

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-Second Legislature**  
**State of Maine**

**Volume II**

**First Special Session**

May 26, 2005 – June 17, 2005

**Second Special Session**

July 29, 2005

**Second Regular Session**

January 4, 2006 - April 6, 2006

Pages 737-1487

**BILLS IN THE SECOND READING**

**Senate as Amended in Non-Concurrence**

Bill "An Act To Amend the Laws Governing the Enactment Procedures for Ordinances"

(S.P. 507) (L.D. 1481)  
(C. "A" S-242)

Report **READ**.

On motion of Representative DUPLESSIE of Westbrook, **TABLED** pending **ACCEPTANCE** of the Report of the Committee on Bills in the Second Reading and later today assigned.

**ENACTORS**

**Emergency Measure**

Resolve, Regarding Legislative Review of Chapter 101: Establishment of the Capital Investment Fund, a Major Substantive Rule of the Governor's Office of Health Policy and Finance

(H.P. 36) (L.D. 33)  
(C. "A" H-636)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative PINGREE of North Haven, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On motion of the same Representative, the House **RECONSIDERED** its action whereby the Resolve was **PASSED TO BE ENGROSSED** as Amended.

The same Representative **PRESENTED** House Amendment "A" (H-685), which was **READ** by the Clerk and **ADOPTED**.

The Resolve was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (H-636) and by House Amendment "A" (H-685) in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

**Acts**

An Act To Conform the Maine Tax Code with the Federal Health Savings Accounts Laws

(H.P. 146) (L.D. 195)  
(C. "A" H-532; H. "A" H-653)

An Act To Amend the Economic Development Statutes

(H.P. 1055) (L.D. 1503)  
(C. "A" H-683)

An Act To Implement Certain Recommendations of the Commission To Study Maine's Community Hospitals

(S.P. 620) (L.D. 1673)  
(S. "A" S-363 to C. "A" S-356)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Protect Pregnant Women from Acts of Violence

(H.P. 201) (L.D. 262)  
(H. "A" H-682)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative FAIRCLOTH of Bangor, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 312**

**YEA** - Adams, Annis, Ash, Austin, Babbidge, Beaudette, Berube, Bierman, Bishop, Blanchard, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosby, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Koffman, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Smith N, Smith W, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - NONE.

**ABSENT** - Barstow, Blanchette.

Yes, 149; No, 0; Absent, 2; Excused, 0.

149 having voted in the affirmative and 0 voted in the negative, with 2 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

The following items were taken up out of order by unanimous consent:

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

**SENATE DIVIDED REPORT** - Majority (6) **Ought to Pass as Amended by Committee Amendment "A" (S-359)** - Minority (5) **Ought to Pass as Amended by Committee Amendment "B" (S-360)** - Committee on **INSURANCE AND FINANCIAL SERVICES** on 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)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359)**.

**TABLED** - June 13, 2005 (Till Later Today) by Representative **PILON** of Saco.

**PENDING** - **ACCEPTANCE OF EITHER REPORT**.

Representative **GLYNN** of South Portland moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative GLYNN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We have before us a report out of the Insurance and Financial Services Committee, which stands to implement the new Savings Offset Premium Tax for the new fiscal year starting July 1, 2006. We have had a number of discussions in the committee on what would be the best approach to take. The reason why I feel that this report supersedes and is in many ways better than the other report that we had looked at is because of issues that I would like to highlight as we go through. One is that this report provides for greater legislative oversight of the assessment of health insurance by having legislative review of the initial definition of paid claims. What is very important about the process that we are going through is that there is going to be a new tax that starts next year and that is going to be implemented and the rules that govern that tax should have legislative oversight. There were discussions that were had in committee on whether we should use rules that were set by an appointed board or whether it should be by the legislature. This report ensures that it would be done by the legislature. It transfers the responsibility for holding an adjudicatory hearing to determine the amount of savings in the healthcare system with the Superintendent of Insurance.

We had discussions in the committee of different ways to establish the actual savings in the healthcare system and those on this report believe strongly that the superintendent of insurance, because the superintendent is someone that is not appointed to a political position and is somebody that holds these adjudicatory hearings on a regular basis, they would be in the best poise to be able to make a true savings of the cost in the system. This new tax that is going to be implemented to support the Dirigo Health Initiative is going to be up to a maximum of 4% of paid claims in the healthcare system or it's going to be a maximum of the savings in the healthcare system. Who is in a better position than the superintendent of insurance to make that assessment? I think that you would agree with those that signed onto this report that it would be the superintendent of insurance.

We also have a very important concept regarding this amount of money that is being paid to Anthem, which is called the Experience Modification Program, the EMP payment or, as I like to call it, the kickback to Anthem for the Dirigo Program. There are payments that are made to write down the rate for Dirigo. Those payments are \$3.4 million in the first year, \$12 million in the second year and anywhere from \$20 million to \$34 million in 2007. What those payments are about is to lower the premiums of Dirigo by using the savings in the system. When the program was originally setup the purpose of subsidies was for one purpose and one purpose only and that purpose was to lower the cost of premiums for people with lower incomes. That is what the subsidies were for. What we found when we reviewed the bill was that this was not what was happening. Those subsidies were being used to underwrite premiums of people well over 300% of poverty. In fact, you could earn a six digit income and receive subsidies from Dirigo to underwrite your premiums because the Experience Modification Program underwrites everybody's premiums up at the top and essentially what we had is a situation where public money was being used to underwrite Dirigo premiums for people that didn't need it.

We have groups in the Dirigo program like Group F, the group that should not receive subsidy and are receiving subsidy and that is 25% of the people that are participating in and signed up for the Dirigo program. We didn't agree with that and we think that that process needs to stop, so as part of this report we put a stop and a halt to this process. Once this contract expires what's

been done is history and we can't go back and undo it, but we want to make sure that it doesn't continue.

The other thing that this report does, which is very important when looking at the income of individuals is that when Dirigo was set up it was set up very different than the MaineCare program. There isn't an asset test to make sure that the neediest and the poorest individuals in Maine are receiving the subsidies. This report has in it an asset test, the same asset test that is in the MaineCare program, so if you are 100% MaineCare eligible this report requires that your assets be the same as to qualify for Dirigo and if it is 300% of poverty or 300% of MaineCare then it is 300% if the asset test.

One of the things that we were hearing from people that were signing up for the Dirigo Program was that individuals with a large amount of money in the bank, but with lower incomes on paper were actually qualifying for subsidies even though they had thousands of dollars of cash in the bank. We think that Maine's Safety Net should have an asset test and that that is important.

