

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Third Legislature
State of Maine

Daily Edition

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Pages 1760 - 2135

Ordered sent forthwith to the Engrossing Division.

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

Senate at Ease.

Senate called to order by the President.

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

REPORTS OF COMMITTEES

House

Divided Report

Six members of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Continue Maine's Leadership in Covering the Uninsured"

H.P. 1608 L.D. 2247

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-914)**.

Signed:

Senator:
BOWMAN of York

Representatives:
BRAUTIGAM of Falmouth
CANAVAN of Waterville
CROCKETT of Augusta
TREAT of Hallowell
PRIEST of Brunswick

Five members of the same Committee on the same subject reported in Report "B" that the same **Ought Not to Pass**.

Signed:

Senator:
SNOWE-MELLO of Androscoggin

Representatives:
VAUGHAN of Durham
RICHARDSON of Warren
SAVAGE of Falmouth
McKANE of Newcastle

One member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-915)**.

Signed:

Senator:
SULLIVAN of York

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-914) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-914) AS AMENDED BY HOUSE AMENDMENTS "B" (H-1013) AND "C" (H-1014)** thereto.

Reports **READ**.

On motion by Senator **SULLIVAN** of York, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-914) ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-914) **READ**.

House Amendment "B" (H-1013) to Committee Amendment "A" (H-914) **READ** and **ADOPTED**, in concurrence.

House Amendment "C" (H-1014) to Committee Amendment "A" (H-914) **READ**.

On motion by Senator **SULLIVAN** of York, House Amendment "C" (H-1014) to Committee Amendment "A" (H-914) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "C" (S-640) to Committee Amendment "A" (H-914) **READ**.

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

Senator **SULLIVAN**: Thank you, Madame President, men and women of the Senate. I know you have waited with baited breath for this Dirigo. I am well aware of that. We almost had to wait a little longer, but we're going to do some things. This is not the bill that I would have liked to have presented. It's not the bill I wanted to present at the end of last session. Quite frankly, it's not the bill I wanted to present a session ago, in the 122nd. It is a start. It is the best that we could get. Quite frankly, I feel like Ben Franklin after writing the Declaration of Independence. He said, 'I'm not sure.' He looked outside and he could see the sun. He said, 'I'm not sure if it's the setting sun or the rising sun.' Quite frankly, I don't know what this Dirigo bill will be. I do know one thing, I came here to do the work of the people. I came here to set public policy. I did not come here to win favor with my party, goodness knows I have not, nor with the other party. We have 13,000 people, there were 15,000 but Dirigo was capped, who will be without insurance. That is morally and ethically wrong. Having said that, I also believe that we will not work our way out of the problem we are in with insurance until we have market reform. I was, if you look at the original report, what we call in the insurance world a group of one. I never could figure that out. A group of one didn't make a lot of sense to me. I found out I was a group of one when I went to do the report. There was an 'A'

report, a 'B' report, and then a 'C' report. I tried like crazy to get both sides to come and give a much stronger market reform while still keeping Dirigo and keeping what I believe is my spiritual, ethical, and moral responsibilities. I don't ask anybody else to abide by those understandings. They are my convictions. They are okay. However, in the end, we could not work that out.

I have put in an amendment that makes stronger the pilot program. Quickly, the pilot program was a program that we put together. It was recommended. We know in order to make insurance happen and more affordable we need to get the young people in. First of all, young people think they are never going to die. I used to think at 50 you could go out and shoot people and it would be okay because you were old. Well, when I passed 50, and even as I got closer, I realized it really wasn't that old. Young people think they will live forever and they will always be healthy. What can we do to expand that pool and make it so more people are paying in? We've created a pilot program that will allow the Superintendent of Insurance to end mandates that are not important for age up through 30. Mammogram screening, PSA screenings, all these things that they are not going to use. If they have any problems those will be medical conditions at that age, the screenings do not start up to the age of 30. I have strengthened the language that was originally there on Report A and that is in my amendment. It helps us to market reform.

We also, for the first time, are dealing with a new server, Harvard Pilgrim. It allows more competition, another carrier, into the market. Competition is good. I hear that all the time. It's not fair to Harvard that they have come in, they have offered this, and then we pull the rug out from under them. I've been a victim of the rug before. It's not fair. If you want market reform then you have to have competition. We have a company that put their finances on the line to offer insurance for Dirigo. I think that is an obligation, also, at this point.

