

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-Second Legislature

State of Maine

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the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

73 voted in favor and 70 against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

**READ and ORDERED PLACED ON FILE.**

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

**COMMUNICATIONS**

The Following Communication: H.C. 290

**STATE OF MAINE  
CLERK'S OFFICE  
2 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

June 10, 2005

Honorable Joy J. O'Brien  
Secretary of the Senate  
122nd Legislature  
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to adhere to its previous action whereby it accepted the Minority Ought Not to Pass Report of the Committee on Labor on Bill "An Act To Provide an Annual Cost-of-living Adjustment for Persons Receiving Workers' Compensation Benefits for Total Incapacity" (S.P. 501)(L.D. 1476).

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

**READ and with accompanying papers ORDERED PLACED ON FILE.**

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Senate at Ease.

Senate called to order by the President.

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On motion by Senator **BRENNAN** of Cumberland,  
**RECESSED** until 1:30 in the afternoon.

After Recess

Senate called to order by the President.

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Bill "An Act To Modify the Calculation and Implementation Date of Savings Offset Payments under the Dirigo Health Act"  
S.P. 555 L.D. 1577

Tabled - June 10, 2005, by Senator **BRENNAN** of Cumberland

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-359)**

(In Senate, June 10, 2005, Reports **READ**. On motion by Senator **SULLIVAN** of York, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359)** Report **ACCEPTED. READ ONCE.** Committee Amendment "A" (S-359) **READ.**)

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **ANDREWS:** Thank you, Madame President. I'd like to pose a question through the Chair to anyone who would care to answer?

**THE PRESIDENT:** The Senator may pose her question.

Senator **ANDREWS:** Thank you, Madame President. I understand that Dirigo Health has about 7,000 enrollees and that it is collecting a significant amount of premiums, at least 60% are collecting from their employers. I also understand there is probably roughly between \$40 and \$45 million left in the fund and I've heard it said by some that Dirigo does not get a significant saving off-set payment early in 2006 that plan will fail. So I have a couple of questions. Number one, why do we need money so desperately when we only have 7,000 enrollees and we've got over \$40 million left in the fund? Second, how can the agency conduct an impartial hearing on whether there are savings if the board knows that without awarding the agency savings in the decision that the plan will go under?

**THE PRESIDENT:** The Senator from York, Senator Andrews poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President. It's a day for questions, but I also have a question for anyone who can answer. I have tried to understand something that I didn't understand

earlier and that is the experience modification program. That issue will be treated in the hearings to be conducted before the board this fall.

My question is, does this majority report that is before us intend for that EMP to be handled for purposes of the fall hearings? Is it an expense that will be included or will it be excluded from the savings off-set payments?

**THE PRESIDENT:** The Senator from Waldo, Senator Weston poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. I have purposely, because it is Friday and we would all like to go home, made the decision that I won't answer every question but I will try to explain this as we go along. Hopefully I won't stand up again, regardless of if I disagree with what's being said or not. Please do not read my silence in the future as being that I agree with everything that is being said.

L.D. 1577 is a bill that actually was put in during January, got lost, came back, and here it is. The Insurance and Financial Services Committee has worked all year long to come up with some agreement. There was agreement that Dirigo needed to be fixed. There were many plans that the other side of the aisle and the other chamber put forth that we decided needed to be explored. They could not be explored in a short period of time. Public Law 2003, which is Dirigo and passed a year ago, it had certain dates in it that were set. Those dates didn't happen. We didn't open enrollment, it didn't get started, all those things. Nothing strange here, people. If any of you thought of a business that you opened for the first time, did your business follow the exact deadline date? On June 1<sup>st</sup> this will happen. On June 2<sup>nd</sup> this will happen. I can't even keep my home schedule on that let alone a new business. On top of all those things, we needed to enter into something called savings off-set payment. There was a huge concession made by the Dirigo that it would be premiums paid. It is now going to be paid claims. That costs money in the foreseeable future. It's like putting money in the stock market. You are guaranteed a certain income, it doesn't happen. We went to paid claims. All you hear about the dates is that we need to get this started.

My committee was clear, all the sides. In fact, you need to know that L.D. 1577 was a unanimous report until all of a sudden it was realized that I had played by the rules established by our committee and both sides were going to have a place at the table to discuss and craft Dirigo. In fact, L.D. 1496, which was the Republican plan, the big insurance plan, was done. On the last day we extended this committee four days. We kept the clerk on four days. We kept meeting. Finally we took a report. At that time that unanimous report, because I allowed it to be reconsidered on good faith, all of a sudden things that weren't even in that report were thrown out of the window. All the deals were gone. Now every one of your committees has come up with an understanding. L.D. 1496 and another bill, I'm going to say L.D. 1680 but I may be wrong, that is a Dirigo concept plan to improve the Dirigo plan, sponsored by Representative Glenn, Representative Perry, the Republican lead, my co-chair, and me are being carried forward. Why? Because I'm sort of naïve and I believe your word is your word and you are going to be able to sit down and craft a bill that improves Dirigo the way we need it. Wait a second. We need to have money for the next six months

to get this operated because we didn't make the deadlines in Public Law 2003. This is a placeholder. The last day, when they said, 'Do you have a minority report?' and we said, 'We'll have it before the end of the day', in fact our analyst already had it, but we never even saw the minority report. Dirigo exists from the Public Law with a major change going from premiums to paid claims requested by the industry.