Also in the report are some accountability measures. One of the things that came up again and again and again through looking at these reports and looking at these issues is that Dirigo has never had an independent audit from an outside auditing firm. We would like to have that independent audit and we required it. Some of the other key provisions that are in this report is that it establishes a ten member working group to advise the board of directors, the Dirigo Health Committee and the Legislature on the definition of these savings that are in the system and the methodology for computing this and reports it back to the Legislature to allow the legislature to have a say in this. This is so important because we are talking about taxing health insurance policies up to 4%.

We have to remember that a white paper was written recently by the Bureau of Insurance and they said that for every 1% that health insurance cost goes up, 2000 Mainers drop coverage and lose their health insurance. If we are going about a system where we are not only going to tax people that have health insurance – Maine State employees, teachers in local school districts, and employees in your district – we are also going to tax through the savings offset premium tax and we are also going to be taxing the self insured pools, companies that, because they were unable to afford health insurance, decided to self insure.

It is so important that a political body outside of the Legislature not make these determinations; they need to come back to the Legislature. We need to be the ones to that sit in judgment and then, after we set the rules it is important that we have somebody independent like the Superintendent of Insurance to be able to sit down and apply those rules and be subject to an adjudicatory process where either side that feels aggrieved can appeal that decision in court. It is important to have that process in place and to have the credibility as we go forward with these key provisions. For all these reasons and many more I urge you to vote yes on the Minority Ought to Pass as Amended Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. There are two reports and the Minority has been moved, I am going to speak in opposition to the Minority Report and I am going to give you some very simple reasons. There are many similarities in both reports, but the one thing that this report does is that it keeps administrative expenses without any idea of how that is going to be paid for yet. It takes the EMP out, which is not just on premiums or the insurance, but is any new program that gets set up. It will have some type of program like this. It is short term.

The other things that go with this is that it takes out the date to July of 2006 before the savings offset premiums can be set, it adds administrative costs for setting the assessment and it adds administrative costs for the individual audits. The comptroller will certainly audit. Yet, we have given them no means to pay for the administration of this. In the report there needs to be an assessment set up that has a way of sustaining the administrative costs, not add to them at a time when they are trying to figure this out.

There are many similarities between the Majority and the Minority Report and there are some things that we do agree on, but this is not one of them. We have got to give the agency time to sustain itself financially. If we do this without the ability to know how they are going to pay for the administration we will be killing Dirigo and I ask that you vote no on this.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative TWOMEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am going to be honest with you and tell you that when this first came I thought that it was what I was looking for. This was single payer or at least on it's way to single payer. I stood with the governor and everyone who supported this program and I was very enthusiastic. Today I was not as enthusiastic and I had misgivings and it's been six months and I know what the people in my community need. They need healthcare. They need it now. They need it tonight. I have seniors who I see at Shop and Save who have to go in the corner and whisper to each other because they didn't realize how much their prescription drugs were costing and they don't have the money to pay for it and are too embarrassed to tell the clerk. I have witnessed this. I know that I have a doctor in my district tonight who doesn't have health insurance. She is a doctor and she was dropped. We need it now and I am here to tell you that I was wrong. I am willing to give it a chance. I am willing to support the Majority on this because we need to hear what our constituents are saying and we need to push this to a place where everyone can get help and I will be supporting the Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. There has been a lot of hyperbole that has been thrown around on the subject of the differences between the Minority Report, which we are debating right now, and the other report. The fact of the matter is that the Minority Report is not about killing Dirigo. In fact, the Minority Report is about making Dirigo better. The members of the Insurance and Financial Services Committee who chose not to sign on to the Majority Report and crafted this report, of which I am one, had every opportunity to vote out a report to kill the whole program, but that is not what we decided to do. This is the one key program that has been advanced by the Chief Executive and his administration and he has a right to that program. This is his baby. It would not be right for us to strangle that baby in the crib, as ugly as we may think that it is.

What we plan to do with this Minority Report is to take the Dirigo Program and make it better. The Minority Report provides accountability, fairness, good governance and transparency. While the topic is rather esoteric and rather technical, bear with me a moment as I go through each of those aspects of this report and show you how it does that.

Let's talk about accountability. Currently, the Dirigo Board has unparalleled latitude in setting the policy and determining how this program works. It was the feeling of those who crafted this Minority Report that we needed more accountability and that

we needed the Dirigo Board to have legislative oversight through the Insurance and Financial Services Committee. Not only that, but the implementation of a new tax that is planned to fund this program should also have that oversight. That tax should not be implemented solely by a board of five individuals who are political appointees.

Just to give you an idea of who is on this board we have got somebody from the State Employees Union, we have got a Policy Advisor to Congressman Tom Allen, we have got a Representative of Maine Equal Justice, we have got a center-left activist physician appointed by the Chief Executive and we have a Representative of the Maine State Chamber of Commerce. It is not surprising that many of the votes on this board come down to a four to one vote. Indeed, it comes down to a four to one vote on the issue of this Minority Report. By delaying the implementation of the tax till July 1, 2006 we make sure that we can have the legislative oversight and that the policies that are going to be used to implement this new tax will come back to the Legislature as major substantive rules and that we will be able to look them over and approve them or change them. That accountability is important. It is important to the public confidence in the program and it is important to make sure that the Legislature's role in this is not usurped.

We also require an independent audit. This is not a smack at the Dirigo Board or at the people that are running the Dirigo Agency; this is merely a rational approach to accountability. After all, the Maine State Retirement System needs to be audited. The Finance Authority of Maine subjects itself and its books to auditing and the Maine State Housing Authority does, why not the Dirigo Health Agency? It is simply accountability.

Let's talk about transparency. Transparency has been an issue throughout this process. We have been asking questions and haven't been receiving answers. How does this program work? How are these premiums able to be underwritten at a price that is competitive in the market when the benefits of this program are so much greater than many of the products in the market? How does that happen? We never received an answer until a couple of weeks ago. The answer to that is the EMP, the Experience Modification Program. It is this Experience Modification Program, this prepayment to Anthem before the premiums are assessed to the tune of \$32 million to \$40 million that has come out of the \$52 million Bush-Collins money that was appropriated to set this program up in the last Legislature. It is that secret subsidy, that payment to Anthem, that has brought the premiums down to a level that is at least competitive and that is before the subsidies that are received for low-income individuals in five or six different income bands.