While I had struggled with and, at the end of last year, had supported and still continue to support today another amendment and another report, L.D. 1760, it's not to be because the only way we could get that in was to put Dirigo out and those people on the streets. How are you going to improve market reform if you dump 13,000 more people onto the streets? What are you going to do when you have Harvard Pilgrim here offering competition and you say, 'Wind it down, we don't want competition here?' I don't get it. I also had a problem with the cigarette tax. Not that I disagree that cigarettes kill. Not that I disagree with any of those pieces that were there. I have a problem with the cigarette tax because we've gone there every time. It is a declining income. Every year we end up arguing in the last week about Dirigo. Quite frankly, I'm tired of it. I'm going to try to be quiet for the rest of the evening. I'm tired and you're tired. I am going to let you know that there is, in my opinion, a mistake but because I love you all so, against my better judgment, I chose not to have this amendment rewritten because under the assessment there was an understanding that this would have not to exceed 1.8, this year or next year or the year after or the year after. That is the intent of this legislation. I could not kill more trees, but if 1.8 is exceeded next year, and I get to come back here next year, I will vote against Dirigo. It will not exceed 1.8. That's the assessment that replaces the SOP that we were asked to do away with. I have to tell you that everybody wants Dirigo but no one wants to pay. In my church there is the Apostle's creed that says, 'Accept the joy and cost of discipleship.' I believe, as a public servant, it is to accept the cost of providing insurance to the uninsured. I'm willing to offer my piece to it, but I also think there needs to be a

clear understanding that 1.8 is the limit and I will vote against that next year. I would ask you to accept this. 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. We need to finally do the right thing and change the way we deliver health insurance in Maine. L.D. 2247, the bill before us, is not that bill. It attempts to keep a dying program on life-support and does absolutely nothing to help Maine's struggling citizens to get insurance. This is not the bill that will move in the new and better direction. If we pass this law we will be taxing insurance claims with a 1.8% surcharge. People's premiums are already high enough and this tax will only push them higher. That is simply not acceptable. The good Senator from York, Senator Sullivan, says that she will not support an increase of the 1.8% surcharge next year. I have serious questions that every year this will come before us, this struggling program, and the temptation will be to raise that surcharge. Dirigo continues to limp along, having detrimental effects on the rest of what little health insurance industry we have here in Maine. If we are going to continue to prop it up then the money should come from the General Fund not tax gimmicks which hurt those who pay premiums and businesses that sell products. This bill is titled, 'An Act to Continue Maine's Leadership in Covering the Uninsured.' Indeed, we are leading but unfortunately it is to the back of the pack. Leading other states to putting people on medical welfare, in my opinion, is not something to be proud of. When will we admit, finally, that Dirigo can only be resuscitated for so long and do what is right to solve the health insurance problem in this state? When are we finally going to realize that? We should develop a risk pool so that everyone is paying their fair share of insurance costs. We should open our markets so that Mainers have access to cheaper insurance options. This has worked in other states, as matter of fact in 33 other states in this nation, and it will work here. The bill before us does not move us in the right direction. It does not go far enough. It will not lower health insurance costs. It will raise taxes, that's for sure. This bill is irresponsible. A family who is struggling to pay for health insurance could have access to lower premiums and better coverage if this Body implemented the reforms I just spoke to. Instead this Body stands to pass a bill which takes that struggling family to the brink with high taxes rather than giving them access to better and cheaper health care. You will force them onto the same government programs you are now seeking to resuscitate. Dirigo does not serve people as it was intended to serve. If L.D. 2247 passes it will further drive up the cost of health insurance across the state along with the cost of beer, wine, and Happy Meals. Remember, 80% of Maine's people have spoken and they said no new taxes. I don't think we listened very well, did we. We need to finally do what is right for Mainers and change the way health insurance is offered in our state. We need to take a bolder step forward and this does not do it. That step will begin with the defeat of this misguided bill. I hope that when you take your vote you will not support L.D. 2247 as amended. Thank you.

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 Kennebec, Senator Mitchell.

Senator **MITCHELL:** Thank you, Madame President, men and women of the Senate. I don't pretend to be a health care expert. I don't have the experience that the good Senator from York, Senator Sullivan, nor the other members of the committee nor the good Senator from Androscoggin, Senator Snowe-Mello. I'm speaking tonight on behalf of my constituents. I encourage you to vote for this particular amendment. I'll tell you why in a moment. I have in front of me a paper that talks about the Dirigo Choice members in our own personal districts as of November 2007 when the total membership was 13,472. I looked at my Senate district and there are 88 small businesses, 227 total enrollees. In Senate District 15, the Senator from Androscoggin, Senator Snowe-Mello's, there are 139 small businesses and 318 total enrollees. Each one of us can look to this paper to find out how many of our constituents do indeed depend on Dirigo Choice. We're talking tonight about whether or not those people will have to scramble to find coverage, if they can find it at all. I don't think anyone who supports this amendment says it is a panacea, that it will answer all the health care problems, because I believe this is a national problem, perhaps even an international problem, that we are speaking of. I do believe that we can't turn our backs on the opportunity to make incremental progress forward.

It is interesting to me, since I've been here I've heard a lot about the SOP. It took me a long time to figure out it meant 'savings offset payment'. It is a mystery to me why an item that has been litigated for years as being unfair and unnecessary is now all of a sudden more attractive than a fixed percentage point. The surcharge of 1.8 is at the very low end of whatever was charged for the SOP. We thought that people said it would be better to have the stability. You can't offer this without some financial incentives here.

