



127th MAINE LEGISLATURE

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Legislative Document

No. 1265

H.P. 865

House of Representatives, April 7, 2015

**An Act To Implement the Recommendations of the Maine Health
Exchange Advisory Committee**

(EMERGENCY)

Reported by Representative BECK of Waterville for the Joint Standing Committee on Insurance and Financial Services pursuant to Joint Order 2013, H.P. 1136.

Reference to the Committee on Insurance and Financial Services suggested and ordered printed pursuant to Joint Rule 218.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

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

3 **Whereas,** this legislation continues on a permanent basis the Maine Health
4 Exchange Advisory Committee as recommended by the committee in its final report to
5 the Legislature; and

6 **Whereas,** immediate enactment of this legislation is needed to reestablish the Maine
7 Health Exchange Advisory Committee as Maine's liaison to the Federal Government in
8 the implementation and operation of Maine's federally facilitated marketplace; and

9 **Whereas,** a pending United States Supreme Court decision may have a significant
10 impact on the availability and affordability of coverage through the federally facilitated
11 marketplace; and

12 **Whereas,** the Maine Health Exchange Advisory Committee may have a role in
13 advising the State's policymakers following the Supreme Court's decision; and

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

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

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

20 **50-B.**

21 <u>Insurance: Health</u>	<u>Maine Health</u>	<u>Legislative Per</u>	<u>24-A MRSA §4320-J</u>
22 <u>Exchange</u>	<u>Exchange Advisory</u>	<u>Diem and Expenses</u>	
23	<u>Committee</u>	<u>for Legislators and</u>	
24		<u>Expenses Only for</u>	
25		<u>Other Members</u>	
26		<u>upon Demonstration</u>	
27		<u>of Financial</u>	
28		<u>Hardship</u>	

29 **Sec. 2. 24-A MRSA §4320-J** is enacted to read:

30 **§4320-J. Maine Health Exchange Advisory Committee**

31 The Maine Health Exchange Advisory Committee, referred to in this section as "the
32 advisory committee" and established pursuant to Title 5, section 12004-I, subsection
33 50-B, is created to advise the Governor and the Legislature regarding the interests of
34 individuals and employers with respect to any health benefit exchange, referred to in this
35 section as "an exchange," that may be created for this State pursuant to the federal
36 Affordable Care Act.

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

3 A. The following 5 members of the Legislature, of whom 3 members must serve on
4 the joint standing committee of the Legislature having jurisdiction over insurance and
5 financial services matters and 2 members must serve on the joint standing committee
6 of the Legislature having jurisdiction over health and human services matters or the
7 joint standing committee of the Legislature having jurisdiction over appropriations
8 and financial affairs:

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

11 (2) Three members of the House of Representatives, appointed by the Speaker of
12 the House of Representatives, including one member recommended by the House
13 Minority Leader;

14 B. Two persons representing health insurance carriers, one of whom is appointed by
15 the President of the Senate and one of whom is appointed by the Speaker of the
16 House of Representatives;

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

19 D. One person representing insurance producers, appointed by the President of the
20 Senate;

21 E. One person representing Medicaid recipients, appointed by the Speaker of the
22 House of Representatives;

23 F. Two persons representing health care providers and health care facilities,
24 including one member representing federally qualified health centers, appointed by
25 the Speaker of the House of Representatives;

26 G. One person who is an advocate for enrolling hard-to-reach populations in health
27 coverage, including individuals with mental health or substance abuse disorders,
28 appointed by the President of the Senate;

29 H. One member representing a federally recognized Indian tribe, appointed by the
30 President of the Senate;

31 I. One member who has expertise in tax matters, appointed by the President of the
32 Senate;

33 J. Four members representing individuals and small businesses, including:

34 (1) One person, appointed by the President of the Senate, who can reasonably be
35 expected to purchase individual coverage through an exchange with the
36 assistance of a federal premium tax credit and who can reasonably be expected to
37 represent the interests of individuals purchasing individual coverage through an
38 exchange;

39 (2) One person, appointed by the Speaker of the House of Representatives, who
40 represents an employer that can reasonably be expected to purchase group

1 coverage through an exchange and who can reasonably be expected to represent
2 the interests of such employers;

3 (3) One person, appointed by the President of the Senate, who represents
4 navigators or entities likely to be certified as navigators; and

5 (4) One person, appointed by the Speaker of the House of Representatives, who
6 is employed by an employer that can reasonably be expected to purchase group
7 coverage through an exchange and who can reasonably be expected to represent
8 the interests of such employees;

9 K. The superintendent, or the superintendent's designee, who serves as an ex officio,
10 nonvoting member; and

11 L. The Commissioner of Health and Human Services, or the commissioner's
12 designee, who serves as an ex officio, nonvoting member.

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

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

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

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

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

28 C. Evaluate the implementation and operation of an exchange with respect to the
29 following:

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

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

35 (3) The impact of federal and state laws, rules and regulations governing the
36 health insurance rating for tobacco use and coverage for wellness programs and
37 smoking cessation programs on accessibility and affordability of health
38 insurance;

39 (4) The consumer outreach and enrollment conducted by the exchange and
40 whether the navigator program is effective and whether navigators or other

- 1 persons providing assistance to consumers are in compliance with any federal or
2 state certification and training requirements;
- 3 (5) The coordination between the state Medicaid program and the exchange;
4 (6) Whether health insurance coverage through the exchange is affordable for
5 individuals and small businesses, including whether subsidies for individuals are
6 adequate;
- 7 (7) Whether the exchange is effective in providing access to health insurance
8 coverage for small businesses;
- 9 (8) The implementation of rebates under the federal Affordable Care Act and
10 section 4319;
- 11 (9) The coordination of plan management activities between the bureau and the
12 exchange, including the certification of qualified health plans and rate review;
- 13 (10) The potential for establishing a basic health program or seeking a Medicaid
14 state plan amendment or state innovation waiver to provide alternative health
15 coverage programs for individuals;
- 16 (11) Whether changes should be considered in federal law or regulations to
17 address dental health coverage available through the marketplace, including, but
18 not limited to, premiums and out-of-pocket costs;
- 19 (12) Whether the State should consider changes to its designated rating areas for
20 geographic area to the extent permitted by federal law and regulations;
- 21 (13) The impact of so-called churn on the effective operation of the marketplace,
22 public health programs and the private health insurance market;
- 23 (14) The impact of federal requirements to provide employer-sponsored health
24 coverage;
- 25 (15) The impact of any change in the definition of "small group" for health
26 insurance purposes;
- 27 (16) The impact of federal transitional risk adjustment programs and whether the
28 State should consider ending the suspension of the Maine Guaranteed Access
29 Reinsurance Association under section 3953;
- 30 (17) The impact of health insurance policies continued in the State under the
31 transitional relief granted by the federal Department of Health and Human
32 Services; and
- 33 (18) Any issue relating to the implementation of the federal Affordable Care Act
34 agreed upon by a majority of the advisory committee; and
- 35 D. Based on the evaluations conducted by the advisory committee pursuant to this
36 subsection, make recommendations for any changes in policy or law that would
37 improve the operation of an exchange for individuals and small businesses in the
38 State.
- 39 **5. Quorum.** A quorum is a majority of the members of the advisory committee.

1 sole purpose of turning the advisory committee's proposal into a printed bill that can be
2 referred to the Joint Standing Committee on Insurance and Financial Services for an
3 appropriate public hearing and subsequent processing in the normal course. The Joint
4 Standing Committee on Insurance and Financial Services is taking this action to ensure
5 clarity and transparency in the legislative review of the advisory committee's proposal.