



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

---

Legislative Document

No. 718

---

H.P. 509

House of Representatives, February 28, 2017

### **An Act To Reinstitute the Maine Health Exchange Advisory Committee**

---

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative BROOKS of Lewiston.

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

2 **Sec. 1. 5 MRSA §12004-I, sub-§50-B** is enacted to read:

3 **50-B.**

4 <u>Insurance: Health</u>	<u>Maine Health</u>	<u>Legislative Per</u>	<u>24-A MRSA</u>
5 <u>Exchange</u>	<u>Exchange Advisory</u>	<u>Diem and Expenses</u>	<u>§4320-K</u>
6	<u>Committee</u>	<u>for Legislators and</u>	
7		<u>Expenses Only for</u>	
8		<u>Other Members</u>	
9		<u>upon Demonstration</u>	
10		<u>of Financial</u>	
11		<u>Hardship</u>	

12 **Sec. 2. 24-A MRSA §4320-K** is enacted to read:

13 **§4320-K. Maine Health Exchange Advisory Committee**

14 The Maine Health Exchange Advisory Committee, referred to in this section as "the  
15 advisory committee" and established pursuant to Title 5, section 12004-I, subsection  
16 50-B, is created to advise the Governor and the Legislature regarding the interests of  
17 individuals and employers with respect to any health benefit exchange, referred to in this  
18 section as "an exchange," that may be created for this State pursuant to the federal  
19 Affordable Care Act.

20 **1. Appointment; composition.** The advisory committee consists of 21 members as  
21 follows:

22 A. The following 5 members of the Legislature, of whom 3 members must serve on  
23 the joint standing committee of the Legislature having jurisdiction over insurance and  
24 financial services matters and 2 members must serve on the joint standing committee  
25 of the Legislature having jurisdiction over health and human services matters or the  
26 joint standing committee of the Legislature having jurisdiction over appropriations  
27 and financial affairs:

28 (1) Two members of the Senate, appointed by the President of the Senate,  
29 including one member recommended by the Senate Minority Leader; and

30 (2) Three members of the House of Representatives, appointed by the Speaker of  
31 the House of Representatives, including one member recommended by the House  
32 Minority Leader;

33 B. Two persons representing health insurance carriers, one of whom is appointed by  
34 the President of the Senate and one of whom is appointed by the Speaker of the  
35 House of Representatives;

36 C. One person representing dental insurance carriers, appointed by the Speaker of the  
37 House of Representatives;

- 1 D. One person representing insurance producers, appointed by the President of the  
2 Senate;
- 3 E. One person representing Medicaid recipients, appointed by the Speaker of the  
4 House of Representatives;
- 5 F. Two persons representing health care providers and health care facilities,  
6 including one member representing federally qualified health centers, appointed by  
7 the Speaker of the House of Representatives;
- 8 G. One person who is an advocate for enrolling hard-to-reach populations in health  
9 coverage, including individuals with mental health or substance abuse disorders,  
10 appointed by the President of the Senate;
- 11 H. One member representing a federally recognized Indian tribe, appointed by the  
12 President of the Senate;
- 13 I. One member who has expertise in tax matters, appointed by the President of the  
14 Senate;
- 15 J. Four members representing individuals and small businesses, including:
- 16 (1) One person, appointed by the President of the Senate, who can reasonably be  
17 expected to purchase individual coverage through an exchange with the  
18 assistance of a federal premium tax credit and who can reasonably be expected to  
19 represent the interests of individuals purchasing individual coverage through an  
20 exchange;
- 21 (2) One person, appointed by the Speaker of the House of Representatives, who  
22 represents an employer that can reasonably be expected to purchase group  
23 coverage through an exchange and who can reasonably be expected to represent  
24 the interests of such employers;
- 25 (3) One person, appointed by the President of the Senate, who represents  
26 navigators or entities likely to be certified as navigators; and
- 27 (4) One person, appointed by the Speaker of the House of Representatives, who  
28 is employed by an employer that can reasonably be expected to purchase group  
29 coverage through an exchange and who can reasonably be expected to represent  
30 the interests of such employees;
- 31 K. The superintendent, or the superintendent's designee, who serves as an ex officio,  
32 nonvoting member; and
- 33 L. The Commissioner of Health and Human Services, or the commissioner's  
34 designee, who serves as an ex officio, nonvoting member.

35 **2. Term.** Except for members who are Legislators and ex officio members, all  
36 members are appointed for 3-year terms. A vacancy must be filled by the same  
37 appointing authority that made the original appointment. An appointed member may not  
38 serve more than 2 terms. A member may designate an alternate to serve on a temporary  
39 basis. A member who is a Legislator serves a 2-year term coterminous with the elected  
40 term. Except for a member who is a Legislator, a member may continue to serve after  
41 expiration of the member's term until a successor is appointed.

1           **3. Chair.** The first-named member of the Senate is the Senate chair of the advisory  
2 committee, and the first-named member of the House of Representatives is the House  
3 chair of the advisory committee.

