

# MAINE STATE LEGISLATURE

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*State Of Maine  
122nd Legislature*

*Second Regular Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Insurance and Financial Services*

*July 2006*

**Members:**

*Sen. Nancy B. Sullivan, Chair*

*Sen. Arthur F. Mayo III*

*Sen. Peter Mills*

*Rep. Anne C. Perry, Chair*

*Rep. Lisa T. Marrache*

*Rep. John R. Brautigam*

*Rep. Charles William Harlow*

*Rep. Donald E. Pilon*

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*Rep. R. Kenneth Lindell*

*Rep. Jonathan B. McKane*

*Rep. Wesley E. Richardson*

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# Maine State Legislature



## Office of Policy and Legal Analysis Office of Fiscal and Program Review

### 122nd Maine Legislature Second Regular Session

#### Summary of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet ([www.state.me.us/legis/opla/billsumm.htm](http://www.state.me.us/legis/opla/billsumm.htm)).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CON RES XXX.....	Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....	Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....	House & Senate disagree; bill died
DIED IN CONCURRENCE.....	One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....	Action incomplete when session ended; bill died
EMERGENCY.....	Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....	Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....	Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....	Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY.....	Ruled out of order by the presiding officers; bill died
INDEF PP.....	Bill Indefinitely Postponed
ONTP.....	Ought Not To Pass report accepted
OTP-ND.....	Committee report Ought To Pass In New Draft
P&S XXX.....	Chapter # of enacted Private & Special Law
PASSED.....	Joint Order passed in both bodies
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED (Pocket Veto).....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 23, 2006.

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the superintendent's review and comment. Senate Amendment "C" to Committee Amendment "A" was not adopted.

### LD 1855                      **An Act To Establish the Securities Investor Education and Training Fund**                      **PUBLIC 485**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERRY A MAYO	OTP-AM	H-753

LD 1855 proposed to establish a Securities Investor Education and Training Fund as a dedicated, nonlapsing fund within the Department of Professional and Financial Regulation, Office of Securities to be used for the purposes of securities education and training. The fund would be limited to grant or donation funds, as well as amounts credited to the education and training fund pursuant to designations in consent orders or agreements and court orders or judgments, and would be independent from the operating fund of the Office of Securities.

**Committee Amendment "A" (H-753)** proposed to clarify that payments made to the Securities Investor Education and Training Fund that are designated in a consent order or consent agreement must result from a multistate investigation or a joint investigation with the federal Securities and Exchange Commission. It also proposed to add an appropriations and allocations section to the bill.

#### *Enacted law summary*

Public Law 2005, chapter 485 establishes the Securities Investor Education and Training Fund as a dedicated nonlapsing fund within the Department of Professional and Financial Regulation, Office of Securities to be used for the purposes of securities education and training. The fund must consist of grant or donation funds, as well as amounts credited to the education and training fund pursuant to designations in consent orders or agreements and court orders or judgments that result from a multistate investigation or a joint investigation with the federal Securities and Exchange Commission. The fund is independent from the operating fund for the Office of Securities.

### **LD 1935**                      **An Act To Protect Health Insurance Consumers**                      **INDEF PP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN BRAUTIGAM	OTP-AM    MAJ OTP-AM    MIN	

LD 1935 proposed to prohibit insurance carriers from including the costs of the savings offset payment used to support subsidies for the Dirigo Health Program in health insurance premium rates.

**Committee Amendment "A" (S-655)** is the majority report of the committee and replaced the bill.

Part A of the amendment proposed to do the following.

## *Joint Standing Committee on Insurance and Financial Services*

It requires carriers to certify that the carrier has not included profit from any savings realized by the carrier that were the result of the operation of Dirigo Health and any increased MaineCare enrollment due to an expansion in MaineCare eligibility and to use their best efforts to limit the impact of the savings offset payment on rates.

It reduces the savings offset payment for plan year 2006 to \$23,000,000.

It requires Dirigo Health to renegotiate with the carrier contracted to underwrite the Dirigo Health Program for the purpose of reducing the 2006 experience modification payment by \$11,000,000.

It requires Dirigo Health to achieve savings of \$1.9 million in administrative costs.