We also talked about market reforms. There is a lot of talk about a reinsurance pool. Some of you have been around long enough to know what reinsurance pools can mean if the State does not come up with enough money, who is put into a reinsurance pool, and just what kind of coverage they get. The market reform that we proposed is a reinsurance pool which does not put people who are sick isolated off in a pool but rather it says to the insurer that if you have a catastrophic illness on your hands by someone insured by you that claim goes into the pool. By the way, that is one of the reasons we need money for this particular program, to make sure the insurers have this reinsurance pool. It is my hope that as we have more people covered, and these high claims are offset by this reinsurance pool, that this can help everybody's rates.

The other issue to be concerned about is if these people do not have their insurance, and we've talked about it through other health care debates we've had this session, where are they going to go for their health care? I think you know already that some of the parents of the children who are now on our MaineCare program are insured through this program. A lot of preventive care is offered through Dirigo Choice if you have the premium. The other thing I think is quite interesting is that we hear a lot of talk about how it's such a rich benefit package that we should think about changing that. That can be negotiated in the future, but one of the things that you would be looking at would be mental health parity with no waiting period for a pre-existing condition and first dollar coverage, which we have now for preventive services, which we think is very important. There are

many extraordinary things that we have been a leader on in this program. This is an opportunity for us to make it even better with the reinsurance pool.

I want to re-echo what the Senator from York, Senator Sullivan, has mentioned. I think it is extraordinarily important, and all my colleagues on both sides of the aisle are always talking about competition in the marketplace. I share that. I welcome Harvard Pilgrim to Maine, along with Aetna and with Anthem. The more insurance companies in the marketplace the better because that helps all of our rates. The young people's program, and I must confess at this point that I'll be offering an amendment at second reading, the Senator from York, Senator Sullivan, came up with the best idea for the pilot project. It is a pilot project for young people, which we have agreed to support in this bill. Her idea was to take out all the mandates that were really unnecessary for young people. In the struggle this evening to get everything drafted in time before you all died of exhaustion in your chairs, there are two pilot programs in this amendment. I'll be offering an amendment to take out the one that is not as good as the one that the Senator from York, Senator Sullivan, mentioned to you earlier.

We have an opportunity here to keep people insured. I'm not sure what your options are if you don't do this except to say that we're not going to insure them any more and that is not acceptable. This amendment is not about saving Dirigo. Let me talk about that. It is about access to health care. It is about reforming the market so that all of us, whether we have Dirigo Choice or not, can see benefits in bringing our insurance rates into a more acceptable range. I encourage you to vote for the amendment.

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

Senator **MILLS:** Thank you, Madame President, men and women of the Senate. As you spend more and more time in this institution you begin to learn from experience and failures. One of the things I've learned from these last several years of involvement with, and following the progress of, the Dirigo program is that when you create a piece of legislation that authorizes a new program it's extremely important to put into that legislation some limits on the authority that create the program so that when you make certain assumptions based on promises or projections that when those projections fail that there is a trigger so that we just don't go off steaming into the wilderness with a program that is out of control, that doesn't do anywhere near as much good as it was projected to, and is costing several times more than anybody ever dreamed that it would on a per capita basis. This program cannot scale. If it costs \$40 million or \$50 million a year to cover 14,000 people, and we have ten times that number on the roles of the uninsured, it means that we would have to spend something like \$250,000 to \$500,000 to scale this program up to conquer the issue, the problem of the uninsured in this state. We couldn't possibly do that. It would put the sales tax at 8¢ or 9¢. It would put another 50% on the income tax, which is already one of the highest income taxes in the United States. It's throwing an enormous amount of money at a very small number of people, roughly 25% to 30% of whom were uninsured by the definitions that have been chosen by the Dirigo Board. They had some lack of insurance during the year preceding their enrollment. We're not even getting at the problem of the uninsured and we're spending an enormous amount of money

without any effort to evaluate what good is being done by throwing \$40 million or \$50 million per annum at this insurance product which does not necessarily translate into health care status by any means.

We all made the assumption that there would be a strong Medicaid match to help fund this program. We should have built something into the statute that said if that failed then the program would be closed down. We didn't do that. Even though there hasn't been, as far as I know, even \$1 of Medicaid money put into this program it is barreling along in year three or year four, operating on full power without having fulfilled one of the major expectations that was presented to us three or four years ago when we all, many of us, voted for it. It was also assumed by many of us that the program could be partly funded by savings on bad debt and charity care. We now know that the bad debt and charity care savings guessed at by actuaries is on the order of \$2 million a year at best. We should have put a trigger in the statute that said that if it didn't generate real savings from bad debt and charity care then we must close down the experiment. We didn't do that. We made a mistake in not writing the statute that way.

