

HOUSE RECORD

Second Year of the 160th General Court Calendar and Journal of the 2008 Session

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Concord, N.H.

Wednesday, April 23, 2008

No. 33

HOUSE JOURNAL No. 11 (cont.)

Wednesday, April 16, 2008

RECESS

Rep. Wallner moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 12

Wednesday, April 23, 2008

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by Guest Chaplain, Reverend Dr. Billy Brown.

Creator God, make of the heavens and all that is in the universe, we are bearing witness once again to the sustaining beauty and power of Your created world. The cold child of winter melts before our eyes; our skin feels the warm breeze of spring. We marvel at the life that is emerging all around us. Remind us, oh loving Creator, that we are part of this created order. You have charged us to have dominion over Your natural world. As this body carries out its duties of governance, help us to maintain focus on Your charge for creative stewardship of the natural resources. As You have blessed us with the beauty that is New Hampshire, You have also blessed us with the presence of all who are gathered here today. We ask for Your blessing that will renew those who are tired or ill. Refresh their spirits with Your vital spirit that we all may better serve the needs of the planet earth and the needs of our grand state of New Hampshire. Amen.

Reps. Phyllis and George Katsakiores, members from Derry, led the Pledge of Allegiance.

The National Anthem was sung by Amanda Odell, a senior at Newport High School and a member of the New Hampshire All-State High School and Chamber Chorus.

LEAVES OF ABSENCE

Reps. Bishop, Casey, Peter Cote, Hackel, Humphries, Stephen Johnson, John Kelley, Lisle, Pearson and Pilotte, the day, illness.

Reps. Gene Andersen, Arsenault, Berube, Billian, Brueggemann, Clemons, Russell Day, Domingo, Garcia, Grassie, Howard, Introne, Levesque, Loll, Lovett, Matheson, Scott Merrick, Bennett Moore, O'Brien, O'Connell, Pelkey, Perry, Reardon, Reeves, Rochette, Serlin, Daniel Sullivan, Sysyn, Tahir, Joy Tilton and Weed, the day, important business.

Reps. Guthrie and Wendelboe, the day, illness in the family.

INTRODUCTION OF GUESTS

Tracey Bailey, mother of the singer, guest of the House. Trudy Morgen, guest of Rep. Rosenwald. Doug Flockhart and Jonathan Cronshaw, husband and grandson of Rep. Flockhart. Lorien Welch, step-daughter of Rep. Claudia Chase. Kathy, Abby and Cullen Martell, and Kim Calhoun, guests of Rep. Scannell. Barbara Chase, Sally Chase-O'Rourke, Tiernan O'Rourke, Dierdre Neve-O'Rourke and Chloe Piper-Lawrence, wife, daughter, grandson and granddaughters of Rep. William Chase. Robert K. Reese, Emily M. Reese and Christelle Milie Suarez Reese, guests of Rep. Belanger. Joe Fleck, guest of Reps. Chandler and Patten.

SENATE MESSAGES

REQUESTS CONCURRENCE WITH AMENDMENTS

HB 315, relative to criminal background checks of prospective municipal employees through the division of state police. (Amendment printed SJ 4-10-08)

Rep. Theberge moved that the House concur and spoke in favor.

Adopted.

HB 1220, establishing a commission to study the taxation of alternative fuel and electric-powered motor vehicles for the purpose of funding improvements to the state's highways and bridges. (Amendment printed SJ 4-10-08)

Rep. Bouchard moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Cloutier, Lerandeau, Sprague and Franklin Tilton.

COMMITTEE REPORTS

CONSENT CALENDAR

Rep. Wallner moved that the Consent Calendar with the relevant amendments as printed in the day's House Record be adopted.

Consent Calendar adopted.

Rep. Coughlin declared a conflict of interest on **SB 349** and **SB 446** and did not participate in the vote on the Consent Calendar.

