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Blue Ribbon Commission to Design a Plan for Sustained Investment in Preventing Disease and Improving the Health of Maine Communities

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Blue Ribbon Commission to Design a Plan for Sustained Investment in Preventing Disease and Improving the Health of Maine Communities

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Executive Summary

The Fund for a Healthy Maine was established in 1999 to receive payments from tobacco manufacturers in accordance with the Master Settlement Agreement (MSA), which provides the terms of the legal settlements between states and tobacco manufacturers after states sued manufacturers in an effort to recoup funds the states had spent treating tobacco-related illnesses. The Maine Legislature established the Fund for a Healthy Maine to create parameters for the use of tobacco settlement funds.[1] Over time, as tobacco smoking has waned, so have annual settlement payments to the fund. This trend is expected to continue, resulting in a "structural deficit" for programs and activities supported by the fund at some time in the near future.

Through the passage of Resolve 2023, Chapter 100, the 131st Maine Legislature established the *Blue Ribbon Commission to Design a Plan for Sustained Investment in Preventing Disease and Improving the Health of Maine Communities*, referred to in this report as "the Commission."[2] The resolve language directed the Commission to evaluate funding models and structures that allow for the sustained investment in the health and prosperity of youth and families in the State. The Commission was tasked with prioritizing research and recommendations that:

1. Resolve the structural deficit in the Fund for a Healthy Maine;

2. Identify sources of sustained funding for reducing tobacco use, improving public health, preventing chronic illness, reducing health disparities across demographic and geographic populations and improving the community conditions that support good health and wellness;

3. Identify strategies and structural changes that resolve structural inequities and allow funding and investment plans to extend beyond the Legislature's 2-year budget cycle when doing so is necessary for accomplishing their intents and purposes;

4. Advance the long-term goals established by the Legislature for funds received from legal settlements with manufacturers and excise taxes on products that affect public health and well-being;

5. Identify policy and funding models that maximize alignment between the purpose and intent of public health funding sources and the investments in public health and prevention initiatives those funds support;

6. Identify how funding from various public health-related sources could be blended or pooled to achieve common aims in preventing chronic disease, reducing health disparities among historically disenfranchised and vulnerable populations and improving the community conditions that support the health and resilience of youth in the State; and

[1] 22 MRSA §1511

[2] *See* Appendix A. This legislation was introduced as LD 1722, Resolve, to Establish the Blue Ribbon Commission to Design a Plan for Sustained Investment in Preventing Disease and Improving the Health of Maine Communities.

7. Identify strategies and system changes that would allow for the calculation of return on investment of all proposed public health and prevention measures over a period of time using the projected health and productivity benefits of those investments.

The fifteen Commission members appointed to the Commission brought with them a broad range of experience in government, public health, nonprofit management, finance and other areas.[3] Over the course of four meetings, the Commission solicited, received and discussed a substantial amount of information relevant to its charge as set forth in its authorizing legislation.[4] The Commission's website includes all meeting materials.[5]

Based on the information collected by the Commission and following discussion and deliberation by Commission members, the Commission developed the following findings and recommendations.

Findings

1. **Finding**: That the programs currently funded by the Fund for Healthy Maine are vital and require sustained funding by the Legislature.

2. **Finding**: That current allocations will soon outpace revenue, resulting in a structural deficit in the Fund for a Healthy Maine.

3. **Finding**: That reorganization of the administration of MSA funds is necessary for long-term sustainability of funding for prevention and health promotion activities in the State.

4. **Finding**: That additional sources of revenue are necessary for long-term sustainability of public health commitments in the State.

5. **Finding**: That reorganization of the administration of MSA funds is necessary to best track the overall impact of activities funded with MSA funds; to provide accountability over the administration of these funds; and to provide a mechanism for long-term, flexible planning to respond to a changing public health landscape.

Recommendations

1. **Recommendation**: That a new trust fund be created into which all MSA funds will be directly deposited and that is authorized to receive funds from other sources.

2. **Recommendation**: That a new, independent, quasi-state entity be created to administer the fund recommended by the Commission.

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[3] *See* Appendix B for a list of appointed Commission members.
[4] *See* Part III of this report for a summary of the Commission process.
[5] https://legislature.maine.gov/sustained-investment-in-preventing-disease-and-improving-health-of-maine-communities-study

3. **Recommendation**: That the entity established in accordance with the Commission's recommendation prioritize funding for the following activities:

    a. Tobacco use prevention and intervention activities; and
    b. Public health activities and interventions to address health equity.

4. **Recommendation**: That the Fund for a Healthy Maine be maintained to fund certain activities currently funded through the Fund, including, but not limited to, MaineCare reimbursements; purchased social services; substance use interventions and treatment; Head Start programing; school breakfasts; medical care payments to providers; the Drugs for the Elderly program; and dental education and other activities currently funded through the Fund for a Healthy Maine and administered by the Finance Authority of Maine.

5. **Recommendation**: That a percentage of the cigarette tax and the tobacco products tax be deposited directly into the Fund for a Healthy Maine and used to support the activities described in Recommendation #4.

6. **Recommendation**: That the entity established to administer the new trust fund be required to report at least annually to the legislative committees of jurisdiction regarding its activities, including:

    a. management of the new trust fund recommended by the Commission;
    b. administrative costs;
    c. distribution of funds to outside entities and to state entities;
    d. coordination of activities with state agencies, including Maine CDC, and the state health plan;
    e. performance data and consideration of return on investments; and
    f. other information requested by the Legislature.

I. INTRODUCTION

Resolve 2023, Chapter 100

Through the passage of Resolve 2023, Chapter 100, the 131st Maine Legislature established the *Blue Ribbon Commission to Design a Plan for Sustained Investment in Preventing Disease and Improving the Health of Maine Communities*, referred to in this report as "the Commission."[6] The resolve directed the Commission to evaluate funding models and structures that allow for the sustained investment in the health and prosperity of youth and families in the State. The Commission was tasked with prioritizing research and recommendations that:

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5. Identify policy and funding models that maximize alignment between the purpose and intent of public health funding sources and the investments in public health and prevention initiatives those funds support;

6. Identify how funding from various public health-related sources could be blended or pooled to achieve common aims in preventing chronic disease, reducing health disparities among historically disenfranchised and vulnerable populations and improving the community conditions that support the health and resilience of youth in the State; and

7. Identify strategies and system changes that would allow for the calculation of return on investment of all proposed public health and prevention measures over a period of time using the projected health and productivity benefits of those investments.

The fifteen Commission members appointed to examine these issues brought a broad range of experience to the table. Resolve 2023, chapter 100 directed the following appointments to the Commission:

1. One member of the Senate from the party holding the largest number of seats in the Legislature who is currently serving on the Joint Standing Committee on Appropriations and Financial Affairs;

[6] *See* Appendix A for a copy of the resolve.

2. One member of the Senate from the party holding the 2nd largest number of seats in the Legislature who is currently serving on the Joint Standing Committee on Appropriations and Financial Affairs or the Joint Standing Committee on Health and Human Services;

3. One member with policy expertise or experience in state budgeting and funding improved access to health care for low-income individuals and other populations experiencing inequitable access to health care;

4. One member who has a minimum of 8 years of experience leading a community health coalition and experience working with rural populations;

5. One member who manages a public health endowment for a health system in the State and has experience developing statewide plans for improving health and prosperity;

6. One member who is currently or was formerly employed as senior staff or faculty for a university in the State with expertise in public health, rural health and health equity financing models;

7. One member of the House of Representatives from the party holding the largest number of seats in the Legislature who is currently serving on the Joint Standing Committee on Appropriations and Financial Affairs or the Joint Standing Committee on Health and Human Services;

8. One member of the House of Representatives from the party holding the 2nd largest number of seats in the Legislature who is currently serving on the Joint Standing Committee on Appropriations and Financial Affairs;

9. One member who represents a statewide association of public health professionals that works to improve and sustain the health and well-being of all people in the State through health promotion, disease prevention and the advancement of health equity;

10. One member who has a minimum of 8 years of experience serving in the Legislature, including service on both the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services;

11. One member who is employed by a philanthropic organization in the State with experience or expertise funding initiatives in public health and primary prevention that advance racial health equity or reduce health disparities;

12. One member who represents a community development financial institution that advances health and economic equity for people and communities in the State through the integration of finance, business expertise and policy solutions;

13. One member who serves as senior staff for a municipal or county health department;

14. The Director of the Office of Policy Innovation and the Future or the director's designee; and

15. The Attorney General or the Attorney General's designee.

A list of Commission members is included as Appendix B.

Background

The Commission was charged by its authorizing legislation to study the sustainability and administration of the Fund for a Healthy Maine. The Commission fulfilled its duties through the collection and review of information obtained from a variety of sources and invited Commission members and other experts to make multiple substantive presentations to the Commission during the course of its four meetings. The information provided to the Commission serves as the basis for the background information set forth below.

A. The Tobacco Master Settlement and the Fund for a Healthy Maine

i. Tobacco Master Settlement

Faced with rising Medicaid costs related to the treatment of tobacco-related illnesses, states began, in the 1990s, to seek to recoup some of these expenses by filing lawsuits against major tobacco manufacturers, alleging that manufacturers had violated consumer protection laws and despite evidence of the health risks posed by tobacco use, downplayed or ignored those risks. While the manufacturers did not admit fault, they settled numerous legal claims with 52 state and territory attorneys general in 1998.[7] Forty-six states, including Maine, ultimately participated in the settlements.[8]

The result of the settlements, the Master Settlement Agreement (MSA)[9] was unparalleled in scope. The MSA required that participating tobacco manufacturers make annual payments to the plaintiff states and territories indefinitely. Manufacturers also agreed to restrict or discontinue specific tobacco marketing practices and dissolve certain tobacco industry groups. In exchange for these concessions, the states resolved their lawsuits against the tobacco manufacturers. They also committed to protecting the manufacturers from private legal actions based on harm caused by tobacco.

At the time these claims were settled by the states participating in the MSA, more than 45 tobacco manufacturers participated. Not all of these manufacturers remain in business. Those tobacco manufacturers that were not part of the settlement (newer manufacturers) are referred to as "nonparticipating manufacturers."

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[7] The January 2019 printing of the Master Settlement Agreement can be found online here: https://www.naag.org/our-work/naag-center-for-tobacco-and-public-health/the-master-settlement-agreement/

[8] Florida, Minnesota, Texas and Mississippi had previously litigated and settled with tobacco manufacturers.

The MSA contains numerous requirements, and participating states established state-level legislation to meet those requirements. Maine enacted legislation to address the responsibilities of the State and the obligations of tobacco manufacturers and distributors. These laws include:

- The Tobacco Manufacturers Act,[10] which is intended to ensure that tobacco manufacturers who did not participate in the settlement do not hold an unfair advantage over participating manufacturers. It requires nonparticipating manufacturers to place an established percentage per unit sold into an escrow fund. These funds are released from escrow when either the funds are used to pay a judgement on a claim brought by the State or other qualified party or 25 years after the funds are placed in escrow; and

- Other statutory requirements relating to tobacco product manufacturers,[11] including annual certification by nonparticipating manufacturers of its brands with the Office of the Attorney General and certification of compliance with the escrow requirements of the Tobacco Manufacturers Act.

Annual payments to Maine began during the 2000 fiscal year and continue to the present. State law directs payments pursuant to the MSA be deposited into the Fund for a Healthy Maine[12]; funds are allocated from there for a specified array of health-related initiatives. The administration of the Fund for a Healthy Maine funds involves the State Treasurer, responsible for the oversight of revenue in the Fund, and the State Budget Officer, who is responsible for monitoring the Fund balance and the allocation of expenditures from the Fund.

ii. Fund for a Healthy Maine

Maine Revised Statutes, Title 22, section 1511, establishes the Fund for a Healthy Maine (FHM)[13]. The statute provides that funds from the settlement of the tobacco litigation in the case of *State of Maine versus Philip Morris, et al., Kennebec County Superior Court, Docket No. CV-97-134*, as well as from various other sources and the interest and investment income on fund balances be credited to the Fund by the State Controller. The FHM also receives certain funding generated by slot machine operations.[14] The law provides that unencumbered balances remaining at the end of a fiscal year lapse to the Fund.[15] Importantly, statute also provides that allocations from the Fund must be used to supplement, rather than supplant, General Fund appropriations.[16] Allocations from the Fund are limited per the statute to specified "prevention and health promotion purposes." Originally, these allocations included the following purposes:[17]

1. Smoking prevention, cessation and control activities, including, but not limited to, reducing smoking among the children of the State;

[10] 22 MRSA §§1580-G – 1580-I
[11] 22 MRSA §§1580-L
[12] 22 MRSA §1511, sub-§2(A)
[13] *See* Appendix C
[14] 8 MRSA § 1036, Sub-§2(E)
[15] 22 MRSA §1511, sub-§3-A
[16] 22 MRSA §1511, sub-§4
[17] 22 MRSA §1511, sub-§6

2. Prenatal and young children's care including home visits and support for parents of children from birth to 6 years of age;

3. Child care for children up to 15 years of age, including after-school care;

4. Health care for children and adults, maximizing to the extent possible federal matching funds;

5. Prescription drugs for adults who are elderly or disabled, maximizing to the extent possible federal matching funds; and

6. Dental and oral health care to low-income persons who lack adequate dental coverage.

In 2007, the Legislature added an additional authorized allocation for comprehensive school health and nutrition programs, including school-based health centers.[18] In 2011, the Legislature added prevention, education and treatment activities concerning unhealthy weight and obesity as an allocable allocation.[19] Finally, in 2017, the Legislature added substance use disorder prevention and treatment as an allowable allocation.

The law authorizes the State Controller to provide an annual advance up to $37,500,000 from the General Fund to the Fund for a Healthy Maine to provide money for allocations from the Fund.[20] This accounts for the delay between the beginning of the state fiscal year and distribution of MSA payments to the State. Funds are returned to the General Fund when the MSA payments are received.

The Legislature's Office of Fiscal and Program Review (OFPR) maintains a publicly accessible website that provides information on the tobacco settlement funds. The website provides information on Fund balance status reports, pie charts on budgeted uses, revenues and expenditure tables, current revenue projections, allocations and uses of tobacco settlement funds by program, and historical information related to allocations and uses of tobacco settlement funds. The website also contains links to reports on allocations to programs within DHHS.[21]

B. Prior Studies Involving the Fund for a Healthy Maine

The Fund for a Healthy Maine and the administration of MSA funds have been studied by various legislative bodies on multiple occasions, and the activities of these legislative bodies are summarized below.

i. Joint Standing Committee on Health and Human Services, Review of the Fund for a Healthy Maine (2008)

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[18] 22 MRSA §1511, sub-§6(H)
[19] 22 MRSA §1511, sub-§6(A-1)
22 MRSA §1511, sub-§6(G)
[20] 22 MRSA §1511, sub-§9
[21] https://legislature.maine.gov/ofpr/fund-for-a-healthy-maine

In 2007, pursuant to Public Law 2007, Chapter 629, Part H, the Joint Standing Committee on Health and Human Services (HHS) was directed to assess the structure, accountability and oversight of the Fund for a Healthy Maine. The HHS Committee met twice and subsequently issued a report with key recommendations. First, they proposed that the Government Oversight Committee authorize the Office of Program Evaluation and Government Accountability (OPEGA) to conduct a comprehensive review of the FHM's efficacy, efficiency and accountability. Another recommendation urged the establishment of a subcommittee, jointly involving the HHS and Appropriations and Financial Affairs (AFA) Committees, to deliberate on all budget proposals and other initiatives influencing the FHM, although the actualization of this recommendation remains unclear. Second, the HHS Committee recommended the adoption of a joint rule mandating the review by HHS of any proposed FHM allocation, deallocation or changes to the FHM statute. Joint Rule 317 was originally adopted by the 124th Legislature and has been included in the Joint Rules of each subsequent legislature.

ii. *Office of Program Evaluation and Government Accountability Review: Fund for a Healthy Maine Programs-Frameworks Adequate for Ensuring Cost-Effective Activities but Fund Allocations Should be Reassessed; Cost Data and Transparency Can Be Improved (2009)*

In 2009, the Office of Program Evaluation and Government Accountability (OPEGA), acting on the direction of the Government Oversight Committee (GOC), conducted a comprehensive review of the Fund for a Healthy Maine (FHM). The primary objective was to assess the effectiveness of existing managerial and oversight systems in ensuring that FHM-supported activities were both cost-effective and conducted in an efficient manner, with adequate transparency and accountability for results and expenditures. The ensuing OPEGA report identified significant challenges within the FHM framework, including a reluctance to deviate from original funding uses, a lack of clarity regarding formal responsibilities for ensuring cost-effectiveness, incomplete financial and performance data, vague budgetary program descriptions and a misalignment of financial and performance information. To address these issues, the report provided a set of recommendations, urging the Legislature to assess the current FHM allocations; assign responsibility for periodic reassessment to specific state entities; improve alignment with the State's health goals; and mandate agencies to furnish necessary information within program descriptions. Additionally, the Executive Branch was advised to develop and implement policies to ensure the accuracy of budgetary program descriptions and utilize the State's accounting system for tracking costs associated with major activities.

iii. *Maine State Legislature, Commission to Study Allocations of the Fund for a Healthy Maine (December 2011)*

In response to the 2009 OPEGA study, the Legislature established the Commission to Study Allocations of the Fund for a Healthy Maine in December 2011, as authorized by Resolve 2011, chapter 112. Tasked with a comprehensive review of FHM allocations, this Commission was directed to report its findings and recommendations, including proposed legislation, to the HHS and AFA Committees. The subsequent report presented a series of Commission recommendations, including recommendations to transform the FHM from a group of programs within Other Special Revenue Funds into a separate fund (implemented through the enactment of

Public Law 2011, Chapter 701), to broaden the FHM's application to "prevention and health promotion purposes" and to mandate separate accounts and annual reports for increased transparency. Some recommendations were implemented, such as the recommendation that the HHS Committee review legislative proposals related to the changes to FHM funding allocation pursuant to Rule 317. Other recommendations, such as an ongoing review of FHM allocations every four years were not implemented. Additionally, the Commission advocated for the continued funding of the Office of the Attorney General to enforce the MSA and expressed support for investments in public health and prevention to be consistent with the original intent of the funding.

iv. Joint Standing Committee on Health and Human Services, Study of Allocations of the Fund for a Healthy Maine (2015)

In 2015, the Maine State Legislature, through the passage of Resolve 2015, chapter 47, empowered the Joint Standing Committee on Health and Human Services (HHS) to conduct a thorough study of the allocations of the Fund for a Healthy Maine (FHM). The HHS Committee, gathered information over four meetings to identify and review the State's current public healthcare and preventative health priorities; strategies for addressing these priorities; the potential effectiveness of those strategies; and the required resources to pursue these priorities and strategies. The subsequent report, issued by the Committee, revealed several recommendations. Notably, the Committee refrained from suggesting changes to FHM allocations but advocated for the Department of Health and Human Services (DHHS) to submit an annual report encompassing detailed expenditure information; progress towards health priorities outlined in the Maine State Health Improvement Plan 2013-2017; and data related to audits and submissions to the Department of Administrative and Financial Services (DAFS) pursuant to Public Law 2011, Chapter 701. Additionally, the Committee expressed support for the Office of Program Evaluation and Government Accountability's (OPEGA) plan to study DHHS audit functions; called for the full implementation of the 2011 study recommendations; issued a statement supporting the principles of the FHM statute; and requested regular updates from DHHS on pending Requests for Proposals (RFPs) for Healthy Maine Partnership contracts.

