

MAINE STATE LEGISLATURE

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L.D. 1303

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DATE: (Filing No. H-748)

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION**

HOUSE AMENDMENT "C" to COMMITTEE AMENDMENT "A" to H.P. 979, L.D. 1303, Bill, "An Act to Increase Access to Health Care"

Amend the amendment in Part A by striking out all of section 1 (page 1, lines 28 to 38 in amendment) and inserting in its place the following:

'Sec. A-1. 22 MRSA §254, sub-§1, ¶C is enacted to read:

C. The department shall provide drugs and medications for cancer at a level and in a manner determined by the department to be of the highest possible benefit to program recipients.'

Further amend the amendment in Part A by striking out all of section 6 and inserting in its place the following:

'Sec. A-6. 22 MRSA §§3174-AA and 3174-BB are enacted to read:

§3174-AA. Asset limits

Beginning January 1, 2002, in determining eligibility for medical assistance under the Medicaid program for all individuals and families subject to an asset test, the department shall exempt from consideration all assets exempt pursuant to program rule on January 1, 2001 and shall adopt rules to exempt from consideration certain assets in amounts and under terms the department determines to be reasonable and consistent with the purposes of the Medicaid program as provided in this section.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. The rules must provide exemptions for the following assets:

1. **Second vehicle.** A 2nd vehicle that is necessary for employment, to secure medical treatment or to provide transportation for essential daily activities or a vehicle that has been modified for operation by or the transportation of a person with a disability;

2. **Certain retirement savings.** An individual retirement account, self-employed plan, tax sheltered annuity or Keogh or comparable retirement account of an adult family member;

3. **Life insurance.** Life insurance policies covering a family member;

4. **Educational savings plans.** Educational savings plans or accounts reserved exclusively for educational purposes, including postsecondary education, for a child or an adult; and

5. **Savings.** An amount up to \$8,000 for an individual and up to \$12,000 for a household of more than one person.

§3174-BB. Enrollment periods

The department shall establish enrollment periods for medical assistance as provided in this section. Prior to the end of the enrollment period, the department shall determine continuing eligibility for the next enrollment period and notify the enrollee of the determination.

1. **Children.** In the Medicaid program and the Cub Care program under section 3174-T, the enrollment period for children under 19 years of age must be 12 months.

2. **Adults.** In the Medicaid program, the enrollment period must be the longest period allowed by federal law or regulation but may not exceed 12 months.'

Further amend the amendment in Part A by striking out all of section 7 (page 4, lines 38 to 47 in amendment) and inserting in its place the following:

'Sec. A-7. Waiver. The Department of Human Services shall amend the waiver application from the State that is pending before the federal Department of Health and Human Services Health Care Financing Administration. The amended waiver must provide for maximum access to all prescription drugs covered by the Medicaid program, including drugs for the treatment of cancer.'

Further amend the amendment in Part A by striking out all of sections 8 and 9 and inserting in their place the following:

Sec. A-8. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	2001-02	2002-03
HUMAN SERVICES, DEPARTMENT OF		
Medical Care - Payments to Providers		
All Other		\$4,393,313
Provides funds for Medicaid coverage to noncategorically eligible adults with income up to 125% of federal nonfarm poverty levels.		
Medical Care - Payments to Providers		
All Other	\$534,637	\$874,815
Provides funds to increase the income eligibility for children in the Cub Care program from 200% to 250% of federal nonfarm poverty levels.		
Medical Care - Payments to Providers		
All Other	137,447	295,866
Provides funds due to changes in the asset test used to determine eligibility for medical assistance under the Medicaid program.		
Low-cost Drugs to Maine's Elderly		
All Other	2,000,000	2,932,333

2 Provides funds to add cancer
to the elderly low-cost drug
4 program pursuant to the Maine
Revised Statutes, Title 22,
6 section 254, subsection 1,
paragraph C.

8 **Bureau of Health**

10 All Other 10,000 10,000

12 Provides funds to match
available federal funding to
14 promote the delivery of
health care in rural areas of
16 the State.

18 **Bureau of Medical Services**

20 Positions - Legislative Count (1.000) (3.000)
Personal Services 32,584 107,288
22 All Other 121,473 87,896
24 Total 154,057 195,184

26 Provides funds for one Social
Services Program Manager
28 position in fiscal year
2001-02 and one Comprehensive
30 Health Planner II position,
one Social Services Program
32 Manager position and one
Social Services Program
34 Specialist I position in
fiscal year 2002-03 and
36 related operating costs
associated with expanding the
38 access to the Medicaid
program.

