



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1618

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H.P. 1114

House of Representatives, May 18, 2017

### **An Act To Support Maine's Working Families through Universal Child Care**

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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 "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative SYLVESTER of Portland.  
Cosponsored by Representatives: ACKLEY of Monmouth, COLLINGS of Portland,  
HYMANSON of York, MADIGAN of Waterville, O'NEIL of Saco, RECKITT of South  
Portland, TALBOT ROSS of Portland, TERRY of Gorham.

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

2 **Sec. 1. 5 MRSA §12004-G, sub-§14-I** is enacted to read:

3 **14-I.**

4 <u>Health Care</u>	<u>Universal Child</u>	<u>Expenses Only</u>	<u>22 MRSA §7288</u>
5	<u>Care Trust Fund</u>		
6	<u>Board</u>		

7 **Sec. 2. 5 MRSA §12004-I, sub-§30-B** is enacted to read:

8 **30-B.**

9 <u>Health Care</u>	<u>Universal Child</u>	<u>Not Authorized</u>	<u>22 MRSA §7289</u>
10	<u>Care Trust Fund</u>		
11	<u>Advisory Committee</u>		

12 **Sec. 3. 22 MRSA sub-T. 4, Pt. 4** is enacted to read:

13 **PART 4**

14 **CHILD CARE SERVICES**

15 **CHAPTER 1606**

16 **UNIVERSAL CHILD CARE**

17 **§7285. Definitions**

18 As used in this chapter, unless the context otherwise indicates, the following terms  
19 have the following meanings.

20 **1. Advisory committee.** "Advisory committee" means the Universal Child Care  
21 Trust Fund Advisory Committee described in section 7289.

22 **2. Board.** "Board" means the Universal Child Care Trust Fund Board described in  
23 section 7288.

24 **3. Eligible person.** "Eligible person" means a person determined to be eligible  
25 under the program.

26 **4. Executive director.** "Executive director" means the executive director of the  
27 board.

28 **5. Fund.** "Fund" means the Universal Child Care Trust Fund established under  
29 section 7287.

30 **6. Universal Child Care Program.** "Universal Child Care Program" or "program"  
31 means the program created under section 7286.

1           **§7286. Universal Child Care Program established**

2           The Universal Child Care Program is established. The program provides child care  
3 to individuals and families determined to be eligible under this chapter. The program  
4 must have a unified system for intake and eligibility determination for all consumers.  
5 Income may not be a factor for eligibility for any services provided under the program.  
6 The board oversees all funding for services provided pursuant to the program.

7           **§7287. Universal Child Care Trust Fund established**

8           The Universal Child Care Trust Fund is established as a nonlapsing fund managed by  
9 the board to support the program. The fund may receive any revenue appropriated or  
10 allocated to the fund and receives all funds deposited in the fund from any other source.  
11 Funds in the fund may be invested in the same manner as permitted for investment of  
12 funds held in the State Treasury.

13           **§7288. Universal Child Care Trust Fund Board**

14           The Universal Child Care Trust Fund Board, established in Title 5, section 12004-G,  
15 subsection 14-I, oversees and manages the fund and its use under the program in  
16 accordance with this chapter.

17           **1. Membership of the board.** The board consists of the following members:

18           A. A member of the Senate, appointed by the President of the Senate;

19           B. A member of the House of Representatives, appointed by the Speaker of the  
20 House of Representatives;

21           C. A member who resides in the State's First Congressional District at the time of  
22 appointment and is a family child care provider as defined in section 8301-A;

23           D. A member who resides in the State's Second Congressional District at the time of  
24 appointment and is a family child care provider as defined in section 8301-A;

25           E. A member who resides in the State's First Congressional District at the time of  
26 appointment and operates a child care center as defined in section 8301-A;

27           F. A member who resides in the State's Second Congressional District at the time of  
28 appointment and operates a child care center as defined in section 8301-A;

29           G. A parent or guardian of a child under 4 years of age who resides in the State's  
30 First Congressional District and receives child care services at the time the parent or  
31 guardian becomes a member of the board;

32           H. A parent or guardian of a child under 4 years of age who resides in the State's  
33 Second Congressional District and receives child care services at the time the parent  
34 or guardian becomes a member of the board;

35           I. A parent or guardian of a child who has special needs;

36           J. A new resident of the State who is a parent or guardian of a child who, at the time  
37 the parent or guardian becomes a member of the board, is under 4 years of age;

- 1           K. The commissioner or the commissioner's designee;
- 2           L. The Commissioner of Education or the commissioner's designee; and
- 3           M. The Treasurer of State or the treasurer's designee.

