

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Thirtieth Legislature
State of Maine

Daily Edition

Second Regular Session
beginning January 5, 2022

beginning at Page 1311

**STATE OF MAINE
ONE HUNDRED AND THIRTIETH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Monday
April 18, 2022

Senate called to order by President Pro Tem Nathan L. Libby of Androscoggin County.

Prayer by Senator James F. Dill of Penobscot of County.

SENATOR DILL: Thank you everyone. Just remember to keep the pages very busy today. Good morning. You know, it feels like I'm giving a talk here like it's class day, with graduation being three days away. So, I'll ask you to move on and we may never cross paths again, which may or may not be that bad. However, I would like to take a moment and read a couple of quotes. First one by Winston Churchill, 'A politician may be able to predict what will happen tomorrow, next week, next month, and next year and then explain why it did not happen.' From John F. Kennedy, 'Let us not seek the Republican answer or the Democratic answer but the right answer. Let us not seek to place blame for the past. Let us accept our own responsibility for the future.' Finally, by Nelson Mandela, 'It always seems impossible until it's done.' So, let's do the impossible and get everything done we need to do in the next three days and accept responsibility together for what we have accomplished so that we don't need to explain why it didn't happen. Thank you.

Pledge of Allegiance led by Senator Stacey K. Guerin of Penobscot County.

Reading of the Journal of Friday, April 15, 2022.

Off Record Remarks

The Following Communication: S.C. 1265

**STATE OF MAINE
130TH LEGISLATURE
OFFICE OF THE PRESIDENT
AUGUSTA, MAINE**

April 18, 2022

Honorable Darek M. Grant
Secretary of the Senate
3 State House Station
Augusta, Maine 04333

Dear Secretary Grant,

Pursuant to my authority under Senate Rule 201.3, please be advised that I appoint the Senator from Androscoggin County, Senator Nathan Libby to serve as President Pro Tem and convene the Senate on Monday, April 18, 2022.

Please let me know if you have any questions.

Sincerely,

S/Troy D. Jackson
President of the Senate

READ and ORDERED PLACED ON FILE.

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1528

**JOINT RESOLUTION
RECOGNIZING NATIONAL SMALL BUSINESS WEEK,
MAY 1-7, 2022**

WHEREAS, in the face of a worldwide pandemic, America's economic growth has been driven by the resilience of our small businesses, which pioneer innovative solutions to the country's greatest challenges and provide opportunities to families and workers; and

WHEREAS, from the storefront shops that anchor Main Street, to those who fish and farm to feed our people, to the small manufacturers driving our competitiveness on the global stage, small businesses are the backbone of our economy and the cornerstones of our nation's promise; and

WHEREAS, when we support small businesses, jobs are created and local communities preserve their unique cultures; and

WHEREAS, because this country's 32.5 million small businesses create nearly 2 out of 3 jobs in our economy, we cannot ourselves resolve to create jobs and spur economic growth in America without discussing ways to support our entrepreneurs; and

WHEREAS, the President of the United States has proclaimed National Small Business Week every year since 1963 to highlight the programs and services available to entrepreneurs through the United States Small Business Administration and other government agencies; and

WHEREAS, data compiled by the United States Small Business Administration, Office of Advocacy indicates that over 99% of Maine's businesses are small businesses; and

WHEREAS, the State of Maine supports and joins in this national effort to help America's small businesses do what they do best: grow their businesses, create jobs and ensure that our local communities remain as vibrant tomorrow as they are today; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Thirtieth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to recognize May 1-7, 2022 as National Small Business Week and express our appreciation to Maine's small businesses, which are the backbone of our economy and the anchors of our communities.

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

The Joint Resolution was **READ**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Sagadahoc, Senator Vitelli.

Senator **VITELLI:** Thank you, Mr. President. Sometimes things just move faster than we think. I did want to speak very briefly on this Joint Resolution. Some of you know I spent very much of my career working to support and advocate for the smallest of our small businesses, what are often called micro-businesses, those with five or fewer employees. Particularly, worked hard over many years to make sure that women, people in rural communities, those who were unemployed, were single parents, dependent for a time on public assistance had the opportunity to fulfill their dreams and reach their goals using their talents and their passions to start their own small business. These small businesses are to be found everywhere in our communities. From back roads to Main Street, they provide the goods and the services, whether it's childcare, roof repair, lawn service, food of all kinds, bakeries, oyster farms that add diversity and vitality and helps support all of our lives and bring wealth to their families and to our communities as a whole. So, I just want to celebrate these smallest entrepreneurs, small only in the sense of their beginning place, and celebrate the hard work that they put forward so that they can contribute in such significant ways to all of us and I just want to say that I did this work over many years in the firm belief that entrepreneurs are made and not born and that, given the right resources and supports and connections, they can overcome all kinds of odds and expectations that are often out there that might deny them this opportunity for their success and they do succeed and so I just want to share this definition with you of what an entrepreneur is so that we can be encompassing of all of the spirit of entrepreneurship that exists in our state and that is that entrepreneur is someone, or a group of someones, who have an idea of how to do something better, who are willing to work hard, take risks, and bring their idea to the marketplace. We are blessed in this state that we have many people, many entrepreneurs, willing to do just that and it enriches all of us, Mr. President, and I just want to celebrate them all on this week that nationally we are here to recognize and appreciate our small business owners. Thank you, Mr. President.

The Joint Resolution was **ADOPTED**, in concurrence.

Off Record Remarks

COMMUNICATIONS

The Following Communication: H.C. 404

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002**

April 14, 2022

Honorable Darek M. Grant
Secretary of the Senate
130th Maine Legislature
Augusta, Maine 04333

Dear Secretary Grant:

The House voted today to recede and concur to acceptance of the Minority Ought Not to Pass Report of the Committee on Energy, Utilities and Technology on Bill "An Act To Enhance the Energy Security of Maine Residents" (H.P. 509) (L.D. 697)

Sincerely,

S/Robert B. Hunt
Clerk of the House

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

ORDERS

Joint Order

Expressions of Legislative Sentiment recognizing:

John Shea, of Auburn, a senior at Edward Little High School and a player on the boys basketball team, who has been named Mr. Maine Basketball for 2022 by the Maine Association of Basketball Coaches. We extend our congratulations and best wishes;
SLS 975

Sponsored by Senator CLAXTON of Androscoggin.
Cosponsored by Representatives: BICKFORD of Auburn, LIBBY of Auburn, MELARAGNO of Auburn.

The Joint Order was **READ**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Senator **CLAXTON** of Androscoggin.

Senator **CLAXTON:** Thank you, Mr. President Pro Tem. Men and women of the Senate, I'm pleased to recognize with us today Mr. Maine Basketball 2022, John Shea. John is a senior finishing up at Edward Little High School in Auburn and he's coming off of an amazing season with the Red Eddies. He's been the cornerstone of their team and this year he averaged 27 points a game and 12 rebounds a game. That's more than I could contribute to my high school team in four years. He led them to a 16 - 2 season and the team just barely missed the State Finals. In one game he scored 44 points, tying the Red Eddies Auburn

record set by Troy Barnies. That's the same Troy Barnies that we know of, who is a former Mr. Maine Basketball, an Edward Little grad who is now playing professionally overseas. Troy worked with John over the years to build on John's toughness and worked to keep emotions in check during the heat of a game. Looking back on the season and where it led John, it is clear the work paid off. Now John's basketball career is really taking off and this afternoon and this fall he'll be headed to Orono to join the Black Bears team. I know that many of us in Auburn will be watching proudly and cheering him on from the sidelines. Congratulations once again to John Shea on all of your success this season and best of luck next. Thank you.

The Joint Order was **PASSED**.

Sent down for concurrence.

THE PRESIDENT PRO TEM: The Chair is pleased to recognize in the Chamber John Shea, Mr. Maine Basketball. He is joined by his family; Bridgette, Christopher, Joseph, and Jenna; Coach Mike Adams and his son, Marshall; trainers B.J. and Toby Grondon. They are all from Auburn. They are the guests today of the Senator from Androscoggin, Senator Claxton, and the entire Maine Senate. Would they please rise and accept our greetings.

Maxwell Burtis, of Brunswick, who has earned the distinction of being named Salutatorian of the 2022 graduating class of the University of Maine. We extend our congratulations and best wishes;

SLS 976

Sponsored by Senator DAUGHTRY of Cumberland.
Cosponsored by Representatives: ARFORD of Brunswick,
McCREIGHT of Harpswell, TUCKER of Brunswick.

The Joint Order was **READ**.

On motion by Senator **DAUGHTRY** of Cumberland, **TABLED** until Later in Today's Session, pending **PASSAGE**, in concurrence.

Off Record Remarks

Joint Resolution

On motion by Senator **RAFFERTY** of York, the following Joint Resolution:

S.P. 751

**JOINT RESOLUTION
DESIGNATING APRIL 17-23, 2022 AS SCHOOL BOARD
MEMBER RECOGNITION WEEK**

WHEREAS, school boards are charged with the all-important responsibility of being accountable for the education of Maine children in order to prepare them for a rewarding and productive future; and

WHEREAS, school boards must articulate a vision and direction for their school systems, set high academic standards and approve the hiring of qualified staff most capable of making that vision a reality; and

WHEREAS, school boards must adopt a budget that balances student needs with the community's ability to pay and advocate for passage of that budget to ensure the school district has adequate funding to provide all children with the opportunity to learn; and

WHEREAS, all of these responsibilities and more are done by volunteer school board members who put in countless hours in meetings and in the community advocating for their schools, representing the interests of children, parents and all citizens of the school district and preserving the valued tradition of local control over kindergarten to grade 12 public education; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Thirtieth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to designate April 17-23, 2022 as School Board Member Recognition Week and encourage local school districts and community leaders to appropriately recognize dedicated school board members across the State.

The Joint Resolution was **READ**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Rafferty.

