

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 1677

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S.P. 551

In Senate, March 26, 1997

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### An Act to Improve Children's Health.

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Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator LONGLEY of Waldo.  
Cosponsored by Speaker MITCHELL of Vassalboro and  
Senators: LAWRENCE of York, PARADIS of Aroostook, Representatives: FULLER of  
Manchester, LEMAIRE of Lewiston, SNOWE-MELLO of Poland, TOWNSEND of Portland,  
TRIPP of Topsham, WINGLASS of Auburn.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 22 MRSA §3192** is enacted to read:

6 **§3192. Children's Health Care Program**

8 **1. Program established.** The Children's Health Care Program, referred to in this section as the "program," is established for the purpose of providing health care to children.

10 **2. Children's Health Care Fund.** The Children's Health Care Fund, referred to in this section as the "fund," is established to finance the program. The fund does not lapse but carries forward from one fiscal year to the next.

12 **A. The following must be deposited in the fund:**

14 **(1) Revenue generated from the increases in the cigarette tax, the tax on smokeless tobacco and the tax on other tobacco products effective October 1, 1997 that is not necessary to maintain budget neutrality;**

16 **(2) Penalties, forfeitures, fines, interest and proceeds from suits collected in connection with the increases in the cigarette tax, the tax on smokeless tobacco and the tax on other tobacco products effective October 1, 1997;**

18 **(3) Appropriations to the fund;**

20 **(4) Federal reimbursement received for medical benefits provided to beneficiaries of the program;**

22 **(5) Money received in the form of premiums, grants, gifts or contributions for the benefit of the program;**  
24 **and**

26 **(6) Income derived from the investment of money credited to the fund.**

28 **B. Revenue in the fund must be expended in the following manner:**

30 **(1) Seventy-five percent must be used to provide health care to children pursuant to subsection 3; and**

32 **(2) Twenty-five percent must be used to finance the tobacco use reduction initiative pursuant to subsection 4.**

2           3. Provision of health care to children. The commissioner,  
3 in consultation with the Commissioner of Mental Health, Mental  
4 Retardation and Substance Abuse Services and the advisory  
5 committee on Medicaid established by the department by rule to  
6 advise the department about health and medical services,  
7 supplemented by 2 children's advocates chosen by a statewide  
8 advocacy group for children and referred to in this section as  
9 the "committee," shall adopt rules to implement the program. In  
10 the implementation of the program, the commissioner and the  
11 committee shall maximize the access of children to primary,  
12 preventive, acute and behavioral health care; health programs;  
13 and information about illness, prevention of illness and health  
14 maintenance. To the extent possible, this health care must be  
15 accessible, coordinated, continuous and comprehensive. As used  
16 in this subsection, unless the context otherwise indicates, the  
17 term "child" means a person who has not attained 21 years of  
18 age. Rules adopted pursuant to this subsection are routine  
19 technical rules pursuant to Title 5, chapter 375, subchapter  
20 II-A. The commissioner may seek any waivers or Medicaid plan  
21 amendments that would aid in the implementation or funding of the  
22 program. The following provisions apply to rules adopted

23 pursuant to this subsection regarding eligibility for the program.  
24           A. An applicant must be a citizen of this State or a  
25 lawfully admitted alien.

26           B. The department shall adopt rules regarding the  
27 calculation of the gross income of an applicant's household  
28 for the purpose of determining eligibility for the program.  
29 These rules must include a work-related expense disregard  
30 applied to the earned income of an applicant's household.  
31 This disregard must include the cost of transportation to  
32 and from work and the cost of dependent care.

33           C. The department may deny eligibility to a person:

34                   (1) Who was enrolled in a health insurance plan not  
35 administered by the State Government or Federal  
36 Government in the 18 months prior to the time of  
37 application except in the case of a person whose  
38 employment was terminated for a reason other than  
39 cause; or

40                   (2) Who at the time of application is eligible for  
41 employee-sponsored health insurance.

42           D. The department may provide transitional benefits to a  
43 person no longer eligible for the programs as a result of  
44 changes in the eligibility criteria.