We also assumed that employers would step forward and pay 60% of the cost of dependent coverage for their employees, that we would be drawing in all of those employer dollars. The person hired to run the Dirigo program said that wouldn't sell, that we couldn't launch that product. The program for getting 60% of dependent coverage was withdrawn from the product and we are now subsidizing dependent coverage with State dollars on a sliding scale basis. We're covering people who have assets because there is no asset test required for being in Dirigo. We're picking up pre-existing medical conditions because, unlike every other medical insurance product in this state, we have no requirement to look at the underwriting problem of covering people who come into insurance when they need it with a pre-existing condition. We're trying to operate a program where we are subsidizing every co-pay and every deductible. It is an extraordinarily cumbersome, inefficient, and ineffective program and the people running it refuse to reform it as a condition of acquiring further funding.

If we took the \$50 million or \$60 million that is raised by this bill, as now amended, and plugged it into a reinsurance program for the individual and small group market we could lower the cost of health insurance in this state, across the board, in a way that would not impact consumers. It would spread the dollars throughout the system. Instead of taxing health insurance at 1.8% we could be subsidizing through a reinsurance program that would be invisible to the consumer, in a way that would dramatically lower individual rates and group rates. We're not going to do that because certain people, frankly, have too much pride invested in a deeply flawed and now thoroughly failed program. We're going to salvage that program even if it costs us a whole array of new taxes. I am very disturbed that we are heading down that pathway at the end of this session without having given any serious thought about gaining true value for the extraordinary dollars that some of you are now in the process of trying to raise this evening. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise to support the pending motion. I think we really need to empathize here tonight that if this

amendment passes a new company, Harvard Pilgrim, will be coming to this state to offer insurance and to offer competition in the insurance market. That, to me, is very significant. So many people talk about how we need more competition. This is competition. This is a company that for New England is rated number one in patient satisfaction. It is a quality company that has pledged to come to Maine, to work with the Dirigo program and to aggressively market it, if a different funding source other than the SOP is passed. That's what is before us. I was at the same briefing that the good Senator from Somerset, Senator Mills, was at when the head of Harvard Pilgrim said that if we replaced Dirigo funding SOP with a more stable funding that he felt that it would attract a Medicaid match. That's what we are trying to do here.

I know a lot of small businesses in my district that would not be able to offer health insurance to their employees without Dirigo. I'm not talking about businesses that employ 200 or 300 people. These are businesses that employ three, five, or seven. Small businesses that are using this product.

I know that some of the proposals here may be controversial with some in the way this is funded, but it's always bothered me that in the thousands and thousands of homes that I've gone to door-to-door in my campaigns I've seen the following situation thousands of times. I get to a home mid-morning. I knock on the door and go in. There are three or four kids watching TV. Kids that, in my humble opinion, are overweight and on the floor all around them are dozens and dozens of soda cans. They get up in the morning and this is what they start their day with, drinking soft drinks one after another after another. All those calories. All that extra weight. To me, that does effect the cost of health care. Maybe not immediately, but especially when they get older. I think it's appropriate that we broaden the funding of Dirigo to make it more stable so we can get a Medicaid match but also to make sure that the products that are consumed that adversely effect the cost of health care are paying towards the cost of health care.

Finally, I want to second what the good Senate Chair of the committee said, I'm firm and I've heard from Harvard Pilgrim that they do not want the 1.8% exceeded. If it is then I'm going to have to change my position on this bill because 1.8 is the maximum that I could accept. I think, in summary, we're attracting a new quality health insurance company to come to this state if this amendment is adopted that will give us competition in the market. I think that is a very significant thing. I urge your adoption on the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you, Madame President, men and women of the Senate. I would just like to take a moment and address the discussion around competition in the marketplace. As you heard from the Senator from Somerset, Senator Mills, when talking about the basic principles of designing the entire Dirigo initiative, which included the Dirigo Choice product, and what we based that on and where we are now, how things have changed in a fundamental way, one of the real pillars of the establishment of the program in the first place was to look for those savings and then calculate that savings offset payment and apply that towards the subsidy that you paid for the premium. The proposal before us now makes a fundamental policy break from what was originally adopted. We will no longer have,

according to this proposal, a savings offset payment or the savings offset calculation or the measurement of whether savings exist. Now we are moving to just a straight premium subsidy. Let's be clear about that because that is a significant change. This is a premium subsidy. Now the proposal raises the money to fund the premium subsidy throughout the economy, but the subsidy is only available to people that purchase this one product. Dirigo Choice, sold by this one carrier, is the only product that the entire subsidy will be applied to but which the entire population helps to fund. If we want to fundamentally change this, and we are talking about competition and the power of competition, it seems to me that we would shift to a universally available subsidy to the market, as a whole, to be determined and allow the market to choose which product the consumer can purchase and allow that individual to be eligible for that subsidy.

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

Senator **SCHNEIDER:** Thank you, Madame President, men and women of the Senate. As many of you know, I have serious reservations about the funding of this particular program. However, unfortunately we have a federal government that has turned a blind eye to the need for a national health care policy. Virtually nothing has been done to solve this crisis, which is not just occurring in Maine. This is not just a Maine problem; it's a federal crisis. Insurance rates are skyrocketing. People's businesses are suffering. Individuals are suffering. People are dying because we have no national health care policy and plan in place. It's outrageous. It's disgusting. I hope that the next Administration will address it. Unfortunately, personally I don't think it's right for us to have to be scrambling around addressing this at the state level, but at least somebody is trying.

