ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE
FIRST REGULAR SESSION
47th Legislative Day
Thursday, May 23, 2013

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

Prayer by Pastor Darren Farmer, Deeper Worship Center, Portland.

National Anthem by Oak Hill High School Voices of Color, Wales.

Pledge of Allegiance.

Doctor of the day, Barbara Covey, M.D., Oakland.

The Journal of yesterday was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a Major Substantive Rule of the Department of Education (EMERGENCY)

(H.P. 232) (L.D. 323)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-191) in the House on May 20, 2013.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-191) AS AMENDED BY SENATE AMENDMENT "A" (S-111)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

COMMUNICATIONS

The Following Communication: (H.C. 176)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002

May 23, 2013
Honorable Millicent M. MacFarland
Clerk of the House
2 State House Station
Augusta, Maine 04333
Dear Clerk MacFarland:
Please be advised that pursuant to his authority, Governor Paul R. LePage has nominated the following:

On May 21, 2013

Jason A. Oney of Falmouth for appointment to the Board of Trustees, Maine Maritime Academy.
Pursuant to P&SL 1975, Chapter 771 §428, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Education and Cultural Affairs
Morten Arntzen of New Canaan, Connecticut;
Robert D. Somerville of Spring, Texas and
Arthur K. Watson, Jr, of New Canaan, Connecticut for reappointment to the Board of Trustees, Maine Maritime Academy.
Pursuant to P&SL 1975, Chapter 771 §428, these reappointments are contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Education and Cultural Affairs.
Ronald M. Bancroft of Cumberland for appointment to the Board of Trustees, Maine Public Broadcasting Corporation.
Pursuant to PL 1997, Chapter 599, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Education and Cultural Affairs.
Dale C. Crowley of Addison for appointment to the Washington County Development Authority.
Pursuant to Title 5, MRSA §13083-C, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.
Steven L. Weems of Brunswick for reappointment to the Midcoast Regional Redevelopment Authority.
Pursuant to Title 5, MRSA §13083-I, this reappointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.
Michael Timmons of Cumberland for appointment to the State Harness Racing Commission.
Pursuant to Title 8, MRSA §261-A, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Agriculture, Conservation and Forestry.
John E. Dority of Augusta for reappointment to the Maine Turnpike Authority, Board of Directors.
Pursuant to Title 23, MRSA §1964-A, this reappointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Transportation.
Honorable Michael H. Clarke of Bath and
Abigail C. Yacoben of West Bath for appointment to the Maine Labor Relations Board.
Pursuant to Title 26, MRSA §968, these appointments are contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.
Ronald P. Green, Jr. of Plymouth for reappointment to the Workers' Compensation Board.
Pursuant to Title 39-A, MRSA §151, this reappointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

On May 22, 2013

Michael T. Healy of Freeport and
Margaret E. Matheson of Augusta for reappointment to the Commission on Governmental Ethics and Election Practices.
Pursuant to Title 1, MRSA §1002, these reappointments are contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Veterans and Legal Affairs.
William P. Logan of Augusta for appointment to the Maine Commission on Indigent Legal Services.
Pursuant to Title 4, MRSA §1803, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Judiciary.
Honorable Orland G. McPherson of Eliot for reappointment to the State Liquor and Lottery Commission.
Pursuant to Title 5, MRSA §283-A, this reappointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Veterans and Legal Affairs.
Daniel G. Casavant of Waterville for appointment to the State Civil Service Appeals Board.
Pursuant to Title 5, MRSA §7081, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on State and Local Government.
Rebecca A. Grant of Augusta for reappointment to the State Civil Service Appeals Board.
Pursuant to Title 5, MRSA §7081, this reappointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on State and Local Government.

Shirrin L. Blaisdell of Manchester for appointment to the Board of Trustees, Maine Public Employees Retirement System.
Pursuant to Title 5, MRSA §17102, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Appropriations and Financial Affairs.
John D. Murphy of Fort Kent for appointment to the Maine Educational Loan Authority.
Pursuant to Title 20-A, MRSA §11415, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.
Carleton L. Barnes, Jr. of Calais for appointment to the State Board of Corrections.
Pursuant to Title 34-A, MRSA §1802, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Criminal Justice and Public Safety.
Sincerely,
S/Mark W. Eves
Speaker of the House

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

ORDERS

On motion of Representative RANKIN of Hiram, the following House Order: (H.O. 23)

ORDERED, that Representative Jarrod S. Crockett of Bethel be excused May 15 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Michael Gilbert Devin of Newcastle be excused January 29, February 19, 21, 26 and March 27 for personal reasons and April 9 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Anne P. Graham of North Yarmouth be excused May 8 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Scott M. Hamann of South Portland be excused May 15 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Arthur C. Verow of Brewer be excused May 9 and 14 for personal reasons.

READ and **PASSED**.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following item:

Recognizing:

Colby Davis, of Canton, for his longtime work and contributions to his community and to veterans of the United States. Mr. Davis is active in making certain that veterans' graves are properly honored with the American flag. He volunteers faithfully each year to research and flag veterans' graves and purchases and donates flags across the area. Mr. Davis has worked with hundreds of school students teaching flag etiquette to the next generation. He is a United States Army Air Corps veteran of World War II, during which he flew a B-24 bomber and was shot down over what was then known as Czechoslovakia. He was a prisoner of war at Stalag Luft 4 Gross Tychow, formerly Heydekrug, in Germany. We send him our appreciation for his strong and unwavering commitment to veterans and to his community, State and Nation. We congratulate him on his exemplary actions and send him our best wishes;

(HLS 321)

Presented by Representative BRIGGS of Mexico.
Cosponsored by Senator PATRICK of Oxford.

On **OBJECTION** of Representative BRIGGS of Mexico, was **REMOVED** from the Special Sentiment Calendar.

READ and **PASSED** and sent for concurrence.

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** reporting **Ought Not to Pass** on Bill "An Act To Prohibit Coal Tar Pavement Products"

(H.P. 857) (L.D. 1212)

Signed:
Senators:
BOYLE of Cumberland
SAVIELLO of Franklin

Representatives:
WELSH of Rockport
AYOTTE of Caswell
CAMPBELL of Orrington
GRANT of Gardiner
LONG of Sherman

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.
Signed:
Senator:
GRATWICK of Penobscot

Representatives:
CHIPMAN of Portland
COOPER of Yarmouth
HARLOW of Portland
McGOWAN of York

READ.

