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H.P. 1258

House of Representatives, May 10, 2021

**An Act To Advance Health Equity, Improve the Well-being of All
Maine People and Create a Health Trust**

Received by the Clerk of the House on May 6, 2021. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TALBOT ROSS of Portland.
Cosponsored by Senator VITELLI of Sagadahoc and
Representatives: EVANS of Dover-Foxcroft, MEYER of Eliot, MILLETT of Cape Elizabeth,
NEWELL of the Passamaquoddy Tribe, PERRY of Calais, Senators: CHIPMAN of
Cumberland, HICKMAN of Kennebec.

1 **1. Administrative costs.** "Administrative costs" means staffing, overhead and related
2 operational costs, including costs for a coordinator, professional assistance and bond
3 premiums, incurred by the trust in carrying out its duties under this subchapter.

4 **2. Board.** "Board" means the Trust for a Healthy Maine Board established under Title
5 5, section 12004-G, subsection 14-J.

6 **3. Community health worker.** "Community health worker" means a person who
7 provides outreach and public health services to a social group using the person's
8 understanding of the experiences, socioeconomic needs, language or culture of that social
9 group.

10 **4. Community resilience.** "Community resilience" means the capacity of individuals,
11 communities, institutions, businesses and systems within a community to survive, adapt
12 and grow no matter what kinds of chronic stresses and acute shocks they experience.

13 **5. Coordinator.** "Coordinator" means the coordinator of the Trust for a Healthy
14 Maine under section 1519, subsection 2.

15 **6. Designated agent.** "Designated agent" means an entity with which the department
16 has entered an agency relationship for the purpose of applying for federal funds to support
17 public health research and programming and that is authorized by the Federal Government
18 to receive those funds.

19 **7. Disbursement.** "Disbursement" means a decision of the trust governing how
20 settlement funds are to be distributed by the trust for the purposes set forth in this
21 subchapter.

22 **8. Health equity.** "Health equity" means the attainment of the highest level of health
23 for any social group in this State, regardless of whether a social group is subject to a
24 structural inequity.

25 **9. Medical care.** "Medical care" means direct health care, including but not limited
26 to care provided under the MaineCare program and the prescription drug program
27 established under section 254-D. "Medical care" does not include treatments provided
28 under the Tobacco Prevention and Control Program established in section 272 or the
29 delivery of preventive health screenings or services in a school setting.

30 **10. Settlement funds.** "Settlement funds" means any money received by the State or
31 any component of the State in settlement of or in relation to the lawsuit *State of Maine v.*
32 *Philip Morris, et al.*, Kennebec County Superior Court, Docket No. CV-97-134.

33 **11. Social determinants of health.** "Social determinants of health" means the
34 conditions in which people are born, grow, live, work and age, as well as the social
35 structures and economic systems that shape these conditions, including the social
36 environment, physical environment and health services.

37 **12. Social group.** "Social group" means a group of people in this State that share
38 similar social, economic, demographic, geographic or other characteristics, including, but
39 not limited to, race, ethnicity, gender, gender identity, sexual orientation, class, zip code,
40 age or disability.

41 **13. State health plan.** "State health plan" means the most recent plan for improving
42 public health and health equity prepared by the Department of Health and Human Services,
43 Maine Center for Disease Control and Prevention for accreditation by a nonprofit public

1 health accreditation board dedicated to advancing the continuous quality improvement of
2 tribal, state, local and territorial health departments or any successor plan identified by the
3 Maine Center for Disease Control and Prevention.

4 **14. Structural inequity.** "Structural inequity" means the systemic disadvantage of one
5 social group in the State compared to other social groups in the State as a result of law,
6 policy, culture or other social structure, including, but not limited to, poverty,
7 discrimination, powerlessness or access to job opportunities, quality education, housing or
8 health care.

9 **15. Systemic racism.** "Systemic racism" means the laws and institutionalized policies,
10 practices or social structures that maintain and perpetuate domination by and advantages
11 for the race that is socially constructed as being white to the detriment of or with the purpose
12 of imposing influence or control over any other race that is socially constructed to be non-
13 white, including through color-blind discourse or derogatory and inaccurate stereotypes.

14 **16. Trust.** "Trust" means the Trust for a Healthy Maine established in section 1515,
15 subsection 1.

16 **17. Trustee.** "Trustee" means a member of the board.

17 **18. Trust fund.** "Trust fund" means the Trust for a Healthy Maine Trust Fund
18 established in section 1520-E, subsection 1.

19 **§1515. Trust for a Healthy Maine; Trust for a Healthy Maine Board**

20 **1. Establishment; purposes.** The Trust for a Healthy Maine is established for the
21 purposes of receiving all settlement funds and other funds, redistributing that money to
22 state agencies or designated agents of the State to fund tobacco use prevention and control
23 at levels recommended by the United States Department of Health and Human Services,
24 Centers for Disease Control and Prevention and to ensure adequate resources for other
25 disease prevention efforts and promoting public health. The purposes of the trust also
26 include supporting state agencies in planning and delivering public health and prevention
27 programs and services, supporting accreditation of the Department of Health and Human
28 Services, Maine Center for Disease Control and Prevention and supporting public health
29 workforce development. The trust also provides public health expertise and evidence-based
30 information to the Legislature.

31 **2. Governance; board.** The trust is created as a body corporate and politic and a
32 public instrumentality of the State and is governed by the Trust for a Healthy Maine Board
33 in accordance with this subchapter.

34 **3. Trustees; appointment.** The board consists of 15 trustees in accordance with this
35 subsection. A person who stands to benefit from the tobacco products, as defined in section
36 1551, subsection 3, alcohol or marijuana industry is not eligible to serve as a trustee.

37 A. The Director of the Maine Center for Disease Control and Prevention within the
38 Department of Health and Human Services or the director's designee serves as an ex
39 officio voting trustee.