There are other things. If you remember, I stood here yesterday and talked about health savings accounts. That is one of the issues that would go into crafting this new program. I really would like everybody at the table in goodwill the way our committee had planned it to work. I'm afraid, with some of the accusations being made today, the good will goes. The true negotiations go. We will craft a bill that does not have a true bi-partisan support. That disappoints me. Look at our record in Insurance and Financial Services. Not one party-line vote. Not one. Only something like 5 divided reports out of 70. Not one party-line vote until the last day on things that were not even in the bill. I have fought with the good Madame President, as she knows, fought with the leader of the House, and on the second floor because I believe my committee was right and because I believe we owed it to both parties to bring forth our ideas in a deliberative fashion after we got through putting this together. That failed. It's not easy. I listened this morning to the debate on Senator Berube and how she stood for principle. I'd like to think I did the same thing in my committee. We promised we would carry over a bill and I fought to carry it over. We put a concept bill in and I have told everybody that they have the right to come forward with good ideas because I firmly believe that neither side has a strong hold on intelligence. Both sides could learn from each other. What we have here is an attempt to totally shut down Dirigo for six months, make sure it fails, and then come to the table. I don't intend to stand and fight every accusation that is made. There will be another day for that. I'm tired like the rest of you and I want to go home. Take a look at what's been held over for requests. Remember some of the arguments we've had and that I've gone to the hilt for both sides, and to bring something up on the last day about things that have never been discussed. As far as the experience modification program, for me, the easiest way to explain it, because there is a lot of insurance I don't understand but fortunately the House co-chair is a Nurse Practitioner and she also was at the table when Dirigo was planned, as were my very capable Democrat Senator and Republican Senator. I was not. She understands it and the very minute workings of it. If you are a new business and you want a loan to start a new business, you have to have something to get that loan. Some collateral. You put up your house. You put up whatever. I suppose some people put up their personal savings account. That wouldn't get me much of a loan. You need that loan. As far as experience, there is no experience as far as the insurance company yet. There is nothing to go on. Like collateral, you put up a pool of money that says, 'If we go broke, here is how we are going to pay those claims from people who are insured.' That is the easiest way to explain it.

There are other things. There will be work sessions this fall on crafting a Dirigo plan. I'm hoping then we can have some of those great ideas brought forward. It's really up to this body. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO**: Thank you, Madame President, ladies and gentlemen of the Senate. First of all I'd like to thank the Senator from York, Senator Sullivan, who is also the Chair of the Insurance and Financial Committee, for agreeing and fighting very hard for the majority report that, quite frankly, I was hoping would become a bi-partisan piece of legislation next year. I wanted to thank her very much for agreeing and fighting hard to hold that bill over. I do believe that the reason the minority report was put forth by those members of the committee was because they are very concerned about a 4% tax that was going to be placed onto businesses in order to get the necessary funding that they needed. The minority report puts off that tax until July. I thought was fair and reasonable.

Madame President, I would like to pose a question through the Chair to anyone who may care to answer. I think it is extremely important, Madame President, that we bring these questions up and get the answers to them.

**THE PRESIDENT**: The Senator may pose her question.

Senator **SNOWE-MELLO**: Thank you, Madame President. It is my understanding that a rate hearing is in front of the Bureau of Insurance, which has great expertise in that process. It took one and one half years total and over five months for the hearing itself. The majority report provides six weeks for the hearing before the Dirigo Board, which has never conducted a hearing like this in the past. My question is, is it at all realistic to expect that the first hearing to determine any savings can be completed with a decision in six weeks?

**THE PRESIDENT**: The Senator from Androscoggin, Senator Snowe-Mello poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS**: Thank you, Madame President. I don't rise to respond to the question, but I rise to make some comments of my own about the general status of the Dirigo Health Plan, if I may.

Ladies and gentlemen of the Senate, I'm at a point of observing this program where I'm deeply uncertain about how or why it has a viable future. I think that the major concern I have is this, at some point, either in January 2006 or possibly in July 2006, there is likely to be an assessment for up to 4% of paid claims imposed on every single medical payment that is made on behalf of an ill person in the State of Maine. That will probably cover everybody who is not on Medicaid or who is uninsured. That means something like 600,000 or 700,000 people will be subject to something which should probably be called a tax. I think when that many people, or the businesses where they work, are subjected to that kind of an assessment there will be many more questions asked of this product and of this program than have so far been asked by the public. I suspect that it will be very difficult for us to explain how that \$40 or \$50 million annually is being spent. The answer will be that we are spending it to subsidize insurance for a very small number of people who, to one extent or another, find it difficult to pay for their own insurance. It will be for the benefit of 7,000, 10,000, 15,000, or 20,000 subscribers to the Dirigo Health product and it will be used to help pay their premiums, to help pay their co-pays, and to help pay their deductibles. Some of those dollars will probably be used to supplement the premiums that are being paid on behalf of

those whose incomes are above 300% of poverty, and that is because of the experience modification program.

