

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

Legislative Document

No. 2463

H.P. 1757

House of Representatives, January 10, 2000

An Act to Establish the Tobacco Smokers Medical Fund.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative GOODWIN of Pembroke.
Cosponsored by Senator DOUGLASS of Androscoggin and
Representatives: BROOKS of Winterport, CHIZMAR of Lisbon, DUGAY of Cherryfield,
DUPLESSIE of Westbrook, HATCH of Skowhegan, JACOBS of Turner, MURPHY of
Kennebunk, TUTTLE of Sanford.

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

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

6 **1. Fund established.** The Fund for a Healthy Maine, referred to in this ~~chapter~~ section as the "fund," is established as an Other Special Revenue fund for the purposes specified in this ~~chapter~~ section.

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

14 **A. All Twenty-five percent of 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;

18 **Sec. 3. 22 MRSA §§1513 and 1514** are enacted to read:

20 **§1513. Tobacco Smokers Medical Fund established**

22 **1. Fund established.** The Tobacco Smokers Medical Fund, referred to in this section as the "fund," is established as an Other Special Revenue fund for the purposes specified in this section.

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

26 **A. Seventy-five percent of 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;**

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

32 **C. Interest earned or other investment income on balances in the fund.**

34 **3. Allocation; amounts.** The following provisions govern the allocations of the fund.

36 **A. For the first 5 years that the State receives money described in subsection 2, paragraph A, the Treasurer of State shall report to the Legislature the amount that represents 90% of the annual payment that is expected to be received pursuant to subsection 2, paragraph A and available for allocation for the purposes specified in subsection 6.**

2 The remainder of the annual payment is to be allocated to
3 the Tobacco Smokers Medical Trust Fund as established in
4 section 1514 to earn income and provide resources to pay for
5 the purposes specified in subsection 6 if the source of the
6 fund described in subsection 2, paragraph A stops.

7 B. After the first 5 years that the State receives money
8 pursuant to subsection 2, paragraph A, the Treasurer of
9 State shall report to the Legislature the amount that is
10 available for allocation for the purposes specified in
11 subsection 6 equal to 90% of the sum of the amount expected
12 to be available in the fund from all sources. The remaining
13 funds must be held in a contingency reserve.

14 C. The amount being held as the contingency reserve may be
15 used only for the purposes stated in subsection 6 and then
16 only as determined under paragraph B of this subsection.

17 4. Restrictions. This section does not require the
18 provision of services for the purposes specified in subsection
19 6. When allocations are made to direct services, services to
20 lower-income consumers must have priority over services to
21 higher-income consumers. Allocations from the fund must be used
22 to supplement, not supplant, appropriations from the General Fund.

23 5. General Fund limitation. Notwithstanding any provision
24 to the contrary in this section, any program, expansion of a
25 program, expenditure or transfer authorized by the Legislature
26 using the fund may not be transferred to the General Fund without
27 specific legislative approval.

28 6. Medical treatment purposes. Allocations under
29 subsection 3 are limited to payments for medical treatments for
30 individuals suffering from diseases or conditions that are
31 certified by an allopathic or osteopathic doctor to be the result
32 of smoking tobacco or breathing secondhand smoke. The department
33 shall adopt rules that identify the diseases or conditions
34 eligible for payment under this subsection, and the procedures
35 for certification of the disease or condition and application for
36 payments. Rules adopted pursuant to this subsection are major
37 substantive rules as defined in Title 5, chapter 375, subchapter
38 II-A.

39 7. Investment; plan; report. Notwithstanding Title 5,
40 section 135, the Treasurer of State shall invest and reinvest the
41 money in the contingency reserve in accordance with the standards
42 defined in Title 18-A, section 7-302.

43 A. The Treasurer of State shall develop and implement a
44 prudent and profitable investment plan for the contingency
45 reserve.

2 reserve under subsection 3. The plan must attempt to
3 maximize return and minimize risk.

4 B. The Treasurer of State shall report at least annually on
5 or before the 2nd Friday in December to the joint standing
6 committee of the Legislature having jurisdiction over
7 appropriations and financial affairs and the joint standing
8 committee of the Legislature having jurisdiction over health
9 and human services matters. The report must fulfill the
10 requirements of subsection 3 and summarize the activity in
11 any funds or accounts directly related to this section.

12 **§1514. Tobacco Smokers Medical Trust Fund established**

13 1. Fund established. Notwithstanding the provisions of
14 Title 5, section 135-A, the Tobacco Smokers Medical Trust Fund,
15 referred to in this section as the "fund," is established as a
16 nonexpendable trust fund.

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

19 A. All allocations by the Legislature to the fund in
20 accordance with section 1513, subsection 3, paragraph A; and

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

23 3. Investment of funds. The money in the fund may be
24 invested by the Treasurer of State with the assistance of one or
25 more fiduciaries or registered investment advisors. The duties
26 and expenses of the fiduciaries or registered investment advisors
27 must be handled in a manner consistent with Title 5, section
28 17108, subsections 2 and 3. All earnings must be credited to the
29 fund.

30 4. Nonlapsing fund. Any unexpended balance in the fund may
31 not lapse, but must be carried forward for the benefit of the
32 fund.

33 **SUMMARY**

34 **This bill takes 75% of the funds received as a result of the**
35 **tobacco settlement and establishes a fund to be used for medical**
36 **treatment for individuals with diseases determined to result from**
37 **smoking or secondhand smoke.**