4           **4. Duties.** The advisory committee shall:

5           A. Advise the Governor and Legislature regarding the interests of individuals and  
6 employers with respect to an exchange;

7           B. Serve as a liaison between an exchange and individuals and small businesses  
8 enrolled in the exchange;

9           C. Evaluate the implementation and operation of an exchange with respect to the  
10 following:

11           (1) Whether the State should transition from a federally facilitated exchange  
12 model to a state-based exchange or partnership model;

13           (2) The essential health benefits benchmark plan designated in this State under  
14 the federal Affordable Care Act, including whether the State should change its  
15 designation;

16           (3) The impact of federal and state laws, rules and regulations governing the  
17 health insurance rating for tobacco use and coverage for wellness programs and  
18 smoking cessation programs on accessibility and affordability of health  
19 insurance;

20           (4) The consumer outreach and enrollment conducted by the exchange and  
21 whether the navigator program is effective and whether navigators or other  
22 persons providing assistance to consumers are in compliance with any federal or  
23 state certification and training requirements;

24           (5) The coordination between the state Medicaid program and the exchange;

25           (6) Whether health insurance coverage through the exchange is affordable for  
26 individuals and small businesses, including whether subsidies for individuals are  
27 adequate;

28           (7) Whether the exchange is effective in providing access to health insurance  
29 coverage for small businesses;

30           (8) The implementation of rebates under the federal Affordable Care Act and  
31 section 4319;

32           (9) The coordination of plan management activities between the bureau and the  
33 exchange, including the certification of qualified health plans and rate review;

34           (10) The potential for establishing a basic health program or seeking a Medicaid  
35 state plan amendment or state innovation waiver to provide alternative health  
36 coverage programs for individuals;

37           (11) Whether changes should be considered in federal law or regulations to  
38 address dental health coverage available through the marketplace, including, but  
39 not limited to, premiums and out-of-pocket costs;

1                   (12) Whether the State should consider changes to its designated rating areas for  
2                   geographic area to the extent permitted by federal law and regulations;

3                   (13) The impact of so-called churn on the effective operation of the marketplace,  
4                   public health programs and the private health insurance market;

5                   (14) The impact of federal requirements to provide employer-sponsored health  
6                   coverage;

7                   (15) The impact of any change in the definition of "small group" for health  
8                   insurance purposes;

9                   (16) The impact of federal transitional risk adjustment programs and whether the  
10                  State should consider ending the suspension of the Maine Guaranteed Access  
11                  Reinsurance Association under section 3953;

12                  (17) The impact of health insurance policies continued in the State under the  
13                  transitional relief granted by the federal Department of Health and Human  
14                  Services; and

15                  (18) Any issue relating to the implementation of the federal Affordable Care Act  
16                  agreed upon by a majority of the advisory committee; and

17                  D. Based on the evaluations conducted by the advisory committee pursuant to this  
18                  subsection, make recommendations for any changes in policy or law that would  
19                  improve the operation of an exchange for individuals and small businesses in the  
20                  State.

21                  **5. Quorum.** A quorum is a majority of the members of the advisory committee.

22                  **6. Meetings.** The advisory committee shall meet at least 4 times a year at regular  
23                  intervals and may meet at other times at the call of the chairs. Meetings of the advisory  
24                  committee are public proceedings as provided by Title 1, chapter 13, subchapter 1.

25                  **7. Records.** Except for information designated as confidential under federal or state  
26                  law, information obtained by the advisory committee is a public record as provided by  
27                  Title 1, chapter 13, subchapter 1.

28                  **8. Staffing.** The Legislative Council shall provide year-round staff support for the  
29                  operation of the advisory committee.

30                  **9. Accounting; funding for advisory committee activities.** All funds appropriated,  
31                  allocated or otherwise provided to the advisory committee must be deposited in an  
32                  account separate from all other funds of the Legislature and are nonlapsing. Funds in the  
33                  account may be used only for the purposes of the advisory committee. The advisory  
34                  committee may apply for grants and other nongovernmental funds to provide professional  
35                  support or consultant support to carry out the duties and requirements of this section.  
36                  Prompt notice of solicitation and acceptance of funds must be sent to the Legislative  
37                  Council. All funds accepted must be forwarded to the Executive Director of the  
38                  Legislative Council, along with an accounting that includes the amount received, the date  
39                  that amount was received, from whom that amount was received, the purpose of the  
40                  donation and any limitation on use of the funds. The executive director shall administer

1 all funds received in accordance with this section. At the beginning of each fiscal year,  
2 and at any other time at the request of the chairs of the advisory committee, the executive  
3 director shall provide to the advisory committee an accounting of all funds available to  
4 the advisory committee, including funds available for professional support or consultant  
5 support.

6 **10. Reports.** Beginning February 15, 2018 and annually thereafter, the advisory  
7 committee shall report and make specific recommendations, including any necessary  
8 legislation, relating to its duties in subsection 4 to the joint standing committee of the  
9 Legislature having jurisdiction over insurance and financial services matters and the joint  
10 standing committee of the Legislature having jurisdiction over health and human services  
11 matters and to any appropriate state agency.

12 **SUMMARY**

13 This bill establishes the Maine Health Exchange Advisory Committee on a permanent  
14 basis.