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Amendment Name: Amendment CA (H-888) (LD 1961 2020)

Date: 10/13/2020

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HEALTH AND HUMAN SERVICES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1405, L.D. 1961, “An Act To Establish the Trust for a Healthy Maine”

Amend the bill by striking out everything after the enacting clause and inserting the following:

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

14-J.

Health Trust for a Healthy Expenses Only 22 MRSA §1515
Maine Board

Sec. 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 MAINE

Sec. 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 - A. ~~All~~ If the Trust for a Healthy Maine established in section 1515 is repealed or dissolved, all money received by the State in settlement of or in relation to the lawsuit State of Maine v. Philip Morris, et al., Kennebec County Superior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

COMMITTEE AMENDMENT

1 D. If the Trust for a Healthy Maine established in section 1515 is repealed or dissolved,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

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

4 **SUBCHAPTER 2**

5 **TRUST FOR A HEALTHY MAINE ACT**

6 **§1513. Short title**

7 This subchapter may be known and cited as "the Trust for a Healthy Maine Act."

8 **§1514. Definitions**

9 As used in this subchapter, unless the context otherwise indicates, the following terms
10 have the following meanings.

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

14 **2. Board.** "Board" means the Trust for a Healthy Maine Board established under Title
15 5, section 12004-G, subsection 14-J.

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

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

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

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

28 **7. Medical care.** "Medical care" means direct medical care, including but not limited
29 to care provided under the MaineCare program and the prescription drug program
30 established under section 254-D. "Medical care" does not include treatments provided
31 under the Tobacco Prevention and Control Program established in section 272.

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

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

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

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

12 **12. Sugary drink.** "Sugary drink" means any beverage that is sweetened with various
13 forms of sugars that add calories, including, but not limited to, carbonated soda, sports and
14 energy drinks, sweetened rice and dairy beverages, sweetened teas and coffees and other
15 sweetened fruit drinks. "Sugary drink" does not include beverages containing only
16 naturally occurring sugars, such as natural fruit juices.

17 **13. Systemic racism.** "Systemic racism" means the laws and institutionalized policies,
18 practices or social structures that maintain and perpetuate domination by and advantages
19 for the race that is socially constructed as being white to the detriment of or with the purpose
20 of imposing influence or control over any other race that is socially constructed as being
21 nonwhite.

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

24 **15. Trustee.** "Trustee" means a member of the board.

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

27 **§1515. Trust for a Healthy Maine; Trust for a Healthy Maine Board**

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

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

42 **3. Trustees; appointment.** The board consists of 15 trustees in accordance with this
43 subsection. A person who stands to benefit from the tobacco products, as defined in section

1 1551, subsection 3, alcohol, marijuana or sugary drink industry is not eligible to serve as a
2 trustee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (b) A person who represents a statewide association of public health
11 professionals.

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

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

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

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

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

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

25 The 14 appointed trustees must be reviewed by the joint standing committee of the
26 Legislature having jurisdiction over health and human services matters and approved by
27 the Senate.

28 **4. Terms; vacancies.** Trustees serve 3-year terms. Trustees may serve no more than
29 3 consecutive terms. A trustee serves on the board until the trustee is replaced. If a trustee
30 is unable to complete a term, the Governor shall consult with the board and appoint a
31 replacement for the remainder of the unexpired term. The replacement trustee must hold
32 the same qualifications, set forth in subsection 3, as that of the departing trustee.

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

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

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

4 **8. Liaison to Legislature.** The chair is the trust's liaison to the joint standing
5 committee of the Legislature having jurisdiction over health and human services matters.

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

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

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

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

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

31 **§1516. Powers and duties**

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

33 **A.** Receive all settlement funds;

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

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

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

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

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

42 **A.** Administer the trust and the trust fund;

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

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

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

9 E. Take other actions necessary and appropriate to fulfill the purposes of this
10 subchapter.

11 **§1517. Funding disbursement plan**

12 **1. Funding disbursement plan.** By December 31, 2022 and every 2 years thereafter,
13 the board shall develop and approve a funding disbursement plan to disburse settlement
14 funds and other funds it may hold or receive in the subsequent biennium. The funding
15 disbursement plan must advance the purposes of this subchapter and be based on the most
16 recent state health plan and the most recent data available to the board.

