

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 1722

S.P. 560

In Senate, March 20, 2001

**An Act to Recognize Exemplary Efforts to Lower the Cost of  
Prescription Drugs.**

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator LONGLEY of Waldo.  
Cosponsored by Senator MARTIN of Aroostook, Representatives: DUGAY of Cherryfield,  
KANE of Saco.

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

4 **PART A**

6 **Sec. A-1. 22 MRSA §254, sub-§8-B** is enacted to read:

8 **8-B. Action with regard to nonparticipating manufacturers**  
10 **and labelers.** The names of manufacturers and labelers who do and  
12 do not enter into rebate agreements pursuant to subsection 8 are  
14 public information. The department shall release this  
information to health care providers and the public on a regular  
basis and shall publicize participation by manufacturers and  
labelers that is of particular benefit to the public.

16 **Sec. A-2. 22 MRSA §2681, sub-§7**, as enacted by PL 1999, c.  
18 786, Pt. A, §3, is amended to read:

20 **7. Action with regard to nonparticipating manufacturers and**  
22 **labelers.** The names of manufacturers and labelers who do and do  
24 not enter into rebate agreements pursuant to this subchapter are  
public information. The department shall release this  
information to health care providers and the public on a regular  
basis and shall publicize participation by manufacturers and  
labelers that is of particular benefit to the public. The  
26 department shall impose prior authorization requirements in the  
28 Medicaid program under this Title, as permitted by law, for the  
dispensing of prescription drugs provided by those manufacturers  
and labelers.

30 **PART B**

32 **Sec. B-1. Business Advisory Committee on Prescription Drug Costs**  
34 **and Efficiencies.** The Business Advisory Committee on Prescription  
36 Drug Costs and Efficiencies, referred to in this section as the  
"committee," is established.

38 **1. Membership.** The committee consists of 12 members  
appointed as follows:

40 A. Two members of the Senate, one from each of the 2  
42 political parties with the greatest number of elected  
members, appointed by the President of the Senate;

44 B. Two members of the House of Representatives, one from  
46 each of the 2 political parties with the greatest number of  
elected members, appointed by the Speaker of the House;

48 C. The Commissioner of Human Services or the commissioner's  
designee;

- 2 D. The Commissioner of Professional and Financial  
Regulation or the commissioner's designee;
- 4
- 6 E. One representative from a statewide health management  
organization, appointed by the President of the Senate;
- 8 F. One representative from a statewide senior citizen  
organization, appointed by the Speaker of the House;
- 10
- 12 G. One representative from a drug manufacturing business,  
appointed by the Speaker of the House;
- 14 H. Two representatives from pharmaceutical associations,  
appointed by the Governor; and
- 16
- 18 I. One physician, appointed by the Governor.

20 The President of the Senate and the Speaker of the House shall  
send invitations for the first meeting of the committee to all  
members of the Congressional Delegation from the State.

22 **2. Appointments.** All appointments to the committee must be  
24 made no later than 30 days following the effective date of this  
Act. The appointing authorities shall notify the Executive  
26 Director of the Legislative Council upon making their  
appointments.

28 **3. Meetings.** The Chair of the Legislative Council shall  
30 call and convene the first meeting of the committee within 15  
days of the date that the last committee member is appointed.

32 **4. Chair.** The members of the committee shall appoint a  
34 chair from among the membership at the first meeting of the  
committee.

36 **5. Staff.** Upon the approval of the Legislative Council,  
38 the Office of Policy and Legal Analysis shall provide staff  
support to the committee.

40 **6. Compensation.** The committee members who are Legislators  
42 are entitled to receive legislative per diem and expenses, as  
defined in the Maine Revised Statutes, Title 3, section 2, for  
44 each day's attendance at meetings of the committee. The members  
of the committee who are neither employees of the State nor  
46 Legislators are entitled to a per diem and expenses equal to the  
legislative per diem and expenses.

48 **7. Duties.** In order to advise the Legislature on  
50 establishing efficiencies in the State's pharmaceutical markets,  
the committee shall:

2 A. Assess covered outpatient prescription drug prices  
throughout the State and compare the prices to those of  
4 other states and countries;

6 B. Create model discount and rebate agreements using  
existing pharmaceutical discount purchasing and assistance  
8 programs such as those offered through Medicaid, the federal  
Department of Veterans Affairs, public health services and  
10 successful programs in other states and countries to secure  
the highest discounts and rebates available;

12 C. Seek to obtain the best prices for all the State's  
14 citizens requiring outpatient prescription drugs and obtain  
prescription drugs with the least administrative and  
16 regulatory burden on manufacturers, distributors and state  
agencies; and

18 D. Gather and publicize outpatient prescription retail drug  
20 prices in the State and show prices of comparable  
prescription drugs found in other states and countries,  
22 including Canada, the United Kingdom and Australia.

24 **8. Report.** The committee shall submit its findings,  
together with any recommendations, including recommended  
26 legislation, to the Governor and the Joint Standing Committee on  
Health and Human Services by January 15, 2002. If the committee  
28 requires an extension of time to make its report, it may apply to  
the Legislative Council, which may grant the extension.

