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Date: (Filing No. S- )

**HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES**

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE  
SENATE  
130TH LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 49, L.D. 120, “An Act To Lower Health Care Costs through the Establishment of the Office of Affordable Health Care”

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

**Sec. 1. 5 MRSA §2041, sub-§1**, as enacted by PL 2019, c. 471, §1, is amended to read:

**1. Board established.** The Maine Prescription Drug Affordability Board, as established in section 12004-G, subsection 14-I and referred to in this chapter as "the board," shall carry out the purposes of this chapter. Administrative oversight of the board must be provided by the Office of Affordable Health Care.

**Sec. 2. 5 MRSA §2041, sub-§8**, as enacted by PL 2019, c. 471, §1, is amended to read:

**8. Staff.** The Office of Affordable Health Care shall provide staffing services to the board may employ an executive director, whose salary, to the extent feasible, must comport with state personnel rules and requirements.

**Sec. 3. 5 MRSA c. 310-A** is enacted to read:

**CHAPTER 310-A**

**OFFICE OF AFFORDABLE HEALTH CARE**

**§3121. Definitions**

**1. Advisory council.** "Advisory council" means the Advisory Council on Affordable Health Care established in section 12004-I, subsection 31-B.

**2. Executive director.** "Executive director" or "director" means the executive director of the office appointed pursuant to section 3122, subsection 2.

1 **3. Legislative oversight committee.** "Legislative oversight committee" means the  
2 joint standing committee of the Legislature having jurisdiction over health coverage  
3 matters.

4 **4. Office.** "Office" means the Office of Affordable Health Care established in section  
5 3122, subsection 1.

6 **§3122. Office of Affordable Health Care**

7 **1. Office established.** The Office of Affordable Health Care is established as an  
8 independent executive agency for the purpose of analyzing health care costs in this State  
9 in accordance with the duties set forth in this chapter and as provided in this section.

10 **2. Director; appointment.** The Governor shall appoint the executive director, subject  
11 to review by the legislative oversight committee and to confirmation by the Legislature.  
12 The director shall serve for a 5-year term of office. The director may continue to serve  
13 beyond the end of the 5-year term until a successor is appointed and qualified. Any vacancy  
14 occurring must be filled by appointment for the unexpired portion of the term. Any willful  
15 violation of this chapter by the director constitutes sufficient cause for removal of the  
16 director by the Governor and on the address of both branches of the Legislature.

17 **3. Duties.** The office's duties must be performed independently under the general  
18 policy direction of the legislative oversight committee and the advisory council. The office  
19 shall report at least annually to the Governor and the legislative oversight committee  
20 pursuant to section 3125 and upon request of the legislative oversight committee on matters  
21 affecting the cost of health care in this State. The office shall, at a minimum, use data  
22 available from the Maine Health Data Organization, established pursuant to Title 22,  
23 chapter 1683, and the Maine Quality Forum, established in Title 24-A, section 6951, to:

24 A. Analyze health care cost growth trends and correlation to the quality of health care;

25 B. Analyze health care spending trends by consumer categories, payer type, provider  
26 categories or any other measurement that presents available data in a manner that may  
27 assist the legislative oversight committee in understanding health care cost drivers,  
28 health care quality and utilization trends, consumer experience with the health care  
29 system or any other aspect of the health care system;

30 C. Monitor the adoption of alternative payment methods in this State and other states  
31 that foster innovative health care delivery and payment models to reduce health care  
32 cost growth and improve the quality of health care;

33 D. Based upon the data obtained and the analysis pursuant to paragraphs A to C,  
34 develop proposals for consideration by the legislative oversight committee on potential  
35 methods to improve the cost-efficient provision of high-quality health care to the  
36 residents of this State;

37 E. Based upon the data obtained and the analysis pursuant to paragraphs A to C,  
38 conduct a systemic review of the health care system and develop proposals to improve  
39 coordination, efficiency and quality of the health care system;

40 F. Develop proposals for consideration by the legislative oversight committee on  
41 potential methods to improve consumer experience with the health care system,  
42 including the provision of a consumer advocacy function on health care matters not  
43 addressed by the Health Insurance Consumer Assistance Program established in Title

1 24-A, section 4326 or the Department of Professional and Financial Regulation,  
2 Bureau of Insurance, Consumer Health Care Division established in Title 24-A, section  
3 4321; and

4 G. Provide staffing assistance to the Maine Prescription Drug Affordability Board  
5 established in chapter 167.

6 **4. Data; confidentiality.** Data provided to the office under subsection 3 is confidential  
7 to the same extent it is confidential while in the custody of the entity that provided the data  
8 to the office.