I want to share with you an e-mail from a constituent of mine. 'Elizabeth, I just want to update you on how Dirigo Choice has benefited my technology start-up company. We have been a group member of Dirigo Choice for the past two years. My family, as well as one of my employees, takes advantage of the coverage. Last year I evaluated five different health insurance packages, including Chamber Blue, before concluding the best value for us was to remain with Dirigo. Due to its affordability I am able to offer 100% coverage for my employees. They cover their spouses and family at their own cost. My one employee who is on the policy is a recent graduate of UM Engineering Physics and would not be able to afford health care were it not for our coverage. Both he and his wife, although paid engineering professionals, are saddled with student loan debt and as such depend on their company's ability to provide health insurance coverage. Furthermore, I have just received notice of funding approval from the NIH for a phase one SBIR grant. If we succeed in finalizing this award then we will be able to hire our current part-time employee to full-time. In order for her to consider full-time employment with us we will need to be able to offer affordable health care to both her and, through Dirigo, to her family. She is locked into her current situation because right now her children qualify for MaineCare. Unless I can either pay her much more than I can afford or I need to offer her a health care package which will allow her to insure her children at the discounted rate. It's so frustrating because she has the skills I need. She's hardworking, motivated, etcetera and I really need to keep my company moving forward to capitalize on our recent good news. I really depend on your support in the legislature for

not only keeping Dirigo Choice an option for small businesses but also for funding it at a level that provides discounts to new qualified members.'

Men and women of the Senate, we've got to do something for these people. We've got to do something for these businesses. That's why we are struggling with this funding. Yes, it might be on life-support but are we going to let the patient die? No, you don't do that when something is on life-support. We try to make it better and bring that patient back. I hope my doctor sure does when I'm on life-support. I hope they don't just let me go. Well, she's on life-support, that's the end of it for us. No, I think that we need to work on this program and hopefully what will happen is our example will go to the top of the federal policies and they will be able to do something for the entire country, which is really what we need because people are struggling and businesses need a national health care policy. This is for my constituents who are on Dirigo Choice but also to show that we are leaders in the health care effort and that we need to show example by example our federal level of government that they need to take this crisis and work on it so that we are not left struggling. We cannot compete in a global market if we don't have a national health care plan. I urge your support of the pending motion. Thank you.

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

Senator **BARTLETT:** Thank you, Madame President, men and women of the Senate. I was not here when the Dirigo health plan was created but I did run for office not long afterwards. One of the most consistent complaints I've heard about Dirigo is the way the savings offset payment works. The complaint has been that there may be savings to the system but it gets pulled back out through the savings offset payment. It's also an erratic number that we don't know where it's going to be from one year to the next, and that this needs to be fixed. I even heard a number of folks who have told me that they would prefer a fixed number that they could count on year in and year out instead of having a fluctuating offset payment every year. One of the things to think about as we consider this legislation is that if we do nothing we will go back to the standard savings offset payment analysis. This bill would set the contribution at 1.8, the lowest it's been in the existence of Dirigo. If next year it was determined that there were savings in the system it would warrant a 2.5 savings offset payment. That would be imposed on every policy. By passing this legislation we are insuring that any gain over that 1.8 is returned to policy holders, so it is allowing health insurance policy holders to share more in the benefits of the Dirigo savings. The very complaint we've heard, that not enough of the savings are going right back into the pockets of our premium holders, this bill addresses and it caps the contribution at the lowest number that it's ever been, making sure that we are truly providing a break to our policy holders.

The other thing I've heard a lot about is a need for market reforms, that we desperately need to look at the way the market is structured and begin making changes. This bill goes down that road and begins the process of market reform, something that we've been hearing over and over again. It also creates a reinsurance pool, which again goes to some of the good comments we've heard tonight about how we need to begin to look at how to structure a reinsurance pool in a way that will lower the premium cost for everybody.

