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Date: (Filing No. H- )

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
129TH LEGISLATURE  
FIRST REGULAR SESSION**

HOUSE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to H.P. 758, L.D. 1028, Bill, “An Act To Prevent and Reduce Tobacco Use with Adequate Funding and by Raising the Tax on Tobacco Products”

Amend the amendment by striking out the substitute title and replacing it with the following:

**'An Act To Prevent and Reduce Tobacco Use with Adequate Funding and by Equalizing the Taxes on Tobacco Products and To Improve Public Health'**

Amend the amendment by striking out all of sections 1 to 7 and inserting the following:

**'PART A**

**Sec. A-1. 36 MRSA §4401, sub-§§2-A, 2-B and 7-A** are enacted to read:

**2-A. Electronic smoking device.** "Electronic smoking device" means a device used to deliver nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the device, including, without limitation, a device manufactured, distributed, marketed or sold as an electronic cigarette, electronic cigar, electronic pipe, electronic hookah or so-called vape pen.

**2-B. Hookah.** "Hookah" means a device used for smoking tobacco that consists of a tube connected to a container where the smoke is cooled by passing through water.

**7-A. Smoking.** "Smoking" includes carrying or having in one's possession a lighted or heated cigarette, cigar or pipe or a lighted or heated tobacco or plant product intended for human consumption through inhalation whether natural or synthetic in any manner or in any form. "Smoking" includes the use of an electronic smoking device.

**Sec. A-2. 36 MRSA §4401, sub-§9,** as amended by PL 2005, c. 627, §4, is further amended to read:

**9. Tobacco products.** "Tobacco products" means cigars; cheroots; stogies; electronic smoking devices and liquids used in electronic smoking devices whether or not they contain nicotine; periques, granulated, plug cut, crimp cut, ready rubbed; and other

1 smoking tobacco; snuff; snuff flour; snus; cavendish; plug and twist tobacco; finecut and  
2 other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of  
3 tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable  
4 ~~for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but~~  
5 ~~does not include tobacco products that are subject to the tax provided by chapter 703~~  
6 intended for human consumption or is likely to be consumed, whether smoked, heated,  
7 chewed, absorbed, dissolved, inhaled or ingested by any other means. "Tobacco  
8 products" does not include:

9 A. Products that are subject to the tax provided by chapter 703;

10 B. Drugs, devices or combination products authorized for sale by the United States  
11 Department of Health and Human Services, Food and Drug Administration, as those  
12 terms are defined in the Federal Food, Drug, and Cosmetic Act;

13 C. Any product that contains adult use marijuana subject to tax under Title 28-B,  
14 section 1001; or

15 D. Any product that contains marijuana or marijuana products subject to control  
16 under Title 22, chapter 558-C.

17 **Sec. A-3. 36 MRSA §4403, sub-§1**, as repealed and replaced by PL 2009, c. 213,  
18 Pt. H, §1 and affected by §3, is amended to read:

19 **1. Smokeless tobacco.** A tax is imposed on smokeless tobacco, including chewing  
20 tobacco and snuff, at the rate of:

21 A. On amounts of smokeless tobacco packaged for sale to the consumer in a package  
22 that contains one ounce or more of smokeless tobacco, \$2.02 per ounce and prorated;  
23 and

24 B. On smokeless tobacco packaged for sale to the consumer in a package that  
25 contains less than one ounce of smokeless tobacco, \$2.02 per package.

26 Beginning January 2, 2020, the tax rates in this subsection are subject to adjustment  
27 pursuant to subsection 5.

28 **Sec. A-4. 36 MRSA §4403, sub-§2**, as amended by PL 2005, c. 627, §8, is  
29 further amended to read:

30 **2. Other tobacco.** A tax is imposed on cigars, pipe tobacco and other tobacco  
31 intended for smoking at the rate of 20% of the wholesale sales price beginning October 1,  
32 2005. Beginning January 2, 2020, a tax is imposed on all tobacco products, other than  
33 those subject to tax under subsection 1, at the rate of 43% of the wholesale sales price.  
34 Beginning January 2, 2020, the tax rate imposed pursuant to this subsection is subject to  
35 adjustment pursuant to subsection 5.

36 **Sec. A-5. 36 MRSA §4403, sub-§5** is enacted to read:

37 **5. Equivalence.** If the tax on cigarettes under chapter 703 is increased after January  
38 2, 2020, the assessor shall calculate a rate of tax on other tobacco products under  
39 subsections 1 and 2 that is equivalent to the same percentage change in the tax rate for  
40 one cigarette. The adjusted rates calculated by the assessor take effect at the same time as  
41 the increase in the tax on cigarettes.

1           **Sec. A-6. Appropriations and allocations.** The following appropriations and  
 2 allocations are made.