Senator **RAFFERTY:** Thank you again, Mr. President. You know, working in the committee in the Education and Cultural Affairs, much of our interaction are with leadership of various educational groups across the state. So, I want to thank Vicki Wallack of Maine School Management as well as this morning we have with us Steven Bailey and Eileen King. These folks represent that group very well in our committee and are great to work with. School board members, these folks are leaders in their community and, as we, you know, can probably relate to very well, they often do a lot of work that - they are sort of unsung heroes. They do a lot of heavy lifting and go unnoticed. So, I just want to take a minute to publicly thank them for the work they do. They're often recognized in their community but often not commended for the work that they do. They face numerous challenges and certainly the pandemic and COVID have created a lot of that in the last couple of years but we do owe them a debt of gratitude for the work that they have done and the leadership that they've provided throughout the last couple of years and many years in the past, as well as in the future. I would like to say that regardless of what we often think, and I've been on, you know, the opposite side of the table from these folks a couple of times as a negotiator, but I've often found that, in the end and ultimately, and I know that they will always do this, they do what's best for children and that's at the base of all their decision making. I just want to thank them today and recognize them for being here. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Breen.

Senator **BREEN**: Thank you, Mr. President Pro Tem. I rise with a lovely surprise that one of the chairs of the local school committee in SAD 51 is here today with a couple of her kids. Tyler McGinley is the chair of the school board in the combined district of Cumberland and North Yarmouth. Like many school board officials across our state, Ms. McGinley faced a lot of difficult interaction with the public regarding COVID and mandates and met that extraordinary push-back, in particular in her community, with what I would say particular grit and perseverance and I'm very, very proud to represent her in the Senate. So, I want to say to all school board members that, you know, our work is irrelevant if you're not doing your work and we all here representing the families, the kids, the teachers, the administrators, and we're very, very grateful for your work. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Dill.

Senator **DILL**: Thank you, Mr. President. Mr. President, ladies and gentlemen of the Senate, I just wanted to mention that I saw an interview one time with Chellie Pingree, Representative Pingree, and the question was asked of her, something to the effect of: 'You've been elected to many, many different positions. What is the toughest position that you've been elected to?' Her answer was: 'By far a school board.'

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS**: Thank you very much, Mr. President. I would echo what my good friend, Senator Dill, said. I spent nine years on the SAD 4 school board, five years as chairman, and those were years that weren't pleasant to be on the school board. We lost money. The State revenues went down and it was a tough time and I would say that being in the Senate's been easier than those years I spent on the school board. Also, Mr. President, my scratching on there was to recognize Arthur Jette from Cambridge, who was the school board, SAD 4 school board. Thank you.

THE PRESIDENT PRO TEM: Thank you, my apologies to our guest for not being able to make out that chicken scratch. The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND**: Thank you, Mr. President and ladies and gentlemen of the Senate. Just very briefly, I too have someone here who is on the RSU 14 school board, and she's Jennie Butler, and she's served there many years. She was a teacher a lot of years before even coming to the school board and she has been someone that people have learned more about and respects highly. She was - she won her last election by a huge landslide and so I'm really proud to have Jennie here and I want to echo what everybody else has said, how important school board members are and how they serve our community on very difficult times. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Washington, Senator Moore.

Senator **MOORE**: Thank you, Mr. President. I'm not going to be left behind and I want to thank Jamie Bohanan, who is here from Baileyville, from the school board in my district there. I applaud him for all of his work that he does, not only on the school board but throughout the community with his business. He's always very, very active in the schools and all that he does. So, I applaud him for his work. Thank you, Jamie, for being here.

The Joint Resolution was **ADOPTED**.

Sent down for concurrence.

THE PRESIDENT PRO TEM: The Chair is pleased to recognize in the rear of the Chamber a number of guests. Lucy Richard, President; Julia Lester; Natalie Andrews; Arthur Jette; Niki Fortier; Elyse Tipton; Roy Gott; James Bohanan; Jennie Butler; Pia Holmes; Tyler McGinley; Mary Coventry; Russel Gates; Sarah Lanquet; Christine Marden. They are all with the Maine School Boards Association. They are the guests today of the Senator from York, Senator Rafferty, and the entire Maine State Senate. Would they please rise and accept our greetings.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Reclassify Certain Offenses under the Inland Fisheries and Wildlife Laws and Motor Vehicle Laws and Increase the Efficiency of the Criminal Justice System" H.P. 1193 L.D. 1604

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-977)**.

Signed:

Senator:
DESCHAMBAULT of York

Representatives:
WARREN of Hallowell
LOOKNER of Portland
MORALES of South Portland
PLUECKER of Warren
RECKITT of South Portland
SHARPE of Durham

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-978)**.

Signed:

Senator:

CYRWAY of Kennebec

Representatives:

COSTAIN of Plymouth

NEWMAN of Belgrade

PICKETT of Dixfield

RUDNICKI of Fairfield

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-977)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-977)**.

Reports **READ**.

Senator **DESCHAMBAULT** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-977)** Report, in concurrence.

Senator **POULIOT** of Kennebec moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On motion by Senator **VITELLI** of Sagadahoc, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **DIAMOND:** Thank you, Mr. President and ladies and gentlemen of the Senate. It isn't often that I stand and speak in opposition to a motion made by Senator Deschambault from York but today I find that I really need to. L.D. 1604 will take Maine back at least 16 years, that I can account for, making our citizens considerably less safe and, worst of all, minimizing the serious offence of operating after suspension, which comes under the habitual offender statute. July 29: 2005 Tina Turcotte, who lived in Scarborough, was killed on the Maine Turnpike, driving northbound just a short distance from the Augusta exit. When she slowed down for a construction - in a construction area she was hit from behind by a tractor trailer who didn't slow at all, sandwiching she and the vehicle she was in under a large truck cab that had stopped in front of her. The tragic crash took the life of an innocent 40 year old woman who just had survived breast cancer. The wife of Scott Turcotte and the daughter of Bob and Pat LaNigra. The driver of the tractor trailer had 23 suspensions and 63 convictions. He shouldn't have even been driving but he was.

That was a time that I had just been, a year before, elected to the Senate and I was chair of the Criminal Justice Committee and we looked into all the things that were going on and found that Maine had very lax, very lax, inexcusably I might add, when it came to serving the sentences necessary, making the arrest necessary, for operating after suspension. Our reputation, come to find out, was that if your license was suspended not to worry. You can still go out and drive. No one's really paying attention. In fact, eight days after this fatal crash the same tractor trailer

driver, Scott Hewitt, was arrested again in Presque Isle for operating after suspension.

The results of our lenient statutes really had caught the attention of the public and, maybe even more importantly, the Legislature. Once we examined that problem even more closely, Governor Baldacci, the Governor at the time, created a special task force, unprecedented in my memory at least, which involved many agencies within Maine government. The Legislature took the reform of what we found out, what they found out, very seriously and created a new law called Tina's Law. Operating after suspension once again became a serious offence as the result of that work. That bill that was created was passed unanimously in the Senate and unanimously in the House. Then, on April 28, 2006, Governor Baldacci signed it into law. At the time Secretary of State Matt Dunlap said, 'The signing of Tina's Law sends the message once again to all drivers that Mainers take OAS,' operating after suspension, 'very seriously.'

If L.D. 1604 passes we will once again begin trivializing the whole operating after suspension offense and putting innocent Maine drivers once again in jeopardy. For that reason, I would hate to see that erosion start again. Well intentioned, I might add, but to see that start again would only bring, again, tragedy. The message we should be sending to those people who repeatedly ignore our law, our driving laws in particular, is that we're not going to let that happen any more and we're not going to start sliding backwards as a result. So, sending a message that driving is a privilege and not a right should be our message and then we shouldn't start to go soft on this one particular area that has caused so many heartaches for so many innocent people. So, I would ask - the motion I believe, Mr. President, is Indefinite Postponement? I would just as happily go with the other report, which I cannot talk about, but I do not - I think we should definitely make sure that Report "A" does not happen. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair would like to clarify the motion before us is Indefinite Postponement of this bill and all of its accompanying papers. So please keep your remarks to that motion. The Chair recognizes the Senator from Kennebec, Senator Cyrway.

Senator **CYRWAY:** Thank you, Mr. President Pro Tem. Ladies and gentlemen of the Senate, I rise today in opposition to the motion - I'm affirmative for this motion before us. This bill moves certain Class E wildlife and traffic criminal offenses to civil infractions. While some of the bill helps address a serious backlog judicial system, it waters down the classification of habitual offenders and also other civil offenses as well that could be - should be Class E, like illegal attachment of plates. It would be very difficult to know if that vehicle had been stolen or not and also you would not be covered under insurance if you have illegal attachment of plates and so the victims in an accident would not be covered. So, you could potentially have a family in your car and your family members could be injured and it could be serious bodily injury and not have coverage from the other - the driver of that illegal attachment vehicle. This is of great concern to me and should be a great concern to all of you. According to Title 29A, a habitual offender is defined as a person whose record, as maintained by the Secretary of State, shows that a person has accumulated three or more convictions of adjudications for distinct offenses arising out of the separate act committed within a five year period. Acts include, but are not limited to, operating a

vehicle without a license or after suspension or revocation, an OUI conviction, homicide resulting from operation of a motor vehicle. All of these, no insurance coverage to the victims is going to happen.

In July 2005, Tina Turcotte was part of an accident that a truck driver didn't heed slowing traffic on I-95 in Hallowell and slammed into the rear of her car, essentially crashing her vehicle between his cab and another truck in front of her and she held on for two days before succumbing to her injuries, yet her death was resonated in years since. It was the accident, or even her death itself, that drew that outrage. Hundreds of fatalities from motor vehicle accidents sadly occur every year on Maine roads. It was the fact that the truck driver, Scott Hewett of Caribou, had a driving record that included 63 convictions, 22 license suspensions, and a previous fatality. He should not have been driving period. In response Maine's Legislature unanimously passed L.D. 1906, An Act to Safeguard Maine's Highways, in 2006, called Tina's Law in her honor. The bill strengthened Maine's operating after suspension, revocation violations, and habitual offender laws. It also created two new motor vehicle crimes related to causing serious bodily injury or death while driving with a suspended or revoked license and aggravated operating after habitual offender revocation. The theory behind - the theory back then, as it should still be today, is if you deter someone from driving after they lose their license, and codify more severe penalties if they do, it would keep habitual offenders off the roads and cut down the associated risk they pose to others. The good Senator from Cumberland, Senator Diamond, was a co-sponsor of that legislation and stated at the time that the law was needed because Hewitt would have been classified as a habitual offender and likely would not have been on the road that summer had Tina's Law been in the books.

