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Date: (Filing No. H-)

HEALTH AND HUMAN SERVICES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 902, L.D. 1406, “An Act to Amend the Laws Regarding Estate Recovery and Planning for Long-term Care”

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

'Resolve, Establishing the Commission to Study MaineCare Estate Recovery'

Amend the bill by striking out everything after the title and inserting 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, this legislation establishes the Commission to Study MaineCare Estate Recovery; and

Whereas, this legislation must take effect before the expiration of the 90-day period so that the commission may meet in a timely manner and make its report to the Legislature; 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

Sec. 1. Commission established. Resolved: That the Commission to Study MaineCare Estate Recovery, referred to in this resolve as "the commission," is established.

Sec. 2. Commission membership. Resolved: That, notwithstanding Joint Rule 353, the commission consists of 10 members appointed as follows:

- 1. Four members appointed by the President of the Senate, including:
 - A. Two members of the Senate, including a member from each of the 2 parties holding the largest number of seats in the Legislature;
 - B. One member representing an organization that advocates for the rights of elderly individuals; and

COMMITTEE AMENDMENT

- 1 C. One member who is an attorney who specializes in long-term care planning;
- 2 2. Four members appointed by the Speaker of the House of Representatives, including:
 - 3 A. Two members of the House of Representatives, including a member from each of
 - 4 the 2 parties holding the largest number of seats in the Legislature;
 - 5 B. One member who is an individual with lived experience navigating the MaineCare
 - 6 estate recovery process; and
 - 7 C. One member who is an individual representing an organization that advocates for
 - 8 the rights of individuals with disabilities;
- 9 3. The Commissioner of Health and Human Services or the commissioner's designee;
- 10 and
- 11 4. The long-term care ombudsman established pursuant to the Maine Revised Statutes,
- 12 Title 22, section 5106, subsection 11-C or the ombudsman's designee.

13 **Sec. 3. Chairs. Resolved:** That the first-named Senate member is the Senate chair
14 and the first-named House of Representatives member is the House chair of the
15 commission.

16 **Sec. 4. Appointments; convening of commission. Resolved:** That all
17 appointments must be made no later than 30 days following the effective date of this
18 resolve. The appointing authorities shall notify the Executive Director of the Legislative
19 Council once all appointments have been completed. After appointment of all members,
20 the chairs shall call and convene the first meeting of the commission. If 30 days or more
21 after the effective date of this resolve a majority of but not all appointments have been
22 made, the chairs may request authority and the Legislative Council may grant authority for
23 the commission to meet and conduct its business.

24 **Sec. 5. Duties. Resolved:** That the commission shall study issues associated with the
25 MaineCare estate recovery process, including:

- 26 1. A review of the history of the MaineCare estate recovery program and review of the
- 27 reasons behind the establishment of the program as it exists currently;
- 28 2. An examination of allowable flexibilities in the administration of Medicaid estate
- 29 recovery programs, including any possible Medicaid waivers;
- 30 3. A review of estate recovery models employed by other states; and
- 31 4. An examination of best practices and innovations in Medicaid estate recovery.

32 The commission shall develop recommendations for reforms to the MaineCare estate
33 recovery program.

34 **Sec. 6. Staff assistance. Resolved:** That the Legislative Council shall provide
35 necessary staffing services to the commission, except that Legislative Council staff support
36 is not authorized when the Legislature is in regular or special session.

37 **Sec. 7. Report. Resolved:** That, no later than December 6, 2023, the commission
38 shall submit a report that includes its findings and recommendations, including suggested
39 legislation, to the Joint Standing Committee on Health and Human Services. The
40 committee may introduce legislation related to the report of the commission to the Second
41 Regular Session of the 131st Legislature.

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Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.
Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill with a resolve creating the Commission to Study MaineCare Estate Recovery. It adds an emergency preamble and emergency clause. The commission membership includes 4 members appointed by the President of the Senate, including 2 members of the Senate from each of the 2 parties holding the largest number of seats in the Legislature; an individual representing an organization that advocates for the rights of elderly individuals; and an attorney who specializes in long-term care planning. It also includes 4 members appointed by the Speaker of the House of Representatives, including 2 members of the House of Representatives from each of the 2 parties holding the largest number of seats in the Legislature; an individual with lived experience navigating the MaineCare estate recovery process; and an individual representing an organization that advocates for the rights of individuals with disabilities. It also includes the Commissioner of Health and Human Services or the commissioner's designee and the long-term care ombudsman or the long-term care ombudsman's designee. The commission is tasked to study issues associated with the MaineCare estate recovery process, including a review of the history of the MaineCare estate recovery program and review of the reasons behind the establishment of the program as it exists currently; an examination of allowable flexibilities in the administration of Medicaid estate recovery programs, including any possible Medicaid waivers; a review of estate recovery models employed by other states; and an examination of best practices and innovations in Medicaid estate recovery. The commission must submit a report by December 6, 2023 to the Joint Standing Committee on Health and Human Services. The committee may present legislation related to the report of the commission to the Second Regular Session of the 131st Legislature.

FISCAL NOTE REQUIRED

(See attached)