45

2           4. Tobacco use reduction initiative. The commissioner, in  
4           cooperation with the Director of the Bureau of Public Health,  
6           shall develop an initiative to educate the public regarding the  
            risks of tobacco use and to enforce laws relating to tobacco,  
            referred to in this section as the "initiative." This initiative  
            must include, but is not limited to, the following:

8           A. A multi-media campaign to educate people who have not  
10           attained 19 years of age regarding the health hazards and  
12           other consequences of tobacco use, smoking cessation  
14           programs and programs that help prevent diseases related to  
            smoking including cancer and other diseases of the heart,  
            lungs and mouth;

16           B. Enforcement of laws relating to tobacco sales to minors;

18           C. The continued education of Legislators regarding  
            successful tobacco use reduction programs; and

20           D. The formation of public-private partnerships to further  
22           the goals of the initiative.

24           5. Health data. The department shall conduct a survey at  
26           least once every 2 years to determine the level of tobacco use  
28           among persons who have not attained 19 years of age and shall  
30           compile the data collected as a result of this survey in a form  
            that is accessible by the public. The department also shall  
            compile data on services provided, accessibility to health care  
            and eligibility under the program.

32           6. Budget neutrality. The program and the initiative are  
34           budget neutral. As used in this section, unless the context  
36           otherwise indicates, the term "budget neutral" means that there  
            is no net gain or loss of revenue with respect to funds credited  
            to the General Fund.

38           A. No later than January 1st of each year, the State Tax  
40           Assessor shall provide a report to the joint standing  
42           committees of the Legislature having jurisdiction over  
            health and human services and taxation matters, the  
            Commissioner of Human Services, the committee and the  
            Treasurer of State. This report must contain the following:

44           (1) An estimate of the total revenue expected to be  
46           raised from the cigarette tax, the tax on smokeless  
48           tobacco and the tax on other tobacco products in the  
            current fiscal year and in the subsequent fiscal year;  
            and

2           (2) An estimate of the amount of revenue necessary to  
3           be raised from the cigarette tax, the tax on smokeless  
4           tobacco and the tax on other tobacco products in order  
5           to maintain budget neutrality in the current fiscal  
6           year and in the subsequent fiscal year.

7           B. The Treasurer of State shall transfer to the fund only  
8           the revenue generated from the increases in the cigarette  
9           tax, the tax on smokeless tobacco and the tax on other  
10           tobacco products effective October 1, 1997 that is not  
11           expected to be necessary to maintain budget neutrality based  
12           on the report of the State Tax Assessor in paragraph A. At  
13           the end of each fiscal year, the Treasurer of State shall  
14           transfer from the fund to the General Fund any amount  
15           necessary to maintain budget neutrality.

16           C. The commissioner and the committee shall use the  
17           estimates prepared by the State Tax Assessor pursuant to  
18           paragraph A in determining the scope of the program. If due  
19           to insufficient funds the commissioner and the committee  
20           must terminate services provided by the program, the  
21           department must notify each person affected by the  
22           termination or the person's parent or guardian by first  
23           class mail at least 3 months before the termination. This  
24           notice must include the date when the termination takes  
25           effect.

26           **Sec. 2. 36 MRSA §4365, first ¶**, as amended by PL 1989, c. 588,  
27           Pt. D, §1, is further amended to read:

28           A tax is imposed on all cigarettes held in this State, by  
29           any person, for sale, the tax to be at the rate of 15.5 mills for  
30           each cigarette beginning October 1, 1989; 16.5 mills for each  
31           cigarette beginning January 1, 1991; and 18.5 mills for each  
32           cigarette beginning July 1, 1991; and 50.0 mills for each  
33           cigarette beginning on October 1, 1997. Payment of the tax shall  
34           must be evidenced by the affixing of stamps to the packages  
35           containing the cigarettes. If a federal program similar to that  
36           provided in Title 22, section 3185, becomes effective, this tax  
37           is reduced by one mill for each cigarette. The Governor shall  
38           determine by proclamation when the federal program has become  
39           effective. Nothing contained in this chapter shall may be  
40           construed to impose a tax on any transaction, the taxation of  
41           which by this State is prohibited by the Constitution of the  
42           United States.