Representative WELSH of Rockport moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative CHIPMAN of Portland **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

The SPEAKER: The Chair recognizes the Representative from York, Representative McGowan.

Representative **McGOWAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will defer to the committee chair to make her statement first and then I would like to comment after. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Welsh.

Representative **WELSH**: Excuse me. Could you pose the question again, please?

The SPEAKER: There was no question. The Representative from York, Representative McGowan, was deferring to the chair of the committee, if the chair would like to make comments prior to his. The Representative may proceed.

Representative **WELSH**: I'm sorry. I was not listening for a moment. I would like to say this actually is an important item of concern and I think the committee, speaking for the committee, is very interested in learning more about what coal tar pavement products do in our community. This bill prohibits the sale of coal tar pavement and it also prohibits the use of coal tar pavement on

driveways and parking areas. I think many of the questions were is there a good alternative given our climate, how much use is there in our state? I think there is a lot of scientific evidence showing that there are concerns about it, very legitimate concerns, but we weren't convinced that we have enough information to really move forward on a total ban. I will be writing a letter to DEP to pay attention to this product and try and get us more information in the next session. I think that's it for now and I'm sure you will be hearing more about it. Thank you and I apologize for not paying attention.

The SPEAKER: The Chair recognizes the Representative from York, Representative McGowan.

Representative **McGOWAN**: Thank you, Mr. Speaker. I'd also like to defer to the bill's sponsor first.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Daughtry.

Representative **DAUGHTRY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today in opposition to the pending motion and in support of the Minority Report on LD 1212. I apologize; this is a very scientific bill. I just wanted to give you a little bit of a background on the issue so you could vote with full knowledge of what's before you. To begin with, what is coal tar? Coal tar is a byproduct of the cooking of coal for the steel industry and coal tar pitch is the residue that remains after the distillation of coal tar. So what in the world is a coal tar pavement product? A coal tar pavement product is a pavement sealcoat or sealant. Sealcoat is a black liquid that is applied to asphalt pavement. It is used primarily on driveways, parking lots, school playgrounds, and commercial businesses. Some say it makes your driveway more beautiful. Most folks use it to seal up some cracks. There are three types of sealcoat: one made from coal tar pitch, another that is asphalt or oil based, and another that is latex based.

So what is so dangerous about coal tar pavement products? Coal tar pitch contains 50 percent or more polycyclic aromatic hydrocarbons – try saying that three times fast – or PAHs. They are a group of chemical compounds that form when anything is burned. PAHs are known to have many environmental and health concerns. They are known to be toxic, mutagenic, carcinogenic and teratogenic to aquatic life, and seven PAHs, including coal tar pitch, are human carcinogens. Coal tar based sealcoat is the largest, I repeat, largest source of this type of contamination to suburban waterways as studied by the USGS and many other sources, including the Long Creek Watershed right here in Maine.

So how does it get from our driveways, parking lots into our water, homes, air, and in turn into us? It gets stuck on tires when cars drive over it. It breaks apart. It goes into the air. It gets picked up into the atmosphere and put down on terrain, and it eventually gets into lakes and the ocean. Some of it adheres to vehicles tires and is transported far, far away and gets into areas where sealcoat isn't even used. They are blown offsite by wind. They are trapped indoors on the soles of shoes of children, on us going into our homes. Some evaporate, which I don't know if you've ever walked over a seal coated driveway and sort of smelled that "mothball" smell. That's coal tar sealcoat. This product has a short lifecycle. You have to reapply every two years, which means that not only is this product dangerous, but it has a limited lifecycle and requires frequent upkeep.

So why is this ban necessary and why am I standing here before you? The PAHs in coal tar are a known human carcinogen that have dangerous effects on our health and on our environment. A large body of sound science and literature from numerous different sources, both federal and local, shows that when exposed to these carcinogenic PAHs men have had genetic damage to their sperm. In pregnant women, the PAHs can damage the umbilical cord. Emerging scientific evidence suggests that children exposed to these chemicals in the womb may be prone to asthma and other health problems and may suffer from lowered IQs. In streams, the chemicals have been shown to kill tadpoles, cause tumors on fish, stunt growth of aquatic creatures and reduce the number of species able to live in a waterway. These are not friendly substances. People living near coal tar sealcoated areas have a higher risk of cancer and other health issues, and those at the highest risk are children age six and younger.

It is possible this link to cancer has driven the ban of coal tar sealants in other areas of the country. Cancer remains the leading cause of death in Maine and is killing Mainers at a higher rate than elsewhere in the country. It was responsible for a quarter of all deaths in Maine, or 3,100 fatalities in 2009. As more and more information is being collected on coal tar sealcoats, we can no longer sit back and do nothing. There are numerous safe alternatives to these dangerous products, such as the asphalt and latex-based products I mentioned. Many commercial chains, like Lowe's, Home Depot, Ace Hardware, and Do It Best, will not sell the coal tar based products due to their adverse effects and fears of being liable for any health or environmental impacts. In fact, Lowe's stopped selling the products in 2004 for fear of being sued due to the product's dangers. Many commercial applicators of the products are switching from coal tar sealants to the safer alternatives. And we also wouldn't be the first place to ban these products. Often we hear about we're not sure what other folks are doing in the country, do we want to be the first ones to take the step? With this bill, we would not be the first. Austin, Texas was the first city to ban coal tar sealants and was soon followed by Washington, D.C. and numerous communities in Minnesota. There are county bans in Dane, Wisconsin; Montgomery County, Maryland; and in Suffolk, New York. In 2011, Washington became the first state to completely ban the products statewide and Minnesota's Legislature is considering a statewide ban this year, it just passed the House, as is New York, as well as Iowa and several other states are considering a very similar ban. Maine has a proud tradition of leading the charge. So let's join with Washington State and all the others I mentioned and help start the move against these dangerous products. Let's lead the charge today, and I urge you to follow my light.

The SPEAKER: The Chair recognizes the Representative from Caswell, Representative Ayotte.