Part B of the amendment proposed to create the Blue Ribbon Commission on the Long-term Funding of the Dirigo Health Program to study the Dirigo Health Program and make recommendations on a long-term funding mechanism in an effort to ensure its sustainability. It is the intent of the Legislature that the commission recommend a long-term funding mechanism to replace the savings offset payment as the sole source of funding subsidies for the Dirigo Health Program. The commission is required to submit a report by November 1, 2006 to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters shall report out legislation to address the impact of the savings offset payment on health insurance premium rates.

The amendment also removed the emergency preamble and the emergency clause from the bill and added an appropriations and allocations section. Committee Amendment “A” was initially adopted in the Senate, but failed to be adopted in the House.

**Committee Amendment “B” (S-656)** is the minority report of the committee and replaced the bill. The amendment proposed to repeal the savings offset payment as a source of funding subsidies for the Dirigo Health Program. The amendment would require that the subsidy program for DirigoChoice enrollees and the Maine Quality Forum, which were funded with the savings offset payment, continue with funding from existing resources of the Dirigo Health Program. The amendment also makes the repeal of the savings offset payment retroactive for plan years beginning on or after January 1, 2006 and requires the Dirigo Health Agency to refund to health insurance carriers, 3rd-party administrators and employee benefit excess insurance carriers any savings offset payments already collected.

The amendment also proposed to establish the Blue Ribbon Commission on Potential Funding Sources for the Dirigo Health Program. The amendment requires the commission to study potential funding sources and make recommendations for a long-term funding source. The commission is required to submit its report by November 1, 2006. The amendment adds an appropriations and allocations section to reflect the costs of the commission to the Legislature.

The amendment also removed the emergency preamble and the emergency clause from the bill. Committee Amendment “B” was not adopted.

**House Amendment “A” (H-1117)** proposed to make the following changes to the laws governing Dirigo Health.

It prohibits administrators from passing the costs of the savings offset payment to covered individuals. It gives the Superintendent of Insurance authority to provide relief to those administrators that demonstrate the funds available are inadequate.

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It requires health insurance carriers and administrators to notify insureds of the savings attributable to the Dirigo Health Program and Public Law 2003, chapter 469.

It clarifies that aggregate measurable cost savings are not limited to bad debt and charity care but rather include all cost savings initiatives contained in Public Law 2003, chapter 469 and further cost savings initiatives adopted and approved by the Board of Directors of Dirigo Health.

It establishes a fixed amount of \$35,000,000 as the savings offset payment for plan years beginning January 1, 2006 to December 31, 2006.

It also removes the emergency preamble and emergency clause and adds an appropriations and allocations section. House Amendment "A" was not adopted.

**House Amendment "A" to Committee Amendment "A" (H-1090)** proposed to direct Dirigo Health to achieve ongoing savings of \$200,000 per year beginning fiscal year 2006-07 by implementing an across-the-board reduction in payroll expenses. House Amendment "A" to Committee Amendment "A" was not adopted.

**House Amendment "B" to Committee Amendment "A" (H-1091)** proposed to require that Dirigo Health apply an asset limit that is 3 times the limits applied by MaineCare to determine eligibility for subsidies in addition to the requirement that an individual's income be at 300% or below the federal poverty level. The amendment would require that the subsidies be applied only to the premium cost for Dirigo Health Program coverage. House Amendment "B" to Committee Amendment "A" was not adopted.

**House Amendment "C" to Committee Amendment "A" (H-1092)** proposed to require the Office of Program Evaluation and Government Accountability to investigate Dirigo Health's contracting for actuarial services and the expenditure of fees for those services. The office is required to report its findings to the Joint Standing Committee on Insurance and Financial Services no later than October 15, 2006. House Amendment "C" to Committee Amendment "A" was not adopted.

**House Amendment "D" to Committee Amendment "A" (H-1093)** proposed to prohibit Dirigo Health from using Dirigo Health funds to advertise the existence of Dirigo Health. House Amendment "D" to Committee Amendment "A" was not adopted.

**House Amendment "E" to Committee Amendment "A" (H-1094)** proposed to require the savings offset payment, as reduced by Committee Amendment "A" to a maximum of \$23,000,000, to be transferred to an account administered by the state agency that administers MaineCare and used to provide a state match for federal Medicaid dollars for the costs of paying hospitals in full for services provided under the MaineCare program. The amendment also added an appropriations and allocations section. House Amendment "E" to Committee Amendment "A" was not adopted.

**House Amendment "F" to Committee Amendment "A" (H-1095)** proposed to repeal the savings offset payment as the source of funding for subsidies for the Dirigo Health Program. House Amendment "F" to Committee Amendment "A" was not adopted.