40 B. The Governor shall appoint 3 trustees in accordance with this paragraph:

41 (1) A person who has clinical expertise or public health expertise, or both, in the
42 science and prevention of addiction as a brain disease, selected from
43 recommendations provided by a statewide organization dedicated to supporting

1 physicians, advancing the quality of medicine and promoting the health of citizens
2 in the State;

3 (2) A person who is an employer with experience recruiting and retaining a healthy
4 workforce; and

5 (3) A person who has experience as a member of an advisory board of a local
6 community health coalition, selected from recommendations provided by a
7 statewide network of community coalitions working to enhance physical, social,
8 emotional, environmental and economic health in the State.

9 C. The Governor shall appoint trustees from nominations made in accordance with this
10 paragraph within 30 days of receiving the nominations.

11 (1) The President of the Senate shall, for each of the following 3 qualifications,
12 submit to the Governor within 30 days of a vacancy 3 names for consideration:

13 (a) A person who has expertise in epidemiology and infectious disease or in
14 hospital-based prevention, screening and early prevention of infectious
15 disease, selected from recommendations provided by the integrated health care
16 delivery systems in the State and by a statewide hospital organization that
17 provides advocacy, information and education in its mission to improve the
18 health of patients and communities;

19 (b) A person who has clinical expertise or public health expertise, or both, in
20 rural primary care, selected from recommendations provided by a statewide
21 organization that represents community health centers in the State; and

22 (c) A person who has expertise in systemic racism and structural inequity and
23 is serving on the Permanent Commission on the Status of Racial, Indigenous
24 and Maine Tribal Populations, in accordance with Title 5, section 25002.

25 (2) The Speaker of the House of Representatives shall, for each of the following 2
26 qualifications, submit to the Governor within 30 days of a vacancy 3 names for
27 consideration:

28 (a) A person who has expertise in public health policy related to the leading
29 causes of chronic disease, selected from recommendations provided by a
30 statewide, nonprofit membership organization that promotes a healthy State
31 through advocacy, education, community connection and coalition-building;
32 and

33 (b) A person who has expertise in preventing the use of tobacco products and
34 other addictive substances by youth and young adults.

35 (3) The member of the Senate who is the leader of the party with the 2nd-largest
36 number of members in the Senate shall, for each of the following 2 qualifications,
37 submit to the Governor within 30 days of a vacancy 3 names for consideration:

38 (a) A person who has expertise in trauma, community resilience and social
39 determinants of health, selected from recommendations provided by a
40 statewide network dedicated to building community strengths and reducing the
41 effects of trauma; and

1 (b) A person who represents a statewide association of public health
2 professionals.

3 (4) The member of the House of Representatives who is the leader of the party
4 with the 2nd-largest number of members in the House shall, for each of the
5 following 2 qualifications, submit to the Governor within 30 days of a vacancy 3
6 names for consideration:

7 (a) A person who is employed as a member of the senior staff or faculty in a
8 public health academic program; and

9 (b) A person who has expertise in maternal and child health issues, including
10 early childhood education and out-of-school child care, or school-based health.

11 (5) The chiefs of the 4 federally recognized Indian tribes in the State shall, for each
12 of the following 2 qualifications, submit to the Governor within 30 days of a
13 vacancy 3 names for consideration:

14 (a) A person who has expertise in environmental health; and

15 (b) A person who has expertise in health equity or health disparity issues.

16 The trustees appointed pursuant to paragraphs B and C must be reviewed by the joint
17 standing committee of the Legislature having jurisdiction over public health matters and
18 approved by the Senate.

19 **4. Terms; vacancies.** Trustees serve 3-year terms. Trustees may serve no more than
20 3 consecutive terms. A trustee shall serve on the board until a replacement is appointed and
21 qualified. If a trustee is unable to complete a term, the Governor shall consult with the
22 board and appoint a replacement for the remainder of the unexpired term. The replacement
23 trustee must hold the same qualifications, set forth in subsection 3, as those of the departing
24 trustee.

25 **5. Chair; officers.** The board shall elect a chair, a vice-chair, a secretary and a
26 treasurer from among the trustees. Each officer serves a one-year term in that office and is
27 eligible for reelection.

28 **6. Meetings; quorum.** The board shall meet at least 4 times each year at regular
29 intervals and may meet at other times at the call of the chair or the Governor. A majority
30 of the trustees constitutes a quorum. Meetings of the board are public proceedings as
31 provided by Title 1, chapter 13, subchapter 1. Notwithstanding any provision of law to the
32 contrary, a trustee who is not physically present may participate by telephone or other
33 remote access technology in accordance with procedures established by the board.

34 **7. Election of subcommittees.** The board may elect an executive committee of not
35 fewer than 5 trustees who, between meetings of the board, may transact such business of
36 the trust as the board authorizes. The board may also elect a planning committee.

37 **8. Liaison to Legislature.** The chair is the trust's liaison to the joint standing
38 committee of the Legislature having jurisdiction over public health matters.

39 **9. Advisory groups.** The board may establish advisory groups as needed to gather
40 technical knowledge on any aspect of public health policy, infrastructure or funding
41 disbursement and to make recommendations to the board. Advisory groups may include
42 persons who are not trustees.

1 **10. Removal of trustee for disciplinary reasons.** The board shall develop the process
2 of removal and replacement of trustees for disciplinary reasons.

3 **11. Expenses; reimbursement.** Trustees are not entitled to compensation for service
4 on the board, except that, in accordance with Title 5, section 12004-G, subsection 14-J, the
5 trust may reimburse travel and other board-related expenses.

6 **12. Fiduciary duties.** A trustee has a fiduciary duty to the people of the State in the
7 administration of the trust. Upon accepting appointment as a trustee, each trustee shall
8 acknowledge the fiduciary duty to use the trust fund only for the purposes set forth in this
9 subchapter. It is the duty of each trustee to ensure that the purposes of the trust set forth in
10 this subchapter are fulfilled.

