

## Maine lawmakers endorse bill to protect Obamacare subsidies

**Nearly 67,000 Mainers receive premium assistance through the Affordable Care Act that could be eliminated, depending on a U.S. Supreme Court ruling.**

By Steve Mistler

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A bill designed to protect health insurance subsidies for nearly 67,000 Mainers won key support Thursday from a committee of lawmakers.

In a unanimous vote, the Legislature's Insurance and Financial Services Committee endorsed the effort to maintain the health insurance premium subsidies that are offered as tax credits through the Affordable Care Act. Those credits are being challenged in a federal lawsuit known as *King v. Burwell*, which the U.S. Supreme Court is expected to decide next month.

The case is a significant threat to the ACA, also known as Obamacare, the 2010 health care law vigorously opposed by Republicans.

The plaintiffs in *King v. Burwell* argue that the wording in the Affordable Care Act precludes consumers in states that did not set up their own health insurance marketplaces from receiving federal subsidies. Attorneys for the Obama administration counter that it was merely a technical glitch in the drafting of the law, and that the intent of Congress was to provide subsidies to consumers in all states.

The law allows states to choose whether to operate their own marketplaces, where consumers can shop for and purchase a health insurance policy, or have the federal government do it. Maine is one of 37 states that opted to let the federal government run their insurance exchanges.

The ACA provides for advance payment of premium tax credits for people with incomes between 100 percent and 400 percent of the federal poverty level, or \$11,770 and \$47,080 for an individual. Cost-sharing reductions are available for people with incomes between 100 percent and 250 percent of federal poverty level, or \$11,770 and \$29,425 per year for an individual.

Nearly 90 percent of the 74,792 Mainers who have purchased health insurance during the two enrollment periods since the law went into effect receive some kind of subsidy. According to a national analysis by the Urban Institute, 80 percent of the adults who would lose the subsidies are working, 46.5 percent full time and 33.7 percent part time. If the subsidies through federal exchanges are struck down, the institute estimates that 73 percent of part-time workers would become uninsured.

The same analysis estimated that 62,000 people in Maine would lose an average of \$4,150 in tax credits and cost-sharing reductions if the court rules in favor of the plaintiffs. An estimated 50,000 Mainers would become uninsured.

If the Obama administration loses the court case, states with federally-run insurance exchanges could lose the subsidies.

The bill sponsored by Rep. Linda Sanborn, D-Gorham, would create a state-based insurance exchange that actually uses the federal website [healthcare.gov](http://healthcare.gov). The bill would essentially allow Mainers buying individual health insurance to continue to do so through the federal site, while meeting the legal definition of having a state-run exchange. Three other states – New Mexico, Nevada and Oregon – have developed similar systems. Those states initially tried to establish their own exchanges but encountered problems. The states eventually contracted with the federal government to use [healthcare.gov](http://healthcare.gov) while maintaining enough provisions for their systems to qualify as a state exchange.

Sanborn said Thursday that she was encouraged by the committee vote and the comments from Republican lawmakers.

“I feel like everyone understands the gravity of losing these subsidies,” she said. “I’m hoping that the same bipartisan support will help in their caucuses ... and hopefully push the governor to do the right thing.”

It’s unclear if Gov. Paul LePage will support or oppose the bill, which has good prospects of passing the Legislature given the unanimous committee vote. The governor has openly opposed the health care law. In 2012, Micheal F. Cannon, director of health policy studies at the libertarian Cato Institute in Washington, D.C., [met with LePage and other administration officials](#) to persuade the governor to rely on a federally operated exchange.

Cannon is one of the most dogged and successful opponents of the ACA. He is also supporting the plaintiffs in *King v. Burwell*, the case that challenges the health care subsidies. In November he confirmed his role in persuading the LePage administration to abandon a state-run exchange during an interview with *Portland Press Herald*. He said his goal is for Congress to repeal the law “root and branch.” He also said that he told LePage about the six words in the 1,000-page law that are now at center of the Supreme Court case.

“I made lots of arguments to the governor and this is one of them,” Cannon said. “I said, by blocking the state exchanges you can force Congress to reopen, or get rid of, this very bad law.”

Adrienne Bennett, a spokeswoman for the governor, declined to comment on the bill or the committee vote.

The uncertainty over LePage's position figured into lawmakers' decision Thursday. During a work session, lawmakers talked openly about procedural safeguards to ensure that the Legislature will have a chance to enact the bill if the governor vetoes it or if it carries significant costs. The cost of the measure has not yet been calculated.

"I think it goes without saying that this piece of legislation is a critical piece of legislation to make sure there's a safety net in place when the Supreme Court makes their decision," Sen. Rodney Whittemore, R-Skowhegan, said. "We feel it's important to keep this alive."

The loss of subsidies would have significant impact on the state's individual health insurance market. According to the Legislature's Office of Policy and Legal Analysis, the average monthly premium credit for Mainers is \$332, and the average monthly premium is \$425. If the credits are eliminated, insurers worry that people will stop buying insurance, leaving only people with chronic illness in the risk pool. The diversity of the risk pool determines the rates for the individual market. The more healthy people, the lower the rates. If the risk pool primarily contains high users of insurance, premiums increase.

The American Academy of Actuaries has indicated that the elimination of subsidies will result in premium increases of 35 percent to 45 percent.

Kristine Ossenfort, a lobbyist for Anthem Blue Cross and Blue Shield, told lawmakers during a May 7 public hearing on the bill that losing the credits will likely destabilize the individual market.

The superintendent of the Bureau of Insurance, Eric Cioppa, previously told the Insurance and Financial Affairs Committee that the individual market in Maine is now larger than the small group market.

The bill is backed by health care advocates, insurers like Anthem Blue Cross and Blue Shield and Maine Community Health Options, a non-profit cooperative that has enrolled over 66,000 Mainers in insurance, including many through the exchange. The bill is also backed by the Maine State Chamber of Commerce.