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Date: (Filing No. S-)

HEALTH AND HUMAN SERVICES

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

130TH LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to S.P. 301, L.D. 949, “Resolve, To Restore the MaineCare Nursing Facility COVID-19 Temporary Rate Increase”

Amend the resolve by striking out the title and substituting the following:

'Resolve, To Provide Additional Funding to Nursing Facilities and Private Nonmedical Institutions for Costs Related to COVID-19'

Amend the resolve by striking out the emergency preamble and substituting the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, nursing facilities and private nonmedical institution Appendix C facilities face a shortfall of approximately \$180 million in operating funds in the current biennium; and

Whereas, nursing facilities and private nonmedical institution Appendix C facilities are facing historically low occupancy rates due to COVID-19 pandemic restrictions, fatigue and staffing concerns; and

Whereas, despite tireless and heroic efforts of workers, the workforce shortage for nursing facilities and private nonmedical institution Appendix C facilities has been exacerbated due to the COVID-19 pandemic; and

Whereas, nursing facilities and private nonmedical institution Appendix C facilities face insolvency within weeks if immediate action is not taken before July 1, 2021; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it'

Amend the resolve by striking out everything after the emergency preamble and before the emergency clause and inserting the following:

COMMITTEE AMENDMENT

1 **Sec. 1. Department of Health and Human Services to appropriate funding**
2 **for emergency rate relief. Resolved:** That the Department of Health and Human
3 Services, referred to in this resolve as "the department," shall appropriate \$20 million in
4 general funds for emergency rate relief for nursing facilities to provide funding to account
5 for increased costs related to coronavirus disease 2019, referred to in this resolve as
6 "COVID-19." The department shall amend its rule Chapter 101: MaineCare Benefits
7 Manual, Chapter III, Section 67, Principles of Reimbursement for Nursing Facilities, to
8 increase reimbursement rates by the combined amount of \$20 million in state funds
9 together with allowable federal matching Medicaid funds. The department shall implement
10 the same accountability and transparency requirements, requirements regarding the
11 appropriate use of funds, bonus payments for job performance and cost settlement
12 requirements that applied to the use of temporary rate increases that were in effect from
13 March 1, 2020 to May 31, 2020. The increased rates under this section must remain in
14 effect until December 31, 2021 or until the state of emergency due to COVID-19 has ended
15 as declared by the Governor, whichever is later. The department shall allocate the funds
16 through a process modeled after the rate relief that was in effect from March 1, 2020 to
17 May 31, 2020 and that targets lower-occupancy facilities beginning immediately and
18 through December 31, 2021 but that applies to costs retroactive to the most recent quarter
19 permissible under federal law.

20 **Sec. 2. Department of Health and Human Services to allocate certain**
21 **federal funds for grants to nursing facilities and private nonmedical institution**
22 **Appendix C facilities to provide relief and avoid closures. Resolved:** That the
23 department shall allocate \$12.5 million in remaining available federal funding from the
24 federal Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, for facility
25 grants to nursing facilities and to private nonmedical institution Appendix C facilities for
26 COVID-19 related expenses. Seventy percent of this amount must be allocated to nursing
27 facilities and 30% must be allocated to private nonmedical institution Appendix C facilities.
28 These grants must be disbursed by July 1, 2021 to provide immediate relief and avoid
29 facility closures. The Department of Economic and Community Development shall
30 allocate the disbursement using the same or similar guidelines used by the federal
31 Department of Health and Human Services in its disbursement of CARES Act federal relief
32 funding directed to facilities in the last 12 months.

33 **Sec. 3. Department of Health and Human Services to waive certain audit**
34 **cost settlement rules. Resolved:** That the department shall amend its rules and
35 practices so that the grant funds provided pursuant to section 2 are not cost settled under
36 the department's nursing facility audit processes but are retained by nursing facilities. The
37 department shall waive any reduction or adjustment to allowable MaineCare costs on filed
38 or audited cost reports under department rule Chapter 101: MaineCare Benefits Manual,
39 Chapter III, Section 67, Principles of Reimbursement for Nursing Facilities, that would
40 otherwise result from the receipt of the rate relief from the grant funds.

41 **Sec. 4. Department of Health and Human Services; Nursing Facilities**
42 **account; lapsed balances. Resolved:** That, notwithstanding any provision of law to
43 the contrary, \$20 million of unencumbered balance forward from the Department of Health
44 and Human Services, Nursing Facilities, General Fund carrying account, All Other line
45 category lapses to the unappropriated surplus of the General Fund no later than December
46 31, 2021.