43           **Sec. 3. 36 MRSA §4365-D** is enacted to read:

44           §4365-D. Rate of tax after September 30, 1997

2 Cigarettes stamped at the rate of 18.5 mills per cigarette  
3 and held for resale after September 30, 1997 are subject to tax  
4 at the rate of 50.0 mills per cigarette.

6 A person holding cigarettes for resale is liable for the  
7 difference between the tax rate of 50.0 mills per cigarette and  
8 the tax rate of 18.5 mills per cigarette in effect before October  
9 1, 1997. Stamps indicating payment of the tax imposed by this  
10 section must be affixed to all packages of cigarettes held for  
11 resale as of October 1, 1997, except that cigarettes held in  
12 vending machines as of that date do not require that stamp.

14 Notwithstanding any other provision of this chapter, it is  
15 presumed that all cigarette vending machines are filled to  
16 capacity on October 1, 1997 and the tax imposed by this section  
17 must be reported on that basis. A credit against this inventory  
18 tax must be allowed for cigarettes stamped at the 50.0 mill rate  
19 placed in vending machines before October 1, 1997.

20 Payment of the tax imposed by this section must be made to  
21 the State Tax Assessor before February 15, 1998, accompanied by  
22 forms prescribed by the State Tax Assessor.

24 **Sec. 4. 36 MRSA §4403, sub-§§1 and 2,** as amended by PL 1989, c.  
25 588, Pt. D, §4, are further amended to read:

26  
27 **1. Smokeless tobacco.** A tax is imposed on all smokeless  
28 tobacco, including chewing tobacco and snuff, at the rate of 50%  
29 of the wholesale sales price beginning October 1, 1989; 55% of  
30 the wholesale sales price beginning January 1, 1991; and 62% of  
31 the wholesale sales price beginning July 1, 1991; and 186% of the  
32 wholesale sales price beginning October 1, 1997.

34 A person holding smokeless tobacco for resale is liable for the  
35 difference between the tax rate of 186% of the wholesale sales  
36 price and the tax rate of 62% of the wholesale sales price in  
37 effect before October 1, 1997. Payment of the tax imposed by  
38 this section must be made to the State Tax Assessor before  
39 February 15, 1998, accompanied by forms prescribed by the State  
40 Tax Assessor.

42 **2. Other tobacco.** A tax is imposed on cigars, pipe tobacco  
43 and other tobacco intended for smoking at the rate of 13% of the  
44 wholesale sales price beginning October 1, 1989; 14% of the  
45 wholesale sales price beginning January 1, 1991; and 16% of the  
46 wholesale sales price beginning July 1, 1991; and 48% of the  
47 wholesale sales price beginning October 1, 1997.

48  
49 A person holding cigars, pipe tobacco and other tobacco intended  
50 for smoking for resale is liable for the difference between the

2 tax rate of 48% of the wholesale sales price and the tax rate of  
3 16% of the wholesale sales price in effect before October 1,  
4 1997. Payment of the tax imposed by this section must be made to  
5 the State Tax Assessor before February 15, 1998, accompanied by  
6 forms prescribed by the State Tax Assessor.

8 **SUMMARY**

10 This bill establishes the Children's Health Care Program to  
11 maximize the access of children to primary, preventive and acute  
12 health care; health programs; and information about illness,  
13 prevention of illness and health maintenance. The program is  
14 administered by the Commissioner of Human Services and the  
15 advisory committee on Medicaid.

16 The bill also establishes a tobacco use reduction  
17 initiative, administered by the Commissioner of Human Services in  
18 cooperation with the Director of the Bureau of Public Health, to  
19 educate the public, particularly persons under 19 years of age,  
20 regarding the risks of tobacco use.

21 The initiatives proposed by this bill are funded by  
22 increases in the cigarette tax, the tax on smokeless tobacco and  
23 the tax on other tobacco products.  
24