I think the rejoinder from the business community and other consumers will be, 'Gee, there is another 700,000 of us who can't pay our health bills either. Why is life being made more difficult for me in order to benefit another very small class of people who are, admittedly, having their own difficulties in buying health insurance?' Why are we making life difficult for everybody in order to benefit a comparatively few who have signed on to the Dirigo product? I think we are going to have difficulty in answering that question responsibly. If the tax, or the fee, or the assessment goes on in January 2006, I think it is easy to predict that we will be spending January and February in this institution trying to figure out how to satisfy or respond to the rather widespread complaints and concerns that will be expressed by those who are subject to the imposition of this assessment.

One of the answers that we will try to make is that we are saving the money through other things that Dirigo is doing. The original theory of the Dirigo product was that by taking people off the uninsured list and giving them insurance that this would save on bad debt and charity care. I have no doubt that there will be some small measure of savings arising from the sale of this product to people who are uninsured. I believe that this savings will be miniscule. Because it is miniscule, I understand that the directors of Dirigo plan to take credit for, and maybe they should, other initiatives of the Dirigo program in a broader context. One of the awkward things in our discussion is that the Dirigo label is used not just for the health product, which is one initiative, but also for a whole set of government initiatives in the field of healthcare; the new controls over certificate of need, the efforts to gain control over hospital costs, and to gain voluntary compliance to limits on the growth in healthcare expenses. All of those things are initiatives of government that could have taken place, and indeed have taken place, in a fashion that is completely independent of the sale of the Dirigo Health product. In an effort to justify the savings to the healthcare system globally or as a whole, the product which benefits a comparatively few people will be subsidized by savings that are generated through the activity of government more broadly and savings that could have redounded to the benefit of the private sector without the sale of the product.

I'm very concerned that we've reach a point, and I think we may have reached it some months ago, of recognizing that the Dirigo Health product may not be viable, either on an economic basis or on a political basis. Whenever government enters into the field of doing something that the private sector likes to do for itself, it runs the risk of encountering political opposition. My concerns is that when we rejoin each other in January 2006 we will be encountering something close to a firestorm of resistance to the program because of the imposition of a 4%, or something close to 4%, assessment on paid health plans. I am not trying to enter into this discussion from a partisan perspective. I have asked myself, 'Do we have a politically viable product? Can we withstand the heat that will be generated when three-quarters of the State of Maine winds up being assessed a tax on a very expensive product in order to benefit comparatively few people?' It wasn't originally planned that the subsidy would have to be so deep and so substantial and that the program would need quite so much money. In the original concept it was thought that those at the very lower parts of the income scale, those in what we call the A, B, and C categories of coverage, would be benefiting greatly from a Medicaid expansion and that we would be drawing

in federal and state Medicaid dollars to sustain and to meet the subsidy obligations of the very poorest people who are signing up for Dirigo. We have found ourselves capped in our efforts to expand Medicaid above 100% of poverty. Indeed, within the non-categorical category of those whose incomes are below 100% of poverty we have found that we need to cap that population because we don't have enough authority from the federal government to continue enrolling people, even at that low level of income.

What is the consequence to Dirigo? It means that, for those people between 100% and 125% of poverty, we are not able to draw in federal dollars or Medicaid dollars to help subsidize those folks and we are using state-only dollars to provide those very substantial subsidies that those people require in order to remain covered by a fairly first class set of benefits that is available to them under Dirigo.

I think we have reached a point in implementing the Dirigo Health product that we really need an independent assessment from some source about whether we should continue with this experiment or whether we should cap enrollment, cut our losses, and begin to evaluate the experiment before we encounter the prospect of imposing a tax on everybody else in the health market. The problem we have is that so much political stock has been invested in the Dirigo label that it's almost impossible for any of us to look at the system objectively. There are people on my side of the aisle who have been shooting at it from the beginning and there are people on the other side of the aisle who have staked their political fortunes on its success. It's almost impossible to have an objective economic analysis and discussion of whether this is a program that ought to be continued in some form. It's almost impossible to get an objective analysis from any source of whether it is viable. It is very difficult, even if you have objective information, to add into this political calculus the fact that we are going to be imposing what may turn out to be a most unpalatable assessment on everybody who buys healthcare. This left me, in my committee, with taking a deliberate walk on either report. If I had it to do again, I can tell you that even now I'm uncertain about what I would do. I think if we were a private business sector I would find somebody to be the receiver of this product and hire some people to look at it objectively and evaluate where it is going in order to see what we can do. Apparently, we don't have that option. I was a supporter of this program from the beginning. I might even be a supporter of it again, but I don't see a clear pathway towards implementing this program after the turn of the year in a way that will spell success for any of us who are involved with it. I say that, I may be one of the few on my side of the aisle who says this, but I say that with substantial regret. Thank you.

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

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. I thoroughly enjoyed serving on the Joint Select Committee a couple of years ago with the good Senator from Somerset, Senator Mills, and I can easily appreciate the problems that he is currently experiencing with exactly where and how and when of Dirigo. I find myself in a little different position. As I listened to the good Senator, I may have misinterpreted but I seem to feel that he is approaching the subject from the glass being half empty whereas some of us, at

least at this point, are approaching this entire issue with the glass being half full.

