## MAINE STATE LEGISLATURE

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4	DATE: November 13, 2002 (Filing No. S-636)						
	Penneduced and distributed under the direction of the Cognetary						
6	Reproduced and distributed under the direction of the Secretary of the Senate.						
8	STATE OF MAINE						
10	SENATE 120TH LEGISLATURE						
12	FIRST SPECIAL SESSION						
14	SENATE AMENDMENT "H" to COMMITTEE AMENDMENT "A" to H.P.						
<b>1</b> 6	1746, L.D. 2220, Bill, "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State						
18	Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year						
20	Ending June 30, 2003"						
22	Amend the amendment in Part CC by inserting before section 1 the following:						
24	Sec. CC-1. 22 MRSA §1708, sub-§3-A, is enacted to read:						
26	2 ) Tourses in amoins book comments and analysis						
28	3-A. Increases in nursing homes compensation rulemaking. In addition to rules established under subsection 3, the						
30	department shall establish rules concerning reimbursement that:						
	A. Ensure that the following increases in nursing home						
32	reimbursement are provided for all services rendered on and after July 1, 2002:						
34	(1) The amount regageans to reimburge facilities in						
36	(1) The amount necessary to reimburse facilities, in the fixed cost component of the Medicaid rate, for the portion of the costs of the health care provider tax						
38	imposed by Title 36, chapter 373 allocable to Medicaid-covered services; and						
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42	(2) A statewide increase in per diem reimbursement rates for patient care costs, in an amount that						
44	represents an increase relative to reimbursement in effect on June 30, 2002 of not less than \$16,300,000 annually in the aggregate, consisting of:						

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# SENATE AMENDMENT " to COMMITTEE AMENDMENT "A" to H.P. 1746,

2	(a) An increase in the direct care component of
4	the rate to address a portion of the shortfall existing on the effective date of this subsection
	of direct care revenues relative to direct care
6	staffing costs; and
8	(b) A supplemental rate component that will
10	assist nursing facilities in recruiting and retaining patient care staff and meeting other
12	necessary patient care costs.
	"Patient care costs," as used in this subparagraph,
14	means all direct care costs and all routine costs. In setting rates to implement this subparagraph, the
16	department shall provide relief for facility losses as
18	equitably as possible and seek to minimize the need for substantial price increases to consumers not covered by
	Medicaid.
20	Rules adopted pursuant to this paragraph are routine
22	technical rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted pursuant to this paragraph
24	may take effect retroactively to the full extent necessary
26	to ensure that the increases required by this paragraph are applicable to all services rendered by all nursing
28	facilities on and after July 1, 2002. Insofar as necessary or expedient to accomplish this objective, the department
	shall provide in its rules for one-time, lump-sum payments
30	to provide increased reimbursement for the period of time between July 1, 2002 and the effective date of any
32	<pre>prospective rate changes established for the purpose of implementing this paragraph; and</pre>
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86	B. Ensure that the supplemental component of the reimbursement rate provided in paragraph A, subparagraph
	(2), division (b) is determined and paid on a prospective
8	basis and not subject to retrospective adjustment.'
10	Further amend the amendment in Part CC by inserting after
2	section 1 the following:
4	Sec. CC-2. 22 MRSA §7853, sub-§2-A is enacted to read:
	2-A. Reimbursement increases. The rules of reimbursement
6	for residential care facilities must:
8	A. Recognize and reimburse as fixed costs all necessary and

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SENATE AMENDME	ит " <b>Т</b>	to	COMMITTEE	AMENDMENT	"A"	to	H.P.	1746,
L.D. 2220	1,							

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	B. Reflect a statewide increase in reimbursement for direct
2	care costs in an amount that represents an increase relative
	to reimbursement in effect on June 30, 2002 of not less than
4	the difference between \$1,000,000 and the aggregate
	statewide increase provided in paragraph A; and
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	C. Upon request of a facility and a showing that there have
8	been dramatic market increases in particular elements in the
7.0	fixed cost component, require an adjustment in that
10	facility's interim payments. This paragraph applies to
12	fixed cost component elements, including without limitation
12	liability insurance.
14	Notwithstanding any other provisions of this section, rules
	adopted pursuant to this subsection are routine technical rules
16	as defined in Title 5, chapter 375, subchapter 2-A. Rules
	amended pursuant to this subsection must take effect no later
18	than July 1, 2002.
20	Further amend the amendment in Part CC in section 3 in that
	part designated "§2871." by striking out all of subsections 2 and
22	3 (page 31, lines 9 to 13 in amendment) and inserting in their
0.4	place the following:
24	12 Amount and connection and analysis and annual and annual and
26	'2. Annual net operating revenue. "Annual net operating revenue" means gross charges for health care facility services to
20	residents less any amounts recorded as bad debts, charity care or
28	payor discounts, including Medicare and Medicaid contractual
- 0	adjustments.
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	3. Fiscal year. "Fiscal year" means the fiscal year
32	actually used by a person subject to this chapter in keeping that
	person's books and records.'
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	Further amend the amendment in Part CC in section 3 in that
36	part designated "§2872." by striking out all of the first line
	(page 31, line 44 in amendment) and inserting in its place the
38	tollowing:
40	'\$2872. Tax imposed'
<del>1</del> U	Acole. Toy Tubosco
42	Further amend the amendment in Part CC in section 3 in that
	nart decignated "\$2872" by striking out all of the first

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'Beginning July 1, 2002, in addition to all other fees and taxes assessed or imposed by the Maine Revised Statutes, a tax is imposed annually against each residential treatment facility and nursing home located in the State calculated as follows.'

indented paragraph (page 31, lines 46 to 50 in amendment) and

inserting in its place the following:

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F. O. S.