11 **13. Conflict of interest.** A trustee is deemed to be an executive employee for purposes
12 of Title 5, sections 18, 18-A and 19. In the operation or dissolution of the trust, a trustee,
13 employee of the trust, officer of the trust or a spouse or dependent child of any of those
14 individuals may not receive any direct personal benefit from the activities of the trust,
15 except that the trust may pay reasonable compensation for services rendered and otherwise
16 hold, manage and dispose of the trust's property in furtherance of the purposes of the trust.
17 This subsection does not prohibit corporations or other entities with which a trustee is
18 associated by reason of ownership or employment from participating in activities funded
19 directly or indirectly by the trust if ownership or employment is made known to the board
20 and the trustee abstains from all matters directly relating to that participation immediately
21 upon discovery of the association.

22 **§1516. Powers and duties**

23 **1. Powers.** The trust may:

24 A. Receive all settlement funds;

25 B. Receive money from any other source, whether public or private, designated for
26 deposit into or credited to the trust;

27 C. Receive funds transferred from the Fund for a Healthy Maine under subchapter 1;

28 D. Through funding disbursement plans under section 1517, disburse funds; and

29 E. Make recommendations to the Governor, the Legislature and other public officials
30 regarding improving public health outcomes and promoting public health awareness
31 and understanding.

32 **2. Duties.** The trust shall:

33 A. Administer the trust and the trust fund;

34 B. Promote the visibility and understanding of public health issues among children
35 and adults;

36 C. Participate in the development and promotion of a state health plan by the
37 Department of Health and Human Services, Maine Center for Disease Control and
38 Prevention or another planning entity and provide funding for the planning process if
39 necessary;

40 D. Promote multilevel planning and coordination that includes state, district,
41 community and municipal decision-making and advisory boards; and

1 E. Take other actions necessary and appropriate to fulfill the purposes of this
2 subchapter.

3 **§1517. Funding disbursement plan**

4 **1. Funding disbursement plan.** By December 31, 2022 and every year thereafter,
5 the board shall develop and approve a funding disbursement plan to disburse settlement
6 funds and other funds it may hold or receive in the subsequent biennium. The funding
7 disbursement plan must advance the purposes of this subchapter and be based on the most
8 recent state health plan and the most recent data available to the board.

9 **2. Input from interested parties.** Prior to adopting a funding disbursement plan
10 pursuant to subsection 1 or substantially amending an existing funding disbursement plan,
11 the trust shall hold at least one public hearing to receive input from interested parties,
12 including but not limited to the Department of Health and Human Services, Maine Center
13 for Disease Control and Prevention, other state agencies, organizations engaged in smoking
14 cessation and public health efforts, other nongovernmental organizations, interested
15 stakeholders, patients and members of the public. The board shall establish the procedure
16 and timelines for seeking input from interested parties. The board shall also determine
17 what circumstances, consistent with this subsection, would require the board to initiate a
18 public hearing. When considering the input of interested parties, the trust must consider
19 principles of zero-based budgeting, as defined in Title 35-A, section 102, subsection 25,
20 and long-term returns on investment.

21 **3. Funding disbursement plans.** The funding disbursement plan approved by the
22 board pursuant to subsection 1 for fiscal year 2023-24 must disburse an amount equal to
23 0.30 of the settlement funds projected to be received in fiscal year 2023-24 for the purpose
24 of providing medical care. The funding disbursement plan approved by the board for fiscal
25 year 2024-25 and subsequent years may not disburse funds for the purpose of providing
26 medical care. When approving other elements of the funding disbursement plans, the board
27 shall consider funding levels in the most recent fiscal year and disburse funding in amounts
28 that minimize disruption of existing programs and ensure smooth and efficient transitions
29 to the funding levels required under subsection 4.

30 **4. Designated disbursements.** Each funding disbursement plan approved by the
31 board must disburse funds in accordance with the following designated disbursements:

32 A. An amount of the settlement funds received in the previous fiscal year must be
33 disbursed to the Department of Health and Human Services, Maine Center for Disease
34 Control and Prevention or its designated agent for purposes of providing evidence-
35 based tobacco prevention and control programs in the State in accordance with the
36 following:

37 (1) For fiscal year 2023-24, an amount that is at least 0.70 of the level
38 recommended by the United States Department of Health and Human Services,
39 Centers for Disease Control and Prevention; and

40 (2) For fiscal year 2024-25 and in subsequent fiscal years, an amount that when
41 combined with amounts from other funding sources received by the Department of
42 Health and Human Services, Maine Center for Disease Control and Prevention
43 yields a total amount that is at least the level recommended by the United States

1 Department of Health and Human Services, Centers for Disease Control and
2 Prevention;

3 B. An amount of the settlement funds received in the previous fiscal year must be
4 disbursed to the Department of the Attorney General in accordance with the following:

5 (1) Beginning in fiscal year 2023-24, an amount equal to 0.005 of the settlement
6 funds; and

7 (2) Beginning in fiscal year 2024-25 and in subsequent years, an amount equal to
8 the amount the Department of the Attorney General received in accordance with
9 subparagraph (1) adjusted by the Chained Consumer Price Index, as defined in
10 Title 36, section 5402;

11 C. An amount of the settlement funds received in the previous fiscal year must be
12 disbursed to the administration fund established pursuant to section 1519, subsection 1
13 in accordance with the following:

14 (1) Beginning in fiscal year 2023-24, an amount equal to 0.003; and

15 (2) Beginning in fiscal year 2024-25 and in subsequent years, an amount equal to
16 the amount the administration fund received in accordance with subparagraph (1)
17 adjusted by the Chained Consumer Price Index as defined in Title 36, section 5402;

18 D. An amount not to exceed 0.05 of the settlement funds received in the previous fiscal
19 year may be disbursed to the internal stabilization account established in subsection 6;

20 E. An amount not to exceed 0.05 of the settlement funds received in the previous fiscal
21 year may be disbursed to the internal flexible account established in subsection 7; and

22 F. The funds remaining after making the disbursements required by paragraphs A to
23 C and authorized by paragraphs D and E must be disbursed to the health equity and
24 health improvement account established in subsection 5.