Representative **AYOTTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This particular bill, LD 1212, was discussed at length. We had a great public hearing. We listened to industry. We listened to asphalt companies that pave driveways and parking lots, and it was determined at this time that there is no better replacement, no better product that would be as durable in a number of ways. The industry assured us that this coal tar is applied only after there has been a period of dry weather and no forecast of rain, so that it does have plenty of time to dry before there is any runoff, and after it's dried it's safe, and we determined that, at this time, the replacement would not be any safer or any better because coal tar has been used for a number of years. It was used for other products also and doesn't seem to be any more dangerous than the replacement. I do want to reiterate that the industry did assure us that it's only applied in dry weather so the possibility of runoff is reduced a considerable amount. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from York, Representative McGowan.

Representative **McGOWAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak about this bill because one of my major motivations when I ran for the House of Representatives in Maine is the great gift of my life of being a grandfather, and I rise today to give voice for children in this state. Representative Daughtry has done a great job of research on this bill and I rise to give voice for children to what she told us in our committee. We had reports from the Department of Interior, we has reports from the Environmental Protection Agency at the national level. We had postings on the Department of Environmental Protection in the State of Maine and we had information from Cumberland County Conservation, and the word that was consistently used is carcinogen. Carcinogens cause cancer. This sealant, over time, breaks down into a dust and then gets tracked on people's shoes and it ends up in the carpeting and children who crawl around that carpeting breathe this dust. There are alternatives. Two of the largest retailers, Home Depot and Lowe's, refuse to sell this product. The Majority Report, people say to you "Oh, we need to do a study." Do you think our Department of Environmental Protection is going to do a better study than a national study from the Department of Interior, that they are going to do a better study than the Environmental Protection Agency? I ask you to think about the children in a state where we have one of the highest cancer rates and where is your choice going to be, for the convenience of some businesses that choose this product knowing that it has carcinogens, or is your vote going to be with the children of Maine and the waterways of Maine that need your protection? Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Freedom, Representative Jones.

Representative **JONES**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I hesitate to speak because the good Representative from York spoke so well, but I will say this as a grandfather, as he is also, and I will also echo the comments of the good Representative from Rockport. This is an item of important concern. That's what she said on the floor. She also said we do not have enough information. That's also what the good Representative said. Let me tell you something about not enough information, Mr. Speaker. Let's talk about DDT. Let's talk about lead. Let's talk about BPA. Let's talk about mercury. Let's talk about chlorpyrifos, the so-called Dursban. Those are all items, okay, which we had nothing, we had not enough information about, and we did not step in and apply the precautionary principle. Until it's proven safe, it's not appropriate to use in our community. We have a responsibility as legislators. We have a responsibility, gentlemen and ladies. Let me say this one more time. We have a responsibility to protect our citizens. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Grant.

Representative **GRANT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to thank Representative Daughtry for bringing this issue to the Environment Committee and for her diligent homework on the issue of PAHs in coal tar sealants. I am on the Majority Report for the following reasons. There are many sources of PAHs in our environment and I do believe that the issue needs additional investigation, and I mean a full investigation into all the sources of PAHs in our environment. I cannot, in good conscience, put Maine businesses in jeopardy until solid, credible scientific evidence and the full study of these sources is done, as we've done with other priority chemicals such as BPA. We would put ourselves in the place of banning one thing after another, putting our citizens and our businesses in a very uncertain place. There are 49 priority chemicals that have already been identified through the Kid-Safe Products Act. We have only been dealing so far with one BPA. This still needs to be addressed and you will be hearing more about it later. We really need to do this right. We need to follow the process for the benefit of industry, but mostly for the benefit of our citizens. You need to understand that there are thousands of chemicals that are put into our products every year without being vetted, and if you think that they've been proven safe before they're used, you're wrong. And I don't mean to scare you this early in the morning, but we really need to do this in a systematic, strategic and priority way. Perhaps Lowe's and Home Depot do not sell this product anymore, but they do in fact spread it on their own parking lots and the parking lot that you walked into today to get into this building was also sealed with it. It was sealed with it because it works and the alternatives do not work the way this works. So I urge you to vote against this ban, give us the chance to look at this issue and let it come before you in the way that it should do. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Chipman.

Representative **CHIPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill does not seek to prohibit the use of pavement sealants, just this one particular type of pavement sealer. I want to point that out because there are other sealers that are used, have been used for a long time, that are actually the same price, in some cases cheaper, than this sealer is to use and work perfectly fine. Asphalt-based and latex sealants are predominantly used in the western part of this country. Lowe's, Home Depot, as we've heard, Lowe's and Home Depot have both refused to carry this product any longer, and asphalt-based sealants contain about 1/1000 of the concentration of cancer causing chemicals that coal tar based products do. As we've heard, this product is now banned in several places in Minnesota, Washington, Texas and Maryland, and the sky did not fall in those places. The Representative from Gardiner just stated that it would put businesses in an uncertain place, but in these other states, these businesses were not put in an uncertain place and the sky did not fall. In fact, we heard nothing at the public hearing of anybody in these other places that went out of business when these bans were put into place. If coal tar pavement sealer is so safe, then why have large big box stores banned the sale of it? They are obviously in business to make money and they want to see the economy do well. Why have they voluntarily prohibited the sale of it at their businesses? I hope that you'll join me in voting against the pending motion and join the five of us that are the Minority Report, in supporting the Minority Report, so that we can move forward in a good way for our environment and for the people of the state. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Treat.

Representative **TREAT**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **TREAT**: Thank you, Mr. Speaker. My question, and this, I know sometimes people ask hypothetical questions. This is not a hypothetical question or rhetorical question. I am interested in knowing whether, in fact, there are any studies underway within the Maine DEP looking at this particular chemical, or whether it is scheduled to be studied at some point in the near future. If someone could let me know that, I am literally trying to evaluate between the different reports on

this and that would be very helpful information to me in making up my mind.

The SPEAKER: The Representative from Hallowell, Representative Treat, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Rockport, Representative Welsh.

Representative **WELSH**: Thank you, Mr. Speaker. The Department, they did share that they have concerns about this product, obviously, because there is something on their website that alerts people to its dangers, and I am not sure that they have a specific study on this product underway but that's what our letter to the DEP will address, is asking them to try and gather some information as they are able to then let us know more about what they are doing, what they are learning about it for next year.

