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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.

Presented by Representative TALBOTT 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.
Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 5 MRSA §12004-G, sub-§14-J is enacted to read:

14-J. Health Trust for a Healthy Maine Board Expenses Only 22 MRSA §1515

Sec. A-2. 22 MRSA c. 260-A, sub-c. 1 is enacted by adding before section 1511 the following to read:

SUBCHAPTER 1

FUND FOR A HEALTHY MAIN

Sec. A-3. 22 MRSA §1511, sub-§2, as enacted by PL 1999, c. 401, Pt. V, §1, is amended to read:

2. Sources of fund. The State Controller shall credit to the fund:

A. All money received by the State in settlement of or in relation to the lawsuit State of Maine v. Philip Morris, et al., Kennebec County Superior Court, Docket No. CV-97-134;

B. Money from any other source, whether public or private, designated for deposit into or credited to the fund; and

C. Interest earned or other investment income on balances in the fund; and

D. If the Trust for a Healthy Maine established in section 1515 is repealed or dissolved, all money transferred from the trust to the fund.

Sec. A-4. 22 MRSA c. 260-A, sub-c. 2 is enacted to read:

SUBCHAPTER 2

TRUST FOR A HEALTHY MAIN

§1513. Short title
This subchapter may be known and cited as "the Trust for a Healthy Maine Act."

§1514. Definitions
As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.
1. **Administrative costs.** "Administrative costs" means staffing, overhead and related operational costs, including costs for a coordinator, professional assistance and bond premiums, incurred by the trust in carrying out its duties under this subchapter.

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

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

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

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

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

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

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

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

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

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

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

13. **State health plan.** "State health plan" means the most recent plan for improving public health and health equity prepared by the Department of Health and Human Services, Maine Center for Disease Control and Prevention for accreditation by a nonprofit public
health accreditation board dedicated to advancing the continuous quality improvement of tribal, state, local and territorial health departments or any successor plan identified by the Maine Center for Disease Control and Prevention.

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

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


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


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

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

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

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

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

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

(1) A person who has clinical expertise or public health expertise, or both, in the science and prevention of addiction as a brain disease, selected from recommendations provided by a statewide organization dedicated to supporting
physicians, advancing the quality of medicine and promoting the health of citizens in the State;

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

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

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

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

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

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

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

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

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

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

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

   (a) A person who has expertise in trauma, community resilience and social determinants of health, selected from recommendations provided by a statewide network dedicated to building community strengths and reducing the effects of trauma; and
(b) A person who represents a statewide association of public health professionals.

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

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

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

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

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

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

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

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

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

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

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

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

9. Advisory groups. The board may establish advisory groups as needed to gather technical knowledge on any aspect of public health policy, infrastructure or funding disbursement and to make recommendations to the board. Advisory groups may include persons who are not trustees.
10. **Removal of trustee for disciplinary reasons.** The board shall develop the process of removal and replacement of trustees for disciplinary reasons.

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

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

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

§1516. **Powers and duties**

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

   A. Receive all settlement funds;

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

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

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

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

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

   A. Administer the trust and the trust fund;

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

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

   D. Promote multilevel planning and coordination that includes state, district, community and municipal decision-making and advisory boards; and
E. Take other actions necessary and appropriate to fulfill the purposes of this subchapter.

§1517. Funding disbursement plan

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Improving data collection, analysis and reporting, particularly for, among and co-led by populations experiencing health disparities, which includes social determinants of health, community resilience, racial impacts and health equity;
(2) Enhancing health improvement and health equity planning at the local, district
and state levels that addresses and confronts systemic racism and structural
inequity;

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

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

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

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

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

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

8. **Informational copies of funding disbursement plans.** Upon final approval by
the board of a funding disbursement plan, the trust shall transmit informational copies of
the funding disbursement plan to the Governor and to the joint standing committee of the
Legislature having jurisdiction over public health matters. A funding disbursement plan
does not require approval of the Governor or the joint standing committee of the Legislature
having jurisdiction over public health matters.

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

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

§1518. Restrictions; construction

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

§1519. Administration

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

2. Coordinator. The board shall appoint, using a full and competitive search process,
a qualified full-time coordinator of the trust. The coordinator serves at the pleasure of the
board. The coordinator must have demonstrated experience in research and analysis of
public health issues, coordination of public health programs or administrative support of a
board in the public health sector, public health finance or policy or closely related
experience. The coordinator shall assist the board in gathering and disseminating information, preparing for meetings, analyzing public health issues at the direction of the board, communicating with stakeholders, writing reports and such other board support and administrative functions as the board may assign. The board shall establish the rate and amount of compensation of the coordinator. The coordinator may exercise any powers lawfully delegated to the coordinator by the board.