40 **Bureau of Family Independence**

42 Positions - Legislative Count (2.000) (16.000)
44 Personal Services 70,459 605,604
All Other 21,250 123,500
46 Total 91,709 729,104

48 Provides funds for 2 Family
50 Independence Specialist

2 positions in fiscal year
2001-02 and 10 Family
4 Independence Specialist
Aide positions, 2 Human Services
6 Independence Unit Supervisor
position and 3 Clerk Typist
8 II positions in fiscal year
2002-03 and related operating
10 costs associated with
expanding the access to the
12 Medicaid program.

14 **DEPARTMENT OF HUMAN SERVICES**
15 **TOTAL** \$2,927,850 \$ 9,430,615

16 **Sec. A-9. Allocation.** The following funds are allocated from
18 the Federal Expenditures Fund to carry out the purposes of this
Part.

20 **2001-02** **2002-03**

22 **HUMAN SERVICES, DEPARTMENT OF**

24 **Medical Care - Payments to**
26 **Providers**

28 All Other \$8,752,448

30 Provides funds for the
32 federal match for Medicaid
coverage to noncategorically
34 eligible adults with income
up to 125% of federal nonfarm
poverty levels.

36 **Medical Care - Payments to**
38 **Providers**

40 All Other \$1,743,197 2,865,309

42 Provides funds for the
44 federal match to increase the
income eligibility for
46 children in the Cub Care
program from 200% to 250% of
federal nonfarm poverty
48 levels.

50 **Medical Care - Payments to**

Providers

2			
4	All Other	272,414	589,432
6	Provides funds for the		
8	federal match due to changes		
10	in the asset test used to		
	determine eligibility for		
	medical assistance under the		
	Medicaid program.		

12 Bureau of Medical Services

14	Positions - Legislative Count	(1,000)	(2,000)
	Personal Services	32,584	107,288
16	All Other	121,473	87,896
18	Total	<u>154,057</u>	<u>195,184</u>

20 Provides funds for one Senior
22 Medical Claims Adjuster
24 position in fiscal year
26 2001-02 and one Senior
28 Medical Claims Adjuster
30 position and one Medical
32 Claims Adjuster position in
fiscal year 2002-03 and
related operating costs
associated with expanding the
access to the Medicaid
program.

Bureau of Family Independence

34	Positions - Legislative Count	(3,000)	(16,000)
36	Personal Services	70,459	605,604
	All Other	21,250	123,500
38	Total	<u>91,709</u>	<u>729,104</u>

40 Provides funds for 3 Family
42 Independence Specialist
44 positions in fiscal year
46 2001-02 and 11 Family
48 Independence Specialist
50 positions, one Human Services
Aide position, 2 Family
Independence Unit Supervisor
positions and 2 Clerk Typist
II positions in fiscal year

2 2002-03 and related operating
3 costs associated with
4 expanding the access to the
5 Medicaid program.

6	DEPARTMENT OF HUMAN SERVICES		
7	TOTAL	\$2,261,377	\$13,131,477'

8
9 Further amend the amendment by striking out all of Part B
10 and inserting in its place the following:

11 **PART B**

12 **Sec. B-1. 22 MRSA §259** is enacted to read:

13 **§259. Support for primary and preventive health care services**

14 The department shall maintain and expand health care access
15 for underserved populations using funds appropriated for these
16 purposes by the Legislature as provided in this section.

17 **1. Support for federally qualified health centers and**
18 **federally qualified look-alikes.** The department shall provide
19 support for the infrastructure of federally qualified health
20 centers and federally qualified look-alikes, utilizing \$1,485,000
21 appropriated in fiscal year 2001-02 and annually thereafter.
22 From this amount, funding must be utilized as follows:

23 **A. One hundred fifty thousand dollars as the state Medicaid**
24 **match to contract for Medicaid outstationing services at**
25 **federally qualified health centers and federally qualified**
26 **look-alikes;**

27 **B. Two hundred sixty thousand dollars as the state Medicaid**
28 **match to provide incentives under Medicaid to improve the**
29 **quality of services and enhance the delivery of preventive**
30 **services at federally qualified health centers and federally**
31 **qualified look-alikes;**

32 **C. Eight hundred seventy-five thousand dollars to support**
33 **the primary care infrastructure of federally qualified**
34 **health centers providing health care services to underserved**
35 **populations; and**

36 **D. Two hundred thousand dollars to support the**
37 **infrastructure of federally qualified look-alikes that meet**
38 **standards set by the department.**

39 **2. Supports for certain nonprofit health entities.** The

department shall provide support for certain community-based nonprofit health entities as follows.