Should that payment really be accounted for as an administrative expense or is that part of the subsidies that the Legislature originally intended when the Dirigo Health Program was established? When we looked at it we said no, this is an administrative expense. We are told that this is a one-time startup. Well you have got the one-time start up money and that is what you should use it for. We are told that if the claims aren't as high in the program because of the plan designs that are imagined then some of that money will come back. If that money comes back, that can be used for ongoing administrative expenses. It should not be used as a subsidy because the intent of the Legislature was to only subsidize people with incomes below 300% of poverty. When, in fact, if you are subsidizing all of the premiums you are not just subsidizing the premiums for the line worker or the clerical worker, you are subsidizing the premiums for the CEO and the chief financial officer and the people receiving higher incomes. It is not right to use public

money and ongoing tax that is assessed on all insurance plans to subsidize the premiums for those higher income people.

We require in the Minority Report that the EMPs stop after the end of this contract. After all it was just for the start up of the plan right? So it won't be needed anymore and then it will be counted as an administrative expense. That way, if some of the money comes back it can be used for administrative expenses on an ongoing basis. Good governance – the Minority Report is all about good governance. Why rush to implement this SOP tax? Why not allow a process where we can make sure that the SOP tax, which is meant to be an assessment of savings to the system from the Dirigo plan, why not assure that it goes through the proper legislative oversight? Let that process work its way out.

Finally, Mr. Speaker, I would like to talk about fairness. Really, fairness is the greatest strength of this report because this report makes sure that the Dirigo plan will operate fairly. If the plan doesn't operate fairly it is going to lose complete support of the public. The savings offset premium tax, which is meant to fund the ongoing subsidies to the lower income individuals receiving those discounts and subsidies in the Dirigo plan, is meant to be an assessment on all health insurance of up to 4% of their paid claims for the savings that have occurred in the system as a result of the Dirigo initiatives. Well, what we ask is that first the assessment of that savings not be made by a political board whose interest it is to continue the program. That is clearly a conflict of interest so we ask that the assessment be made through an adjudicatory hearing before the Commissioner of Insurance. Secondly, we specify in our Minority Report that determining that savings has to be net savings to the system. You can't just pick all the pluses and ignore all of the minuses.

Sure, if we have had some initiatives that have driven down costs or we have increased coverage that is terrific. What worries us the most is that the Dirigo Health Agency plans to point to the expansion of MaineCare as a key driver of savings to the system. That may well be. If you are going to insure people through an expansion of MaineCare and make payments for medical care that currently aren't being made that is going to create less charity care that is going to be shifted to the system. That is a reasonable enough thought process. The problem is that we are not paying our bills as a state. We are not paying the hospitals for those Medicaid costs. We are simply shifting from charity care to unpaid Medicaid bills. What our Minority Report does is require that the assessment be made on net savings. We can't just shift costs and then say that we have got savings in the system and then assess a tax based on savings that don't exist.

Finally, fairness, Let's talk about the fairness of the subsidy. Currently anyone with income under 300% of poverty can receive a subsidy under the Dirigo plan and that sounds reasonable enough on the surface, the problem is that the test is solely on income. In order to qualify for MaineCare you also have an asset test. If you just have a low income, but you have a whole lot of money in the bank you don't qualify for MaineCare and that is rightfully so. All we do is simply apply a fair asset test to the subsidies that are going to be received in the Dirigo plan. Already we are receiving complaints from agents in the field selling this program that wealthy individuals are structuring their assets, putting them into retirement accounts or into tax deferred annuities or other tax sheltered investments that don't produce income in order to lower their income under the bar so that they qualify for the Dirigo subsidies. It is done easily enough and it is being done and it is a problem with the plan. We have to make sure that it is fair. We have to make sure that only people who need it receive the subsidy because if we are going to be taxing health plans, in order to pay for a subsidy, we have got to make sure that the system is not going to be abused because if it is it is

going to undermine the confidence in the entire program. So, there it is Mr. Speaker – fairness, accountability, transparency, and good governance. What more could you ask for. This is the Minority Report. I urge you to support it and I urge you to vote Ought to Pass so that we can improve the Dirigo Health Program and allow it to thrive correctly.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Fischer.

Representative FISCHER: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise today in opposition to the Minority Report and I rise to respond to the comments of the Representative from Frankfort, Representative Lindell. He said that Republicans had the opportunity to kill it in committee and didn't. He said that they could have killed the whole program. Someone said to me down back that that is just Orwellian language. I disagree, it is not Orwellian language, they did have an opportunity in the Insurance and Financial Services Committee to kill Dirigo, but the instead sent that task down to Appropriations.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative GLYNN: Mr. Speaker, point of order.

The SPEAKER: The Representative may proceed.

Representative GLYNN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. My point of order is that it is improper to impugn the motives of any member of this body on the floor of the house.

On POINT OF ORDER, Representative GLYNN of South Portland objected to the comments of Representative FISCHER of Presque Isle because he was questioning the motives of other members of the House.

The Chair reminded all members that it was inappropriate to question the motives of other members of the House.

The SPEAKER: The Representative may proceed.

Representative FISCHER: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I apologize if I impugned the motives of any member of the House. The simple point that I was trying to make is that we have heard many times that nobody was trying to kill Dirigo. We heard it in the beginning of the debate when we all voted for Dirigo in a very bipartisan fashion and we have heard it all along, but the actions have to follow those words and the actions are that some members of the Republican Caucus have proposed taking \$32.5 million out of Dirigo to help balance the budget. Now, that would have eviscerated the program and it would have guaranteed that all 7,000 or 7,500 enrollees right now would have lost their coverage. I just think that that is something that we keep in mind as we go forward in this debate. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Dudley.

Representative DUDLEY: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative DUDLEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. To the Representative from Frankfort, Representative Lindell, in Section AA of the bill he speaks about creating an asset limit for eligibility under Dirigo at what is essentially three times the asset limit under MaineCare. The asset limit under MaineCare I understand to be \$2,000 for an individual and \$3,000 for a couple. So this tripling would be \$6,000 for an individual and \$9,000 for a couple. What isn't written here and what is confusing to me is that there are certain assets under MaineCare that aren't counted toward that asset limit at all. Those assets include your home, your car and up to \$10,000 in an IRA plus any equipment that you use in your

business or trade and any income property. The Minority Amendment as I read it, doesn't include that asset exclusion so we are talking about excluding an awful lot of people from participation in Dirigo, simply for owning a home and I was hoping that the Representative from Frankfort might address that concern?

The SPEAKER: The Representative from Portland, Representative Dudley has posed a question through the Chair to the Representative from Frankfort, Representative Lindell. The Chair recognizes that Representative.

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This very subject was discussed with the legal analysts when we were crafting our Minority Report and it was the intent in crafting that report that 300% of the MaineCare limit would apply to 300% of all of the limits. In other words, it would include the exclusion for the home and for the car. It would triple the exclusion for the IRA from \$10,000 to \$30,000. So, no, it is not our intent to try to exclude many people from the Dirigo subsidy. We want to make it fair and so we use 300% of all of the Medicaid limitations.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Marraché.