25 The designated disbursements approved by the board may not disburse settlement funds
26 for the purpose of providing medical care.

27 **5. Health equity and health improvement account.** A health equity and health
28 improvement account is established and funded with settlement funds in accordance with
29 subsection 4, paragraph F.

30 A. The funding disbursement plan approved by the board must disburse funds from the
31 health equity and health improvement account to prioritize the advancement of health
32 equity and the elimination of structural inequity. For fiscal year 2023-24, the funding
33 disbursement plan must disburse an amount equal to or greater than 0.15 of the funds
34 in the health equity and health improvement account. For fiscal year 2024-25 and
35 subsequent years, the funding disbursement plan must disburse an amount equal to or
36 greater than 0.20 of the funds in the health equity and health improvement account.
37 Funds disbursed in accordance with this paragraph must be distributed to achieve all
38 or some of the following:

39 (1) Improving data collection, analysis and reporting, particularly for, among and
40 co-led by populations experiencing health disparities, which includes social
41 determinants of health, community resilience, racial impacts and health equity;

1 (2) Enhancing health improvement and health equity planning at the local, district
2 and state levels that addresses and confronts systemic racism and structural
3 inequity;

4 (3) Supporting public-private partnerships at the local and district levels, including
5 comprehensive community health coalitions, as defined in section 411, and
6 organizations that prioritize health equity and derive meaningful leadership from
7 the communities they serve;

8 (4) Supporting the expansion, recruitment, retention and presence of the public
9 health workforce at local, district and state levels, including supporting a robust
10 network of community health workers and government employees in the State
11 dedicated to addressing systemic racism and structural inequity; and

12 (5) Providing training and technical assistance for local health officers, boards of
13 health, community and municipal leaders, community organizations, community
14 partnerships and other organizations providing public health services or serving
15 the functions of the State's public health and safety system.

16 B. Funds remaining in the health equity and health improvement account after the
17 disbursements required in paragraph A must be for state entities or their designated
18 agents that, in the board's sole determination, will use the funds efficiently and
19 effectively to promote the purposes of this subchapter, implement evidence-based
20 prevention and screening strategies to address the priorities of the state health plan,
21 support efforts by the Department of Health and Human Services, Maine Center for
22 Disease Control and Prevention to prevent disease and promote public health and
23 implement strategies for building and sustaining public health capacity and
24 infrastructure at the state and local levels. These funds may not be disbursed for the
25 purpose of providing medical care.

26 **6. Internal stabilization account.** An internal stabilization account is established
27 within the trust. In order to prevent disruptions from year to year in the amounts disbursed
28 pursuant to designated disbursements under subsection 4 and to ensure continuity in the
29 event of fluctuations in the amount of settlement funds received by the State, the board may
30 draw upon the internal stabilization account to make additional disbursements. The trust
31 may not cause the balance in the internal stabilization account at any one time to exceed
32 the amount of settlement funds received by the trust in the most recent year. The funds
33 within the internal stabilization account are nonlapsing and carry forward from year to year
34 for future use consistent with this subsection and do not revert to the trust fund.

35 **7. Internal flexible account.** An internal flexible account is established within the
36 trust. The funds in the internal flexible account may be drawn upon by the board for the
37 purpose of rapidly addressing emerging public health threats, promptly implementing
38 innovative promising practices or addressing other immediate unmet needs identified by
39 the board in the period between approval of funding disbursement plans, consistent with
40 the purposes of this subchapter. Trustees shall consult regularly with the commissioner
41 regarding emerging funding needs. Year-end balances remaining in the internal flexible
42 account lapse to the trust fund and are available for a subsequent year's funding
43 disbursement plan.

44 **8. Informational copies of funding disbursement plans.** Upon final approval by
45 the board of a funding disbursement plan, the trust shall transmit informational copies of

1 the funding disbursement plan to the Governor and to the joint standing committee of the
2 Legislature having jurisdiction over public health matters. A funding disbursement plan
3 does not require approval of the Governor or the joint standing committee of the Legislature
4 having jurisdiction over public health matters.

5 **9. Report.** The trust shall produce annually a report on the results of the tobacco
6 prevention and control programs funded pursuant to subsection 4, paragraph A and all other
7 activities of the trust. The report must include an accounting of the funding disbursement
8 plan created pursuant to this section, including identification of recipients, activities and
9 amounts disbursed. The report must include information and outcomes from the trust's
10 investments pursuant to subsection 4, paragraph C. The report may include information on
11 actual health and economic outcomes from funding disbursed to date and projected
12 outcomes from undertakings funded by the trust but not yet complete. The report may also
13 include recommendations for changes to the laws relating to activities under the jurisdiction
14 of the trust. The board must approve the report prior to its release. Upon release, the trust
15 shall transmit copies of the report to the Governor and to the joint standing committee of
16 the Legislature having jurisdiction over public health matters. The board shall establish
17 policies and practices for reporting in accordance with this subsection.

18 **10. Audit.** The trust must be audited at least annually by an independent certified public
19 auditor. A copy of the audit must be provided to the Governor and to the joint standing
20 committee of the Legislature having jurisdiction over public health matters.

21 **§1518. Restrictions; construction**

22 The trust's activity is restricted to receiving and disbursing funds and any actions
23 necessary and appropriate to receive and disburse funds. The trust may not create, manage
24 or operate public health or health delivery programs. Nothing in this subchapter may be
25 construed to empower the trust to direct, manage or oversee any program, fund or activity
26 of any other state agency.