Further amend the amendment in Part CC in section 3 in that part designated "§2873." by striking out all of subsection 2 (page 32, lines 38 to 50 and page 33, lines 1 to 10 in amendment) and inserting in its place the following:

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'2. Reconciliation return required. On or before the 15th day of the 4th month following the end of each fiscal year, each person subject in a prior fiscal year or fiscal years to the tax imposed by the chapter shall submit a reconciliation return on a form prescribed and furnished by the assessor. The reconciliation return must account for any adjustments necessary to reconcile the annual tax for a prior fiscal year estimated pursuant to subsection 1 with the person's correct tax liability, and the person must submit with the reconciliation return payment of any amount due for the prior fiscal year or fiscal years. The taxpayer may also claim on the reconciliation return a refund or credit for any overpayment of tax. The determination of amounts due or overpaid is calculated by comparing the tax originally estimated and paid in the prior fiscal year or fiscal years with the tax imposed by section 2872 on taxable revenues accrued for that fiscal year, together with any audit adjustments or corrections of which the person has knowledge on or before the 15th day of the month immediately preceding the due date of the return. The obligation to file a reconciliation return with respect to a particular fiscal year continues until the relevant taxable revenues for that fiscal year have been finally determined and are no longer open to audit adjustment or correction and the person has reported those revenues on a reconciliation return.'

Further amend the amendment in Part CC by inserting after section 3 the following:

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'Sec. CC-4. Transition. For the period from July 1, 2002 to June 30, 2003, each person subject to the tax under the Maine Revised Statutes, Title 36, chapter 373 is liable for a tax equal to 6% of its revenue received for that 12-month period and shall make estimated tax payments reflecting the equivalent of 12 months of tax liability for that period.'

Further amend the amendment in Part CC in section 8 in the first 4 lines (page 36, lines 46 to 49 in amendment) by striking out the following: "The sections of this Part that enact taxes on residential treatment facilities and nursing homes take effect with regard to each of those classes of facilities" and inserting in its place the following: 'This Part takes effect'

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Further amend the amendment by striking out all of Part CC, section 9 and inserting in its place the following:

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'Sec. CC-9. Effective dates. That section of this Part that provides appropriations and allocations to the Department of Behavioral and Developmental Services takes effect when the Commissioner of Human Services notifies the State Tax Assessor that the tax on residential treatment facilities is a permissible health care related tax as specified in this Part; and that section of this Part that provides appropriations and allocations to the Department of Human Services takes effect when the Commissioner of Human Services notifies the State Tax Assessor that the tax on nursing homes is a permissible health care related tax as specified in this Part.'

Further amend the amendment by inserting after Part RR the following:

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#### PART SS

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Sec. SS-1. Rulemaking and state plan filing. The Department of Human Services shall adopt rules to implement those sections of Part CC that enact the Maine Revised Statutes, Title 22, section 1708, subsection 3-A and Title 22, section 7853, subsection 2-A and shall prepare and file a state plan amendment reflecting such rulemaking as promptly as possible and in no event later than necessary to ensure that increased reimbursement is actually paid to all nursing homes in accordance with Title 22, section 1708, subsection 3-A no more than 45 days after the effective date of this Part. In the event that state plan approval is not received in sufficient time to permit payments pursuant to Part CC to be made no later than 45 days after the effective date of Part CC, the Commissioner of Human Services shall immediately give written notice of this fact and of the commissioner's estimate of the likely delay in the effectiveness of reimbursement to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters and to all licensed nursing homes.

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Rules adopted pursuant to this Part are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

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

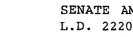
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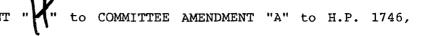
#### FISCAL NOTE

The amendment will increase the General Fund cost of the bill in fiscal year 2002-03 by an amount that cannot be determined at this time. The change of the definition of fiscal

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### SENATE AMENDMENT





year will result in additional administrative costs to the Bureau of Revenue Services.

#### **SUMMARY**

This amendment revises Committee Amendment "A" by making the following changes.

 1. It allows a facility to compute tax liabilities and file returns based on the facility's fiscal year, rather than the state fiscal year, consistent with the treatment of other taxpayers.

2. It delays the effective date of any Department of Human Services' authority to withhold unpaid taxes from Medicaid payments until Medicaid payment increases have taken effect.

3. It imposes a time limit for the Department of Human Services to adopt rules and file state plan amendments to implement nursing facility reimbursement increases.

4. It adds provisions to the amendment to require, in the laws governing nursing facility and residential care facility reimbursement, that the increases in reimbursement already announced by the Department of Human Services must be effectuated.

SPONSORED BY:

(Senator MARTIN

COUNTY: Aroostook

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