

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document

No. 1904

H.P. 1357

House of Representatives, June 20, 1997

An Act to Discourage Smoking, Provide Tax Relief and Improve the Health of Maine Citizens.

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Speaker MITCHELL of Vassalboro.
Cosponsored by President LAWRENCE of York and
Representatives: BRUNO of Raymond, CAMERON of Rumford, MITCHELL of Portland,
O'BRIEN of Augusta, SAXL of Portland, Senators: MILLS of Somerset, PARADIS of
Aroostook, PINGREE of Knox.

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 22 MRSA §1546 is enacted to read:

§1546. Tobacco Tax Relief Fund

1. Tobacco Tax Relief Fund established. The Tobacco Tax Relief Fund, referred to in this section as "the fund," is established as part of a program to address urgent tax relief needs of citizens of the State. Expenditures from the fund must be made as provided in this section.

2. Transfers to fund. Beginning November 1, 1997, the State Controller shall transfer to the fund money representing 37 mills per cigarette from the tax levied under Title 36, section 4365.

3. Payments from fund. After depositing funds under subsection 2, the State Controller shall make the following payments in the following order:

A. The State Controller shall transfer to the department for the Tobacco Prevention and Control Program established in section 272 funds sufficient for all allocations from the fund; and

B. No other funds may be expended without the recommendations of the joint standing committee of the Legislature having jurisdiction over tax matters and enacted by the full Legislature.

4. Nonlapsing fund. Any unexpended balance in the fund may not lapse, but must be carried forward to be used pursuant to subsection 3.

5. Transfer to General Fund. The State Controller shall transfer into the General Fund the revenues necessary to maintain the level of cigarette tax revenue at the level that was budgeted for the General Fund in fiscal years 1997-98 and 1998-99. Beginning in fiscal year 1999-2000, the State Controller shall transfer to the General Fund the revenues necessary to maintain the level of cigarette tax revenue in the previous year less 3%. The Treasurer of State shall annually review the recommendations of the Consensus Revenue Forecasting Committee to determine whether any change in the reduction rate is required and, if so, shall change the rate accordingly.

2 **Sec. A-2. 36 MRSA §4365**, as repealed and replaced by PL 1997,
c. 458, §6, is amended by adding a new 2nd paragraph to read:

4 Beginning November 1, 1997, as a public health measure, the
5 tax imposed under this section is 37 mills per cigarette. The
6 tax imposed pursuant to this section is dedicated to the Tobacco
7 Tax Relief Fund established in Title 22, section 1546.

8 **Sec. A-3. 36 MRSA §4365-D** is enacted to read:

10 **§4365-D. Rate of tax beginning November 1, 1997**

12 Beginning November 1, 1997, the following provisions apply
14 to cigarettes held for resale on that date.

16 **1. Stamped rate.** Cigarettes stamped at the rate of 18.5
17 mills per cigarette and held for resale after October 31, 1997
18 are subject to tax at the rate of 37 mills per cigarette.

20 **2. Liability.** A person possessing cigarettes for resale is
21 liable for the difference between the tax rate of 37 mills per
22 cigarette and the tax rate of 18.5 mills per cigarette in effect
23 before November 1, 1997. Stamps indicating payment of the tax
24 imposed by this section must be affixed to all packages of
25 cigarettes held for resale as of November 1, 1997, except that
26 cigarettes held in vending machines as of that date do not
27 require that stamp.

28 **3. Vending machines.** Notwithstanding any other provision
29 of this chapter, it is presumed that all cigarette vending
30 machines are filled to capacity on November 1, 1997 and the tax
31 imposed by this section must be reported on that basis. A credit
32 against this inventory tax must be allowed for cigarettes stamped
33 at the 37 mill rate placed in vending machines before November 1,
34 1997.

36 **4. Payment.** Payment of the tax imposed by this section
37 must be made to the State Tax Assessor by February 1, 1998,
38 accompanied by forms prescribed by the assessor and must be
39 credited to the Tobacco Tax Relief Fund established in Title 22,
40 section 1546.