27 **§1519. Administration**

28 **1. Administration fund.** The board shall establish an administration fund to be used
29 solely to defray administrative costs approved by the board or the coordinator. The trust
30 may annually deposit funds authorized to be used for administrative costs under this
31 subchapter into the administration fund. Any interest on funds in the administration fund
32 must be credited to the administration fund, and any funds unspent in any fiscal year carry
33 forward and remain in the administration fund to be used to defray administrative costs. In
34 any year, the board may not disburse to the administration fund an amount greater than the
35 amount allowed pursuant to section 1517, subsection 4, paragraph C. The board may also
36 use the administration fund to contract for reasonable professional assistance to help review
37 input received from interested parties, to develop the funding disbursement plan under
38 section 1517 and to allow the board to fulfill its responsibilities under this subchapter. The
39 board shall define the roles and responsibilities of any professional assistance in accordance
40 with this subsection.

41 **2. Coordinator.** The board shall appoint, using a full and competitive search process,
42 a qualified full-time coordinator of the trust. The coordinator serves at the pleasure of the
43 board. The coordinator must have demonstrated experience in research and analysis of
44 public health issues, coordination of public health programs or administrative support of a
45 board in the public health sector, public health finance or policy or closely related

1 experience. The coordinator shall assist the board in gathering and disseminating
2 information, preparing for meetings, analyzing public health issues at the direction of the
3 board, communicating with stakeholders, writing reports and such other board support and
4 administrative functions as the board may assign. The board shall establish the rate and
5 amount of compensation of the coordinator. The coordinator may exercise any powers
6 lawfully delegated to the coordinator by the board.

7 **3. Bylaws.** The board shall adopt bylaws for the governance of its affairs consistent
8 with this subchapter.

9 **4. Coordination with other entities.** Consistent with the requirements of this
10 subchapter and other applicable law, the board shall coordinate the development of its
11 funding disbursement plans with the Statewide Coordinating Council for Public Health,
12 established under Title 5, section 12004-G, subsection 14-G, and other state agencies and
13 authorities the missions of which relate to the purposes of this subchapter in order to
14 minimize inefficiency and duplication and to ensure consistency and effectiveness.
15 Notwithstanding any provision of law to the contrary, upon request of the trust and upon
16 the approval of the commissioner or director of the state agency receiving the request, other
17 state agencies, officials and employees shall cooperate and assist in the administration of
18 the trust as needed to further the purposes of this subchapter.

19 **5. Recommendations.** The trust may receive and shall consider any recommendations
20 made by the Governor, other state agencies, the joint standing committee having oversight
21 under section 1520-A and other interested entities and individuals.

22 **§1520. Rulemaking**

23 The trust shall adopt rules regarding establishing and administering the trust, receiving
24 public input and developing and approving funding disbursement plans. Rules adopted
25 pursuant to this section are routine technical rules pursuant to Title 5, chapter 375,
26 subchapter 2-A.

27 **§1520-A. Legislative oversight**

28 The trust is subject to the oversight of the joint standing committee of the Legislature
29 having jurisdiction over public health matters.

30 **§1520-B. Construction by court**

31 The court shall liberally construe this subchapter to give the greatest possible effect to
32 the powers and duties accorded to the trust.

33 **§1520-C. Freedom of access; confidentiality**

34 The proceedings of the board and records of the trust are subject to the freedom of
35 access laws under Title 1, chapter 13, subchapter 1.

36 **§1520-D. Liability**

37 **1. Bond.** All officers, trustees, employees and other agents of the trust entrusted with
38 the custody of funds of the trust or authorized to disburse the funds of the trust must be
39 bonded either by a blanket bond or by individual bonds with a minimum of \$100,000
40 coverage for each person, or equivalent fiduciary liability insurance, conditioned upon the
41 faithful performance of their duties. The premiums for the bond or bonds are administrative
42 costs of the trust.

1 **2. Indemnification.** Each trustee must be indemnified by the trust against expenses
2 actually and necessarily incurred by the trustee in connection with the defense of any action
3 or proceeding in which the trustee is made a party by reason of being or having been a
4 trustee and against any final judgment rendered against the trustee in that action or
5 proceeding.

6 **§1520-E. Trust for a Healthy Maine Trust Fund**

7 **1. Establishment.** The Trust for a Healthy Maine Trust Fund is established as a
8 nonlapsing fund administered exclusively by the trust solely for the purposes established
9 in this subchapter.

10 **2. Tobacco settlement funds.** Notwithstanding any provision of law to the contrary,
11 the State Controller shall credit to the trust fund all settlement funds immediately upon
12 receipt by the State.

13 **3. Administration of trust fund.** The trust fund may not be used for any purposes
14 other than those set forth in this subchapter, and money in the trust fund is held in trust for
15 the purposes of this subchapter. All money received by the trust must be deposited in the
16 trust fund for distribution by the trust in accordance with this subchapter. The trust is
17 authorized to receive settlement funds and may also seek and accept funding from other
18 public or private sources if the trust determines that such acceptance advances the purposes
19 of this subchapter. Any balance in the trust fund not spent in any fiscal year does not lapse
20 but must carry forward in the trust fund available to be used immediately for the purposes
21 of this subchapter, upon the sole direction of the trust. Any interest or investment income
22 earned by the trust fund must be credited to the trust fund. The trust may use administrative
23 services of the Department of Administrative and Financial Services for the management
24 of the trust fund, but the role of the Department of Administrative and Financial Services
25 is nondiscretionary and the Department of Administrative and Financial Services shall
26 carry out all lawful instructions of the trust for all matters relating to accessing the trust
27 fund without the requirement of an additional legislative authorization or a financial order.

28 **4. Working capital advance.** The State Controller is authorized to provide an annual
29 advance from the General Fund to the trust fund to provide money for disbursements from
30 the trust fund. The money must be returned to the General Fund as the first priority from
31 the amounts credited to the trust fund pursuant to subsection 2.

