127th MAINE LEGISLATURE

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S.P. 152 In Senate, February 12, 2015

Resolve, To Study the Design and Implementation of Options for a Universal Health Care Plan in the State That Is in Compliance with the Federal Patient Protection and Affordable Care Act

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

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator GRATWICK of Penobscot.
Cosponsored by Representative TUCKER of Brunswick and
Senator: BREEN of Cumberland, Representatives: DUCHESNE of Hudson, HYMANSON of York, STANLEY of Medway, TEPLER of Topsham, TIPPING-SPITZ of Orono, VEROW of Brewer.

Sec. 1. Purpose. Resolved: That it is the intent of the Legislature to ensure that all residents of the State have access to and coverage for affordable, quality health care. While the Legislature supports a national universal system of health care, until such federal legislation is enacted, it is the intent of the Legislature to study the design and implementation of a universal health care plan that complies with the requirements for innovation waivers available to states pursuant to the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152, referred to in this resolve as "the Affordable Care Act"; and be it further

Sec. 2. Consultant; proposal. Resolved: That the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters, referred to in this resolve as "the committee," shall solicit the services of one or more outside consultants to work with the committee to propose to the Legislature at least 3 design options, including implementation plans, for creating a universal system of health care that ensures all residents of the State have access to and coverage for affordable, quality health care services that meet the principles and goals outlined in this resolve. By October 15, 2016, the consultant or consultants shall release a draft of the design options to the public, including the data used by the consultant or consultants to develop the design options, and provide 30 days for public review and the submission of comments on the design options. The consultant or consultants shall review and consider the public comments and revise the draft design options as necessary prior to the final submission to the committee; and be it further

Sec. 3. Design options. Resolved: That the proposal under section 2 must contain the analysis and recommendations as provided for in this section.

1. The proposal must include the following design options:

A. A design for a government-administered and publicly financed unified payer health benefits system that is decoupled from employment, that prohibits insurance coverage for the health services provided by the system and that allows for private insurance coverage of only supplemental health services;

B. A design for a universal health benefits system with integrated delivery of health care and integrated payment systems for all individuals that is centrally administered by State Government or an entity under contract with State Government; and

C. A design for a public health benefit option administered by State Government or an entity under contract with State Government that allows individuals to choose between the public option and private insurance coverage and allows for fair and robust competition among public and private plans.

Additional options may be designed by the consultant or consultants, in consultation with the committee, taking into consideration the parameters described in this section.

Each design option must include sufficient detail to allow the Legislature to consider the adoption of one design and to determine an implementation plan for that design during the First Regular Session of the 128th Legislature and to initiate implementation of the

new system through a phased process beginning no later than January 1, 2018, including the submission of any necessary waivers pursuant to federal law.

2. In creating the design options under subsection 1, the consultant or consultants shall review and consider the following fundamental elements:

A. The findings and reports from previous studies of health care reform in the State, including the December 2002 document titled "Feasibility of a Single-Payer Health Care Model for the State of Maine" produced by Mathematica Policy Research, Inc., and studies and reports provided to the Legislature;

B. The State's current health care reform efforts;

C. The health care reform efforts in other states, including any efforts in other states to develop state innovation waivers for universal health coverage plans as an alternative to the Affordable Care Act; and

D. The Affordable Care Act; the federal Employee Retirement Income Security Act of 1974, as amended; and the Medicare program, the Medicaid program and the State Children's Health Insurance Program under Titles XVIII, XIX and XXI, respectively, of the federal Social Security Act.

3. The design options under subsection 1 must maximize federal funds to support the system and be composed of the following components:

A. A payment system for health services that includes one or more packages of health services providing for the integration of physical and mental health services; budgets, payment methods and a process for determining payment amounts; and cost-reduction and cost-containment mechanisms and that is aligned with the State's innovation model project to advance delivery system and payment reform initiatives already in place throughout the State and that is consistent with the terms and conditions of any federal grant awarded to the State's innovation model project;

B. Coordinated regional delivery systems;

C. Health system planning and regulation and public health;

D. Financing and estimated costs, including federal financing. The design options must provide:

(1) An estimate of the total costs of the design options, including any additional costs for providing access to and coverage for health services to the uninsured and underinsured, any estimated costs necessary to build a new system and any estimated savings from implementing a single system;

(2) Financing proposals for sustainable revenue, including by maximizing federal revenues, or reductions from existing health care programs, services, state agencies or other sources necessary for funding the cost of the new system;

(3) A proposal to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to waive provisions of Titles XVIII, XIX and XXI of the federal Social Security Act, if necessary, to align the federal programs with the proposals contained within the design option in order to

maximize federal funds or to promote the simplification of administration, cost containment or promotion of health care reform initiatives; and

(4) A proposal to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to waive provisions of the Affordable Care Act, if necessary, to implement the proposals contained within the design options in order to maximize federal funds;

E. A method to address compliance of the proposed design option with federal law. Unless specifically authorized by federal law, the proposed design options must provide coverage supplemental to coverage available under the Medicare program of the federal Social Security Act, Title XVIII and the federal TRICARE program, 10 United States Code, Chapter 55;

F. A benefit package or packages of health services that meet the requirements of the Affordable Care Act and provide for the integration of physical and mental health care, including access to and coverage for primary care, preventive care, chronic care, acute episodic care, palliative care, hospice care, hospital services, prescription drugs and mental health and substance abuse services;