Representative MARRACHÉ: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to first say that our committee worked long and hard on this particular bill and we came exceedingly close to a unanimous report and at one point did have one. Looking over some of the issues that we had still left and remaining they were, unfortunately, the undoing of our unanimous report but, but they are not that far apart and I would say that both bills propose to save Dirigo, but if you were to look at the Minority Report that is before you now you would see that the date had been changed so that even though you can say that you love a child and can keep it going you can neglect it enough that it dies and that is what these date changes will do to Dirigo if you vote for this bill as it is up on the screen there.

The Minority Report moves the dates far enough back that they will not get the food, i.e. money, to continue to survive and therefore leaves it completely open to not making their goals and not surviving so I ask you to defeat this motion. Thank you. I also request a roll call.

Representative MARRACHÉ of Waterville REQUESTED a roll call on the motion to ACCEPT the Minority Ought to Pass as Amended Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Elliot, Representative Lewin.

Representative LEWIN: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative LEWIN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have heard an awful lot of questions and answers about Dirigo over the last year and a half and there are a number of things that I believe to be facts. There are about 7,000 people enrolled in the plan. They are collecting about 60% of the premiums from employers and I understand that there is still a balance of some \$40 million to \$41 million in the Dirigo account and I further understand that the Commissioner has said that without the offset payments this plan is likely to go under. My questions are why does Dirigo need the money that desperately if, indeed, we do have that bank balance? Is there a good deal of it encumbered? What would be the answer to that question? The other one is how can the Dirigo board conduct impartial hearings if, in point of fact, they are already under the impression that the plan will go under without

offset savings? I would like to have some sort of response to that. Thank you sir.

The SPEAKER: The Representative from Elliot, Representative Lewin has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am going to try and put this in some sort of order. We have 7,000 plus members in the insurance program. Sixty percent is paid by the employer for the individual only, not for the family coverage. So, if there is family coverage that subsidy goes for the family and that portion of the individual, which the individual is required to pay. The subsidies are 60% of what the individual can pay and that is then made up with the savings offset payment to continue what the subsidies would be on those premiums for the individuals.

In terms of administration the \$53,000 – I think there was \$12 million this year to get the program started – is what it will cost later. The Experience Modification Program is like an escrow account that you put aside in case there are greater claims on the insurance products that outreach premiums. That is insurance on insurance and that is money that can come back. But, that is encumbered money. The administration still needs to be paid for. We have got \$12 million and by the looks of it probably another \$32 million so we are talking about \$42 million to \$43 million. You have an administration that is working the program, setting up the subsidies and doing the assessment then bringing it out and you still have to pay the subsidies and the subsidies are where the savings offset payment comes from to help pay the subsidies that go back to those employees who are paying their portion of the premium as they can afford to and that is the difference to keep the program running. It is to keep the insurance product affordable for the people who are a part of that and that is why the savings offset payment needs to be done sooner rather than later. As we gain more on the program that becomes more eminent.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Brautigam.

Representative BRAUTIGAM: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. There has been a suggestion that the existing statute that enjoyed bipartisan support in the Legislature does not provide for a fair system for determining the cost savings that would go into the savings offset payment and I would just like to remind the body that there was an adjudicatory proceeding in the original statute for that process. Under administrative law an adjudicatory proceeding is about as close as you can get to a trial. You call witnesses. You take testimony. It is governed by procedural rules. It is a rigorous process. It is not a willy-nilly determination by a handful of people sitting in a back room.

In addition to that, it does have the protections of allowing an appeal of the decision to the courts. Then, only after that process has wound its way through and cost savings have been determined can there be an assessment of those costs for savings offset payments and even then, those savings offset payments would be limited to 4% of the amount of the premiums paid. I would just like to make that clarification that the existing statute did have a good system of protection for the process with a number of mechanisms to ensure that the savings offset payment was, in fact, fair and limited. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative McKane.

Representative MCKANE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't want to go into to many of the fine points here. I think that we have gone

through them enough, but I wanted to talk a little bit about the reasons for LD 1577 and it is because Dirigo needs a course correction. It is still evolving, both as a program and as a concept and it is still changing. Even as we are sitting here we are getting amendments to the Majority Report, which are bringing it closer to the Minority Report.

The IFS Committee has worked hard on a lot of bills and we have got a very good record for bipartisan unanimous reports and I almost think that we would have come together on this one if we had had a little more time, but time didn't let us. The Minority Report differs from the Majority Report in a couple of very significant areas. One of them we heard about it was the asset test. I don't think that we want the hard working, low-income people of Maine paying, through their premiums to support high income peoples health insurance policies and this is what happens without an asset test.

I have heard anecdotal evidence of this from a very enthusiastic Dirigo agent in my community who worked very hard to get his agents license for Dirigo and he was very enthusiastically selling it until he realized that some of the people that he was signing up had a lot of money and those people are being subsidized through the SOP that is going to be enacted by every insurance policy in the state. It doesn't matter how much money you have. If you are buying health insurance in this state you are going to be paying a tax that supports those very wealthy people getting a subsidy through that tax.

The other thing is the transparency of the SOP. It is an incredibly big tax. It is probably \$40 million a year and we need to have a transparent procedure to determine the methodology of the SOP tax. The Minority Report will do that. The Chamber of Commerce, which wants Dirigo to survive, supports the Minority Report.

In response to my good friend and colleague from Waterville, Representative Marraché, this will not kill the program if the savings offset tax doesn't go into effect until July. There are \$41 million left in the account that will certainly carry us along until then. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Vaughan.

Representative VAUGHAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The fact that there is now an amendment replacing the Majority report let's you know that there was something dreadfully wrong with the original report. It let's you know that the minority recognized major flaws detrimental to the insurance buying public, to the tax payers, to small business and to the business climate in general.

Since the business community in the State of Maine endorses the Minority Report you can correctly conclude that a vote for the Majority Report will be viewed as anti-business, anti-job and anti-constituent. It will immediately raise your constituents' insurance rates. The bill, as it stood, proposed to allow Dirigo to put a four percent tax on health insurance. That is a hardship on business and families and anyone who is trying to do the right thing for their family. The Dirigo bureaucrats wanted to do this without limitation, and soon. Dirigo didn't even promise to lower insurance costs, just to stabilize them. Well, it has stabilized those high costs, the second highest in the nation, into a nice steady increase. The Minority Report stops this.