32 **5. Transfer of funds upon repeal or dissolution of the trust fund.** If the trust fund
33 is repealed or dissolved for any reason, the State Controller shall transfer the balance of
34 funds in the trust fund to the Fund for a Healthy Maine established in section 1511.

35 **Sec. A-5. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 22,
36 section 1515, subsection 4, at the initial meeting of the Trust for a Healthy Maine Board,
37 trustees shall draw lots to determine trustees' initial term lengths so that the initial terms of
38 5 trustees expire after one year, the initial terms of 4 trustees expire after 2 years and the
39 initial terms of 5 trustees expire after 3 years.

40 **Sec. A-6. Initial appointments.** Notwithstanding the Maine Revised Statutes, Title
41 22, section 1515, subsection 3, paragraph C, the President of the Senate, Speaker of the
42 House, member of the Senate who is the leader of the party with the 2nd-largest number of
43 members in the Senate, member of the House of Representatives who is the leader of the
44 party with the 2nd-largest number of members in the House and the chiefs of the 4 federally

1 recognized Indian tribes in the State shall make the initial nominations of trustees for the
2 Trust for a Healthy Maine Board to the Governor within 60 days of the effective date of
3 this legislation.

4 **Sec. A-7. Transfer from Fund for a Healthy Maine.** The State Controller, no
5 later than July 1, 2023, shall transfer all settlement funds, as defined in the Maine Revised
6 Statutes, Title 22, section 1514, subsection 10, in the Fund for a Healthy Maine and a pro
7 rata share of investment income in the Fund for a Healthy Maine to the Trust for a Healthy
8 Maine Trust Fund.

9 PART B

10 **Sec. B-1. 22 MRSA §414** is enacted to read:

11 **§414. Office of Health Equity**

12 **1. Office established.** The Office of Health Equity is established within the
13 department. The office is staffed by at least one full-time employee.

14 **2. Purpose.** The Office of Health Equity shall:

15 A. Upon request, advise the commissioner, the Governor's Office of Policy Innovation
16 and the Future and other state agencies, the Legislature and the Governor on health
17 systems, policies and practices, including intradepartmental and interdepartmental
18 training;

19 B. Provide recommendations to the public and State Government and private and
20 philanthropic partners to advance health equity, as defined in section 1514, subsection
21 8, in all sectors and settings;

22 C. Produce and update a state health equity plan to:

23 (1) Create systems, policies and practices to achieve health equity, as defined in
24 section 1514, subsection 8, in all policies across State Government, including
25 robust surveillance and evaluation; and

26 (2) Establish policies to ensure all state contractors and vendors have a health
27 equity plan in place as a criteria for funding; and

28 D. Produce an annual report, known as the Maine Health Equity Report Card, which
29 includes health programs and services, outcomes and social determinants of health
30 equity, as defined in section 1514.

31 PART C

32 **Sec. C-1. Obesity prevention standards in early care and education.** The
33 Department of Education shall adopt rules to revise its nutrition, physical activity, screen
34 time and sugary drink standards to increase obesity prevention in early care and education
35 in accordance with this section.

36 1. Early care and education nutrition standards must be consistent with the meal
37 patterns of the most recent version of the United States Department of Agriculture, Food
38 and Nutrition Service standards for the child and adult care food program established in 42
39 United States Code, Section 1766.

40 2. Physical activity standards must be consistent with the standards in the most recent
41 version of the publication "Caring for Our Children" developed as part of a collaboration

1 between the American Academy of Pediatrics, the American Public Health Association and
2 the National Resource Center for Health and Safety in Child Care and Early Education.

3 3. Screen time standards must be consistent with the standards in the most recent
4 version of the publication "Caring for Our Children" developed as part of a collaboration
5 between the American Academy of Pediatrics, the American Public Health Association and
6 the National Resource Center for Health and Safety in Child Care and Early Education.

7 4. Sugary drink standards must be consistent with the standards in the publication
8 "Consensus Statement. Healthy Beverage Consumption in Early Childhood:
9 Recommendations from Key National Health and Nutrition Organizations" dated
10 September 2019.

11 Rules adopted pursuant to this section are routine technical rules as defined in the
12 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

13 **Sec. C-2. Obesity prevention standards in public schools.** The Department of
14 Education shall adopt rules to revise its school nutrition and physical activity standards to
15 increase obesity prevention in public schools in accordance with this section.

16 1. School nutrition standards must:

17 A. Require, at a minimum, the standards established by the United States Department
18 of Agriculture in Final Rule: National School Lunch Program and School Breakfast
19 Program: Nutrition Standards for All Foods Sold in School as Required by the Healthy,
20 Hunger-Free Kids Act of 2010, 7 Code of Federal Regulations, Parts 210 and 220
21 (2016);

22 B. Require, at a minimum, the standards established in the most recent version of the
23 publication "A Guide to Smart Snacks in School" issued by the United States
24 Department of Agriculture, Food and Nutrition Service for school meals and foods sold
25 or available in schools outside of federally reimbursable school meals programs;

26 C. Require reasonably scheduled meal periods and minimum meal times, in alignment
27 with the standards set by the federal Healthy, Hunger-Free Kids Act of 2010, Public
28 Law 111-296, that ensure sufficient time to eat; and

29 D. Require that all school meals served under the programs described in the Maine
30 Revised Statutes, Title 20-A, section 6602, subsection 1, paragraph C meet standards
31 consistent with those of breakfast and lunch served during the school year.

32 2. Physical activity standards must be consistent with the standards in the most recent
33 version of the publication "Comprehensive School Physical Activity Programs" developed
34 by the United States Department of Health and Human Services, Centers for Disease
35 Control and Prevention in collaboration with SHAPE America.