9 **5. Staffing.** The director shall appoint staff as needed to carry out the duties and  
10 responsibilities under this chapter. The appointment and compensation of the staff are  
11 subject to the Civil Service Law.

12 **6. Coordination with other entities.** The director may contract with individuals or  
13 entities and may seek assistance and coordinate efforts in accordance with this chapter with  
14 other agencies or divisions of State Government and with other entities as long as the  
15 contract, assistance or coordination does not present a conflict of interest. For the purposes  
16 of this subsection, "conflict of interest" means an association, including a financial or  
17 personal association, that has the potential to bias or have the appearance of biasing the  
18 office's decisions or the conduct of the office's activities.

19 **7. Budget.** The revenues and expenditures of the office are subject to legislative  
20 approval in the biennial budget process. The director shall prepare the budget for the  
21 administration and operation of the office in accordance with the provisions of law that  
22 apply to departments of State Government.

23 **8. Legal counsel.** The Attorney General, when requested, shall furnish any legal  
24 assistance, counsel or advice the office requires in the discharge of its duties.

25 **9. Grants.** The office may solicit, receive and accept grants, funds or anything of  
26 value from any public or private organization and receive and accept contributions of  
27 money, property, labor or any other thing of value from any legitimate source.

28 **10. Rulemaking.** The office may adopt rules as necessary for the proper  
29 administration and enforcement of this chapter, pursuant to the Maine Administrative  
30 Procedure Act. Unless otherwise specified, rules adopted pursuant to this chapter are  
31 routine technical rules as defined in chapter 375, subchapter 2-A.

32 **§3123. Advisory Council on Affordable Health Care**

33 The Advisory Council on Affordable Health Care, established in section 12004-I,  
34 subsection 31-B, is an advisory council to the office on matters affecting the cost of health  
35 care in this State.

36 **1. Duties of advisory council.** The advisory council shall advise the office on matters  
37 affecting the cost of health care in this State.

38 **2. Membership.** The advisory council consists of 13 members as follows:

39 **A.** Eleven members of the advisory council appointed as follows, subject to review by  
40 the legislative oversight committee and confirmation by the Senate:

41 (1) Six members appointed by the President of the Senate, including one member  
42 who represents hospital interests, one member who represents primary care

1 provider interests, one member who represents behavioral health care provider  
2 interests, one member who represents the interests of older residents of this State,  
3 one member who is a health care consumer advocate and one member with  
4 expertise in health economics and research; and

5 (2) Five members appointed by the Speaker of the House, including one member  
6 who represents health insurance interests, one member who represents purchasers  
7 of health care, one member with demonstrated expertise in health care delivery,  
8 health care management at a senior level or health care finance and administration,  
9 one member who represents the health care workforce and one member with  
10 expertise in health economics and research; and

11 B. Two ex officio nonvoting members:

12 (1) The Commissioner of Health and Human Services or the commissioner's  
13 designee; and

14 (2) The Commissioner of Administrative and Financial Services or the  
15 commissioner's designee.

16 **3. Terms of office.** Appointed members of the advisory council serve 5-year terms  
17 and may be reappointed. A vacancy for an unexpired term must be filled in accordance  
18 with subsection 2, paragraph A or B. A member may serve until a replacement is appointed  
19 and qualified.

20 **4. Chair; vice-chair.** The advisory council shall annually elect a chair and a vice-  
21 chair from among its members.

22 **5. Quorum.** Seven voting members of the advisory council constitute a quorum.

23 **6. Affirmative vote.** An affirmative vote of a majority of the voting members is  
24 required for any action taken by the advisory council.

25 **7. Meetings.** The advisory council shall meet at least once every 2 months and may  
26 also meet at other times at the call of the chair. Meetings may be cancelled or postponed  
27 at the discretion of the chair. All meetings of the advisory council are public proceedings  
28 within the meaning of Title 1, chapter 13, subchapter 1.