Dirigo, as it stood, subsidized rich people and out of staters. I am not just talking about high-income people who we often erroneously refer to as the rich. I am talking about people who don't have to work for a living and that live off of the interest of their trust fund and can adjust that. They can adjust their trust fund income to qualify for Dirigo and for the subsidy. Also, people who have been reviewing the applications have indicated

that they have found applications from out of state people. I don't know if these out-of-staters are summertime people or if they are workers from adjacent states working in the state of Maine, but the tax payers and the rate payers who will be taxed on their health insurance premiums will be subsidizing out of staters.

Dirigo has no asset test, although it has an income test. Dirigo also gave Anthem a \$40 million kickback. They had the net result of spending almost all of the \$53 million sent by the federal government that was sent to insure around 7,000 people. We have asked and asked since the beginning of the year and Dirigo can't or won't tell us how many of those people are previously uninsured. Now they say that they are conducting a telephonic survey, which has an associated cost and an administrative cost to determine the number of people who, before Dirigo, had no insurance. One of the main points of Dirigo was to insure the 130,000 uninsured folks. We still don't know how many of those 7,000 are from that number.

Dirigo has nobody watching it. Every other agency in state government has an oversight committee keeping an eye on it except Dirigo. The Minority Report stops this. Do you want to do something right for the folks back home? Do you want even higher insurance costs for no good reason? Do you want to protect your districts small businesses and jobs? Do you want to subsidize rich people and people from out of state? Do you want to stop the future \$40 million kickbacks to Anthem? Ladies and Gentlemen of the House I urge you to do the right thing and support the measure before us right now. Support the Minority Report. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Pilon.

Representative PILON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am speaking today to urge Representatives to give the Dirigo Health Program more time to develop and to prove or disprove its worth. How many of us here in this chamber own businesses? Within our ranks are financial planners, bankers, attorneys, contractors and musicians. Do you remember when you first started out wondering how many months and years it would take for your business to be successful? You accepted the fact that you had lived on macaroni and cheese and canned beans until your business had begun to turn a profit. You sacrificed until you are confident in your works potential. It takes months and years to develop a following and a clientele and to create a successful business. Along the way you continually evaluate your product, your methods and your market and you challenge your methods and you tweak your product and you study your market and you adjust your priorities until you are satisfied that you are on the right track.

Dirigo Health Program has only been available in the marketplace for five months. We are talking positive steps to solve the problems of uninsured citizens in Maine. Surely, five months is not long enough to have established a track record, gathered data, develop a client base or to have even begun to produce substantial results. It is unrealistic to think that any business could prove itself in such a short time. We must make responsible intelligent and informed decisions for our constituents, the people of Maine. Do not abandon this program before allowing it adequate time to prove itself. I urge you to support LD 1577. Thank you.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Burns.

Representative BURNS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Language is very important. The language that we use characterizes how we feel about a concept. I take offense at the reference of the offset as a



tax. The savings offset is not a tax. It is a return on our investment. The state of Maine, the Legislature in the last session, recognized as we ought to, that the people of the State of Maine are losing ground when it comes to access to healthcare and they have taken action and I support that action and we all ought to support that action. This is an effort to fund and to take that initial investment that the state of Maine has made in getting Dirigo off of the ground and the savings offset is going to replenish that money. It is going to make Dirigo a self-sufficient enterprise, a market based product. I, like my colleague sitting just a few seats ahead of me, Representative Twomey, agree that maybe we need to go a step further to single payer. I support something far greater than that and I think that we should join forces with the rest of the industrialized and advanced world and have health insurance and health care as rights for the people of this nation, the people who build and fight for this nation. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative LINDELL: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Why can't the Experience Modification Payment, the secret subsidy or the kickback, whatever you want to call it be paid out of the startup funds, the Bush-Collins money, since, under the contract with Anthem the experience modification payments were due December 2004 and December 2005, before the start of the SOP was even envisioned under the original Dirigo Act or the Majority Report.

The SPEAKER: The Representative from Frankfort, Representative Lindell has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Warren, Representative Richardson.

Representative RICHARDSON: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I do not have an answer for Representative Lindell's question. Healthcare in today's world is one of our most important issues and I stand before you looking for success in our Dirigo Health Program, but I do believe that there are fundamental changes that could help us meet our goals. In voting for the Minority Report I just want to emphasize again a couple of the items that I believe to be important in this Minority Report. Number one is that it shifts the responsibility for the determination of cost savings in the healthcare system from the Dirigo Board to the Superintendent of Insurance. The asset test is also of importance. Lastly, I want to put an emphasis on an independent audit of our agency. Again, I urge our members to support the Minority. Thank you very much Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative GLYNN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In response to the good Representative from Frankfort, Representative Lindell's question regarding the startup funds my understanding is that the Dirigo Agency had reported to us that there is \$39 million remaining in the startup funds from the original \$53 million. What we are talking about is enough start up time to get us through to July 1, 2006. Is there enough money to do that? Absolutely, the funds are there. In fact, the question was asked to the staff of the Dirigo Agency to provide us with a balance sheet and provide us with documentation of if there was going to be a deficit in this program by the end of the fiscal year. No information came

forward to the committee documenting that they do not have enough money to make it through to July 1, 2006 and beyond.

I would also like to point out that we all received on our desk a copy of the monthly newsletter *Impact* from the Maine Chamber of Commerce and I hope that everybody got a chance to read that. The business community and the Chamber of Commerce is in support of this report that is pending for us to vote on because this report is better to business than other suggestions that came out of the insurance and financial services committee. You have to understand that this is a public private partnership. This is a partnership with business and business is scared. They are very alarmed that we are going to assess a tax on health insurance when they don't receive any benefit from that tax directly. What I mean by that is that the folks in the self-insured pools and the folks that don't buy the Dirigo product are going to see an increase in their health insurance. It is going to hurt and it is going to hurt hard and when you leave these chambers there are going to be some very frank discussions going on in the businesses in your district. I don't know about where you work, but I can tell you about where I work.

In most years we get a 2% raise and some years we get no raise. The conversation that we sit down and have with our employer gets a response like this. "Health insurance is now going to increase and this year it is going to be because of this 4% tax, the SOP tax. We don't have enough money to give raises and keep the current level of health insurance benefits you enjoy so we have opted to not give you a raise and give you health insurance." Then those employees leave without a raise. That is why you want to have legislative review of this tax. You don't want somebody else assessing the methods of this tax and assessing it on the businesses and people in your district without it coming back to pass through the Legislature. That is why you want to vote for this Minority Report. If you allow our authority to be delegated to somebody else then when that conversation takes place and that tax is assessed it is going to be higher, it is going to be burdensome and it will be the Legislatures fault. Please support this report.