42 **Sec. A-4. Appropriation.** The following funds are appropriated
44 from the General Fund to carry out the purposes of this Part.

| | 1997-98 | 1998-99 |
|----|-------------------------------------|---------|
| 46 | | |
| 48 | | |
| | ADMINISTRATIVE AND FINANCIAL | |

2 **SERVICES, DEPARTMENT OF**

4 **Bureau of Taxation**

| | | | |
|---|-------------------------------|----------|----------|
| 6 | Positions - Legislative Count | (1,000) | (1,000) |
| 6 | Personal Services | \$15,903 | \$32,904 |
| 8 | All Other | 38,920 | 53,440 |
| 8 | Capital Expenditures | 10,000 | |

10 Provides funds for one
12 Revenue Agent position,
12 effective January 1, 1998,
14 one contract investigator and
14 related administrative
16 expenses to administer and
16 enforce the cigarette tax
18 laws.

18 **DEPARTMENT OF ADMINISTRATIVE
20 AND FINANCIAL SERVICES
20 TOTAL**

\$64,823 \$86,344

22 **Sec. A-5. Effective date.** This Part takes effect October 1,
24 1997.

26 **PART B**

28 **Sec. B-1. Maine Commission on Children's Health Care established.**
30 The Maine Commission on Children's Health Care, referred to in
32 this Part as the "commission," is established.

34 **Sec. B-2. Membership.** The commission consists of 16 members
as follows:

36 1. The following 2 commissioners:

38 A. The Commissioner of Human Services, or the
40 commissioner's designee; and

42 B. The Commissioner of Professional and Financial
Regulation, or the commissioner's designee;

44 2. Seven public members, 3 appointed by the Governor, 2
46 appointed by the President of the Senate and 2 appointed by the
Speaker of the House of Representatives; and

48 3. Seven Legislators of whom 4 represent the majority party
50 and 3 represent the minority party. Of the 7 Legislators, at
least 2 may be members of the Joint Standing Committee on Health

2 and Human Services, 2 may be members of the Joint Standing
Committee on Banking and Insurance and 2 may be members of the
4 Joint Standing Committee on Appropriations and Financial
Affairs. The legislative members must be appointed jointly by
6 the President of the Senate and the Speaker of the House of
Representatives.

8 The chair of the commission must be selected jointly from
among the members by the President of the Senate, the Speaker of
10 the House of Representatives and the Governor.

12 **Sec. B-3. Appointments.** All appointments must be made no
later than 15 days following the effective date of this Part.
14 The appointing authorities shall notify the Executive Director of
the Legislative Council upon making their appointments. When the
16 appointment of all members is complete, the Executive Director of
the Legislative Council shall call and convene the first meeting
18 of the commission no later than October 10, 1997.

20 **Sec. B-4. Duties.** The commission shall assess the current
health needs of the children of this State and develop a series
22 of recommendations to maximize the fulfillment of those needs.
The commission shall:

24 1. Assess the best and latest available data regarding
26 children's health insurance in the State, including the number of
children under 18 years of age who lack health insurance;

28 2. Examine the costs and benefits of Medicaid expansion
30 with pending federal changes;

32 3. Examine the benefits and detriments of accepting a block
grant that would expand children's health access; and

34 4. Examine the advantages and disadvantages of alternative
36 health services and financing mechanisms of children's health
services.

38 **Sec. B-5. Staff assistance.** The commission may request staffing
and clerical assistance from the State Planning Office and the
40 Legislative Council.

42 **Sec. B-6. Compensation.** Commission members who are
44 Legislators are entitled to receive the legislative per diem, as
defined in the Maine Revised Statutes, Title 3, section 2, and
46 reimbursement for travel and other necessary expenses for each
day's attendance at meetings of the commission. Other members of
48 the commission are not entitled to compensation or reimbursement
for expenses.

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2 and approval of the Governor, to be used for children's health
services.

4 **2. Abandoned Property Fund; transfer of funds.**
6 Notwithstanding any other provision of law, the State Controller
is authorized to transfer \$500,000 in fiscal year 1997-98 and
8 \$500,000 in fiscal year 1998-99 from the Abandoned Property Fund
to the Children's Health Reserve Account as Other Special Revenue
10 no later than June 30th of each fiscal year. These transfers are
to be made after the Abandoned Property Fund transfers to the
12 General Fund, as included in the last accepted revenue estimate
for the 1998-1999 biennium, have been made.

14 **3. Department of Human Services; transfer of funds.** The
16 Department of Human Services shall seek reimbursement of
expenditures under Aid to Families with Dependent Children, Title
18 IV-A of the Social Security Act in the amount of \$800,000 in
fiscal year 1997-98 to be credited to the Children's Health
20 Reserve Account as Other Special Revenue no later than June 30,
1998.