I would like to address a question that came either from the Senator from York, Senator Sullivan, or the Senator from Androscoggin, Senator Snowe-Mello, dealing with the 4% savings off-set payment. It was my understanding two years ago, and it is still my understanding this afternoon, that this 4% savings off-set payment is tied to charity care and bad debt, and that if charity care and bad debts are not reduced on the part of the hospitals, doctors, and etcetera, then we do not have, under current statute, the ability to impose the savings off-set payment because the two were tied together. It was the intent, and it may not turn out that way, that this up to 4%, the 4% was not necessarily locked in stone, would not be passed on to the consumer. That was what we talked about on the Joint Select Committee. If charity care and bad debts were reduced, that reduction, with or without Dirigo, would lead to some reduction in premiums and this would be looked at by the Superintendent of Insurance. Unless I am misreading the majority report and misreading the original bill, this is what was intended and where we are today. I would urge support of the motion that was made by the Chair of the Insurance and Financial Services Committee for adoption of the majority report so that we can move forward on this particular topic. I think that Dirigo still has a positive and a vital role within the health insurance industry in this state. I do not think that it is going to disappear. It is growing and we have heard from both Anthem and Harvard Pilgrim that they are surprised that it has obtained the enrollment figures that it has in this short period of time. I think as we move forward we will take in more and more. I hear from sole proprietors in my Senate district who are very happy with the program. I am currently talking with Dirigo and with one of the agents about the involvement of a group that mostly likely will go onboard sometime in the next few months. I think it is a viable forward moving product and I think we should move forward and give it the room to expand and do what it was intended to do, which is to provide insurance for those people, most of whom were involved in the charity care and in the bad debt situation with the providers. Thank you.

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

Senator **TURNER:** Thank you very much, Madame President, ladies and gentlemen of the Senate. I always enjoy these discussions. I have a few confessions to make. In the 1950's I was a Yankees fan. I saw the error of my ways and my stockings are now blood red. So that I can preempt a comment or two that will likely come from my good colleague and friend on the other side of the aisle, the Senator from Cumberland, Senator Brennan, I was an early supporter of Dirigo and a member of the Joint Select Committee along with the Senator from Sagadahoc, Senator Mayo, and some others in this chamber. In fact, there was a point where the Senator from Cumberland, Senator Brennan, and I actually co-authored an editorial that appeared in the Portland Press Herald talking about the reason for us embarking on Dirigo and outlining, as candidly as we could, a serious of pitfalls that lay in front of this effort. We laid several out, and I for one, indicated that these were critical benchmarks and that as we approached them and made them it would reinforce the soundness of our decision. Regrettably, as each of those benchmarks came up, we did not hit the mark. In fact in some cases I doubt that we will ever hit the mark. So what are

we to do? Do we continue to invest or do we cut our losses, declare victory on this grand experiment, and perhaps move to a suggestion made by the Senator from Androscoggin, Senator Nutting, who happens to be absent from the chamber at the moment? When the Senator from Androscoggin, Senator Nutting, ran for Congress in 1002 in the Democratic Primary, he endorsed the concept of insurance for all people. He said the right place to make this work is at the federal level and not the state level. We did not have the resources, from his view, to make this work. I think on reflection his words are sage wisdom for us all.

I see two specific problems with this, both of which I think have been articulated very well by the Senator from Somerset, Senator Mills. Let me just touch upon the two that trouble me greatly. The experience modifier payment can be best categorized as having somebody who needs assistance to pay their premium and being subsidized within a product. On top of that we wrap around an experience modifier, which isn't reflected in the premium but holds the underwriter, in this case the insurance company, harmless. We could, for example, be providing a product to a family that has a market value of \$2,000 and we're subsidizing perhaps \$800 of those dollars. The experience factor is such that the cost of the product, while it appears to be \$2,000 in the market, the loss experience is such as maybe \$2,800 or \$2,900 per policy holder. That experience modifier, which in this case goes to Anthem, masks that difficulty. That's not sustainable. If it is sustained, it has to be carried on the backs of all the other policy holders who are in the Anthem universe of policy owners within the State of Maine.

Secondly, there is the savings off-set payment which the Senators from Sagadahoc, Senator Mayo, and Somerset, Senator Mills, have talked about. This was tied to bad debt and charity care. Our expectation was that if that was documented and validated then by gosh we should capture that because this effort under Dirigo has made that come to pass. I don't want to put words into the Senator from Sagadahoc, Senator Mayo's mouth, but I think he said the payments are, perhaps, miniscule and that may have been attributed to the Senator from Somerset, Senator Mills, but it was in the ether here this afternoon. The fact is we do not have anything to hang our hat on with respect to the savings off-set payment. On a go-forward basis, that is the engine that would drive the money back into this offering along with the match from the federal government for Medicaid purposes as private monies and public monies are commingled into this Dirigo offer. We don't know whether that piece works but we do know we have a savings off-set payment calculation that is calculated on nothing at this point in time.

