

MAINE STATE LEGISLATURE

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One Hundred and Twenty-First Legislature
State of Maine

Volume II

First Regular Session (Continued)
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First Special Session
August 21, 2003 to August 22, 2003

First Confirmation Session
October 30, 2003

Second Regular Session
January 7, 2004 to January 30, 2004

Second Special Session
February 3, 2004 to March 18, 2004

Pages 715 - 1415

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#163)

YEAS: Senators: BRENNAN, BRYANT, CATHCART, DAVIS, DOUGLASS, EDMONDS, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT

NAYS: Senators: BENNETT, BLAIS, BROMLEY, CARPENTER, GAGNON, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BEVERLY C. DAGGETT

ABSENT: Senator: YOUNGBLOOD

EXCUSED: Senator: DAMON

15 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **ROTUNDO** of Androscoggin to **ADOPT** Senate Amendment "B" (S-272) to Committee Amendment "A" (H-354), **FAILED**.

Committee Amendment "A" (H-354) **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Ordered sent forthwith to the Engrossing Division.

Out of order and under suspension of the Rules, the Senate considered the following:

ORDERS

Joint Resolution

Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of:

Robert E. Cunningham, of Waterville, beloved husband of Linda Cunningham, a respected teacher and an active participant in his community. Mr. Cunningham taught government at Waterville High School for 38 years, retiring in 2002. He was the coordinator of the school's mock trial team for 11 years, advisor to the civil rights team and co-coordinator of the school's commencement. Mr. Cunningham was a member of the Waterville Planning Board, a past member of MEA Legislative Assembly, a member of the United Way Budget Committee and a member of the Maine Retired Teacher Association. He was also a member of the First Congregational Church. He enjoyed spending time with his family and was passionate about politics

and current events. He will be greatly missed by his loving family and many friends;

SLS 282

Sponsored by Senator GILMAN of Cumberland. Cosponsored by Senator: GAGNON of Kennebec, Representatives: MARRACHÉ of Waterville, FINCH of Fairfield, CANAVAN of Waterville.

READ.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gilman.

Senator **GILMAN:** Thank you, Madame President, men and women of the Senate. I rise today on behalf of the memoriam for Robert Cunningham. Bob Cunningham was my son's father-in-law. Bob was a man of great conversation, ideas, and compassion. He'll be greatly missed by all of his family, especially my son, who considered him a great friend. Since Maine is just one great big community, I find that Jeremy Foster is a good friend of Bob's son, John. Thank you very much.

ADOPTED.

Sent down for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Joint Select Committee on **HEALTH CARE REFORM** on Bill "An Act To Provide Affordable Health Insurance to Small Businesses and Individuals and To Control Health Care Costs" H.P. 1187 L.D. 1611

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-565).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-565).**

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-565) **READ.**

On motion by Senator **NASS** of York, Senate Amendment "A" (S-278) to Committee Amendment "A" (H-565) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS**: Thank you, Madame President, men and women of the Senate. Fortunately, we all have a lot of experience with this issue. We've read a lot about it. We've talked about it. We've listened to other people talk about it. We may have even made some speeches about it. Over the years, maybe most of us have submitted some legislation about it. This amendment is a conglomeration of proposals that have been before this legislature this session.

It does three or four things. The biggest thing, I suppose, is it creates a high risk pool and repeals the guarantee issue. Guarantee issues and community ratings are two things we have tried to modify before, and I believe they are key to the solution for health care.

As I have translated all the discussion, all the prior proposed legislation, and all the talk about this, it seems to me that it comes down to two issues; access to health care and the cost. Which is more important? It's hard to say. If you don't have insurance, and don't have access to it, that is probably more important. If you can't afford it, but you do have access, that might be more important. I would suggest that this amendment, the high risk pool, provides as much access as the other proposal, the Dirigo Health Plan.

What the Dirigo Plan doesn't do is it doesn't do anything about cost. Many of the people I've talked to are complaining about cost. We can hide and run all day long, but when it comes down to it, the cost of health care is something we're going to have to deal with. Dirigo does not. It is pretty obvious, from the historical perspective, why it doesn't. We can't keep providing higher benefits, more benefits to more people and expect to reduce the cost. That seems as plain as day to me. Unless we confront the obvious, we're not going to be successful. It is obvious, to me, that we need to do the painful things. Either we reduce access, reduce costs, or accept reduced quality. We have not been willing to do any of those things yet. We keep adding on more people. Every time we do, we know what the outcome is going to be. Our costs go out of sight. This provides more access for more people. As much as we might like to do things, it's time to do something that is going to work. Dirigo does not work. It will not work. History teaches us that. What I am proposing here is a high risk pool. It's been talked about before in other legislation. It repeals the guarantee issue and changes the community rating system. All of these are harsh things. It would be nice if we didn't have to do them, but we won't get at the cost issue unless we do, in my opinion. The proposal in front of us, Dirigo Health, does little for the individual paying the highest health insurance premium, self employed individuals, and those people working for companies that don't provide insurance. By contrast, we have examples from other states, some say as many as 31 states, that have a different proposal. It appears to be working well. The really interesting thing is that one of those examples is just across our border. Both Kentucky and New Hampshire enacted community ratings and high risk pool reforms that caused health premiums in the individual market to drop by up to 40% for some individuals, while not increasing costs for older or sicker individuals. It is my understanding that the most Dirigo can offer is a 20% reduction, if it is successful, per individual. Further, this amendment proposes to correct the geographic access standard as provided for in Rule 850, one of the insurance department rules. Again, we have debated that here in previous terms. We've had a bill presented this year about this issue. As it is presented, it can be harsh for some people. There is no doubt about that. Whether it is the insurance