22 **Sec. C-2. Use of funds.** Funds from the account must be used to
24 match available state and federal funds for the purpose of
meeting recommendations of the Maine Commission on Children's
26 Health Care as enacted by the Legislature.

28 **Sec. C-3. Additional funds.** If the funds in the account are
insufficient to meet the requirement of section 2 of this Part,
30 the Governor shall include in the Governor's recommendations to
the Joint Standing Committee on Appropriations and Financial
32 Affairs, in the budget submitted in the Second Regular Session of
the 118th Legislature, any necessary additional funds to fulfill
34 the recommendations of the Maine Commission on Children's Health
Care.

36 **PART D**

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40 **Sec. D-1. 5 MRSA §12004-I, sub-§36-D is enacted to read:**

| | | | | |
|----|-----------------|--------------------|--------------------|----------------|
| 42 | 36-D. | <u>Tobacco</u> | <u>Expenses/</u> | <u>22 MRSA</u> |
| | <u>Human</u> | <u>Prevention</u> | <u>Legislative</u> | <u>\$272</u> |
| 44 | <u>Services</u> | <u>and Control</u> | <u>Per Diem</u> | |
| | | <u>Advisory</u> | <u>for Non-</u> | |
| 46 | | <u>Council</u> | <u>salaried</u> | |
| | | | <u>Employee</u> | |
| 48 | | | <u>Members</u> | |

50 **Sec. D-2. 22 MRSA c. 102 is enacted to read:**

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CHAPTER 102

TOBACCO TAX AND HEALTH PROTECTION

§271. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Bureau. "Bureau" means the Bureau of Health.

2. Advisory council. "Advisory council" means the Tobacco Prevention and Control Advisory Council.

3. Program. "Program" means the Tobacco Prevention and Control Program.

4. Tobacco products. "Tobacco products" means any form of tobacco and any material or device used in the smoking, chewing or other form of tobacco consumption, including cigarette papers and pipes.

§272. Tobacco Prevention and Control Program

1. Program established. The Tobacco Prevention and Control Program is established in the bureau. The purposes of the program are to prevent the State's youths from ever using tobacco products and to assist youths and adults who currently smoke cigarettes and use other tobacco products to discontinue that use. The program includes the following components:

A. An ongoing, major media campaign to:

(1) Educate the public about the health hazards, costs and other relevant facts surrounding the use of tobacco products;

(2) Encourage young people not to begin using tobacco products;

(3) Motivate the users of tobacco products to discontinue smoking; and

(4) Encourage public acceptance of smoke-free environments;

B. Grants for funding community-based programs aimed at tobacco prevention and control, including funding of tobacco prevention and control education for those school

2 administrative units that choose to offer such programs to
3 primary, middle and high school students; for
4 community-based enforcement of state tobacco control laws,
5 including sales to minors and for cessation services;

6
7 C. Procedures for monitoring and evaluating the prevention
8 and control program, including:

10 (1) Monitoring and maintaining the program's
11 effectiveness through an evaluation of each component;
12 and

14 (2) Assessing the prevalence of the use of tobacco
15 products and knowledge about and attitudes towards such
16 use on a statewide and community basis; and

18 D. In conjunction with law enforcement and other state and
19 federal agencies, increased law enforcement efforts to
20 increase compliance with laws regarding the transportation,
21 distribution and sale of cigarettes and tobacco products.

22 The bureau shall administer the program with the review and
23 advice provided by the council in subsection 2 and may contract
24 for professional services to carry out the program.

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27 2. Tobacco Prevention and Control Advisory Council. The
28 Tobacco Prevention and Control Advisory Council is established
29 under Title 5, section 12004-I, subsection 36-D to review the
30 program. The advisory council shall provide advice to the bureau
31 in carrying out its duties under this section and ensure
32 coordination of the program with relevant nonprofit and community
33 agencies and the Department of Education, the Department of
34 Mental Health, Mental Retardation and Substance Abuse Services,
35 the Office of Substance Abuse and other relevant state agencies.
36 The advisory council consists of 9 members, appointed as follows:

38 A. Two public health officials, appointed by the Governor;

40 B. Two representatives of nonprofit organizations involved
41 in seeking to reduce the use of tobacco products in the
42 State, with one representative appointed by the President of
43 the Senate and one representative appointed by the Speaker
44 of the House of Representatives;

46 C. A person who designs and implements issue-oriented
47 public health media campaigns, appointed by the Governor;

48 D. Two persons involved in designing and implementing
50 community-based education or cessation programs for the

2 prevention of tobacco products use, one to focus on adults,
3 appointed by the President of the Senate, and one to focus
4 on youth, appointed by the Speaker of the House of
5 Representatives; and

6 E. Two members of the public, appointed jointly by the
7 President of the Senate and the Speaker of the House of
8 Representatives in consultation with the leaders of the
9 minority political party.

