

MAINE STATE LEGISLATURE

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

Daily Edition

Second Regular Session
January 4, 2012 to May 31, 2012

Pages 1594 - 2357

Senator **THOMAS**: Thank you Mr. President. Ladies and gentlemen of the Senate, numbers are funny animals. You can make them sing almost any tune that you want them to. You can leave some numbers out and they'll sing one tune. You can add some numbers in that are irrelevant and they will sing another tune. This bill has two parts to it. Two completely separate issues. Should we fully fund revenue sharing? Yes, we should or we ought to do away with it, one of the two. If there is one tax that hurts the poor people in my district more than any other it is probably the property tax. I'd love to see it go down. I'd love to see us fully fund revenue sharing, but to fully fund revenue sharing and then take the bulk of that money and give it to communities that can't control their spending is a policy decision that is going to wreck havoc with the whole state. We don't need to create incentives for people in the state of Maine to spend more tax money. We spend plenty now. Sure some communities are going to come out ahead. There are communities in my district that will come out ahead, but there are communities in my district that get hurt under this proposal. The communities that get hurt in my district are the communities that watch their spending, that are careful with their spending, that don't waste money. To create a tax policy where we reward wasting money is absolutely the wrong way. Then to mask it by putting more state money into a program so that we can mask this is almost like putting a little bit of poison in something that is good. I can't support it. I'm sorry.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Courtney to Accept the Majority Ought to Pass as Amended Report. 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 (#460)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOSKY, GOODALL, HILL, HOBBS, JOHNSON, KATZ, MARTIN, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

NAYS: Senators: COLLINS, HASTINGS, LANGLEY, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITEMORE, THE PRESIDENT - KEVIN L. RAYE

EXCUSED: Senator: JACKSON

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **COURTNEY** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-501) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (4/9/12) Assigned matter:

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Phase Out Dirigo Health and Establish the Maine Health Benefit Exchange for Small Businesses and Individuals"

H.P. 1099 L.D. 1498

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-867)** (6 members)

Tabled - April 9, 2012, by Senator **ALFOND** of Cumberland

Pending - motion by Senator **WHITEMORE** of Somerset to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, April 5, 2012, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, April 9, 2012, Reports **READ**.)

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

Senator **BRANNIGAN**: Thank you Mr. President. Men and women of the Senate, here we are with one of the more important bills of the session. We're just holding up the work that has been done to try to get ready for a health exchange and to try to really do something about our healthcare. We have been working on this in this Legislature and before, a great deal. Two years ago we had a group put together that included people from the Insurance Committee, people from Health and Human Services Committee, to help decide about a health exchange. We now like to call it a health marketplace because it's more friendly. It's supposed to be friendly, to help people to get insurance, to help get around. As you know, earlier today there was a vote to not have an insurance exchange, at least not now, and if not now, when. We are supposed to be involved in this. We've got a lot of money from the federal government to work on this. A great deal of work has been done. We had a committee that met in the Summer. Many of us were there. The President was there. We came to an agreement as to how an insurance exchange should look. It would have an independent board that would run it. It would be friendly. It would have the ability to help people on the phone and in person and on the computer. That was questioned by the present Administration and they appointed a group, another group, to look at it, to be an advisory group for the

Governor. They came up with another approach, one which would be run totally by his Excellency and would not have a great deal of friendliness or input from our point of view. As you voted this morning, that is out also. We are wasting time. We're wasting money. We're putting ourselves in jeopardy relative to healthcare in the future. The exchange must be done, by federal law, by next January. We don't meet again much before next January. If we're not up by next January the federal government will step in and they'll put their stamp on it. We can hope that all this dies, that we will have a way of getting a reprieve and being able to get something started that is local and Maine based, Maine developed. To vote against this is to vote to put in jeopardy our people in this state, all the people who don't have insurance, and there are many. To put people back in the throes of fear. Fear that they can't change jobs. Fear that they will lose their insurance. Fear that they will have a big, big health problem and can't handle it financially. We have an opportunity now to embrace a way in which people will not have that fear and will have the ability to be cared for if and when they have illnesses. To vote that out, to vote against that, to say no right now, I say, is wrong. Wrong for our people. It's wrong for our state. I don't know whether you've read, but the Chamber of Commerce, in this little piece that we get every week, are saying that we're missing an opportunity. This is wrong, they say. The Chamber of Commerce. People who really look at business and they say we're wrong. I hope that you will support the Minority and will allow us to get to work in putting an exchange together. Thank you, Mr. President.

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

Senator **WHITTEMORE:** Thank you Mr. President. Ladies and gentlemen of the Senate, with all due respect to my fellow colleague, Senator Brannigan, I do disagree. There is no need to rush forward with an exchange for our state at this time. Thirty-two states, including ours, have not created an exchange. The current law that requires each state to have an exchange has been heard in the Supreme Court. The decision that will determine its fate will be announced in June or July of this year. If the decision is favorable for the ACA, and we are mandated to create an exchange, we can do so at that time. Federal grants available to set up an exchange had a deadline of June 29th of this year, but the feds just issued new guidelines allowing applications to the end of 2014. Why would we want to spend approximately \$55 million of the taxpayers' money and add to an already out of control national debt for our children, grandchildren, and great-grandchildren if the court decision is in favor of repeal of the ACA? Makes no sense to me, nor would it to the taxpayers. P.L. 90, which became law last year, has already created significant positive changes for more than 85% of the small group market and will have the same impact for the individual and high risk group in the private market later this year and into next year. P.L. 90 does, and will continue to, address the private and small group markets, which the exchange is intended to do under the ACA, and will do it without increasing more debt and giving an open checkbook to those who are responsible for the out of control costs of healthcare. It is premature to move forward with L.D. 1498 at this time and I urge you to vote in favor of the motion Ought Not to Pass. Thank you.

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

Senator **WOODBURY:** Thank you Mr. President. Senate colleagues, I don't know how we got to this place in politics where the Affordable Care Act became the litmus test for one's entire political philosophy. As politicians, we're apparently supposed to think that we either love or hate it in its entirety. That's regrettable because it stops us from drawing on the best of its vision and working together to improve those parts that could be made better. I find the case for implementing a competitive market exchange for private health insurance products absolutely compelling. What we should be doing, in my opinion, is conjoining the market reforms that were enacted last year with the ACAs vision of an open, competitive, and easy to use marketplace for private health insurance products. This issue right here, this idea of an open, competitive, and easy to use marketplace for private health insurance project, is where we should be finding the sweet spot of common ground between political philosophies on the right and left. The exchange that we are debating here today is a place where health insurers can conveniently offer and market their products, where consumers can conveniently obtain information about these products through an easy to understand template, where sales and purchases can be transacted more easily by insurance companies and consumers, and where all of these private insurance products can be offered at an affordable price to households in any economic circumstance. This idea makes so much sense to me.

How would the exchange fit into the big picture? As you know, our system of healthcare financing in the United States is multi-faceted. It has four major market sites. First is Medicare, which covers most seniors, those over age 65. Second is Medicaid, which covers individuals and families with very low incomes. Third, we have large employer plans, which covers much of the working population and their families. Fourth, we have private health insurance available for purchase by individuals and smaller businesses. It's, of course, this fourth category where the exchange comes into play. There are two critical things I want to emphasize about the exchanges and why I think they have so much potential to improve our private marketplace for health insurance plans. The first is the convenience they are intended to provide for both buyers and sellers of health insurance products. Let's talk about the sellers first. A big reason I supported the market reforms last year was because I wanted our regulatory landscape in Maine to be relatively mainstream by the national standards so that a larger range of insurance companies would want to come to Maine and participate in our private insurance market. State exchanges are now being set up around the country, right now. Insurance companies are developing products that they hope to sell in these exchanges based on the new national standards. If we aren't building our exchange in Maine we are missing out on this important transitional period when this new national landscape, and all these emerging national insurance products, are taking shape. We should be part of that, not ignoring it. Now we'll turn to the convenience for consumers. The key point for consumers is that the exchanges are intended to provide clarity in comparing one insurance product to another and convenience in purchasing an insurance product. Exchanges will have a clear template that describes the coverage of each plan offered, the services covered, the deductible amounts, the co-payment amounts, and the premium costs. This transparency in comparing across plans,

I believe, will not only help prospective buyers but will make the whole market work more effectively and more competitively across insurance companies as they compete for our business. In my view, both the convenience and the clarity offered by the exchanges are major reasons to move ahead with this. The fact that this transition is happening nationally is forcing insurance companies to redevelop their insurance products and to reinvent their national marketing plans under the new national guidelines. We should be facilitating this as much as we can, not turning our back to it.

I said I had two critical things I wanted to emphasize. The second is that the exchange will make possible, really for the first time, an affordable private health insurance product for individuals and households in any financial circumstance. The average per capita cost of healthcare in the United States is about \$8,000. There is a lot we should be doing to contain that cost. That goes without saying. I raise the national cost of healthcare in this discussion because it means that health insurance products that cover anything of relevance will implicitly cost quite a lot, no matter how we structure our private market. Right now eligibility for financial assistance with the high cost of health insurance is administered basically as a Medicaid eligibility cliff. If you earn just less than the Medicaid eligibility threshold, then you receive full health insurance coverage that may be worth as much as \$8,000 per person on average at almost no cost to you. If you earn just above the Medicaid eligibility cliff, you receive zero help at all with the cost of health insurance. You basically fall off a cliff. At a minimum, this financial structure creates an incentive for people not to take jobs that might take them over this eligibility cliff. It's a really perverse incentive. The second thing, the second really critical thing, that these exchanges will do is eliminate that cliff so that people don't have to choose between keeping their health insurance and taking a job that would otherwise take them over that threshold. Just like today, individuals and families that earn too much to qualify for MaineCare will need to turn to the private health insurance market to find coverage. What will be different in the future, however, is that these individuals and families will be eligible for premium subsidies that decline with income. If you earn just more than the MaineCare eligibility line, you would get a subsidy to buy private health insurance and this subsidy amount would decline with income, phasing out entirely at higher incomes. The exchange will play a critical role in administering these subsidies in the private health insurance market. It means that people who earn just too much to qualify for MaineCare, which is a lot of working people in Maine, for the first time will have access to private health insurance products that they can actually afford to buy. It is the exchange that will make this possible. Whatever you think about the individual mandate and the Affordable Care Act or other provisions of the Act, please consider seriously the value of setting up this exchange. It is in my judgment our absolute best hope for obtaining more affordable private health insurance coverage for Maine citizens. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Johnson.

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen, I rise in support of L.D. 1498 and in opposition to the current motion. There is no denying that the United States has a healthcare crisis. That crisis is amplified in Maine due to our aging population, our high percentage of people with disabilities,

the rural nature of our state, and, probably most of all, by Maine's low median income. All those challenges apply in my district as well. Right now in Maine too many low and middle class families have nowhere to turn if they can't afford or lose the coverage offered by their employer. From 2000 to 2009 the number of Maine children covered exclusively by their parent's employer's insurance decreased from 59% to 49% and 10% of Maine's people are currently uninsured. Far more have only catastrophic health insurance, which they pay dearly for, but still have to pay the cost for actually healthcare because the deductible is so high. This Legislature tried to address the high cost of health insurance in Maine with the passage of L.D. 1333, or P.L. 90 as it is known. Thus far P.L. 90 has shifted costs from young adults to those who are middle aged and older, from Southern Maine to Downeast and Northern areas, resulting in winners and losers. It hasn't solved our insurance cost problem. It hasn't solved the problem with people being able to afford insurance. It's just shifted it around. Who can afford and who can't afford health insurance. The people of Maine has entrusted their futures to us and we need to do more. We owe it to them to act in their best interest. L.D. 1498, before us now, will help create a win-win for all Maine people. Since 2010, a joint committee comprised of legislators, special advisory committee, private businesses, providers, and insurers, as well as employees of the Bureau of Insurance, Health and Human Services, and the Dirigo Health Agency, have made recommendations for how to implement a Maine exchange. The information gathered and synthesized has been gone through and the result is L.D. 1498, the only bill before us that will seize the opportunity to create a Maine exchange for Maine people. The Maine exchange will guarantee individuals a secure place to go to get quality, competitively priced health plans if they lose their job or if they want to start their own business. Low and middle income families purchasing health insurance in the exchange will be eligible for subsidies, making health insurance within reach for thousands more Maine people.