4           **2. Appointment to initial board; term; vacancy.** By February 1, 2018, the  
5 Speaker of the House of Representatives shall appoint 5 members to the initial board that  
6 satisfy the requirements of subsection 1, paragraphs B, C, E, G and J and the President of  
7 the Senate shall appoint 5 members to the board that satisfy the requirements of  
8 subsection 1, paragraphs A, D, F, H and I. A member of the initial board serves for a  
9 one-year term or until the election of that member's successor under subsection 3. A  
10 vacancy on the initial board is filled in the same manner by the appointing authority for  
11 the unexpired portion of the term.

12           **3. Election of board.** The department shall establish procedures to provide for  
13 elections of board members after the terms of the initial board expire. At least one year  
14 prior to each election, the department shall provide to the board lists of all licensed child  
15 care providers including owners, directors, staff members and direct care employees. The  
16 board shall determine and compile a list of the names and addresses of all parents and  
17 guardians with children receiving child care services through the program and provide the  
18 list to the department. Based on compiled lists, the department, in consultation with the  
19 board, shall identify all persons who have direct interests related to each member's  
20 required qualifications under subsection 1, referred to in this subsection as "that member's  
21 constituency." The department shall establish and administer a system of nomination and  
22 secret ballot voting by mail under which each member is elected by vote of that member's  
23 constituency.

24           **4. Terms; compensation; vacancy.** A member of the board elected under  
25 subsection 3 serves a 3-year term and may serve no more than 4 terms. Members receive  
26 no compensation for service but are entitled to any necessary expenses, including travel  
27 expenses, incurred in the discharge of their duties. A vacancy during the term of a  
28 member elected under subsection 3 may be filled by appointment by the commissioner  
29 for the remainder of the member's term. A member representing those receiving child  
30 care services in subsection 1, paragraph G or H who no longer receives those services  
31 may serve out the remainder of the member's term. A member of the board appointed or  
32 elected under subsection 1, paragraph C, D, E or F is no longer eligible to serve if that  
33 member no longer meets the requirements of the respective paragraph unless that person  
34 is moving to new employment that will permit the member to meet the same requirements  
35 and the gap in employment is no longer than 4 weeks.

36           **5. Board responsibilities.** The board:

- 37           A. Shall manage the fund to ensure the long-term sustainability of the fund;
- 38           B. Shall determine the amount of funding from the fund to be used for services  
39 funded under the program;
- 40           C. Shall set reimbursement rates for services under section 7290 eligible for  
41 reimbursement under the program in a manner that maximizes access to those  
42 services, supports workforce development and ensures service quality;

1 D. May by rule manage eligibility under the program to ensure the program does not  
2 negatively affect the financial health of the fund;

3 E. May create advisory committees to advise the board on the program and fund;

4 F. May collect and disseminate information related to the program;

5 G. Shall report annually, no later than December 31st, to the Legislature on the status  
6 of the fund, including revenues, expenditures on child care services, administrative  
7 costs, provider reimbursement rates and any other relevant information relating to the  
8 fund;

9 H. Shall advise the Governor and the Legislature on appropriate policies related to  
10 child care; and

11 I. Shall undertake any other functions necessary to implement the program and  
12 enable the board to carry out its powers and duties under this chapter.

13 **6. Administrative support; executive director; duties.** The board shall employ an  
14 executive director to administer the program, to provide administrative, managerial and  
15 technical support for the operations of the board and to compile annual reports. The  
16 executive director must have financial and accounting expertise. The board shall  
17 determine the appropriate salary of the executive director, who serves at the pleasure of  
18 the board. The executive director may hire additional professional staff necessary to  
19 administer the program. The executive director shall:

20 A. Hold a meeting in each county not less frequently than once every 2 months to  
21 report to parents and guardians and child care providers on the actions of the board;

22 B. Report to the board the information, questions and input gathered from parents  
23 and guardians and child care providers at the meetings held pursuant to paragraph A;

24 C. Assist in the creation of countywide associations of parents and guardians and  
25 child care providers and work, in coordination with existing associations of parents  
26 and guardians and child care providers, to monitor and coordinate the implementation  
27 of universal child care and to facilitate access to high-quality child care;

28 D. Work with the director of the Child Development Services System, as defined in  
29 Title 20-A, section 7001, subsection 1-A, to coordinate outreach and information  
30 about child development services; and

31 E. Periodically review existing licensure requirements for child care providers and  
32 submit to the joint standing committee of the Legislature having jurisdiction over  
33 child care matters any recommendations for changes to those licensure requirements.

