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Date: (Filing No. S-)

HEALTH AND HUMAN SERVICES

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**STATE OF MAINE
SENATE
127TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 384, L.D. 1097, Bill, “An Act To Improve the Integrity of Maine's Welfare Programs”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 22 MRSA §3763, sub-§§11 to 13 are enacted to read:

11. Restrictions on use of electronic benefits transfer system. A recipient of benefits under this chapter may not expend those benefits using the electronic benefits transfer system established in section 22 for the purchase of the following:

- A. Tobacco products, as defined in section 1551, subsection 3;
- B. Imitation liquor or liquor, as defined in Title 28-A, section 2, subsections 13 and 16, respectively;
- C. Gambling activity, as defined in Title 8, section 1001, subsection 15;
- D. Lotteries conducted by the State pursuant to Title 8, chapter 14-A or the Tri-State Lotto Commission pursuant to Title 8, chapter 16;
- E. Bail, as defined by Title 15, section 1003, subsection 1;
- F. Firearms or ammunition;
- G. Vacation or travel services;
- H. Publications, services or entertainment that contain or promote obscene matter. For purposes of this paragraph, "obscene matter" has the same meaning as in Title 17, section 2911, subsection 1, paragraph D; or
- I. Tattoos, as defined by Title 32, section 4201, or body art.

A person who violates this subsection is subject to those penalties specified in subsection 13.

12. Point of sale restrictions. The department by rule shall establish a system to electronically block the purchase of the products and services listed in subsection 11,

COMMITTEE AMENDMENT

1 paragraphs A to I at the point of sale. Rules adopted pursuant to this subsection are major
2 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

3 **13. Penalties.** A recipient of benefits under this chapter who knowingly purchases a
4 product or service in violation of subsection 11 is deemed to have received an
5 overpayment in the amount of the prohibited purchase, which may be recovered by the
6 department pursuant to chapter 1055-A by requiring direct repayment by the recipient or
7 through a reduction in the amount of benefits provided under TANF or the Parents as
8 Scholars Program under chapter 1054-B in accordance with rules that apply to the
9 maximum recovery amount for all other TANF overpayments. The recipient is also
10 subject to the following additional penalties:

11 A. For the 2nd offense, the recipient may be disqualified from receiving benefits
12 under this chapter for a period that does not exceed 3 months; and

13 B. For the 3rd and subsequent offenses, the recipient may be disqualified from
14 receiving benefits under this chapter for a period that does not exceed 6 months.

15 The department shall provide prior notice of a disqualification under this subsection to
16 the recipient and provide an opportunity for an administrative hearing. The department
17 shall adopt rules governing the notice and hearing. Rules adopted pursuant to this
18 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

19 **Sec. 2. Blocking prohibited purchases through technological means.** No
20 later than October 1, 2016, notwithstanding Joint Rule 353, the Commissioner of Health
21 and Human Services shall convene a committee, referred to in this section as "the
22 implementation committee," to determine feasible options for preventing Temporary
23 Assistance for Needy Families program benefits, through electronic benefits transfer
24 cards, from being used to purchase the prohibited products or services listed in the Maine
25 Revised Statutes, Title 22, section 3763, subsection 11, referred to in this section as
26 "prohibited products or services."

27 **1. Members.** The implementation committee consists of the following members:

28 A. The Commissioner of Health and Human Services or the commissioner's
29 designee;

30 B. Two members of the House of Representatives, including a member from each of
31 the 2 parties holding the largest number of seats in the Legislature, appointed by the
32 Speaker of the House;

33 C. Two members of the Senate, including a member from each of the 2 parties
34 holding the largest number of seats in the Legislature, appointed by the President of
35 the Senate; and

36 D. Three members appointed by the Commissioner of Health and Human Services as
37 follows:

38 (1) A representative of retailers in the State;

39 (2) A representative of the financial industry familiar with electronic commerce;
40 and

41 (3) A representative of individuals receiving cash assistance through the TANF
42 program.

1 **2. Duties.** The implementation committee shall research, evaluate, determine and
 2 recommend the most effective means of ensuring that electronic benefits transfer cards
 3 block at the point of sale the use of TANF benefits to purchase prohibited products or
 4 services. The implementation committee shall determine the cost of any system that it
 5 recommends and shall analyse the impact of its recommendation on business
 6 establishments of varying sizes doing business in the State.

7 **3. Report.** The implementation committee shall submit a report of its findings and
 8 recommendation, together with any legislation necessary to implement the
 9 recommendation, to the joint standing committee of the Legislature having jurisdiction
 10 over health and human services matters no later than December 15, 2016. The
 11 implementation committee may also provide advice to the Commissioner of Health and
 12 Human Services with respect to the development of major substantive rules under Title
 13 22, section 3763, subsection 11. The joint standing committee may report out a bill
 14 relating to the subject matter of the report to the First Regular Session of the 128th
 15 Legislature.

16 **Sec. 3. Appropriations and allocations.** The following appropriations and
 17 allocations are made.

18 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

19 **Office for Family Independence Z020**

20 Initiative: Provides funding to restrict purchases at the point of sale.

21	GENERAL FUND	2015-16	2016-17
22	All Other	\$0	\$500,000
23			
24	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$500,000</u>

25	OTHER SPECIAL REVENUE FUNDS	2015-16	2016-17
26	All Other	\$0	\$516,135
27			
28	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$516,135</u>

29 **Temporary Assistance for Needy Families 0138**

30 Initiative: Provides a Federal Block Grant Fund allocation to update the Automated Client
 31 Eligibility System to identify violations and provide notice of penalties under the program
 32 and to pay for the technology consultant to attend the implementation committee
 33 meetings.

34	FEDERAL BLOCK GRANT FUND	2015-16	2016-17
35	All Other	\$0	\$115,739
36			
		<u> </u>	<u> </u>

1	FEDERAL BLOCK GRANT FUND TOTAL	\$0	\$115,739
2	HEALTH AND HUMAN SERVICES,		
3	DEPARTMENT OF (FORMERLY DHS)		
4	DEPARTMENT TOTALS	2015-16	2016-17
5			
6	GENERAL FUND	\$0	\$500,000
7	OTHER SPECIAL REVENUE FUNDS	\$0	\$516,135
8	FEDERAL BLOCK GRANT FUND	\$0	\$115,739
9			
10	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$1,131,874
11			

12 **SUMMARY**

13 This amendment is the majority report of the committee. Like the bill, the
 14 amendment prohibits the expenditure of benefits received by recipients under the
 15 Temporary Assistance for Needy Families program, using the electronic benefits transfer
 16 system, for products or services such as tobacco products, liquor and lottery tickets. The
 17 amendment requires the Department of Health and Human Services to develop a system
 18 to prevent the use of the electronic benefits transfer system for such purchases by
 19 blocking the purchases at the point of sale. It establishes penalties for violations. It
 20 requires the Commissioner of Health and Human Services to create an implementation
 21 committee to determine the most effective system to prevent prohibited expenditures at
 22 the point of sale. It directs the implementation committee to report to the joint standing
 23 committee of the Legislature having jurisdiction over health and human services matters
 24 no later than December 15, 2016. The implementation committee report may include any
 25 legislation necessary to implement the system.

26 **FISCAL NOTE REQUIRED**
 27 **(See attached)**