As a final note, when you look at the cost of Dirigo it's easy to say, 'Let's look at the cost of this bill and let's just divide that into 13,000. Even if you do that you will be getting a heck of a bargain for the quality of these policies.' That's a false analysis because in this bill we're investing, I believe, \$12 million or \$13 million in a reinsurance pool. That's not going to the Dirigo policy, so you have to pull that off. Then you have to pull off some of the other costs that are not direct insurance. When you do that you get down to an annual cost that is amazingly low for the very high quality of insurance that you are getting. You would be paying more than twice as much if you were to put these people in the private market to obtain any where near the level of coverage offered. The question is, do we want to kick these 13,000 people off so that they can go into the market, spending twice what they are paying now for a policy that isn't as good? I simply don't understand the analysis I'm hearing about this bill. I've heard complaints that we've got to get rid of the savings offset payment because it's not fair. This bill does that and it caps the contribution to make sure we don't have fluctuating rates. It does market reforms. It creates a reinsurance pool. It helps to make sure that every policy holder is sharing in the benefits of Dirigo. That's exactly what people have been asking for since I've been in this legislature. This bill gives us the chance to do it. I certainly hope you will join me in supporting the pending motion.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. I certainly respect the different philosophies of how to solve our health insurance problem and prices in this state. Unfortunately, I don't believe that this is really the solution. One thing I would like to just go on the record for before we vote here is the tax increases. Nobody has talked about the tax increases that are being moved forward here. It appears that, for the record, the excise tax on malt beverages somehow, except for manufacturers of less than 100,000 barrels annually, more than doubles from 25¢ to 54¢ per gallon. I guess the summary is a little confusing. Part F also increases, 'Except for manufacturers of less than 20,000 gallons annually the excise tax on wine manufactured and distributed in the state from 30¢ a gallon to 65¢ a gallon.' I guess maybe we ought to look at that summary again. It doesn't flow very well. Maybe that's why it's a little hard to understand. It would appear that there are some pretty substantial tax increases, more than doubling in some cases. Part G of this bill also imposes a new tax on syrup to make soft drinks, \$4 a gallon on the syrup and 42¢ per gallon on bottled soft drinks. In addition there is a transfer of \$5 million from the Fund for a Healthy Maine. It also appears that there is this loan in there for \$3.6 million to the Dirigo Enterprise Fund. I guess it will be repaid no later than June 30, 2009.

We've had years to address this problem. Unfortunately we haven't been able to quite get there, to solve it not just for the Dirigo program but for everybody. We heard a few minutes ago that the federal government has turned its eye on the state of Maine and I'm sure that will sound good in the fall. When you look at the number of people that the federal government subsidizes, 2/3 of the health insurance costs for over 1/5 of the state of Maine, I guess the federal government probably hasn't turned their eye completely on the state of Maine. I hope that we can continue to find a way to work constructively. I believe that this session, the discussion towards market reforms, has moved

in the right direction. I credit the good Chair of the Insurance and Financial Affairs Committee because she's taken a stand and I know it's been very difficult for her to do that in this climate. I hope that we'll have a good debate about true market reforms, how we can reduce the insurance costs for everybody across the state, and I think if we can do that, and we get more people in the system, we can solve this problem ultimately once and for all. Thank you, Madame President.

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. Like many of you, I suspect, I have constituents who depend on Dirigo and therefore I wasn't willing to not fund it. I would say to you that the funding is not pretty. We all have, everybody in this Chamber, a chance to say what we like and don't like and I certainly had my opportunity. I'm not pleased with what we had to do, but I understand why we had to do it. I guess I would simply say, for the record, that this is not the way that we should fund a program like this. We need to find a more reliable on-going method and I would hope that we would not be faced with the kind of hectic approach we had to endure this time, all of us, to find a way to make this happen. I think, given the timeframe we had, we probably came up with something that is like kissing your sister, it's not very exciting but it gets the job done. I do want to go on record as saying that I think this is a serious program. If it's going to survive it's going to need some more well thought out funding so that we don't have to scurry around as we did this time. I thank the Chair of the Insurance Committee for all the work she did to get us to where we are. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President, men and women of the Senate. You know, we've had a lot of debate on this topic tonight but I'm struck by the fact that if this program is a critical priority for the members of this Body and for this state it begs the question, why isn't it in the budget? Why are we going through, on the eve of adjournment and at the end of the session, all these machinations with respect to funding sources. If it's a crucial priority it should be in the budget and it should be treated as a priority instead of haphazardly casting about in the eleventh hour for what funding source, where's the weakest link, or where can we put a new tax? If this is a priority then we should make other cuts in state government. We should step up, decide what the priority is, and if there is something else that is not a priority then make some cuts and fund this. I just cannot go along with haphazardly casting about for where to find a new tax because I'm at the point in this state that I don't care what the question is because the answer is not a new tax.

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

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. First of all, to the good Senator from Cumberland, I always heard that something it would be like kissing your brother, there was no future in it.

I believe it is to the Senator from York, Senator Courtney, you said the wine didn't seem to flow well. I have to tell you I've never known wine not to flow well. I could use some good flowing wine.

I've also heard would have, could have, and should have. Should have done it a long time ago. Could have done it. We should have. We could have. I agree. You want to talk about not feeling this is important? Four years it's been up there. When it came time for the hearing I didn't see anybody from the second floor. I wasn't happy about that, quite frankly. I will tell you that hospital costs have gone down. In fact, I know I was standing when the good Senator from York was with me at Southern Maine Medical Center and they admitted Dirigo had been very helpful to them in cutting bad debt and charity care. I also want you to know that we've done a lot with the hospital's help on containment of cost. I also want you to know that this has not been easy and I agree wholeheartedly with the Senator from York, Senator Courtney. I have not been welcomed every place I've gone. It has been difficult to say, 'You're wrong.' I've understood that in a compromise there is give and take. I asked every single member of my committee what was the most important thing to them. Market reform. That was the answer. Four years and at the last week every year we get here. I finally realized there were no partners to dance with. Seems to be the story of my life.

