

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)



# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

---

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	<b><u>50-B.</u></b>		
21	<u>Insurance: Health</u>	<u>Maine Health</u>	<u>Legislative Per</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.