C. Highlights of Prior Legislation Related to the Fund for a Healthy Maine

Changes to the Fund for a Healthy Maine and to the administration of Master Settlement Agreement funds have been considered many times by the Legislature and relatively small changes to the Fund for a Healthy Maine have been implemented. Highlights of legislative efforts are described below.

119th Legislature

- Public Law 1999, Chapter 401: This public law, which enacted a supplemental budget, included language in Part V that established the Fund for a Healthy Maine. This followed consideration by the Legislature of a number of bills that sought to manage the funds received by the State as a result of tobacco manufacturer litigation.

120th Legislature

- Public Law 2001, Chapter 559: This public law, which enacted a supplemental budget, added language to the FHM establishing statute that provided that any unencumbered balance remaining at the end of any fiscal year lapse back into the FHM account.

- Public Law 2001, Chapter 714: This public law, which enacted an additional supplemental budget, added language to the FHM establishing statute that provided that, beginning July 1, 2003, the State Controller was authorized to advance up to 37.5 million dollars annually from the General Fund to the FHM, which the FHM would then return.

121st Legislature

- Public Law 2003, Initiated Bill 1: This public law established slot machine use in Maine. It provided that 10% of the total gross slot machine income must be credited to the FHM.

- Public law 2003, Chapter 687, Section A-9: This public law authorized the State Controller to establish separate accounts within the FHM in order to segregate money received by the Fund from any public or private source that requires as a condition of the contribution to the Fund that the use of the money contributed be restricted to one or more of the allowable uses of the Fund. The law also required that money credited to a restricted account may be applied only to the purposes for which the account is restricted.

- LD 1612, Resolution, Proposing an Amendment to the Constitution of Maine to Preserve the Fund for a Healthy Maine: This bill proposed an amendment to the Constitution of Maine to preserve the FHM and ensure that the Fund be used for health-related purposes only. It died on adjournment.

123rd Legislature

- Public Law 2007, Chapter 539, Section III-3: This public law, which enacted a supplemental budget, added school nutrition programs to the list of allowable uses of the FHM.

124th Legislature

- Public Law 2009, Chapter 1: This public law, which enacted a supplemental budget, added language to the FHM establishing statute that provided that, for state fiscal years beginning on or after July 1, 2009, the State Budget Officer is authorized to adjust allocations in actual revenue collections for the fiscal year that are less than the approved legislative allocation.

125th Legislature

- Resolve 2011, Chapter 112: This resolve established the Commission to Study Allocation of the Fund for a Healthy Maine.

- Public Law 2011 Chapter 617: This public law amended the FHM authorizing legislation to broaden its application from "health-related purpose" to "prevention and health promotion purposes" and to add overweight and obesity prevention, education and treatment activities to the list of allowable uses.

- Public Law 2011, Chapter 701: This public law established the FHM as a separate account, apart from the Other Special Revenue Fund; required annual reporting by DAFS regarding use of allocated funds and required legislative committee review of all legislation affecting the FHM.

126th Legislature

- LD 180, An Act Concerning the Use of Tobacco Settlement Funds for Children's Health Care: This bill proposed to amend current FHM law to require that children's health care funding not be reduced in order to address a budget deficit. The bill received an ONTP vote out of committee.

- LD 1232, An Act to Maintain the Integrity of the Fund for a Healthy Maine: This bill proposed to remove the provision of current law that allows the Legislature to approve transfers of funds from the FHM to the General Fund. The bill was vetoed by the Governor, and the veto was sustained by the Legislature.

127th Legislature

- Resolve 2015, Chapter 47: This resolve directed the HHS Committee to study the alignment of allocations from the FHM with the State's current public health care and preventive health priorities and goals.

129th Legislature

- LD 1961, An Act To Establish the Trust for a Healthy Maine: This bill proposed to establish 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 was to be

governed by a board of trustees appointed by the Governor and legislative leaders. The bill received an ONTP/OTPA vote out of committee. It died on adjournment.

130th Legislature

- LD 1523, An Act To Establish the Trust for a Healthy Maine: This bill proposed to establish 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 was to be 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. The bill received an OTPA/ONTP vote out of committee. It died on adjournment.[22]

- LD 1693, An Act To Advance Health Equity, Improve the Well-being of All Maine People and Create a Health Trust: This bill proposed to establish 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 was to be 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 proposed to establish the Office of Health Equity within the Department of Health and Human Services. The office was 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 proposed to require 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 proposed to prohibit the sale and distribution of flavored tobacco products, including flavored cigars and electronic smoking devices. Part E proposed to increase the tax on cigarettes from 100 mills to 200 mills per cigarette, effective November 1, 2021, and eliminate the

[22] *See* Appendices H and I for LD 1523 and its adopted amendment.

provision that allows the sale of cigarette stamps to licensed distributors at a discount. The amount of increased revenue from the cigarette tax would be credited to the Fund for a Healthy Maine. Part E also proposed to provide funding for the health initiatives in the bill. The bill received an OTPA/ONTP vote out of committee. It died on adjournment.

II. COMMISSION PROCESS[23]

The Commission held four public meetings on October 24th, November 20th, December 6th and December 11th, 2023. Materials distributed and reviewed at these meetings, as well as additional background and other study-related materials, are posted online at the following website: Sustained Investment in Preventing Disease and Improving Health of Maine Communities Study | Maine State Legislature.[24]

A. First Meeting – October 24, 2023

The Commission held its first meeting on October 24, 2023. All members were present with the exception of Keith Bisson; Amy Winston attended in his place. The meeting began with introductions by Commission members and opening remarks from the Commission's chairs. Commission staff then provided an overview of the Commission's authorizing legislation, including the Commission's duties, the study process and the projected timeline for completion of the Commission's work.

The Commission then received a presentation regarding the financial status of the Fund for a Healthy Maine by Luke Lazure from the Office of Fiscal and Program Review.[25] Members asked a number of clarifying questions. Of particular interest to the Commission members was the question of a structural deficit and whether there indeed was such a deficit. Luke Lazure explained that it was impossible to know for certain, because over time revenue has decreased, largely due to changes in tobacco use patterns, and that, if this pattern continues, eventually there will be a deficit. However, generally forecasting is done conservatively, so historically forecasts have underestimated the Fund for a Healthy Maine. The Commission requested additional information, including more information about the annual negotiation done by the Attorney General's Office, whether any funds get "stuck" in the contracting process and are returned to the Fund for a Healthy Maine, and what the allocations to DHHS are used for and whether they generate matching funds.

After breaking for lunch, the Commission members had a discussion regarding next steps. They discussed the limitations of the two-year budget cycle and how this impacted the ability to engage in long-term planning. They also noted that it is difficult to know how funds are ultimately spent. The Commission discussed how the allowable uses of the Fund have expanded

[23] The below summaries are intended to capture the highlights of the committee discussions during meetings but are not intended to be exhaustive or inclusive of all comments made at the meeting. Videos of meetings are available for review on the legislative website.
[24] https://legislature.maine.gov/sustained-investment-in-preventing-disease-and-improving-health-of-maine-communities-study
[25] *See* Appendices D and E for Mr. Lazure's handouts to the Commission.

over time. They focused particularly on the large percentage of funds allocated to MaineCare. The Commission requested additional information, including information on whether a report is issued to the Legislature regarding the use of Fund dollars; a summary of past studies of the Fund for a Healthy Maine and information on how other states administer their Master Settlement Agreement funds.

B. Second Meeting – November 20, 2023

The Commission held its second meeting on November 20, 2023. All members were present in person. The meeting began with introductions by Commission members. Commission staff then provided the Commission with an overview of materials sent ahead of the meeting. This included a document that summarized the findings of the activities of past Commissions, including their findings and recommendations (and which recommendations were implemented), as well as a 50-state summary document with information on other states' funding models and their structure.[26]

Background information was provided to the Commission by Assistant Attorney General Elizabeth Reardon along with Michael Hering, of the National Association of Attorneys General, who was on hand via Zoom to answer questions. Ms. Reardon noted that the Master Settlement Agreement (MSA) came about as a result of a lawsuit filed in the 1990s. Many states, including Maine, sued major tobacco companies in an attempt to recoup money that states had paid to cover residents' healthcare costs for tobacco-related illnesses. The MSA is what settled the lawsuit, is the guiding document – e.g. determining how money is paid out – and relates only to cigarettes and rolling tobacco; vaping products are not included in the MSA. The major parties in the MSA were the states and certain participating manufacturers. Participating manufacturers agreed to make payments to states provided states do certain things. Among the directives, participating manufacturers required states to reach an agreement by which non-participating manufacturers must pay certain money into an escrow account. In addition, states must do "diligent enforcement" to get MSA payments; however, there is no specific definition of "diligent enforcement," and for years there has been costly arbitration as a result, with disputes taking years to resolve.

Ms. Reardon stressed that payment amounts are uncertain. A key reason for this is that, while the proportion of settlement funds allocated to each state is predictable (Maine currently gets 0.77% of payments nationally), the amount of money available is tied to cigarette and rolling tobacco sales nationally, which change from year to year. Current national trends reflect declining sales of these products. Payment amounts may also be subject to adjustment based on inflation.

After Ms. Reardon's initial overview, Commission members asked questions. In response to a question regarding whether there was any relationship between the size of the MSA payment and health-related costs of tobacco, Ms. Reardon responded that the payment is based on disease burden, the size of the state and how actively the state has been involved in litigation. In response to a question as to whether the share of money allocated to each state can change or be diverted to other states, Michael Hering responded that there is a single payment calculated based on tobacco sales nationwide, not only in Maine. Last year, the payment amount was just

[26] *See* Appendix F for the 50-state summary.

under $7 billion and Maine's allowable share of that amount was 0.77%. This percentage is fixed and is based in part on Medicaid expenses for treatment of smoking-related disease, but there are a number of adjustments that happen after allocation, and there is no impact on other state payments. Further, none of Maine's money would go to another state and adjustments can be applied individually on a state-by-state basis, or they can be applied on a national scale. The Commission also discussed escrow management.

Michael Stoddard, from Efficiency Maine, was available via Zoom to answer Commission members' questions. Mr. Stoddard discussed Efficiency Maine and its funding streams (e.g. the Regional Greenhouse Gas Initiative), structure, which Mr. Stoddard noted as being intentionally open-ended, and how the Efficiency Maine Trust was created as an independent, quasi-state entity, similar to the Finance Authority of Maine, Maine Turnpike Authority and MaineHousing. Decision-making is done by a board of trustees appointed by the Governor and Senate and, for funding decisions to go ahead, a two-thirds majority vote of members of the board is required. There are a number of reporting requirements and practices, e.g. annual reports and presentations to the Joint Standing Committee on Energy, Utilities and Technology. The Commission asked if the Legislature has the ability to impact Efficiency Maine's budget. Mr. Stoddard responded that they do, to an extent, and provided examples. However, the majority of funds cannot be swept by the Legislature because funds never touch the State Treasury.

The Commission then briefly discussed the impact of vaping on MSA payments. Mr. Hering noted that consumption of tobacco products has fallen drastically since the MSA, calling this "a huge success" from a public health perspective. However, use of vaping products has increased. That stated, vaping product sales are not included in the MSA.

Finally, Mr. Hering identified three reasons why payments were larger last year than anticipated: 1) higher inflation; 2) sales by participating manufacturers did not decline as expected; and 3) profit adjustments.

Following a lunch break, the Commission reviewed several of the duties with which they were tasked, as described below.

- *Duty 1- Resolve the structural deficit in the Fund for a Healthy Maine*

  Members discussed how to mitigate for a future structural deficit. Commission members suggested ideas such as increasing taxes on cigarettes and redirecting funding (e.g. by funding programs currently funded with Fund for Healthy Maine dollars with General Fund dollars).

- *Duty 2- Identify sources of sustained funding for reducing tobacco use, improving public health, preventing chronic illness, reducing health disparities across demographic and geographic populations and improving the community conditions that support good health and wellness*

  Members tried to identify new possible sources of revenue and discussed bonds and additional tax revenue. One member suggested tasking the Legislature with studying

products that cause harm (e.g., sugar-sweetened beverages) and taxing those products as a way of generating additional funding.

- *Duty 4- Advance the long-term goals established by the Legislature for funds received from legal settlements with manufacturers and excise taxes on products that affect public health and well-being.*

  Members discussed several topics including additional litigation related to vaping and increasing taxes on tobacco products and trusts as a way of preserving funds for public health and promotion activities.

Commission members asked Attorney General Frey questions about constitutionality and binding future legislatures. Some members vocalized a wish for greater transparency and granularity, suggesting that there is not adequate information, at present, about tobacco product sales within the State. Other members requested an analysis of LD 1523 and asked Attorney general Frey clarifying questions about funding structure. Attorney General Frey responded that money is meant to be directed at abatement activities. A member asked a procedural question about decoupling funding, referencing racino monies and the Drugs for the Elderly Program. Ana Hicks addressed some of Governor Mills' concerns and reasons for opposing the creation of a trust. Ms. Hicks noted concerns that the Legislature would not be involved and that monies would be redirected.

C. Third Meeting – December 6th, 2023

The Commission held its third meeting on December 6, 2023. All members were present with the exception of Senator Bennett and Ana Hicks. Yvonne Jonk attended the meeting remotely. Deputy Attorney General Christopher Taub attended for Attorney General Aaron Frey. The meeting began with introductions by Commission members. The Commission then reviewed the work completed at the last meeting.

Commission staff introduced a document intended to assist the Commission in its decision-making process. This document posed a number of questions for the Commission to consider, as described below.

1. Decision: Should the Commission find that a structural deficient exists or will exist in the Fund for a Healthy Maine, and that reorganization of the administration of the Fund is necessary for long-term viability?

There was general agreement among Commission members to support this proposed finding.

2. Decision: Should the Commission find that additional sources of revenue are necessary to maintain the Fund?

Members agreed that the language in this proposed finding referencing "the Fund" should be replaced with language referencing the "funding." It was asked if staff member Luke Lazure could clarify the actual deficit in the Fund for a Healthy Maine. Mr. Lazure replied that there was

not a definite answer to this question. He noted that the revised revenue forecast reflected lower than expected tobacco settlement payments. However, the current biennium will not see a deficit, and millions will still be in the Fund at the end of the biennium. But a deficit is a possibility in the next biennium, depending on final settlements. Mr. Lazure reminded the Commission that escrow funds sit in escrow as disputed payments until resolved.

It was suggested that the proposed finding might be altered to say that the current revenue will not cover the current allocations and that a deficit will result at some time.

3 Decision: Should the commission find that the current allocations from the Fund should be reconsidered during the next budget cycle or at such time as the Fund administration is restructured?

Members noted that public health priorities change over time and suggested that there needs to be a long enough window to allow for long-term planning and action by public health entities but also a time to reassess.

4. Decision: Should the Commission find that the authorizing statute for the FHM requires revision?

Members suggested that the Fund for a Healthy Maine should remain in statute to cover certain programming, such as the Drugs for the Elderly program. However, others noted that quite some time has passed since the drafting of the authorizing statute and that it makes sense to move that programming out of the Fund.

5. Decision: Should the Commission recommend that a new entity be created to administer the Fund for a Healthy Maine? If so, what type of entity?