We talk about Maine being a leader of all this. Let me tell you, under a Republican Governorship in Massachusetts and California, Massachusetts has a mandated pay plan. Mandated. Everybody has insurance and everybody will pay for it. By the way, they underestimated too to the tune of about three times underestimated. Amazing. Led by Republican Governors. They have, in just the Boston area and its suburbs, over 3 million people. That's a big pool to play in. Everybody can swim in it. They have plenty of lifeguards in this pool. We have 1.6 million people in a very rural state where access for me has never been a problem because I happen to live in Southern Maine. I don't live on an island. I don't live in Eagle Lake. I live where it is easy and so medical care is a little cheaper for me. Medical care is a little cheaper for people in the Boston area. Look at the hospitals that you have. Competition. I will tell you there is an obligation to these people.

I am a little offended when I hear haphazardly and no one's given serious thought. Four years of serious thought. Until this year lots of tears, but I just doubled my dose of Zoloft and I haven't shed any tears yet. It has not been done haphazardly and we've done everything we possibly can do. I have invited each and every one of you, and I've had conversations even with you on the other side of the aisle, anybody who would listen to me. I've asked what your ideas are. How would you do it? When we've given you those it hasn't been good enough. That goes for my own side of the aisle also at times. Here we are. The eleventh hour and 13,000 people. By the way, it was 15,000 but we've capped it. There are 13,000 people depending on us to do something right. It ain't pretty. I've decided democracy isn't pretty. We make mistakes. We overestimate. The reality is that the hospitals have saved money and you know it. In fact, most of that \$34 million we've gotten from the SOP at different times came from savings in the hospitals. Get rid of the SOP. We did that and you still aren't happy. I had somebody tell me the other day, a friend who is a lobbyist, you don't use those words together very often, 'I'm not concerned because I don't have a client for that yet, but if I got a client I'd be here arguing.' It seems no one wants to pay for anything. I learned a long time ago there

was no free lunch, not even on your birthday. I'm asking you to support this and I'm asking you that next year, those of us that get to come back, we sit down and honestly have conversations and we do it in the first year of a session so we're not sitting here, political time, using 13,000 people as pawns. Shame on us. Shame on me. I will ask you to support this and then to double our commitment to do what is right and develop a fair and honest policy, working with all people at the table. All stakeholders. I keep as a reminder a letter that came to me from the other Body from a Representative from the other side of the aisle who said, 'Senator, thank you for keeping your word to work for market reform. You deserve credit.' He signed it. I keep that because he cut through all the red tape. He saw the work, not the haphazardness, not the non-serious thoughts, and this person happens to be a medical provider. He was willing to thank me. He understands because he deals with the sick every day. We owe it to those 13,000 people and then some. 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, Harvard Pilgrim is not new to this state. It's been here and it is a fabulous carrier. Frankly, I was very disappointed that they took the role to head up Dirigo. As far as the comments as far as Massachusetts is concerned, you cannot compare Maine to Massachusetts. It's triple the population. They have far more businesses. People make far better incomes than Mainers. Also Massachusetts received quite a healthy sum of money from the federal government to start their plan up. When that money runs out they are going to be in the same position that we are in today. If Dirigo is so great than why does Maine still have the second highest costing health insurance premiums in the United States? I don't think that's anything to be proud of. I'm extremely disappointed. I'm very disappointed that we are where we are at today. Our committee worked long and hard. I was really proud of us. I thought we were really moving forward. Half of the committee members, I feel, don't want the insurance market to work. I really hoped that we would move forward and either implement the risk pool or the reinsurance bill. This bill is not the true reinsurance bill. It is not going to do what we need to do to truly lower health insurance premiums in Maine.

You talk about businesses, that your businesses have asked you to support Dirigo and they are members of Dirigo. Well, the businesses in my county said, 'Please, get rid of Dirigo and please put in real, true health insurance reforms and really get the free market going.' We did not do that. We failed this year. That's unfortunate. We have two other bills that hopefully will be before us that you will take seriously because either one of those bills will truly move us in the right direction.

Taxing other people's claims, in my opinion, is even worse than SOP. I think it's immoral. Taxing other people's claims who have health insurance through their employers. That means State employees and our unions are paying for very few people through their health insurance claims being taxed. That's just plain wrong.

Like I said, I'm very disappointed in where we are going. I had high hopes that we would have done far more than what we are doing today. I don't think, in the end, that Maine's people are going to be very pleased if we vote for this bill and keep this going. They certainly are not going to be pleased with the tax

increases. It's not up to me to decide whether the good Senator, who I often agree with, from Androscoggin, Senator Nutting, is right. It's really not for me to make judgment on people who drink soda pop. It's still not right to tax it. I think we're going too far. Thank you.