The SPEAKER: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative SCHATZ: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I truly appreciate the education that I just received from my fellow Representatives. It reminds me of how much I loved seminars back in school and listening to these things. However, I did take the time also to listen to my constituents who have joined Dirigo as customers and as people who pay and I would like to share with you a portion of a letter that was sent by one of my constituents to the local paper and it somewhat typifies the responses that I have been getting from the people in my district. It says here, "Dirigo Choice saved my life. Until recently I was paying \$519 a month to anthem for an insurance plan with a huge deductible, which offered my family and I almost nothing in terms of health care. It is really depressing to be paying that much per month and still have to pay medical bills for diagnostic services." Parenthetically my constituent indicated an exception for mammograms and pap-smears. It says, "Since April 1st my children and I have been on Dirigo. Within its supportive atmosphere I signed up for a colonoscopy screening that was long overdue for someone my age and found that I had two cancerous lesions that were asymptomatic. If it had not been for Dirigo I would not have received the care I needed to find this problem in time. Now my prognosis is good and I am very grateful."

Maine is one of the only states in the country that is courageously taking steps to address our abysmal healthcare crisis. The people who criticized Dirigo for not having many

signups are the same people trying to prevent more people from signing up. What good will healthcare savings accounts do when those that need health insurance can't even make ends meet? It is time for Mainers to wake up and see that we have got a good thing going here and we all need to support it. It is my opinion that it is early in the game and that it is an important game indeed and we should go forward and in doing so I would support opposing the Minority Ought Not to Pass Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Savings offset payments are exactly what they say they are. If we don't have savings in the health system then there is no payment to be made. The other issue is that with savings in the system then the insurance companies and the insureds have an opportunity to negotiate different types of payouts for the insurance that they pay for. That is the savings.

We may not see that immediately in insurance to begin with, but it will be seen because those savings do get passed forth, not just to help pay for the Dirigo Plan, but also to help other insurers decrease their premiums. We are only asking that it be at the most 4% of paid claims, not of all premiums, but only of paid claims. If paid claims go down so does the savings offset go down. Let's make a difference in the system and let's help Dirigo go and let's give it the tools that it needs to do so and I ask you to vote Ought Not to Pass on the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative McKane.

Representative MCKANE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In response to the Representative from Blue Hill, Representative Schatz, there are glowing testimonies about Dirigo and it is because they are getting the cheapest health insurance in the state and it is great coverage, but it is at the expense of every other health insurance policy in the state. Right now it is being subsidized by that one time \$53 million, but it will be at the expense of every other policy in the state.

We already have the second highest premiums in the country and this could very well bring us over the top. I don't know if that is what we are trying to achieve.

We are in seminar mode here and I guess I will go a little further here. I just want to talk about the definition of tax. According to Webster's it's a charge of money imposed by an authority on persons or property for public purposes. In every sense of the word savings offset payment is a tax. There might be ways to justify that tax and there might not, but we need the Minority Report to assure the net savings to the system so that we can justify that tax. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Dudley.

Representative DUDLEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to share with you some thoughts from the debate on June 12, 2003, just two years and two days ago. A member of the body said, "All of us are hoping that Dirigo is going to be successful and we are going to work to make sure that it is successful. As part of the negotiations what was established in it was Plan B." This is speaking of the committee negotiations from the committee, which I had the pleasure to serve on. "I think that the fact that we were able to come to an agreement on Plan B speaks a lot of the committee process. In the Plan B we put in a provision to provide for an assessment of Dirigo. Dirigo is on trial. It has three years after operation and after these phases it is going to be assessed." I found these words very encouraging. They were

the words of the Representative from South Portland, Representative Glynn. He said that Dirigo was going to be given a chance.

We are six months in. We have got 7300 people enrolled and I remind you that Dirigo Health's Reform isn't just about access to health insurance. It is about controlling the crisis in the growth of healthcare costs statewide. Dirigo isn't just a health insurance product. It is a plan to control the growth in the cost of health insurance and that accrues to the benefit of not just those of us trying to afford health insurance, but it accrues to the benefit of hospitals, to insurers and to Maine businesses.

Earlier in the debate somebody suggested that – I believe it was the Representative from South Portland, Representative Glynn – the Minority Report change that suspends the collection of savings offset payments until July of next year was not a risk to Dirigo Health because it had enough money. I suggest that the Representative from South Portland have a conversation with the folks from the Dirigo Health Agency. The truth of the matter is that if that is the course that we follow then enrollment will be suspended. We are going to cap out where we are. No more people will get enrolled in Dirigo Health. That, Ladies and Gentlemen of the House, is not giving Dirigo a chance to succeed. It is not giving Dirigo a chance to bring benefits to everybody in Maine from individuals, to hospitals, insurers and businesses. Thank you.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Brautigam.

Representative BRAUTIGAM: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I dare say that none of those who supported Dirigo in this body would have referred to the savings offset payment that they voted for as a tax at the time. But, I will leave it to you to determine whether or not that inflammatory rhetoric, and the rhetoric about kickbacks to Anthem signifies an intention to preserve Dirigo or an intention to kill it.

Let me just say that Maine is the only state on the country that had devised a program like this to control rising healthcare costs and to capture the savings and to use those savings to provide more people with health insurance coverage. We have succeeded in doing something that other states have failed to do. The reason that this has failed in other states and nationally is because special interests have come out and killed it before it got a chance to work or that there wasn't a real concerted effort to capture the costs that are saved by the cost control measures. Those cost savings ended up going into higher profits for some. It is clear that there are some interests that are trying to achieve the same result here in Maine and we can't let that happen.

Dirigo is a work in progress, it is gaining momentum and more and more people are signing up. It is a lot of hard work to start something new like this from scratch without a map, but in Maine we know that if you are going to blaze a path through the woods you have got to fell a few trees and the committee has been working hard on that and I dare say that despite the suggestion that the business community supports the minority report I have spoken with many of them who are either indifferent or who actually support the Majority Report. There are many committed stakeholders out there who are working to make sure that this path goes through. Let's not abandon the progress that we have made and let's not let the people of Maine down. Thank you.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Vaughan.

Representative VAUGHAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to agree with the Representative from Blue Hill, Representative Schatz. His story is referring exactly to the type of people that

Dirigo isn't designed to help. We are referring to people who can't afford the high cost of health insurance in the State of Maine. As was stated earlier, the State of Maine has the second highest dollar cost of health insurance in the United States and the only one that is higher than the State of Maine is New Jersey, which has the highest median income. We are about 27th, so if you factor those two together that puts us pretty much in the highest percentage of income in the country. We are not sitting very well as far as the other people who work for a living and who have to purchase their own health insurance or that belong to an expensive group. We are looking out for their interests as well.