34 **§7289. Universal Child Care Trust Fund Advisory Committee**

35 The Universal Child Care Trust Fund Advisory Committee is established under Title  
36 5, section 12004-I, subsection 30-B.

37 **1. Members.** The advisory committee is composed of the following, or their  
38 designees:

39 A. The commissioner;

- 1           B. The Commissioner of Labor;
- 2           C. The Commissioner of Education;
- 3           D. The Treasurer of State;
- 4           E. The President of the Senate; and
- 5           F. The Speaker of the House of Representatives.

6           **2. Duties.** The advisory committee shall, on a quarterly basis, review the policies  
7 and financial management of the fund and provide guidance and advice to the board and  
8 the executive director.

9           **§7290. Child care services**

10           Notwithstanding any other provision of law, child care is available free to parents and  
11 guardians under the program in accordance with rules adopted by the board.  
12 Notwithstanding any other provision of law, federal child care subsidies under the  
13 Temporary Assistance for Needy Families program, established in chapter 1053-B, and  
14 the federal Child Care and Development Fund block grant as well as all money in the  
15 fund designated by the board to support the services funded under this section must be  
16 applied by the department in accordance with this section and rules adopted under this  
17 section.

18           **1. Children under one year of age.** Beginning July 1, 2019, in accordance with  
19 rules adopted by the board, a parent or guardian with a child or children under one year of  
20 age, upon application to the department, receives vouchers from the department to pay  
21 the full cost of enrollment in a child care facility or nursery school of the parent's or  
22 guardian's choosing, including a facility or school licensed under chapter 1673 or 1675 or  
23 an unlicensed facility or school. The department shall, upon application by a parent or  
24 guardian who is not employed and has a child or children under one year of age for whom  
25 that parent or guardian provides child care, pay to that parent or guardian \$125 each  
26 month per child.

27           **2. Children under 2 years of age.** Beginning July 1, 2020, in accordance with rules  
28 adopted by the board, a parent or guardian with a child or children under 2 years of age,  
29 upon application to the department, receives vouchers from the department to pay the full  
30 cost of enrollment in a child care facility or nursery school of the parent's or guardian's  
31 choosing, including a facility or school licensed under chapter 1673 or 1675 or an  
32 unlicensed facility or school. The department shall, upon application by a parent or  
33 guardian who is not employed and has a child or children under 2 years of age for whom  
34 that parent or guardian provides child care, pay to that parent or guardian \$125 each  
35 month per child.

36           **3. Children under 3 years of age.** Beginning July 1, 2021, in accordance with rules  
37 adopted by the board, a parent or guardian with a child or children under 3 years of age,  
38 upon application to the department, receives vouchers from the department to pay the full  
39 cost of enrollment in a child care facility or nursery school of the parent's or guardian's  
40 choosing, including a facility or school licensed under chapter 1673 or 1675 or an  
41 unlicensed facility or school. The department shall, upon application by a parent or

1 guardian who is not employed and has a child or children under 3 years of age for whom  
2 that parent or guardian provides child care, pay to that parent or guardian \$125 each  
3 month per child.

4 **4. Rules; local market rates.** Pursuant to section 7292, the board shall adopt rules  
5 governing the provision of vouchers and payments for child care under this section. The  
6 board shall determine an appropriate methodology for studying local market rates before  
7 setting payment rates under this subsection. The rules must provide that, no later than  
8 July 1, 2019, payment rates for child care services are at least equal to the 75th percentile  
9 of local market rates for the various categories of child care services and the payment  
10 rates for child care services for children with special needs must be higher than the 75th  
11 percentile of local market rates.

12 **§7291. Outreach**

13 Beginning April 1, 2018, in accordance with rules adopted by the board, all  
14 employers in the State must display in workplaces posters notifying employees of the  
15 universal child care services available under the program. The Department of Labor shall  
16 produce and distribute all posters required under this section.

17 **§7292. Rules**

18 The board shall adopt rules necessary to implement this chapter. Rules adopted by  
19 the board pursuant to this section are routine technical rules as defined in Title 5, chapter  
20 375, subchapter 2-A.

21 **Sec. 4. Program development and implementation.** The following  
22 provisions govern the development and implementation of the Universal Child Care  
23 Program established under the Maine Revised Statutes, Title 22, chapter 1606.