**House Amendment "G" to Committee Amendment "A" (H-1096)** proposed to replace the provisions of Committee Amendment "A" with provisions that prohibit insurance carriers from including the costs of the savings offset payment used to support the Dirigo Health Program in health insurance premium rates. House Amendment "G" to Committee Amendment "A" was not adopted.

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**House Amendment “H” to Committee Amendment “A” (H-1100)** proposed to add provisions that prohibit insurance carriers from including the costs of the savings offset payment used to support the Dirigo Health Program in health insurance premium rates to Committee Amendment “A”. House Amendment “H” to Committee Amendment “A” was not adopted.

**House Amendment “I” to Committee Amendment “A” (H-1105)** proposed to strike the provisions of Committee Amendment “A” to L.D. 1935 that govern the savings offset payment for plan years beginning on or after January 1, 2006 to December 31, 2006 and replace them with a provision that states that the savings offset payment for plan years beginning January 1, 2006 to December 31, 2006 must equal a total of \$23,000,000 for all health insurance carriers, 3rd-party administrators and employee benefit excess insurance carriers. It also proposed to change the deadline for the Blue Ribbon Commission on the Long-term Funding of the Dirigo Health Program to report to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs from November 1, 2006 to November 15, 2006. House Amendment “I” to Committee Amendment “A” was not adopted.

**House Amendment “J” to Committee Amendment “A” (H-1109)** proposed to strike the provisions of Committee Amendment “A” to L.D. 1935 that govern the savings offset payment for plan years beginning on or after January 1, 2006 to December 31, 2006 and replace them with a provision that states that the savings offset payment for plan years beginning January 1, 2006 to December 31, 2006 must equal a total of \$23,000,000 for all health insurance carriers, 3rd-party administrators and employee benefit excess insurance carriers. It also proposed to specify that the provision may not be construed by a court of law as affirming or not affirming any actions of the Board of Directors of Dirigo Health or the Superintendent of Insurance. It proposed to change the deadline for the Blue Ribbon Commission on the Long-term Funding of the Dirigo Health Program to report to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs from November 1, 2006 to November 15, 2006. House Amendment “J” to Committee Amendment “A” was not adopted.

**House Amendment “K” to Committee Amendment “A” (H-1116)** proposed to make the following changes to the laws governing Dirigo Health.

It prohibits insurance carriers from including the costs of the savings offset payment used to support the Dirigo Health Program in health insurance premium rates.

It prohibits administrators from passing the costs of the savings offset payment to covered individuals. It gives the Superintendent of Insurance authority to provide relief to those administrators that demonstrate the funds available are inadequate.

It requires health insurance carriers and administrators to notify insureds of the savings attributable to the Dirigo Health Program and Public Law 2003, chapter 469.

It clarifies that aggregate measurable cost savings are not limited to bad debt and charity care but rather include all cost savings initiatives contained in Public Law 2003, chapter 469 and further cost savings initiatives adopted and approved by the Board of Directors of Dirigo Health.

It establishes a fixed amount of \$35,000,000 as the savings offset payment for plan years beginning January 1, 2006 to December 31, 2006.

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House Amendment “K” to Committee Amendment “A” was not adopted.

**Senate Amendment “A” (S-676)** proposed to make the following changes to the laws governing Dirigo Health.

It prohibits administrators from passing the costs of the savings offset payment to covered individuals. It gives the Superintendent of Insurance authority to provide relief to those administrators that demonstrate the funds available are inadequate.

It requires health insurance carriers and administrators to notify insureds of the savings attributable to the Dirigo Health Program and Public Law 2003, chapter 469.

It clarifies that aggregate measurable cost savings are not limited to bad debt and charity care but rather include all cost savings initiatives contained in Public Law 2003, chapter 469 and further cost savings initiatives adopted and approved by the Board of Directors of Dirigo Health.

It establishes a fixed amount of \$35,000,000 as the savings offset payment for plan years beginning January 1, 2006 to December 31, 2006.

It also removes the emergency preamble and emergency clause and adds an appropriations and allocations section. Senate Amendment “A” was not adopted.