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

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

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

§1520. Rulemaking

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

§1520-A. Legislative oversight

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

§1520-B. Construction by court

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

§1520-C. Freedom of access; confidentiality

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

§1520-D. Liability

1. Bond. All officers, trustees, employees and other agents of the trust entrusted with the custody of funds of the trust or authorized to disburse the funds of the trust must be bonded either by a blanket bond or by individual bonds with a minimum of $100,000 coverage for each person, or equivalent fiduciary liability insurance, conditioned upon the faithful performance of their duties. The premiums for the bond or bonds are administrative costs of the trust.
2. Indemnification. Each trustee must be indemnified by the trust against expenses actually and necessarily incurred by the trustee in connection with the defense of any action or proceeding in which the trustee is made a party by reason of being or having been a trustee and against any final judgment rendered against the trustee in that action or proceeding.

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

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

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

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

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

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

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

Sec. A-6. Initial appointments. Notwithstanding the Maine Revised Statutes, Title 22, section 1515, subsection 3, paragraph C, the President of the Senate, Speaker of the House, member of the Senate who is the leader of the party with the 2nd-largest number of members in the Senate, member of the House of Representatives who is the leader of the party with the 2nd-largest number of members in the House and the chiefs of the 4 federally
recognized Indian tribes in the State shall make the initial nominations of trustees for the
Trust for a Healthy Maine Board to the Governor within 60 days of the effective date of
this legislation.

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

PART B

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

§414. Office of Health Equity

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

2. Purpose. The Office of Health Equity shall:

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

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

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

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

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

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

PART C

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

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

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

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

4. Sugary drink standards must be consistent with the standards in the publication

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

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

1. School nutrition standards must:

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

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

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

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

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

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

4. Contingent upon state funding, the department shall develop and provide technical
assistance and incentives for public schools to meet nutrition standards more stringent than
required under law or rule.
5. The department shall require the phasing out of artificial food dyes that cause adverse behavioral effects in children.

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

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

**PART D**

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

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

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

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

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

**SUBCHAPTER 5**

**FLAVORED CIGARS TOBACCO PRODUCTS**

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

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

§1560-E. Flavored tobacco products

1. **Prohibition on sale or distribution of flavored tobacco products.** A tobacco retailer may not sell or distribute or offer to sell or distribute in this State any flavored tobacco product. A public statement or claim made or disseminated by the retailer or manufacturer of a tobacco product, or by a person authorized or permitted by the retailer or manufacturer to make or disseminate public statements concerning a tobacco product,
that a tobacco product has or produces a taste or smell other than tobacco constitutes
presumptive evidence that the tobacco product is a flavored tobacco product.

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

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

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

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

PART E

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

§4365. Rate of tax

A tax is imposed on all cigarettes imported into this State or held in this State by any
person for sale at the rate of 100 200 mills for each cigarette. Payment of the tax is
evolved by the affixing of stamps to the packages containing the cigarettes.

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

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

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

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

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

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

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

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

Sec. E-4. 36 MRSA §4366-A, sub-§2, as amended by PL 2009, c. 361, §23, is
further amended to read:
2. Provided to sellers. The State Tax Assessor shall provide stamps to a licensed distributor upon submission by the licensed distributor of a cigarette tax return in a form prescribed by the assessor. The stamps must be of a design suitable to be affixed to packages of cigarettes as evidence of the payment of the tax imposed by this chapter. The assessor may permit a licensed distributor to pay for the stamps within 30 days after the date of purchase, if a bond satisfactory to the assessor in an amount not less than 50% of the sale price of the stamps has been filed with the assessor conditioned upon payment for the stamps. Such a distributor may continue to purchase stamps on a 30-day deferral basis only if it remains current with its cigarette tax obligations. The assessor may not sell additional stamps to a distributor that has failed to pay in full within 30 days for stamps previously purchased until such time as the overdue payment is received. The assessor shall sell cigarette stamps to licensed distributors at the following discounts from their face value:

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

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

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

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

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

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Maine Center for Disease Control and Prevention 0143

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

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<th>GENERAL FUND</th>
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<td>POSITIONS - LEGISLATIVE COUNT</td>
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<td>Personal Services</td>
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Maine Center for Disease Control and Prevention 0143

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

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<td><strong>GENERAL FUND TOTAL</strong></td>
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<td><strong>$151,000</strong></td>
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Initiative: Appropriates funds for district public health improvement plans.

**GENERAL FUND**

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**Office of Health Equity N365**

Initiative: Appropriates funds for one Comprehensive Health Planner II position to act as the Health Equity Coordinator in the Office of Health Equity.

**GENERAL FUND**

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**Office of Health Equity N365**

Initiative: Appropriates funds to implement data collection and reporting in the Office of Health Equity.

**GENERAL FUND**

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**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

**DEPARTMENT TOTALS**

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**SUMMARY**

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

Part B establishes the Office of Health Equity within the Department of Health and Human Services. The office is tasked with providing advice to the Commissioner of Health...
and Human Services, the Governor's Office of Policy Innovation and the Future and other state agencies, the Legislature and the Governor on health systems, policies and practices; providing recommendations to advance health equity in all sectors and settings; producing and updating a state health equity plan; and producing an annual Maine Health Equity Report Card.

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

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

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