30 **9. Budget.** The chair of the committee, with assistance  
32 from staff, shall administer the committee budget. Within 10  
days after its first meeting, the committee shall present a work  
34 plan and proposed budget to the Legislative Council for  
approval. The committee may not incur expenses that would result  
36 in the committee exceeding its approved budget.

38 **PART C**

40 **Sec. C-1. 22 MRSA c. 603, sub-c. I-A** is enacted to read:

42 **SUBCHAPTER I-A**

44 **VOLUNTARY REDUCTION OF PRESCRIPTION DRUG COSTS**

46 **§2686. Voluntary reduction of prescription drug costs**

48 It is the policy of the State to encourage the reduction of  
prescription drug costs paid by residents of the State, the  
50 amount paid by public programs to assist residents of the State

2 with the purchase of prescription drugs, the amount paid by  
3 health care coverage and benefit programs and other 3rd-party  
4 payors and the per unit cost of prescription drugs. To achieve  
5 the goals under subsection 1, the department shall undertake a  
6 program to encourage the voluntary reduction of prescription drug  
7 costs as provided in this section.

8 1. Prescription drug cost goals. Using the total cost of  
9 all drugs dispensed in the State in 2000 as the base-line figure,  
10 the statewide price reduction goals for the cost of all  
11 prescription drugs dispensed in the State are a 5% reduction of  
12 the base-line figure for 2000 in cost by January 2003, a 10%  
13 reduction in cost by January 2004, a 15% reduction in cost by  
14 January 2005 and a 20% reduction in cost by January 2006.

15 2. Voluntary reduction of prices; progress reports.  
16 Manufacturers or labelers of prescription drugs, as defined in  
17 section 2697, shall undertake efforts to voluntarily reduce the  
18 cost of prescription drugs and to assist in the achievement of  
19 the prescription drug cost goals established in subsection 1. By  
20 April 1, 2002 and annually thereafter, each manufacturer or  
21 labeler shall report to the commissioner the efforts being made  
22 by the manufacturer or labeler toward the achievement of the  
23 prescription drug cost reduction goals. Each manufacturer or  
24 labeler shall include in the annual report under this subsection  
25 progress reports stating, for each of the 100 prescription drugs  
26 of the manufacturer or labeler having the highest volume of  
27 dispensation in the State during the past calendar year, the  
28 average wholesale price for each drug, the highest, lowest and  
29 average cost for which the drug was sold and details about  
30 voluntary efforts on the part of the manufacturer or labeler to  
31 reduce the cost of prescription drugs dispensed in the State.  
32

33 3. Annual report of commissioner. By July 1, 2002, and  
34 annually thereafter, the commissioner shall provide to the  
35 Legislature a report based on the annual progress reports filed  
36 by the manufacturers or labelers under subsection 2. The report  
37 must include recognition of exemplary efforts by manufacturers or  
38 labelers to reduce the cost of prescription drugs,  
39 recommendations for action to bring about further reductions in  
40 cost and the names of manufacturers or labelers that are worthy  
41 of public recognition for their efforts toward the achievement of  
42 the goals of this section or that merit attention for their lack  
43 of effort toward the achievement of the goals of this section.  
44

## 45 SUMMARY

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47  
48 This bill establishes the Business Advisory Committee on  
49 Prescription Drug Costs and Efficiencies. The committee is

2 directed to conduct a study concerning outpatient prescription  
3 drug prices in the State and obtain comparable pricing from other  
4 states and countries. The committee is charged with creating  
5 model discount and rebate agreements using existing  
6 pharmaceutical discount purchasing and assistance programs such  
7 as those offered through Medicaid, the federal Department of  
8 Veterans Affairs, public health services and other successful  
9 programs in other states and countries to secure the highest  
10 discounts and rebates available on prescription drugs.

11 This bill also directs the Department of Human Services to  
12 publicize the names of the pharmaceutical companies that  
13 participate and do not participate in the Maine Rx Program,  
14 established in the Maine Revised Statutes, Title 22, section  
15 2681, and the elderly low-cost drug program, established in Title  
16 22, section 254.

17 The bill enacts a program to encourage prescription drug  
18 manufacturers and labelers to voluntarily reduce the cost of  
19 drugs paid by Maine residents and by public programs to assist in  
20 the purchase of prescription drugs and the per unit cost of  
21 prescription drugs dispensed in the State. It sets goals for  
22 cost reduction and requires manufacturers and labelers to file  
23 annual progress reports stating their efforts to assist in the  
24 achievement of the State's goals and the costs of their drugs  
25 dispensed in the State. The bill requires the Commissioner of  
26 Human Services to file an annual report with the Legislature  
27 recognizing exemplary efforts and including recommendations for  
28 action and the names of manufacturers and labelers worthy of  
29 public recognition for their effort or those names of  
30 manufacturers and labelers that merit attention for their lack of  
31 effort.  
32