I've dabbled in the business of private equity. I've dabbled in the business of venture capital. I've made investments in both. If I look at this as a start up business, which the good Senator from York, Senator Sullivan, suggested it should be looked at, I think you have to make a decision at some point. Do you cut your losses and move on? When you see a business plan that continues to be radically modified and targets missed time after time after time, you have to call into question the wisdom of your investment. As an investor, you make a critical decision. Do you pour more money in or do you cut your losses and move on? From my perspective, it's time to cut our losses and move on. I think the longer we go the more difficult becomes the problem and the larger will become the loss. It has taken me a while to get to the point to come back to the Senator from Androscoggin, Senator Nutting's comments of a few years ago. Others in this

chamber, and some on the other side of the aisle, have remarked about the difficulties of General Motors and the fact that for every car they make they carry \$1,500 of healthcare costs for the retirees alone. Not sustainable on a competitive basis. We do need, I think, radical surgery on how healthcare is paid for in the United States. I don't think Dirigo is the model that the federal government would adopt and I don't think it's the model that we can afford to sustain here as a small state that is already having significant financial difficulties. I would ask that you vote against the pending motion and should the minority report come up, quite frankly, I would move that this not be passed either. Thank you for your attention.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. This truly is a statement that none of you will believe but I really had no intentions of speaking. After listening to some of the comments, I couldn't help but make a couple of points.

First to the good Senator from Cumberland, Senator Turner, he and I both know that anything at the federal level is a long ways from coming. That is the problem. In fact, I was actually part of the Clinton team in Washington a number of years ago with Mrs. Clinton to try to put a package together. You couldn't find a hotel room in the city or any other city around Washington because of all the lobbyists of every insurance company in this country. If you think that this is going to happen you might as well forget that idea.

When you look at how Maine people are being covered, as well as in other states, I think the first thing we ought to look at is what the coverage is. Look at the amount of deductibles. What people are carrying for the most part today is mostly catastrophic insurance with \$10,000 deductibles and \$15,000 deductibles. Is that what we mean by insurance? Not in my mind. There is a way to solve the problem, by the way. That is for every legislature, including this one, and the Congress of the United States and every Chief Executive of every state and the President of the United States to no longer have insurance paid for by the citizens of this country. You know what? If that were to happen it would be amazing how quickly it would be solved. As long as they are well taken care of at the Walter Reed Hospital do you think they are going to do something about health insurance? Over their dead bodies.

When Dirigo began as a compromise, as an idea, there were the screamers, the opponents, and there were those willing to come forth, from both parties, to try to put a plan together. What has happened? It's simple. You should not forget why the Chamber pulled out two or three days ago. We've now reached the position in this state where about 50% of healthcare is self-insured. That includes most of the members of the Chamber of Commerce, not small business. The tax may just affect them. They may just have to pay a little bit to pay for the uninsured and for charity care and the non-payment. You wonder why they pulled out? It's that pocketbook. I understand that, but that doesn't mean we have to pull out for the small business people in this state.

I said yesterday afternoon before the Appropriations Committee, and it was posed as a question; should we not consider going back to 1990 or so when this legislature and a previous Governor, Governor McKiernan, signed into law the

Maine Employers Mutual Insurance Company Act. They created an insurance company, by state law, because we had no insurance. Some of you in this room were there. We subsidized that company. How? By charging a surtax for everyone who bought the policy. We paid it on top of the premium. Then, at the end of a period when they started to have enough money in their portfolio in investments and etcetera, that paid us that back over a 5, 6, or 7 years, I can't remember exactly. In my opinion, as I said yesterday, if Dirigo is going to survive from the people who don't want it to survive we have to create a state law creating an insurance company as we did with MEMIC so it can get out of politics because it is being used, in my opinion, right now purely for political reasons, purely in political campaigns, purely in the race for Governor next time, and the race for whatever in the state legislature. Get it out of politics and let it survive as a company. We can do it. In my opinion, for Dirigo to survive we're going to have to do that because there are just too many people who want to see it fail. They don't want it and they will do everything they can to see it fail. That is the danger. At that point it will be the small business community, not the Chamber of Commerce representatives, not those that have \$100,000 in their pocketbook, or 1,000 employees. It will be everyone else. It will be people with two or three employees. They will continue not to be able to insure their employees. If that is what we want, then that is the direction you ought to consider. I'm sorry I spoke so long, but some of you have just got me to a point where I think it's time that we start understanding that if we want to solve it we get it out of politics.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President and ladies and gentlemen of the Senate. First of all, I just need to make a brief comment. I want to make it very clear that the chamber came in and worked very hard with the Dirigo committee to make a good product. I'm going to continue on and say that I'd like to thank the Senator from Sagadahoc, Senator Mayo, for his attempt to answer one of the questions asked of a few of us. While the Senator from Sagadahoc, Senator Mayo, made his remarks, a few thoughts crossed my mind. Some of his comments did not entirely ring true to me because if the saving from Dirigo are not measured accurately there will be a cost to businesses and to the consumers. The state's insurance law says rates can't be inadequately excessive or unfairly discriminatory. If a carrier's rate would be inadequate without passing a portion of the savings off as off-set payments the law allows them to pass that on to the businesses and to consumers that purchase insurance, which would increase their premium rates.

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

Senator **COWGER:** Thank you, Madame President and colleagues in the Senate. Just a very brief comment. As an example of the citizens' legislature that we have here in the State of Maine, I myself am a small business owner with just a few employees. I was never able to offer health insurance to my employees, sadly, but with Dirigo Health today full time employees at my small business have healthcare. Thank you, Madame President.