A. In fiscal year 2002-03 and annually thereafter, \$115,000 must be appropriated to maintain and expand access to health care through programs that are community-based, nonprofit health entities that provide primary care services to underserved populations regardless of the ability of the patient to pay and that utilize a sliding fee scale for patients with family income below 200% of the federal nonfarm income official poverty line. These funds may not be expended until the department has reported to the joint standing committee of the Legislature having jurisdiction over health and human services matters recommending the entities to be provided funding and the amount of such funding.

B. In fiscal year 2002-03 and annually thereafter, \$200,000 must be appropriated to maintain and expand access to health care through programs that are community-based, nonprofit rural health clinics that provide primary care services to underserved populations regardless of the ability of the patient to pay and that utilize a sliding fee scale for patients with family income below 200% of the federal nonfarm income official poverty line. The department shall determine which rural health clinics will be provided funding and the amount of such funding.

3. **Rulemaking.** The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

4. **Restriction.** Funding provided under this section may not supplant other sources of funding.

Sec. B-2. 22 MRSA §3192 is enacted to read:

§3192. Affordable Health Care Fund

The Affordable Health Care Fund is established to assist individuals with the costs of participation in community health access programs. The fund is a nonlapsing fund and any excess funds may be used only for the purposes of this section. The fund may be used only to subsidize the costs of community health access programs' fees. The department shall establish subsidies on a sliding scale based on income for eligible individuals enrolled in community health access programs. Individuals eligible for health coverage under the Medicaid or Medicare program are not eligible to receive a subsidy from this fund.

2 **Sec. B-3. Appropriation.** The following funds are appropriated
3 from the General Fund to carry out the purposes of this Part.

	2001-02	2002-03
HUMAN SERVICES, DEPARTMENT OF		
Bureau of Medical Services		
10		
12		
14		
16		
18		
20		
22		
24		
26		
28		
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48		

2 qualified look-alikes that
meet standards set by the
4 Department of Human Services.

6 **Bureau of Health**

8 All Other 115,000

10 Provides funds to maintain
12 and expand access to health
care programs that are
14 community-based, nonprofit
entities that provide primary
16 care services to underserved
populations regardless of the
18 ability to pay and that
utilize a sliding fee scale
20 for patients with families
below 200% of federal poverty
22 levels. These funds may not
be expended until the
24 Department of Human Services
has reported to the Joint
26 Standing Committee on Health
and Human Services
recommending entities to be
28 provided funding and the
amount of such funding.

30 **Bureau of Health**

32 All Other 200,000

34 Provides funds to maintain
36 and expand access to health
care programs that are
38 community-based, nonprofit
rural health clinics that
40 provide primary care services
to underserved populations
42 regardless of the ability to
pay and that utilize a
44 sliding fee scale for
patients with families below
46 200% of federal poverty
levels. The Department of
48 Human Services shall
determine which rural health
50 clinics will be provided

2 funding and the amount of
such funding.

4 **Affordable Health Care Fund**

6 All Other 100,000

8 Provides funds to establish
10 the Affordable Health Care
Fund to provide subsidies for
12 individuals enrolled in
community health access
14 programs.

16 **DEPARTMENT OF HUMAN SERVICES**
18 **TOTAL** \$1,585,000 \$1,800,000

20 **Sec. B-4. Allocation.** The following funds are allocated from
the Federal Expenditures Fund to carry out the purposes of this
22 Part.

24 **2001-02 2002-03**

26 **HUMAN SERVICES, DEPARTMENT OF**

28 **Bureau of Medical Services**

30 All Other \$150,000 \$150,000

32 Provides funds for the
federal match to contract for
34 Medicaid outstationing
services at federally
qualified health centers and
36 federally qualified
look-alikes.

38 **Medical Care - Payments to**
40 **Providers**

42 All Other 515,309 517,977

44 Provides funds for the
46 federal match to improve the
quality of services and
enhance the delivery of
48 services at federally
qualified health centers and

2 federally qualified
look-alikes.

4 **DEPARTMENT OF HUMAN SERVICES**
6 **TOTAL** \$665,309 \$677,977'

8 Further amend the amendment in Part C in section 2 in the
10 13th line (page 14, line 43 in amendment) by striking out the
following: "may" and inserting in its place the following:
'shall'

12 Further amend the amendment in Part C by striking out all of
14 sections 4 and 5 and inserting in their place the following:

16 **'Sec. C-4. Appropriation.** The following funds are
18 appropriated from the General Fund to carry out the purposes of
this Part.

