Testimony before the Joint Committee on Appropriations and Financial Affairs
Chairs: Senator Rotundo and Rep. Gattine regarding:

LD 210, An Act Making Unified Appropriations and Allocations from the General Fund and Other Funds for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2025, June 30, 2026 and June 30, 2027

My name is Lisa Miller, I live in Somerville and am a retired public health professional (of nearly 50 years!). I also served in the Legislature from 2004 until 2010, serving on the Health and Human Services Committee as well as Appropriations and Financial Affairs. Given my professional background and my assigned responsibilities in the Legislature, I have a unique perspective about the history and functioning of the Fund for a Healthy Maine (FHM), which explains my concern regarding restructuring of the Fund as described in LD 210.

Many Maine legislators have come and gone since the FHM was first established in 2000 with funds from an unexpected event—the Master Settlement Agreement (MSA) between the states and the major tobacco companies. Few people in the current Legislature were there when the Fund was originally set up and spending priorities developed. A quick bit of history may be helpful.

The MSA was a result of several states bringing suit against the major tobacco companies for the extreme expenditures of tax dollars for health conditions they argued were caused by cigarette smoking. Eventually, 46 states joined (including Maine) and the suit was successful. In April of 2000, Maine received its first annual payment of about $50 million to the FHM to address the ravages of tobacco use and develop strategies to foster healthy kids and communities. Annual payments are based on national sales volume of combustible cigarettes and are impacted by disputes from participating manufacturers. As you will hear later, both variables are now coming into play in the current structural deficit within the FHM.

The Fund for a Healthy Maine was a separate special revenue account created back in 2000 by Maine's Governor and Legislature, honoring the intent of the settlement by protecting this unique source of prevention dollars from biennial state budget battles. Maine policymakers determined the spending priorities for the new MSA dollars and were considered best in the nation in using these funds for tobacco control and prevention programs. The original statute created nine program categories eligible for funding. These were: tobacco prevention and cessation, early childhood education, childcare, home visitation, elderly low-cost drugs, substance abuse, family planning, medical care and oral health.

Over time, the original funding categories have been modified and a few added, which makes sense over a 25-year period. One modification is that an ever-growing proportion of the FHM allocations is going to Medicaid costs. Yes, it is important to note that medical care is one of the original purposes. But we all know as policymakers that even if the FHM were *entirely* dedicated to medical care, it would fund very little of Maine's $4 billion Medicaid Program, while zeroing out the state's primary source of prevention funds.

What we now face is a situation where FHM expenditures—for both medical care and other prevention categories—exceed what's coming in for revenues. Others will later explain the details of this structural deficit but suffice it to say, it is largely due to a change in national tobacco usage from combustible tobacco products to vaping, flavored products, and pouches, which were not even a twinkle in the industry's eye when the MSA was created.

What is the purpose of the LD 210 proposal to move prevention programs out of the FHM into the General Fund, leaving medical care as the sole FHM category? Addressing the structural deficit? Balancing the budget? This move does neither but compromises prevention programs going forward, as they will need to compete against all other items in the General Fund budget. Those of us who have served on the HHS and Appropriations Committees know what happens when push comes to shove—longer term investments in prevention will fall before the lure of quicker (two-year) turnarounds.

Instead, consider doing what Maine's 2023 Blue Ribbon Commission recommended—leave prevention programs in the FHM and move a percentage of Maine's overall tobacco excise tax revenue into the FHM each year. That allows prevention programs to remain in a moderately "protected" status while injecting needed resources into the FHM to address the structural deficit.

This is a "win-win" strategy that we rarely see as legislators. I hope you'll take it!