** A health care facility may reserve for later use and exempt from  
 6 the prior approval process facility beds that are removed from service if the facility  
 7 notifies the department prior to the facility's removing the beds from service or within 30  
 8 days after the facility removes the beds from service.

9 **5. MaineCare Facility Project Fund.** The MaineCare Facility Project Fund is  
 10 established within the department to receive the MaineCare funding that is released when  
 11 a health care facility reduces its number of licensed MaineCare-funded beds and to make  
 12 that MaineCare funding available to a facility that proposes in an application under this  
 13 section to add licensed MaineCare-funded beds to facilities in areas of the State that need  
 14 facility beds or to serve populations in the State that are in need of service.

15 **6. Rulemaking.** The department shall adopt rules to administer the prior approval  
 16 process, including the application form, review and approval process, public comment  
 17 and participation, oversight, enforcement, imposition of sanctions, fees and use of the  
 18 MaineCare Facility Project Fund. Rules adopted pursuant to this subsection are routine  
 19 technical rules, except that rules establishing fees are major substantive rules, as defined  
 20 in Title 5, chapter 375, subchapter 2-A.'

21 Amend the bill by adding after section 18 the following:

22 **'Sec. 19. Appropriations and allocations.** The following appropriations and  
 23 allocations are made.

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

25 **Nursing Facilities 0148**

26 Initiative: Provides funding for additional costs to MaineCare as a result of new nursing  
 27 facility projects.

28	<b>GENERAL FUND</b>	<b>2013-14</b>	<b>2014-15</b>
29	All Other	\$630,936	\$1,293,163
30			
31	<b>GENERAL FUND TOTAL</b>	<u>\$630,936</u>	<u>\$1,293,163</u>

32	<b>FEDERAL EXPENDITURES FUND</b>	<b>2013-14</b>	<b>2014-15</b>
33	All Other	\$1,020,946	\$2,070,069
34			
35	<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<u>\$1,020,946</u>	<u>\$2,070,069</u>

36  
 37 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
 38 section number to read consecutively.

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**SUMMARY**

This amendment is the minority report of the committee. This amendment establishes a prior approval process for health care facility projects that will require funding from or will increase costs to the MaineCare program. "Health care facility" is defined as a hospital, psychiatric hospital, nursing facility, intermediate care facility for persons with intellectual disabilities, end-stage renal disease facility, rehabilitation facility, residential care facility, ambulatory surgical facility, independent radiological service center, independent cardiac catheterization center or cancer treatment center. The Department of Health and Human Services is directed to take into consideration the qualifications and experience of an applicant for prior approval, the economic feasibility of the proposed project, the public need for the project and compliance with standards for budget neutrality with respect to the MaineCare program. The prior approval process must include an opportunity for public comment and may include public information meetings, public hearings and notification, as specified by rule. Unused and reserved beds in a facility are exempt from the prior approval process. A fund is established to receive unused funding previously used for a facility bed funded under the MaineCare program and to assign that funding for use for new beds in underserved areas or for underserved populations. The department is authorized to adopt routine technical rules, except that rules regarding fees are major substantive rules.

**FISCAL NOTE REQUIRED**

**(See attached)**