3           **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**  
 4 **Revenue Services, Bureau of 0002**

5 Initiative: Provides funding for one Tax Examiner position and related costs to review  
 6 and process additional tobacco products tax returns.

7	<b>GENERAL FUND</b>	<b>2019-20</b>	<b>2020-21</b>
8	POSITIONS - LEGISLATIVE COUNT	1.000	1.000
9	Personal Services	\$65,492	\$85,661
10	All Other	\$12,089	\$2,700
11			
12	GENERAL FUND TOTAL	<u>\$77,581</u>	<u>\$88,361</u>

13	<b>ADMINISTRATIVE AND FINANCIAL</b>		
14	<b>SERVICES, DEPARTMENT OF</b>		
15	<b>DEPARTMENT TOTALS</b>	<b>2019-20</b>	<b>2020-21</b>
16			
17	<b>GENERAL FUND</b>	<b>\$77,581</b>	<b>\$88,361</b>
18			
19	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u><b>\$77,581</b></u>	<u><b>\$88,361</b></u>

20           **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**  
 21 **Maine Center for Disease Control and Prevention 0143**

22 Initiative: Appropriates funds for evidence-based tobacco use prevention and cessation, in  
 23 accordance with the United States Department of Health and Human Services, Centers  
 24 for Disease Control and Prevention best practices.

25	<b>GENERAL FUND</b>	<b>2019-20</b>	<b>2020-21</b>
26	All Other	\$2,050,000	\$4,100,000
27			
28	GENERAL FUND TOTAL	<u>\$2,050,000</u>	<u>\$4,100,000</u>

29           **Medical Care - Payments to Providers 0147**

30 Initiative: Appropriates and allocates funds for tobacco use cessation medications and  
 31 counseling provided to MaineCare members.

1	<b>GENERAL FUND</b>	<b>2019-20</b>	<b>2020-21</b>
2	All Other	\$500,000	\$750,000
3			
4	GENERAL FUND TOTAL	<u>\$500,000</u>	<u>\$750,000</u>
5	<b>FEDERAL EXPENDITURES FUND</b>	<b>2019-20</b>	<b>2020-21</b>
6	All Other	\$1,776,235	\$1,332,177
7			
8	FEDERAL EXPENDITURES FUND TOTAL	<u>\$1,776,235</u>	<u>\$1,332,177</u>
9	<b>HEALTH AND HUMAN SERVICES,</b>		
10	<b>DEPARTMENT OF</b>		
11	<b>DEPARTMENT TOTALS</b>	<b>2019-20</b>	<b>2020-21</b>
12			
13	GENERAL FUND	\$2,550,000	\$4,850,000
14	FEDERAL EXPENDITURES FUND	\$1,776,235	\$1,332,177
15			
16	DEPARTMENT TOTAL - ALL FUNDS	<u>\$4,326,235</u>	<u>\$6,182,177</u>
17	<b>SECTION TOTALS</b>	<b>2019-20</b>	<b>2020-21</b>
18			
19	GENERAL FUND	\$2,627,581	\$4,938,361
20	FEDERAL EXPENDITURES FUND	\$1,776,235	\$1,332,177
21			
22	SECTION TOTAL - ALL FUNDS	<u>\$4,403,816</u>	<u>\$6,270,538</u>

23 **Sec. A-7. Effective date.** Those sections of this Part that amend the Maine  
24 Revised Statutes, Title 36, section 4401, subsection 9 and that enact Title 36, section  
25 4401, subsections 2-A, 2-B and 7-A take effect January 2, 2020.

## 26 PART B

27 **Sec. B-1. 22 MRSA §3174-JJ,** as amended by PL 2013, c. 441, §1, is further  
28 amended to read:

### 29 §3174-JJ. MaineCare reimbursement for ambulance services

30 The department shall reimburse for ambulance services under MaineCare at a level  
31 that is not less than the average allowable reimbursement rate under Medicare for such  
32 services or at the highest percent of that level that is possible within resources  
33 appropriated for those purposes. Beginning March 1, 2015, the department shall  
34 reimburse for ambulance services under MaineCare at a level that is not less than 65% of  
35 the average allowable reimbursement rate under Medicare for such services. Beginning

1 January 1, 2020, the department shall reimburse for ambulance services under MaineCare  
 2 at a level that is not less than the average allowable reimbursement rate under Medicare  
 3 for such services and shall reimburse for neonatal transport services under MaineCare at  
 4 the average rate for critical care transport services under Medicare.

5 **Sec. B-2. Appropriations and allocations.** The following appropriations and  
 6 allocations are made.