G. A method for administering payment for health services, which may include administration by a government agency, under an open bidding process soliciting bids from insurance carriers or 3rd-party administrators, through a private nonprofit insurer or 3rd-party administrator, through private insurers or from a combination thereof;

H. Enrollment processes;

I. Integration of pharmacy best practices and cost control programs and other mechanisms to promote evidence-based prescribing, clinical efficacy and cost containment, such as a single statewide preferred drug list, prescriber education or utilization reviews;

J. Appeals processes for decisions made by entities or agencies administering coverage for health services;

K. A recommendation for budgets and payment methods and a process for determining payment amounts. Payment methods for mental health services must be consistent with mental health parity. The design options must consider:

(1) Recommending a global health care budget when it is appropriate to ensure cost containment by a health care facility, a health care provider, a group of health care professionals or a combination thereof. Any recommendation must include a process for developing a global health care budget, including circumstances under which an entity may seek an amendment of its budget;

(2) Payment methods to be used for each health care sector that are aligned with the goals of this section and provide for cost containment, provision of high-quality, evidence-based health services in a coordinated setting, patient self-management and healthy lifestyles; and

(3) What process or processes are appropriate for determining payment amounts with the intent to ensure reasonable payments to health care professionals and

providers and to eliminate the shift of costs between the payers of health services by ensuring that the amount paid to health care professionals and providers is sufficient. Payment amounts must be sufficient to provide reasonable access to health services, provide sufficient uniform payments to health care professionals and assist in creating financial stability for health care professionals. Payment amounts for mental health services must be consistent with mental health parity;

L. Cost-reduction and cost-containment mechanisms; and

M. A regional health system that ensures that the delivery of health services to the citizens of the State is coordinated in order to improve health outcomes, improve the efficiency of the health system and improve patients' experiences of health services.

4. The proposal must include a method to address compliance of the proposed design options under subsection 1 with federal law, if necessary, including the Affordable Care Act; the federal Employee Retirement Income Security Act of 1974, referred to in this subsection as "ERISA"; and Titles XVIII, XIX and XXI of the federal Social Security Act. In the case of ERISA, the consultant or consultants may propose a strategy to seek an ERISA exemption from the United States Congress if necessary for the design options.

5. The proposal must include an analysis of:

A. The impact of the design options on the State's current private and public insurance system;

B. The expected net fiscal impact;

C. The impact of the design options on the State's economy;

D. The benefits and drawbacks of alternative timing for the implementation of the designs, including the sequence and rationale for the phasing in of the major components; and

E. The benefits and drawbacks of the design options and of not changing the current system; and be it further

Sec. 4. Additional staff assistance. Resolved: That, upon request, the Department of Health and Human Services and the Department of Professional and Financial Regulation, Bureau of Insurance shall provide any additional staffing assistance to the committee to ensure the committee and its consultant or consultants have the information necessary to create the design options required by this resolve; and be it further

Sec. 5. Report. Resolved: That, no later than December 2, 2016, the consultant or consultants shall submit a report that includes findings and recommendations, including suggested legislation, to the committee. The committee may report out a bill to the First Regular Session of the 128th Legislature based on the report that adopts one of the design options under section 3 and establishes an implementation plan; and be it further

Sec. 6. Funding; sources. Resolved: That the committee may accept from the Department of Professional and Financial Regulation, Bureau of Insurance and the

Department of Health and Human Services any grant funding made available to the State pursuant to the Affordable Care Act that is received by those state agencies. The committee may also apply for and receive funds, grants or contracts from public and private sources to support its activities. Contributions to support the work of the committee may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied. Any person, other than a state agency, desiring to make a financial or in-kind contribution shall certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the committee's activities. Such a certification must be made in the manner prescribed by the Legislative Council. All contributions are subject to approval by the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of the funds, the date the funds were received, from whom the funds were received and the purpose of and any limitation on the use of those funds. The Executive Director of the Legislative Council shall administer any funds received by the committee; and be it further

Sec. 7. Transfer. Resolved: That, notwithstanding any other provisions of law, on or before June 30, 2016, the State Controller shall transfer $100,000 from the State Innovation Model Grant, Federal Expenditures Fund account in the Department of Health and Human Services to the Miscellaneous Studies-Funding, Other Special Revenue Funds account of the Legislature. If before December 1, 2016 the Legislature receives funds that exceed $100,000 from other public and private sources as authorized in section 6, the State Controller shall transfer $100,000 from the Legislature to the State Innovation Model Grant, Federal Expenditures Fund account in the Department of Health and Human Services before December 31, 2016.

SUMMARY

This resolve expresses the Legislature's intent that all Maine residents have access to and coverage for affordable, quality health care. The resolve requires the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters to solicit the services of one or more consultants to propose design options for creating a universal system of health care in the State. The resolve requires the consultant or consultants to submit a report by December 2, 2016 containing at least 3 design options that comply with the federal Patient Protection and Affordable Care Act.

The resolve includes a provision requiring the State Controller to transfer $100,000 from the state innovation model grant received by the Department of Health and Human Services pursuant to the federal Patient Protection and Affordable Care Act on or before June 30, 2016 to fund the study required by the resolve. If funds exceeding $100,000 are received from other public and private sources before December 1, 2016, the resolve requires that the money be transferred back to the Department of Health and Human Services.