So, here's the effect it has had, and thanks to Bill Diamond and the other sponsors of the other bill, when Tina's Law went into effect in 2006 OUI suspensions were about 9,000 per year. By 2013, it dropped to less than 5,000. Today the figure was just over 2,500 in 2021. Wow, amazing. Overall suspensions were about 68,000 in 2006. By 2013 it was around 55,000. Today it dropped to less than 37,000 last year. In 2006 there were 1,200 habitual offenders. In 2013 there was 723. Last year there were only 418. Senator Diamond's law had a major impact. It did what it was intended to do. We cut down on habitual offenders and we cut down on OUI suspensions and if make operating after suspension a civil violation this is seriously going to raise crimes and more reckless driving. How can we say to Maine's people that we want to go backwards on this, that we want to put more people at risk? Yet that's what we're doing here today, talking up a bill, sponsored by the Representative of Hallowell ironically, the exact town where Tina Turcotte was killed. How does that even square up? Look at the bottom line in the legislation. It all but reverses what the Legislature, yes both Democrats and Republicans, got right unanimously 16 years ago. The amendment before us, and if we vote for the Indefinite Postpone, I believe it would be the best solution because there are other concerns about the OAS as well as the false license put on your car, your plate. I am voting for Indefinitely Postpone and thank you, Mr. President Pro Tem.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Knox, Senator Miramant.

Senator **MIRAMANT:** Thank you, Mr. President Pro Tem. Colleagues, I really want us to all have a chance to talk about and vote this one. This motion won't allow that. I'd like to move against this motion and move on to what we can discuss. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Deschambault.

Senator **DESCHAMBAULT:** Thank you, Mr. President Pro Tem and thank you, Senator Miramant. I was just going to say that. I, since the motion is to Indefinitely Postpone, I am not standing up and going to discuss what I just proposed. So, we'll see what happens with this motion right now.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Hickman.

Senator **HICKMAN:** Thank you, Mr. President. I was going to resist standing up while you're up there. May I pose a question through the Chair?

THE PRESIDENT PRO TEM: The member may proceed.

Senator **HICKMAN:** Thank you, Mr. President. For anyone who wishes to answer, if we were to vote in favor of this motion does that then mean that Committee Amendment "B" could not be offered for our consideration?

THE PRESIDENT: The Senator from Kennebec, Senator Hickman, has posed a question to anyone in the Chamber who may care to answer. The Chair recognizes the Senator from Kennebec, Senator Pouliot.

Senator **POULIOT:** That is correct.

THE PRESIDENT PRO TEM: The pending question before the Senate is Indefinite Postponement. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#768)

YEAS: Senators: BALDACCI, BENNETT, BLACK, CYRWAY, DAVIS, FARRIN, GUERIN, KEIM, MOORE, POULIOT, ROSEN, STEWART, TIMBERLAKE, WOODSOME

NAYS: Senators: BAILEY, BREEN, BRENNER, CARNEY, CHIPMAN, CLAXTON, CURRY, DAUGHTRY, DESCHAMBAULT, DIAMOND, DILL, HICKMAN, JACKSON, LAWRENCE, MAXMIN, MIRAMANT, RAFFERTY, SANBORN, VITELLI, PRESIDENT PRO TEM LIBBY

14 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **POULIOT** of Kennebec to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE, FAILED**.

The motion before the Senate was the motion by Senator **DESCHAMBAULT** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-977)** Report, in concurrence.

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

Senator **DIAMOND:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I would move that the Senate accept the Minority Ought to Pass Report with Amendment "B".

THE PRESIDENT PRO TEM: The Chair would advise that there is already a motion before the Senate and that motion is acceptance of the Majority Ought to Pass as Amended by Committee Amendment "A" (H-977) Report.

Senator **DIAMOND:** Okay. Mr. President, may I pose a Parliamentary Inquiry?

THE PRESIDENT PRO TEM: The member may proceed.

Senator **DIAMOND:** So, if I wanted to encourage everybody not to vote for that I would - would I be able to talk about that now? Would I be able to say that even?

THE PRESIDENT PRO TEM: Remarks would be in order at this time. The Chair recognizes the Senator from Kennebec, Senator Pouliot.

Senator **POULIOT:** Thank you, Mr. President Pro Tem. I learn something new every day. I would request a roll call.

On motion by Senator **POULIOT** of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Deschambault.

Senator **DESCHAMBAULT:** Thank you. This bill started in the 129th, put forward by the Maine Prosecutors Association, your District Attorneys. They worked on it probably for 18 months and they needed to work with the Inland and Fisheries, Wildlife Committee and the Department. They also worked with, since it has to do with Inland Fisheries laws and Title 29, which is motor vehicle laws, the Secretary of State was involved. This is to - the proposed legislation is designed to reclassify many Class E crimes found in Title 12, which is Inland Fishery laws. There's about 20 of them that they decided on that really aren't laws that are criminal in nature. So, it's to make them a civil violation. Things about baiting bear, something about illegal placement of ducks - duck decoys, excuse me. So, it's to reclassify many Class E crimes found in Title 12 to civil or traffic violations. The most significant change is that individuals who commit these offenses will no longer be classified as criminals and anyone who's found guilty of a crime, and you have a criminal record, you lose a lot in your - the rest of your life. The criminal conviction can have significant consequences. The reclassification still allows for a level of accountability when the offenses occur and charged individuals will still be afforded an opportunity for a

hearing. However, the end result would be an adjudication of a civil violation or a traffic infraction and not a criminal conviction. Another meaningful change would occur within the criminal justice system as a whole. It's no secret that our criminal justice system was already overwhelmed prior to March of 2020. Since the pandemic, the backlog of cases has been dramatically increased. This legislation would redirect the traffic infractions to the Judicial Branch of Violations Bureau and Traffic Court. Finally, legislation is an example of a successful - this legislation is an example of a successful collaboration of many government agencies for the past two years and the branches of government. I want you to know that the testimony came in total support from the District Attorneys Association; from Secretary of State Bellows; from Lieutenant Bruce Scott, who's the Maine State Police Traffic Division; from CLAC, the Criminal Law Advisory Commission; and from the ACLU.

I will address one comment that is - the only thing different is the Majority Report removes from the definition, as you well heard from Senator Cyrway, habitual offender, which is Title 29, and consideration of the operating after suspension convictions. However, it's not operating after suspension or habitual offender. It cannot be based on drunk driving, OUI. So, if you're convicted of OUI you could be a habitual offender or you could have operating after suspension, but this does not apply to this. You don't go to traffic court if on your record you're OUI or your operating after suspension is because of drunk driving. The only difference is the other amendment does include it. So, I wanted to let you know. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Cyrway.

Senator **CYRWAY:** Thank you, Mr. President Pro Tem. The facts don't lie. Let's just continue to save lives. This would keep the habitual offender, if we go to the Minority Report this would keep the habitual offender. The way it is written right now with "A" Report, someone could have up to 100 operating after suspensions and still not have a criminal conviction. This would set us back in time and would not fulfill what Tina's Law was created to do and I think, you know, as Legislators, really we are here to look for people's safety and I believe that Governor Baldacci, Senator Diamond, Matt Dunlap were all involved in this. It was in the news, how big this was of a concern and it made a difference. So, let's not throw that away by pushing this button for the "A" amendment. So, I only ask that you join me in voting down the motion before us so we can take up the Minority Report of the committee, which addresses a number of Class E wildlife and traffic criminal offenses included in this amendment but does not reduce the safeguards put in place to protect the citizens from habitual offenders. Thank you, Mr. President Pro Tem.

THE PRESIDENT PRO TEM: The pending question before the Senate is Acceptance of the Majority Ought to Pass as Amended by Committee Amendment "A" (H-977) Report. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#769)

YEAS: Senators: CHIPMAN, DAUGHTRY, DESCHAMBAULT, MAXMIN, MIRAMANT, SANBORN

NAYS: Senators: BAILEY, BALDACCI, BENNETT, BLACK, BREEN, BRENNER, CARNEY, CLAXTON, CURRY, CYRWAY, DAVIS, DIAMOND, DILL, FARRIN, GUERIN, HICKMAN, JACKSON, KEIM, LAWRENCE, MOORE, POULIOT, RAFFERTY, ROSEN, STEWART, TIMBERLAKE, VITELLI, WOODSOME, PRESIDENT PRO TEM LIBBY

6 Senators having voted in the affirmative and 28 Senators having voted in the negative, the motion by Senator **DESCHAMBAULT** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-977)** Report, in concurrence, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-978)** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Bill **READ ONCE**.

Committee Amendment "B" (H-978) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-978)**, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Establish a Presumption of Entitlement to Counsel for a Person Who Is the Subject of an Adult Guardianship, Conservatorship or Other Protective Arrangement Proceeding"
H.P. 354 L.D. 480

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1010)**.

Signed:

Senators:
CARNEY of Cumberland
SANBORN of Cumberland

Representatives:
HARNETT of Gardiner
BABBIDGE of Kennebunk
EVANGELOS of Friendship
MORIARTY of Cumberland
RECKITT of South Portland
SHEEHAN of Biddeford

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Senator:
KEIM of Oxford

Representatives:
HAGGAN of Hampden
LIBBY of Auburn
POIRIER of Skowhegan
THORNE of Carmel

(Representative NEWELL of the Passamaquoddy Tribe - of the House - supports the Majority **Ought To Pass as Amended** Report.)

Comes from the House 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" (H-1010)**.

Reports **READ**.

Senator **CARNEY** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On motion by Senator **TIMBERLAKE** of Androscoggin, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#770)

YEAS: Senators: BAILEY, BALDACCI, BREEN, BRENNER, CARNEY, CHIPMAN, CLAXTON, CURRY, DAUGHTRY, DESCHAMBAULT, DIAMOND, DILL, HICKMAN, JACKSON, LAWRENCE, MAXMIN, MIRAMANT, RAFFERTY, SANBORN, VITELLI, PRESIDENT PRO TEM LIBBY

NAYS: Senators: BENNETT, BLACK, CYRWAY, DAVIS, FARRIN, GUERIN, KEIM, MOORE, POULIOT, ROSEN, STEWART, TIMBERLAKE, WOODSOME

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **CARNEY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

Bill **READ ONCE**.

Committee Amendment "A" (H-1010) **READ** and **ADOPTED**, in concurrence.