10 Appointments to the advisory council must be made by October 15,
11 1997. Members serve for 3-year terms and may be reappointed.
12 When the appointment of all members is complete, the Governor or
13 the Governor's designee shall convene the first meeting of the
14 advisory council no later than November 15, 1997. The advisory
15 council shall choose a chair from among its members and establish
16 its procedure for reaching decisions. The bureau shall provide
17 staff assistance to the advisory council. The advisory council
18 shall report annually on the program to the Governor and the
19 Legislature by December 1st and include any recommendations or
20 proposed legislation to further the purposes of the program.

21 The appointing authority shall fill a vacancy on the advisory
22 council for the remainder of the vacant term. Each member who is
23 not a salaried employee is entitled to compensation as provided
24 in Title 5, section 12004-I, subsection 36-D, following approval
25 of expenses by the Director of the Bureau of Health.

26 **Sec. D-3. Allocation.** The following funds are allocated from
27 Other Special Revenue to carry out the purposes of this Part.

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| | 1997-98 | 1998-99 |
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34 **HUMAN SERVICES, DEPARTMENT OF**

35 **Bureau of Health**

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|----|-----------|-------------|-------------|
| 36 | All Other | \$3,500,000 | \$3,500,000 |
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38 Provides funds from the
39 Tobacco Tax Relief Fund to
40 support the Tobacco
41 Prevention and Control
42 Program.
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47 **PART E**

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49 **Sec. E-1. Task Force on Improving Access to Prescription Drugs for**
50 **the Elderly established.** The Task Force on Improving

2 Access to Prescription Drugs for the Elderly, referred to in this
Part as the "task force," is established.

4 **Sec. E-2. Membership.** The task force consists of 9 members
appointed as follows:

6 1. Three members, appointed by the President of the Senate;

8 2. Three members, appointed by the Speaker of the House of
10 Representatives; and

12 3. Three members, appointed by the Governor.

14 The chair of the task force must be selected jointly from
the members by the President of the Senate, the Speaker of the
16 House of Representatives and the Governor.

18 **Sec. E-3. Appointments.** All appointments must be made no
later than 30 days following the effective date of this Part.
20 The appointing authorities shall notify the Executive Director of
the Legislative Council upon making their appointments. When the
22 appointment of all members is complete, the Executive Director of
the Legislative Council shall call and convene the first meeting
24 of the task force no later than October 10, 1997.

26 **Sec. E-4. Duties.** The task force shall determine and
recommend methods on improving access to prescription drugs for
28 the State's elderly citizens.

30 **Sec. E-5. Staff assistance.** The task force may request staffing
and clerical assistance from the Legislative Council.

32 **Sec. E-6. Compensation.** Members of the task force who are
34 Legislators are entitled to receive the legislative per diem, as
defined in the Maine Revised Statutes, Title 3, section 2, and
36 reimbursement for travel and other necessary expenses for each
day's attendance at meetings of the task force. Other members of
38 the task force are not entitled to compensation or reimbursement
for expenses.

40 **Sec. E-7. Report.** The task force shall submit its
42 recommendations, with any necessary implementing legislation, to
the Governor and the Legislature by January 15, 1998. The Joint
44 Standing Committee on Health and Human Services may report out
legislation based on the report of the task force.

46 **Sec. E-8. Appropriation.** The following funds are appropriated
48 from the General Fund to carry out the purposes of this Part.

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LEGISLATURE

**Task Force on Improving Access
to Prescription Drugs for the
Elderly**

| | |
|-------------------|---------|
| Personal Services | \$1,320 |
| All Other | 1,700 |

Provides funds for the per diem and expenses of legislative members and for miscellaneous costs, including printing of the Task Force on Improving Access to Prescription Drugs for the Elderly.

LEGISLATURE

| | |
|--------------|----------------|
| TOTAL | \$3,020 |
|--------------|----------------|

PART F

Sec. F-1. Health Care Fund for Maine Citizens established. The Health Care Fund for Maine Citizens, referred to in this Part as the "fund," is established. Any unexpended balance in the fund may not lapse, but must be carried forward to be used pursuant to section 2 of this Part.