17 **2. Input from interested parties.** Prior to adopting a funding disbursement plan
18 under subsection 1 or substantially amending an existing funding disbursement plan, the
19 trust shall hold at least one public hearing to receive input from interested parties, including,
20 but not limited to, the Department of Health and Human Services, Maine Center for Disease
21 Control and Prevention, other state agencies, organizations engaged in smoking cessation
22 and public health efforts, other nongovernmental organizations, interested stakeholders,
23 patients and members of the public. The board shall establish the procedure and timelines
24 for seeking input from interested parties. The board shall determine the necessary
25 circumstances, consistent with this subsection, to initiate a public hearing. When
26 considering the input of interested parties, the trust must consider zero-based budgeting
27 principles and long-term returns on investment.

28 **3. Funding disbursement plans.** The funding disbursement plan approved by the
29 board under subsection 1 for fiscal year 2023-24 must disburse an amount equal to 0.40 of
30 the settlement funds projected to be received in fiscal year 2023-24 for the purpose of
31 providing medical care. The funding disbursement plan approved by the board under
32 subsection 1 for fiscal year 2024-25 must disburse an amount equal to 0.20 of the settlement
33 funds projected to be received in fiscal year 2024-25 for the purpose of providing medical
34 care. The funding disbursement plan approved by the board under subsection 1 for fiscal
35 year 2025-26 and all subsequent fiscal years may not disburse funds for the purpose of
36 providing medical care. When approving other elements of the funding disbursement
37 plans, the board shall work with the Department of Health and Human Services, Maine
38 Center for Disease Control and Prevention regarding the transition of funds and consider
39 funding levels in the most recent fiscal year and disburse funding in amounts that minimize
40 disruption of existing programs and ensure smooth and efficient transitions to the funding
41 levels required under subsection 4.

42 **4. Designated disbursements.** Each funding disbursement plan approved by the
43 board under subsection 1 must disburse funds in accordance with the following designated
44 disbursement:

1 A. An amount that, when combined with amounts from other funding sources received
2 by the Department of Health and Human Services, Maine Center for Disease Control
3 and Prevention, yields a total amount available for purposes of providing
4 evidence-based tobacco prevention and control programs in the State that is in
5 accordance with the following:

6 (1) For fiscal year 2023-24, at least 0.60 of the level recommended by the United
7 States Department of Health and Human Services, Centers for Disease Control and
8 Prevention must be disbursed to the Department of Health and Human Services,
9 Maine Center for Disease Control and Prevention or its designated agent;

10 (2) For fiscal year 2024-25, at least 0.80 of the level recommended by the United
11 States Department of Health and Human Services, Centers for Disease Control and
12 Prevention must be disbursed to the Department of Health and Human Services,
13 Maine Center for Disease Control and Prevention or its designated agent; and

14 (3) Beginning in fiscal year 2025-26 and for all subsequent fiscal years, at least
15 the level recommended by the United States Department of Health and Human
16 Services, Centers for Disease Control and Prevention must be disbursed to the
17 Department of Health and Human Services, Maine Center for Disease Control and
18 Prevention or its designated agent;

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

21 (1) For fiscal year 2023-24, an amount equal to 0.005; and

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

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

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

30 (2) Beginning in fiscal year 2024-25 and for all subsequent fiscal years, an amount
31 equal to the amount the administration fund received in accordance with
32 subparagraph (1) adjusted by the Chained Consumer Price Index as defined in Title
33 36, section 5402;

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

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

38 F. The funds remaining after making the disbursements required by paragraphs A to
39 C and authorized by paragraphs D and E must be disbursed to the Health Improvement
40 Funding Pool account established in subsection 5.

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

1 **5. Health Improvement Funding Pool account.** The Health Improvement Funding
2 Pool account is established and funded with settlement funds in accordance with subsection
3 4, paragraph F.

4 A. The funding disbursement plan approved by the board must disburse funds from
5 the Health Improvement Funding Pool account to prioritize the advancement of health
6 equity and the elimination of structural inequity. For fiscal year 2023-24, the funding
7 disbursement plan must disburse an amount equal to or greater than 0.10 of the funds
8 in the Health Improvement Funding Pool account. For fiscal year 2024-25, the funding
9 disbursement plan must disburse an amount equal to or greater than 0.15 of the funds
10 in the Health Improvement Funding Pool account. For fiscal year 2025-26 and all
11 subsequent years, the funding disbursement plan must disburse an amount equal to or
12 greater than 0.20 of the funds in the Health Improvement Funding Pool account. Funds
13 disbursed in accordance with this paragraph must be distributed to achieve all or some
14 of the following:

15 (1) Improving data collection, analysis and reporting, particularly for populations
16 experiencing health disparities;

17 (2) Enhancing health planning that addresses and confronts systemic racism and
18 structural inequity;

19 (3) Supporting public-private partnerships, including comprehensive community
20 health coalitions as defined in section 411, subsection 2, and organizations that
21 prioritize health equity and derive meaningful leadership from the communities
22 they serve;

23 (4) Supporting the expansion, recruitment, retention and presence of the public
24 health workforce at local, county and state levels; and

25 (5) Providing training and assistance to local and state officials and entities
26 providing public health services.