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

Off Record Remarks

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Implement the Recommendations of the Commission To Create a Plan To Incorporate the Probate Courts into the Judicial Branch" (EMERGENCY)

H.P. 1453 L.D. 1950

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1019)**.

Signed:

Senators:

CARNEY of Cumberland
SANBORN of Cumberland

Representatives:

HARNETT of Gardiner
BABBIDGE of Kennebunk
EVANGELOS of Friendship
MORIARTY of Cumberland
RECKITT of South Portland
SHEEHAN of Biddeford

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Senator:

KEIM of Oxford

Representatives:

HAGGAN of Hampden
LIBBY of Auburn
POIRIER of Skowhegan
THORNE of Carmel

(Representative NEWELL of the Passamaquoddy Tribe - of the House - supports the Majority **Ought To Pass as Amended** Report.)

Comes from the House 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" (H-1019)**.

Reports **READ**.

Senator **CARNEY** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On motion by Senator **POULIOT** of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#771)

YEAS: Senators: BALDACCI, BREEN, BRENNER, CARNEY, CHIPMAN, CLAXTON, DAUGHTRY, DESCHAMBAULT, DIAMOND, DILL, HICKMAN, JACKSON, LAWRENCE, MAXMIN, MIRAMANT, RAFFERTY, SANBORN, VITELLI, PRESIDENT PRO TEM LIBBY

NAYS: Senators: BAILEY, BENNETT, BLACK, CURRY, CYRWAY, DAVIS, FARRIN, GUERIN, KEIM, MOORE, POULIOT, ROSEN, STEWART, TIMBERLAKE, WOODSOME

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **CARNEY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

Bill **READ ONCE**.

Committee Amendment "A" (H-1019) **READ**.

Senator **ROSEN** of Hancock requested and received leave of the Senate that members and staff be allowed to remove their jackets for the remainder of this Legislative Day.

Committee Amendment "A" (H-1019) **ADOPTED**, in concurrence.

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

Divided Report

Six members of the Committee on **JUDICIARY** on Bill "An Act To Regulate the Use of Biometric Identifiers"

H.P. 1450 L.D. 1945

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1017)**.

Signed:

Senators:

CARNEY of Cumberland
SANBORN of Cumberland

Representatives:

MORIARTY of Cumberland
POIRIER of Skowhegan
RECKITT of South Portland
SHEEHAN of Biddeford

Five members of the same Committee on the same subject reported in Report "**B**" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-1018)**.

Signed:

Senator:

KEIM of Oxford

Representatives:

HARNETT of Gardiner
BABBIDGE of Kennebunk
EVANGELOS of Friendship
LIBBY of Auburn

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

Signed:

Representatives:

HAGGAN of Hampden
THORNE of Carmel

(Representative NEWELL of the Passamaquoddy Tribe - of the House - supports Report "**B**", **Ought To Pass as Amended by Committee Amendment "B" (H-1018)**.)

Comes from the House with Report "**B**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1018)**, **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1018)**.

Reports **READ**.

Senator **CARNEY** of Cumberland moved the Senate **ACCEPT** Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1017)**, in **NON-CONCURRENCE**.

On motion by Senator **KEIM** of Oxford, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Keim.

Senator **KEIM:** Thank you, Mr. President Pro Tem. I am in opposition to the report that has been moved. This bill is an incredibly important bill and it's also very timely. Right now, Maine people are having their biometric data taken and recorded and used without their permission. I think that what's happening up and down the hallways in the State House right now is scare tactics and confusion. That's what's being deployed to defeat this bill and there is some misunderstandings around this bill and I'd like to try to clear them up. It is actually a simple bill and a

business cannot accidentally collect your information and use high-tech biometric scanning software to determine who it is that's in their building or who it is that's doing transactions or even just simply walking by. You cannot accidentally collect someone's biometric information. It has to be purposely done. You have to have high-tech software to do so. It is not about security cameras. In Illinois - this bill is modeled after a bill in Illinois that has been in law for 14 years and during that time it has never been repealed or even amended and this bill is more narrowly tailored than what they have in Illinois. So, the sky will not fall if we pass this bill. I don't even think we need a study. I am 100% comfortable in passing this bill as it is. We can still use cell phones. We can still have banks that can use voice recognition. We can still buy new cars that are high-tech. What this bill will do is this will put in the hands of Maine people the authority to say 'No, you may not collect my biometric data. You may not collect it. But, if I do give you permission to collect it because I do want to bank with you and I would like you to use my voice, then I get the option as well of saying you many not share that information with anyone else.' It's that simple. Business are being scared to think that somehow they're going to get looped into this bill accidentally. They're not. You cannot accidentally do this. This is very high-tech. The people of Maine right now, however, can get looped in accidentally and that's exactly what is happening. You cannot walk around constantly and keep your face covered. We are all part of Facebook before we realized what technology was going to be able to do. They were going to be able to do a retina scan of you. We all are out there. Our identities that we cannot change is out there. We can't pull it back now. So, it's time to give people the ability, themselves, to say 'You have stolen from me. I did not give you permission for this and now I have the ability to sue you for it.'

The class action law suit is another piece of this bill that I think we need to understand a little better. Again, this is the important piece of where it is more narrowly tailored than the Illinois law. Under the Illinois law a person aggrieved by a violation of the act has a right of action. To be aggrieved is a much broader term than what we have written in this law right here, which is that a person, an individual, who's biometric identifier is the subject of a violation may bring an action. So, you actually have to have a violation. You don't have to just be aggrieved. I think we can all understand and very easily see the difference in those terms. The people of Maine have not had a choice. It is time that we give them this opportunity to say no. It's a civil liberty issue, pure and simple.

In Illinois, this law has been in for 14 years, as I said, and there have only been five actions per year about this law. So, again, the sky is not going to fall. We're not going to have our law suits flooding our courts over this issue and the time to act is now because this technology is becoming more widespread and we need our businesses to know that this is the law before they've made investment into this type of software so that we are not harming them later on the other side. It is not widespread in Maine but the technology is easily accessible and it could be at any moment implemented and the people of Maine could literally be watched from the hardware store to the grocery store to the bank and we have already stopped our law enforcement from using this type of information because we don't want people watched and tracked, but there is a lot of big tech companies out there that would like to partner with our local businesses and make sure that they're easily accessible for them to be watched and tracked. I would very much encourage each one of you to

read the committee amendment. It is the summary of that bill, it's very simple and it clearly outlines what this is and one of the concerns also that's been, I think, really misrepresented is that fact that banks and credit unions are somehow going to not be able to do their - collect the biometric data in order for safety and security for your accounts. That's simply not true. Any action that has to do with your account is covered under the Federal Gramm-Leach-Bliley Act and all of those actions are exempted. The only thing that wouldn't be exempted is if they were to put security cameras outside of their building or inside and start collecting again biometric data that they have not been given permission to collect. They don't do it now. We don't want them to begin doing it and that's what this law puts in place. Thank you very much, Mr. President Pro Tem.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Carney.

Senator **CARNEY:** Thank you, Mr. President. I rise briefly to speak to the pending motion. For those members of the Senate and folks who are listening, I just want to let people have a basic understanding of what biometric identifiers are. They're face prints, iris and retina scans, and hand scans. I agree, wholeheartedly, with the Senator from Oxford that protecting individual privacy and maintaining the security of biometric identifiers is an urgent issue. Use of this information and the associated technology improves security in financial and other transactions but it should be stored securely and not sold for profit because if these biometric identifiers are sold or stolen they cannot be changed, as we're all familiar with changing passwords that we have on various accounts. So, the Majority Report, rather than having a study that comes after enactment with a delayed effective date, creates a special study committee to protect biometric identifiers. It does this in the clearest and most reasonable path forward. The committee will study biometric identifiers, how they're used, what technology is available, and then make recommendations regarding legislation to protect and individual's privacy with respect to the collection, use, sale, security, and destruction of biometric identifiers. This will include defining the scope of identifiers that require protection, identifying changes in state law that are needed to protect privacy, and then recommending remedies to the 131st Legislature. This straight forward process that is outlined in Report "A" is the most direct way to adopt the legal framework we need to protect the privacy and security of all Mainer's biometric identifiers and I ask my colleagues to support Report "A". Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Lincoln, Senator Maxmin.

Senator **MAXMIN:** Thank you, Mr. President Pro Tem. I rise in opposition to this motion. Large corporations are collecting, using, and monetizing our personal information at an alarming rate. As people subject to data collection, we often aren't given a choice or asked for consent. Mainers deserve to choose whether companies collect and use our most sensitive data, our faces, voices, and fingerprints. Given the rate at which companies are moving to amass our biometrics, we must act now to protect our constituents. This is why I will be voting against the pending motion. This bill is targeted to a narrow category of vulnerable data called biometric identifiers, which we have just heard what they are. Because they are unique to you they can be used for

authentication, tracking, or surveillance. We are at a watershed moment with use of this data. Nationwide, numerous retailers, concert venues, and stadiums have begun quietly using face recognition technology to identify and track shoppers and even attendees. Rite-Aid has begun installing face recognition collection cameras in areas, especially in areas that are less wealthy and less white and places where people of color, including Black or Latinx residents, make up the largest racial or ethnic groups. Reutiers found that Rite-Aid stores were three times more likely to use face recognition technology. Last year in Maine a health company reported a breach of biometric identifiers where Mainers' fingerprints were stolen because of malware. Unlike a credit card number or password, people can't change their fingerprints. This is why unregulated use of biometrics is so dangerous and it makes us all the more vulnerable if they are hacked. It's important to get ahead of this before it's too late. A study will unnecessarily delay this process and it may be impossible to act if companies move forward.