We want to make sure that there is savings in the system and we want to be able to double-check it. We don't just want a board of five to tell us that there is savings there and that we can't have the numbers as they have refused to disclose other information to us in the past or dragged their feet in doing so or missed deadlines in releasing information. We want to make sure that Dirigo is preserved for those people that really need it. We would also like to see the cost of insurance go down. If the cost of other insurance can be brought down then it will bring down the costs to those very same people as well, the Dirigo enrollees.

When you are talking about net savings and when you are talking about a right to health care and consider the fact that the State of Maine, since 1993 has been stiffing the hospitals to the tune of about \$350 million and if healthcare is a right then who is supposed to pay for it? If the taxpayers have been sending their money to Augusta and Augusta hasn't been sending those tax dollars back to the hospitals then who is supposed to pay for that right? Apparently not the government. If we are going to be looking at that savings we are not going to be starting at zero, we are going to be starting at -\$350 million.

What I would like to know and what has been asked of me is how Dirigo is going to affect those savings and when does it start? I would like to encourage you to put some oversight on Dirigo and to make sure that questions get answered and to make sure that management is as efficient as possible and to make sure that all of the questions get answered and if they have to be answered under oath then so be it. I encourage you to support the pending motion. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Minority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 313

YEA - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgcomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

NAY - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-

Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

ABSENT - Blanchette.

Yes, 74; No, 76; Absent, 1; Excused, 0.

74 having voted in the affirmative and 76 voted in the negative, with 1 being absent, and accordingly the Minority Ought to Pass as Amended Report was NOT ACCEPTED.

On motion of Representative RICHARDSON of Brunswick, the Majority Ought to Pass as Amended Report was ACCEPTED.

Representative GLYNN of South Portland REQUESTED a roll call on the motion to ACCEPT the Majority Ought to Pass as Amended Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative GLYNN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This report before the body is a very dangerous one indeed and it sets a very dangerous precedent. What this report seeks to do is to delegate the authority of this Legislature to the Dirigo Board, an appointed board, to be the judge and the jury on the Dirigo tax, the savings offset premium tax, in all respects. What the report does is that it says that the Dirigo Board will have the authority to determine the methodology of what kind of savings we are going to collect in the healthcare system and they are going to apply it to find out the maximum amount that they can tax up to a maximum of 4% of paid claims and they are going to be the board that determines how much money they need in order to charge subsidies. Does it make sense that the same board that seeks to set a budget for subsidies to spend is the same board and authority that assesses the savings in the healthcare system and then is the same board that assesses the tax? The Legislature is the only body that really has the authority to do that, but we are going to delegate that authority with this bill and with this amendment and that is taxation without representation. Any type of rules and regulations of this sort should be major and substantive and should come back to the Legislature. We should not be looking at the Dirigo Board, this appointed board, this political board to make these calculations. What expertise do they have to assess the savings in the healthcare system? This is not a quality move and this is not a good move for the legislature and we are, in turn, going to take the determination and we are going to assess that as a tax on the health insurance products of everybody that doesn't have Dirigo Health and Dirigo Choice in the state of Maine whether they are in private insurance, self insured pools or whether they are under a regular company product. This is a very, very, very dangerous process and I have strong exceptions to it.

I think that we need to take a look at where we are headed. The Dirigo Program is something that I voted for and I supported and it is something that I would like to see succeed, but it can't succeed on the backs of everyone else without proven measures in place and legislative check ins. This report offers none of these safety valves and none of these checks and balances. It doesn't warrant our support and it needs to be denied. I urge you all to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Ripley, Representative Thomas.

Representative THOMAS: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative THOMAS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The Majority Report is silent on how the EMP or experience modification program issue will be treated in the hearings that are to be conducted before the board this fall. My question Mr. Speaker, is how does the Majority Report intend the EMP to be handled for the purposes of this fall's hearings? Is it an expense that can be included or is it supposed to be excluded from any savings offset determination by the board? Thank you Mr. Speaker.

The SPEAKER: The Representative from Ripley, Representative Thomas has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It is not mentioned, it is a decision that happens with the advisory committee that is set up within that and one of the first tasks is to define what is in subsidy. That question gets taken care of there.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 314**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgcomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Blanchette.

Yes, 76; No, 74; Absent, 1; Excused, 0.

76 having voted in the affirmative and 74 voted in the negative, with 1 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (S-359) was **READ** by the Clerk and **ADOPTED**.

On motion of Representative PERRY of Calais, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-359) was ADOPTED**.

The same Representative **PRESENTED House Amendment "B" (H-687) to Committee Amendment "A" (S-359)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative GLYNN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to this amendment because it seeks to do some very complicated things. The first problem with the amendment that has been offered is that it seeks to change the process from one decision with an adjudicatory hearing to two decisions with an adjudicatory hearing and what it seeks to do is to involve the Superintendent of Insurance in only the first hearing and in all hearings thereafter to not involve the Superintendent of Insurance.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Mr. Speaker, point of order.

The SPEAKER: The Representative may proceed.

Representative PERRY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I ask if the Representative from South Portland is speaking to House Amendment number 687 or House Amendment number 681.

The SPEAKER: The Representative may proceed.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I just want to give you a run down of what this amendment does. It starts by looking at the report of jurisdiction for the Dirigo Health Agency that is given to the Insurance and Financial Services Committee twice a legislative session with minutes of all of the meetings going to the three committees of jurisdiction under the Dirigo Health plan. It also sets the determination of cost savings on an annual basis to the Superintendent of Insurance and also sets up the time frame. For the first time it will go to the Superintendent of Insurance and the other thing that it does do also is that it has that the annual offset payments received must be reconciled by Dirigo Health and any unused payments must be reduced and the next savings offset payment charged to the health carriers. Thank you.

Subsequently, House Amendment "B" (H-687) to Committee Amendment "A" (S-359) was **ADOPTED**.

**Committee Amendment "A" (S-359) as Amended by House Amendment "B" (H-687) thereto was ADOPTED.**

On motion of Representative GLYNN of South Portland, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-359) as Amended by House Amendment "B" (H-687) thereto was ADOPTED**.

The same Representative **PRESENTED House Amendment "D" (H-689) to Committee Amendment "A" (S-359)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative GLYNN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This amendment is a very simple amendment. It is one sentence and what it is meant to provide is that the experience modification payment, the EMP, which was promised to be a temporary measure by the staff of the Dirigo board is, in fact, a temporary measure. What it is is that the EMP payments that are scheduled to be made under the contract with Anthem, that \$35 million to \$40 million that is scheduled to be paid and that will be subsidized, those who are earning well above that income guidelines to get that subsidy will

be terminated at the end of this contract and that in when that is considered in the future and if the Dirigo Agency proceeds to do that it would be considered a general administrative expense. Those that made the original Dirigo product never envisioned this form of giving subsidies to people well over the 300% of poverty guidelines. This was an idea that came after that legislation was passed. That deal in that contract has been entered into, but once that contract is over it should not be renewed. This is to make sure that it is, in fact, not renewed and I urge you to vote in support of this amendent.