Under suspension of the rules, members were allowed to remove their jackets.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Cooper.

Representative **COOPER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. As a member of the Environment and Natural Resources Committee, I, too, heard extensive testimony about this substance coal tar. There comes a time when this body must make decisions about whether or not a product is so dangerous that we have to take action. We have an existing framework, the Kid-Safe Products Act, which is supposed to provide the means through which DEP and the public and other stakeholders filter their information about potentially dangerous products but, frankly, that system is broken. We have gone so far as to list 49 chemicals that are chemicals of high priority and that means that they are potentially dangerous to human health, but only two of those chemicals have been studied in any detail and only one, BPA, has reached the point where the agency has taken action. So we can't just sit back and wait for the DEP to take action on coal tars. The testimony that we received was absolutely unequivocal, that coal tar is a danger to human health as a carcinogen that is widely found and is most particularly noted for its toxic effects in people who live near pavement that has been sealed with this chemical. It is not just a free ranging substance that we're all exposed to. There is a correlation between proximity and health effects. It also has dramatic and disastrous effects on aquatic life. So, number one, we know it's dangerous. There is no question about that. There is also no question the DEP does not have the resources to take this up in any detail, so it's us or nobody. There has been testimony and whether or not there are alternatives that are adequate to take the place of coal tars. There is no question that there are. Some commercial contractors came in and testified that they are not as good, that they are not as durable, that they turn gray and, for aesthetic reasons, people need to have their driveways coated more frequently. Other people in other parts of the country have said that is not true, so there is a split of opinion about that. But whether or not it's true, you can still seal your driveway in an adequate way. At worst, the contractor has to come in more frequently, which hardly is an occasion for worrying about their employability. Finally, there is a question as to whether or not the alternatives are useable in Maine because we have a wet climate and these alternatives require a certain number of days of dry periods in order to seal property. Well, if any of you have ever been to Washington State, there is no wetter place in the United States probably, and they are doing just fine using the alternatives. So I would urge you to vote the Minority Report because the evidence is absolutely overwhelming that this is a danger to our children, to ourselves, and to our planet, and that there are alternatives that will not be significantly different in their effect on our need for them and on the employment of Mainers doing this kind of work. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative Devin.

Representative **DEVIN**: Thank you very much, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise for the second day in a row to talk about some nasty nasties. I am going to talk in a more personal way. I am a trained scientist and I work in a lab and over the years, on many occasions, I've been involved in histology. Histology is the process by which you prepare slides to look at cells under the microscope, and in that process, I have used a lot of chemicals including benzene, toluene and xylene. All these PAHs are actually a group of benzenes put together. These chemicals are so caustic and so dangerous that every lab that I've worked in, I have been required to have special training. I am required to wear a long-sleeved shirt. I am required to wear gloves. I am required to have something protecting my face. I am required to do the work, when I open the jar, when I open the container of these chemicals, I am required to do it under a hood so that what comes out of the bottle doesn't come into my nose. As a poor graduate student and often lab directors get the poor graduate students to do the histology. As a poor graduate student, on several occasions, I was trying to get a lot of slides done and I was working in the middle of the night and I wouldn't wear my gloves and I wouldn't do it under the fume hood and I would be met with this massive stinging in my nose, in my nasal cavity, that would last for several days, and after not wearing my gloves, my hands would ache for up to a week at a time and so I quickly learned why I was supposed to be following these protocols. I've actually been more closely associated with these drugs than the average person would be, but just take my exposure and spread that over 20 or 30 years and now you're going to be talking about chronic issues and problems such as cancer. I would provide to you that possibly my erratic behavior that you observe here in the chamber and around the House may be the result of my exposure to these drugs. There is no doubt they are bad for you and I would urge you to join me in opposing this measure and then supporting the Minority Report. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Russell.

Representative **RUSSELL**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **RUSSELL**: Thank you. I am hearing from both sides of the committee, but on the side of the committee that was on the Majority Report, I'm hearing that they were looking for new information. So I guess the question I have was, why wasn't this bill carried over if there is still new information to be gleaned in the hope that they would be looking at it next session anyway?

The SPEAKER: The Representative from Portland, Representative Russell, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gardiner, Representative Grant.

Representative **GRANT**: Thank you, Mr. Speaker. I rise only in answer to the question posed by the Representative from Portland and the Representative from Hallowell. We were concerned that we didn't have enough information, but we were also concerned about carrying over and asking for an in-depth study because to do so would attach a fiscal note, and also we have other major issues that are being studied. But both

Representative Welsh and I feel confident that we will ask the Department to provide us with additional information. It may not be an exhaustive study that would fill four binders, but I think we'll get a binder's worth so that we can see where we need to go with this, whether we need to produce additional legislation or whether we need more study. But the issue was we asked the DEP to do a lot for us and they do a lot within existing resources, so what we were trying to do was craft it in such a way that we would get the information without having it die on the Appropriations Table. That's, frankly, what we were trying to do. I hope that answers your question.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Harlow.

Representative **HARLOW**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We've heard that we don't have enough information. We've heard that we need to do this right and to gather information. Often times, these are things that we hear when we know that someone wants to kill the bill but it's a very difficult issue, a difficult vote for us to take. We have studies from the U.S. Geological Survey, studies from the federal EPA. We have Maine DEP recommending that these products not be used. I'm not sure how much more information we need than that to tell us that these tar coal sealants are dangerous. This feels like we are afraid to take a stand. We hear that there will be a loss of jobs. There are other options. We were told by industry that it was more expensive to use these other options and then we were told that it was either comparable or less expensive, again by industry. Driveways will still get paved. People still need to pave those driveways. We will not lose jobs. We were also told that these tar coal sealants are used because the driveways look better. We would rather have our driveways look better than protect ourselves from harm. We were told that these are not as durable, we just can't do this because of our climate. Minnesota just banned these sealants. I don't know of a climate that could be too much closer to ours than Minnesota. We hear that we have thousands of products, thousands of chemicals in our products that we don't know about. We do know about this product. Why would we continue to use a product that has been stated to be dangerous by so many different agencies? It does not make sense. BPA has taken years to ban, years. If we know that this is dangerous, we know this is not on our top 49 chemicals of concern, why would we not do something about it now. To hear that we are concerned but we didn't have enough information just does not make sense, so I would urge you to please vote against the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Daughtry.