Tech lobbyists from D.C. came to oppose this bill and make it sound confusing but I want to read you, briefly, from the testimony from the CEO of one Maine's great local businesses, GWI, in favor of this bill. He said, 'My company and my industry is governed by Maine's first in the nation tough internet service provider privacy law, which this Legislature passed in 2019. That law has many similarities to this proposed statute. At the time, dire consequences were predicted, none of which came to pass. None of my fellow ISP providers have gone out of business or left the state. Indeed, other states have followed our lead. Many of these technologies are still developing and Maine businesses are just beginning to explore using them. This means that the impact of passing this bill now will be lower than if we wait. Maine businesses generally are not yet dependent on the day to day use of biometric data. If Maine businesses do use biometric data in the future they will be much better off knowing in advance what the rules are, resulting in better business plans, policies, procedures, and systems. Retrofitting is expensive. Often times, if you build it at the beginning there is no additional cost. Please oppose this motion so that Mainers will have the right to control our most personal information by requiring notice before businesses collect it and giving us the power to say no if we choose. Mainers deserve these protections and the speed of technology means we can't afford to wait to give it to them.' Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Mr. President. Fellow members of the Senate, I rise in opposition as well to the current motion. Some question why, why not wait, why not do the study first. I would submit that there is a sense of urgency about this for exactly the reasons that the Senator from Lincoln said. It's doing service to Maine business to put rules in place as soon as possible on this matter and, like the Senator from Oxford, I think this bill is fine the way it is and a study is great. I have no opposition to a study. I think the more the public learns and that policy makers learn about this important area the better. The study may serve that purpose. I appreciate the Senator from Lincoln, Senator Maxmin, for quoting from Fletcher Kittredge. Fletcher Kittredge is dear friend of mine. I've had the honor of serving as a Director on GWI's board for 20 years. GWI was founded by Fletcher 30 years ago. It's Maine's first ISP and it is

currently the only B-Corp certified telco in the nation. Fletcher, Mr. Kittredge, is a leader. He's a thoughtful man and a visionary. He deserves our respect and our audience. I've also served in the past as the Director of a bank. I've served on a bank that was organized under Maine law, in fact, and subject to Gramm-Leach-Bliley. I really, personally, have no concerns about financial institutions getting caught up unduly in this particular legislation. I'm not opposed to making that abundantly clear if members wish, through an amendment, but I don't believe it necessary. I think it's important that Maine lead on this issue and that we put this law in place and that we raise consciousness of the public on this very important danger to society. Thank you, Mr. President. I encourage a vote against the pending motion.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Hickman.

Senator **HICKMAN:** Thank you, Mr. President. I rise in opposition to the pending motion. I do not believe this amendment goes far enough. Maine people need the protections of the law. This amendment seeks to study. My reason is simple. Consent is sacrosanct. Consent matters and our constituents' consent is currently being violated. I am a farmer. I still have a flip phone. I work with my hands. I peddle eggs and vegetables. There is dirt beneath my fingernails. My beloved also works with his hands. His hands he uses to heal people and animals. Other than being an expert in animal husbandry, he is a physical therapist who massages, stretches, and kneads his patients' limbs and muscles and joints back to health. The people who walk onto our farm stand and those who walk into my beloved's office know exactly what they are in for. Every tomato they buy from us is underwritten by a sacred principle of all human relations, consent. Customers' consent departs with their dollars in exchange for our products. Every one of my beloved's patients consent to his healing touch. But to some in the digital alleys of our brave new world consent is a nuisance. If you've ever wondered what big tech companies who don't seem to have any products to sell do to pay their workers and shareholders. The answer is clear. You. Your face, your eyes, your immutable characteristics, your on-line and off-line habits, movements and decisions. One could go so far as to say your soul, for what is your soul if not the storehouse of all of your decisions and wants and desires and dreams. At this very moment the fingerprints, photos, voice prints, iris scans, and other immutable features of our constituents are being amassed, organized, and sold, all without their consent. The movements and habits of Maine people have never been easier to track and sell.

The company Clearview AI has created a database of more than 11 billion faceprints, captured from photos of people it has downloaded from their social media pages and other websites, all without providing notice, all without obtaining consent. Faceprints are not just photographs but the measurements between points on your face that can be used to pick you out in a crowd or unlock a device. Clearview has announced plans to grow its database to 100 billion faceprints by next year in a bid to own faceprints of every human being on every part of our planet. Clearview's customers can upload an individual's photo and use the company's face recognition software to match that photo against other photos of the same person in the database, giving customers the ability to create a record of peoples' activities and associations on-line. Until Clearview was sued under the Illinois Biometric Information Privacy Act, the company's thousands of

users, including Best Buy, Macy's, Kohls, Walmart, Home Depot, Bank of America, Wells Fargo, private investigators, law firms, the NBA, and wealthy socialites, all these customers were permitted to use the service to identify people without restrictions. Some companies have perpetuated harm using databases like Clearview's to surveil their customers. Recently a 14 year old Black girl in Michigan was ejected from a skating rink and left on the curb without her parents because the rink's facial recognition system falsely matched her with a different person suspected of disrupting the rink's business. It is a well known fact that facial recognition and classification systems miss identify racial and ethnic minorities at a rather high rate, certainly far higher than they do for people who are not racial and ethnic minorities. If the bill I am asking you to support was in effect in Michigan that 14 year old Black girl might have been spared her humiliation. If enacted, the law this bill proposes to study would be an extension of the Unfair Trade Practices Act. That, in my view, is the appropriate place for a law such as this, for what can be a more obvious violation of market fairness than the secret collection and sale of our biometric identifiers to actors who seek to track our movements. Once in the wrong hands, things like our fingerprints and faceprints will make identify theft much easier than it is today. Illinois, Washington state, and Texas have already protected their people from these predatory practices. Maine may not be leading but we must follow suit. Illinois, in particular, is an instructive example. That mid-western state passed an almost identical law in 2008, over a decade ago, and every year since the tech industry has tried to gut this privacy law but every year the Illinois Legislature has stood steadfast and refused, keeping this law on the books. Why? Because the law works. The law will give our constituents protections that millions across our country already enjoy. As the world changes, Mr. President, so must our statutes. I urge you to vote against the report in front of us. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator **BALDACC:** Thank you, Mr. President Pro Tem. I rise in support of the Majority Report. I am just a humble country lawyer from Bangor but I've always been taught that you don't put the cart before the horse. These regulations in Report "B" don't take effect until 2024. We have plenty of time for a study. If we pass Report "B" instead of Report "A" we put banks, we put the credit unions, we put businesses small, medium, and large in confusion about what the rules should be. So, we cannot - it does not make sense to pass rules and then say we're going to study them and put it off - put the actual implementation off when we can just study them first and figure out where we need to go, what are the right regulations. I ask you to support Report "A", which I feel is a commonsense approach. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is Acceptance of Report "A", Ought to Pass as Amended by Committee Amendment "A" (H-1017), in non-concurrence. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#772)

YEAS: Senators: BAILEY, BALDACCI, BLACK, CARNEY, CURRY, CYRWAY, DAVIS, DESCHAMBAULT, DIAMOND, DILL, FARRIN, JACKSON, MOORE, POULIOT, RAFFERTY, ROSEN, SANBORN, STEWART, VITELLI, WOODSOME

NAYS: Senators: BENNETT, BREEN, BRENNER, CHIPMAN, CLAXTON, DAUGHTRY, GUERIN, HICKMAN, KEIM, LAWRENCE, MAXMIN, MIRAMANT, TIMBERLAKE, PRESIDENT PRO TEM LIBBY

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **CARNEY** of Cumberland to **ACCEPT** Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1017)**, in **NON-CONCURRENCE, PREVAILED.**

Bill **READ ONCE.**

Committee Amendment "A" (H-1017) **READ** and **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1017)**, in **NON-CONCURRENCE.**

Sent down for concurrence.

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

Off Record Remarks

ORDERS OF THE DAY

Out of Order and Under Suspension of the Rules, the Chair laid before the Senate the following Tabled and Later Today Assigned matter:

JOINT ORDER - Expression of Legislative Sentiment recognizing Maxwell Burtis of Brunswick who has earned the distinction of being named Salutatorian of the 2022 graduating class of the University of Maine. We extend our congratulations and best wishes;

SLS 976

Tabled - April 18, 2022 by Senator **DAUGHTRY** of Cumberland

Pending - **PASSAGE**

(In Senate, April 18, 2022, **READ.**)

The Joint Order was **READ.**

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Daughtry.

Senator **DAUGHTRY:** Thank you, President Pro Tem. Ladies and gentlemen of the Senate, today I am pleased to rise and welcome one of my constituents, and I do believe he is up in the balcony, Maxwell Burtis of Brunswick to the Maine Senate. Maxwell is the University of Maine's Class of 2022 Salutatorian. Also here today is Maxwell's honor thesis, advisor, mentor, and professor, Wilhelm Friess. Maxwell is a student majoring in mechanical engineering and minoring in neuroscience and an Honors College student. His academic honors include earning the Thomas P. Hosmer Scholarship in Mechanical Engineering and the J&M Gorman Mechanical Engineering Scholarship. On campus, he has been a member of the Maine Bound Adventure Center trip staff and a member of the UMaine board of Engineers Without Borders, an really wonderful group whose goal is to build a better world through engineering projects that empower communities to meet their most basic human needs and equip leaders to solve the world's most pressing challenges. He's also a member of the Sigma Phi Epsilon fraternity and the President of the UMaine chapter of Pi Tau Sigma Honor Society. Now, if that wasn't impressive enough, he's also held leadership roles on the UMaine Class of 2022 Council, Student Alumni Ambassadors, and Maine Effective Altruism. Now, I'm not done yet because it keeps going on and it's very exciting, I have to say. I'm looking at my own resume and thinking it needs some brushing after this. During his academic career, Maxwell has already been putting his engineering and neuro skills to use. In the summer of 2018, he was a mechanical engineering intern with STARC Systems right in our hometown of Brunswick and, as a student researcher, Maxwell designed a small-scale solar powered oyster upweller, which is really, really cool. Also, in the Juneau Icefield Research Program, which is an eight-week earth science field research expedition into the Alaskan backcountry, Maxwell investigated the use of drones for Arctic research and examined bedrock fracture density and orientation using photogrammetry models. His researched earned him multiply funding awards, including two Center for Undergraduate Research Fellowships, a College of Engineering Research Award, and a Thomas E. Lynch Honors Thesis Scholarship. It was during this trip too that, according to him, he really discovered his passion for working to better the community that he grew up in, near Maine's beautiful coast.

Outside of school, since 2018 Maxwell has been the co-founder and chief technology officer of Ferda Farms, LLC, which is a wonderful oyster farm on the New Meadows River. He started the company with help from UMaine's Foster Center for Innovation to experiment with husbandry techniques of emerging viable species and to create the machinery needed to make the raising of farmed seafood more accessible and efficient. At the 2019 Maine Business Challenge he won the \$10,000 first place prize and the \$5,000 innovation award for his work in developing and managing this cutting-edge company.