7 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**  
 8 **Medical Care - Payments to Providers 0147**

9 Initiative: Provides funding to increase the reimbursement rate for ambulance services  
 10 under the MaineCare program so the rates are not less than the average allowable  
 11 reimbursement rate under Medicare and increase the reimbursement rate for neonatal  
 12 transport services under MaineCare so the rates are equal to the average rate for critical  
 13 care transport services under Medicare.

14	<b>GENERAL FUND</b>	<b>2019-20</b>	<b>2020-21</b>
15	All Other	\$1,662,060	\$3,329,640
16			
17	GENERAL FUND TOTAL	<u>\$1,662,060</u>	<u>\$3,329,640</u>

18	<b>FEDERAL EXPENDITURES FUND</b>	<b>2019-20</b>	<b>2020-21</b>
19	All Other	\$4,894,815	\$5,868,260
20			
21	FEDERAL EXPENDITURES FUND TOTAL	<u>\$4,894,815</u>	<u>\$5,868,260</u>

22 **PART C**

23 **Sec. C-1. 36 MRSA §5122, sub-§2, ¶QQ** is enacted to read:

24 QQ. For taxable years beginning on or after January 1, 2020, to the extent included  
 25 in federal adjusted gross income and not subtracted under paragraph FF, student loan  
 26 payments made by the taxpayer's employer directly to a lender on behalf of a  
 27 qualified health care employee. As used in this paragraph, "qualified health care  
 28 employee" means an individual who is employed by a hospital located in this State  
 29 and who is licensed under Title 32, chapter 31, subchapter 3 or 4; chapter 36,  
 30 subchapter 4; or chapter 48, subchapter 2.

31 **Sec. C-2. Reimbursement for rural hospitals and nonrural hospitals.** The  
 32 Department of Health and Human Services shall amend its rule Chapter 101: MaineCare  
 33 Benefits Manual, Chapter III, Section 45 in order to provide MaineCare reimbursement  
 34 for rural hospitals at 100% of inpatient hospital-based physician costs, outpatient  
 35 emergency room hospital-based physician costs, outpatient nonemergency room hospital-  
 36 based physician costs and graduate medical education costs. The department shall also  
 37 amend its rule Chapter 101: MaineCare Benefits Manual, Chapter III, Section 45 in order

1 to provide MaineCare reimbursement for nonrural hospitals at 93.3% of inpatient  
2 hospital-based physician costs, 93.4% of outpatient emergency room hospital-based  
3 physician costs and 83.8% of outpatient nonemergency room hospital-based physician  
4 costs.

5 The department shall adopt routine technical rules under the Maine Revised Statutes,  
6 Title 5, chapter 375, subchapter 2-A to establish a definition of "rural hospital" that  
7 reflects the regional access to hospital care and the population density of the public health  
8 district in which the hospital is located, as long as the following hospitals are considered  
9 rural hospitals:

- 10 1. Northern Light A.R. Gould Hospital in Presque Isle;
- 11 2. Cary Medical Center in Caribou;
- 12 3. Franklin Memorial Hospital in Farmington;
- 13 4. Northern Light Inland Hospital in Waterville;
- 14 5. Northern Light Maine Coast Hospital in Ellsworth; and
- 15 6. Northern Maine Medical Center in Fort Kent.

16 **Sec. C-3. Reimbursement for acute care critical access hospitals.** The  
17 Department of Health and Human Services shall amend its rule Chapter 101: MaineCare  
18 Benefits Manual, Chapter III, Section 45 regarding acute care critical access hospital  
19 physician services to require MaineCare reimbursement of 100% for all hospital-based  
20 physician costs.

21 **Sec. C-4. Reimbursement for rural health clinics.** The Department of Health  
22 and Human Services shall amend its rule Chapter 101: MaineCare Benefits Manual,  
23 Chapter II, Section 103 regarding the department's reimbursement methodology to  
24 provide an alternative payment methodology option that, effective January 1, 2020, is the  
25 same as the existing methodology except that rural health clinics may be reimbursed on  
26 the basis of 100% of the average of the reasonable costs of providing MaineCare-covered  
27 services during calendar years 2016 and 2017 as long as reimbursement is no less than  
28 reimbursement received under the prospective payment system described in Section  
29 1902(bb) of the United States Social Security Act. Each rural health clinic must be given  
30 the option to be reimbursed under the methodology required by this section or under the  
31 existing prospective payment system methodology.

32 **Sec. C-5. State plan amendments; rulemaking.** The Department of Health  
33 and Human Services shall submit any necessary state plan amendments to implement the  
34 requirements of this Part to the United States Department of Health and Human Services,  
35 Centers for Medicare and Medicaid Services no later than January 1, 2020. Upon  
36 approval, the department shall amend its rules within 180 days of approval. Rules  
37 adopted pursuant to this section are routine technical rules as defined in the Maine  
38 Revised Statutes, Title 5, chapter 375, subchapter 2-A.