**Senate Amendment “A” to Committee Amendment “A” (S-698)** proposed to incorporate all of the provisions from Committee Amendment “A” to LD 1845 into the bill. The amendment proposed to expand the Dirigo Health Board of Directors from 5 to 9 members and renames it the Board of Trustees of Dirigo Health. The amendment requires that 3 voting members of the board have expertise in accounting, banking, securities or insurance and adds the Treasurer of State as an ex officio, nonvoting member. The amendment clarifies that 5 members of the board constitute a quorum and that an affirmative vote of 5 members is needed for the board to take action. The amendment extends the limitation on personal liability of trustees under the Maine Uniform Trust Code to the trustees of Dirigo Health.

The amendment proposed to permit licensed insurance producers with health authority to sell the Dirigo Health Program insurance products if the producer meets certain training requirements. Additionally, the bill exempts producers from the appointment requirement solely for purposes of selling the Dirigo Health Program insurance products and holds a carrier underwriting Dirigo Health Program coverage harmless from liability for any actions of such producers.

The amendment proposed to give authority to Dirigo Health to provide access to health benefits coverage through the Dirigo Health Self-administered Plan after the board evaluates bids for self-administered and fully insured benefits coverage. If the board makes the decision to provide coverage through a self-administered plan, the amendment requires the board to report to the joint standing committee of the Legislature having jurisdiction over health insurance matters within 30 days of the decision. The amendment also gives the committee the authority to report out legislation relating to the self-administered plan.

If the Dirigo Health Self-administered Plan is established, the amendment would authorize the board to enter into voluntary cooperative agreements with a public purchaser for purchasing and administrative functions only, but requires that the risk pools and reserves of the Dirigo Health Self-administered Plan and any public purchaser not be commingled. The amendment expands the duties and responsibilities of the board with regard to the establishment and ongoing management of the self-administered plan. The amendment requires the board to contract for services from actuaries, investment counsel, financial institutions, 3rd-party administrators and any



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other organization necessary to administer the plan. The amendment requires an actuary under contract to the board to determine the appropriate level of reserves and administrative costs for the plan and the amount of stop loss insurance necessary, provide opinions regarding the actuarial soundness of the plan, develop a rate structure for the plan and report annually to the board.

The amendment would require the Dirigo Health Self-administered Plan to maintain reserves at least equal to the sum of the amount necessary to pay claims and administrative costs for the assumed risk for 2 1/2 months and the amount determined annually by a qualified actuary to be necessary to fund the unpaid portion of ultimate expected losses and related expenses incurred in the provision of benefits. The amendment requires the reserve account to be adjusted on a quarterly basis and to be capitalized from any initial start-up funds transferred into the account by Dirigo Health, monthly enrollee payments, any funds received from any public or private source, legislative appropriations, payments from any state departments or agencies and any other means approved by the Legislature. The amendment also authorizes the board to purchase excess or stop loss insurance at attachment limits and levels recommended by a qualified actuary and removes the authority to establish a self-administered plan in the event the board is unable to purchase that insurance.

The amendment would require the Dirigo Health Self-administered Plan to meet the same requirements of the Maine Insurance Code that would be required by state law if health benefits coverage were provided by a health insurance carrier for community rating, guaranteed issuance, guaranteed renewal, continuity of coverage and mandated benefits. The amendment also requires that the self-administered plan extend the same benefits, rights and protections of the Maine Revised Statutes, Title 24-A, chapter 56-A and Bureau of Insurance Rule Chapter 850, including a limited right to sue the Dirigo Health Self-administered Plan. The amendment specifically waives the State's defense of immunity under the Maine Tort Claims Act.

Senate Amendment "A" to Committee Amendment "A" was not adopted.

**LD 1945**

**An Act To Establish a High-risk Health Insurance Pool**

**DIED BETWEEN  
BODIES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TARDY MILLS P	ONTP      MAJ OTP-AM    MIN	

LD 1945 proposed to require the Department of Professional and Financial Regulation, Bureau of Insurance to apply for federal funds that Congress is offering states to create high-risk insurance pools. The bill proposed to repeal the requirement of guaranteed issue for individual health insurance and enact the Comprehensive Health Insurance Risk Pool Association Act. The bill also proposed to require a study of a reinsurance pool for the small group market.

**Committee Amendment "A" (H-950)** is the minority report of the committee and proposed to make the following changes to the bill.

The amendment broadens the community rating laws to allow carriers to vary premiums on the basis of age within a maximum rate differential on a ratio of 4 to one and on the basis of health status and tobacco use within a maximum rate differential on a ratio of 1.5 to one.