24 **1. Development of revenue source.** By December 15, 2017, the Department of  
25 Administrative and Financial Services, Bureau of Revenue Services shall develop and  
26 submit to the Joint Standing Committee on Health and Human Services draft legislation  
27 to establish universal child care taxes to provide funding for the Universal Child Care  
28 Program, established in the Maine Revised Statutes, Title 22, section 7286. The draft  
29 legislation must be structured to include 3 elements:

30 A. A tax on wages that applies in a manner substantially equivalent to the federal  
31 Social Security Act's Old-Age, Survivors, and Disability Insurance program tax, with  
32 the same rates as the federal tax rates and applicable in the same manner to  
33 employees and employers but that applies only to earnings above the annual  
34 contribution and benefit base of the federal tax;

35 B. A self-employment tax applicable to taxpayers who are subject to the federal  
36 Self-Employment Contributions Act tax that applies to net earnings in a substantially  
37 equivalent manner and at the same rates as that federal tax but that applies only to net  
38 earnings above the annual limit of net earnings subject to taxation under that federal  
39 tax; and

1 C. A tax on unearned annual income over \$127,000, indexed to changes in the wage  
2 and earning thresholds applicable under paragraphs A and B, that applies in a manner  
3 similar to the federal Net Investment Income Tax imposed under 26 United States  
4 Code, Section 1411 with a tax rate that is the same as that applicable to net earnings  
5 subject to tax under paragraph B.

6 The Joint Standing Committee on Health and Human Services shall report out a bill to the  
7 Second Regular Session of the 128th Legislature to establish universal child care taxes to  
8 fund the Universal Child Care Program.

9 **2. Start-up; appointment of initial board.** No later than March 1, 2018, the initial  
10 Universal Child Care Trust Fund Board established under the Maine Revised Statutes,  
11 Title 22, chapter 1606 shall meet to develop and oversee the implementation of the  
12 Universal Child Care Program and to plan with the Department of Health and Human  
13 Services for the election of new members in November 2018. By March 1, 2018, the  
14 board shall also examine the need for and develop a plan for maintaining or eliminating  
15 existing advisory councils relating to the child care services portions of the program and  
16 shall submit a report of its recommendations to the Joint Standing Committee on Health  
17 and Human Services relating to the appropriate roles for those councils.

18 **3. Workforce training center.** The Department of Health and Human Services, in  
19 consultation with the Department of Labor and the Maine Community College System,  
20 shall develop workforce training programs for child care workers providing services  
21 funded under the Universal Child Care Program established in the Maine Revised  
22 Statutes, Title 22, chapter 1606. The Department of Health and Human Services shall  
23 submit a plan for establishing and funding the training programs by January 1, 2019 and  
24 shall by March 1, 2018 submit a report of its recommendations to the Joint Standing  
25 Committee on Health and Human Services.

26 **SUMMARY**

27 This bill establishes the Universal Child Care Program of universal child care for all  
28 individuals and families who are eligible. Eligibility for universal child care is based on  
29 the age of the child. Income is not a factor for eligibility. The bill establishes the  
30 Universal Child Care Trust Fund, which is managed by a board composed of members  
31 who represent child care providers and consumers of child care services. The board  
32 employs professional staff and receives advice from an advisory committee composed of  
33 the Commissioner of Health and Human Services, the Commissioner of Education and  
34 the Commissioner of Labor as well as the Treasurer of State, the President of the Senate  
35 and the Speaker of the House of Representatives. Base funding for universal child care is  
36 from child care funds from the Temporary Assistance for Needy Families program and  
37 the federal Child Care and Development Fund block grant.

38 To complete the funding for the Universal Child Care Program, the Department of  
39 Administrative and Financial Services, Bureau of Revenue Services is directed to develop  
40 and submit to the Joint Standing Committee on Health and Human Services draft  
41 legislation to establish universal child care taxes. The taxes are to be structured to  
42 include 3 elements: a tax on wages that is substantially equivalent to the federal Social  
43 Security Act's Old-Age, Survivors, and Disability Insurance program tax, but that applies

1       only to earnings above the annual contribution and benefit base of the federal tax; a  
2       self-employment tax applicable to taxpayers who are subject to the federal  
3       Self-Employment Contributions Act tax that is equivalent to that tax and applies to net  
4       earnings above the annual limit subject to taxation under that federal tax; and a tax equal  
5       to the wage and self-employment taxes that is imposed on unearned annual income and  
6       that applies in a manner similar to the federal Net Investment Income Tax. The bill  
7       directs the Joint Standing Committee on Health and Human Services to report out a bill to  
8       the Second Regular Session of the 128th Legislature to establish universal child care  
9       taxes to fully fund the Universal Child Care Program.