Although he has already explored polar regions, started a business, built artificial intelligence, fallen in love with the outdoors in his home state, and come close to publishing his own research, he still has big dreams and plans for his future. He plans to pursue graduate school and enroll in a data science program, where I know he will continue to do incredible things and make important discoveries and build a better world for us all and hopefully he will continue to call Maine home, but we know

no matter what he does he'll be making the world a better place. Congratulations, Maxwell, and best of luck to you.

The Joint Order was **PASSED**.

Sent down for concurrence.

THE PRESIDENT PRO TEM: The Chair is pleased to recognize in the balcony Maxwell Burtis of Brunswick, a member of the University of Maine Class of 2022 and Salutatorian, along with his advisor, Professor Wilhelm Friess of the University of Maine. They are the guests today of the Senator from Cumberland, Senator Daughtry, as well the entire Maine Senate. Please rise and accept our greetings.

REPORTS OF COMMITTEES

House

Divided Report

Seven members of the Committee on **JUDICIARY** on Bill "An Act To Restore to the Penobscot Nation and Passamaquoddy Tribe the Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010"

H.P. 428 L.D. 585

Reported in Report "**A**" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1020)**.

Signed:

Senators:

CARNEY of Cumberland
SANBORN of Cumberland

Representatives:

HARNETT of Gardiner
EVANGELOS of Friendship
MORIARTY of Cumberland
RECKITT of South Portland
SHEEHAN of Biddeford

Two members of the same Committee on the same subject reported in Report "**B**" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-1021)**.

Signed:

Senator:

KEIM of Oxford

Representative:

THORNE of Carmel

Two members of the same Committee on the same subject reported in Report "**C**" that the same **Ought to Pass as Amended by Committee Amendment "C" (H-1022)**.

Signed:

Representatives:

LIBBY of Auburn
POIRIER of Skowhegan

One member of the same Committee on the same subject reported in Report "**D**" that the same **Ought to Pass as Amended by Committee Amendment "D" (H-1023)**.

Signed:

Representative:

BABBIDGE of Kennebunk

One member of the same Committee on the same subject reported in Report "**E**" that the same **Ought Not to Pass**.

Signed:

Representative:

HAGGAN of Hampden

(Representative NEWELL of the Passamaquoddy Tribe - of the House - supports Report "**A**", **Ought To Pass as Amended by Committee Amendment "A" (H-1020)**.)

Comes from the House with Report "**A**", **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1020)**, **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1020)**.

Reports **READ**.

Senator **CARNEY** of Cumberland moved the Senate **ACCEPT** Report "**A**", **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1020)**, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** Report "**A**", **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1020)**, in concurrence.

Senate

Divided Report

Five members of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Ensure Transmission and Distribution Utility Accountability"

S.P. 697 L.D. 1959

Reported in Report "**A**" that the same **Ought to Pass as Amended by Committee Amendment "A" (S-550)**.

Signed:

Senators:

LAWRENCE of York
VITELLI of Sagadahoc

Representatives:

CUDDY of Winterport
SACHS of Freeport
ZEIGLER of Montville

Five members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "B" (S-551)**.

Signed:

Representatives:

BERRY of Bowdoinham
CARLOW of Buxton
GROHOSKI of Ellsworth
KESSLER of South Portland

Four members of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "C" (S-552)**.

Signed:

Senator:

STEWART of Aroostook

Representatives:

FOSTER of Dexter
GRIGNON of Athens
WADSWORTH of Hiram

Reports **READ**.

Senator **VITELLI** of Sagadahoc moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-550)**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-550)**.

Senate at Ease.

The Senate was called to order by President Pro Tem **NATHAN L. LIBBY** of Androscoggin County

ORDERS OF THE DAY

Unfinished Business

The following matter in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later Assigned (4/5/22) matter:

HOUSE REPORTS - from the Committee on **HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Provide Access to Fertility Care"
H.P. 1144 L.D. 1539

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-865)** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - April 5, 2022 by Senator **SANBORN** of Cumberland

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 31, 2022, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-865)**.)

Senator **SANBORN** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On motion by Senator **POULIOT** of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Brenner.

Senator **BRENNER:** Thank you, President Pro Tem. I rise to speak in favor of this bill. As a midwife I'm able to witness the immense joy of new parenthood but also the deep pain of fertility challenges. This has not only emotional implications but also economic ones. In New England only Maine and Vermont do not have fertility insurance laws. Many of the young Mainers struggling to become parents have gone deeply in debt trying to make this dream come true, if they can even afford it at all. Many of them consider moving to one of our neighboring states that has fertility insurance laws. These are families that we want to keep here in Maine. The economic benefits are a big reason why these have attracted bi-partisan support in other states, including most recently New Hampshire.

I want to read to you an excerpt from one of the most compelling pieces of testimony in the public hearing from Ben Carling of Waterboro, Maine. 'I always imagined I would get married and have children, and I believed that it was my purpose, that God had put me on this earth to be a father, and to be a good father. I did not expect that I was incapable of fathering children the old-fashioned way. Fertility medical science is right on the cutting edge of biology and we really don't know everything. Six months ago, after a year of doctors' appointments, medical tests, MRIs, ultrasounds and the like, my doctors informed me that they are not able to figure out why my sperm count is so critically low.

Even if my count was multiplied by 30, we would still struggle to conceive naturally and it's infuriating to not know why there's nothing to fix it. It just doesn't work. This diagnosis, or rather a lack thereof, has led me into a deep depression. I struggle to not feel like less of a man. I struggle with feeling inadequate. I have to convince myself that this isn't my fault, this isn't a punishment, and that we could not have predicted this when we waited to have kids when we were first married. After years of trying and failing to conceive, every time I see a cousin, friend, coworker having a baby, I wince because I want that for my life so bad and I'm powerless to take control over the situation. It is such an integral part of the human experience, it is impossible to avoid the exposure. There will always be someone around me having kids.'

Colleagues, I would ask you all to support family building here in Maine and vote in favor of the pending motion. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Sanborn.

Senator **SANBORN:** Thank you. Men and women of the Senate, I rise just to give a little bit more information about this bill. I think sometimes when we talk about fertility benefits it's reduced to just thinking about IVF. But this bill is broader than that, as my good colleague from Cumberland just referenced. It maybe male infertility that needs to be dealt with in some way other than IVF, as well as fertility diagnostic care, which is currently excluded from many health plans in Maine. Fertility treatments that may not include IVF, or may depending on the person's particular circumstances, and fertility preservation services. I really want to highlight that piece of this. When young men and women get the horrible diagnosis that they have cancer one of the terrible side effects that often comes with that is the destruction of their future ability to have a family and so we actually, in our committee, had a stand-alone bill that would have specifically dealt just with cancer and fertility preservation. We rolled it into this bill because it's critical as we think about what healthcare is, that we look at the entire body and the entire person. This bill is pro-family and it's pro-humanity. There have been concerns about the cost of providing this kind of insurance coverage and so I want to let folks here today know that should this current motion prevail we would go onto another motion that would help to deal with those costs. But really, importantly, those costs are an enormous barrier for our Mainers to be able to access the fertility benefits that they need, whether that is diagnostic care, treatment, or preservation services so that they can have a family. Without access to that type of insurance in Maine, young people move to Massachusetts or New Hampshire where they will have guaranteed access to that type of coverage. So, I really hope that we can get ourselves on the same playing field with our New England neighbors. It'll make us a more competitive state for businesses and I urge you to pass - accept the motion that's pending. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Stewart.

Senator **STEWART:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate, I rise today in opposition to the pending motion and sticking with my vote in the Health Coverage Committee. In that committee we deal a lot with a lot of ideas, a lot of good ideas that seek to extend, by law, coverage for various types of things and you see them when they come up

to the floor in the form of mandates. Those mandates are all rooted in some sort of desire to, want to, make life better for folks and I certainly don't disagree with that desire and particularly in this case. This is a tough case. You know, I consider myself to be a pro-life legislator and so we had to really think long and hard about, you know, the - what's at issue here and the question is, you know, do we want to require that every other insured in the insurance pool picks up the cost to extend this one extra benefit for probably what's going to be a small amount of people. The issue is that it's an expensive type of treatment and so that necessarily takes the shape of a mandate that is, at least according to the Bureau, going to result in about \$5 or \$6 per member per month increase to everyone else in the insurance pool and so our resistance or objection to this particular bill, this particular mandate, is not that we don't support folks who, you know, want to expand their family or create a family or start a family but it is around a cautious look at what we have done to our insurance pools in the state of Maine and in particularly the merging of the market and all the work that was done in that regard to try to keep costs low and then, you know, we see bill after bill and idea after idea like this one that is going to necessarily increase costs. So, that's the basis for our objection, it's around that. You know, I think if we could come up with some other way to curb, you know, that cost into the statute and bake it in, I think, you'd have a lot more support for it amongst Republicans. Unfortunately, that didn't happen and I don't think that's going to be the case in the amendment as well that's been alluded to but I won't speak to that now. But that's the basis for the objection. It's not based on any of the wonderful things that were said on the floor here today by my colleagues from Cumberland. You know, I think it's a wonderful thing but I think what we need to do is sort of measure twice and cut once on this with regard to how we're going to increase costs to the insurance pool in the state of Maine. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Pouliot.

Senator **POULIOT:** Thank you, Mr. President. Speaking to this motion, I will be voting in opposition but I want to be clear, and perhaps somebody may be willing to table this. I'm not making that motion, Mr. President Pro Tem. But if we could insure some kind of cap in terms of how much, you know, would be spent so that we could minimize what gets passed on to everybody I would definitely be in favor of this but without that kind of assurance it's really hard to get behind, you know, forcing a lot of other folks to pay for something that I think is very much needed but just isn't really maybe in the best fiscal interest of all involved. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Keim.