36 3. Contingent upon state funding, the department shall make all students, regardless
37 of household income, eligible to receive a breakfast and lunch at the public school free of
38 charge. A student in a public school online learning program must be eligible to receive a
39 breakfast and lunch from the public school free of charge.

40 4. Contingent upon state funding, the department shall develop and provide technical
41 assistance and incentives for public schools to meet nutrition standards more stringent than
42 required under law or rule.

1 5. The department shall require the phasing out of artificial food dyes that cause
2 adverse behavioral effects in children.

3 6. Contingent upon state funding, the department shall provide kitchen equipment
4 grants for upgrades, repairs and maintenance.

5 Rules adopted pursuant to this section are routine technical rules as defined in Title 5,
6 chapter 375, subchapter 2-A.

7 **PART D**

8 **Sec. D-1. 22 MRSA §1551, sub-§1-D**, as enacted by PL 2017, c. 308, §1, is
9 amended to read:

10 **1-D. Electronic smoking device.** "Electronic smoking device" has the same meaning
11 as in section 1541, subsection 1-A means any device that may be used to deliver any
12 aerosolized or vaporized substance to the person inhaling from the device, including, but
13 not limited to, an electronic cigarette, electronic cigar, electronic pipe, vape pen or
14 electronic hookah. "Electronic smoking device" includes any component, part or accessory
15 of the device and also includes any substance that may be aerosolized or vaporized by that
16 device, whether or not the substance contains nicotine. "Electronic smoking device" does
17 not include drugs, devices or combination products authorized for sale by the United States
18 Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and
19 Cosmetic Act.

20 **Sec. D-2. 22 MRSA §1551, sub-§1-E** is enacted to read:

21 **1-E. Flavored tobacco product.** "Flavored tobacco product" means any tobacco
22 product that imparts a taste or smell, other than the taste or smell of tobacco, that is
23 distinguishable by an ordinary consumer either prior to or during the consumption of a
24 tobacco product, including, but not limited to, any taste or smell relating to fruit, menthol,
25 mint, wintergreen, chocolate, cocoa, vanilla, honey or any candy, dessert, beverage, herb
26 or spice.

27 **Sec. D-3. 22 MRSA c. 262-A, sub-c. 5**, as amended, is amended by amending the
28 subchapter headnote to read:

29 **SUBCHAPTER 5**

30 **FLAVORED CIGARS TOBACCO PRODUCTS**

31 **Sec. D-4. 22 MRSA §1560-D**, as amended by PL 2011, c. 380, Pt. II, §2, is repealed.

32 **Sec. D-5. 22 MRSA §1560-E** is enacted to read:

33 **§1560-E. Flavored tobacco products**

34 **1. Prohibition on sale or distribution of flavored tobacco products.** A tobacco
35 retailer may not sell or distribute or offer to sell or distribute in this State any flavored
36 tobacco product. A public statement or claim made or disseminated by the retailer or
37 manufacturer of a tobacco product, or by a person authorized or permitted by the retailer
38 or manufacturer to make or disseminate public statements concerning a tobacco product,

1 that a tobacco product has or produces a taste or smell other than tobacco constitutes
2 presumptive evidence that the tobacco product is a flavored tobacco product.

3 **2. Violation.** A tobacco retailer who violates this section commits a civil violation for
4 which a fine may be imposed under subsection 3.

5 **3. Fines.** The fines that apply to violations of this section are as set out in this
6 subsection.

7 A. A tobacco retailer who violates subsection 1 commits a civil violation for which a
8 fine of \$1,000 may be adjudged.

9 B. A tobacco retailer who violates subsection 1 after having previously been convicted
10 of a violation of that subsection commits a civil violation for which a fine of \$5,000
11 may be adjudged.

12 **PART E**

13 **Sec. E-1. 36 MRSA §4365**, as amended by PL 2005, c. 457, Pt. AA, §1 and affected
14 by §8, is further amended to read:

15 **§4365. Rate of tax**

16 A tax is imposed on all cigarettes imported into this State or held in this State by any
17 person for sale at the rate of ~~400~~ 200 mills for each cigarette. Payment of the tax is
18 evidenced by the affixing of stamps to the packages containing the cigarettes.

19 **Sec. E-2. 36 MRSA §4365-F**, as enacted by PL 2005, c. 457, Pt. AA, §3 and
20 affected by §8, is repealed.

21 **Sec. E-3. 36 MRSA §4365-G** is enacted to read:

22 **§4365-G. Application of cigarette tax rate increase effective November 1, 2021**

23 The following provisions apply to cigarettes held for resale on November 1, 2021.

24 **1. Stamped rate.** Cigarettes stamped at the rate of 100 mills per cigarette and held
25 for resale after October 31, 2021 are subject to tax at the rate of 200 mills per cigarette.

26 **2. Liability.** A person possessing cigarettes for resale is liable for the difference
27 between the tax rate of 200 mills per cigarette and the tax rate of 100 mills per cigarette in
28 effect before November 1, 2021. Stamps indicating payment of the tax imposed by this
29 section must be affixed to all packages of cigarettes held for resale as of November 1, 2021,
30 except that cigarettes held in vending machines as of that date do not require that stamp.

31 **3. Vending machines.** Notwithstanding any provision of this chapter to the contrary,
32 it is presumed that all cigarette vending machines are filled to capacity on November 1,
33 2021, and the tax imposed by this section must be reported on that basis. A credit against
34 this inventory tax must be allowed for cigarettes stamped at the rate of 200 mills per
35 cigarette placed in vending machines before November 1, 2021.

36 **4. Payment.** Payment of the tax imposed by this section must be made to the assessor
37 by January 1, 2022, accompanied by forms prescribed by the assessor.