company forcing somebody to go to a lower cost facility or whether it is by choice, the lower cost is certainly not as convenient. We know that. Again, if we are serious about reducing the costs, and that is what I hear is the big issue, then we'd better face up to some of these things. Dirigo does not.

Finally, this is the oldest issue of all, and this state has done nothing about it. This bill places a \$250,000 cap on non-economic damages and medical liability actions. It's been a bill that has been before this legislature. We've talked about it over and over again. If we are serious about costs, these are things we have to do. The cost of health insurance in Maine is too high. Other states have cheaper health insurance programs. Rather than subject our citizens, 1.3 million Mainers, to the Dirigo Health experiment, let's do something that has been proven in other states, proven to reduce health costs, and to reduce the rate of the uninsured. Thank you, Madame President.

Senator **MAYO** of Sagadahoc moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-278) to Committee Amendment "A" (H-565).

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO**: Thank you, Madame President and members of the Senate. At some point this afternoon, I would like to talk about Dirigo and all that is contained therein. However, my understanding is that this takes me beyond the current motion that I have just made. With that, I will stop.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Blais.

Senator **BLAIS**: Thank you, Madame President, men and women of the Senate. There is no doubt in my mind that everyone in this room supports universal access to affordable health care for the people of Maine. The dilemma, of course, is to define the method by which we, here in the legislature, will achieve that goal. Supporters of the Chief Executive's health care plan have decided that more government involvement is the answer. Others, like myself, have reason to be concerned that government involvement is largely responsible for the crisis that prompts the debate that we are having in the first place. We have some reason to be suspicious of a plan that will draw \$53 million from our treasury just to get started. The premise of the Dirigo plan is that by reducing the number of uninsured people who utilize our health care system....

THE PRESIDENT: The Chair would interrupt debate to remind the Senator that the question before us is indefinite postponement of the Senate Amendment "A" (S-278).

Senator **BLAIS**: Very well. Men and women of the Senate, I very much would like an opportunity to speak with respect the Senate Amendment that was before us just moments ago. I would urge you to vote against the motion that is currently on the floor, the motion to indefinitely postpone, so that we may speak with respect to the amendment that the good Senator from York, Senator Nass, has brought to us today.

On motion by Senator **TREAT** of Kennebec, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Sagadahoc, Senator Mayo to Indefinitely Postpone Senate Amendment "A" (S-278) to Committee Amendment "A" (H-565). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#164)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, MAYO, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, TURNER, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, WESTON, WOODCOCK

ABSENT: Senator: YOUNGBLOOD

EXCUSED: Senator: DAMON

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **MAYO** of Sagadahoc to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-278) to Committee Amendment "A" (H-565) **PREVAILED**.

On motion by Senator **LAFOUNTAIN** of York, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate Adoption of Committee Amendment "A" (H-656). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#165)

YEAS: Senators: BENNETT, BLAIS, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, STRIMLING, TREAT, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: None

ABSENT: Senator: YOUNGBLOOD

EXCUSED: Senator: DAMON

33 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being absent and 1 Senator being excused, Committee Amendment "A" (H-565) **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Improve the Maine Rx Program"
S.P. 590 L.D. 1634

Committee on **HEALTH AND HUMAN SERVICES** suggested and ordered printed.

In Senate, June 11, 2003, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-570)**, in **NON-CONCURRENCE**.

Senator **TREAT** of Kennebec moved the Senate **RECEDE** and **CONCUR**.

Senator **TURNER** of Cumberland moved to **REFER** to the Committee on **HEALTH AND HUMAN SERVICES**, in **NON-CONCURRENCE**

The Chair **RULED** the motion to **REFER** to the Committee on **HEALTH AND HUMAN SERVICES OUT OF ORDER**.

On motion by Senator **TREAT** of Kennebec, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I believe that the amendment put on this bill in the House exempts it from the Appropriations Table. I