Representative **DAUGHTRY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I apologize for rising a second time. I did want to address some of the things that have been stated in the floor debate today. First off, there have been studies. There hasn't been a large study done by the DEP, but local water districts throughout the state have been studying this and what they have found is that these contaminants from PAHs are there. Also, one of the questions was the fiscal impact of a study. While I don't have the information on how much it would cost the DEP to do a study, I do have the official report back on the fiscal impact of the ban, and it was stated that the cost can be absorbed within existing budgeted resources and it wouldn't cost the state any more to implement this ban. I also wanted to state that the Maine Municipal Association supports this ban one hundred percent. They are fully behind the Minority Report. Also, in Washington and Minnesota, the applicators of the coal tar products helped work for the ban and helped make the switch to the alternative products. This is one of these rare chances when you are talking about an environmental issue, where you actually have businesses working towards it. We had, during the testimony, one of the young women who works and develops the asphalt sealcoat products, and she said they are here in Maine, they are available, they work very, very well, and that the company that she works for is willing to provide for these products for the applicators right here in Maine and that it wouldn't hurt business, it wouldn't lose any jobs. We've also, I just want to state that the coal tar industry also has a history of intimidation of following around legislators who have introduced these bills, harassing them, stating that, you know, this is going to kill business. I also wanted to state that, once again, the Maine Turnpike and the DOT do not use these products and this would not be impacting state government in that manner. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Orrington, Representative Campbell.

Representative **CAMPBELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. It's kind of interesting to hear all the floor debate and the issues and the points, when in fact if you sat through the whole public hearing process, you could actually learn a lot, and I thank the sponsor for bringing it before us because I didn't know a lot about coal tar, when in fact, the good Representative from Hallowell had it right. What is being done right now? There is a reality in Augusta at this point. We have divided government and we don't have any money. The report before us will actually move this forward and will actually get something going and bring it to our attention through an educational process that none of us have. Yes, the good Representative has done a lot of homework and provided a lot of studies. Something that was mentioned, the retailers are taking this off the market, so market forces are actually working on the issue which is closest for the children, the residential driveway. It's generally not used. There are two reasons for putting something black on your asphalt. One is to make it look pretty and the other is to actually keep that surface from functioning in the manner of which it's designed. It's designed to direct the flow of water to an area where it can be treated. If that asphalt is not sealed and sealed properly for a good amount of time, it's going to be permeable. The water is going to go down through that asphalt. There is not a better treatment for that. There may be, but right now there is not. So if you go buy the Lowe's and the Depots who are not selling this at this point, Ellsworth is a good example. They have rerouted traffic. The traffic comes around the Depot and it's over a rise so you can look down on to this asphalt parking lot. The parking lot generally is maybe 25 percent filled and that 25 percent is closest to the building. We've got way too much macadam in this state that has to be sealed to make sure that that water flows in a manner that it gets treated properly. That's my perspective. It would eliminate some of those parking lots, but that's a zoning issue. So the market is basically addressing this. In terms of residential, we heard that there is as much residue coming off a tire as is on the asphalt, so the question is, how is it getting into the homes? There are a lot of questions that stand before us that we should have an answer for. Now the process works around here. Unfortunately, many of us don't believe in the process, but the process does work. If you look at what's before us, the Majority Ought Not to Pass, but the committee in its wisdom has decided that we need more information. So this is going to bring more information back to the committee process and, at that point, we work on it. The only thing that is before us is the Majority Ought Not to Pass. The alternative is Ought to Pass. Ought to Pass basically says we are going to prohibit this product that's working. The marketplace

is diminishing it, so we're in the right direction. But if you look at the title of the bill, "An Act To Prohibit," prohibit means prohibit, banned, never used. It's not time for that. So I would encourage you to support the measure before you. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. At a time when we are trying to create jobs in the State of Maine and get people to work, I have, in one of my districts, in my district, I have a fellow that owns a hot topping business. He is probably the biggest in the state and he hot tops state highways, town roads. He told me five years ago, he didn't spend thousands, he spent millions to upgrade his business and I will be voting with the Ought Not to Pass on this bill. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Hickman.

Representative **HICKMAN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise to oppose the pending motion. Since I was a child, I've had pretty mild asthma and I remember my pediatrician telling me that it would be rather likely that, as I aged, my mild asthma symptoms would go away. Unfortunately, they've gotten more severe as I've aged and I now need a nebulizer sometimes just to get through a night. When I am around coal tar pavement, when it's being used, I cannot breathe and I have to walk away from it as quickly as I can and I find myself hung over for at least two days, and I can only imagine what the people who have to apply that stuff, day in and day out, deal with in their own physicality, and so I urge the House to vote against the pending motion for the sake of the health of the people who apply the material. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Belgrade, Representative Keschl.

Representative **KESCHL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I cannot disagree with all of the comments concerning the potential carcinogenicity of various chemicals that we use in our daily lives, and I agree that when we use coal tar products, we should proceed with caution. We shouldn't just expose ourselves unnecessarily. I heard some folks talk about polycyclic aromatic hydrocarbons, PAHs, that are in the coal tar products, so I did a quick online search while I was sitting here looking at the global emissions inventory for PAHs so I could try, in my mind, to get an understanding of what relevance coal tar has relevant to the global emissions. So I found that 56.7 percent of PAHs, one of the products of concern in coal tar sealants, comes from combustible biofuels in forest fires. Just 6.9 percent come from all consumer products. So the question for us is whether or not the overwhelming emissions from other sources is causing the problems that we're hearing about and whether or not coal tar sealants are just overwhelmed by these other sources. So we may have these problems, but there are so many other sources that the question really should be, should we ban a product when the product itself may be overwhelmingly, sources from PAHs may be overwhelmed by other sources? So I will be voting with the current motion.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Welsh.