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

Senator **PERRY:** Thank you, Madame President, ladies and gentlemen of the Senate. For a long time I've been working on tax reform. We've come close. We haven't quite gotten there. I always thought we'd get tax reform done before we got market reform in the insurance industry. I'm here to tell you that I'm excited about voting for the market reform that is part of this package as well as preserving Dirigo and the 13,000 folks who are currently enrolled and putting it in a position for a future where maybe we can leverage some federal funds and continue to expand the program. I'm under no illusions of what the headlines are likely to be tomorrow. I always knew if we passed tax reform the perception would be about all the taxes we've expanded and not the 30% reduction in income taxes and the increase in the homestead exemption and all the rest of it. In fact I remember serving on the L.D. 1 committee. L.D. 1 doubled the circuitbreaker and has put almost \$800 million into education funding in the last budget and this budget. In the L.D. 1 proposal from the Chief Executive there was a proposal for an elderly property tax deferral that would be paid back at some point when the person passed on or the property was sold. In the headlines the next day you would have thought the Governor's entire tax reform package was to lend people money to pay their property taxes. I'm under no illusions that the headlines tomorrow won't be focusing on this 1.8% premium tax. I don't think there will be a mention of it replacing the SOP. Certainly the perception won't be that we replaced the SOP that could potentially go much higher. They will be focused on the taxes. Not the 13,000 people who we are going to preserve insurance for or for the market reforms that could substantially lower rates, particularly for young people, the ones we want to attract into the insurance market. I'm excited about this vote. I'm excited about what we are doing. Just as I don't think any one budget or any one tax reform package is going to fix our tax problem here in the state of Maine, I don't think any one vote on this one package is going to fix the insurance industry, but I think it's a step in the right direction. Thank you, Madame President.

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

Senator **MARRACHÉ:** Thank you, Madame President, men and women of the Senate. I wasn't going to speak on this bill but I figured I'd better add my two cents worth. I happen to be the Vice-Chair for the Health Committee of NCSL. I'm also on the Health Policy Committee at CSG. I have gone to DLC, Democratic Leadership Council, for many years. I have actually spoken on Dirigo. Not that long ago I went to the National Academy of State Health Policy along with other members of our Body and the other side. With each and every one of these organizations I hear the same thing, Maine has done it right. They always bring up Dirigo. They always hold that up as one of the tiers where everybody else wants to be. Is the funding a problem? Yes. Every single state is struggling with how to fund

this. What I find is just amazing is that none of them can get where we are. Massachusetts is having trouble. California is having trouble. They may actually drop everybody if they can't get it together in California. They may not be able to pass what they wanted to do. We don't do that here. There are 13,000 people. That's more people than is the population in many towns around the state. We're not going to just drop them. I think we need to make sure we take care of them, that we do something to make sure of this because they are one diagnosis away from bankruptcy. We've got to keep these people whole and I will be supporting this bill. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Sullivan to Adopt Senate Amendment "C" (S-640) to Committee Amendment "A" (H-914). 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 (#446)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **SULLIVAN** of York to **ADOPT** Senate Amendment "C" (S-640) to Committee Amendment "A" (H-914), **PREVAILED**.

Committee Amendment "A" (H-914) as Amended by House Amendment "B" (H-1013) and Senate Amendment "C" (S-640) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **MITCHELL** of Kennebec, Senate Amendment "A" (S-644) **READ**.

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

Senator **MITCHELL:** Thank you, Madame President and colleagues in the Senate. This amendment corrects an error in the Committee Amendment that was just adopted because we had two pilot projects in it. We intended to have one.

On motion by same Senator, Senate Amendment "A" (S-644) **ADOPTED**.

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 pending question before the Senate is Passage to be Engrossed as Amended. 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 (#447)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-914) AS AMENDED BY HOUSE AMENDMENT "B" (H-1013) AND SENATE AMENDMENT "C" (S-640) thereto, and SENATE AMENDMENT "A" (S-644), in NON-CONCURRENCE**

Sent down for concurrence.

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

Senator **SAVAGE** of Knox requested and received leave of the Senate that members and staff be allowed to remove their jackets for the remainder of this Session.

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

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Act

An Act To Ensure Fair Wages

S.P. 604 L.D. 1697
(S "A" S-570; S "C" S-628
to C "A" S-452; S "A" S-587)

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Senator **STRIMLING** of Cumberland was granted unanimous consent to address the Senate off the Record.

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

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Acts

An Act To Implement the Recommendations of the Working Group To Study the Effectiveness and Timeliness of Early Identification and Intervention for Children with Hearing Loss in Maine

H.P. 1655 L.D. 2295
(H "A" H-1019)

PASSED TO BE ENACTED and having been signed by the President was presented by the Secretary to the Governor for his approval.

An Act To Keep Bridges Safe and Roads Passable
H.P. 1673 L.D. 2313
(C "A" H-1017)

On motion by Senator **DAMON** of Hancock, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**, in concurrence.

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

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following: