

# MAINE STATE LEGISLATURE

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

**Volume II**

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February 3, 2004 - April 7, 2004

Pages 777-1562

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
SECOND SPECIAL SESSION  
14th Legislative Day  
Thursday, March 4, 2004

The House met according to adjournment and was called to order by the Speaker.

Prayer by Pastor Brian H. Rebert, New Hope Baptist Church, Farmington.

National Anthem by Jennifer L. Davis, Hollis Center.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

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**COMMUNICATIONS**

The Following Communication: (H.C. 342)

**MAINE STATE LEGISLATURE  
AUGUSTA, MAINE 04333**

**COMMITTEE TO STUDY THE REVENUE SOURCES  
OF THE OFFICE OF CONSUMER CREDIT REGULATION**

March 2, 2004

The Honorable Beverly C. Daggett, President  
Maine State Senate

The Honorable Patrick Colwell, Speaker  
Maine House of Representatives

State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Public Law 2003, chapter 462, the Committee to Study the Revenue Sources of the Office of Consumer Credit Regulation is pleased to submit its final report, including recommended legislation. Copies of the report have been placed on file with the Law and Legislative Reference Library.

Sincerely,

S/Senator Lynn Bromley, Senate Chair

S/Representative Guy J. Duprey, Jr., House Chair

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

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The Following Communication: (S.P. 746)

**STATE OF MAINE  
121ST MAINE LEGISLATURE**

March 1, 2004

Sen. Michael F. Brennan

Senate Chair, Joint Standing Committee on  
Health and Human Services

Rep. Thomas J. Kane

House Chair, Joint Standing Committee on  
Health and Human Services

121st Legislature

Augusta, ME 04333

Dear Senator Brennan and Representative Kane:

Please be advised that Governor John E. Baldacci has nominated John R. Nicholas of Winthrop for appointment as Commissioner of the Department of Human Services.

Pursuant to 22 M.R.S.A. § 1, this nomination will require review by the Joint Standing Committee on Health and Human Services and confirmation by the Senate.

Sincerely,

S/Beverly C. Daggett

President of the Senate

S/Patrick Colwell

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**.

**READ** and **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** in concurrence.

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Representative RICHARDSON of Brunswick assumed the Chair.

The House was called to order by the Speaker Pro Tem.

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**PETITIONS, BILLS AND RESOLVES REQUIRING  
REFERENCE**

Bill "An Act To Govern and Regulate Life Settlements"

(H.P. 1411) (L.D. 1907)

Sponsored by Representative O'NEIL of Saco. (GOVERNOR'S BILL)

Cosponsored by Senator MAYO of Sagadahoc.

Committee on **INSURANCE AND FINANCIAL SERVICES** suggested and ordered printed.

**REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed.

Sent for concurrence.

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Bill "An Act To Amend the Protection from Harassment Laws" (EMERGENCY)

(H.P. 1410) (L.D. 1906)

Sponsored by Representative MILLS of Farmington.

Cosponsored by Senator PENDLETON of Cumberland and Representatives: NORBERT of Portland, SHERMAN of Hodgdon.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **JUDICIARY** suggested and ordered printed.

**REFERRED** to the Committee on **JUDICIARY** and ordered printed.

Sent for concurrence.

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

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**ORDERS**

On motion of Representative WHEELER of Kittery, the following House Order: (H.O. 48)

**ORDERED**, that Representative Christopher R. Barstow of Gorham be excused Wednesday, February 25th and Thursday, February 26th for personal reasons.

**AND BE IT FURTHER ORDERED**, that Representative Philip R. Bennett, Jr. of Caribou be excused Thursday, February 26th for legislative business.

**AND BE IT FURTHER ORDERED**, that Representative Bonita J. Breault of Buxton be excused Tuesday, February 24th for health reasons.

**AND BE IT FURTHER ORDERED**, that Representative Roderick W. Carr of Lincoln be excused Tuesday, March 2nd and Wednesday, March 3rd for health reasons.

**AND BE IT FURTHER ORDERED**, that Representative Susanne P. Ketterer of Madison be excused Wednesday, February 25th for personal reasons.

**AND BE IT FURTHER ORDERED**, that Representative Edward Pellon of Machias be excused Tuesday, February 24th, Wednesday, February 25th and Thursday, February 26th for

health reasons.

AND BE IT FURTHER ORDERED, that Representative Nancy E. Smith of Monmouth be excused Wednesday, February 25th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Thomas R. Watson of Bath be excused Wednesday, March 3rd for personal reasons.

**READ and PASSED.**

The following item was taken up out of order by unanimous consent:

#### **ORDERS**

On motion of Representative McKEE of Wayne, the following Joint Resolution: (H.P. 1412) (Under suspension of the rules, cosponsored by Senator BRYANT of Oxford and Representatives: CARR of Lincoln, CHURCHILL of Orland, EDER of Portland, FLETCHER of Winslow, HONEY of Boothbay, LUNDEEN of Mars Hill, PINEAU of Jay, PIOTTI of Unity, SMITH of Monmouth, Senators: KNEELAND of Aroostook, YOUNGBLOOD of Penobscot)

#### **JOINT RESOLUTION IN HONOR OF THE MAINE FARMER AND MAINE AGRICULTURE**

WHEREAS, Maine's 7,200 farms, the bulk of which are small farms, provide full-time and part-time employment to more than 65,000 workers, approximately 10% of the State's workforce; and

WHEREAS, Maine's agricultural enterprises and associated industries provide more than 500 million dollars in the sale of farm products and contribute more than 1.2 billion dollars annually to the State's economy; and

WHEREAS, Maine farmers are the stewards of 1,366,345 acres of land, a vital resource in maintaining the food security of Maine people, and an overwhelming majority of Maine people believe that buying local Maine agricultural products helps the State; and

WHEREAS, Maine is first in New England in the production of food, first in the world in the production of wild blueberries, the world leader in the production of brown eggs, 2nd in the Nation in the production of maple syrup, 8th in the Nation in the production of fall potatoes and the only state anywhere involved in the production of fiddleheads; and

WHEREAS, agriculture shaped Maine's past, maintains much of Maine's scenic open space, provides recreational opportunities, makes a significant contribution to the nature and character of Maine's many rural communities and provides for a strong future; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature now assembled in the Second Special Session, pause in our deliberations to honor Maine farmers and innovators who have contributed so much to the betterment of our State, to pledge our support and encouragement and to urge the youth of Maine to pursue the growing opportunities for careers in today's technologically advanced agriculture industry; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Commissioner of Agriculture, Food and Rural Resources in token of the esteem in which those in this vital field are held.

**READ.**

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative MCKEE: Mr. Speaker, Men and Women of the House. Today is Agriculture Day and someone said before I came in that this has been going on for well over 100 years. It is a long-standing tradition here at the Capitol and, quite frankly, I

hope it continues forever. Of course it means for us legislators here, a day when there are plenty of good things to sample and consume. If you haven't tasted the Maine maple milk from the Maine Dairy Council, indulge yourself-it will bring back your childhood-or perhaps the apple cider from the Maine Pomological Society or the granges famous fudge. Someone called me yesterday and said, "Is this the day we have the fudge?" It is the day we have the fudge. Enjoy.

It is also a time to enjoy other treats such as M.O.F.G.A.'s always-novel offerings. This year it is a salad wrap, which was quite delicious. Also, the homemade donut holes, the berry dishes from our small vegetable and fruit growers and many refreshing and hopeful looking flowers and plants. Of course, at noon today we have the highly satisfying lunch, high carb, high protein, high fat. Enjoy. Even Atkins says that one day you can do this. Today is the day.

Walk over to the Grange so that you can walk back. It starts at 12:00 and goes until 2:00. These culinary treats are but a sample of the bountiful harvest of our Maine farmers. However, they are a memorable reminder of the pride and the love that we have for our agricultural community.

There have been a lot of recent scares and concerns about food safety in the United States: green onions from Mexico, genetically engineered corn in our corn chips, mad cow disease, growth hormones and so forth. Much attention has actually been focused on those areas of our country where the threat of these problems are not present. Maine is one of those places. I really enjoyed hearing Dana Connors speak at the recent Land For Maine's Future rally. One thing that he said really hit home. He said, "Maine economy is about people, product and place. Maine people, Maine products and the great State of Maine." I think that is true. We are in a unique position to capitalize nationally on our reputation for an agricultural market that is known to be run by people that this country respects: Maine people. Products that they can trust and products that are grown in a place that is noted for its commitment to land stewardship and very recently for the money that you and I have put in and the people of Maine to agricultural research. This has been a very hopeful sign.

Also, just let me share with you quickly, yesterday in the Agriculture, Conservation and Forestry Committee. We had the pleasure of meeting the President and Vice President of the Future Farmers of America. The President is Jeff Blackstone. He is the grandson of the good Senator from the other body, Senator Kneeland, as well as the Vice President, Michaela Hotham. These two young people were for us on the committee yesterday one of the most hopeful signs that we have seen in a long time for Maine agriculture. Just when we are worried about losing 191 farms, about all the problems that we have, looking at those kids and hearing them speak so eloquently, articulately and passionately about their love and regard for the land and the part they wanted to play in Maine's future role of agriculture. It was exciting and uplifting. I applaud those two for bringing to us that hope for Maine agriculture, because it is all about land, air, water, food and shelter, folks. Agriculture is, of course, the backbone of this. We were very happy to have them with us.

I would remind you that 95 percent of us no longer have any connection with the agricultural community. Ninety-eight percent of our teachers know next to nothing about agriculture. What a difference between the time when I was growing up and some of you were growing up and today. We have a big challenge ahead of us. Yesterday, along with facts like women are becoming increasingly noted as operators of farms-in fact, 37 percent of Maine farms are now run by women-we have just had the Dairy Commission that has come up with some recommendations for

that industry. That looks hopeful. You and I have got to come up with some long-term solutions to the dairy industry. That is going to be difficult. I challenge us all. Let's have a vision for the future of agriculture. We are in a unique spot and time to capitalize on that market, not just the greater Boston market, which is millions and millions of people, but a national name for Maine products. We have what it takes. We have people, product and place and we should begin to capitalize on it.

I want to mention just a few names, because some of them are in the gallery, but they have done great work for agriculture: Julie Marie Bickford, the President of the Maine Dairy Industry Association; Tim Hobbs and Don Flannery from the Maine Potato Board up in Aroostook County; Muriel Bonin, long-time servant for us and all the work she has done for the Maine Association of Agricultural Fairs; David Bell, Executive Director of the Maine Wild Blueberry Association; John Olsen, the Maine Farm Bureau; Marilyn Meyerhann and Scott Miller, the President of the Maine Pomological Society; Russ Liberty, the Executive Director of MOSCA; Sabastian Bell, Maine Aquaculture Association and I do want to note that Maine Aquaculture is a part of Maine Agriculture and we are extremely proud of all of the progress that they have made over the last decade. We must not forget the two people who head up our bureau, our department: Commissioner Bob Spear and Deputy Commissioner Ned Porter. All of these have done great work for Maine agriculture. We are here to honor them and all the farmers and operators in your district. Thank you very much.

Subsequently was **ADOPTED**.

Sent for concurrence.

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

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## REPORTS OF COMMITTEE

### Divided Report

Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Create the Comprehensive Health Insurance Risk Pool Association" (EMERGENCY)

(S.P. 394) (L.D. 1190)

Signed:

Senators:

LAFOUNTAIN of York

DOUGLASS of Androscoggin

MAYO of Sagadahoc

Representatives:

O'NEIL of Saco

CANAVAN of Waterville

PERRY of Bangor

BREAULT of Buxton

PERRY of Calais

WOODBURY of Yarmouth

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-384)** on same Bill.

Signed:

Representatives:

GLYNN of South Portland

YOUNG of Limestone

SNOWE-MELLO of Poland

VAUGHAN of Durham

Came from the Senate with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

## READ.

Representative O'NEIL of Saco moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the Ought Not to Pass report and urge the body to move onto the Ought to Pass as Amended report. The legislation that we are talking about is risk pools. We are talking about the high cost of health insurance in Maine and what we, as members of the Legislature, can do about it. One only has to take a look at the laws that we have enacted over the last decade to realize that the actions out of Augusta have raised the cost of health insurance dramatically and we have driven a competitive market place to a noncompetitive market place.

What risk pool legislation is all about is to provide a method to reduce health insurance premiums in Maine. In our committee, Insurance and Financial Services, we had all kinds of industry leaders come in and point to us, how we could reduce the cost of health insurance with this legislation. One of the companies that came in was Fortis Insurance. Fortis Health Insurance is a very prominent health care in the United States and they are not in the Maine market place because of our uncompetitive regulations and laws that are on the books. If companies like Fortis were able to come in, we would see health insurance premiums drop by 30 percent in the State of Maine, that is 30 percent on the monthly premium. You might ask why that is. The reason why is because Maine is a guaranteed issue state. In that guaranteed issuance, healthy people have very little incentives to buy health insurance until they see trouble coming on. If they are healthy, they don't buy health insurance. They are not in the pool.

On the other hand, the people who are inclined to buy health insurance here in the State of Maine, are the sickest of the sick. When the people who have insurance are disproportionately sick, premiums have to go higher to cover the costs. That is why health insurance is so high in Maine. This makes insurance even more unattractive, except for those that have eminent health problems. The healthy then have a stronger reason to wait until the last minute until they are sick to buy health insurance. The result of this is called the death spiral in insurance.

Other states in the nation have recognized this trap and they have done corrective measures. There are 32 states in the nation that have high-risk pools. There are only five states in the nation that have Maine's guaranteed issuance law. That is why our health insurance continues to climb and theirs are reduced.

Currently being distributed in the chamber are three sheets showing comparable rates of health insurance carriers and how Maine is rating to other states. When your constituent says, how come Maine's health insurance rates are so higher? We are going to look back and we are all going to point to your vote on LD 1190 today.

Anthem rates, Blue Cross rates on chart 2 that is being handed out, for a 20 year old in the State of Maine, the monthly premium is \$421 a month, can you imagine that. In states with risk pools like Kentucky, the monthly premium is \$67 a month. In states like New Hampshire, it is \$101 a month. Why do we resist enacting corrective measures that lower health insurance premiums? LD 1190, as testified by Fortis will draw carriers back into the market place. It is going to be competitive. Why do we want Anthem to have a monopoly in the State of Maine? I don't

want to have any more monopolies. I want competition. I want affordable health insurance.

LD 1190 will reestablish a competitive and healthy individual market by attracting individual insurers back into the Maine market. If we can bring these premiums down, if a health insurance premium costs \$100 a month or \$67 a month, people in their 20s and 30s and can afford health insurance and they are going to start carrying it and our pool will not be occupied by predominantly ill people or sick people. For all these reasons and many more, I urge you to defeat the pending motion and go on to a corrective measure that will, in fact, reduce the high cost of health care in Maine.

The last thing that I would like to talk about is the Dirigo Plan. Here in Maine we did enact legislation to bring forward a health insurance product that is known as Dirigo. I sat on that committee and I stand before you as a supporter of Dirigo. I can tell you that the developments in recent months are quite troubling with regard to Dirigo. They are very troubling. For instance, did you know when you go home that all of your constituents are not going to be eligible to sign up for Dirigo? They are going to limit enrollment. That means that people in your community that need relief on health insurance are not going to receive it. I think that is serious. I think that is very serious. Also, if we enacted LD 1190, the problems that many of us see with the Dirigo Health Plan, which is it will be a textbook example of adverse selection. Those things will be mitigated. What adverse selection is all about is only sick people sign up for the health insurance product. If we are only going to have limited enrollment in Dirigo and only certain people can sign up for Dirigo and they haven't established those criteria on who we are going to tell no, yet, but they are going to, then what is going to happen are the sick people in our state, the people that have the most chronic illnesses are going to sign up and the cost of Dirigo Health is going to go high.

If we had a risk pool, then, in fact, these problems with adverse selection would be sheltered or Dirigo would be protected by that and the Dirigo product would be more competitive and will be more affordable and hopefully more people will be able to take advantage of Dirigo.

For all these reasons, if you support Dirigo or even if you don't support Dirigo and you would like to see a private market solution and you would also like to bring competitive health insurance market prices back into the market, I urge you to defeat the pending motion and adopt LD 1190. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I am indeed honored and privileged to stand up here and talk in favor of LD 1190. This, ladies and gentlemen, is the answer to affordable health insurance in this state. If we put this, hopefully you will go along with the Minority Report and enact LD 1190, doing this is the catalyst to bring other affordable health insurances into this state. Critics will say that some high-risk pools are in financial trouble. LD 1190 is based on the Mississippi pool. Actually the Mississippi pool is in the black. It has been so since it has been created in 1992. It currently has a \$10 million cash reserve. Imagine that! Mississippi pioneered the first covered person assessment and 27 pools are financially fine. The pools in trouble are funded through general fund appropriations and legislators have under funded them. That is why some risk pools do not make it. It is because they are under funded.

Let me go on and tell you, a lot of other people say, if we get rid of guaranteed issue, then nobody will have insurance. That is absolutely false, ladies and gentlemen. In actuality we don't

need guaranteed issuance with this risk pool because you are offering insurance to the very people that normal insurance policies are not offered to.

Risk pools do address that. It is a wonderful thing to bring to this state. You know what? It will compliment the Dirigo. For you folks that think that Dirigo is the only solution, you know what, it isn't. We need the risk pool. Imagine bringing in other health insurance carriers. I think that is what we want, isn't it? We don't want just the Dirigo. We don't want just a single-payor plan. We want to offer competition, don't we? I would think you would. By having the risk pool, you would have other health insurance carriers come into this state to offer affordable products, products that are far lower in cost than we have today. Imagine this, products that actually have a deductible that can allow a person to go to the doctors. Right now Maine is the only state, ladies and gentlemen, that offers policies that people buy \$10,000 to \$15,000 deductibles. That is absolutely outrageous. That is why I believe it is absolutely critical for us to pass LD 1190 and bring the risk pool into this state. What are we afraid of? Let's do something really great for the people of Maine. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wells, Representative Collins.

Representative **COLLINS**: Mr. Speaker, Ladies and Gentlemen of the House. During the last campaign cycle when most of us in this chamber were going door to door, I am sure you heard the same comments that I did, complaints about the high cost of medical insurance. That was the predominant comments that I received from my constituents and I still do to this day. That was one of the reasons why I voted for Dirigo Health when it came to this chamber. This risk pool idea is a good concept. It works in other states. This will compliment the existing plan of Dirigo Health. There is no one easy answer to the high cost of medical insurance here in Maine. This will compliment it, that being Dirigo Health. I have heard no opposition to it, the high-risk pool idea. It is a win, win proposition for all of us here in the Maine Legislature as well as the folks back home. When we end this Special Session and we all head back home, they are going to ask us, what did you do this time? How did you help us this time? We enacted a high-risk pool which is going to help reduce the cost of medical insurance premiums to each and every one of us here in Maine. This is a good common sense idea. I would urge you to vote for the Minority Report. I thank you for your time.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. This is not some hair-brained scheme. This is proven to work in a number of other states, dozens of them. It takes care of the very ill people and it makes it affordable to those who are not so ill and don't require so much service. Look at the handouts. Look at the rate comparisons with other states that have this. How can you face your constituents at home if you vote against this? Are you afraid of giving your citizens a better deal or are you afraid of open competition on the health care market? Think about the welfare of the Maine citizens in your district.

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

Representative **VAUGHAN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the Minority Report. This came before this body last year. Had we acted on that at that time, we could have been seeing health insurance rates cut by as much 40 to 60 percent for our constituents. When you consider a cost like that, looking at a family of four paying

between \$1,000 and \$1,200 a month for their health insurance, that is a big deal in the paycheck. That is like getting a raise. Maine has the second highest health insurance rates in the United States after New Jersey. That is not just an accident. That didn't just happen because the insurance companies don't like the State of Maine. In 1993, Maine issued guaranteed issue and modified community rating in its individual policy market place. These regulations had good intentions, but it has not worked in Maine. All but one individual carrier has left our market place. These results are similar to experiences in other states that have had the same type of regulation in individual market places. Guaranteed issue and modified community rating have proven to have higher premium rates, fewer companies in the marketplace and even companies that stayed limited their product offerings in the market place.

One out-of-state carrier stated to me that you people in Maine have outrageous premiums and rotten coverage. As an example, Kentucky repealed guaranteed issue along with instituting a high-risk pool. One month after the change in Kentucky the state's largest and only insurance carrier at the time immediately dropped to new business rates from 40 to 70 percent, along with increasing their product offering in that state.

Currently the rate in Portland, Maine, for a 47 year old is almost twice as high as the rate for a similar individual living across the border as far away as Manchester, New Hampshire. To put that into perspective, the actuarial cost difference between the two cities is only 10 percent. What do you think drives this additional 90 percent cost? Guaranteed issue and the lack of a risk pool. Similarly and this is very important, the rates for 25 year olds who we refer to as the young immortals living in Portland can be up to three times the rate of the same individual living in Manchester, New Hampshire. Which citizen do you think is going to be more likely to be buying health insurance and participating in the general pool of insured?

The young people in Maine don't buy insurance until they get sick, because they are guaranteed to be insured. That raises the rates for everyone else. It is the result of that narrow allowance for rate differentiation by age that is mandated in Maine. The effect of this mandate results in very many young healthy individuals not entering the pool. What about individuals that aren't healthy with significant health conditions? Many of these individuals fall out of the group market place because many are too sick to work. Under current Maine legislation, the individual market place must bear the cost of these individuals, which are too small a base to appropriately spread the risk of high cost individuals. A risk pool allows for broad spreading of risk, which is a more equitable solution.

What is the effect on premium rates for the unhealthy segment? These individuals in many cases will actually pay less than they do today. What I am saying is the elderly and the sickest individuals in this state with the benefit of a risk pool will see their insurance costs go down. The market rates are expected to drop from 40 percent to 70 percent. Apply that to \$100 or \$1,000. Think of the folks you represent and what this would mean in their paychecks. That is like a big raise. I don't see how you could possibly consider denying that to them.

Maine has a great health care delivery system. It is rated by some as the third best in the nation. The real reason health insurance premiums have skyrocketed above the national average is there is no longer a Maine health insurance industry. When people blame the insurance companies and say negative things to me about the insurance companies, I say what insurance companies?

Ten years ago, 1993, there were around 15 carriers. Now there are three. What caused the health insurance business to

flee, the State Legislature in its infinite wisdom 10 years ago decided to take a position of leadership and boldly go where no one has gone before. They fixed something that was not broke. The two mandates enacted into law in 1993 were called guaranteed issue and community rating. They have been in affect since that time and have resulted in outrageous premiums, reduced benefits and the loss of an entire industry.

The original well intended idea was to lower premiums for older consumers, people in their 50s and 60s, but the exact opposite has happened. Other states have made the same mistake and they quickly responded instead of waiting 10 years and we are still waiting by repealing those mandates. Incidentally, mandates don't affect insurance companies other than causing them to leave the state. They affect people. They affect the people by forcing them to buy something that they may not want or need. What I am saying is Maine has caused thousands of workers to be priced right out of health insurance markets and wasted millions of dollars from worker's paychecks. I think that is outrageous. That, my friends, is your crisis.

As a firm believer in government of the people, the fairest thing we can do is to give the workers of the State of Maine a choice in selecting the most appropriate type of policy and at a much more affordable rate. Several major insurers want to come back into the state and they have stated that they can cut costs by as much as 50 percent. Some say 60 percent in the individual market and increase benefits as they have done in many, many other states.

Proponents are insisting that the insurers be allowed to come back in and restore the health insurance industry, which we have almost destroyed. The specific reforms they are asking for are reform of the community rating bans to allow discounts for individuals responsible healthy behavior, the reform of guaranteed issue and the implementation of a high-risk pool to cut insurance costs.

I urge you to vote for the Minority Report. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cumberland, Representative McKenney.

Representative MCKENNEY: Mr. Speaker, Ladies and Gentlemen of the House. I am having a difficult time sitting over here trying to decide whether to vote for or against this motion. It is very difficult. All I have heard from is the proponents. I have not heard any opponents in this bill. There has got to be something wrong with it. If you look at the bill, you will see that the Representative from Saco, Representative O'Neil, was one of the sponsors of this bill, yet voted on the Ought Not to Pass side and moved the Ought Not to Pass report. Surely there is a downside to this bill. I would just like to know what it is. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. Let me propose to speak for the people who are opposed to this bill. The people who are opposed to this bill want the government to be the only people running health care. People who are opposed to this bill want to destroy the private sector so that it fails entirely and then the only choice left is for the government to go in and run health care. The people opposed to this bill want to raise your taxes incredibly, run it entirely here in Augusta and let the people suffer through the rationing that will result. The way to do that is to continue the current system and deny the opportunity that risk pools provide us. I challenge someone to confront why that is not so.

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

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House. A risk pool is a subsidized insurance product. Dirigo is a health plan with a subsidized insurance product. What a risk pool does is it shifts the high-risk insurance people into a subsidized insurance product. The basis of the subsidized insurance product under Dirigo is that we widen the base of that insurance so that everybody's insurance goes down. It is counter to a risk pool because we are talking about whether we narrow the field of insurance or whether we broaden it.

My understanding of insurance and how it originally started is that we take a community, Dirigo is talking about taking the community of the State of Maine, and we all gather together and take the risk together as a whole. We don't separate people out. The risk pool is saying, let's do that. We will subsidize the high risk ones and that way the insurance companies can now just take care of the healthier people. In the Dirigo Plan there was an agreement that if the premise under the Dirigo Insurance, which means to broaden our base does not, that out of that will come a proposal for a high-risk insurance policy. I think that we are not leaving things as status quo. We are trying something that hopefully will work by broadening the base of who we cover with the subsidized insurance to make insurance more affordable.

We have got to give this plan time to work. We have got to give the health policy and the health planning part of this time to work, to see if we can not only help insurance, but also control our costs for the health of all of the citizens of the State of Maine. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Mr. Speaker, Colleagues of the House. I am rising to debate. I was sat out on the pond by my good friend from Arundel, Representative Daigle. It should be known by all of you folks that I wear a size 10-½ shoe and the Representative from Arundel, Representative Daigle, wears a size 12. I don't need his foot in my mouth so I will speak for myself.

In answer to the question posed by the Representative from Cumberland, Representative McKenney, why I moved Ought Not to Pass. The primary reason is not permitted by the rules because I can count three Senators on the other side. My secondary reason, aside from pragmatism, is pretty simple. The Representative from Calais just touched upon the essence of why this is in the Majority Ought Not to Pass Report column. It shouldn't be about Dirigo Health, but I guess it is. In passing Public Law 469 from 2003, also known as Dirigo Health, let's face it folks, we created a high-risk pool. That is what it is. That is what it will be if, indeed, it takes off.

To illustrate I will simply paint this scenario. You have a situation where an insured is paying \$400 or \$500 a month for an individual policy now in the market. If Dirigo provides the product as proposed at say \$280 or \$300 or if you are lower income maybe \$200, who in their right mind wouldn't go buy it, especially those folks who are older and sicker and those people who would purportedly be segmented off into a traditional high-risk pool, the high claims experience with sicker patients.

The simple answer is LD 1190 is duplicative. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative SNOWE-MELLO: Mr. Speaker, Ladies and Gentlemen of the House. Critics of the high-risk pool try to say that the high-risk pool that we had in Maine failed. Well, yes, it did. Maine's risk pool was funded by a general fund

appropriation. The Legislature cut the funding and closed the pool when it decided to experiment with guaranteed issue and community rating. Critics will say that the high-risk pools offer inferior products. LD 1190 is based on Mississippi law which I explained before. It is not an inferior product.

I need to explain to you a little bit more. I think what we are doing is a lot of education here and getting a lot of good points on the record. I would like to explain to you a little bit about community rating. Community rating was designed to help the elderly to get them low-cost insurance rates. What it does is it basically draws upon our youth to be able to do this. The problem is, the youth either think they are going to live forever or they don't have enough money to be able to afford insurance. That is what the beauty of the risk pool is.

I am just going to say one more point, my mom, I am always using my mother because she was a common sense lady. She said, "Don't put all your eggs into one basket." I think that is a very wise saying. Thank you.

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. I rise to answer the point that LD 1190 would be in any way duplicative of the Dirigo legislation. That simply isn't true. Within Dirigo legislation, as you remember from the debate last year, there was an admission that Dirigo would fail without a high-risk pool element involved in it. The element that was involved in the Dirigo kicks in only at \$100,000 and a similar provision was tried in the State of New Hampshire and what had happened was after the New Hampshire state had floated this as an alternative to the high-risk pool legislation, they found that it did not work. It failed. They repealed it the following year and they enacted legislation almost identical to LD 1190.

I think what we need is a little bit of a historical perspective to really comprehend how severe the insurance problem in Maine is. If we just took a snapshot in time, we look back 10 years ago in Maine and we looked at the individual health insurance market. We had 11 health carriers in the State of Maine. They accepted or rejected underwriting with risk pools. We had no community rating. Do you know how many people we had that had health insurance in Maine in those individual health insurance markets? We had over 90,000 Maine people were covered. What do the insurance products look like? They have a \$250 deductible with 80/20 coinsurance and we are talking about a total cost of about \$250 out of pocket. Family benefits were \$200 to \$300 a month.

Now we take a look and we see the results of community rating and guaranteed issuance and the fact that even with Dirigo enacted, we do not have a high-risk pool in Maine. What do we have? We have a monopoly. We have one carrier. We have less than 30,000 people covered by health insurance. Where did the 60,000 people go? Where did they go?

Only four states have guaranteed issuance or strict community ratings like Maine. Those are Vermont, New York, New Jersey and Massachusetts and every one of them is in as bad of a crisis as the State of Maine. What do our health insurance products look like compared to 10 years ago. Policies have a \$5,000 deductible. Coverage before that is out of pocket. Family coverage is \$519 a month with these deductibles. Can we really sit back and say, you know what, this is really a partisan debate. I don't know why it became partisan. It shouldn't be partisan. Health care should never be partisan. Do we sit back and say it is a partisan debate? I know that will probably work. It worked in 32 other states, but this is partisan so we are just going to vote against it. Are we going to take a look and say, you know what, we have a chance to be bigger than that. We can rise to our office and say we have an opportunity to decrease the cost of



health insurance in Maine dramatically 30 percent. We can seize that. We can seize that opportunity and we can bring home what our constituents have been asking for, which is affordable health insurance. While we are at it, we can also correct the component of the Dirigo Health Plan, which is going to force those premiums higher and have the participation continue as it is projected to be, low enrollment at the beginning and an enrollment that is not going to be open to all your constituents. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Cornville, Representative Mills.

Representative **MILLS**: Mr. Speaker, Men and Women of the House. As I look at this bill this morning and I just had a chance to read it for the first time about 45 minutes ago. It appears to me that the bill is really two bills. It is a bill to create a high-risk pool in the State of Maine and it is also, and quite separately, a bill to essentially destroy or modify to the point of destruction the concept of community rating and guaranteed issue and guaranteed renewal. By separating these two concepts and try to explain that I think this is two bills, because my position is I favor one of these proposals and I disfavor at this point in time the other one. For that reason, I will be joining the motion for the majority report.

High-risk pools are nothing more than a way of shifting known risks around within an umbrella of coverage. They can be useful, because they allow insurers and health care providers to focus on sick people, to provide disease management and to get at the very, very high cost elements of our health care system and I was encouraged to hear last year that high-risk pools will be considered in future years as part of the Dirigo Health System and that disease management may well be part of that initiative. I just think that high-risk pools as a label for this entire bill is extremely misleading. The essence of this bill, the bill that is most important to Fortis and the other insurers who would like to come into this state is that portion of the bill that destroys community rating and says that you can charge people my age four times as much of a premium as you can charge 25 year olds. Right now under law you can charge me two times as much. I pay twice as much, not to my state insurance, but through the law firm that I own. My premiums in my law firm are because of the age of the people in my firm, roughly twice what they are for a firm of 25 or 30 year olds. I think we should pay more. I can testify that our costs are higher because of our age. In health insurance age is the single biggest determinate of costs. You can throw out smoking, health habits and everything else, but when you get over 50, your health bills skyrocket, even if you take care of yourself. I don't know why it is, but that is just one of God's little vengeance on us.

The health insurance companies know this. When you get into a group or when you buy an individual policy, you come into the market at age 50, you will pay, if they allow you to pay four times as much as the young people, then they will charge you four times as much. That is the market. That is a fair reflection of what you cost even if you keep yourself in fairly good health. I think our market is weak. I share the sentiments of other members of my caucus that our market right now is in a dreadful state. To destroy community rating at this point and to say that people in their 50s are going to have to pay four times as much for their health insurance as people who are 25 means that most of the people who desperately need to hang onto insurance, those who are 50 years old, are going to lose it. We will be covering more young people who, frankly, have less need for it because they are healthier. It will make a major shift in who has access to insurance. I don't think it is a shift that at this point in time is one that we should entertain. For that reason, I would join the majority on this bill.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Poland, Representative Snowe-Mello. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I could not believe what I just heard from the good Representative from Cornville. I stood up and explained community rating. I guess I didn't get my point across. The fact is, community rating is not working. It is not working, ladies and gentlemen. The senior citizens don't have low-cost insurance. The 50 year olds don't have low-cost insurance and even younger groups don't have low-cost insurance. Why do we continue to keep community rating in place if it absolutely is not working? Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Yarmouth, Representative Woodbury.

Representative **WOODBURY**: Mr. Speaker, Men and Women of the House. I rise largely to echo the comments of the Representative from Cornville, Representative Mills. I was on the committee that reviewed this bill and I, too, had a very hard time coming down on one side or the other of this bill because of the appealing characteristics for a certain part of the health insurance market. I finally decided to come down on the side of Ought Not to Pass. I believe this bill is primarily about cost shifting and not about cost savings. There are two ways that I believe that this bill creates a shift in the cost of health care. First, it puts an additional charge on group insurance policies in order to provide a subsidy to the individual markets. This is a shift, not a savings in total costs. Second, this bill enables a greater segmentation of the health insurance market between those who are younger and healthier and those who are older and sicker. Yes, there is a certain segment of this market that would have lower premiums and that is what all the comparisons with the other states are about. The compensating side of that is there would be higher premiums, first of all for all groups, because of the subsidy from groups to individuals, but also from the older, sicker population to the younger and healthier population. Because of all these cost shifts, I have decided that this is not the right way for the State of Maine to go at this time. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Waterville, Representative Canavan.

Representative **CANAVAN**: Mr. Speaker, Men and Women of the House. I, too, share the sentiments of the good Representative from Cornville. We have used a lot of health care buzz words here today, among them community rating and guaranteed issue, but what it really all boils down to basically is this. If you believe that the sickest and oldest within an insurance plan should pay a whole lot more in premiums and the welles and youngest should pay less, then you believe in high-risk pools. If you believe that health care costs should be shared by all, regardless of the health status or the participants within a health plan, then you don't want high-risk pools. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from South Portland, Representative Glynn. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. A lot of things were just thrown out about community rating bans. They simply do not pan out when you take a look at the practical application of community rating bans when they are lifted and the impacts in other states. I will point you back to the charts that were handed out to everyone earlier this morning and specifically Blue Cross chart for males in Maine.

This stresses the point that, in fact, the fears that have been raised are simply unfounded. In Maine, right now, for a \$1,000 deductible PPO policy, a 20 year old will pay \$421 a month. A 60 year old will pay \$631 a month. For those that stand up and charge older people are going to pay more for health insurance, ladies and gentlemen, they do today in the State of Maine. As you get older, your health insurance goes up. That is a reality. That is the State of Maine's health insurance system. If you take a look at states where they have gotten rid of the community bans because they are artificial, you will see that the rates actually went down and you will see that they went down dramatically. For instance in the State of Kentucky for a 20 year old for the same Blue Cross policy, it is \$67 a month and for someone 60, it is \$264 a month. If you are an older person with a risk pool, will you be paying more than if you are in a state where they have community rating and these bans in place? Yes, you will pay more, but you are paying more now. Proportionately you will pay a lot less. If you are a 60 year old, these people you are trying to protect by keeping the status quo in Maine, you are going to pay \$631 a month. If you enact LD 1190, Blue Cross rates for states that have done it are \$264 a month. That is the reality. Your rates are going to be a lot less. They are a lot less in every category. When we are really talking and we are debating about the numbers, really look at the numbers. Go and look at the rate charts for companies like Blue Cross. See what they are doing in the State of Maine. See what they are doing in these other states and call your neighbors and your relatives that live in other states. Call over to New Hampshire and see why 20 year olds health insurance policies only cost \$100 a month in your state and they are \$421 a month in my state? Why is it that a 60 year old, their policy is more than \$200 a month in New Hampshire than it is in the State of Maine? Those neighbors will look no further than Maine's restrictive legislative action to point to our laws as to why those rates are so much more. It certainly isn't the age. It certainly isn't the population when you look at comparable states like New Hampshire. It is the Legislature. It is our laws and our lack and our inability to enact meaningful reform to community rating and supporting mechanisms like LD 1190. What LD 1190 and a risk pool is all about is when those community bans change. There is a subsidy given to make sure that people's rates aren't going to go astronomically high. When you hear the Chicken Little syndrome that rates are going to go through the roof for old people and for sick people, that isn't true. If you don't believe me, look at the 32 states that have enacted risk pools. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Skowhegan, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. We have heard a lot of eloquent testimony here, both for and against this bill. One thing that we haven't found in all this testimony, if our system is so darn good in the State of Maine, how come there aren't a bunch of other states that are trying to get our system going. It appears to me that we are flying in the face if we vote to sustain the Ought Not to Pass, in the face of facts of 30 odd states who don't think it is a good idea. Why is it that we have to always be on the opposite side of what appears to be a perfectly good system that will lower our insurance rates and give everybody a little bit more access to the insurance premiums. It just doesn't make sense to me that we should be only one of four or five states who are doing it this way. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sanford, Representative Courtney.

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. We have heard a couple of things here

this morning. I just want to weigh in a little bit. One thing we heard is that Dirigo is a high-risk pool. I guess if Dirigo is a high-risk pool, then why not let everyone in the state benefit by having lower rates. What is the harm in providing a policy for a 20 year old for \$67 a month? If the 20 year old has to pay \$420 a month, they are not going to be able to afford it. Let's get more people in the system, get them accustomed to the system, make it affordable. This doesn't make it more affordable.

We heard another thing said earlier about a shift. I don't know if you have ever bought health insurance, but there is a massive shift. A lot of us people before we can over here had real high deductibles, \$3,000 or \$5,000. Let me tell you when you go to the hospital and you pay a bill and you have a \$5,000 deductible, you don't get the same right that the state employee gets through a Blue Cross plan. You don't get the same rate that a Medicare beneficiary receives. No, you pay the highest possible rate, because as an individual you have no negotiating power. You are out there all by yourself. There is nobody to help you. What happens in that shift is you end up subsidizing the others who get the health insurance provided for them for free. Please take this into consideration. I think this is an opportunity. I know on both sides of the aisle there is a lot of concern and we really need to do something.

We got our renewals the other day for our state plan. You know, the minute I looked at it, it showed that the family plan costs \$1,400 a month. That is like \$16,000 a year for health insurance. The state is very generous to us legislators and picks up a very large portion of that. How can a normal family be expected to pay that kind of money? It is not possible. We really need to reduce the costs. We need to reduce the costs for everybody. I think the point about getting a lot of people paying in is a terrific point. I think that LD 1190 goes a long ways to doing that. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. Earlier testimony suggested that the concept of cost shifting was a major problem in why this bill should be opposed. Cost shifting so far has only been illustrated as that of an unfair situation for an elderly person paying unreasonable costs. Cost shifting, in my mind, isn't always a bad thing. I would prefer to see costs shifted so that the smoking person pays a higher level of health insurance than the non-smoker. I would prefer to see cost shifts so that the morbidly obese are forced to accept some personal responsibility for their inability to put down a Twinkie and damage their own health by paying a greater share of their own health care expenses. The same thing happens to me with auto insurance. Do you want your auto insurance rates set the same way as the status requiring the industry to set health insurance rates? For every dollar wasted by encouraging and not otherwise stigmatizing personal responsibility, we were taking limited public dollars away from other more important resources. To that end, one of the greatest things I think the passage of this bill could provide is to begin the concept that we can consequence people when they deserve it. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cornville, Representative Mills.

Representative **MILLS**: Mr. Speaker, Ladies and Gentlemen of the House. I just need to rise a second time. I don't usually rise a second time, but I needed to point out my own belief that this is not and should not be a partisan issue. There are many Democrats, I think, that sponsored the high-risk pool concept in the initial phases of its exploration. I think there is considerable merit to the issue of high-risk pools. I think the insurance

commissioner has weighted in and has explained that there is no free lunch. The high-risk pool is a way of shifting costs, not a way of eliminating them. It is a way of assisting the market to do its job. There are ways in which our market might be improved through adoption of the high risk that does exist in our market. It has not solved those problems in other states. If anybody thinks that there is any state in this union that isn't suffering very deeply from the rapidly escalating costs of health care, then they haven't been observing very carefully. This is a universal problem in the United States and it is a problem nearly everywhere. It is very acute in Maine and I share that perspective.

I must also hasten to point out, however, that when President Bush and the Republican majority in Congress were designing a Medicare prescription drug benefit for the benefit of people who are eligible for Medicare. One of the first principles of that bill was complete community rating. There are no risk bans in the Medicare prescription drug benefit bill. There are no risks bans in Medicare. If you qualify by virtue of your age and entitlement to Medicare, you are in and your premium does not vary one penny based on your age, your or the number of drugs you are taking. It was a principle adopted by Republicans in Congress. I think that this is not a partisan dispute and should not be. This is really economics and analysis and careful study. I think there is considerable study and I think there is considerable merit to having a community rating system. It is not the villain that people make it out to be. There are different ways of doing business and spreading risks. They all have merits and there is no free lunch.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Yarmouth, Representative Woodbury.

Representative **WOODBURY**: Mr. Speaker, Men and Women of the House. There is no question that we have a health care cost problem in the State of Maine and we need to work, like many other states, toward reducing the overall costs of care. This bill does not reduce the overall costs of care in Maine. It simply changes the structure of how it is being paid for.

I want to follow up on the comments of the good Representative from Sanford, Representative Courtney, who pointed to the plan offered by the State of Maine to its employees. It indeed does have premiums for family coverage of \$16,000 a year. The Maine State Employees Plan and group plans throughout the state that are also very expensive, although perhaps not quite as expensive as the state's plan. These are the plans that are paying the additional assessment to subsidize the high-risk pool in the individual market. These plans are also very, very expensive. They are part of the overall health care cost issue in this state. I am uncomfortable at this point imposing an additional assessment on the group plans, businesses that are already trying to provide health insurance to their employees in order to provide this additional subsidy. Thank you.

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

Representative **VAUGHAN**: Mr. Speaker, Ladies and Gentlemen of the House. I have heard a couple of things stated, which I disagree with. I agree that it is a cost shifting mechanism. That is what insurance is. The people that don't make claims subsidize the people that do make claims. When you are talking about a cost reduction, the one thing that should be noted is we are not talking about bringing the cost of insurance down for some people, we are not talking about benefiting just the young people who don't have insurance at all right now because they are not going to be able to afford it. They are not going to pay for it. They just can't see why it is important. We are talking about bringing the cost down for everybody. The costs come down for the elderly, the costs come down for the terminally ill that have

insurance. All costs will come down. I am not just saying this. You don't have to take my word for it, that is just the way it is.

One of the reasons costs come down is because competing companies will come into the state to do business. There is a market here. They want to be participating in it. LD 1190 affects the individual market. What does the word individual market mean? That means that it is not a group market. Who belongs to the individual market? If you have constituents who are loggers, fishermen, farmers, young people starting their own business, those people would participate in the individual market if they basically was such a thing. Many of them go without coverage because they can't qualify for a group. LD 1190 would bring down the rates for those folks. It would create a market for them to participate in.

We caused this problem. We caused it in 1993 and we could have fixed it once already. We can fix it today and we are dragging our feet.

I would like to speak to a couple definitions. What is guaranteed issue? That means you must sell an individual an insurance policy, regardless of their condition. What is guaranteed renewal, which I heard being referred to as it would repeal guaranteed renewal? Guaranteed renewal, once an insurance company has you on the books as a non-risk-pool client or any client, you must be rewritten as long as you continue to pay your premiums. Guaranteed renewal, in my opinion, is not in jeopardy.

Community rating, when we are talking about a 20 percent ban, the rate can go up or down by 20 percent. The broader ban, the expansion of the bans of community rating, will include lowering them for healthy behavior, quitting smoking, losing weight, taking your medication regime. Many things will qualify you for a lower rate. A risk pool, a risk pool takes the people that are chronically ill, terminally ill, have a preexisting condition, out of the regular pool of insurance clients. Sometimes you can go into a risk pool and you will not necessarily be there forever. A risk pool typically contains a few thousand or less individuals. The affects on the entire insured pool of having these few people in the risk pool is what can have a remarkable affect on the overall rates. The assessment which was referred to earlier, we are talking about \$1 to \$2 per insured per month. When we are talking about the other assessment in the other program, we are talking 4 percent. On \$1,000 a month premium, that is \$40. That is a big deal. That is a lot of difference between \$1 or \$2 and \$40, which is already planned to go into effect. Thank you Mr. Speaker.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative **O'NEIL**: Mr. Speaker, Ladies and Gentlemen of the House. I am in my eighth year in this wonderful institution. I see the end of the line coming and I often wonder if this is my last chance to get up and pontificate before my colleagues. Many of you wish, indeed, it is. I have a few more bills in the mix. On this one, Mr. Speaker, this issue is one that makes my very blood pump in my veins. Eight years on the same committee, I have watched the advent of managed care come in. I watched many of the laws and the so-called reforms take shape. I have seen the positive and the detrimental effects of same. I have watched us go from big bad boogiemer HMO to the Patient Bill of Rights to the high-risk pools and to Dirigo Health. It is esoteric, heavy-duty thick stuff and the crisis in health care is the biggest drag on economic development in Maine.

Does anybody have the exact solution? I don't think so. We enacted a very broad sweeping reform that encompasses all sorts of aspects of the health care picture, which leaves much unanswered, but we enacted it. I was about to get up and decry

these sometimes insufferable and fruitless debates, but I don't think this is fruitless, it might be insufferable. If there is anything we get out of this, for those of you who will be back, I won't, the health care debate is not over. If you didn't get it before, I hope this helps illustrate until we get to a system that is universal. I didn't say single payor. It is universal, compulsory. Surely community rated and the good Representative from Cornville mentioned, Medicare is. The difference is it is compulsory. You pay it cradle to grave and you don't have to community rate it. Until we get to a system where in we do these things, we are going to continue to have these debates that border on fruitlessness occasionally. If, indeed, Maine is to live up to its motto, if, indeed, Maine becomes the leader or a leader in the health care movement, in my opinion it is low hanging fruit, then I think this is the way Maine will do it. This bill, nor anything else that we have done or have proposed, gets us to that situation.

You haven't heard me say this is a bad bill. You have not. I espoused many of the principles within the bill. The fact of the matter is, risk pools and the combination of community rating, guaranteed issue, especially guaranteed issue, are somewhat incompatible. As I said before, to clarify, when I said this would be duplicative of the Dirigo Health, PL 469, I didn't mean it categorically. Whenever we have to stand up and say I didn't mean something, you ought to take note. What I meant was, let's cut right to the essence of it. Dirigo really does provide a high-risk pool. High risk is subject to many different definitions. You are subsidizing with either vehicle. You are subsidizing some folks who cannot now become insured. LD 1190 uses the vehicle of subsidizing those people who are higher risk and higher cost and so forth. Dirigo subsidizes primarily people who are less able to afford it. I like that progressive aspect to it, taking into account one's ability to pay. Dirigo also, pragmatically speaking, let's face it, will subsidize those folks who might otherwise be able to afford it who are just high risk. You get two bites of the apple with Dirigo.

There is a lot in Dirigo that I didn't like. We all know that. The fact of the matter is, for the time being that is what we have running. Before I leave you all and you will probably hear from me once or twice again, I just hope that you take something out of this debate that nobody is really wrong here. Please support the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sanford, Representative Bowles.

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. It has been a long debate. We look at the divided report and we see the three Senators on the Ought Not to Pass so we know what the end result of this is. I agree with the gentleman from Saco. He is absolutely right. It is still important. It is very important to have the debate and it is important for those of us who have perhaps not served on the Insurance Committee or who perhaps are not as knowledgeable as we should be in these areas. There is scarcely a more important topic that we have to deal with than this subject. I freely confess to all of you that I am no expert. I have appreciated all the testimony that I have heard today. It is useful to me. The debate seems to have shifted a little bit from high-risk pools to a discussion of guaranteed rating or community rating and guaranteed issue. I have a question and I would like to pose it through the Chair. I have very much appreciated the testimony of both the gentleman from Yarmouth and the gentleman from Cornville for whom I have much respect and I always learn much when I listen to them. Is not part of the driver of our premiums, our health insurance premiums, the fact that young people are staying away from participating in the market in droves because of the high cost of those premiums, which are partly driven, if not

significantly driven by the fact that they subsidizing all of us gray hairs? Is that not a significant problem? If it is a significant part of the problem, then how do we address that? How do we get those young people to reenter the market and participate because they are not great consumers of health care, but they are paying significant premiums?

The SPEAKER PRO TEM: The Representative from Sanford, Representative Bowles has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative **O'NEIL**: Mr. Speaker, Men and Women of the House. In answer to the question, as the committee chair sometimes when I hear there is a question coming, I have to sift through the couching around the question to get to the question. As I understand the question here, how do we get younger folks to participate in the financing? That is an interest in which you will find everybody on board. The answer is many fold. One way is provide incentives like this, which would be that the younger folks would be more able to afford it. In the pejorative sense, we all hear about the young 24 year old immortal who is has a Skidoo, a pick em up truck, is single, paying the rent and he is working wherever he works. The last thing on his mind is a health insurance premium because he is not going to get sick. That is part of the perversion of our system. He is not going to buy insurance until he starts getting sick and needs it. He should be paying in from day one. When I was flipping pizzas at age 15, I was paying into Medicare. Someday maybe I will get in it. It is a long answer to a short question. In answer to the question, to summarize, you have to make it compulsory. We are all going to use it, we all ought to be paying for it. It doesn't have to be single-payor, but maybe in six years we get there, you will remember what I said.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Skowhegan, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. Last week we all received a packet that says general fund, structural gap for 2006 and 2007. The structural gap for those two years is \$950 million. The component of one of the expenses is Med Care/Maine Care. The figures in that component go from \$540 million in 2004 to \$735 million in 2007. This bill appears to offer a chance of cutting down expenses. It seems to me that when you are facing a \$200 some odd million deficit, you ought to take every opportunity that is available to you to reduce costs. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winterport, Representative Kaelin.

Representative **KAELIN**: Mr. Speaker, Ladies and Gentlemen of the House. The old action about sitting there and having people think you are a fool and then standing up and having them be sure of it, I think kept me in my seat earlier. I have to ask a question through the chair if I could. The issue of costs that the good Representative brought up is the basis of my question. I guess I direct this to the chairman of the committee, this brochure we just got in our mailbox, 2004 State Legislators Guide to Health Insurance Solutions, tells me that on August 6, 2002, President Bush signed HR 3009, which provides money for states that did not have a qualified high-risk pool at the time he signed the legislation, up to \$1 million may be available to a state. Why wouldn't we want to take advantage of that additional money? We are running out of money in Dirigo. We have \$50 million to get it off the ground. Isn't there a way that a high-risk pool concept could combine with what we are trying to do with Dirigo and get that good \$1 million subsidy from the federal government that they are holding out. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Representative from Winterport, Representative Kaelin has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Mr. Speaker, Ladies and Gentlemen of the House. I guess I am answering questions. I don't know if this counts against my rising three times, but in answer to the question from the Representative from Winterport, that adjustment act money was made available for that very reason. That was integral of the genesis of LD 1190. It was part of the strategy involved with LD 1190, which was introduced about two years ago. It was to try to capture some of that seed money just to get the thing going. Coincidentally, when Dirigo was pretty much a gleam in a former Congressman's eye, it also envisioned trying to capture that money. The fact of the matter is, I am not exactly sure of the dates, but some of that money went by the wayside. I believe it is still available in some fashion, but there were deadlines that needed to be met that didn't. Again, I don't know if anybody in here has all the details on that, but it is not an issue that went unexamined.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wells, Representative Collins.

Representative COLLINS: Mr. Speaker, Ladies and Gentlemen of the House. I have heard a lot of talk this morning, soon to go into afternoon, about the high risk of Dirigo Health. There is a high risk. It is probably the highest financial risk that the State of Maine has encountered in many, many years, if not since Maine became a state in 1820. It is a high financial risk that every citizen of Maine should be well concerned with because it may fail. I hope it does not fail. I hope it is very successful. As I mentioned previously in my comments, I voted for it. I hope it is successful. In the event that it is not successful, it would be nice to have a backup position. This high-risk pool legislation would be a backup position. I urge you to vote for the Minority Report. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Canavan.

Representative CANAVAN: Mr. Speaker, Men and Women of the House. One of the arguments advanced here today is that if you have a risk pool, the cost of premiums will go down for the healthier population and therefore, more healthier and younger people will purchase insurance. If more people buy insurance, there will be less shifting of costs and premiums will go down even more for everyone. The problem with that argument is that there is simply no evidence to show in states where high-risk pools exist that young people have rushed in to buy insurance. I would ask you to support the Majority Ought Not to Pass Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Durham, Representative Vaughan. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative VAUGHAN: Mr. Speaker, Ladies and Gentlemen of the House. I will be brief because we want to go to lunch. One of the things that has been proposed is that the costs won't go down for everyone. I say that it will. The evidence is that in New Hampshire as soon as they passed similar legislation, business became very brisk. People flocked into the market. The evidence is that far away, New Hampshire.

The other thing that I would like to state is when this was all coming about, I am not going to bash Dirigo, but I do have a comment on it. When I asked, is this going to work and other people have asked the same question, the answer is, we don't know. It has never been tried. In response to this very issue we

are debating, when you ask, is it going to work? The answer is, yes, 32 times. Thank you Mr. Speaker.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 312**

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Blanchette, Bliss, Brannigan, Breault, Brown R, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jennings, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, McLaughlin, Mills J, Mills S, Moody, Moore, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Thomas, Thompson, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Bierman, Bowles, Browne W, Bruno, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, McCormick, McKenney, McNeil, Millett, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Berube, Bowen, Bryant-Deschenes, Goodwin, Landry, Maietta, Piotti, Suslovic, Twomey, Usher.

Yes, 79; No, 62; Absent, 10; Excused, 0.

79 having voted in the affirmative and 62 voted in the negative, with 10 being absent, and accordingly the Majority **Ought Not to Pass Report was ACCEPTED** in concurrence.

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

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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Majority Report of the Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-403)** on Bill "An Act To Provide for Department of Marine Resources Jurisdiction Over Certain Sections of the State's Endangered Species Program" (S.P. 634) (L.D. 1702)

Signed:

Senators:

DAMON of Hancock  
 PENDLETON of Cumberland  
 BENNETT of Oxford

Representatives:

SULLIVAN of Biddeford  
 ASH of Belfast  
 DUGAY of Cherryfield  
 PERCY of Phippsburg  
 MUSE of Fryeburg  
 McNEIL of Rockland  
 KAELIN of Winterport  
 BIERMAN of Sorrento

BOWEN of Rockport  
 Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-404)** on same Bill.

Signed:

Representative:

BULL of Freeport

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-403)**.

**READ.**

On motion of Representative BULL of Freeport, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

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**CONSENT CALENDAR**

**First Day**

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 605) (L.D. 1654) Bill "An Act To Amend Transportation Laws" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-406)**

(H.P. 1352) (L.D. 1829) Bill "An Act To Amend the Membership of the Children's Cabinet" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(H.P. 1376) (L.D. 1850) Resolve, Regarding Legislative Review of Chapter 31: Affordable Housing Development District - Recovery of Public Revenue, a Major Substantive Rule of the Maine State Housing Authority Committee on **TAXATION** reporting **Ought to Pass**

(H.P. 1248) (L.D. 1672) Bill "An Act To Amend the Charter of the Dover and Foxcroft Water District" (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-734)**

(H.P. 1328) (L.D. 1806) Bill "An Act To Provide for the Safe Disposal of Household Hazardous Waste" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-732)**

(H.P. 1358) (L.D. 1833) Bill "An Act To Amend Water Quality Laws To Aid in Wild Atlantic Salmon Restoration" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-731)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

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**CONSENT CALENDAR**

**Second Day**

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the Second Day:

(H.P. 1276) (L.D. 1754) Bill "An Act To Permit Background Checks on Prospective Adoptive Parents" (C. "A" H-728)

No objections having been noted at the end of the Second Legislative Day, the House Paper was **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

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

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**BILLS IN THE SECOND READING**

**House**

Bill "An Act To Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to the Review of Agencies under the State Government Evaluation Act"

(H.P. 1408) (L.D. 1902)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the House Paper was **PASSED TO BE ENGROSSED** and sent for concurrence.

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**ENACTORS**

**Emergency Measure**

An Act To Authorize Licensure by Endorsement for Canadian Dentists and Dental Hygienists

(H.P. 1258) (L.D. 1736)

(C. "A" H-708)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 15 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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**Acts**

An Act To Support Maine's Franco-American Heritage and the Kennebec-Chaudiere International Corridor

(S.P. 373) (L.D. 1149)

(C. "A" S-391)

An Act To Improve the Property Boundary Marking Laws for Purposes of Timber Harvesting

(S.P. 625) (L.D. 1693)

(S. "A" S-393 to C. "A" S-385)

An Act To Amend the Maine Emergency Medical Services Act of 1982

(H.P. 1284) (L.D. 1762)

(C. "A" H-709)

An Act To Provide for Fair Treatment of Taxpayers

(H.P. 1291) (L.D. 1769)

(C. "A" H-699)

An Act Concerning Disability Retirement Benefits under the Maine State Retirement System

(H.P. 1336) (L.D. 1814)

(C. "A" H-710)

An Act Relating to the Consideration of the Cumulative Effects on Protected Natural Resources

(H.P. 1361) (L.D. 1837)

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.

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**Resolves**

Resolve, Directing the Department of Labor to Collect Certain Data Involving Retirees Receiving Social Security or Other Pensions

(H.P. 657) (L.D. 880)

(H. "A" H-715 to C. "B" H-633)

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

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An Act To Amend the Random Drug Testing Laws  
(H.P. 1282) (L.D. 1760)  
(C. "A" H-711)

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

On motion of Representative DUPLESSIE of Westbrook, 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. 313**

**YEA** - Adams, Andrews, Annis, Ash, Austin, Barstow, Beaudette, Bennett, Berry, Blanchette, Bliss, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bull, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jodrey, Joy, Kaelin, Kane, Ketterer, Koffman, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Mailhot, Makas, Marraché, McCormick, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

**NAY** - NONE.

**ABSENT** - Berube, Bierman, Bowen, Bryant-Deschenes, Bunker, Eder, Goodwin, Jennings, Landry, Maietta, Marley, Piotti, Suslovic, Twomey, Usher.

Yes, 136; No, 0; Absent, 15; Excused, 0.

136 having voted in the affirmative and 0 voted in the negative, with 15 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.

An Act To Clarify Prequalification Criteria for Public Improvements

(H.P. 1305) (L.D. 1783)  
(C. "A" H-666)

**TABLED** - February 19, 2004 (Till Later Today) by Representative McLAUGHLIN of Cape Elizabeth.  
**PENDING - PASSAGE TO BE ENACTED.**

On motion of Representative McLAUGHLIN of Cape Elizabeth, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-666)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-735)** to **Committee Amendment "A" (H-666)** which was **READ** by the Clerk and **ADOPTED**.

**Committee Amendment "A" (H-666)** as Amended by **House Amendment "A" (H-735)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-666)** as Amended by **House Amendment "A" (H-735)** thereto in **NON-CONCURRENCE** and sent for concurrence.

**SENATE DIVIDED REPORT** - Majority (7) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (S-398)** - Committee on **UTILITIES AND ENERGY** on Bill "An Act To Require That a Directory Listing of a Commercial Toll-free Number Include an Address"

(S.P. 643) (L.D. 1711)

- In Senate, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

**TABLED** - February 26, 2004 (Till Later Today) by Representative RINES of Wiscasset.

**PENDING - ACCEPTANCE OF EITHER REPORT.**

Representative BLISS 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 Bliss.

Representative **BLISS**: Mr. Speaker, Men and Women of the House. I know that the last thing you want to do is have a lengthy debate about a utilities issue before you break for lunch. I will try to make it interesting and brief.

I would like you to imagine that you have a new constituent moving into your district, perhaps across the street from you and you do what every good legislator does, you walk across the street or down the street or around the corner and you introduce yourself to this new constituent. You make sure that he or she knows how to register to vote. You might even have one of those little green cards in your back pocket just in case. You ask whether he or she has children. You make sure that they know where the local schools are. You tell them where the closest place to get local food products are. In fact, you encourage this person to shop locally and help support your local community. This person is very interested and very appreciative of what you have done. Then, he or she discovers two weeks later that it is your birthday. In appreciation, they would like to send you some flowers for your birthday. This person is still new to the community and doesn't really know his or her way around yet, so what they do is look in the phone book. If you happen to live in Winslow, they might be very pleased to look in the phone book and discover that there is a Winslow Florist. If you live in

Biddeford, they might look in the phone book and discover very excitedly that there is a Biddeford Florist or a Cape Elizabeth Florist or a South Portland Florist or an Arundel Florist or any of two dozen others that when they call the 800 number, they, in fact, discover that they are talking to somebody in Omaha, Nebraska.

They actually may or many not even discover that. They placed their order and they get quoted a price and their credit card number gets taken. Lo and behold, the flowers get delivered, but that 800 number in Omaha, Nebraska is certainly not a Maine business. They have deceived the customer, your constituent, and they have taken between 15 and 25 percent of the amount of money that was charged to the customer and kept it in their pocket and then called another real Maine florist who may or may not live in your municipality and given them the lesser amount of money to deliver the flowers.

Your constituent has been given flowers, you got the flowers, but it was under false pretenses. That customer has been defrauded because they thought they were trying to do business in your community and was not allowed to do so. A piece of the money was kept by that out-of-state company so local businesses, both the business that might have gotten the order and the business that ultimately got the order, both of those businesses were hurt because the amount of money that the customer was willing to spend was not spent in your community and the State of Maine was hurt because no Maine taxes were collected. Everybody loses, except you get your flowers.

There are dozens of those phony names with 800 numbers in all of our telephone books. When this bill came to my committee, we asked the Attorney General, how come you are not doing anything about this. The Attorney General's Office told us that there is nothing that they could do. Most of our local florists make up to 75 percent of their revenue for the year between Valentine's Day and Mother's Day. Right before Valentine's Day of this year you may have seen on the news or in the paper an announcement from the Attorney General's Office asking you to be aware of these 800 number rascals and, in fact, encouraging you to ask that florist to give you directions to their shop. If they couldn't provide you directions to their shop, you should not place the order with them. That is as far as our Attorney General's Office can go.

This Minority Report, which I urge you to pass, does three things. It requires businesses who have 800 numbers in your municipality's telephone book to list their location. Not necessarily a street address, but the municipality in which they operate. It gives the Attorney General power to prosecute. It holds the telephone companies who produce these telephone books harmless against prosecution themselves. It protects the phone companies when they ask for these 800 numbers are located. It is a strong small business bill and I urge you to follow my light and vote the Minority Ought to Pass as Amended Report. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Belmont, Representative Berry.

Representative BERRY: Mr. Speaker, Men and Women of the House. I will not be brief. I just want to clarify that for all of you right now. This bill, as the Speaker knows, was before us because he served on Utilities in 1997. In 1997, we unanimously gave it a graceful death. Reason, the biggest reason is, if you start listing 1-800 number addresses, which this bill called for, you are listing addresses of protected agencies and other functional areas that are protected, we thought, by law. This isn't what this is about. This bill came to us totally misnamed, for one thing. This bill should have been named the floral protection deception act, because that is what it is about. There are things

that happen in this state and in other states that are not correct. One of those things is the fact that there is no trademark on people's names, town names, and city names. If there is, then we probably should sue Portland, Oregon. It doesn't exist. It was a product not delivered to an individual. The answer is no. Everyone who used this service, I make a point here, I am not defending that service, but everyone who used that service received their product. Did it cost more? Yes.

When you pick up the phone or go on the Internet and go to tele-florist or FTD, where are you talking to? Are you talking to your local florist who is down the street from you? No. One of those local florists in your community is going to get the business for that order. That is no different from what happens here. The question here, ladies and gentlemen, is not that. The question here is, why is a deceptive practice, if such, being allowed to occur in the State of Maine? My vote isn't on that. My vote has to be on a title in a bill that says you shall list addresses for every 800 number, no matter where they are. That is what this is all about. There are certain criteria that come into play here. One of the most violated criteria is the fact that there is a Uniform Deceptive Trade Practices Act. There is a Maine Unfair Trade Practices Act. There is a PUC Terror 15 Act. There is a Federal Trade Commission policy and the Attorney General of the State of Maine chooses not to enforce those principles. Is this truly a deceptive act, the Federal Trade Commission Policy statement on deception is as follows: "Under the Consumer Protection Act, a consumer need not actually be confused or misled if the ad is found to have the capacity to mislead or deceive. First, there must be a representation, omission or practice that is likely to mislead the consumer. Second, we examine the practice for the perspective of a consumer acting reasonably in the circumstances."

People, what they are talking about is doing your job as a consumer, for one thing to know where that product is coming from and what it is costing you. The last time I checked, it was called shopping. If you do not shop, then you have that criteria that you, yourself, have violated. The practice is material. The consumer injury is likely because consumers are likely to choose different, but for deception. That is the federal law.

We asked the Attorney General as we asked the Attorney General in 1997 to come to our committee and address the issue of why nothing was being done about this "deception". We were told the same thing, Mr. Speaker, then as now. The real jest of what we were told, ladies and gentlemen, is it isn't worth it. How many times in this chamber have we seen, since those of us who have been from the 118th, have seen the issue of non-sufficient funded checks. The question to the Attorney General, why don't you enforce the law and go after these people that are doing this deception? I am sorry to say, but I believe the answer is, it is not worth it. If it is not over \$1,000, then they aren't going to do it. If you are lucky enough to have a police force in your area that will do it for you, that is the fact. When we talk about not getting a product, that isn't what it is about, it comes down simply to the protection of services that have 1-800 numbers must be protected. We cannot allow a 1-800 number with its address to become part of a public record like a phone book. You can be protecting an individual because of the location.

Mr. Speaker, two things, if I may. First of all, I would like the Clerk, if she would, to read the report. Secondly, I request a roll call.

Representative BERRY of Belmont 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 same Representative **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. I will be brief. I think that my good friend from South Portland, Representative Bliss, explained very well what the situation is here and where the deception is. These ads are truly deceptive. They are placed with the intent to deceive and they are successful in doing so. When you select a name, which is just a takeoff of a legitimate business and place an ad in a local phone book as an 800 number, you are intending to deceive the caller. When you say you call FTD and you get somebody out of state, that is correct, but when you call FTD, you know who you are calling. I would ask that you support the pending motion and there is an amendment that would deal with one of the concerns that has been voiced. We need to pass this legislation and get this situation cleared up so that people can believe when they read a name in the phone book that says, Winslow Floral Shop, that it is actually a Winslow business that they are calling. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative **FLETCHER**: Mr. Speaker, Men and Women of the House. Winslow really appreciates all the advertising. We need the business, but I would like the business to actually be in Winslow. I think there are three fundamental questions we have to ask ourselves. I call it the test of reasonables. Do we think it is unreasonable for consumers to have the information when they decide to make a purchase? That is question number one. Question number two, do we think it is misleading the consumer when a company lists themselves as Winslow Florist, when, in fact, they are in the Winslow/Waterville directory, when, in fact, they are actually located in New Jersey? Question number three, do we think it is unreasonable to require the Winslow Florist of New Jersey to inform the customer that they are, in fact, not in Winslow, Maine? I have answered those questions for myself. That is why I support the Minority Report. What I would ask you to do is to support a reasonable solution to a deceptive practice that has been going on too long. From what we have researched this, the Minority Report will allow the Attorney General to work with the phone companies to bring this practice to an end without going through extensive litigation. More importantly, Winslow Florists who hopefully will be in Winslow, appreciate your support. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Rockland, Representative McNeil.

Representative **MCNEIL**: Mr. Speaker, Ladies and Gentlemen of the House. I am a florist. I do floral design for a company back home. When somebody sends a FTD or a Teleflora or a standard wire service, they do know that they are sending it to another shop. There is an average charge of \$4.50 put on it. You know that if you send a \$50 arrangement to somebody, they will tell you there is an additional \$4.50 for that wire service fee. If a company is acting like it lives in another town and they do not tell you that and they charge you 25 percent extra on top of that, the consumer is not receiving the amount of floral work that they have paid for. Therefore, I believe that they are being deceived. I hope that you will support this motion.

Representative **CRESSEY** of Baldwin asked leave of the House to be excused from voting on L.D. 1711 pursuant to House Rule 401.12.

The Chair took his request under consideration.

The **SPEAKER**: The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative **LESSARD**: Mr. Speaker, May I pose a question through the Chair?

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

Representative **LESSARD**: Mr. Speaker, Ladies and Gentlemen of the House. I understand that some of the 800 numbers will be exempt. Could someone tell me what those numbers would be?

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

Representative **BLISS**: Mr. Speaker, Men and Women of the House. It never was anyone's intention to require domestic violence shelters or Alcoholic's Anonymous sites or any other business or service like that to be required to disclose their location. I urge you all not to read the bill, but to read the amendment. The amendment goes a long ways towards specifically indicating that. Although it is awkward to try to get this message across without breaking the rules, there will be, assuming that we pass this motion, a further clarifying piece that will help emphasis that. We are moving it at the request of the Attorney General's Office. Under no circumstances are we asking battered men or women shelters or any other such organizations to disclose their locations. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Belmont, Representative Berry.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. The bill before our committee, there were no exceptions, no exemptions. That bill said a telephone utility that lists in a directory that it publishes after the effective date of this section, an 800 or other toll free number has to be listed. Ladies and gentlemen, you can pass any amendment you want to. You already have four laws sitting on the books right now that are not being enforced, that address these issues, right here in the State of Maine and they are not being enforced or used. There are choices. There are two choices here for businesses which feel they are harmed. If an individual was being harmed because of not receiving product, there would be another choice. Here in this state right now you have four items that are law. You have a federal law. None of which, if this is in violation, are addressed. Your two choices are the Attorney General of this state or secondly, the factor of the personal suing of this company by you as individuals. Thank you Mr. Speaker.

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

Representative **BLISS**: Mr. Speaker, Men and Women of the House. I want to thank my good friend, the Representative from Belmont. If we were debating the actual bill as it had been presented to us in our committee, I would be standing right next to him urging him to defeat it. I agree with what he says about the original bill. That is not the motion before us. I urge you all to read the amendment. It is amended bill that is the Minority Report of the Utilities and Energy Committee. Just because a committee of this body chose to turn down a bill once, does not mean that it has not merit and does not mean that it should not be reconsidered and ultimately passed. The best and obvious example of that is the number of times that this body considered the Maine Recycling Bottle Bill before it was ultimately passed and became a model to the country. I urge you all to please read the Minority Report as it should be before you. Thank you Mr. Speaker.

Subsequently, Representative **CRESSEY** of Baldwin **WITHDREW** his request to be excused from voting on L.D. 1711.

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. 314**

YEA - Adams, Annis, Ash, Austin, Barstow, Beaudette, Blanchette, Bliss, Brannigan, Breault, Brown R, Browne W, Bruno, Bull, Bunker, Campbell, Canavan, Carr, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Crosthwaite, Cummings, Curley, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Goodwin, Greeley, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Kaelin, Kane, Ketterer, Ledwin, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Rector, Richardson E, Richardson J, Richardson M, Rogers, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Andrews, Berry, Bowles, Cressey, Daigle, Duprey B, Glynn, Joy, Lewin, McKenney, Millett, O'Neil, Peavey-Haskell, Perry J, Rines, Rosen, Sykes, Treadwell, Vaughan.

ABSENT - Bennett, Berube, Bierman, Bowen, Bryant-Deschenes, Churchill E, Eder, Koffman, Landry, Maietta, Piotti, Suslovic, Twomey, Usher.

Yes, 118; No, 19; Absent, 14; Excused, 0.

118 having voted in the affirmative and 19 voted in the negative, with 14 being absent, and accordingly the Minority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-398)** was **READ** by the Clerk.

Representative **CRESSEY** of Baldwin **PRESENTED House Amendment "B" (H-737) to Committee Amendment "A" (S-398)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Baldwin, Representative Cressey.

Representative **CRESSEY**: Mr. Speaker, Men and Women of the House. As the bill stands now the 800 number address requirement is inclusive of every establishment in the State of Maine. Some of you have already expressed concerns about various agencies that would be required to list that. This amendment hopes to resolve that. Certainly there are protected agencies that ought not to be required to list their address with their 800 number in the yellow pages. For example, there are others who are involved in courts of law that should be excused from that. Certainly we want to remain focused upon various businesses that have been brought up concerning the bill. Mr. Speaker, I would like to pose a question. I have two very part-time businesses. One is, I sell things on the Internet. I gladly publish my telephone with the address and let people know the whereabouts of where they can pick up those various goods and have no problem with that. My other business, however, I spend about a third of my time in the various district courts in the State of Maine. A third of that time is devoted to that particular business is in various clients' places of business or homes. The other third part of my business, I conduct all my financial affairs at my accountant's office. The 800 number I have is tied into my cell phone. I live in the Town of Baldwin. I cannot receive any cell phone connection where I live in Baldwin. I have to travel just about outside the town limits in order to get connected. I use

my cell phone a lot, especially when I am up here in Augusta. Again, at the various locations where I do conduct business. The mailing address for this particular business, however, is in the next town over in Standish.

If we don't pass this amendment and I have to list the 800 number, what address do I use?

The SPEAKER: The Representative from Baldwin, Representative Cressey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from South Portland, Representative Bliss.

Representative **BLISS**: Mr. Speaker, Men and Women of the House. It is always awkward to talk about a bill when you know a clarifying amendment is coming and you are not supposed to talk about it until after the bill passes. I want to thank the Representative from Baldwin, I guess, for presenting the amendment. The amendment arises out of the good Representative's concerns when we discussed this in our committee and the wording was further defined and messaged by the Attorney General's Office as recently as last night.

It will definitely clarify exactly those concerns that some of you mentioned and some of you sent notes to some of us about. I urge you to pass this amendment to sort of finish off and make complete this important pro-small business legislation.

In direct answer to the Representative from Baldwin's question, I think the answer has something to do with whether or not he crosses the International Date Line. Thank you.

**House Amendment "B" (H-737) to Committee Amendment "A" (S-398) was ADOPTED.**

**Committee Amendment "A" (S-398) as Amended by House Amendment "B" (H-737) thereto was ADOPTED.**

The Bill was assigned for **SECOND READING** Tuesday, March 9, 2004.

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

**SENATE PAPERS**

Bill "An Act To Amend the Licensing Laws for Hearing Aid Dealers and Fitters"

(S.P. 747) (L.D. 1908)

Came from the Senate, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

**REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** in concurrence.

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Bill "An Act To Promote Decision Making Within the Workers' Compensation Board" (EMERGENCY)

(S.P. 750) (L.D. 1909)

Came from the Senate, **REFERRED** to the Committee on **LABOR** and ordered printed.

**REFERRED** to the Committee on **LABOR** in concurrence.

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Bill "An Act To Establish Reciprocity in Laws Governing the Transportation of Lobsters by Nonresidents"

(S.P. 749) (L.D. 1905)

Came from the Senate, **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed.

**REFERRED** to the Committee on **MARINE RESOURCES** in concurrence.

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**Pursuant to Public Law and Resolve  
Committee to Study the Revenue Sources of the Office of  
Consumer Credit Regulation**

Report of the **Committee to Study the Revenue Sources of the Office of Consumer Credit Regulation** pursuant to Public Law 2003, chapter 462, section 3 and Resolve 2003, chapter 101, section 3 asks leave to report that the accompanying Bill "An Act To Implement the Recommendations of the Committee To Study the Revenue Sources of the Office of Consumer Credit Regulation"

(S.P. 751) (L.D. 1910)

Be **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and printed pursuant to Joint Rule 218.

Came from the Senate, Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed pursuant to Joint Rule 218.

The report was **READ** and **REJECTED** and the Bill was **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** in **NON-CONCURRENCE** and sent for concurrence.

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The following Joint Order: (S.P. 753)

**ORDERED**, the House concurring, that when the House stands Adjourned it does so until Tuesday, March 9, 2004, at 9:00 in the morning and the Senate Adjourns until Tuesday, March 9, 2004, at 10:00 in the morning.

Came from the Senate, **READ** and **PASSED**.  
**READ** and **PASSED** in concurrence.

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On motion of Representative O'NEIL of Saco, the House adjourned at 1:08 p.m., until 9:00 a.m., Tuesday, March 9, 2004 pursuant to the Joint Order (S.P. 753).