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. I just want to rise to make some distinctions between MEMIC and Dirigo. I, too, was close witness to the development of the MEMIC product and the MEMIC company. MEMIC is indeed self-sustaining and a private company. It was launched by the state but with any ongoing, day-to-day subsidies. MEMIC was created in an insurance market that had completely collapsed. There was no effective Workers' Comp insurance market at all. The legislature rewrote the Workers' Compensation law from scratch, creating a more favorable underwriting environment and in the same breath backed a new company with start up capital of, as I recall, about \$10 million and said to charge what the market needs to charge in order to underwrite the product and then charge a surcharge to build up the capital supply so that the state would no longer have to supply its backing to the start up. In the end, MEMIC was successful. It did all of that and I think it is safe to say that MEMIC never received a single dollar of state subsidy or public subsidy. It became self-sufficient and remained so. It is not a public company. It is a private mutual company. It was never anything but.

The problem with Dirigo, and I'm not taking pot shots at it, I'm just trying to state facts, is that in order to survive it is projected to need something like \$40 million of the public dollars annually to subsidize a product that is not otherwise affordable by many of the people who are covered by it. It is incapable of even thinking about becoming a stand-alone company, a mutual company, or a competitive to Anthem. It cannot. It is not designed to survive in an open market environment. It requires a public subsidy in order to meet its obligations. My concern is that the subsidies are so substantial, they are more substantial than we thought they would need to be when we voted for the program a couple of years ago, and I just don't see how people who are struggling to pay their own health insurance bills are going to agree to pay on on-going permanent subsidy in order to sustain this company. That is my present sense of things. I could be proven wrong, but I have the distinct impression that this is how people will respond. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. I'm glad MEMIC was brought up today because the one thing that didn't happen before Dirigo was passed is that we didn't look at the things that were cost drivers in the health industry and make the reforms necessary like we did in a very bitter, hard fought, arena in 1990 and 1991. MEMIC is self-sustaining now. When the savings come about, I get money back. They send me a check because there are cost savings sometimes. I'd say they are doing things right. Did I like the first start charge for the new business? Absolutely not. When we wrote our business plan we knew we were going to hire people and we built in that there would be insurance. How progressive of us. You didn't have to tell me. That's how you take care of good employees. I want my employees to pay insurance based on something besides a payroll tax. Premiums shouldn't be based on a payroll tax and this is what this is going to turn out to be. A



payroll tax, not driven by our experience but driven by a state program that was started and now insures people who are very ill. Seems like it, must be because 5,000 people are going to spend \$53 million. At that rate I could give every one of my employees their own doctor, 40 hours a week. We could hire one and run our own little clinic and have something for everybody. That's 5,000 people and I don't have that many. We did have reforms back then.

There is a state that has already done this. I know you don't like hearing about it. It's called Tennessee. TennCare took right off in 1994 and one-third of their budget subsidizes TennCare. They had a near-riot last year when they tried to put it in the state income tax because they didn't have any more money for education. They have eleven providers who offer TennCare in Tennessee. Three of them are in receivership. Receivership, for any of you who don't know, is not a good financial position to be in. The subsidizes are what is draining this, I guess. Could it be the cost? I guess it's not just the medical costs that we are paying, it's the subsidizes.

I don't pretend to even understand Dirigo. I'm not going to pretend to understand the whole thing. I really am not. I looked into it for my employees, and by giving them a deductible for the first time ever in eleven years, we insured them from penny one. By giving them a deductible, I was able to bring down their insurance cost lower than what was offered by Dirigo. We don't have catastrophic illness. You can shop around and I do and I work really hard to keep my costs down and we manage our claims. My claims are going to go up under some kind of other system, adjudicatory process, and some kind of savings are going to be passed onto me. I'm not real good at understanding math, but when it saves money and it costs me money, I'm really trying to figure out how that works. I'm not going to claim to be anything like a financial genius here, but I can take 5,000 and divide \$53 million by 5,000 and find out that the bang for the buck isn't there. To pass on and subsidize a program like we're talking about without really evaluating whether it's getting the bang for the buck is putting the cart before the horse. We do have another state that went down this road. We love to be first. We're always first. I wish we could change the state motto. I'd change it to 'If we jump off the cliff first, would you jump too?' Somebody jumped off the cliff first and they are not doing real well. The citizens are not happy about it. We're going right down that path. As this eats up more and more of what little money we do have to spend, you are going to spend more and more time defending it. Can you can defend it up against education and all of the other things that we do to take care of the people who can't take care of themselves? When you start pitting those dollars because we only have so many dollars left. I know you've heard that and I'm going on aren't I? I think I might continue. It's not fair that people aren't insured. I floated a great thing through here a while ago. Oh my gosh, helping people stay insured? It got beat down pretty good at the other end of the hall. It didn't cost the government anything. I don't think this is a good place to go. I wouldn't have voted for this several years ago. I know I wouldn't have. The \$53 million that we got was already earmarked and we started a program that we can't afford. Just yesterday we talked about something before Congress. Pay your bills before you do something else. We took the money that came for the bills, we left the bills unpaid, and we started a program we still can't afford. I heard once that if you are in a hole the best way to figure out what to do to get out of the hole is put down the shovel. It's time to put down the shovel. Thank you.