Representative **WELSH**: Thank you, Mr. Speaker. I just rise again to answer the question that was posed to the Chair about why we did not carry this bill over. I would like to say that the Environment and Natural Resources Committee is doing a lot of work and has been over the five years I've been on this committee on toxics in our products, looking at chemicals of high concern, and we're working very hard and hope to vote out today the Kid-Safe Products Act which deals with moving chemicals on to the priority chemical list and dealing with them, moving that process forward in a system that I think is not really broken, it's slow, but I think we're working hard to make that system work better and be even more responsive, given the limited resources we have. I would say that was, you know, using some of the systems we're working now and trying to put in place is why we decided to try and learn more about this product. I don't think anyone has any disagreement that it's chemical concern and of high concern, so I just wanted to clarify that. Thank you.

The SPEAKER: The Chair recognizes the Representative from York, Representative McGowan.

Representative **McGOWAN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I apologize for rising a second time, but I do want to reiterate something. As a member of the Environment and Natural Resources Committee, on a daily basis when we meet, we are told again and again and again that the Department of Environmental Protection does not have any time, it does not have the resources, and the way you can kill a bill is to put a fiscal note on it. So the idea that the Department of Environmental Protection is going to do a study is in direct conflict with what we're told on a daily basis about their lack of resources. I encourage you to listen to the conversation. Not one person has refuted the science. Not one person has said, "Don't worry about carcinogens." Not one person has said, "Don't think about PAH as a threat to our children." What they're saying to you is if we do this, our driveways may not stay black as long as they would otherwise. The entire western part of this country does not use coal tar sealants. It is only used in the eastern part of the country. There are clear alternatives. They're not even more expensive. The choice here is about the health of our citizens versus the appearance of our driveways and parking lots. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Harlow.

Representative **HARLOW**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We've heard that we are writing a letter. We are not asking for a study, we are asking for more information. So we all know what letters do, I think, as the good Representative from Caswell would admit, that letters, really, they're nice but they do not necessarily produce results. We know that this is dangerous. Are there other chemicals that are dangerous, yes. We have asbestos. Asbestos works, but we don't use it anymore or we don't use it much. There are asphalt and latex sealants that are commercial alternatives. There are alternatives. As far as the other chemicals that are also dangerous, the Federal Government is actually looking at their very old TSCA law and reforming it as we speak. They are looking at adding more chemicals and studying more chemicals. This is one that they have admitted is dangerous. We have admitted it's dangerous in writing. On the Maine DEP website, there was a full page saying why we should not use this. The idea that we're writing a letter and that we should go through the proper channels does not change a thing about coal tar sealants. This chemical is not one of the top 49. There is no work being done that will put this in the top 49. I would urge you to vote against the pending motion, and, Mr. Speaker, I would ask the Clerk to please read the Committee Report. Thank you.

The same Representative **REQUESTED** that the Clerk **READ** the Committee Report.

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

The SPEAKER: The Chair recognizes the Representative from Caswell, Representative Ayotte.

Representative **AYOTTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have mentioned a couple of times, maybe three times, over my career here, that you can change the color of someone's eyes easier than their speech will change their mind, and I think we all realize that is true. I want to mention that there is five shampoos on the market on scientific evidence that the EPA approved of that have coal tar in them. Many of you know what coal tar was used for many years ago. It was used as a disinfectant. We talk about PAH in our water. There is 3,000 square miles of water in the State of Maine. One half square mile was discovered to have PAH in it. It's interesting to note that we are all concerned about what certain products will do. If these products are all around us, my point is what is the most important thing? Is it eliminating a certain product that you think is harmful? Is it continuing to use the product until further study is made? My point here is what we replace something with is maybe worse than what we're using. The cure may be worse than the disease. At this point in time, you are less apt to harm the environment by sealing your driveway with something we know works than putting something we don't know or will not work. There will be more studies made. There will be more information brought forward. But at this time, we choose the lesser of two evils. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Chipman.

Representative **CHIPMAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to rise to respond to a couple of things that have been said before we take this important vote. In response to the Representative from Orrington, who I serve on the Environment and Natural Resources Committee with, asphalt-based sealant and latex-based sealant are currently accomplishing everything that he just explained. While the sealcoat blocks certain runoff, the runoff from the sealcoat is way worse. One bucket of coal tar sealcoat equals 72 bottles of used motor oil. The other thing that I wanted to point out is that the motion in front of us is not going to bring us any more information. It doesn't call for a study. It defeats the bill. We don't need any more information on this particular product. We've received a lot of information. You've heard a lot of it here today. We've got a lot of it in committee. I would say that we have all the information that we need. And you're right, there is a process that needs to be followed and we are following a process, and I would like to propose this process, that we defeat this motion so we can move on to pass this bill with the Minority Report, and then if it can be proven that this product is safe, then we can pass a bill to allow it to be used again. That is a process, I think, that we should follow because it would be important, I think, that we be on the right side of history. It's not likely that this product can ever be proven to be safe, so let's be on the right side of history and join the many other states, counties and municipalities that have prohibited this product in favor of using other sealcoat products that are also used here in Maine, and join me please in voting against the pending motion. Thank you.

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

ROLL CALL NO. 128

YEA - Ayotte, Beaulieu, Bennett, Brooks, Campbell J, Campbell R, Chase, Clark, Cotta, Crafts, Cray, Crockett, Davis, Dill, Doak, Dunphy, Duprey, Espling, Farnsworth, Fitzpatrick, Fredette, Frey, Gifford, Gillway, Graham, Grant, Guerin, Harvell, Herbig, Hobbins, Jackson, Johnson D, Johnson P, Keschl, Kinney, Knight, Kumiega, Libby A, Lockman, Long, Luchini, MacDonald S, Maker, Malaby, Marean, Mastraccio, McCabe, McClellan, McElwee, Monaghan-Derrig, Newendyke, Nutting, Parry, Pease, Peavey Haskell, Plante, Reed, Rochelo, Sanderson, Saucier, Saxton, Short, Sirocki, Stanley, Theriault, Timberlake, Turner, Verow, Wallace, Weaver, Welsh, Willette, Wilson, Winchenbach, Winsor, Mr. Speaker.