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

37 **6. Internal stabilization account.** An internal stabilization account is established
38 within the trust. In order to prevent disruptions from year to year in the amounts disbursed
39 pursuant to designated disbursements under subsection 4 and to ensure continuity in the
40 event of fluctuations in the amount of settlement funds received by the State, the board may
41 draw upon the internal stabilization account to make additional disbursements. The trust
42 may not cause the balance in the internal stabilization account at any one time to exceed
43 the amount of settlement funds received by the trust in the most recent year. The funds

1 within the internal stabilization account are nonlapsing and carry forward from year to year
2 for future use consistent with this subsection and do not revert to the trust fund.

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

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

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

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

35 **§1518. Restrictions; construction**

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

41 **§1519. Administration**

42 **1. Administration fund.** The board shall establish an administration fund to be used
43 solely to defray administrative costs approved by the board or the coordinator. The trust
44 may annually deposit funds authorized to be used for administrative costs under this

1 subchapter into the administration fund. Any interest on funds in the administration fund
2 must be credited to the administration fund, and any funds unspent in any fiscal year carry
3 forward and remain in the administration fund to be used to defray administrative costs. In
4 any year, the board may not disburse to the administration fund an amount greater than the
5 amount allowed pursuant to section 1517, subsection 4, paragraph C. The board may also
6 use the administration fund to contract for reasonable professional assistance to help review
7 input received from interested parties, to develop the funding disbursement plan under
8 section 1517 and to allow the board to fulfill its responsibilities under this subchapter. The
9 board shall define the roles and responsibilities of any professional assistance it contracts
10 for in accordance with this subsection.

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

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

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

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

37 **§1520. Rulemaking**

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

42 **§1520-A. Legislative oversight**

43 The trust is subject to the oversight of the joint standing committee of the Legislature
44 having jurisdiction over health and human services matters.

1 **§1520-B. Construction by court**

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

4 **§1520-C. Freedom of access; confidentiality**

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

7 **§1520-D. Liability**

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

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

19 **§1520-E. Trust for a Healthy Maine Trust Fund**

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

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

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

41 **4. Working capital advance.** The State Controller is authorized to provide an annual
42 advance from the General Fund to the trust fund to provide money for disbursements from

1 the trust fund. The money must be returned to the General Fund as the first priority from
2 the amounts credited to the trust fund pursuant to subsection 2.

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

6 **Sec. 5. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 22,
7 section 1515, subsection 4, at the initial meeting of the Trust for a Healthy Maine Board,
8 trustees shall draw lots to determine trustees' initial term lengths so that the initial terms of
9 5 trustees expire after one year, the initial terms of 4 trustees expire after 2 years and the
10 initial terms of 5 trustees expire after 3 years.

11 **Sec. 6. Initial appointments.** Notwithstanding the Maine Revised Statutes, Title
12 22, section 1515, subsection 3, paragraph C, the President of the Senate, Speaker of the
13 House, member of the Senate who is the leader of the party with the 2nd largest number of
14 members in the Senate, member of the House of Representatives who is the leader of the
15 party with the 2nd largest number of members in the House and the chiefs of the 4 federally
16 recognized Indian tribes in the State shall make the initial nominations of trustees to the
17 Governor for the Trust for a Healthy Maine Board within 60 days of the effective date of
18 this legislation.

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

24 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
25 number to read consecutively.