2001-02

20 **HUMAN SERVICES, DEPARTMENT OF**

22 **Bureau of Medical Services**

24 All Other \$50,000

26 Provides funds for the waiver design and
28 actuarial rate-setting costs associated with
30 applying for a waiver to provide Medicaid
32 coverage to self-employed persons and sole
34 proprietors and members of their immediate
36 families whose family income is less than
38 300% of federal poverty levels on a buy-in
basis and to study and report on the
feasibility of extending health coverage
benefits to those for whom commercial
coverage is not reasonably available.

40 **Bureau of Medical Services**

42 All Other 49,500

44 Provides funds to change the name of all
MaineCare programs to the
MaineCare program.

46 **DEPARTMENT OF HUMAN SERVICES**
48 **TOTAL** \$99,500

2 imposed under section 4365 and collected and administered in the
same manner as the tax under that section.

4 2. Transition. The State Tax Assessor shall adopt rules to
ensure that cigarettes sold or held for resale, including sales
6 through vending machines, on November 1, 2001 are stamped at the
combined tax rate applicable under section 4365 and this
8 section. The rules must specify a due date for payment of tax
due under this subsection. Rules adopted pursuant to this
10 section are routine technical rules as defined in Title 5,
chapter 375, subchapter II-A.

12

14

PART E

16

Sec. E-1. 22 MRSA §260 is enacted to read:

18

§260. Maine Health Access Fund

20

There is established the Maine Health Access Fund, referred
to in this section as the "fund," as a dedicated fund to provide
22 expanded access to health care.

24

1. Transfers to fund. The State Controller shall transfer
to the fund such money as authorized by law. The fund may also
26 receive funds from other sources that are designated for the
fund. Interest earned on fund balances and investment income on
28 balances in the fund accrue to the fund.

30

2. Nonlapsing. Any unexpended balances in the fund may not
lapse but must be carried forward.

32

3. Restriction. Allocations from the fund must be used to
34 supplement and not supplant appropriations from the General Fund.

36

Sec. E-2. Transfer of funds. Any unexpended amounts from the
General Fund appropriations in this Part must be transferred by
38 the State Controller to the Maine Health Access Fund.

40

PART F

42

Sec. F-1. 36 MRSA §5122, sub-§1, ¶H, as amended by PL 1997, c.
44 746, §1 and affected by §24, is further amended to read:

46

H. The absolute value of the amount of any net operating
loss arising from tax years beginning on or after January 1,
48 1989, but before January 1, 1993, that arises from an S
Corporation with total assets for the year of at least
50 \$1,000,000 and the absolute value of the amount of any net

2 operating loss arising from tax years beginning on or after
3 December 31, 2000 that, pursuant to the United States
4 Internal Revenue Code, Section 172, is are being carried
5 back for federal income tax purposes to the taxable year by
6 the taxpayer;

7 **Sec. F-2. 36 MRSA §5122, sub-§2, ¶H,** as amended by PL 1997, c.
8 732, §5 and c. 746, §4 and affected by §24, is further amended to
9 read:

10 H. For each taxable year subsequent to the year of the
11 loss, an amount equal to the absolute value of the net
12 operating loss arising from tax years beginning on or after
13 January 1, 1989, but before January 1, 1993, and the
14 absolute value of the amount of any net operating loss
15 arising from tax years beginning on or after December 31,
16 2000, for which federal adjusted gross income was increased
17 in accordance with subsection 1, paragraph H and that
18 pursuant to the Code, Section 172 was carried back for
19 federal income tax purposes, but only to the extent that:

20 (1) Maine taxable income is not reduced below zero;

21 (2) The taxable year is within the allowable federal
22 period for carry-over; and

23 (3) The amount has not been previously used as a
24 modification pursuant to this subsection;

25 **Sec. F-3. 36 MRSA §5200-A, sub-§1, ¶H,** as amended by PL 1997,
26 c. 557, Pt. B, §7 and affected by Pt. G, §1, is further amended
27 to read:

28 H. The absolute value of the amount of any net operating
29 loss arising from tax years beginning on or after January 1,
30 1989 but before January 1, 1993 and the absolute value of
31 the amount of any net operating loss arising from tax years
32 beginning on or after December 31, 2000 that, pursuant to
33 the United States Internal Revenue Code, Section 172, is are
34 being carried back for federal income tax purposes to the
35 taxable year by the taxpayer;