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

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

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. I just received a telephone call from the Senate Minority Leader who said make it short. You know what, I will. I'll be short, and not physically, but I will be short in my comments.

Almost exactly two years ago today, the state voted to support Dirigo Health and move it forward. Why did we do that? Because we had a healthcare crisis in the state. We had the business community, physicians, hospitals, and most importantly, citizens of the state who said they demanded reform in the healthcare system in this state. They wanted us to do something. We responded and we passed Dirigo Health. As the good Senator from Aroostook, Senator Martin, already pointed out, the federal government is not part of this game. In fact, what we have heard from the federal government is that the want us to be the incubators, the innovators, and find out something new and different. We have done that. The response from the federal government most recently has been to cut Medicaid by \$10 billion. That's not going to be a solution.

What nobody has talked about so far in the debate is the success of Dirigo Health. We have 7,300 people who have signed up for Dirigo Health. Over 500 businesses in this state have signed up for Dirigo Health. There have been at least two Senators who have expressed ambivalence about Dirigo Health. Those people have no ambivalence. They see Dirigo Health as their best choice, as an opportunity for them to get comprehensive healthcare insurance in a way that they haven't been able to in the past. Why is that bad? Why is this product one of the most highly sought after products that Blue Cross and Blue Shield currently has available? Because people want it, people need it, and they see it as a good quality way to provide healthcare for themselves, their families, their employees, and their business. I know there may be some ambivalence from people who are here, but from the public that ambivalence does not exist. I think we have an obligation to move forward with this product.

A question was asked about missed target dates. I have to admit to the good Senator from Cumberland, Senator Turner, that I don't remember all the benchmarks that we talked about in the article that we co-authored and I'm sure his memory is a little better than mine. One of the biggest misconceptions, one of the biggest benchmarks, that has continued to be reinforced by the media who refuses to listen to the facts about this, is that there are 150,000 people in 2003 that did not have healthcare in the State of Maine. We said that over five years we'd get to universal healthcare. Would those people be covered? The media said 5 into 150,000 so 30,000 people would be covered in the first year. We never said 30,000 people in the first year would get covered but the media did the simple math of 5 into 150,000 and came up with 30,000. We are not behind in our enrollment. We are not behind in our take up rate. We are not behind in the benchmark

that we established in the first year for Dirigo Health. In fact, in my opinion, I think we are right on track and we've exceeded those benchmarks.

The other point I wanted to make, and the good Senator from Sagadahoc, Senator Mayo, made this, the savings off-set payment is in the legislation. It's in all the hand-outs that you have received. The savings off-set payment only occurs if savings can be documented. It is not an automatic 4% assessment. If savings can only be documented at 1%, .5%, .75%, or 2%, that is what the savings is and that is what the assessment is. What we are quibbling about now is how that savings is going to be arrived at. I say let's go forward with that debate. Let's have that quibble. Let's develop the methodology. Let's sit down with all the people who have an interest in this. Let's make that decision about what the savings is and move forward as a result of that. We can do that. We can achieve those savings. In fact, we have testimony, and I know this is a little bit of an apples and oranges comparison here, that because of the non-categorical program that we've had, the hospitals have saved \$40 million to \$50 million. They have gotten \$40 million to \$50 million in additional payments to what would have been uncompensated charity care as a result of non-categorical. I'm not saying that is due to Dirigo Health, but that is a clear example where documented savings has occurred.

Lastly, and what I think is most importantly, is that the greatest achievement of Dirigo Health may not be the number of people who have been covered and may not be the number of business that have been covered, but the fact that we have refocused the debate in the State of Maine around healthcare. We are moving forward. We do have a plan. We do have the opportunity in this state to debate what kind of healthcare we want to have, what that coverage is going to look like, what type of hospitals we will have, and the amount of care that people will have. That is a good debate to have. It's tough debate to have and it's a difficult one. Dirigo Health has focused that debate and I think it would be a tragedy if we were to somehow back off from that debate, back off from that commitment, and allow the people of Maine no direction on what we will do to address this very important healthcare problem. I urge you to vote for the majority report. I apologize to the good Senator from Piscataquis, Senator Davis, because I probably went on too long. If he had not coached me beforehand I would have gone on longer.

**THE PRESIDENT:** The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE:** Thank you, Madame President. I'll give the good Senator an opportunity to talk again. If I may, I have a question. I didn't jot down the numbers that he gave me, but they have been floating around for a number of weeks of many were uninsured two years ago when we on this program. The good Senator said how many are insured now. I'd like to know how many that have signed up for this insurance were part of that uninsured total?

**THE PRESIDENT:** The Senator from Knox, Senator Savage poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Yesterday that question was asked of the

representative from Dirigo. Presently there is a study being conducted and calls are actually being made to every single subscriber by the Muskie School. That will be available, I believe, in about a week or so. We will have a number of statistics available for you. That will list how many people were insured, if they were underinsured, did they drop insurance, etcetera. All those questions are being asked in a poll of every single person who has signed up. I believe the other Senators who are on the Appropriations Committee were also present and heard that discussion.