26 SUMMARY

27 This committee amendment makes the following changes to the bill. It:

28 1. Changes the process of the appointment of trustees to the Trust for a Healthy Maine
29 Board, including the appointment process and removal of trustees;

30 2. Changes the membership of the Trust for a Healthy Maine Board to include a person
31 with expertise in systemic racism and structural inequity who is serving on the Permanent
32 Commission on the Status of Racial, Indigenous and Maine Tribal Populations;

33 3. Changes the membership provisions of the Trust for a Healthy Maine Board to
34 disqualify a person from serving as a trustee if the person benefits from the sugary drinks
35 industry;

36 4. Changes the authority of the Trust for a Healthy Maine to include its ability to
37 respond to public health emergencies and systemic health disparities;

38 5. Makes the definition of "administrative costs" more specific;

39 6. Changes the term "allocation" to "disbursement" and amends the definition;

40 7. Changes the term "advisory committees" to "advisory groups" and combines the
41 provisions regarding advisory groups;

- 1 8. Combines the conflict-of-interest and self-dealing provisions in the bill into one
2 conflict-of-interest provision;
- 3 9. Clarifies that the Trust for a Healthy Maine may make recommendations to the
4 Governor and other public officials, in addition to the Legislature;
- 5 10. Changes the provision that identifies the power of the Trust for a Healthy Maine
6 to receive tobacco settlement funds;
- 7 11. Provides that the Trust for a Healthy Maine Board must establish procedures for
8 receiving input on the funding disbursement plan from interested parties;
- 9 12. Delays the implementation of the funding disbursement plan and tobacco
10 settlement funds transfer until fiscal year 2023-24 and extends the phase-in period for full
11 implementation of the funding disbursement plan;
- 12 13. Requires the Trust for a Healthy Maine Board to work with the Department of
13 Health and Human Services, Maine Center for Disease Control and Prevention regarding
14 transitioning tobacco settlement funds to the Trust for a Healthy Maine;
- 15 14. Renames the Tier 1 allocations the designated disbursements and renames the Tier
16 2 Funding Pool account the Health Improvement Funding Pool account;
- 17 15. Changes the provision about the funding level recommended by the United States
18 Department of Health and Human Services, Centers for Disease Control and Prevention
19 for tobacco prevention and control programs;
- 20 16. Adjusts the amount of tobacco settlement funds that must be disbursed to tobacco
21 prevention and control programs and increases that amount over the next 3 fiscal years;
- 22 17. Adjusts the amount of tobacco settlement funds that may be disbursed for medical
23 care and reduces that amount over the next 3 fiscal years;
- 24 18. Increases the amount of the tobacco settlement funds disbursed to the Department
25 of the Attorney General from 0.0035 to 0.005 of the total amount of settlement funds
26 received and increases that amount each fiscal year to account for inflation;
- 27 19. Increases the amount of the tobacco settlement funds disbursed to the
28 administration fund from 0.002 to 0.003 of the total amount of settlement funds received
29 and increases that amount each fiscal year to account for inflation;
- 30 20. Adds requirements for funding from the Health Improvement Funding Pool
31 account to advance health equity and address structural inequity;
- 32 21. Requires the trust to be audited using an independent certified public auditor;
- 33 22. Requires the Trust for a Healthy Maine Board trustees to consult regularly with
34 the Commissioner of Health and Human Services regarding emerging funding needs;
- 35 23. Provides that the Trust for a Healthy Maine Board determines policies around the
36 reporting process and publication of its reports;
- 37 24. Provides that the Trust for a Healthy Maine Board defines the role of any
38 professional administrative assistance it may require;
- 39 25. Provides that state agency cooperation requires the approval of the commissioner
40 or director of the state agency to which the Trust for a Healthy Maine Board has made a
41 request;



129th MAINE LEGISLATURE

LD 1961

LR 3068(02)

An Act To Establish the Trust for a Healthy Maine

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

Future biennium cost increase - General Fund
Future biennium cost increase - Trust for a Healthy Maine
Future biennium cost decrease - Fund for a Healthy Maine

Fiscal Detail and Notes

This bill establishes the Trust for a Healthy Maine to receive money, beginning July 1, 2023, paid to the State pursuant to the tobacco settlement payment (TSP), as defined in the Maine Revised Statutes, Title 22, section 1514, subsection 7, 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 bill also requires the allocation of TSP funds to be determined by the Trust for a Healthy Maine board and this new allocation process could lead to funding decreases in some areas currently funded by the Fund for a Healthy Maine. The full impact of these changes cannot be determined at this time and will only become known when future decisions of the new board are made.

Additionally, the bill lowers the amount available for the purpose of providing medical care in fiscal year 2023-24 to .40 of the TSP funds projected to be received in fiscal year 2023-24 and for fiscal year 2024-25 to .20 of the TSP funds projected to be received in fiscal year 2024-25 and to zero beginning in fiscal year 2025-26. This will decrease the funding for providing medical care coming from the Fund for a Healthy Maine, which will increase the general fund cost for that same purpose. The exact amount of this increase will be dependant on the amount of each year's TSP.