38 **Sec. E-4. 36 MRSA §4366-A, sub-§2**, as amended by PL 2009, c. 361, §23, is
39 further amended to read:

1 **2. Provided to sellers.** The State Tax Assessor shall provide stamps to a licensed
 2 distributor upon submission by the licensed distributor of a cigarette tax return in a form
 3 prescribed by the assessor. The stamps must be of a design suitable to be affixed to
 4 packages of cigarettes as evidence of the payment of the tax imposed by this chapter. The
 5 assessor may permit a licensed distributor to pay for the stamps within 30 days after the
 6 date of purchase, if a bond satisfactory to the assessor in an amount not less than 50% of
 7 the sale price of the stamps has been filed with the assessor conditioned upon payment for
 8 the stamps. Such a distributor may continue to purchase stamps on a 30-day deferral basis
 9 only if it remains current with its cigarette tax obligations. The assessor may not sell
 10 additional stamps to a distributor that has failed to pay in full within 30 days for stamps
 11 previously purchased until such time as the overdue payment is received. ~~The assessor~~
 12 ~~shall sell cigarette stamps to licensed distributors at the following discounts from their face~~
 13 ~~value:~~

14 ~~D. For stamps at the face value of 100 mills, the discount rate is 1.15%.~~

15 **Sec. E-5. 36 MRSA §4381** is amended to read:

16 **§4381. Tax credited to General Fund; Fund for a Healthy Maine**

17 The revenue derived from the tax imposed by this chapter ~~shall~~ must be credited to the
 18 General Fund of the State, ~~except that the State Controller shall credit 50% of the net tax~~
 19 ~~revenue to the Fund for a Healthy Maine established under Title 22, section 1511 to be~~
 20 ~~segregated into a separate account under Title 22, section 1511, subsection 11, with the use~~
 21 ~~of funds in the account restricted to the purposes described in Title 22, section 1511,~~
 22 ~~subsection 6.~~

23 **Sec. E-6. Appropriations and allocations.** The following appropriations and
 24 allocations are made.

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

27 Initiative: Appropriates funds for one Comprehensive Health Planner II position to act as
 28 the Obesity Care Coordinator in the Maine Center for Disease Control and Prevention.

GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	1,000	1,000
Personal Services	\$89,627	\$92,480
All Other	\$6,398	\$6,398
GENERAL FUND TOTAL	\$96,025	\$98,878

35 **Maine Center for Disease Control and Prevention 0143**

36 Initiative: Appropriates funds to implement evidence-based programming relating to the
 37 reduction of unhealthy weight and obesity.

GENERAL FUND	2021-22	2022-23
All Other	\$154,000	\$151,000
GENERAL FUND TOTAL	\$154,000	\$151,000

42 **Maine Center for Disease Control and Prevention 0143**

1	Initiative: Appropriates funds for district public health improvement plans.		
2	GENERAL FUND	2021-22	2022-23
3	All Other	\$900,000	\$900,000
4			
5	GENERAL FUND TOTAL	\$900,000	\$900,000
6	Office of Health Equity N365		
7	Initiative: Appropriates funds for one Comprehensive Health Planner II position to act as		
8	the Health Equity Coordinator in the Office of Health Equity.		
9	GENERAL FUND	2021-22	2022-23
10	POSITIONS - LEGISLATIVE COUNT	1,000	1,000
11	Personal Services	\$89,627	\$92,480
12	All Other	\$6,398	\$6,398
13			
14	GENERAL FUND TOTAL	\$96,025	\$98,878
15	Office of Health Equity N365		
16	Initiative: Appropriates funds to implement data collection and reporting in the Office of		
17	Health Equity.		
18	GENERAL FUND	2021-22	2022-23
19	All Other	\$154,000	\$151,000
20			
21	GENERAL FUND TOTAL	\$154,000	\$151,000
22			
23	HEALTH AND HUMAN SERVICES,		
24	DEPARTMENT OF		
25	DEPARTMENT TOTALS		
26		2021-22	2022-23
27	GENERAL FUND	\$1,400,050	\$1,399,756
28			
29	DEPARTMENT TOTAL - ALL FUNDS	\$1,400,050	\$1,399,756
30	Sec. E-7. Effective date. This Part takes effect November 1, 2021.		

31 **SUMMARY**

32 Part A establishes the Trust for a Healthy Maine to receive money paid to the State
33 pursuant to the tobacco settlement and from other sources and to distribute that money to
34 state agencies or designated agents of the State to fund tobacco use prevention and control,
35 ensure adequate resources for other disease prevention efforts, promote public health, plan
36 and deliver public health and prevention programs and services, support accreditation of
37 the Department of Health and Human Services, Maine Center for Disease Control and
38 Prevention and support public health workforce development. The trust is governed by a
39 15-member board of trustees composed of the Director of the Maine Center for Disease
40 Control and Prevention and 14 members appointed by the Governor.

41 Part B establishes the Office of Health Equity within the Department of Health and
42 Human Services. The office is tasked with providing advice to the Commissioner of Health

1 and Human Services, the Governor's Office of Policy Innovation and the Future and other
2 state agencies, the Legislature and the Governor on health systems, policies and practices;
3 providing recommendations to advance health equity in all sectors and settings; producing
4 and updating a state health equity plan; and producing an annual Maine Health Equity
5 Report Card.

6 Part C requires the Department of Education to revise its nutrition, physical activity,
7 screen time and sugary drink standards to increase obesity prevention in early care and
8 education and to revise its school nutrition and physical activity standards to increase
9 obesity prevention in public schools and requires those standards to match those specified
10 by various national organizations and federal agencies.

11 Part D prohibits the sale and distribution of flavored tobacco products, including
12 flavored cigars and electronic smoking devices.

13 Part E increases the tax on cigarettes from 100 mills to 200 mills per cigarette effective
14 November 1, 2021 and eliminates the provision that allows the sale of cigarette stamps to
15 licensed distributors at a discount. The amount of increased revenue from the cigarette tax
16 is credited to the Fund for a Healthy Maine. Part E also provides funding for the health
17 initiatives in the bill.