I want to thank a fellow Senator for bringing up the point about where MaineCare leaves off. In fact, I had a businessman in my own district, a small business, who spoke to me one day and said his best employee had to refuse a raise. She was a single parent and has a son. She qualified for MaineCare, but if she took the raise she no longer would. She could not afford health insurance for herself and her son. I have a great example in my own district from a businessman I know. It is exactly the problem that you raised. We need to provide an opportunity for people to improve their lives and, as they do so, for the cost of health coverage to not be the reason to not improve their lives. Through the exchange and these subsidies on a sliding scale, there is a transition provided. It starts where MaineCare ends. It provides people an opportunity to both work and have health coverage and an opportunity to better themselves and get off MaineCare instead of a reason not to. In addition, an exchange will provide small businesses with apples to apples comparisons of health benefit plans. It will enable small businesses to find the best coverage at the most affordable price without spending hours trying to distill various policies. It would be administered and overseen by knowledgeable Maine people who understand the particular challenges we face in Maine, including a disproportionate number of seasonal businesses where both business owners and employees struggle to cobble together continuous insurance coverage. Again, a small businessperson in my own district, operating a B&B, a tourism related business, works really hard to make ends meet and balance the books and

keep the business running. In spite of that fact, she is doing what she knows to the right thing by keeping a woman that she employs on salary year round, even though business is much more slack in the wintertime. The woman does a good job and, because she is supporting a child, she is the only breadwinner in the family. She's having a hard time and the cost of healthcare if a big part of that. The exchange would help small businesses like hers. It would provide, starting in 2014, funding for matching money for small businesses offering health insurance coverage to their employees. It's through the exchange that capability is offered. This is what Maine Health, Lincoln County Healthcare in my own district, a healthcare provider recognized in this Legislature for the nationally recognized quality of their healthcare, has to say about a Maine exchange. Maine Health, Lincoln County Healthcare believes that a state run exchange will allow for the flexibility needed to best serve Maine people. If we turn over that important function to the federal government we lose our ability to set the rules of the game for ourselves to best meet the unique needs of Maine people.

Some would argue that the state should wait until the U.S. Supreme Court issues its opinion on the Patient Protection and Affordable Care Act in June. The problem with this approach is that it will be too late. If we want a Maine exchange for Maine people, one that provides seamless coverage that will result in better quality outcomes, a healthier state, and therefore a more productive workforce, we should fulfill our obligations to the people of Maine by passing L.D. 1498 and creating a Maine exchange. If we don't act by January 1, 2013 the federal government will seize control and run Maine's exchange. There has also been talk that once the Supreme Court issues its ruling a Special Session of the Maine Legislature could be called in to session. This additional expense of a Special Session, especially in these tight financial times, isn't necessary. We shouldn't kick the can down the road. Everything we need to know is before us. We've been studying Maine's current infrastructure and what is needed in order to implement an exchange for the past three years. We know what needs to be done. We have a federal planning grant in the amount of \$5.8 million that is paying for Maine to move forward with its own exchange. We have an opportunity to join with 12 other states and the District of Columbia that have already created state exchanges. We have a bill before us that creates an exchange consistent with the final federal regulations. The time to act is now. I urge you to oppose the pending motion.

On motion by Senator **ALFOND** of Cumberland, 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 the motion by the Senator from Somerset, Senator Whittemore to Accept the Majority Ought Not to Pass Report. 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 (#461)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, GOODALL, HILL, HOBBS, JOHNSON, PATRICK, SAVIELLO, SCHNEIDER, SULLIVAN, WOODBURY

EXCUSED: Senator: JACKSON

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **WHITEMORE** of Somerset to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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

PAPERS FROM THE HOUSE

Joint Order

An Expression of Legislative Sentiment recognizing:

Frank Johnson, of Augusta, on the occasion of his retirement as Executive Director of the Employee Health and Benefits division of the Department of Administrative and Financial Services. Mr. Johnson has worked for the State for 45 years, beginning as a Clerical Aide in the Department of Education. He continued his career in the Department of Transportation then in the Department of Labor where, in 1981, he started working in the Office Personnel/Employee Relations as Assistant to the Commissioner. In 1986, Mr. Johnson became Director of the Bureau of Employee Health. In 1996, he became Acting Executive Director of Health Insurance and later that year Executive Director of Employee Health and Benefits. We send Mr. Johnson our appreciation for his many years of dedicated service to the State and we congratulate him on his retirement; HLS 1117

Comes from the House, **READ** and **PASSED**.

READ.

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

Senator **BRANNIGAN:** Thank you Mr. President. I just don't think we should allow the retirement of Frank Johnson to go unmentioned. This is a man who has dedicated himself to the healthcare of the State of Maine. He's done more, not only for State workers but to gathering different groups together, to help