Consider:

a. *Legal status of the entity and its relationship to the state (quasi governmental; state agency entity)*
b. *How entity will be governed (if by a board, consider membership, appointments, term limits, leadership)*
c. *Oversight of entity (legislative and or executive branch oversight; ability of legislature to review financials etc.)*
d. *Staffing of entity (numbers; expertise required; administrative cost)*
e. *Administration of funds (who will administer grants and provide subject matter expertise and oversight; relationship with state; will funds be distributed to state agencies or to private sector?)*

It was suggested that the language of this proposed recommendation should reference administration of MSA funds, rather than the Fund for a Healthy Maine. It was also suggested that this recommendation recommend that the Legislature establish a trust to administer MSA funds and that the Fund for a Healthy Maine be maintained.

Members discussed how best to separate out which allocations would shift to the trust and which would remain in the Fund for a Healthy Maine. Some members where in favor of certain programs, such as the Drugs for the Elderly program, MaineCare and Head Start, remaining in the Fund for a Healthy Maine. However, the Fund would no longer receive MSA dollars, so funding from these programs would need to come from another source, either the General Fund or perhaps the tobacco tax. Other members expressed concerns about separating MaineCare reimbursements from the MSA funds, especially considering that the original litigation was related to compensating states for tobacco-related medical treatment costs.

Members had further discussions regarding leveraging cigarette tax and tobacco products tax revenue. Some members were against any tax increase to these products because of the impact on people living in poverty. Others noted that while cigarette use is decreasing, vaping is increasing. It was also noted that there is significant competition for funds to cover various initiatives. Luke Lazure reminded the commission that if tax revenue is redirected it will create a hole in the general fund that the legislature will need to address.

Members discussed whether a finding should be included stating that the current Fund for a Healthy Maine lacks overall guidance and oversight. Members emphasized that the trust structure would allow for long-term planning outside of the two-year budget cycle. There was also discussion about how to deal with the transition to the trust structure.

Members committed to carefully reviewing LD 1523 from the 130th Legislature prior to the fourth meeting.

Members then had a brief discussion about return on investment. It was acknowledged that measuring return on investment in the public health field was challenging. However, there is already existing literature about return on investment for various interventions that the trust may fund, so there is no need to reinvent the wheel if we are funding evidence-based programs.

D. Fourth Meeting – December 11, 2023

The Commission held its final meeting on December 11, 2023. All members were present with the exception of Senator Bennett and Elizabeth Blackwell-Moore. Barbara Leonard, Elsie Flemings and Rebecca Boulos attended the meeting remotely. The meeting began with introductions by Commission members. The Commission then reviewed the work completed at the last meeting and Commission staff explained the process for voting on findings and recommendations. Ana Hicks stated that she will likely abstain from all votes due to the Governor's concerns regarding creation of a trust to administer MSA funds.

The Commission carefully considered LD 1523 and its adopted amendment. This bill served as a useful guide to member discussions and members agreed that any joint standing committee taking up legislation pursuant to the Commission's recommendations would be well served in considering that bill as a template.

The Commission reviewed draft findings and recommendations, which were drafted by Commission staff and intended as a place from which to begin discussion. The Commission discussed each of the draft findings and recommendations, as described below:

1. *Finding: That current allocations will soon outpace revenue, resulting in a structural deficit in the Fund for a Healthy Maine.*

Members were in agreement with this finding.

2. *Finding: That reorganization of the administration of MSA funds is necessary for long-term sustainability of public health funding in the state.*

There was discussion regarding the term "public health funding" and whether that was the best descriptor for the universe of funding this finding was meant to encompass. Some members were in favor of keeping the language broad, while others believe that the language should be altered to more clearly circumscribe the funds that currently sit in the Fund for a Healthy Maine. Ultimately, members agreed that the language should be edited to refer to "health promotion and disease prevention activities," or similar, language which mirrors that of the Fund for a Healthy Maine authorizing statute.

3. *Finding: That additional sources of revenue are necessary for long-term sustainability of public health funding in the state.*

Commission members discussed creation of a structure in which both a new trust is created and the Fund for a Healthy Maine structure is retained. The trust would receive all MSA funds while the Fund for a Healthy Maine would not receive any MSA funds, but would be funded either through the General Fund or other dedicated revenue. Some members were in favor of adding another finding, making it clear that a trust structure was necessary to plan beyond a two-year budget cycle. Members took a straw poll and determined that all members present were in favor of this structure, though Ana Hicks abstained.

4. *Recommendation: That a new fund be created into which MSA funds will be directly deposited; and*

5. *Recommendation: That a new, independent, quasi-state entity be created to administer the fund established per Recommendation #1.*

Committee members were in favor of this recommendation, consistent with the discussion regarding the above draft findings. The committee asked Luke Lazure to describe the current Fund for a Healthy Maine allocations besides those funds allocated to tobacco interventions and prevention and to the Office of the Attorney General. He listed school breakfasts, programs administered by the Finance Authority of Maine, MaineCare, the Drugs for the Elderly program, Head Start, other purchased social services and substance use disorder treatment.

There was also discussion regarding how to deal with the transition period between the Fund for a Healthy Maine and a trust structure. The possibility of a one-time allocation was discussed to

ensure that adequate funding remained in the trust during the initial transition period, but also annually, between when the budget allocations are made and when the State receives its MSA payment.

6. *Recommendation: That additional revenue be allocated to the Fund established per Recommendation #1. (The committee may wish to identify specific sources of funding.)*

It was suggested that language be added recommending that designated funds be deposited directly into the Fund for a Healthy Maine. Otherwise, allocations will need to come from the General Fund. Members discussed the possibility of directing cigarette tax or tobacco products tax revenue directly to the Fund for a Healthy Maine. Currently that tax revenue is deposited into the General Fund.

7. *Recommendation: That the entity established per Recommendation #2 be required to report at least annually to the Legislature regarding its activities, including:*

    a. *management of the Fund established per Recommendation #1;*
    b. *administrative costs;*
    c. *distribution of funds to outside entities and to state entities;*
    d. *performance data; and*
    e. *other information requested by the Legislature.*

Members discussed including some language in this recommendation to require reporting on coordination with DHHS.

Following this discussion, Commission members took votes on the final recommendations of the committee, as described below.

III. FINDINGS AND RECOMMENDATIONS

The final findings and recommendations of the committee, including the votes of committee members are described below. Members who were present at the fourth meeting voted in person or over Zoom. Chairs allowed members who were not present at the fourth meeting to vote via email.[27]

Findings

1. Finding: That the programs currently funded by the Fund for a Healthy Maine are vital and require sustained funding by the Legislature.

Votes: 14 votes in favor; 1 abstention[28]

[27] *See* Appendix G for detailed voting information.
[28] Member Ana Hicks abstained.

While the majority of members agreed that a reorganization of the administration of MSA funds was necessary for long-term viability of public health programming in the State, they were concerned about downstream negative impacts on currently funded programs. The majority of members were in favor of sustained funding for these programs, even if the funds allocated to support the programs were not MSA funds.

2. Finding: That current allocations will soon outpace revenue, resulting in a structural deficit in the Fund for a Healthy Maine.

Votes: 14 votes in favor; 1 abstention[29]

After examination of the financial status of the Fund for a Healthy Maine, including updated revenue forecasting, the majority of members determined that, if current revenue and spending is continued, a structural deficit will eventually result. This will result in the Fund being unable to cover the costs of currently funded activities. The precise time at which a deficit will occur is difficult to predict, because MSA payment totals are uncertain, but trends and forecasting clearly indicate that a deficit is on the horizon.

3. Finding: That reorganization of the administration of MSA funds is necessary for long-term sustainability of funding for prevention and health promotion activities in the State.

Votes: 14 votes in favor; 1 abstention[30]

The majority of members indicated that in order to preserve the prevention and health promotion activities anticipated by the authorizing statute for the Fund for a Healthy Maine, an oversight structure needed to be established to carefully track and administer MSA funds.

4 Finding: That additional sources of revenue are necessary for long-term sustainability of public health commitments in the State.

Votes: 13 votes in favor; 2 abstentions[31]

Members were in agreement that the Fund for a Healthy Maine will soon experience a structural deficit (see Finding #1). Additionally, the majority of members agreed that new sources of revenue were required to assure the long-term sustainability of the State's public health commitments.

5. Finding: That reorganization of the administration of MSA funds is necessary to best track the overall impact of activities funded with MSA funds; to provide accountability over the administration of these funds; and to provide a mechanism for long-term, flexible planning to respond to a changing public health landscape.

Votes: 14 votes in favor; 1 abstention[32]

[29] Member Ana Hicks abstained. Ms. Hicks indicated that she would be abstaining from all votes.
[30] Member Ana Hicks abstained.
[31] Members Ana Hicks and Barbara Leonard abstained.
[32] Member Ana Hicks abstained.

The majority of members indicated that an oversight structure needed to be established to carefully track and administer MSA funds. Members recognized that no single entity currently oversees fund administration; oversight therefore falls to the agencies or entities to which the fund was allocated. This makes it difficult to track the impact of the MSA funds and to thoughtfully plan for the best use of those funds.

Recommendations

1. Recommendation: That a new trust fund be created into which all MSA funds will be directly deposited and that is authorized to receive funds from other sources.

Votes: 14 votes in favor; 1 abstention[33]

The majority of members recommended that the State establish a trust fund and that all MSA funds be deposited directly into that trust fund. They recommended that the fund be set up in such a manner that it is able to receive revenue from any source, public or private.

2. Recommendation: That a new, independent, quasi-state entity be created to administer the fund recommended by the Commission.

Votes: 14 votes in favor; 1 abstention[34]

The majority of members recommended that a new quasi-state entity be created to administer the fund established pursuant to Recommendation #1. They envisioned this entity as a trust, the purpose of which is to provide oversight of the management of MSA funds. While members did not define the exact structure of this entity, they did carefully review LD 1523 and used that piece of legislation as a guide in their discussions. They perceive that a trust would be able to plan long-term for the management of MSA funds outside of the two-year budget cycle.

3. Recommendation: That the entity established in accordance with the Commission's recommendation prioritize funding for the following activities:

- ***a. Tobacco use prevention and intervention activities; and***
- ***b. Public health activities and interventions to address health equity.***

Votes: 14 votes in favor; 1 abstention[35]

The majority of members were in favor of the trust entity using MSA funds to prioritize tobacco use prevention and intervention activities as well as public health activities and interventions addressing issues related to health equity. Members were in favor of prioritizing the least resourced individuals.

[33] Member Ana Hicks abstained.
[34] Member Ana Hicks abstained.
[35] Member Ana Hicks abstained.

4. Recommendation: That the Fund for a Healthy Maine be maintained to fund certain activities currently funded through the Fund, including, but not limited to, MaineCare reimbursements, purchased social services, substance use interventions and treatment, Head Start programming, school breakfasts, medical care payments to providers, the Drugs for the Elderly program, dental education and other activities currently funded through the Fund for a Healthy Maine and administered by the Finance Authority of Maine.

Votes: 14 votes in favor; 1 abstention[36]

While the members largely agreed that a new trust entity should be established to manage MSA funds and to prioritize the activities described in Recommendation #3, they were concerned about maintaining funding for the other activities which the Fund for a Healthy Maine currently supports. Therefore, they recommended that the current Fund for a Healthy Maine and the majority of its statutory structure be maintained, even though MSA funds would be redirected away from the Fund.

5. Recommendation: That a percentage of the cigarette tax and the tobacco products tax be deposited directly into the Fund for a Healthy Maine and used to support the activities described in Recommendation #4.

Votes: 13 votes in favor; 2 abstentions[37]

In order to help ensure that the programs described in Recommendation #4 receive the funding required to be maintained in the absence of MSA funds, a majority of members voted in favor of directing an undetermined percentage of tobacco product and cigarette taxes to be deposited into the Fund for a Healthy Maine. These taxes are currently deposited into the General Fund. Members acknowledged that this would create a significant hole in the General Fund which would need to be backfilled to maintain current allocations.

6. Recommendation: That the entity established per Recommendation #2 be required to report at least annually to the legislative committees of jurisdiction regarding its activities, including:

- ***a. management of the fund established per Recommendation #1;***
- ***b. administrative costs;***
- ***c. distribution of funds to outside entities and to state entities;***
- ***d. coordination of activities with state agencies, including Maine CDC, and the state health plan;***
- ***e. performance data and consideration of return on investments; and***
- ***f. other information requested by the Legislature.***

Votes: 14 votes in favor; 1 abstention[38]

[36] Member Ana Hicks abstained.
[37] Members Ana Hicks and Barbara Leonard abstained.
[38] Member Ana Hicks abstained.

The majority of members voted in favor of requiring the trust entity to provide annual reports to the legislative committee of jurisdiction regarding its activities, including management of the fund established per Recommendation #1; administrative costs; distribution of funds to outside entities and to state entities; coordination of activities with state agencies, including Maine CDC, and the state health plan; performance data and consideration of return on investments; and other information requested by the Legislature. They were particularly concerned with ensuring coordination with state agencies. As regards return on investment, the Commission acknowledged that the limited staff of a trust entity would likely not have the resources to conduct significant calculations regarding return on investment. However, they wanted to ensure that there was some consideration of return on investment, perhaps by consulting existing research.

APPENDIX A

Authorizing Legislation: Resolve 2023, c. 100

LAW WITHOUT GOVERNOR'S SIGNATURE

JULY 19, 2023

CHAPTER 100

RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 685 - L.D. 1722

Resolve, to Establish the Blue Ribbon Commission to Design a Plan for Sustained Investment in Preventing Disease and Improving the Health of Maine Communities

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this resolve establishes the Blue Ribbon Commission to Design a Plan for Sustained Investment in Preventing Disease and Improving the Health of Maine Communities; and

Whereas, tobacco users are switching to electronic cigarettes, which are not included in the tobacco Master Settlement Agreement pursuant to the lawsuit *State of Maine v. Philip Morris, et al.*, Kennebec County Superior Court, Docket No. CV-97-134; and

Whereas, the switch to electronic cigarettes has diminished the payments to the tobacco Master Settlement Agreement and therefore reduced the funds received by the Fund for a Healthy Maine without reducing the harm to public health from tobacco; and

Whereas, more funds are allocated through the Fund for a Healthy Maine baseline budget than the State receives from the tobacco Master Settlement Agreement, resulting in an unsustainable structural deficit in the Fund for a Healthy Maine; and

Whereas, Fund for a Healthy Maine funds are essential for funding tobacco prevention and treatment, other chronic disease prevention initiatives and health promotion efforts in the State, particularly for the benefit of children and families in the State; and

Whereas, public health problems are seldom solved and health and economic benefits are rarely measurable within a 2-year state budget cycle; and

Whereas, the structural limitations of the State's 2-year budget cycle result in an ongoing loss of opportunities to plan and invest in long-term, evidence-informed primary and secondary chronic disease prevention initiatives; and

Whereas, the State receives funds from multiple legal settlements with manufacturers and excise taxes on products that affect public health and well-being but lacks the system

and structure necessary to maximize benefit through coordinated planning and sustained investment in preventing disease and improving the health of communities in the State; and

Whereas, the work of the Blue Ribbon Commission to Design a Plan for Sustained Investment in Preventing Disease and Improving the Health of Maine Communities must be initiated before the 90-day period expires in order that the commission's work may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Commission established. Resolved: That the Blue Ribbon Commission to Design a Plan for Sustained Investment in Preventing Disease and Improving the Health of Maine Communities, referred to in this resolve as "the commission," is established.

Sec. 2. Commission membership. Resolved: That, notwithstanding Joint Rule 353, the commission consists of 15 members as follows:

1. Six members appointed by the President of the Senate as follows:

A. One member of the Senate from the party holding the largest number of seats in the Legislature who is currently serving on the Joint Standing Committee on Appropriations and Financial Affairs;

B. One member of the Senate from the party holding the 2nd largest number of seats in the Legislature who is currently serving on the Joint Standing Committee on Appropriations and Financial Affairs or the Joint Standing Committee on Health and Human Services;

C. One member with policy expertise or experience in state budgeting and funding improved access to health care for low-income individuals and other populations experiencing inequitable access to health care;

D. One member who has a minimum of 8 years of experience leading a community health coalition and experience working with rural populations;

E. One member who manages a public health endowment for a health system in the State and has experience developing statewide plans for improving health and prosperity; and

F. One member who is currently or was formerly employed as senior staff or faculty for a university in the State with expertise in public health, rural health and health equity financing models;

2. Seven members appointed by the Speaker of the House of Representatives as follows:

A. One member of the House of Representatives from the party holding the largest number of seats in the Legislature who is currently serving on the Joint Standing Committee on Appropriations and Financial Affairs or the Joint Standing Committee on Health and Human Services;

B. One member of the House of Representatives from the party holding the 2nd largest number of seats in the Legislature who is currently serving on the Joint Standing Committee on Appropriations and Financial Affairs;

C. One member who represents a statewide association of public health professionals that works to improve and sustain the health and well-being of all people in the State through health promotion, disease prevention and the advancement of health equity;

D. One member who has a minimum of 8 years of experience serving in the Legislature, including service on both the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services;

E. One member who is employed by a philanthropic organization in the State with experience or expertise funding initiatives in public health and primary prevention that advance racial health equity or reduce health disparities;

F. One member who represents a community development financial institution that advances health and economic equity for people and communities in the State through the integration of finance, business expertise and policy solutions; and

G. One member who serves as senior staff for a municipal or county health department;

3. The Director of the Office of Policy Innovation and the Future or the director's designee; and

4. The Attorney General or the attorney general's designee.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair of the commission and the first-named House of Representatives member is the House chair of the commission.

Sec. 4. Appointments; convening of commission. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the commission. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business.

Sec. 5. Duties. Resolved: That the commission shall evaluate funding models and structures that allow for the sustained investment in the health and prosperity of youth and families in the State and make recommendations for further legislative action. The commission shall prioritize research and recommendations that:

1. Resolve the structural deficit in the Fund for a Healthy Maine;

2. Identify sources of sustained funding for reducing tobacco use, improving public health, preventing chronic illness, reducing health disparities across demographic and geographic populations and improving the community conditions that support good health and wellness;

3. Identify strategies and structural changes that resolve structural inequities and allow funding and investment plans to extend beyond the Legislature's 2-year budget cycle when doing so is necessary for accomplishing their intents and purposes;

4. Advance the long-term goals established by the Legislature for funds received from legal settlements with manufacturers and excise taxes on products that affect public health and well-being;

5. Identify policy and funding models that maximize alignment between the purpose and intent of public health funding sources and the investments in public health and prevention initiatives those funds support;

6. Identify how funding from various public health-related sources could be blended or pooled to achieve common aims in preventing chronic disease, reducing health disparities among historically disenfranchised and vulnerable populations and improving the community conditions that support the health and resilience of youth in the State; and

7. Identify strategies and system changes that would allow for the calculation of return on investment of all proposed public health and prevention measures over a period of time using the projected health and productivity benefits of those investments.

Sec. 6. Staff assistance. Resolved: That, notwithstanding Joint Rule 353, the Legislative Council shall provide necessary staffing services to the commission except that Legislative Council staff support is not authorized when the Legislature is in regular or special session.

Sec. 7. Report. Resolved: That, no later than December 6, 2023, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services. After receipt and review of the report, one or both of the joint standing committees may submit legislation relating to the subject matter of the report to any regular or special session of the 131st Legislature.

Sec. 8. Outside funding. Resolved: That the commission may seek funding contributions to fully or partially fund the costs of the study. All funding is subject to approval by the Legislative Council in accordance with its policies.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

APPENDIX B

Membership List: Blue Ribbon Commission to Design a Plan for Sustained Investment in Preventing Disease and Improving the Health of Maine Communities

Membership List

The Blue Ribbon Commission to Design a Plan for Sustained Investment in Preventing Disease and Improving the Health of Maine Communities

One member of the Senate from the party holding the largest number of seats in the Legislature who is currently serving on the Joint Standing Committee on Appropriations and Financial Affairs	**Sen. Peggy Rotundo, chair**
One member of the House of Representatives from the party holding the largest number of seats in the Legislature who is currently serving on the Joint Standing Committee on Appropriations and Financial Affairs or the Joint Standing Committee on Health and Human Services	**Rep. Anne Graham, chair**
One member of the Senate from the party holding the 2nd largest number of seats in the Legislature who is currently serving on the Joint Standing Committee on Appropriations and Financial Affairs or the Joint Standing Committee on Health and Human Services	**Sen. Rick Bennett**
One member of the House of Representatives from the party holding the 2nd largest number of seats in the Legislature who is currently serving on the Joint Standing Committee on Appropriations and Financial Affairs	**Rep. John Ducharme**
One member with policy expertise or experience in state budgeting and funding improved access to health care for low-income individuals and other populations experiencing inequitable access to health care	**Alex Carter (Maine Equal Justice)**
One member who manages a public health endowment for a health system in the State and has experience developing statewide plans for improving health and prosperity	**Barbara Crowley, M.D.**
One member who is currently or was formerly employed as senior staff or faculty for a university in the State with expertise in public health, rural health and health equity financing models	**Yvonne Jonk (Maine Rural Health Research Center)**

One member who has a minimum of 8 years of experience leading a community health coalition and experience working with rural populations	**Elsie Flemings (Healthy Acadia)**
One member who represents a statewide association of public health professionals that works to improve and sustain the health and well-being of all people in the State through health promotion, disease prevention and the advancement of health equity	**Rebecca Boulos (Maine Public Health Association)**
One member who has a minimum of 8 years of experience serving in the Legislature, including service on both the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services	**Linda Sanborn**
One member who is employed by a philanthropic organization in the State with experience or expertise funding initiatives in public health and primary prevention that advance racial health equity or reduce health disparities	**Barbara Leonard (Maine Health Access Foundation)**
One member who represents a community development financial institution that advances health and economic equity for people and communities in the State through the integration of finance, business expertise and policy solutions	**Keith Bisson (Coastal Enterprises)**
One member who serves as senior staff for a municipal or county health department	**Liz Blackwell Moore (Cumberland County Public Health)**
The Director of the Office of Policy Innovation and the Future or the director's designee	**Ana Hicks**
The Attorney General or the attorney general's designee	**Attorney General Aaron Frey**

APPENDIX C

22 MRSA §1511
(Fund for a Healthy Maine statute)

§1511. Fund for a Healthy Maine established

1. Fund established. The Fund for a Healthy Maine, referred to in this chapter as the "fund," is established for the purposes specified in this chapter as a separate and distinct fund for accounting and budgetary reporting purposes.
[PL 2011, c. 701, §1 (AMD).]

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; [PL 1999, c. 401, Pt. V, §1 (NEW).]

B. Money from any other source, whether public or private, designated for deposit into or credited to the fund; and [PL 1999, c. 401, Pt. V, §1 (NEW).]

C. Interest earned or other investment income on balances in the fund. [PL 1999, c. 401, Pt. V, §1 (NEW).]
[PL 1999, c. 401, Pt. V, §1 (NEW).]

3. Allocation; amounts.
[PL 2001, c. 358, Pt. Q, §1 (RP).]

3-A. Unencumbered balances. Any unencumbered balance remaining at the end of any fiscal year lapses back to the Fund for a Healthy Maine, the account within the Department of Administrative and Financial Services established pursuant to this section, and may not be made available for expenditure without specific legislative approval.
[PL 2001, c. 559, Pt. AA, §3 (NEW); PL 2001, c. 559, Pt. AA, §5 (AFF).]

3-B. Departmental indirect cost allocation plans. Any revenue transfer made on or after July 1, 2000 from a Fund for a Healthy Maine account to another account pursuant to an approved departmental indirect cost allocation plan is determined by the Legislature to be an authorized use of revenue credited to the Fund for a Healthy Maine. The State Budget Officer shall reduce allotment for the amount of any transfer made from a Fund for a Healthy Maine account for the purpose authorized in this subsection.
[PL 2003, c. 513, Pt. Y, §1 (NEW).]

4. Restrictions. This section does not require the provision of services for the purposes specified in subsection 6. When allocations are made to direct services, services to lower income consumers must have priority over services to higher income consumers. Allocations from the fund must be used to supplement, not supplant, appropriations from the General Fund.
[PL 1999, c. 401, Pt. V, §1 (NEW).]

5. General Fund limitation. Notwithstanding any provision to the contrary in this section, any program, expansion of a program, expenditure or transfer authorized by the Legislature using the Fund for a Healthy Maine may not be transferred to the General Fund without specific legislative approval.
[PL 1999, c. 401, Pt. V, §1 (NEW).]

6. Health promotion purposes. Allocations are limited to the following prevention and health promotion purposes:

A. Smoking prevention, cessation and control activities, including, but not limited to, reducing smoking among the children of the State; [PL 1999, c. 401, Pt. V, §1 (NEW).]

A-1. Prevention, education and treatment activities concerning unhealthy weight and obesity; [PL 2011, c. 617, §1 (NEW).]

B. Prenatal and young children's care including home visits and support for parents of children from birth to 6 years of age; [PL 1999, c. 401, Pt. V, §1 (NEW).]

C. Child care for children up to 15 years of age, including after-school care; [PL 1999, c. 401, Pt. V, §1 (NEW).]

D. Health care for children and adults, maximizing to the extent possible federal matching funds; [PL 1999, c. 401, Pt. V, §1 (NEW).]

E. Prescription drugs for adults who are elderly or disabled, maximizing to the extent possible federal matching funds; [PL 1999, c. 401, Pt. V, §1 (NEW).]

F. Dental and oral health care to low-income persons who lack adequate dental coverage; [PL 1999, c. 401, Pt. V, §1 (NEW).]

G. Substance use disorder prevention and treatment; and [PL 2017, c. 407, Pt. A, §71 (AMD).]

H. Comprehensive school health and nutrition programs, including school-based health centers. [PL 2007, c. 539, Pt. IIII, §3 (AMD).]

[PL 2017, c. 407, Pt. A, §71 (AMD).]

7. Investment; plan; report.

[PL 2001, c. 358, Pt. Q, §3 (RP).]

8. Report by Treasurer of State. The Treasurer of State shall report at least annually on or before the 2nd Friday in December to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters. The report must summarize the activity in any funds or accounts directly related to this section.

[PL 2001, c. 358, Pt. Q, §4 (NEW).]

9. Working capital advance. Beginning July 1, 2003, the State Controller is authorized to provide an annual advance up to $37,500,000 from the General Fund to the fund to provide money for allocations from the fund. This money must be returned to the General Fund as the first priority from the amounts credited to the fund pursuant to subsection 2, paragraph A.

[PL 2001, c. 714, Pt. OO, §1 (NEW).]

10. Restricted accounts.

[PL 2003, c. 687, Pt. B, §6 (RP); PL 2003, c. 687, Pt. B, §11 (AFF).]

11. Restricted accounts. The State Controller is authorized to establish separate accounts within the fund in order to segregate money received by the fund from any source, whether public or private, that requires as a condition of the contribution to the fund that the use of the money contributed be restricted to one or more of the purposes specified in subsection 6. Money credited to a restricted account established under this subsection may be applied only to the purposes to which the account is restricted.

[PL 2003, c. 687, Pt. A, §9 (NEW); PL 2003, c. 687, Pt. B, §11 (AFF).]

12. Adjustment to allocations. For state fiscal years beginning on or after July 1, 2008, the State Budget Officer is authorized to adjust allocations if actual revenue collections for the fiscal year are less than the approved legislative allocations. The State Budget Officer shall review the programs receiving funds from the fund and shall adjust the funding in the All Other line category to stay within available resources. These adjustments must be calculated in proportion to each account's allocation in the All Other line category in relation to the total All Other allocation for fund programs. Notwithstanding any other provision of law, the allocation for the identified amounts may be reduced by financial order upon the recommendation of the State Budget Officer and approval of the Governor. The State Budget Officer shall report annually on the allocation adjustments made pursuant to this subsection to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters by May 15th.

[PL 2009, c. 1, Pt. F, §1 (NEW).]

13. Separate accounts; annual reporting. A state agency that receives allocations from the fund and a contractor or vendor that receives funding allocated from the fund shall maintain that money in a separate account and shall report by September 1st of each year to the Commissioner of Administrative and Financial Services providing a description of how those funds for the prior state fiscal year were targeted to the prevention and health-related purposes listed in subsection 6. The Commissioner of Administrative and Financial Services shall by October 1st of each year compile the reports provided under this subsection and forward the information in a report to the Legislature.
[PL 2011, c. 701, §2 (NEW).]

REVISOR'S NOTE: (Subsection 13 as enacted by PL 2011, c. 655, Pt. M, §1 is REALLOCATED TO TITLE 22, SECTION 1511, SUBSECTION 15)

14. Legislative committee review of legislation. Whenever a proposal in a resolve or bill before the Legislature, including but not limited to a budget bill, affects the fund, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public hearing and determine the level of support for the proposal among members of the committee. If there is support for the proposal among a majority of the members of the committee, the committee shall request the joint standing committee of the Legislature having jurisdiction over health and human services matters to review and evaluate the proposal as it pertains to the fund. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall conduct the review and report to the committee of jurisdiction and to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.
[PL 2011, c. 701, §2 (NEW).]

15. (REALLOCATED FROM T. 22, §1511, sub-§13) Attrition adjustment. For state fiscal years beginning on or after July 1, 2012, the State Budget Officer is authorized to adjust allocations to address shortfalls that occur as a direct result of Personal Services allocation reductions for projected vacancies. Accrued savings generated from vacant positions within a Fund for a Healthy Maine account's allocation for Personal Services or available balances in the Fund for a Healthy Maine program within the Department of Administrative and Financial Services may be transferred by financial order to offset Personal Services shortfalls in other Fund for a Healthy Maine accounts except that these transfers are subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.
[RR 2011, c. 2, §24 (RAL).]

SECTION HISTORY

PL 1999, c. 401, §V1 (NEW). PL 2001, c. 358, §§Q1-4 (AMD). PL 2001, c. 559, §AA3 (AMD). PL 2001, c. 559, §AA5 (AFF). PL 2001, c. 714, §OO1 (AMD). IB 2003, c. 1, §6 (AMD). PL 2003, c. 513, §Y1 (AMD). PL 2003, c. 687, §§A9,B6 (AMD). PL 2003, c. 687, §B11 (AFF). PL 2007, c. 539, Pt. IIII, §3 (AMD). PL 2009, c. 1, Pt. F, §1 (AMD). RR 2011, c. 2, §24 (COR). PL 2011, c. 617, §1 (AMD). PL 2011, c. 655, Pt. M, §1 (AMD). PL 2011, c. 701, §§1, 2 (AMD). PL 2017, c. 407, Pt. A, §71 (AMD).

APPENDIX D

Fund for a Healthy Maine Allocations FY 2015-16 to FY 2024-25

Fund for a Healthy Maine (FHM) Allocations

Adjusted for Departmental Reorganizations[1]

Allocations through 131st Legislature 1st Special Session

FY 2015-16 to FY 2024-25

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
DEPARTMENT OF THE ATTORNEY GENERAL										
024-26A-0947-01 FHM - ATTORNEY GENERAL (FORMERLY 011-26A-0947)										
Pos. - Leg.	(1.000)	(1.000)	(1.000)	(1.000)	(1.000)	(1.000)	(1.000)	(1.000)	(1.000)	(1.000)
Pers. Serv.	116,600	$118,540	121,765	$127,517	140,826	$147,220	109,765	$115,063	144,239	$151,768
All Other	21,542	19,628	19,628	19,628	20,860	20,860	21,164	21,164	23,456	23,456
Program Total	138,142	138,168	141,393	147,145	161,686	168,080	130,929	136,227	167,695	175,224
Annual % Increase	-8.11%	0.02%	2.33%	4.07%	9.88%	3.95%	-22.10%	4.05%	23.10%	4.49%
DEPARTMENT OF THE ATTORNEY GENERAL										
Pos. - Leg.	**(1.000)**	**(1.000)**	**(1.000)**	**(1.000)**	**(1.000)**	**(1.000)**	**(1.000)**	**(1.000)**	**(1.000)**	**(1.000)**
Pers. Serv.	**116,600**	**118,540**	**121,765**	**127,517**	**140,826**	**147,220**	**109,765**	**115,063**	**144,239**	**151,768**
All Other	**21,542**	**19,628**	**19,628**	**19,628**	**20,860**	**20,860**	**21,164**	**21,164**	**23,456**	**23,456**
Dept. Total	**138,142**	**138,168**	**141,393**	**147,145**	**161,686**	**168,080**	**130,929**	**136,227**	**167,695**	**175,224**
Annual % Increase	**-8.11%**	**0.02%**	**2.33%**	**4.07%**	**9.88%**	**3.95%**	**-22.10%**	**4.05%**	**23.10%**	**4.49%**
DEPARTMENT OF EDUCATION										
024-05A-Z068-01 FHM - SCHOOL BREAKFAST PROGRAM (FORMERLY 011-05A-Z068-01)										
All Other	213,720	213,720	213,720	213,720	213,720	213,720	213,720	213,720	213,720	213,720
Program Total	213,720	213,720	213,720	213,720	213,720	213,720	213,720	213,720	213,720	213,720
Annual % Increase	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
DEPARTMENT OF EDUCATION										
Pos. - Leg.	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**
Pers. Serv.	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**
All Other	**213,720**	**213,720**	**213,720**	**213,720**	**213,720**	**213,720**	**213,720**	**213,720**	**213,720**	**213,720**
Dept. Total	**213,720**	**213,720**	**213,720**	**213,720**	**213,720**	**213,720**	**213,720**	**213,720**	**213,720**	**213,720**
Annual % Increase	**0.00%**	**0.00%**	**0.00%**	**0.00%**	**0.00%**	**0.00%**	**0.00%**	**0.00%**	**0.00%**	**0.00%**
FINANCE AUTHORITY OF MAINE										
024-94F-0950-02 FHM - HEALTH EDUCATION CENTERS (FORMERLY 011-94F-0950-02)										
All Other	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000
Program Total	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000
Annual % Increase	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

Fund for a Healthy Maine (FHM) Allocations

Adjusted for Departmental Reorganizations[1]

Allocations through 131st Legislature 1st Special Session

FY 2015-16 to FY 2024-25

		2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
024-94F-0951-01	FHM - DENTAL EDUCATION										
All Other		237,740	237,740	237,740	237,740	237,740	237,740	237,740	237,740	237,740	237,740
Program Total		237,740	237,740	237,740	237,740	237,740	237,740	237,740	237,740	237,740	237,740
Annual % Increase		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
024-94F-Z229-01	MAINE HARVESTED FOOD PRODUCTS FOR RESIDENTS WITH FOOD INSECURITY										
All Other		0	3,000,000	0	0	0	0	0	0	0	0
Program Total		0	3,000,000	0	0	0	0	0	0	0	0
Annual % Increase		0.00%	0.00%	-100.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
FINANCE AUTHORITY OF MAINE											
Pos. - Leg.		**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**
Pos. - Other		**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**	**(0.000)**
Pers. Serv.		**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**
All Other		**347,740**	**3,347,740**	**347,740**	**347,740**	**347,740**	**347,740**	**347,740**	**347,740**	**347,740**	**347,740**
Dept. Total		**347,740**	**3,347,740**	**347,740**	**347,740**	**347,740**	**347,740**	**347,740**	**347,740**	**347,740**	**347,740**
Annual % Increase		**0.00%**	**862.71%**	**-89.61%**	**0.00%**	**0.00%**	**0.00%**	**0.00%**	**0.00%**	**0.00%**	**0.00%**
DEPARTMENT OF HEALTH AND HUMAN SERVICES (FORMERLY DHS)											
024-10A-0143-25	MAINE CENTER FOR DISEASE CONTROL AND PREVENTION (ACCOUNT NAME: ORAL HEALTH) (FORMERLY FHM - BUREAU OF HEALTH - ORAL HEALTH 011-10A-0953-01)										
All Other		300,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000
Program Total		300,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000
Annual % Increase		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
024-10A-0143-30	MAINE CENTER FOR DISEASE CONTROL AND PREVENTION (ACCOUNT NAME: TOBACCO PREVENTION AND CONTROL) (FORMERLY FHM - BUREAU OF HEALTH - TOBACCO PREVENTION AND CONTROL 011-10A-0953-02)										
Pos. - Leg.		(6.000)	(6.000)	(5.000)	(5.000)	(5.000)	(5.000)	(5.000)	(5.000)	(5.000)	(5.000)
Pers. Serv.		485,716	500,277	421,714	433,766	429,777	455,616	461,328	471,236	480,330	497,608
All Other		5,821,987	5,821,987	3,824,805	3,825,247	8,825,247	8,825,247	3,825,247	11,325,247	11,325,247	11,325,247
Program Total		6,307,703	6,322,264	4,246,519	4,259,013	9,255,024	9,280,863	4,286,575	11,796,483	11,805,577	11,822,855
Annual % Increase		-1.71%	0.23%	-32.83%	0.29%	117.30%	0.28%	-53.81%	175.20%	0.08%	0.15%
024-10A-0143-31	MAINE CENTER FOR DISEASE CONTROL AND PREVENTION (ACCOUNT NAME: FHM - SUBSTANCE ABUSE PREVENTION)										
All Other		0	0	777,504	777,504	777,504	777,504	777,504	777,504	777,504	777,504
Program Total		0	0	777,504	777,504	777,504	777,504	777,504	777,504	777,504	777,504
Annual % Increase		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

Fund for a Healthy Maine (FHM) Allocations

Adjusted for Departmental Reorganizations[1]

Allocations through 131st Legislature 1st Special Session

FY 2015-16 to FY 2024-25

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
024-10A-0143-26	MAINE CENTER FOR DISEASE CONTROL AND PREVENTION (ACCOUNT NAME: COMMUNITY/ SCHOOL GRANTS & STATEWIDE COORDINATION) (FORMERLY FHM - BUREAU OF HEALTH - COMMUNITY/SCHOOL GRANTS 011-10A-0953-07)									
Pos. - Leg.	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)
Pers. Serv.	204,118	212,539	256,270	262,731	272,447	286,307	295,591	298,900	308,406	313,114
All Other	4,781,144	4,781,144	1,750,939	2,351,108	2,511,108	2,511,108	2,511,108	2,511,108	2,511,108	2,511,108
Program Total	4,985,262	4,993,683	2,007,209	2,613,839	2,783,555	2,797,415	2,806,699	2,810,008	2,819,514	2,824,222
Annual % Increase	-0.67%	0.17%	-59.81%	30.22%	6.49%	0.50%	0.33%	0.12%	0.34%	0.17%
024-10A-0143-27	MAINE CENTER FOR DISEASE CONTROL AND PREVENTION (ACCOUNT NAME: PUBLIC HEALTH INFRASTRUCTURE) (FORMERLY FHM - PUBLIC HEALTH INFRASTRUCTURE 011-10A-0953-08)									
Pos. - Leg.	(1.000)	(1.000)	(1.000)	(1.000)	(7.000)	(7.000)	(7.000)	(7.000)	(8.000)	(8.000)
Pers. Serv.	544,187	714,255	524,984	545,296	1,270,949	1,356,042	606,688	623,348	766,294	784,245
All Other	1,990,109	1,944,926	1,638,542	1,594,225	2,057,483	2,237,980	2,237,980	2,237,980	2,244,581	2,244,585
Program Total	2,534,296	2,659,181	2,163,526	2,139,521	3,328,432	3,594,022	2,844,668	2,861,328	3,010,875	3,028,830
Annual % Increase	86.91%	4.93%	-18.64%	-1.11%	55.57%	7.98%	-20.85%	0.59%	5.23%	0.60%
024-10A-0143-28	MAINE CENTER FOR DISEASE CONTROL AND PREVENTION (ACCOUNT NAME: DONATED DENTAL) (FORMERLY FHM - DONATED DENTAL 011-10A-0958-01)									
All Other	36,463	36,463	36,463	36,463	36,463	36,463	36,463	36,463	36,463	36,463
Program Total	36,463	36,463	36,463	36,463	36,463	36,463	36,463	36,463	36,463	36,463
Annual % Increase	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
024-10A-0545-04	HEAD START (FORMERLY FHM - HEAD START 011-10A-0959-01)									
All Other	1,929,580	1,929,580	1,354,580	1,354,580	1,354,580	1,354,580	1,354,580	1,354,580	1,354,580	1,354,580
Program Total	1,929,580	1,929,580	1,354,580	1,354,580	1,354,580	1,354,580	1,354,580	1,354,580	1,354,580	1,354,580
Annual % Increase	42.45%	0.00%	-29.80%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
024-10A-0147-01	MEDICAL CARE - PAYMENTS TO PROVIDERS (FORMERLY FHM - MEDICAL CARE 011-10A-0960-01)									
All Other	25,901,244	26,036,930	31,036,930	31,036,930	31,036,930	27,118,732	25,618,328	26,261,358	31,028,356	32,022,910
Program Total	25,901,244	26,036,930	31,036,930	31,036,930	31,036,930	27,118,732	25,618,328	26,261,358	31,028,356	32,022,910
Annual % Increase	-6.39%	0.52%	19.20%	0.00%	0.00%	-12.62%	-5.53%	2.51%	18.15%	3.21%
024-10A-0228-01	PURCHASED SOCIAL SERVICES (FORMERLY FHM - PURCHASED SOCIAL SERVICES 011-10A-0961-01)									
All Other	1,971,118	1,971,118	1,971,118	1,971,118	4,471,118	4,471,118	1,971,118	1,971,118	1,971,118	1,971,118
Program Total	1,971,118	1,971,118	1,971,118	1,971,118	4,471,118	4,471,118	1,971,118	1,971,118	1,971,118	1,971,118
Annual % Increase	0.00%	0.00%	0.00%	0.00%	126.83%	0.00%	-55.91%	0.00%	0.00%	0.00%

Fund for a Healthy Maine (FHM) Allocations

Adjusted for Departmental Reorganizations[1]

Allocations through 131st Legislature 1st Special Session

FY 2015-16 to FY 2024-25

		2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
024-10A-0202-01	LOW-COST DRUGS TO MAINE'S ELDERLY (FORMERLY FHM - DRUGS OF THE ELDERLY AND DISABLED 011-10A-Z015-01)										
All Other		6,217,798	6,082,095	6,082,095	6,082,095	6,082,095	6,082,095	6,082,095	6,082,095	6,082,095	6,082,095
Program Total		6,217,798	6,082,095	6,082,095	6,082,095	6,082,095	6,082,095	6,082,095	6,082,095	6,082,095	6,082,095
Annual % Increase		-9.86%	-2.18%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
024-10A-Z202-41	OFFICE OF SUBSTANCE ABUSE - MEDICAD SEED (FORMERLY OFFICE OF SUBSTANCE ABUSE - MEDICAD SEED 024-14G-0844-01)										
All Other		1,306,059	1,306,059	1,306,059	1,306,059	1,306,059	1,141,178	1,078,041	1,105,099	1,305,698	1,347,550
Program Total		1,306,059	1,306,059	1,306,059	1,306,059	1,306,059	1,141,178	1,078,041	1,105,099	1,305,698	1,347,550
Annual % Increase		0.00%	0.00%	0.00%	0.00%	0.00%	-12.62%	-5.53%	2.51%	18.15%	3.21%
024-10A-Z199-01	OFFICE OF SUBSTANCE ABUSE (FORMERLY OFFICE OF SUBSTANCE ABUSE 024-14G-0679-01)										
All Other		1,848,306	1,848,306	1,070,802	1,070,802	1,698,223	2,075,644	1,070,802	1,070,802	1,070,802	1,070,802
Program Total		1,848,306	1,848,306	1,070,802	1,070,802	1,698,223	2,075,644	1,070,802	1,070,802	1,070,802	1,070,802
Annual % Increase		0.00%	0.00%	-42.07%	0.00%	58.59%	22.22%	-48.41%	0.00%	0.00%	0.00%
024-10A-Z199-02	OFFICE OF SUBSTANCE ABUSE (FORMERLY OFFICE OF SUBSTANCE ABUSE 024-14G-0679-01)										
All Other		0	0	0	0	2,000,000	3,500,000	1,000,000	1,000,000	0	0
Program Total		0	0	0	0	2,000,000	3,500,000	1,000,000	1,000,000	0	0
Annual % Increase		0.00%	0.00%	0.00%	0.00%	100.00%	75.00%	-71.43%	0.00%	-100.00%	0.00%
DEPARTMENT OF HEALTH AND HUMAN SERVICES (FORMERLY DHS)											
Pos. - Leg.		**(7.000)**	**(7.000)**	**(6.000)**	**(6.000)**	**(12.000)**	**(12.000)**	**(12.000)**	**(12.000)**	**(13.000)**	**(13.000)**
Pers. Serv.		**1,234,021**	**1,427,071**	**1,202,968**	**1,241,793**	**1,973,173**	**2,097,965**	**1,363,607**	**1,393,484**	**1,555,030**	**1,594,967**
All Other		**52,103,808**	**52,058,608**	**51,149,837**	**51,706,131**	**62,456,810**	**60,431,649**	**47,863,266**	**56,033,354**	**60,007,552**	**61,043,962**
Dept. Total		**53,337,829**	**53,485,679**	**52,352,805**	**52,947,924**	**64,429,983**	**62,529,614**	**49,226,873**	**57,426,838**	**61,562,582**	**62,638,929**
Annual % Increase		**-3.47%**	**0.28%**	**-2.12%**	**1.14%**	**21.69%**	**-2.95%**	**-21.27%**	**16.66%**	**7.20%**	**1.75%**

Fund for a Healthy Maine (FHM) Allocations

Adjusted for Departmental Reorganizations[1]

Allocations through 131st Legislature 1st Special Session

FY 2015-16 to FY 2024-25

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
MAINE STATE HOUSING AUTHORITY										
024-99H-Z267-01 LEAD ABATEMENT FUND										
All Other	0	0	0	4,000,000	0	0	0	0	0	0
Program Total	0	0	0	4,000,000	0	0	0	0	0	0
Annual % Increase	0.00%	0.00%	0.00%	0.00%	-100.00%	0.00%	0.00%	0.00%	0.00%	0.00%
MAINE STATE HOUSING AUTHORITY										
All Other	**0**	**0**	**0**	**4,000,000**	**0**	**0**	**0**	**0**	**0**	**0**
Dept. Total	**0**	**0**	**0**	**4,000,000**	**0**	**0**	**0**	**0**	**0**	**0**
Annual % Increase	**0.00%**	**0.00%**	**0.00%**	**0.00%**	**-100.00%**	**0.00%**	**0.00%**	**0.00%**	**0.00%**	**0.00%**
GRAND TOTALS - ALL DEPARTMENTS										
Pos. - Leg.	**(8.000)**	**(8.000)**	**(7.000)**	**(7.000)**	**(13.000)**	**(13.000)**	**(13.000)**	**(13.000)**	**(14.000)**	**(14.000)**
Pers. Serv.	**1,350,621**	**1,545,611**	**1,324,733**	**1,369,310**	**2,113,999**	**2,245,185**	**1,473,372**	**1,508,547**	**1,699,269**	**1,746,735**
All Other	**52,686,810**	**55,639,696**	**51,730,925**	**56,287,219**	**63,039,130**	**61,013,969**	**48,445,890**	**56,615,978**	**60,592,468**	**61,628,878**
Grand Total	**54,037,431**	**57,185,307**	**53,055,658**	**57,656,529**	**65,153,129**	**63,259,154**	**49,919,262**	**58,124,525**	**62,291,737**	**63,375,613**
Annual % Increase	**-3.45%**	**5.83%**	**-7.22%**	**8.67%**	**13.00%**	**-2.91%**	**-21.09%**	**16.44%**	**7.17%**	**1.74%**

Notes:

[1]FHM programs and allocations have been modified to reflect the transfer of all FORMERLY BDS funding to new accounts in the FORMERLY DHS Department.

APPENDIX E

Fund for a Healthy Maine Revenue Forecasting Recommendation – May 2023

FUND FOR A HEALTHY MAINE (FHM) REVENUE
(TOBACCO SETTLEMENT PAYMENTS)
REVENUE FORECASTING COMMITTEE RECOMMENDATIONS - MAY 2023 FORECAST

Source	FY19 Actual	% Chg.	FY20 Actual	% Chg.	FY21 Actual	% Chg.	FY22 Actual	% Chg.	FY23 Budget	% Chg.	Recom. Chg.	FY23 Revised	% Chg.
Tobacco Settlement Payments:													
- Base Payments	45,465,742	-2.6%	46,272,664	1.8%	48,584,349	5.0%	49,858,288	2.6%	48,227,310	-3.3%	4,006,743	52,234,053	4.8%
- One-time DPA Settlements *	32,488,828	52.9%	0	-100.0%	0	N/A	0	N/A	0	N/A	0	0	N/A
- Strategic Contribution Payments **	0	N/A	0	N/A	0	N/A	0	N/A	0	N/A	0	0	N/A
Subtotal TSPs	77,954,570	14.8%	46,272,664	-40.6%	48,584,349	5.0%	49,858,288	2.6%	48,227,310	-3.3%	4,006,743	52,234,053	4.8%
Casino Revenue ***	3,640,004	-1.09%	2,773,875	-23.79%	3,376,375	21.7%	4,446,875	31.7%	4,776,003	7.4%	(147,190)	4,628,813	4.1%
Income from Investments	583,469	298.5%	496,816	-14.9%	115,798	-76.7%	160,121	38.3%	613,583	283.2%	84,525	698,108	336.0%
Other Adjustments ****	0	N/A	0	N/A	(994,035)	N/A	272,464	127.4%	0	-100.0%	0	0	-100.0%
Total - FHM Revenue	**82,178,042**	**14.6%**	**49,543,354**	**-39.7%**	**51,082,487**	**3.1%**	**54,737,748**	**7.2%**	**53,616,896**	**-2.0%**	**3,944,078**	**57,560,974**	**5.2%**

* FY 18 and 19 include a “one-time” settlement payment from tobacco manufacturers to settle the NPM Adjustment dispute for the years 2004 through 2017.

** Beginning in FY 18, the ten-year strategic contribution payment ended with the funding nationally for this purpose returned to the regular distribution pool.

*** Casino Revenue reflects that portion of the State's share of proceeds from slot machines at the Hollywood Casino in Bangor designated for the Fund for a Healthy Maine.

****Adjustments for prior year balances forward and audit settlements

FUND FOR A HEALTHY MAINE (FHM) REVENUE
(TOBACCO SETTLEMENT PAYMENTS)
REVENUE FORECASTING COMMITTEE RECOMMENDATIONS - MAY 2023 FORECAST

Source	FY24 Budget	% Chg.	Recom. Chg.	FY24 Revised	% Chg.	FY25 Budget	% Chg.	Recom. Chg.	FY25 Revised	% Chg.
Tobacco Settlement Payments:										
- Base Payments	34,725,954	-28.0%	0	34,725,954	-33.5%	32,277,028	-7.1%	0	32,277,028	-7.1%
- One-time DPA Settlements *	0	N/A	0	0	N/A	0	N/A	0	0	N/A
- Strategic Contribution Payments **	0	N/A	0	0	N/A	0	N/A	0	0	N/A
Subtotal TSPs	34,725,954	-28.0%	0	34,725,954	-33.5%	32,277,028	-7.1%	0	32,277,028	-7.1%
Casino Revenue ***	5,157,870	8.0%	163,367	5,321,237	15.0%	5,157,921	0.0%	163,369	5,321,290	0.0%
Income from Investments	745,802	21.5%	38,191	783,993	12.3%	329,402	-55.8%	22,623	352,025	-55.1%
Other Adjustments ****	0	N/A	0	0	N/A	0	N/A	0	0	N/A
Total - FHM Revenue	**40,629,626**	**-24.2%**	**201,558**	**40,831,184**	**-29.1%**	**37,764,351**	**-7.1%**	**185,992**	**37,950,343**	**-7.1%**
Change in Biennial Totals								**387,550**		

* FY 18 and 19 include a “one-time” settlement payment from tobacco manufacturers to settle the NPM Adjustment dispute for the years 2004 through 2017.

** Beginning in FY 18, the ten-year strategic contribution payment ended with the funding nationally for this purpose returned to the regular distribution pool.

*** Casino Revenue reflects that portion of the State's share of proceeds from slot machines at the Hollywood Casino in Bangor designated for the Fund for a Healthy Maine.

****Adjustments for prior year balances forward and audit settlements

FUND FOR A HEALTHY MAINE (FHM) REVENUE
(TOBACCO SETTLEMENT PAYMENTS)
REVENUE FORECASTING COMMITTEE RECOMMENDATIONS - MAY 2023 FORECAST

Source	FY26 Budget	% Chg.	Recom. Chg.	FY26 Revised	% Chg.	FY27 Budget	% Chg.	Recom. Chg.	FY27 Revised	% Chg.
Tobacco Settlement Payments:										
- Base Payments	32,277,028	0.0%	0	32,277,028	0.0%	32,277,028	0.0%	0	32,277,028	0.0%
- One-time DPA Settlements *	0	N/A	0	0	N/A	0	N/A	0	0	N/A
- Strategic Contribution Payments **	0	N/A	0	0	N/A	0	N/A	0	0	N/A
Subtotal TSPs	32,277,028	0.0%	0	32,277,028	0.0%	32,277,028	0.0%	0	32,277,028	0.0%
Casino Revenue ***	5,157,973	0.0%	163,370	5,321,343	0.0%	5,158,025	0.0%	163,371	5,321,396	0.0%
Income from Investments	329,402	0.0%	(103,867)	225,535	-35.9%	329,402	0.0%	(171,757)	157,645	-30.1%
Other Adjustments ****	0	N/A	0	0	N/A	0	N/A	0	0	N/A
Total - FHM Revenue	**37,764,403**	**0.0%**	**59,503**	**37,823,906**	**-0.3%**	**37,764,455**	**0.0%**	**(8,386)**	**37,756,069**	**-0.2%**
Change in Biennial Totals								**51,117**		

* FY 18 and 19 include a “one-time” settlement payment from tobacco manufacturers to settle the NPM Adjustment dispute for the years 2004 through 2017.

** Beginning in FY 18, the ten-year strategic contribution payment ended with the funding nationally for this purpose returned to the regular distribution pool.

*** Casino Revenue reflects that portion of the State's share of proceeds from slot machines at the Hollywood Casino in Bangor designated for the Fund for a Healthy Maine.

****Adjustments for prior year balances forward and audit settlements

APPENDIX F

50 State Summary – Administration of MSA Funds

State Survey - Management of Tobacco Settlement Funds

STATE	DESCRIPTION	STATUTES/ REGS	LINKS
Alabama	Alabama established the *21st Century Trust Fund* to receive settlement money. Fund appropriations are controlled by the Legislature. $13 million is used for debt service on economic development bonds. Remaining dollars are split between the *Children First Trust Fund*, Medicaid and several smaller initiatives.	• Children First Trust Fund: Ala. Code § 41-15B-2.2	• Alabama Department of Early Childhood Education. *About the Children First Trust Fund*. https://children.alabama.gov/for-advocates/children-first-trust-fund/ • Alabama Children's Policy Council. Children First Trust Fund Annual Reports. http://www.alcpc.org/childrenfirsttrustfund/
Alaska	Alaska established the *Northern Tobacco Securitization Corporation* in 2000 with the goal of securitizing a portion of MSA funds to direct to public housing. The Corporation is a nonprofit public corporation authorized to issue bonds on behalf of the state. State law also established the *Tobacco Use Education and Cessation Fund,* a non dedicated special account in the general fund into which 20% of settlement money is to be deposited for the purpose of tobacco education and prevention.	• Tobacco Use Education and Cessation Fund: AS 37.05.580	• Alaska Housing Finance Corporation. *Northern Tobacco Securitization Corporation*. https://www.ahfc.us/about-us/subsidiaries/ntsc
Arizona	In 2000, Arizona voters passed Proposition 204, which requires all MSA payments to be directed to the Arizona Health Care Cost Containment System, the state's Medicaid agency.	• Prop 204 resulting statutes: Ariz. Rev. Stat. § 36-2901.01 and .02	• Arizona Attorney General. *Master Settlement Agreement.* https://www.azag.gov/consumer/tobacco/msa • Arizona Attorney General. *Proposition 204.* https://www.azag.gov/opinions/i01-008-r00-072.

Arkansas	Arkansas's MSA funds are deposited into the *Tobacco Settlement Program Fund*, overseen by the Arkansas *Tobacco Settlement Commission*. Seven programs receive funding to provide various services, including services for older adults, public health workforce development, healthcare outreach, biomedical research, tobacco cessation and prevention, Medicaid, and minority health.	• Tobacco Settlement Program Fund: Ark. Code § 19-12-108	• Arkansas Department of Health. *Arkansas Tobacco Settlement Commission*. https://www.healthy.arkansas.gov/programs-services/topics/arkansas-tobacco-settlement-commission • Arkansas Attorney General. *Tobacco.* https://arkansasag.gov/arkansass-lawyer/public-protection-department/tobacco
California	California established the *Golden State Tobacco Securitization Corporation*, a not for profit trust of the state. The Corporation purchases California's rights to future MSA revenues and issues bonds for the purchase of tobacco assets from the state.	• Tobacco Settlement State Securitization: California Government Code §§ 63049 - 63049.55	• Golden State Securitization Corporation http://goldenstatetsc.org/ • California Attorney General. *Tobacco Master Settlement Agreement Summary*. https://oag.ca.gov/tobacco/resources/msasumm#:~:text=The%20Settlement%3A%20Requires%20the%20industry%20each%20year%20for,the%20prevention%20of%20diseases%20associated%20with%20tobacco%20use.
Colorado	Colorado deposits its MSA payments into its *Tobacco Litigation Settlement Cash Fund*, from which funds are distributed by the legislature to various programs, including for children's health, nursing services, youth services, HIV and AIDS services and prevention, health care workforce education, immunizations, state employee insurance costs and veterans' services.	• Tobacco Litigation Settlement Cash Fund: C.R.S. 24-22-115	• Colorado Legislative Council memorandum. *2023 Tobacco Master Settlement Agreement Payment Forecast.* March 3, 2023. https://leg.colorado.gov/sites/default/files/r22-1074_2023_tobacco_msa_forecast.pdf
Connecticut	Connecticut established the *Tobacco Settlement Fund* and the *Tobacco Health and Trust Fund* in 1999. All MSA payments are deposited into the Tobacco Settlement Fund. The Tobacco Health and Trust Fund	• Tobacco Settlement Fund: Conn. Gen. Stat. § 4-28e • Tobacco Health and Trust Fund: Conn. Gen. Stat. § 4-28f	• State of Connecticut Office of Policy and Management. Tobacco and Health Trust Fund Board. https://portal.ct.gov/OPM/PDPD-HHS/Tobacco-and-Health-Trust-Fund-Board

	receives a small portion of MSA funds for tobacco cessation and prevention. The large majority of MSA funds are directed to the General Fund. The Trust Fund ceased to receive MSA funds in 2016 but resumed in 2022.		
Delaware	Delaware established the *Delaware Health Fund* in 1999 to receive MSA funds and the *Delaware Health Fund Advisory Committee* was established to make recommendations for the appropriation of MSA funds from the Delaware Health Fund.	• Delaware Health Fund: 16 Del C. §137	• Delaware Department of Health and Human Services. Delaware Health Fund Advisory Committee. https://www.dhss.delaware.gov/dhss/healthfund/
Florida	Florida settled with tobacco manufacturers prior to the settlement in which the majority of states participated. In 2006, a state constitutional amendment was passed to create a tobacco education and prevention program with a portion of the settlement money. *Tobacco Free Florida* was established as a result.	• Article X, Section 27, Florida Constitution. Comprehensive Statewide Tobacco Education and Prevention Program.	• Tobacco Free Florida. https://tobaccofreeflorida.com/about-us/
Georgia	Georgia directs its MSA payments to the state treasury and funds are allocated by the legislature.		• Office of the Attorney General. *Tobacco.* https://law.georgia.gov/tobacco
Hawai‘i	Hawai‘i established the *Hawai‘i Tobacco Prevention and Control Trust Fund* to receive MSA funds and contracts with the *Hawai‘i Community Foundation* to administer the fund.	• Hawai‘i Tobacco Prevention and Control Trust Fund: Haw. Rev. Stat. § 328L-5	• Hawai‘i Community Foundation. Hawai‘I Tobacco Prevention and Control Trust Fund. https://www.hawaiicommunityfoundation.org/strengthening/hawaii-tobacco-prevention-and-control-trust-fund
Idaho	Most MSA payments are deposited into Idaho’s millennium Fund. A portion is used for anti smoking education and outreach.		• Office of the Attorney General State of Idaho. *Tobacco*. https://www.ag.idaho.gov/consumer-protection/tobacco-settlement/

Illinois	Illinois established the *Railsplitter Tobacco Settlement Authority*, a special purpose corporation and body politic of the state, to oversee the use of MSA funds.	• Railsplitter Tobacco Settlement Authority: 30 ILCS 105/6z-43	• State of Illinois Capital Markets. Railsplitter Tobacco Settlement Authority. https://capitalmarkets.illinois.gov/railsplitter-tobacco-settlement-authority.html
Indiana	Indiana created the *Indiana Tobacco Prevention and Cessation Agency* to receive settlement funds. This independent state agency was eliminated in 2011 and funds were diverted to the Indiana State Department of Health.		• Jay SJ, Torabi MR, Spitznagle MH. A decade of sustaining best practices for tobacco control: Indiana's story. Prev Chronic Dis 2012;9:110144. https://www.cdc.gov/pcd/issues/2012/11_0144.htm
Iowa	In 2001, the *Tobacco Settlement Authority* purchased all of Iowa's MSA payments as well as the state's rights to receive payments pursuant to the MSA. Funds were deposited into the *Tobacco Settlement Trust Fund*. The Authority issued bonds and distributed net proceeds to the state. The unpledged portion of revenues are paid directly to the state.	• Tobacco Settlement Authority: Iowa Code 12E • Tobacco Settlement Trust Fund: Iowa Code 12E.12	• Summary of Iowa's Tobacco Settlement, Iowa Legislature. 2011. https://www.legis.iowa.gov/docs/publications/SD/14467.pdf#:~:text=Iowa%20receives%20annual%20payments%20from%20the%20tobacco%20industry,payments%20range%20from%20%2439.0%20million%20to%20%2462.0%20million. • Tobacco Settlement Authority Financial Report. June 30, 2022. https://www.legis.iowa.gov/docs/publications/DF/1313168.pdf • Iowa Torch. Iowa receives $53.2 million tobacco payment. April 20, 2022. https://iowatorch.com/2022/04/20/iowa-receives-53-2-million-tobacco-payment/
Kansas	Kansas established the *Kansas Endowment for Youth* to receive MSA payments in 1999. The state also established the *Children's Initiatives Fund,* to receive money from the Endowment, and the *Children's Cabinet* to advise the governor and legislature on the best use of funds.	• Kansas Endowment for Youth Fund: K.S.A. 38-2101 and 2103-5 • Children's Initiatives Fund: K.S.A. 38-2102	• Tobacco Settlement Update. Kansas Legislative research Document. Nov. 17. 2020. https://www.kslegresearch.org/KLRD-web/Publications/HealthCare/Tobaccosettlement_Nov2020.pdf

Kentucky	Kentucky created the *Tobacco Settlement Agreement Fund Oversight Committee*, a committee of the Kentucky legislature, to oversee the use of MSA money.		• Kentucky General Assembly. Statutory Committee Tobacco Settlement Agreement Fund Oversight Committee. https://apps.legislature.ky.gov/CommitteeDocuments/166/ • Kentucky Attorney General. Tobacco Master Settlement Agreement. https://www.ag.ky.gov/about/Office-Divisions/OCEL/Pages/Tobacco-Master-Settlement-Agreement.aspx
Louisiana	Louisiana established the *Millennium Trust,* the *Louisiana Fund* and the *Millennium Leverage Fund* to receive a MSA funds. Some funds are invested and other allocated for various state programs.	• The Millennium Trust: CONST 7 10.8 • The Louisiana Fund: CONST 7 10.9 • The Millennium Leverage Fund: CONST 7 10.10	• Louisiana Attorney General. Tobacco Enforcement. http://www.ag.state.la.us/Tobacco
Maryland	Maryland created *the Cigarette Restitution Fund* in 2001 to receive MSA funds. Funds are allocated to support the tobacco use prevention and cessation; cancer screening, education and treatment; Medicaid services; and other public health initiatives.	• Cigarette Restitution Fund: Md Code. State Finance and Procurement §7–317	• Maryland Attorney General. *Frequently Asked Questions About the Tobacco Settlement*. https://www.marylandattorneygeneral.gov/Pages/Tobacco/FAQ.aspx#q10
Massachusetts	Maryland appears to direct most of its MSA funds to the general fund, but information is scant.		• Massachusetts Office of the Attorney General. The Tobacco Master Settlement Agreement. https://www.mass.gov/info-details/the-tobacco-master-settlement-agreement
Michigan	In 2005, a portion of MSA funds were securitized to fund the *21st Century Jobs Fund* and in 2017 additional funds were securitized to balance the state budget. As a result, a portion of annual MSA funds are used in debt service. A portion of funds are also	• Michigan Tobacco Settlement Finance Authority Act: MCL 12.194 • 21st Century Jobs Fund: MCL 12.257	• House Fiscal Agency. Memorandum Re. Tobacco Settlement Funds. December 11, 2013. https://www.house.mi.gov/hfa/PDF/Tobacco_Settlement_Funds.pdf

	deposited in the *Merit Award Trust Fund.* The Tobacco Settlement Finance Authority is a public body corporate and politic within the treasury and authorized to issue bonds.	• Michigan Merit Award Trust Fund: MCL 12.259 • Michigan Tobacco Settlement Finance Authority: MCL 129.264	
Minnesota	Minnesota settled with manufacturers prior to the MSA. The state created the *Tobacco Securitization Authority* to manage the funds and issue bonds.	• Tobacco Securitization Authority: Minn. Stat. 16A.98	
Mississippi	Mississippi settled with manufacturers prior to the MSA. In 1999, a trust fund was created to distribute funds for tobacco prevention, but funds were gradually used for other purposes and the trust eventually repealed.		• Harrison, Bobby. Mississippi Today. Landmark tobacco lawsuit settled 25 years ago — what happened to money? June 26, 2022. https://mississippitoday.org/2022/06/26/landmark-tobacco-lawsuit-settled-25-years-ago-what-happened-to-money/
Missouri	The state created the *Tobacco Settlement Financing Authority*, a body corporate and politic, to implement and administer the securitization of MSA funds.	• Tobacco Settlement Financing Authority Act: Mo. Rev. Stat Sections 8.500 to 8.565	• Missouri Foundation for Health. *Tobacco master Settlement Agreement Factsheet: Current Impact on Missouri*. 2016. https://mffh.org/wp-content/uploads/2016/04/Tobacco-Master-Settlement-Agreement-Factsheet2016.pdf
Montana	Montana passed a constitutional amendment in 2000 dedicating a minimum of 40% of tobacco settlement funds to a permanent income producing *Tobacco Trust Fund*. 90 percent of the fund's interest must be used for health care benefits, services, education programs and tobacco disease prevention. Subsequent initiatives and legislative changes have altered the distribution of MSA funds so that 40% is	• Constitution of Montana -- Article XII • Montana Tobacco Settlement Trust Fund: Mont. Code Ann.§ 17-6	• Montana Attorney General. *Tobacco Sales and Directory and Tobacco Settlement.* https://dojmt.gov/consumer/tobacco-sales-and-directory-tobacco-settlement/

	deposited in the Tobacco Trust Fund, 32% spent on tobacco prevention and cessation activities, 17% on Medicaid and 11% to the general fund.		
Nebraska	Nebraska created the *Nebraska Tobacco Settlement Trust Fund* in 1998 to receive and hold MSA funds. Money from the Nebraska Tobacco Settlement Trust Fund is transferred to the *Nebraska Health Care Cash Fund* in accordance with state law. Remaining funds may be invested.	• Nebraska Tobacco Settlement Trust Fund: Neb. Rev. State. §71-7608. • Nebraska Health Care Cash Fund: Neb. Rev. Stat. §71-7611	• Nebraska Legislative Fiscal Office. *Nebraska Health Care Cash Fund and Related Funds*. 2022. https://www.nebraskalegislature.gov/pdf/reports/committee/health/nhccf_2022.pdf
Nevada	Nevada passed legislation in 1999 directing that 60% of Nevada's annual MSA payment goes towards the *Fund for a Healthy Nevada* and 40% funds Nevada's *Millennium Scholarship Program*	• Administration of Certain Proceeds from Manufacturers of Tobacco Products: NRS 439.600	• Nevada Department of Health and Human Services. Fund for a Healthy Nevad . https://dhhs.nv.gov/Programs/Grants/Funding/FHN/
New Hampshire	New Hampshire sends the first 40 million in MSA payments to the *Education Trust Fund*, which funds public schools. Any excess funds are sent to the general fund.	• Education Trust Fund: N.H. Rev. Stat. Ann. §193.39	• American Lung Association. 20th Annual 'State of Tobacco Control' Report Reveals New Hampshire Still Lags Behind on Policies to Reduce Tobacco Use, January 25, 2922. https://www.lung.org/media/press-releases/state-of-tobacco-control-report-2022-nh
New Jersey	New Jersey established the *New Jersey Tobacco Settlement Financing Corporation* to sell issued tobacco bonds beginning in 2002; the state has experienced difficulty paying back bondholders.	• Tobacco Settlement Financing Corporation: N.J.R.S.A. § 52:18B-3	• New Jersey Attorney General. Tobacco Manufacturers Directory. https://www.njoag.gov/resources/tobacco-manufacturers-directory/
New Mexico	New Mexico created the *Tobacco Settlement Permanent Fund* in 2000. While the fund originally received about half of the annual MSA payments, in recent years, nearly all funds have been otherwise appropriated.	• Tobacco Settlement Permanent Fund: NMSA 6-4-9	• New Mexico State Investment Council. *Tobacco Settlement Permanent Fund*. https://www.sic.state.nm.us/investments/permanent-funds/tobacco-settlement-permanent-fund/

New York	New York established the *Tobacco Settlement Financing Corporation* as a public benefit corporation of the state to purchase all or a portion of MSA funds, which are deposited into the *Tobacco Settlement Fund*.	• Tobacco Settlement Fund: N.Y. STF § 92-x	• Tobacco Settlement Financing Corporation https://hcr.ny.gov/tobacco-settlement-financing-corporation-tsfc
North Carolina	North Carolina established the *Settlement Reserve Fund* to receive MSA payments. The state previously deposited 25% its tobacco settlement money into the *Health and Wellness Trust Fund*, which funded the state's tobacco prevention and cessation program. However, in 2011 the Trust was dissolved and in 2013 the program was totally defunded.	• Settlement Reserve Fund; N.C.G.S. § 143C-9-3	• Website of the Health and Wellness Trust Fund http://www.hwtfc.org/ • North Carolina Health and Wellness Trust Fund. Brief Overview of the Tobacco Settlement in N. Carolina. http://www.hwtfc.org/pdffiles/hwOverviewTobaccoSettlement.pdf • Schofield, Rob. NC Newsline. Report: North Carolina ranks 45th in protecting kids from tobacco. Dec. 10, 2013. https://ncnewsline.com/briefs/report-north-carolina-ranks-45th-in-protecting-kids-from-tobacco/
North Dakota	North Dakota created the *Tobacco Settlement Trust Fund* to receive MSA payments. Statute provides that moneys in the fund must be transferred to a community health trust fund within 30 days of receipt and may be appropriated for community-based public health programs and other public health programs	• Tobacco Settlement Trust Fund: NDCC 54-27-25	• North Dakota legislative Council. Budget Committee on Health Care. *Analysis of the Tobacco Settlement Trust Fund for the 1999-2001 biennium.* https://www.ndlegis.gov/sites/default/files/resource/committee-memorandum/1925101_0.pdf#:~:text=North%20Dakota%20Century%20Code%20Section%20%28NDCC%29%2054-27-25%2C%20created,45%20percent%20to%20the%20water%20development%20trust%20fund.
Ohio	Ohio established several funds to receive MSA payments. One of those funds, the *Tobacco Use Prevention and Cessation Trust Fund* was governed by a 20 member Board of Trustees. In 2008, funds were diverted to the state's general revenue fund. A new fund, the *Tobacco use prevention fund*, was created to receive MSA funds. Statute provides	• Tobacco use prevention fund: Ohio Rev. Code § 3701.841	• Slenkovich, Ken. The Center for Community Solutions. Ohio's Tobacco Master Settlement Agreement; History, Lessons Learned, and Considerations /. October 15, 2020. https://www.communitysolutions.com/research/ohios-tobacco-master-settlement-agreement-history-lessons-learned-considerations-ohio/

	that moneys in the fund shall be used to pay outstanding expenses of the former tobacco use prevention and control foundation		
Oklahoma	Oklahoma established the *Tobacco Use Reduction Fund* to receive settlement funds and the *Oklahoma Tobacco Settlement Endowment Trust* to manage funds and award grants.	• Tobacco Use Reduction Fund Okla. State. Ann. Tit. 63-1-229.3.	• Forman, Carmen. The Oklahoman. *Watchdog report questions TSET spending, Oklahoma's tobacco cessation efforts*. June 22, 2001. https://www.oklahoman.com/story/news/2021/06/22/oklahoma-legislative-watchdog-office-questions-tobacco-settlement-endowment-spending/7770584002/ • Tobacco Settlement Endowment Trust. https://oklahoma.gov/tset.html
Oregon	Oregon deposits its MSA funds into its *Tobacco Settlements Funds Account*. has in recent years allocated much of its settlement funds towards its Medicaid program.		• Gray, Chris. The Lund Report. *Oregon Putting All Its Declining Tobacco Settlement Funds into Health Expenses*. July 3, 2015. https://www.thelundreport.org/content/oregon-putting-all-its-declining-tobacco-settlement-funds-health-expenses#:~:text=The%20bulk%20of%20the%20funds%20will%20be%20geared,grants%20for%20physical%20education%20programs%20at%20Oregon%20schools. • Oregon Legislative Fiscal Office. *Fiscal Impact of Proposed Legislation.* Measure HB 2128-C. https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureAnalysisDocument/80974#:~:text=Under%20current%20law%2C%20the%20Tobacco%20Settlement%20Funds%20Account,into%20the%20OHAF%20for%20expenses%20of%20the%20OHP.
Pennsylvania	Pennsylvania created the *Tobacco Settlement Fund* to receive MSA payments. In 2017 bonds were issued using MSA funds in order to balance the state budget, and revenues are now used to pay debt service on those bonds. The *Tobacco Revenue Bond Debt Service Account* was created to	• Tobacco Revenue Bond Debt Service Account 72 Pa Cons. Stat.. § 9805.	• Pennsylvania Alliance to Control Tobacco. *PACT Recommendation: Maintain level state funding for fiscal year 2024 and seek to increase funding for comprehensive tobacco prevention and control programs*. https://pactonline.org/program-funding/ • The Tobacco Settlement Annual report to the General Assembly. July 1, 2020- June 30, 2021. https://www.dhs.pa.gov/docs/Publications/Documents/

	receive MSA funds certified by the secretary for the payment of principal and interest for bonds		Highlighted%20Reports/DHS%20Tobacco%20Settlement%20Report%20FY20-21%20Final.pdf • Tobacco Settlements Fund Primer. House Appropriations Committee. Dec. 16, 2013. Tobacco Settlement Fund Primer (pahouse.com)
Rhode Island	Rhode Island established the *Tobacco Settlement Financing Corporation*, a public corporation of the State of Rhode Island, to finance the acquisition from the State of the State's interest in the moneys due under the Master Settlement. The corporation has issued bonds on multiple occasions	• Tobacco Settlement Financing Act R.I. Gen. Laws § 42-133-2	• Rhode Island Tobacco Settlement Financing Corporation https://tsfc.ri.gov/
South Carolina	South Carolina established the *Tobacco Settlement Revenue Management Authority*, a public body corporate and politic and an instrumentality of the State, to receive MSS payments and issue bonds	• Tobacco Revenue Management Authority Act S.C. Code Ann § 11-49	• Tobacco Settlement Revenue Management Authority Financial Statements. June 30, 2021. https://www.osa.sc.gov/wp-content/uploads/2021/10/Final-Audit-TSRMA.pdf
South Dakota	South Dakota established the *Health Care Trust Fund* in the state constitution to receive tobacco settlement funds. The constitution directs the South Dakota Investment Council to invest the trust fund in stocks, bonds, mutual funds and other financial instruments as provided by law.	• Health Care Trust Fund Article 12, §5	• South Dakota Investment council 2022 Annual Report https://sdic.sd.gov/docs/Annual%20Report%202022.pdf
Tennessee	Tennessee deposits its tobacco settlement funds into the General Fund. At least some funds have been allocated for anti smoking activities by the Tennessee Tobacco Settlement Program		• Tennessee Department of Health. *Tennessee Tobacco Settlement Program History*. https://www.tn.gov/health/health-program-areas/tennessee-tobacco-settlement-program.html

Texas	Texas settled with manufacturers prior to the MSA. Texas established the *Tobacco Settlement Permanent Trust Account* as a cooperative project between the Texas Department of Health and the State Comptroller of Public Accounts to provide local health departments and hospital districts a portion of the payments from the state's tobacco settlement. The *Tobacco Settlement Permanent Trust Account Investment Advisory Committee* provides advice to the comptroller regarding fund management	• Tobacco Settlement Permanent Trust Account Tex. Exec. Branch Code Ann. §. 403.1041 • Tobacco Settlement Permanent Trust Account Investment Advisory Committee Tex. Exec. Branch Code Ann § 403.1042	• Tobacco Settlement Distribution Program https://www.dshs.texas.gov/tobacco/tobacco-settlement-distribution-program
Utah	Utah amended its constitution to establish the *Permanent State Trust Fund* to receive MSA payments. Until July 2007, a portion of MSA funds were deposited into the trust fund. After July 2007, current law requires that 40% of MSA funds be deposited into the General Fund. The state also created the *Tobacco Settlement Restricted Account*, into which the remaining 60% of MSA funds are deposited.	• Tobacco Settlement Funds and Endowment UC § 51-9	
Vermont	Vermont established the Tobacco Litigation Settlement Fund in 1999 to receive tobacco settlement funds. The law reserves $19.2 million of the fund for the sole purpose of long-term sustainable tobacco education, prevention, cessation and control programs.	• Tobacco Litigation Settlement Fund 32 Vt. Stat. Ann § 435a	• Vermont Office of the Attorney General. *Tobacco Litigation*. https://ago.vermont.gov/divisions/consumer-protection/consumer-resources/health-and-product-safety/tobacco/tobacco-litigation. • Tobacco control Program. *2014 Community Prevention Summary* https://www.healthvermont.gov/sites/default/files/documents/pdf/hpdp_CommunityPrevention16.pdf

Virginia	Virginia established the *Tobacco Settlement Fund* to receive MSA payments and the *Tobacco Settlement Financing Corporation* to purchase Virginia's interests in MSA payments and to issue bond secured with Corporation funds.	• Virginia Tobacco Settlement Fund Va. Code Ann. § 32.1-360	• Tobacco Settlement Financing Corporation https://trs.virginia.gov/Boards-Authorities/Tobacco-Settlement-Financing-Corporation
Washington	Washington established the *Tobacco Settlement Account* to receive MSA funds and the *Tobacco Settlement Authority* to issue revenue bonds backed by not more than 30% of the state's allocable share of the MSA revenue	• Tobacco Settlement authority Wash. Rev. Code § 43.340.030	• Washington State Tobacco Settlement Authority https://tsa-wa.org/ • Washington State Office of the Attorney General. *Master Settlement Agreement.* https://www.atg.wa.gov/master-settlement-agreement
West Virginia	West Virginia established two funds in 1999 to receive tobacco settlement funds—the *West Virginia Tobacco Settlement Medical Trust Fund* and the *West Virginia Tobacco Settlement Fund*, each of which receive 50% of the MSA funds. The Legislature also established the *Tobacco Settlement Finance Authority*, governed by a five-member board of directors, to issue bonds. The law also authorizes the Authority to purchase from the state the state's share of MSA funds upon executive order of the Governor. It is unclear if this sale has actually taken place.	• West Virginia Tobacco Settlement Medical Trust Fund W. Va. Code §4-11A-2 • West Virginia Tobacco Settlement Fund W. Va. Code §4-11A-3. • Tobacco Settlement Finance Authority W. Va. Code §4-11A-6	• Casemen, Kelli and Davidson, Diana. West Virginia Watch. *Up in smoke: WV squandered tobacco settlement funding. Now's the time to bring it back.* https://westvirginiawatch.com/2023/09/21/up-in-smoke-west-virginia-squandered-tobacco-settlement-funding-nows-the-time-to-bring-it-back/
Wisconsin	Through calendar year 2003, settlement payments were generally deposited to the general fund as general fund revenues. Beginning with calendar year 2004, unrestricted settlement payments owed to	• Sale of state's rights to tobacco settlement agreement payments Wis. Stat. Ann. § 16.63	• Wisconsin Legislative Fiscal Bureau. *Tobacco Settlement and Securitization and Repurchase Transactions*. January 2019. https://docs.legis.wisconsin.gov/misc/lfb/informational_papers/january_2019/0079_tobacco_settleme

	Wisconsin under the MSA were primarily being utilized to make payments to bond holders under the state's initial tobacco securitization transactions. Under the 2007 Act 226 repurchase transaction, beginning in the 2009-11 biennium, $50 million annually in unrestricted MSA settlement payments is deposited to the permanent endowment fund for transfer to the medical assistance trust fund. The remaining amount of unrestricted MSA settlement payments is deposited to the general fund.		nt_and_securitization_and_repurchase_transactions_informational_paper_79.pdf
Wyoming	Wyoming established the *Tobacco settlement Trust Fund* for receipt of MSA funds / revenues are to be used to fund tobacco prevention and cessation efforts and for programs to combat substance abuse.	• Tobacco Settlement Funds Wyo. Stat. Ann. 9-4-1211	• Wyoming Attorney General Tobacco Settlement Unit https://ag.wyo.gov/law-office-division/consumer-protection-and-antitrust-unit/tobacco-settlement-unit • Wyoming Office of the State Treasurer memo re Tobacco Settlement Accounts. Nov 1, 2015 https://www.wyoleg.gov/InterimCommittee/2015/SCF1102AppendixH.pdf

APPENDIX G

Findings and Recommendations (with votes)

Blue Ribbon Commission to Design a Plan for Sustained Investment in Preventing Disease and Improving the Health of Maine Communities

Proposed Findings and Recommendations

12.11.23

Findings

1. Finding: That current allocations will soon outpace revenue, resulting in a structural deficit in the Fund for a Healthy Maine.

Member	**Vote**	notes
Rotundo	Yea	
Graham	Yea	
Bennett	Yea	
Bisson	Yea	
Hicks	abstained	
Frey	Yea	
Sanborn	Yea	
Ducharme	Yea	
Jonk	Yea	
Crowley	Yea	
Carter	Yea	
Flemings	Yea	
Leonard	Yea	
Boulos	Yea	
Blackwell-Moore	Yea	

2. Finding: That reorganization of the administration of MSA funds is necessary for long term sustainability of funding for prevention and health promotion activities in the state.

Member	**Vote**	notes
Rotundo	Yea	
Graham	Yea	
Bennett	Yea	
Bisson	Yea	
Hicks	abstained	
Frey	Yea	
Sanborn	Yea	
Ducharme	Yea	
Jonk	Yea	
Crowley	Yea	
Carter	Yea	
Flemings	Yea	
Leonard	Yea	
Boulos	Yea	

Blackwell-Moore	Yea	

3. Finding: That additional sources of revenue are necessary for long term sustainability of public health commitments in the state.

Member	**Vote**	notes
Rotundo	Yea	
Graham	Yea	
Bennett	Yea	
Bisson	Yea	
Hicks	abstained	
Frey	Yea	
Sanborn	Yea	
Ducharme	Yea	
Jonk	Yea	
Crowley	Yea	
Carter	Yea	
Flemings	Yea	
Leonard	abstained	
Boulos	Yea	
Blackwell-Moore	Yea	

4. Finding: That reorganization of the administration of MSA funds is necessary to best track the overall impact of activities funded with MSA funds; to provide accountability over the administration of these funds; and to provide a mechanism for long term, flexible planning to respond to a changing public health landscape.

Member	**Vote**	notes
Rotundo	Yea	
Graham	Yea	
Bennett	Yea	
Bisson	Yea	
Hicks	abstained	
Frey	Yea	
Sanborn	Yea	
Ducharme	Yea	
Jonk	Yea	
Crowley	Yea	
Carter	Yea	
Flemings	Yea	
Leonard	Yea	
Boulos	Yea	
Blackwell-Moore	Yea	

5. That the programs currently funded by the Fund for Healthy Maine are vital and require sustained funding by the Legislature.

Member	**Vote**	notes
Rotundo	Yea	
Graham	Yea	
Bennett	Yea	
Bisson	Yea	
Hicks	abstained	
Frey	Yea	
Sanborn	Yea	
Ducharme	Yea	
Jonk	Yea	
Crowley	Yea	
Carter	Yea	
Flemings	Yea	
Leonard	Yea	
Boulos	Yea	
Blackwell-Moore	Yea	

Recommendations

1. Recommendation: That a new trust fund be created into which all MSA funds will be directly deposited and that is authorized to receive funds from other sources.

Member	**Vote**	notes
Rotundo	Yea	
Graham	Yea	
Bennett	Yea	
Bisson	Yea	
Hicks	abstained	
Frey	Yea	
Sanborn	Yea	
Ducharme	Yea	
Jonk	Yea	
Crowley	Yea	
Carter	Yea	
Flemings	Yea	
Leonard	Yea	
Boulos	Yea	
Blackwell-Moore	Yea	

2. Recommendation: That a new, independent, quasi-state entity be created to administer the fund established per Recommendation #1.