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

Senator **TURNER:** Thank you, Madame President. I would like to take a stab at answering that question as well, if I might. I find it curious that the Muskie School has been retained to secure this information when every applicant who makes an application to Dirigo is required to provide the information about whether they are covered or not. It suggests to me that the information may already exist and we didn't like the answer we had and so we are going to try it again. Thank you, Madame President.

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President and men and women of the Senate. I would just like to refer to a couple of comments from the good Senator from Cumberland, Senator Brennan. If we are going to delay the debate about what will be included for savings, I'm concerned that I am going to be asked to vote for a bill that says the implementation of savings off-set payments when I don't know what those savings are or what the criteria is. Secondly, if there is \$40 million worth of savings because we now have a new non-categorical section that we are including under Medicaid, that would be savings if we were actually paying the hospitals for that care, which we have not done. Thank you.

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

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. I am sure that the good Senator from Cumberland, Senator Turner, did not make his previous statement intentionally because from my knowledge of him that is not how the good Senator operates. The check off on the application for Dirigo insurance, rightly or wrongly, listed that as a voluntary check off as to whether you had been insured previously or not been insured. The new applications, which are now going out, have that as a mandatory check off and not a voluntary. That is why this poll currently has to be done so that we have a sense of what is going on. This body does not like that type of information. It wants hard core facts and there will be hard core facts.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President. To further answer the question, I will be more than happy to show the good

Senator from Cumberland, Senator Turner, a copy of the application.

**THE PRESIDENT:** The Senator from Waldo, Senator Weston, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **WESTON:** Thank you, Madame President. I have in front of me a copy of the application. Indeed, there is a section under prior coverage information. It doesn't say voluntary. It doesn't say anything different than other request. In fact, it asks for your certificate number for your previous company. It asks for complete information on prior coverage. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from York, Senator Sullivan to Adopt Committee Amendment "A" (S-359). 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 (#258)**

**YEAS:** Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

**NAYS:** Senators: CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

**ABSENT:** Senators: ANDREWS, NUTTING

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent, Committee Amendment "A" (S-359) **ADOPTED.**

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

Ordered sent down forthwith for concurrence.

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Off Record Remarks

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

**ORDERS**

**Joint Resolution**

On motion by Senator **BRYANT** of Oxford (Cosponsored by Representative PATRICK of Rumford and Senators: President EDMONDS of Cumberland, HASTINGS of Oxford, Representatives: ADAMS of Portland, BRYANT-DESCHENES of Turner, DUPLESSIE of Westbrook, HAMPER of Oxford, HANLEY of Paris, HOTHAM of Dixfield, JODREY of Bethel, MILLETT of Waterford, MUSE of Fryeburg, Speaker RICHARDSON of Brunswick, SYKES of Harrison), the following Joint Resolution: S.P. 637

**JOINT RESOLUTION HONORING THE 200TH ANNIVERSARY OF OXFORD COUNTY**

WHEREAS, the Great and General Court of the Commonwealth of Massachusetts did charter the new County of Oxford, in the then District of Maine, "to be hereby formed and erected into an entire and distinct county," on March 4, 1805; and

WHEREAS, Oxford County was named for Oxford, Massachusetts, and in turn for Oxfordshire, England, in honor of its original settlers, the veterans of the French and Indian War and the American Revolution, which struggles made our young nation free; and

WHEREAS, the new County of Oxford was Maine's most mountainous, most forested and most blessed with gemstones and mineral wealth, and home to the hills where rise the mighty Saco River and Androscoggin River that carried commerce, harvests and timber wealth down to the sea; and

WHEREAS, then and now, the settlers and citizens of Oxford County, in the words of George J. Varney in 1886, treasured its "lofty and snow-clad peaks, ...the peaceful verdure of great woods, grassy valleys, rich meadows, hillsides enlivened with flocks and herds, shining streams, and sky-repeating ponds, with occasional breeze-swept eminences, affording wide views of the surrounding beauties, hold the regard of the lover of nature for a longer time..."; and

WHEREAS, the stony soil of Oxford County has been the birthplace and home to great and memorable Mainers, such as Vice President Hannibal Hamlin, Secretary of State Edmund S. Muskie and Ambassador Margaret Joy Tibbetts; Native American herbalist Molly Ockett and woodsman Metalluk of the Magalloway; humorist Artemus Ward; publisher Seba Smith; authors C. A. Stephens, Hugh Pendexter, Helen Leidy Hamlin and Louise Dickinson Rich; scientists Addison Verrill and Charles Otis Whitman; gemologist Stan Perham; performers and artists Madame Scalar, Flora Barry, Geraldine Farrar, Reta Shaw, Phillip Goodwin and Minnie Libby; and philanthropists Maude Kammerling and Emily Bissell, among many such notables; and

WHEREAS, from the rough waters of Lake Umbagog in Upton, where once came the logs to feed the mighty mills of Rumford 100 years ago to the pine-clad hills of Andover, where mankind's first transatlantic television pictures were broadcast from the Telstar earth station to France 45 years ago, Oxford County has made its mark on Maine and the world with the diligence, determination and endurance against all odds that is symbolic of Mainers; and