Sec. F-2. Tobacco suit award or settlement. Any award or settlement amount received by the State from a tobacco company pursuant to the action brought by the State against cigarette manufacturers or any other funds received as a result of any action involving the tobacco industry must be deposited into the Health Care Fund for Maine Citizens, an Other Special Revenue account that may not lapse. Notwithstanding any other provision of law to the contrary, the Attorney General's Office may recover the costs of bringing the action upon recommendation of the Legislature.

Sec. F-3. Contingent effective date. This Part does not take effect unless the State receives funds pursuant to section 2 of this Part.

FISCAL NOTE

2

1997-98

1998-99

4

APPROPRIATIONS/ALLOCATIONS

6

General Fund \$71,283 \$86,344

8

Other Funds 3,500,000 3,500,000

10 REVENUES

12

General Fund \$384,745 \$654,742

14

Other Funds 18,105,463 30,811,050

16

Increasing the cigarette tax effective November 1, 1997 and dedicating all of the net additional cigarette tax revenue to the Tobacco Tax Relief Fund will increase Other Special revenue by \$18,084,786 in fiscal year 1997-98 and \$30,775,864 in fiscal year 1998-99.

20

The increase in price affecting the sales tax will increase General Fund revenue by \$384,745 in fiscal year 1997-98 and \$654,742 in fiscal year 1998-99. The corresponding increase in dedicated revenue to the Local Government Fund for state-municipal revenue sharing will be \$20,677 and \$35,186, respectively.

28

The bill provides Other Special Revenue allocations \$3,500,000 in fiscal years 1997-98 and 1998-99, respectively, for the Tobacco Control and Prevention Control Program.

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32

The Bureau of Taxation will require additional General Fund appropriations of \$64,823 and \$86,344 in fiscal years 1997-98 and 1998-99, respectively, for one Revenue Agent position effective January 1, 1998, one contract investigator and related administrative expenses to administer and enforce the cigarette tax laws.

38

The Legislature will require a General Fund appropriation of \$3,440 in fiscal year 1997-98 for the per diem and expenses of legislative members and miscellaneous costs, including printing, of the Maine Commission on Children's Health Care. The additional costs associated with providing staffing assistance to the commission can be absorbed by the Legislature utilizing existing budgeted resources.

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The additional costs associated with providing staffing assistance to the commission can be absorbed by the State Planning Office utilizing existing budgeted resources. The Department of Human Services and the Department of Professional

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2 and Financial Regulation will incur some minor additional costs
to participate as members of the commission. These costs can be
absorbed within those departments' existing budgeted resources.

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6 The Legislature will additionally require a General Fund
appropriation of \$3,020 in fiscal year 1997-98 for the per diem
and expenses of legislative members and miscellaneous costs of
8 the Task Force on Improving Access to Prescription Drugs for the
Elderly. The additional costs associated with providing staffing
10 and clerical assistance to the task force can be absorbed by the
Legislature utilizing existing budgeted resources.

14 SUMMARY

16 This bill does the following.

18 1. It increases the tax on cigarettes 37¢ per pack to 74¢
and creates a Tobacco Tax Relief Fund to receive the revenue from
20 the increase in the tax on cigarettes. Except for the funding of
the Tobacco Prevention and Control Program, no other revenue from
22 the increase may be expended without the recommendation of the
joint standing committee of the Legislature having jurisdiction
24 over tax matters and the approval of the Legislature.

26 2. It establishes the Maine Commission on Children's Health
Care to assess the current unmet health care needs of the
28 children of this State and make recommendations on fulfilling
those needs.

30 3. It establishes the Children's Health Reserve Account to
32 provide \$8,000,000 in funding for children's health services, as
recommended by the State Budget Officer and approved by the
34 Governor.

36 4. It establishes the Tobacco Prevention and Control
Program to prevent the State's youths from using tobacco products
38 and to assist youths and adults who currently smoke cigarettes
and use other tobacco products to discontinue the use of tobacco
40 products. The program is funded through a portion of the revenue
from the increase in tax on cigarettes.

42 5. It establishes the Task Force on Improving Access to
44 Prescription Drugs for the Elderly to determine and recommend
methods for improving access to prescription drugs for elderly
46 citizens of the State.

48 6. It establishes the Health Care Fund for Maine Citizens
to receive any award or settlement that results from an action
50 against the tobacco industry.