Representative PERRY of Calais moved that **House Amendment "D" (H-689) to Committee Amendment "A" (S-359) be INDEFINITELY POSTPONED.**

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "D" (H-689) to Committee Amendment "A" (S-359).**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER:** The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative **GLYNN:** Mr. Speaker, may I pose a question through the Chair?

The **SPEAKER:** The Representative may pose his question.

Representative **GLYNN:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The question that I wish to pose is if those in support of the Majority Report do not favor the inclusion of language, which prohibits further EMP payments or experience modification payments to be made to future carriers such as Anthem after this contract. What is the intention of the Majority Report with regard to EMP payments in the future?

The **SPEAKER:** The Representative from South Portland, Representative Glynn has posed a question through the Chair to anyone who may care to respond.

The **SPEAKER:** The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative **GLYNN:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The silence to that question means that it is the intention that this continue and that people that do not qualify for subsidy and that are at more than 300% of poverty in their incomes continue to be subsidized by the taxpayer. This is a terrible public policy. You should not support this indefinite postponement.

The **SPEAKER:** The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative **LINDELL:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. If you support this indefinite postponement what you are saying is that the savings offset premium tax should be assessed on every health insurance plan in this state, including employers who self insure and that that money should be used to subsidize and to underwrite a competing health insurance plan that seeks to undercut their own health insurance.

What you are doing is essentially setting it up so that the state will have one preferred vendor of health insurance and whose premiums are going to be lowered for everybody who buys it based on a tax on everybody else's health insurance plan. This is poison ladies and gentlemen. This is a recipe for killing the insurance market in this state. Please vote against the motion to indefinitely postpone.

The **SPEAKER:** A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "D" (H-689). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 315

**YEA** - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Ceбра, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

**ABSENT** - Blanchette.

Yes, 76; No, 74; Absent, 1; Excused, 0.

76 having voted in the affirmative and 74 voted in the negative, with 1 being absent, and accordingly **House Amendment "D" (H-689) to Committee Amendment "A" (S-359) was INDEFINITELY POSTPONED.**

Representative GLYNN of South Portland **PRESENTED House Amendment "C" (H-688) to Committee Amendment "A" (S-359),** which was **READ** by the Clerk.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "C" (H-688) to Committee Amendment "A" (S-359).**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER:** The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative **GLYNN:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is very important because the tax that will be assessed will be either up to 4% of the paid claims or will be to the maximum of the savings or healthcare system and that savings has been so loosely defined in the Majority Report that the concern of the business community is that we are not going to look at the net savings to the healthcare system and that is what this amendment does. It focuses in on the net savings to the healthcare system.

It is one thing to say that expansions in MaineCare and expansions in the non-categoricals and in some of the payments that were made as a result of the lawsuit to the hospitals should be counted as positives. It is another thing to say that you are not going to net count it and that you are not going to count all of the minuses in the healthcare system like the fact that all of those expansions to MaineCare that were supposedly aimed at reducing bad debt and charity care in hospitals didn't, in fact, occur because those payments to the hospitals didn't happen. In other words ladies and gentlemen this is set up to tax, to a maximum, the amount to the business community and to the people that hold health insurance policies and that are not looking at the net savings. This amendment is necessary to look at the net savings. We are interested in the net costs to the

healthcare system and that tax can never be more than that net cost. We need to support this amendment and to put that into statute to make it abundantly clear and to make sure that we are not taxing the people of Maine more than those savings guaranteed in the healthcare system by the Dirigo initiatives.

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative McKane.

Representative MCKANE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This amendment would, at the very least, help give credibility to the process and to Dirigo. The Dirigo board is a politically appointed board and this would take politics out of the decision of the determination of the cost savings. It would put it in the hands of the Superintendent of Insurance and make it less political and therefore give the whole process more credibility and give Dirigo more credibility. Thank you.

Representative PERRY of Calais moved that **House Amendment "C" (H-688) to Committee Amendment "A" (S-359) be INDEFINITELY POSTPONED.**

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The Superintendent is involved with House Amendment "A" and also the committee itself will be working with an actuary that has been hired to verify any of the savings that would go with this and the Superintendent would have to verify that as being right for the assessment. It is already in place and whether it be net or aggregate all of that has to be agreed upon and I ask for the indefinite postponement as a result.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Dudley.

Representative DUDLEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In response to the points raised by the Representative from Newcastle, Representative McKane I would just like to remind him that the Superintendent of the Bureau of Insurance is a political appointee.

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "C" (H-688) to Committee Amendment "A" (S-359).**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative GLYNN: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative GLYNN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. My question would be to the Chair of the Insurance and Financial Services Committee or any member of the body that chooses to answer and that speaks in support of the Majority Report. Is it the intention by not supporting this amendment to, in fact, mean that when this calculation is done that we will be looking at the net savings to the healthcare system or will we be looking at only the savings of the positives, in other words the expansions to MaineCare and so forth. Will we be looking at the net savings or not?

The SPEAKER: The Representative from South Portland, Representative Glynn has posed a question through the Chair to the Representative from Calais, Representative Perry. The Chair recognizes that Representative.

Representative PERRY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. That decision belongs with the advisory committee and finally with the decision of the superintendent as it comes to the assessment itself.

The SPEAKER: The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. By indefinitely postponing this amendment this House will be sending a clear message to those who will be making the decision that you do not want net savings to be considered. Be very careful here folks. What we are doing is that we are sending a loud and clear message that we want the maximum tax assessed on every health insurance plan out there. This has to be fair and in order for it to be fair we have to adopt this amendment so we should vote against the indefinite postponement.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "C" (H-688) to Committee Amendment "A" (S-359). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 316**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Blanchette.

Yes, 76; No, 74; Absent, 1; Excused, 0.

76 having voted in the affirmative and 74 voted in the negative, with 1 being absent, and accordingly **House Amendment "C" (H-688) to Committee Amendment "A" (S-359) was INDEFINITELY POSTPONED**

**Committee Amendment "A" (S-359) as Amended by House Amendment "B" (H-687) thereto was ADOPTED.**

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on Bills in the **Second Reading.**

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (S-359) as Amended by House Amendment "B" (H-687) thereto** in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**