Member	**Vote**	notes

Rotundo	Yea	
Graham	Yea	
Bennett	Yea	
Bisson	Yea	
Hicks	abstained	
Frey	Yea	
Sanborn	Yea	
Ducharme	Yea	
Jonk	Yea	
Crowley	Yea	
Carter	Yea	
Flemings	Yea	
Leonard	Yea	
Boulos	Yea	
Blackwell-Moore	Yea	

3. Recommendation: that the entity established per Recommendation #2 prioritize funding for the following activities:

    a. tobacco use prevention and intervention activities; and
    b. public health activities and interventions addressing issues related to health equity.

Member	**Vote**	notes
Rotundo	Yea	
Graham	Yea	
Bennett	Yea	
Bisson	Yea	
Hicks	abstained	
Frey	Yea	
Sanborn	Yea	
Ducharme	Yea	
Jonk	Yea	
Crowley	Yea	
Carter	Yea	
Flemings	Yea	
Leonard	Yea	
Boulos	Yea	
Blackwell-Moore	Yea	

4. Recommendation: That the Fund for a Healthy Maine be maintained to fund certain activities currently funded through the Fund, including but not limited to MaineCare reimbursements, purchased social services, substance use interventions and treatment, Headstart programing, school breakfasts, medical care payments to providers, the Drugs for the Elderly program, dental education and other activities currently funded through the Fund for a Healthy Maine and administered by the Finance Authority of Maine.

Member	**Vote**	notes

Rotundo	Yea	
Graham	Yea	
Bennett	Yea	
Bisson	Yea	
Hicks	abstained	
Frey	Yea	
Sanborn	Yea	
Ducharme	Yea	
Jonk	Yea	
Crowley	Yea	
Carter	Yea	
Flemings	Yea	
Leonard	Yea	
Boulos	Yea	
Blackwell-Moore	Yea	

5. Recommendation: That a percentage of the cigarette tax and the tobacco products tax be deposited directly into the Fund for a Healthy Maine and used to support the activities described in Recommendation #4.

Member	**Vote**	notes
Rotundo	Yea	
Graham	Yea	
Bennett	Yea	
Bisson	Yea	
Hicks	abstained	
Frey	Yea	
Sanborn	Yea	
Ducharme	Yea	
Jonk	Yea	
Crowley	Yea	
Carter	Yea	
Flemings	Yea	
Leonard	abstained	
Boulos	Yea	
Blackwell-Moore	Yea	

6. Recommendation: That the entity established per Recommendation #2 be required to report at least annually to the legislative committees of jurisdiction regarding its activities, including:

    a. management of the fund established per Recommendation #1;
    b. administrative costs;
    c. distribution of funds to outside entities and to state entities;
    d. coordination of activities with state agencies, including Maine CDC, and the state health plan;

e. performance data and consideration of return on investments; and
f. other information requested by the legislature

Member	**Vote**	notes
Rotundo	Yea	
Graham	Yea	
Bennett	Yea	
Bisson	Yea	
Hicks	abstained	
Frey	Yea	
Sanborn	Yea	
Ducharme	Yea	
Jonk	Yea	
Crowley	Yea	
Carter	Yea	
Flemings	Yea	
Leonard	Yea	
Boulos	Yea	
Blackwell-Moore	Yea	

7. Recommendation: That a committee of jurisdiction put forth legislation based on the recommendations above.

Member	**Vote**	notes
Rotundo	Yea	
Graham	Yea	
Bennett	Yea	
Bisson	Yea	
Hicks	abstained	
Frey	Yea	
Sanborn	Yea	
Ducharme	Yea	
Jonk	Yea	
Crowley	Yea	
Carter	Yea	
Flemings	Yea	
Leonard	abstained	
Boulos	Yea	
Blackwell-Moore	Yea	

APPENDIX H

LD 1523 *An Act To Establish the Trust for a Health Maine*

130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document **No. 1523**

H.P. 1127 House of Representatives, April 19, 2021

An Act To Establish the Trust for a Healthy Maine

Received by the Clerk of the House on April 15, 2021. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

ROBERT B. HUNT
Clerk

Presented by Representative MILLETT of Cape Elizabeth.
Cosponsored by President JACKSON of Aroostook and
Representatives: CRAVEN of Lewiston, SACHS of Freeport, TALBOT ROSS of Portland,
Senators: CARNEY of Cumberland, VITELLI of Sagadahoc.

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

Sec. 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. 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

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

SUBCHAPTER 2

TRUST FOR A HEALTHY MAINE ACT

§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.

16. Trust. "Trust" means the Trust for a Healthy Maine established in section 1515, subsection 1.

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

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

§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 3 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 3 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 trust 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 trust 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 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 available for purposes of providing evidence-based tobacco prevention and control programs in the State that is in accordance with the following:

(1) Beginning in fiscal year 2023-24, at least 0.70 of the level recommended by the United States Department of Health and Human Services, Centers for Disease Control and Prevention must be disbursed to the Department of Health and Human Services, Maine Center for Disease Control and Prevention or its designated agent; and

(2) Beginning in fiscal year 2024-25 and in subsequent years, at least the level recommended by the United States Department of Health and Human Services, Centers for Disease Control and Prevention must be disbursed to the Department of Health and Human Services, Maine Center for Disease Control and Prevention or its designated agent;

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. 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. 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. 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.

SUMMARY

This bill 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.

APPENDIX I

Amendment to LD 1523

An Act To Establish the Trust for a Health Maine

L.D. 1523

Date: (Filing No. H-)

HEALTH AND HUMAN SERVICES

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE

HOUSE OF REPRESENTATIVES

130TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1127, L.D. 1523, "An Act To Establish the Trust for a Healthy Maine"

Amend the bill in section 1 in the first line (page 1, line 2 in L.D.) by striking out the following: "**sub-§14-J**" and inserting the following: '**sub-§14-K**'

Amend the bill in section 1 in subsection 14-J in the first line (page 1, line 3 in L.D.) by striking out the following: "**14-J.**" and inserting the following: '**14-K.**'

Amend the bill in section 4 in sub-c. 2 in §1514 in subsection 2 in the last line (page 2, line 2 in L.D.) by striking out the following: "14-J" and inserting the following: '14-K'

Amend the bill in section 4 in sub-c. 2 in §1514 in subsection 7 in the 2nd line (page 2, line 17 in L.D.) by inserting after the following: "funds" the following: 'and other funds in the trust'

Amend the bill in section 4 in sub-c. 2 in §1514 by inserting after subsection 7 the following:

'**8. Extraordinary receipts.** "Extraordinary receipts" means funds received by the trust pursuant to section 1516, subsection 1, paragraph B or C.'

Amend the bill in section 4 in sub-c. 2 in §1514 in subsection 9 in the 2nd line (page 2, line 23 in L.D.) by striking out the following: "prescription drug" and inserting the following: 'elderly low-cost drug'

Amend the bill in section 4 in sub-c. 2 in §1514 by renumbering the subsections to read consecutively.

Amend the bill in section 4 in sub-c. 2 in §1515 in subsection 3 in paragraph B by striking out all of subparagraph (2) (page 4, lines 1 and 2 in L.D.) and inserting the following:

'(2) A person who has experience recruiting, employing, developing and retaining a healthy workforce; and'

Amend the bill in section 4 in sub-c. 2 in §1515 in subsection 3 in paragraph C in the first 2 lines (page 4, lines 7 and 8 in L.D.) by striking out the following: "trustees from nominations made in accordance with this paragraph" and inserting the following: 'one trustee from nominations made under each of the divisions described below'

Amend the bill in section 4 in sub-c. 2 in §1515 in subsection 3 in paragraph C in subparagraph (1) in division (b) in the 2nd line (page 4, line 18 in L.D.) by striking out the following: "care," and inserting the following: 'care or rural oral health care,'

Amend the bill in section 4 in sub-c. 2 in §1515 in subsection 6 in the 4th line (page 5, line 29 in L.D.) by striking out the following: "chapter 13, subchapter 1. Notwithstanding any provision of law" and inserting the following: 'section 403-B. Notwithstanding any provision of that section'

Amend the bill in section 4 in sub-c. 2 in §1515 in subsection 11 in the 2nd line (page 6, line 2 in L.D.) by striking out the following: "14-J" and inserting the following: '14-K'

Amend the bill in section 4 in sub-c. 2 in §1517 by striking out all of subsection 3 (page 7, lines 19 to 27 in L.D.) and inserting the following:

'**3. Funding disbursement plans.** A funding disbursement plan approved by the board may not disburse funds for the purpose of providing medical care except as provided in subsection 7. When approving 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.'

Amend the bill in section 4 in sub-c. 2 in §1517 in subsection 4 in paragraph A in subparagraph (1) in the first line (page 7, line 35 in L.D.) by striking out the following: "Beginning in" and inserting the following: 'In'

Amend the bill in section 4 in sub-c. 2 in §1517 in subsection 4 in paragraph B in the 2nd line (page 8, line 2 in L.D.) by striking out the following: "Department" and inserting the following: 'Office'

Amend the bill in section 4 in sub-c. 2 in §1517 in subsection 4 in paragraph B in subparagraph (1) in the first line (page 8, line 3 in L.D.) by striking out the following: "Beginning in fiscal year 2023-24, an amount equal to 0.005" and inserting the following: 'In fiscal year 2023-24, an amount equal to 0.006'

Amend the bill in section 4 in sub-c. 2 in §1517 in subsection 4 in paragraph B in subparagraph (2) in the 2nd line (page 8, line 6 in L.D.) by striking out the following: "Department" and inserting the following: 'Office'

Amend the bill in section 4 in sub-c. 2 in §1517 in subsection 4 in paragraph B in subparagraph (2) in the last line (page 8, line 8 in L.D.) by inserting after the following: "5402" the following: 'except that the date the State Tax Assessor determines the cost-of-living adjustment is on or about September 15th of each year, beginning in 2024, and "cost-of-living adjustment" means the Chained Consumer Price Index for the 12-month period ending June 30th of the preceding calendar year divided by the Chained Consumer Price Index for the 12-month period ending June 30, 2024. The State Tax Assessor shall calculate the cost-of-living adjustment under this subparagraph'

Amend the bill in section 4 in sub-c. 2 in §1517 in subsection 4 in paragraph C by striking out all of subparagraph (1) (page 8, line 12 in L.D.) and inserting the following:

'(1) In fiscal year 2023-24, an amount equal to 0.006 of the settlement funds; and'

Amend the bill in section 4 in sub-c. 2 in §1517 in subsection 4 in paragraph C in subparagraph (2) in the last line (page 8, line 15 in L.D.) by inserting after the following: "5402" the following: 'except that the date the State Tax Assessor determines the cost-of-living adjustment is on or about September 15th of each year, beginning in 2024, and "cost-of-living adjustment" means the Chained Consumer Price Index for the 12-month period ending June 30th of the preceding calendar year divided by the Chained Consumer Price Index for the 12-month period ending June 30, 2024. The State Tax Assessor shall calculate the cost-of-living adjustment under this subparagraph'

Amend the bill in section 4 in sub-c. 2 in §1517 in subsection 4 in paragraph D in the last line (page 8, line 17 in L.D.) by inserting after the following: "year" the following: ', plus any extraordinary receipts,'

Amend the bill in section 4 in sub-c. 2 in §1517 in subsection 4 in paragraph F in the first line (page 8, line 20 in L.D.) by inserting after the following: "remaining" the following: ', including any remaining extraordinary receipts,'

Amend the bill in section 4 in sub-c. 2 in §1517 in subsection 4 in the last blocked paragraph in the first line (page 8, line 23 in L.D.) by striking out the following: "The" and inserting the following: 'Except as provided in subsection 7 for the first funding disbursement plan, the'

Amend the bill in section 4 in sub-c. 2 in §1517 in subsection 5 in paragraph A in subparagraph (4) in the first line (page 9, line 5 in L.D.) by inserting after the following: "Supporting the" the following: 'development,'

Amend the bill in section 4 in sub-c. 2 in §1517 in subsection 7 in the 7th line (page 9, line 38 in L.D.) by inserting after the following: "needs." the following: 'If the biennial or supplemental budget enacted for fiscal year 2022-23 appropriates less than $2,400,000 from the General Fund to the elderly low-cost drug program established under section 254-D, the board shall disburse in its first funding disbursement plan an amount from the internal flexible account to the elderly low-cost drug program established under section 254-D that when added to the General Fund appropriation to that program for that fiscal year totals $2,400,000. The internal flexible account may not otherwise be used to fund medical care.'

Amend the bill in section 4 in sub-c. 2 in §1517 in subsection 9 in the 5th and 6th lines (page 10, lines 7 and 8 in L.D.) by striking out the following: "from the trust's investments pursuant to" and inserting the following: 'regarding the fund described in'

Amend the bill in section 4 in sub-c. 2 in §1519 in subsection 2 in the 5th line (page 10, line 43 in L.D.) by striking out the following: "sector," and inserting the following: 'sector or'

Amend the bill by inserting after section 6 the following:

'**Sec. 7. Transfer; Fund for a Healthy Maine; General Fund.** Notwithstanding any provision of law to the contrary, the State Controller shall transfer $36,604,210 from

the Fund for a Healthy Maine to the General Fund unappropriated surplus no later than June 30, 2023.'

Amend the bill by inserting after section 7 the following:

'**Sec. 8. Appropriations and allocations.** The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Head Start 0545

Initiative: Provides an ongoing deallocation of Fund for a Healthy Maine funds from the Head Start program.

FUND FOR A HEALTHY MAINE	**2021-22**	**2022-23**
All Other	$0	($1,354,580)
FUND FOR A HEALTHY MAINE TOTAL	$0	($1,354,580)

Head Start 0545

Initiative: Provides an ongoing appropriation to retain state funding for the Head Start program.

GENERAL FUND	**2021-22**	**2022-23**
All Other	$0	$1,354,580
GENERAL FUND TOTAL	$0	$1,354,580

Low-cost Drugs To Maine's Elderly 0202

Initiative: Provides an ongoing deallocation of Fund for a Healthy Maine funds from the Low-cost Drugs To Maine's Elderly program.

FUND FOR A HEALTHY MAINE	**2021-22**	**2022-23**
All Other	$0	($2,413,057)
FUND FOR A HEALTHY MAINE TOTAL	$0	($2,413,057)

Low-cost Drugs To Maine's Elderly 0202

Initiative: Provides an ongoing appropriation to retain state funding for the Low-cost Drugs To Maine's Elderly program.

GENERAL FUND	**2021-22**	**2022-23**
All Other	$0	$2,413,057
GENERAL FUND TOTAL	$0	$2,413,057

Medical Care - Payments to Providers 0147

Initiative: Provides an ongoing deallocation of Fund for a Healthy Maine funds from the Medical Care - Payments to Providers program.

FUND FOR A HEALTHY MAINE	**2021-22**	**2022-23**
All Other	$0	($30,865,455)

FUND FOR A HEALTHY MAINE TOTAL	$0	($30,865,455)

Medical Care - Payments to Providers 0147

Initiative: Provides an ongoing appropriation to retain state funding for the Medical Care - Payments to Providers program.

GENERAL FUND	**2021-22**	**2022-23**
All Other	$0	$30,865,455
GENERAL FUND TOTAL	$0	$30,865,455

Purchased Social Services 0228

Initiative: Provides an ongoing deallocation of Fund for a Healthy Maine funds from the Purchased Social Services program.

FUND FOR A HEALTHY MAINE	**2021-22**	**2022-23**
All Other	$0	($1,971,118)
FUND FOR A HEALTHY MAINE TOTAL	$0	($1,971,118)

Purchased Social Services 0228

Initiative: Provides an ongoing appropriation to retain state funding for the Purchased Social Services program.

GENERAL FUND	**2021-22**	**2022-23**
All Other	$0	$1,971,118
GENERAL FUND TOTAL	$0	$1,971,118

HEALTH AND HUMAN SERVICES, DEPARTMENT OF DEPARTMENT TOTALS	**2021-22**	**2022-23**
GENERAL FUND	**$0**	**$36,604,210**
FUND FOR A HEALTHY MAINE	**$0**	**($36,604,210)**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$0**

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

SUMMARY

This amendment:

1. Adds a definition of "extraordinary receipts";

2. Removes the requirement that one of the board members be an employer and replaces it with a requirement that the member have experience recruiting, employing, developing and retaining a healthy workforce;

3. Adds experience in rural oral health care to the allowable background requirements for one of the board members;

4. Increases the amount of funds dedicated to the Office of the Attorney General in the first year of operation of the trust fund from 0.005 to 0.006 of settlement funds;

5. Increases the amount of funds dedicated to administration in the first year of operation of the trust fund from 0.003 to 0.006 of settlement funds;

6. Changes references to the Department of the Attorney General to the Office of the Attorney General;

7. Adds development of the public health workforce to the allowable uses of the funds in the health equity and health improvement account;

8. Adds language stating that if the Legislature enacts a biennial or supplemental budget for fiscal year 2022-23 in which it appropriates less than $2,400,000 from the General Fund to the elderly low-cost drug program established under the Maine Revised Statutes, Title 22, section 254-D, the Trust for a Healthy Maine Board is required to disburse an amount from the internal flexible account to the elderly low-cost drug program that when added to the General Fund appropriation to that program for that fiscal year totals $2,400,000; and

9. Deallocates funding for the Head Start, Low-cost Drugs To Maine's Elderly, Medical Care - Payments to Providers and Purchased Social Services programs within the Department of Health and Human Services from the Fund for a Healthy Maine and adds ongoing appropriations from the General Fund to maintain these programs.

FISCAL NOTE REQUIRED

(See attached)