1 **Sec. 5. Stimulus funding. Resolved:** That, to the extent resources are available
 2 from federal funding allocated to the State in any federal law enacted after December 15,
 3 2020 that provides stimulus funds due to the ongoing pandemic related to COVID-19, the
 4 department shall designate a portion of this funding to nursing facilities for the purposes of
 5 this resolve instead of using state general funds.

6 **Sec. 6. Appropriations and allocations. Resolved:** That the following
 7 appropriations and allocations are made.

8 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**
 9 **Nursing Facilities 0148**

10 Initiative: Provides one-time funding for emergency rate relief for nursing facilities to
 11 provide funding to account for increased costs related to COVID-19.

12	GENERAL FUND	2021-22	2022-23
13	All Other	\$20,000,000	\$0
14			
15	GENERAL FUND TOTAL	\$20,000,000	\$0

16			
17	FEDERAL EXPENDITURES FUND	2021-22	2022-23
18	All Other	\$58,480,484	\$0
19			
20	FEDERAL EXPENDITURES FUND TOTAL	\$58,480,484	\$0

21			
22	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
23	All Other	\$5,009,393	\$0
24			
25	OTHER SPECIAL REVENUE FUNDS TOTAL	\$5,009,393	\$0

26 **Nursing Facilities 0148**
 27 Initiative: Provides one-time allocation of available federal funding from the federal
 28 Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, for facility grants to
 29 nursing facilities for COVID-19 related expenses.

30	FEDERAL EXPENDITURES FUND	2021-22	2022-23
31	All Other	\$8,750,000	\$0
32			
33	FEDERAL EXPENDITURES FUND TOTAL	\$8,750,000	\$0

34			
35	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
36	All Other	\$525,000	\$0
37			
38	OTHER SPECIAL REVENUE FUNDS TOTAL	\$525,000	\$0

39 **Nursing Facilities 0148**

1 Initiative: Provides one-time allocation of available federal funding from the federal
 2 Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, for facility grants to
 3 private nonmedical institution Appendix C facilities for COVID-19 related expenses.

4	FEDERAL EXPENDITURES FUND	2021-22	2022-23
5	All Other	\$3,750,000	\$0
6			
7	FEDERAL EXPENDITURES FUND TOTAL	\$3,750,000	\$0

9	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
10	All Other	\$225,000	\$0
11			
12	OTHER SPECIAL REVENUE FUNDS TOTAL	\$225,000	\$0

14	HEALTH AND HUMAN SERVICES,		
15	DEPARTMENT OF		
16	DEPARTMENT TOTALS	2021-22	2022-23
17			
18	GENERAL FUND	\$20,000,000	\$0
19	FEDERAL EXPENDITURES FUND	\$70,980,484	\$0
20	OTHER SPECIAL REVENUE FUNDS	\$5,759,393	\$0
21			
22	DEPARTMENT TOTAL - ALL FUNDS	\$96,739,877	\$0

23 '
 24 Amend the resolve by relettering or renumbering any nonconsecutive Part letter or
 25 section number to read consecutively.

26 **SUMMARY**

- 27 This amendment replaces the resolve. It does the following.
- 28 1. It requires the Department of Health and Human Services to appropriate \$20 million
 29 in state general funds, along with allowable federal matching funds, to nursing facilities in
 30 increased rates. The increased rates must remain in place until December 31, 2021 or the
 31 end of the state of emergency related to COVID-19, whichever is later.
 - 32 2. It requires the Department of Health and Human Services to allocate \$12.5 million
 33 in available funding from the federal Coronavirus Aid, Relief, and Economic Security Act
 34 to nursing facilities and private nonmedical institution Appendix C facilities. Seventy
 35 percent of this funding must be allocated to nursing facilities and 30% must be allocated to
 36 private nonmedical institution Appendix C facilities.
 - 37 3. It requires the Department of Health and Human Services to waive any reduction or
 38 adjustment to allowable MaineCare costs on filed or audited cost reports that would result
 39 from receipt of grant funds.
 - 40 4. It lapses \$20 million of unexpended funds in the Department of Health and Human
 41 Services, Nursing Facilities, General Fund carrying account no later than December 31,
 42 2021.

COMMITTEE AMENDMENT