39 **Sec. C-6. Appropriations and allocations.** The following appropriations and  
40 allocations are made.

41 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

1 **Medical Care - Payments to Providers 0147**

2 Initiative: Provides appropriations and allocations to allow for MaineCare reimbursement  
3 of 100% for all hospital-based physician costs.

4	<b>GENERAL FUND</b>	<b>2019-20</b>	<b>2020-21</b>
5	All Other	\$371,768	\$753,736
6			
7	GENERAL FUND TOTAL	<u>\$371,768</u>	<u>\$753,736</u>

8	<b>FEDERAL EXPENDITURES FUND</b>	<b>2019-20</b>	<b>2020-21</b>
9	All Other	\$793,942	\$1,577,684
10			
11	FEDERAL EXPENDITURES FUND TOTAL	<u>\$793,942</u>	<u>\$1,577,684</u>

12 **Medical Care - Payments to Providers 0147**

13 Initiative: Provides appropriations and allocations to allow for MaineCare reimbursement  
14 for rural hospitals at 100% of inpatient hospital-based physician costs, outpatient  
15 emergency room hospital-based physician costs, outpatient nonemergency room hospital-  
16 based physician costs and graduate medical education costs and to allow for MaineCare  
17 reimbursement for nonrural hospitals at 93.3% of inpatient hospital-based physician  
18 costs, 93.4% of outpatient emergency room hospital-based physician costs and 83.8% of  
19 outpatient nonemergency room hospital-based physician costs.

20	<b>GENERAL FUND</b>	<b>2019-20</b>	<b>2020-21</b>
21	All Other	\$263,428	\$534,084
22			
23	GENERAL FUND TOTAL	<u>\$263,428</u>	<u>\$534,084</u>

24	<b>FEDERAL EXPENDITURES FUND</b>	<b>2019-20</b>	<b>2020-21</b>
25	All Other	\$562,573	\$1,117,918
26			
27	FEDERAL EXPENDITURES FUND TOTAL	<u>\$562,573</u>	<u>\$1,117,918</u>

28 **Medical Care - Payments to Providers 0147**

29 Initiative: Provides appropriations and allocations to allow for an alternative payment  
30 methodology option that is the same as the existing methodology except that rural health  
31 clinics may be reimbursed on the basis of 100% of the average of the reasonable costs of  
32 providing MaineCare-covered services during calendar years 2016 and 2017 as long as  
33 reimbursement is no less than reimbursement received under the prospective payment  
34 system.

1	<b>GENERAL FUND</b>	<b>2019-20</b>	<b>2020-21</b>
2	All Other	\$739,449	\$1,499,185
3			
4	GENERAL FUND TOTAL	<u>\$739,449</u>	<u>\$1,499,185</u>
5	<b>FEDERAL EXPENDITURES FUND</b>	<b>2019-20</b>	<b>2020-21</b>
6	All Other	\$1,579,154	\$3,138,020
7			
8	FEDERAL EXPENDITURES FUND TOTAL	<u>\$1,579,154</u>	<u>\$3,138,020</u>
9	<b>HEALTH AND HUMAN SERVICES,</b>		
10	<b>DEPARTMENT OF</b>		
11	<b>DEPARTMENT TOTALS</b>	<b>2019-20</b>	<b>2020-21</b>
12			
13	<b>GENERAL FUND</b>	<b>\$1,374,645</b>	<b>\$2,787,005</b>
14	<b>FEDERAL EXPENDITURES FUND</b>	<b>\$2,935,669</b>	<b>\$5,833,622</b>
15			
16	DEPARTMENT TOTAL - ALL FUNDS	<u>\$4,310,314</u>	<u>\$8,620,627</u>

17 **PART D**

18 **Sec. D-1. Transfer.** Notwithstanding any provision of law to the contrary, the  
 19 State Controller shall transfer from the Hospital Tax, Other Special Revenue Funds  
 20 account in the Department of Health and Human Services \$946,925 on or before June 30,  
 21 2020 and \$946,925 on or before June 30, 2021 to the unappropriated surplus of the  
 22 General Fund.'

23 **SUMMARY**

24 This amendment reduces appropriations for tobacco use prevention and cessation and  
 25 adds provisions increasing reimbursement for certain services under the MaineCare  
 26 program, providing an income tax deduction for student loan payments made by a  
 27 taxpayer's employer directly to a lender on behalf of a qualified health care employee and  
 28 transferring Other Special Revenue Funds in the Department of Health and Human  
 29 Services to the unappropriated surplus of the General Fund.

30 **FISCAL NOTE REQUIRED**

31 (See attached)

32 SPONSORED BY: \_\_\_\_\_  
 33 (Representative TIPPING)  
 34 TOWN: Orono

**HOUSE AMENDMENT**