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Introducing LD 1636, “An Act To Reduce Prescription Drug Costs by Using International Pricing”

**Joint Standing Committee on Health Coverage, Insurance and Financial Services
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Senator Sanborn, Representative Tepler and distinguished members of the Health Coverage, Insurance and Financial Services Committee. I am Ned Claxton and I represent Senate District 20, which includes Auburn, Poland, Minot, Mechanic Falls and New Gloucester. I’m before you today to introduce LD 1636, “An Act To Reduce Prescription Drug Costs by Using International Pricing.”

LD 1636 is an attempt to decrease the amount of money that the State of Maine and those who are insured by it pay annually for medicines. It’s an attempt to address the issue that we in the US pay substantially more for our medicine than any other country. Various studies report that the drug costs in the US are over twice as high as in Canada and Japan, for example. Does it make any sense that a drug sold in the US will, on average, cost twice what that drug will cost on the other side of the St. John’s River? The co-pay for Jardiance in Canada is about \$22. In Maine in 2019 we paid \$622 for each prescription. Looking up local costs last week, I found the charge at the Auburn pharmacies is \$550.

Attempting to address these issues, various states have taken steps to try and import medicines from Canada. So far, that approach hasn’t worked because of delays in FDA approval. This bill imports the PRICE of the medicine and not the drug itself. By tying payment rates to well-established processes in Canada, we could save significant money for both the State and those who are insured by it. Maine spends ~ \$40 million/year on drug costs for its employees and retirees. Another \$3.5 million is spent by those enrollees.

Every year, a list of the 250 most costly prescription drugs for those patients insured by the state would be compared or referenced to the prices negotiated by the 4 largest Canadian provinces. The price that could be paid for an individual drug in Maine would be set at the lowest cost in those 4 provinces. It would set a ‘**pharmacy reimbursement rate**’ for medicines already available in the US. ‘Most costly prescriptions’ is determined by the number of prescriptions times the charge for each prescription, the net spend. If we could save even 10% of the cost of the top 25 meds, that would be a savings of about \$1 million/year!

This bill empowers the Department of Administrative and Financial Services to establish rules that would protect people who are on a chemotherapy regimen for cancer or those few on disease modifying

drugs for multiple sclerosis or cystic fibrosis. But Humira has been on the market in some form since 2002. Should that be our most expensive drug in 2020, at \$8000 per prescription? The other aspect of this bill that is key is that the savings have to be used to further lower drug costs for the patients.

You may hear that the pharmaceutical companies will need to cut back on R&D, yet they spent millions of dollars a year on advertising in Maine and \$30 billion a year nationally. On a per capita basis that would be \$120 million to Maine's population.

You may hear that new drugs will be slower to get to market. In Canada, new drugs have a 3-year Interim Market Price to offset those concerns.

You may hear that this is not allowable by the US Constitution. but in the *Rutledge vs. PCMA* decision on December 10, 2020, the U.S. Supreme Court (9 - 0) ruled that states can regulate pharmacy benefit manager (PBM) reimbursement practices, opening the door to pharmacy reimbursement changes.

You may hear that this bill violates the Dormant Commerce Clause, but this bill has been specifically crafted to avoid that issue by limiting its impact to Maine and only establishing an Upper Payment Level.

You may hear that the courts ruled against this effort in Maryland and Washington, D.C. They didn't. Those rulings were against PRICE setting. This bill involves RATE setting - limits to the payor, a different process than in the other 2 jurisdictions.

This bill is an attempt to establish accountability to the taxpayers. I understand that research and development is the life blood of the pharmaceutical companies. So is driving demand for their medicines. They must protect their return on investment, that is their fiduciary responsibility. My responsibility, on the other hand, is to help do what I can to lower the cost of medicines for the people in my district and in the state.

This bill attempts to address unaffordable prescription drug costs in Maine. We have other resources and tools that we can build upon, like the Maine Health Data Organization and Prescription Drug Affordability Board. I see this bill as the start of a conversation on this approach to lowering drug costs and look forward to working with the committee on this bill to further address this issue.

Thank you for the opportunity to introduce this bill. I will be happy to try and answer any questions.