Senator **KEIM:** Thank you, Mr. President Pro Tem. I will be voting in opposition to this motion but I did want to share some other perspectives as well. It's a very difficult issue. I have very dear friends of mine who are struggling through this, and I think we all know folks who are, and so it's something that is painful. However, in other countries fertility care is not the money making process that it is here in the United States and that is something we see time and again in our healthcare industry, and if we then sort of put the Band-Aid over the problem, I believe that we have

then we are addressing the issue and so I do have friends that are going to other countries to get this care because it's a reasonable cost, even with going to another country. So, there's an issue here in healthcare overall that this does not address - that just simply spreading out the cost does not address, and I wish desperately that we would because this is an issue that's painful to so many and I do know others like, you know, as was mentioned that have gone to other states because they do get this care. So, all that is true and it's happening but, again, forcing it to be covered by all isn't addressing what I believe to be a systematic problem with our healthcare. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Daughtry.

Senator **DAUGHTRY:** Thank you, Mr. President Pro Tem. Ladies and gentlemen of the Senate, I rise as a proud co-sponsor of this bill and in strong support of the pending motion. We all receive a lot of correspondence every single day, whether it's, you know, by phone calls, by emails, and sometimes you get that increasingly rare but very touching handwritten note or card. I don't know about all of you but I get a little thrill of excitement every time I come into my Legislative mailbox here, or even at my mailbox at home, and I'm able to open up a handwritten card. It's something that you know someone had to take an immense amount of time to share not only their own personal story but to, you know, give it that little personal touch to pass it on to you. There's three bills this session that I have gotten more handwritten correspondence on than anything else. This one is in the top two. It's interesting, sitting through the public hearing was one of the most moving and absolutely heart wrenching pieces of legislation that I've ever sat through as a Legislator in ten years. I don't think I've been moved to tears as many times as I was by all the different parents sharing their stories about struggling with fertility and how this bill would have changed their lives. We heard from folks who have moved out-of-state to be able to get this care because other states allow this under their insurance plans. I heard, you know, people talking about deeply upsetting stories that sometimes didn't end in the miracle of a birth but they were there to speak for others who they hoped would have the same chance. I have to say when I got those handwritten notes I mentioned earlier there was story after story after story that left me in the same way I was after the public hearing. Absolutely heartbroken. Some were happy, some were sad, but what was clear was everyone was willing to share their deeply personal stories, and something that people don't often talk about in a very, you know, open way in the hopes of being able to help other families be able to conceive. Now, I heard folks talk about, you know, needing reasonable guardrails or caps, and I know, due to procedure, we are not allowed to discuss an upcoming amendment but I do know that folks have been working hard to be able to make sure that we do have guardrails around this legislation. But I also want to say it's very frustrating. First off, as a Legislator, representing all of those wonderful people and constituents who send me those cards, but also as a young woman who desperately wants to be a mother to hear that type of pushback about needing a cap when under the Affordable Care Act we have limits about placing caps on folks and saying that we need caps on fertility care sounds like putting a pre-existing condition on a young woman or a young man or a person or a family who wants to conceive. So, I want to say if we were to put a cap on this it would be the only portion of our healthcare system

that we're putting caps in. Now, I do have to agree with my good colleague who did raise and talk about the need to combat costs and why it shouldn't be a money-making enterprise and I absolutely agree. I would say the same thing for any procedure, whether you're going in to, you know, get your knee operated on or just for your general check-up. We need to look at costs for all healthcare insurance across all spectrums in Maine but I think we should make sure that when we're talking about this we get in line with other states and we recognize that Maine is the oldest state in the nation and we currently have a negative birth rate and if you want to make a big dent to changing that I bet passing this will make sure that we have more young people in the state. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Claxton.

Senator **CLAXTON:** Thank you, Mr. President. May I pose a question through the Chair?

THE PRESIDENT PRO TEM: The member may proceed.

Senator **CLAXTON:** The cost of this has been referenced several different times and I'm seeing two different fiscal notes, one on the most current one, not attached to the most recent amendment we can't talk about. But it references \$1.41 per member per month as the estimate. Can I get some clarity about whether that, in fact, is the case and it costs \$17 a month - a year per member? Thank you.

THE PRESIDENT PRO TEM: The Senator from Androscoggin, Senator Claxton, has posed a question through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Cumberland, Senator Sanborn.

Senator **SANBORN:** Thank you, Mr. President. I'm happy to rise to answer that question. So, with regard to the committee amendments, the Majority Report in front of us, the fiscal note is for what the additional cost would be for the State employee plan. The State employee plan currently, for several years, has included some very limited fertility coverage; a \$10,000 lifetime limit for evaluation and treatments, and a \$10,000 lifetime limit for prescription drug coverage related to fertility, and so there's already some coverage in the State employee plan. The report that we got back from the Bureau of Insurance said that it would cost \$8 per member per month to add fertility care to the State employee plan and the reason that it said that was because they just asked Anthem how much will it cost and Anthem picked a very high number. As we unpack that number, it seems that they had included the cost of additional births and additional people that would be on the State employee plan. That is very unorthodox. It's not the way that fiscal notes are generally determined for coverage. I certainly never seen a note that says, 'Oh, well if we cover this treatment for Lyme disease the person might live longer and so we'll have to cover them for these other things that might go wrong.' That's not how health insurance costs are calculated. So, it was originally set at \$8 in this report that we got and OFPR took a look at that and said that doesn't make any sense. They looked at fiscal notes from other states when they passed similar legislation. They looked at what the actual costs have been in a couple of states that have adopted mandates like this and the reasonable range was more in that

\$1.50, well in that \$2 per member per month range but then they backed out the coverage that already is existing in our State employee plan, and I believe that's how OFPR arrived at this fiscal note of \$1.41 per member per month in the State employee plan. If we were to impose additional flexibility on the State employee plan in terms of what co-pays or deductibles could be that fiscal note could be even lower.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Rafferty. The Chair would inquire as to why the member from Aroostook, Senator Stewart, rises?

Senator **STEWART:** Thank you, Mr. President. Just as a point of order, I was rising, I had my button pressed to answer the member's question previously. So, before we move on, I'd like to take a stab at that as well, if that would be amenable for the Chair.

THE PRESIDENT PRO TEM: The member will defer. I've had multiple in the queue and I've attempted to follow the queue. I did err on a previous bill and so I was following the queue, Senator Stewart, by recognizing our colleague from York. However, if there's no objection, and since you're still standing, you're welcome to have the floor to answer the question that has been posed.

Senator **STEWART:** I appreciate that. Sorry to interrupt the flow here but I did just want to make an important point, which is that there have been several numbers thrown around here, before we move off of this topic and begin discussing something else, that the fiscal note that I have seen with the most amount of, I think, credibility and not the one that you're seeing publicly available to address the Senator's question, that is just on the State employee side but on the private, in the marketplace, there's a different impact and I believe in the analysis that I've seen that number is going to be closer to the \$5 to \$6 range, not the \$8 range, not the \$1.50 range, but approximately \$5 to \$6 to the marketplace. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Rafferty.

Senator **RAFFERTY:** Thank you, Mr. President Pro Tem. I had no intentions of standing relative to this particular topic because I've experienced it. In general, I think that regardless of which procedure or which type of need an individual person has, generally we all share in those costs. We don't pick and choose which one we approve of or not. But, in my case 40 years ago, my wife and I were struggling, you know, with pregnancy and it was very, very painful. We were fortunate that, you know, we both had an intervention, I would call it, and success. We had our first child, my daughter Kelly, and shortly after that we had two additional children. You know, fast forward to a year ago, a couple of years just prior to that I guess, my oldest daughter was struggling. They went through a number of procedures and had tremendous difficulty but, fortunately, success and I am now a proud grandfather due to intervention. So, I'm not sure that without some of these experiences that we can really understand what families go through in an effort to get pregnant. You know, when I was 16 it seemed like that was an easy thing to do so you were fearful but as we got older we realized there are a lot of different reasons for or not but, in any case, without that

intervention, and the support that we were fortunately enough to have through insurances, I would not, I don't believe, have my three girls that I feel blessed with or my granddaughter. So, I would urge you to support the pending motion. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is Acceptance of the Majority Ought to Pass as Amended Report, in concurrence. Is the Senate ready for the question?

The Chair noted the absence of the Senator from Lincoln, Senator **MAXMIN**, and further excused the same Senator from today's Roll Call votes.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#773)

YEAS: Senators: BAILEY, BALDACCI, BENNETT, BREEN, BRENNER, CARNEY, CHIPMAN, CLAXTON, CURRY, DAUGHTRY, DESCHAMBAULT, DIAMOND, DILL, HICKMAN, JACKSON, LAWRENCE, MIRAMANT, RAFFERTY, SANBORN, VITELLI, PRESIDENT PRO TEM LIBBY

NAYS: Senators: BLACK, CYRWAY, DAVIS, FARRIN, GUERIN, KEIM, MOORE, POULIOT, ROSEN, STEWART, TIMBERLAKE, WOODSOME

EXCUSED: Senator: MAXMIN

21 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **SANBORN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

Bill **READ ONCE**.

Committee Amendment "A" (H-865) **READ**.

On motion by Senator **SANBORN** of Cumberland, Senate Amendment "A" (S-566) to Committee Amendment "A" (H-865) **READ**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Sanborn.

Senator **SANBORN:** Thank you, Mr. President. Mr. President, as we had alluded to before the prior vote, this is an amendment that revises somewhat the language of the committee amendment and allows more flexibility for the Superintendent of Insurance to adopt routine technical rules to implement the legislation and it would allow the Superintendent to adopt rules related to cost sharing, benefit design, and clinical guidelines. I also want to bring attention of the members to the further limitations that are allowed in the language, both of the committee

amendment and the Senate amendment, that allows carriers to review the enrollee's medical history and the clinical guidelines that have been adopted by the carrier and to deny coverage if it would appear that the treatments sought by the enrollee isn't recommended. This is how we would deal with things like someone who's 70 years old and wants IVF. That's not clinically appropriate and so coverage could be denied by the carrier. The Superintendent can adopt these rules related to cost sharing and benefit design specifically to control costs. I want to take this moment to address a comment made by my colleague from Oxford a few minutes ago where she noted that in other countries fertility treatment is not the money-making service that it is here and she is absolutely correct. The reason for that is because the prices of those treatments are regulated by the governments of those countries under their healthcare finance systems. Government rate setting is not something we have employed in the United States and so instead we rely on the push and pull of insurance companies and providers and some of those push and pull have exploded into the headlines over the last few weeks but it's that negotiation between providers and insurers that how much something will cost that is supposed to, whether it works or not is a different question, but that is supposed to drive down costs in our system. But if an insurer can simply say 'We don't cover that service at all' then there's no check at all on the price of that service other than what wealthy Mainers might be able to afford and then only those wealthy Mainers can access fertility treatment. So, men and women of the Senate, if you want the price of these treatments to be driven down put the insurers into the mix. Insurers can also use benefit design, they can use network design to ensure that we're not upending our premiums, we're not going to ruin private health insurance through this benefit but instead we are going to make additional families in Maine and we're going to treat medical disorders of Mainers. That's what health insurance is for and that's how we have structured our healthcare finance system. So, I really hope that those folks who were not in favor of the committee amendment will join me in accepting this amendment, which puts additional parameters to allow for cost controls to be implemented. It's not the amendment I would have loved to have. I would like to have the same type of coverage that's offered in New Hampshire, where the reason to be denied would be based on your clinical medical history as opposed to some sort of artificial cost sharing rule. But this is where we are and I think that this allows us to get important access for Maine families at a reasonable cost and I hope that all of us can support that. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Stewart.