36 **Sec. F-4. 36 MRSA §5200-A, sub-§2, ¶H,** as amended by PL 1999,
37 c. 521, Pt. B, §3 and affected by §11, is further amended to read:

38 H. For each taxable year subsequent to the year of the
39 loss, an amount equal to the absolute value of the net
40 operating loss arising from tax years beginning on or after
41 January 1, 1989 but before January 1, 1993, and the absolute

2 value of the amount of any net operating loss arising from
3 tax years beginning on or after December 31, 2000 that,
4 pursuant to the Code, Section 172, was carried back for
federal income tax purposes, but only to the extent that:

6 (1) Maine taxable income is not reduced below zero;

8 (2) The taxable year is within the allowable federal
period for carry-over; and

10 (3) The amount has not been previously used as a
12 modification pursuant to this subsection;'

14 Further amend the amendment by relettering or renumbering
any nonconsecutive Part letter or section number to read
16 consecutively.

18 **FISCAL NOTE**

20 **2001-02** **2002-03**

22 **APPROPRIATIONS/ALLOCATIONS**

24 General Fund \$4,612,350 \$11,230,615
26 Other Funds 3,026,186 13,809,545

28 **REVENUES**

30 General Fund \$5,102,884 \$11,636,410
32 Other Funds 3,113,831 14,139,068

34 This amendment increases the tax on cigarettes and repeals
36 the provisions that permit the carryback of net operating losses
effective for tax years beginning on or after January 1, 2001 to
38 increase General Fund revenue that will offset the cost of the
appropriations included in the bill. This amendment also makes
40 adjustments to the appropriation and allocation sections of the
bill, resulting in a decrease in the General Fund appropriations
42 in the bill by \$3,298,601 in fiscal year 2001-02 and \$4,774,610
in fiscal year 2002-03.

44 The increase in the cigarette tax will increase General Fund
46 revenue by \$3,472,000 in fiscal year 2001-02 and \$5,500,000 in
fiscal year 2002-03. The increased cigarette price will also
48 increase sales tax collections by \$93,529 in fiscal year 2001-02
and \$149,899 in fiscal year 2002-03. The increase of these tax
50 collections will increase the amounts transferred to the Local
Government Fund for state-municipal revenue sharing in those

1 fiscal years by \$4,770 and \$7,645, respectively. The resulting
2 net increase of General Fund revenue will be \$88,759 in fiscal
3 year 2001-02 and \$142,254 in fiscal year 2002-03. This revenue
4 estimate is based on the assumption that the cigarette tax
5 proposed in the supplemental "Part II" budget, L.D. 855, as
6 amended by Committee Amendment "A" will be adopted. If the
7 proposed supplemental budget is not adopted, the revenue
8 generated by this bill will increase by an amount that can not be
9 determined at this time.

10
11 The repeal of the provisions allowing the carryback of net
12 operating losses will increase corporate income tax collections
13 by \$1,625,000 in fiscal year 2001-02 and \$6,313,125 in fiscal
14 year 2002-03. The increase of these tax collections will
15 increase the amounts transferred to the Local Government Fund for
16 state-municipal revenue sharing in those years by \$82,875 and
17 \$321,969, respectively. The resulting net increase of General
18 Fund revenue will be \$1,542,125 in fiscal year 2001-02 and
19 \$5,991,156 in fiscal year 2002-03.

20
21 The Bureau of Revenue Services within the Department of
22 Administrative and Financial Services will incur additional
23 administrative costs related to the cigarette repricing. The
24 amount of General Fund appropriations that may be required by the
25 bureau to cover these additional costs can not be determined at
26 this time.

28 SUMMARY

30
31 This amendment raises the cigarette tax by 3 mills effective
32 October 1, 2001 to fund the costs of the bill. This amendment
33 creates the Affordable Health Care Fund to assist individuals
34 with the costs of participation in community health access
35 programs. The amendment also adjusts some of the figures in the
36 various appropriations and allocations. It establishes the Maine
37 Health Access Fund to receive funds from the tobacco tax increase
38 and to allocate those funds to health care expansion initiatives.

40 It also amends the law to enact positive income
41 modifications for individuals and corporations, requiring the
42 add-back of any net operating loss deduction carried back for
43 federal income tax purposes. A corresponding negative income
44 modification for individuals and corporations would allow the

HOUSE AMENDMENT "C" to COMMITTEE AMENDMENT "A" to H.P. 979, L.D.
1303

deduction of any net operating loss carry-back deduction
disallowed.

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SPONSORED BY: Bonnie Green
(Representative GREEN)

8

10 TOWN: Monmouth

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