NAY - Beavers, Beck, Berry, Boland, Briggs, Casavant, Cassidy, Chapman, Chenette, Chipman, Cooper, Daughtry, DeChant, Devin, Dickerson, Dion, Dorney, Evangelos, Fowle, Gattine, Gideon, Gilbert, Goode, Harlow, Hayes, Hickman, Hubbell, Jones, Jorgensen, Kaenrath, Kent, Kornfield, Kruger, Kusiak, Lajoie, Libby N, Longstaff, MacDonald W, Marks, Mason, McGowan, McLean, Moonen, Moriarty, Morrison, Nadeau C, Nelson, Noon, Peoples, Pouliot, Priest, Pringle, Rankin, Rotundo, Russell, Rykerson, Sanborn, Schneck, Shaw, Stuckey, Tipping-Spitz, Treat, Tyler, Villa, Werts, Wood.

ABSENT - Beaudoin, Black, Bolduc, Carey, Hamann, Nadeau A, Peterson, Powers, Volk.

Yes, 76; No, 66; Absent, 9; Excused, 0.

76 having voted in the affirmative and 66 voted in the negative, with 9 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

CONSENT CALENDAR
First Day

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

(H.P. 487) (L.D. 715) Bill "An Act To Improve Access to Career and Technical Schools" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-223)**

(H.P. 608) (L.D. 857) Bill "An Act To Examine Fees Charged by Municipalities Concerning Outdoor-related Activities" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-224)**

(H.P. 666) (L.D. 953) Bill "An Act To Provide for and Recognize the Right of the Houlton Band of Maliseet Indians To Fish for Marine Organisms" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-225)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

ENACTORS
Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine Concerning Early Voting and Voting by Absentee Ballot

(H.P. 131) (L.D. 156)
(C. "A" H-127)

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

On motion of Representative BERRY of Bowdoinham, **TABLED** pending **FINAL PASSAGE** and later today assigned.

Emergency Measure

An Act To Exempt Members of the Penobscot Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians and the Aroostook Band of Micmacs from Special Training Requirements for Archery and Trapping

(H.P. 215) (L.D. 306)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and 12 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Protect the State's Property Rights in Maine State Museum Research

(H.P. 717) (L.D. 1019)
(C. "A" H-188)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 3 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Amend the Laws Relating to Secession by a Municipality from a County

(H.P. 1004) (L.D. 1408)
(C. "A" H-197)

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

On motion of Representative BERRY of Bowdoinham, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

Mandate

An Act To Ensure Access to Information in the Property Tax Abatement Process

(H.P. 491) (L.D. 719)
(C. "A" H-190)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of the same and 6 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act To Make Changes to the Potato Marketing Improvement Fund

(H.P. 9) (L.D. 5)
(C. "A" H-198)

An Act To Amend the Motor Vehicle Ignition Interlock Device Requirements in the Laws Regarding Operating Under the Influence

(S.P. 36) (L.D. 85)

An Act To Clarify Tax Increment Financing

(H.P. 382) (L.D. 563)
(C. "A" H-193)

An Act To Amend the Site Location of Development Laws

(S.P. 244) (L.D. 695)
(C. "A" S-91)

An Act To Recodify the Land Surveyor Licensing Laws

(H.P. 906) (L.D. 1267)

An Act To Exempt from Sales Tax the Sales of Adaptive Equipment To Make a Vehicle Handicapped Accessible

(H.P. 978) (L.D. 1370)
(C. "A" H-192)

An Act To Allow a Setoff of a Third-party Bailor's Property under Certain Conditions

(H.P. 1007) (L.D. 1419)

An Act To Allow Certain Military Personnel To Administer Oaths and Perform the Duties of a Notary Public

(H.P. 1089) (L.D. 1516)

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

Resolves

Resolve, To Ensure Landfill Capacity and Promote Recycling

(H.P. 971) (L.D. 1363)
(C. "A" H-182)

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

An Act To Protect Vulnerable Adults from Exploitation

(H.P. 346) (L.D. 527)
(C. "A" H-189)

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

On motion of Representative BERRY of Bowdoinham, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

On motion of Representative FREDETTE of Newport, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned. (Roll Call Ordered)

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-210)** - Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act Requiring the Labeling of Food Packaging That Contains Bisphenol A"

(H.P. 743) (L.D. 1050)

TABLED - May 22, 2013 (Till Later Today) by Representative BERRY of Bowdoinham.

PENDING - Motion of Representative WELSH of Rockport to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report. (Roll Call Ordered)

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Pringle.

Representative **PRINGLE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I hope I'm rising on the right bill here. I've thought a lot about this issue and I think similar to our previous discussion this morning, we all have difficulty when we have to weigh risk and benefit. I've had to weigh risk-benefit through my whole career with patients, for myself, and many of our discussions, unfortunately, don't frame up some of the data that we use. I know we talked about how there is arsenic in the water, but we do water tests and we have come to some agreement about what level of arsenic is a reasonable risk, so when you get your water report, it will tell you how many parts per million you have and then it will give you a cutoff at which someone has made a decision that that little bit of arsenic in your water is a reasonable risk. Others will be above that cutoff and you'll say "I need to not drink this water because the risk of the amount of arsenic is not safe for me." I think when it comes to BPA, the evidence is clear that it is a dangerous chemical, but it also works to keep canned food from getting bacteria and we know in canning, if we don't seal our food from air getting in, that we can get serious bacterial diseases including botulinum toxin which is lethal. So I'm not sure that I am fully able to understand the risk-benefit, except that when I hear from the testimony of many of the businesses and I'm told that even our canning lid, so if you wanted to do home self-canning to avoid BPA, you're going to get lids that have some BPA in them to help protect us from getting botulinum toxin. So I just felt that we ought to take that into consideration, that our food industry, including some of our wonderful food producers in Maine, have said they are working hard to find an alternative to BPA but that I know a lot of people don't have faith in our government agencies. But I have looked at how far we have come in public health and the exhaustive work that the FDA does in terms of looking at parts per million, assessing risk-benefit, and I believe that the Majority – I'm sorry, this is where I didn't pay attention before I rose – whether the Majority Ought to Pass or Ought Not to Pass. I believe that putting labeling without putting quantitative data about risk, there is a decision not to include something on labeling because someone has already looked at the quantitative data and determined that the risk is extremely low. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Freedom, Representative Jones.