29 **8. Recusal.** A member of the advisory council with a conflict of interest shall elect to  
30 be recused. For purposes of this subsection, "conflict of interest" means any instance in  
31 which a member, staff member or contractor of the advisory council or an immediate family  
32 member of the member, staff member or contractor of the advisory council has received or  
33 could receive either of the following:

34 A. A direct financial benefit of any amount deriving from the results or findings of a  
35 study or determination by or for the advisory council; or

36 B. A financial benefit from individuals or companies that own or manufacture  
37 prescription drugs or health care services or items to be studied by the advisory council  
38 that in the aggregate exceeds \$5,000 per year. For purposes of this paragraph,  
39 "financial benefit" includes honoraria, fees, stock or other financial benefit and the  
40 current value of already existing stock holdings, in addition to any direct financial  
41 benefit deriving from the results or findings of a study or determination by or for the  
42 advisory council.

1 **§3124. Annual public hearing**

2 Beginning in 2022, the office shall convene an annual public hearing on cost trends no  
 3 later than October 1st. The hearing must provide an opportunity for public comment on  
 4 health care cost trends. The executive director shall preside over the hearing.

5 **§3125. Annual report**

6 No later than January 1, 2023 and annually thereafter, the office shall submit a report  
 7 to the Governor, the legislative oversight committee and the advisory council of its findings  
 8 in accordance with this chapter. The report must include a summary of comments received  
 9 at the annual public hearing convened under section 3124.

10 **Sec. 4. 5 MRSA §12004-I, sub-§31-B** is enacted to read:

11 **31-B.**

12 Health Care Advisory Council on Affordable Health Expenses Only 5 MRSA  
 13 Care Care §3123

14 **Sec. 5. Annual reports for 2023 and 2024.** The annual reports due pursuant to  
 15 the Maine Revised Statutes, Title 5, section 3125 for the calendar years 2023 and 2024  
 16 must include, in addition to the requirements contained in section 3125, recommendations  
 17 to the joint standing committees of the Legislature having jurisdiction over health coverage,  
 18 insurance and health and human services matters regarding how to ensure appropriate  
 19 public health infrastructure throughout the State and how to develop the most effective  
 20 consumer resource for health care issues that extend beyond access to health insurance  
 21 coverage.

22 **Sec. 6. Staggered terms; Advisory Council on Affordable Health Care.**  
 23 Notwithstanding the Maine Revised Statutes, Title 5, section 3123, subsection 3, of the  
 24 members initially appointed to the Advisory Council on Affordable Health Care, 4  
 25 members must be appointed to serve initial terms of 2 years, 4 members must be appointed  
 26 to serve initial terms of 3 years and 3 members must be appointed to serve initial terms of  
 27 4 years.

28 **Sec. 7. Appropriations and allocations.** The following appropriations and  
 29 allocations are made.

30 **OFFICE OF AFFORDABLE HEALTH CARE**

31 **Office of Affordable Health Care N364**

32 Initiative: Establishes and appropriates funds for the costs of one Director position, one  
 33 Public Service Coordinator II position, one Office Specialist II position and related costs  
 34 for the new Office of Affordable Health Care beginning October 1, 2021.

35 GENERAL FUND	2021-22	2022-23
36 POSITIONS - LEGISLATIVE COUNT	3.000	3.000
37 Personal Services	\$257,085	\$364,769
38 All Other	\$34,297	\$39,062
39		
40 GENERAL FUND TOTAL	\$291,382	\$403,831

41 ' ,

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

3 **SUMMARY**

4 This amendment, which is the majority report of the committee, replaces the bill. The  
5 amendment establishes the Office of Affordable Health Care as an independent executive  
6 agency and requires that the office provide oversight and staffing to the Maine Prescription  
7 Drug Affordability Board. The bill proposes to establish the office within the Legislature.  
8 The amendment also incorporates the same provisions as in the bill related to the Advisory  
9 Council on Affordable Health Care, but adds 3 additional members, one member  
10 representing behavioral health care provider interests and 2 members with expertise in  
11 health economics and research. The amendment also adds an appropriations and  
12 allocations section to provide funding to the office.

13 **FISCAL NOTE REQUIRED**

14 **(See attached)**