Senator **STEWART:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate, I would agree with the comments from my colleague that this amendment will probably help to keep costs lower on this measure. The issue is that it's unclear how much because we don't actually have an analysis of what the impact will be on this. Effectively, it's just asking - it's giving permission for the private insurers to be able to actually go out and do it but there's still no - there's no numbers behind it. That's a part of the issue, I think probably a floor amendment. It's just the nature of the beast, where we're at at this point in session. So, to that effect, I'm not going to be asking for a roll call or opposing this motion but I think that there are probably still

some kinks to get worked out and, hopefully, there's enough for a time horizon here that that can actually happen. Thank you.

On motion by Senator **SANBORN** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Daughtry.

Senator **DAUGHTRY:** Thank you, Mr. President Pro Tem. Ladies and gentlemen of the Senate, I just want to rise and say that I'm in strong support of this amendment and I know that we heard concerns about cost and caps but this literally puts in the guardrails we need to make sure that we have a plan that suits Mainers and any process, any time we've added something to healthcare plans or coverage in this building, it's gone through exactly this type of process and I know I will never know as much about this world as the good Senator from Cumberland County, as well as her counterpart who sits on the committee as well. What I do know is that this is a good faith compromise to be able to make sure that we get this care in Maine and I just want to give one last plug, since there's going to be a roll call, this is a pro-life bill, pro-Maine bill, and this really gives a lot of people who are watching this right now, and I have to say what really struck me is on the cards that I mentioned earlier and listened to is these were people from all walks of life and all political backgrounds and I hope we can come around making sure that we have children here in Maine.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Pouliot.

Senator **POULIOT:** Thank you, Mr. President Pro Tem. I really would like for us to be able to find a way to come to consensus on this bill. We've done that with other pieces of legislation. Last Friday was a really great day, I think, in this Chamber, on Good Friday where we came together and supported a lot of good pieces of legislation. I feel like we're pretty close on this and so I would move that we table this bill until later in today's session and give time to work out those details. Thank you, Mr. President.

Senator **POULIOT** of Kennebec moved to **TABLE** until Later in Today's Session, pending the motion by Senator **SANBORN** of Cumberland to **ADOPT** Senate Amendment "A" (S-566) to Committee Amendment "A" (H-865).

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I just wanted to advise with the amount of tabling asked for amendments, I'm certainly hoping that.

THE PRESIDENT PRO TEM: Mr. President, I apologize that I have to ask you to defer. I wonder if leadership could approach the rostrum.

Senate at Ease.

The Senate was called to order by President Pro Tem
NATHAN L. LIBBY of Androscoggin County.

Off Record Remarks

THE PRESIDENT PRO TEM: As a reminder to members, tabling motions are not debatable, however members can request Parliamentary action based on the tabling motion, which is why I thought I was recognizing the good President of the Senate, President Jackson.

Senator **POULIOT** of Kennebec requested and received leave of the Senate to withdraw his motion to **TABLE** until Later in Today's Session, pending the motion by Senator **SANBORN** of Cumberland to **ADOPT** Senate Amendment "A" (S-566) to Committee Amendment "A" (H-865).

Senator **SANBORN** of Cumberland requested and received leave of the Senate to withdraw her request for a Roll Call.

On motion by Senator **SANBORN** of Cumberland, Senate Amendment "A" (S-566) to Committee Amendment "A" (H-865) **ADOPTED**.

Committee Amendment "A" (H-865) as Amended by Senate Amendment "A" (S-566) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-865) AS AMENDED BY SENATE AMENDMENT "A" (S-566)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1529

**JOINT RESOLUTION
RECOGNIZING APRIL 2022 AS SECOND CHANCE MONTH**

WHEREAS, every person is endowed with human dignity and value; and
WHEREAS, redemption and second chances are American values; and

WHEREAS, an estimated 65,000,000 American citizens have a criminal record; and
WHEREAS, individuals returning from prison and those who have paid their debts after committing a crime face a "second prison" of stigma and obstacles, also known as collateral consequences; and
WHEREAS, individuals with criminal histories encounter significant barriers such as an inability to find housing, employment or education, regain voting rights, volunteer in their communities, secure identification documentation and pay off substantial financial debt accrued as a result of conviction and incarceration; and
WHEREAS, these barriers can contribute to recidivism, which increases victimization, decreases public safety and results in lost human capital and economic output for communities; and
WHEREAS, since 2020, 2,266 individuals have been released to the community from a Department of Corrections facility; and
WHEREAS, the supervised community confinement program provides a supported transition back into communities by affording approved residents the opportunity to finish their sentences while living in communities with the needed supports in place, including housing, education, employment and wellness services, thereby increasing the likelihood of their success when they are removed from Department of Corrections supervision; and
WHEREAS, as of April 2022, there were 59 residents participating in the supervised community confinement program; and
WHEREAS, the designation of April as Second Chance Month can contribute to increased public awareness about the "second prison," the need for closure for those who have paid their debts and opportunities for individuals, employers, congregations and communities to extend second chances; now, therefore, be it **RESOLVED:** That We, the Members of the One Hundred and Thirtieth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to recognize April 2022 as Second Chance Month, and we urge citizens to observe this month through actions and programs that promote awareness of the "second prison" and provide closure for those who have paid their debts.

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

READ and **ADOPTED**, in concurrence.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

H.P. 1530

ORDERED, the Senate concurring, that Bill, "An Act To Provide Passamaquoddy Tribal Members Access to Clean Drinking Water," H.P. 662, L.D. 906, and all its accompanying papers, be recalled from the Governor's desk to the House.

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

READ and **PASSED**, in concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act To Correct Inconsistencies, Conflicts and Errors in the Laws of Maine" (EMERGENCY)

H.P. 1516 L.D. 2034

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1028)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1028)**.

Report **READ** and **ACCEPTED**, in concurrence.

Bill **READ ONCE**.

Committee Amendment "A" (H-1028) **READ** and **ADOPTED**, in concurrence.

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

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

ENACTORS

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

Acts

An Act Regarding Criminal Services for Juveniles
H.P. 561 L.D. 756
(C "A" H-940)

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

An Act Concerning Interpersonal Violence on College Campuses
S.P. 572 L.D. 1727
(C "A" S-554)

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

An Act To Incorporate Respectful Language into the Maine Revised Statutes, Titles 22, 25 and 34-A
H.P. 1526 L.D. 2038

In Senate, April 15, 2022, on motion by Senator **VITELLI** of Sagadahoc, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Comes from the House, that Body having **INSISTED** on its former action whereby the Bill was **PASSED TO BE ENGROSSED**.

On motion by Senator **VITELLI** of Sagadahoc, the Senate **INSISTED**.

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

ENACTORS

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

Acts

An Act Regarding a Post-judgment Motion To Seal the Criminal History Record Information for Certain Criminal Convictions
H.P. 966 L.D. 1310
(C "A" H-1009)

On motion by Senator **VITELLI** of Sagadahoc, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act
H.P. 1210 L.D. 1626
(C "A" H-1006)

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

An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions

H.P. 1489 L.D. 2003
(H "A" H-1024 to
C "A" H-1013)

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

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

ENACTORS

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

Emergency Measure

An Act To Allow Internet Payment for Tickets and Chances for Raffles Held by Nonprofit Organizations and Other Eligible Organizations and To Require the Gambling Control Unit To Adopt Certain Rules

S.P. 711 L.D. 1980
(S "B" S-565 to C "A" S-524)

Senate at Ease.

The Senate was called to order by President Pro Tem **NATHAN L. LIBBY** of Androscoggin County.

On motion by Senator **HICKMAN** of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#774)

YEAS: Senators: BAILEY, BALDACCI, BENNETT, BLACK, BREEN, BRENNER, CARNEY, CHIPMAN, CLAXTON, CURRY, CYRWAY, DAUGHTRY, DAVIS, DESCHAMBAULT, DIAMOND, DILL, FARRIN, GUERIN, HICKMAN, JACKSON, KEIM, LAWRENCE, MAXMIN, MIRAMANT, MOORE, POULIOT, RAFFERTY, ROSEN, SANBORN, STEWART, TIMBERLAKE, VITELLI, WOODSOME, PRESIDENT PRO TEM LIBBY

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for approval.

Ordered sent down forthwith.

Acts

An Act To Assist Qualifying Municipalities To Defray the Costs of Opting In To Permit Adult Use Marijuana Establishments

H.P. 873 L.D. 1195
(S "A" S-564 to
C "B" H-1014)

At the request of Senator **BENNETT** of Oxford a Division was had. 21 Senators having voted in the affirmative and 13 Senators having voted in the negative, was **PASSED TO BE ENACTED** and, having been signed by the President Pro Tem, was presented by the Secretary to the Governor for approval.

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

An Act To Encourage Job Growth in the Forest Products Sector through Tax Incentives

H.P. 1425 L.D. 1919
(S "A" S-561 to C "A" H-944)

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

An Act Regarding Taxation of Energy Storage Facilities and Equipment

H.P. 1512 L.D. 2030
(C "A" H-1015)

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

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

Senate at Ease.

The Senate was called to order by President Pro Tem
NATHAN L. LIBBY of Androscoggin County.

Off Record Remarks

On motion by Senator **VITELLI** of Sagadahoc, **ADJOURNED** until
Tuesday, April 19, 2022 at 10:00 in the morning.