Representative **JONES**: Thank you, Mr. Speaker. I am addressing a question directly to the Speaker about a procedural matter. My understanding that before this motion was Tabled by the good Representative from Bowdoinham, that a roll call had been requested. If that request does not carry on after a Tabling motion, I'd like to make the motion that a roll call indeed be in order.

The SPEAKER: A roll call is in order.

Representative FREDETTE of Newport **REQUESTED** that the Clerk **READ** the Committee Report.

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

The SPEAKER: The Chair recognizes the Representative from York, Representative McGowan.

Representative **McGOWAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to remind you that we as a unanimous body voted that BPA was a chemical of high concern. I encourage you as you look at this question and we've been advised that there is a federal exemption that BPA has, BPA only has. Thanks obviously to some work of a corporate and some very clever lobbyists. But I remind you and want to inform you that what comes from our own state toxicologist that pregnant women face the greatest health risk from this chemical. This is a Right to Know bill, simply that the consumers in our state will know whether this is there or not, and I share with you the stories of my lifetime, the stories of when we were told tobacco and smoking was safe and they couldn't put any labels on the packages, and our Federal Government protected that. I remind you of the story of thalidomide, where hundreds if not thousands of infants were born deformed, but we had been told by the Federal Government that this was okay. I remind you of DDT. I remind you of asbestos. I remind you, in Maine, of MTBE, which has polluted our wells but we were told that it was okay. And I remind you of mercury, that in my lifetime, the number of products that it was incorporated in and we were told "Okay." And I ask my colleagues on the other side of the aisle, who, in this hall the other night, spoke to their distrust of the Federal Government, the lack of their work and their performance, and now will you sit back and say "Oh, we can't do this because the Federal Government says so?" I also encourage you who speak to the right to life that pregnant women are most vulnerable to chemical. Will you speak to the right of the quality of the life of unborn infants? Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Cooper.

Representative **COOPER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise reluctantly to support the pending motion because I believe that the federal action in banning labeling of BPA was a decision made based on political pressure, not on science. But that is the reality and, as a result, I think it is clear and we have had extensive legal advice on this that federal law has taken over this issue so that there is a question of preemption in this area. I would urge people who are concerned about BPA to seek labels that indicate that the item is BPA-free, there is no law against that, and I hope that the market will play out so that consumers become more and more concerned about this chemical in the canning products, which does leach into the food, that they will understand that it is a selling point to label their products as not containing BPA. So I urge you not to expect that labeling will ever occur because if we pass a bill that requires labeling, I believe it will be struck down by the courts. Thank you.

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

ROLL CALL NO. 129

YEA - Ayotte, Beaulieu, Bennett, Berry, Bolduc, Brooks, Campbell J, Campbell R, Carey, Casavant, Cassidy, Chase, Clark, Cooper, Cotta, Cray, DeChant, Dill, Dion, Doak, Dunphy, Duprey, Espling, Farnsworth, Fitzpatrick, Fowle, Fredette, Frey, Gideon, Gifford, Goode, Graham, Grant, Guerin, Harvell, Herbig, Hobbins, Hubbell, Jackson, Johnson D, Johnson P, Jorgensen, Kaenrath, Keschl, Kinney, Kornfield, Kumiega, Libby A, Libby N, Lockman, Long, Luchini, MacDonald S, MacDonald W, Maker, Malaby, Marean, Marks, Mastraccio, McCabe, McClellan, McElwee, McLean, Monaghan-Derrig, Moriarty, Nelson, Nutting, Parry, Pease, Peavey Haskell, Priest, Pringle, Rankin, Reed, Rochelo, Rotundo, Sanborn, Sanderson, Saucier, Saxton, Schneck, Short, Sirocki, Theriault, Timberlake, Treat, Turner, Tyler, Volk, Wallace, Weaver, Welsh, Willette, Winchenbach, Winsor, Mr. Speaker.

NAY - Beavers, Beck, Boland, Chapman, Chenette, Chipman, Crafts, Crockett, Daughtry, Davis, Devin, Dickerson, Dorney, Evangelos, Gattine, Gilbert, Gillway, Harlow, Hayes, Hickman, Jones, Kent, Knight, Kruger, Kusiak, Lajoie, Longstaff, Mason, McGowan, Moonen, Morrison, Nadeau C, Newendyke, Noon, Peoples, Plante, Pouliot, Russell, Rykerson, Shaw, Stanley, Stuckey, Tipping-Spitz, Verow, Villa, Werts, Wilson, Wood.

ABSENT - Beaudoin, Black, Briggs, Hamann, Nadeau A, Peterson, Powers.

Yes, 96; No, 48; Absent, 7; Excused, 0.

96 having voted in the affirmative and 48 voted in the negative, with 7 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

Reference was made to Bill "An Act To Restore to Jimmy J. Soucy the Right To Maintain Existing Structures on Property in Sinclair"

(S.P. 95) (L.D. 262)

In reference to the action of the House on May 22, 2013 whereby it Insisted and Joined in a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

Representative NOON of Sanford
Representative MAREAN of Hollis
Representative BLACK of Wilton

SENATE PAPERS

The following Joint Order: (S.P. 593)

ORDERED, the House concurring, that when the Senate adjourn they do so until Tuesday, May 28, 2013, at 10:00 in the morning and House adjourn until 9:00 in the morning.

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

READ and **PASSED** in concurrence.

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Revise the Maine Wild Mushroom Harvesting Certification Program"

(H.P. 954) (L.D. 1337)

Signed:
Senators:
CRAVEN of Androscoggin
HAMPER of Oxford
LACHOWICZ of Kennebec

Representatives:
FARNSWORTH of Portland
CASSIDY of Lubec
DORNEY of Norridgewock
GATTINE of Westbrook
MALABY of Hancock
McELWEE of Caribou
PRINGLE of Windham
SANDERSON of Chelsea
STUCKEY of Portland

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:
Representative:
SIROCKI of Scarborough

READ.

On motion of Representative FARNSWORTH of Portland, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

On motion of Representative FOWLE of Vassalboro, the House adjourned at 11:10 a.m., until 9:00 a.m., Tuesday, May 28, 2013 pursuant to the Joint Order (S.P. 593).