SB 319-FN, relative to third party liability and state recovery of public assistance. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Stephen T. DeStefano for Commerce: This bill makes certain changes relative to third party liability and state recovery of public assistance to help ensure that Medicaid is the payor of last resort when another insurer has the responsibility to pay for medical costs incurred by a Medicaid-eligible individual as required by the federal Deficit Reduction Act of 2005. As introduced, this bill also sought to make certain changes relative to Medicaid fraud

and false claims. Because the federal standard may undergo further change, the amendment offered removes the Medicaid fraud and false claims sections of the bill. Vote 15-0.

Amendment (1299h)

Amend the bill by replacing all after section 1 with the following:

2 Repeal. RSA 167:4-a, IV, relative to health carrier liability for medial assistance, is repealed.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill clarifies the definition of health carrier for purposes of third party liability.

SB 318-FN, establishing a commission to study the creation of a large animal care worker classification. **OUGHT TO PASS WITH AMENDMENT.**

Rep. A. Laurie Harding for Executive Departments and Administration: This bill establishes a commission to study the creation of a new animal care worker classification. There are 811 licensed veterinarians in New Hampshire. Less than 10% care for sheep, pigs, cows and goats. In Coos County, where there are 6,000 large animals, there are only three veterinarians willing to make visits. There also is an increasing shortage of small animal veterinarians. SB 318 creates an eleven person commission to study other categories of animal care workers who will be able to perform the basic care for animals under the direct or indirect supervision of a licensed veterinarian. Vote 17-0.

Amendment (1376h)

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to study the creation of an animal care worker classification.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study the creation of an animal care worker classification.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) One member of the senate, appointed by the president of the senate.

(b) Two members of the house of representatives, one of whom shall be from the house environment and agriculture committee, appointed by the speaker of the house of representatives.

(c) The commissioner of the department of agriculture, or designee.

(d) The director of the Thompson School of Applied Science, university of New Hampshire, or designee.

(e) A representative of the New Hampshire Veterinary Medical Association, appointed by the association.

(f) One representative of the board of veterinary medicine, who may be the board's legal counsel, appointed by the board.

(g) One representative of the New Hampshire Veterinary Technician Association, appointed by the association.

(h) Two representatives of the New Hampshire Farm Bureau Federation, appointed by the association, one of whom shall be a horse breeder or owner; and one member shall be a dairy farmer or breeder of cows or other kine species.

(i) One member of the public, who is a small animal owner, appointed by the governor.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study the creation of an animal care worker classification to perform the basic care of animals under the direct or indirect supervision of

a state licensed veterinarian. The study shall include, but not be limited to, defining the necessary accreditation for this position, consideration and allowance for past experience and employment as an animal care worker, and the scope of the allowable practices for such position. In performing this study and making its recommendations, the commission shall review and consider using as basic standards, accreditation policies, guidelines, and procedures of the American Veterinary Medical Association's Committee on Veterinary Technician Education and Activities.

4 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2008.

6 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a commission to study the creation of an animal care worker classification.

SB 326-FN, relative to salaries for certain unclassified positions. **OUGHT TO PASS.**

Rep. Ken Hawkins for Executive Departments and Administration: The bill reflects changes in the organizational structure of the department of safety and department of transportation that were passed last session. The positions were evaluated per RSA 14:14-c, and then approved by the employee pay classification committee. Vote 17-0.

SB 347, establishing a commission to study making changes to the New Hampshire accountancy act. **OUGHT TO PASS.**

Rep. James F. Headd for Executive Departments and Administration: The bill seeks to establish a commission to study making changes to the New Hampshire accounting act, RSA 309-B. The purpose is to bring New Hampshire standards in line with nationally accepted practices. The bill is supported by the New Hampshire society of certified public accountants. Vote 16-0.

SB 349, allowing continuation of judicial retirement plan benefits for judges called to full-time active military duty. **OUGHT TO PASS.**

Rep. Carl G. Robertson for Executive Departments and Administration: This bill will allow the continuation of judicial retirement plan benefits for judges called to full time active military duty. This bill will give judges retirement plan benefits the same benefits as given to other state employee who are called to full military duty. This bill also brings us into compliance with federal regulations. Vote 15-2.

SB 371, making various changes to the city of Manchester employees' contributory retirement system. **OUGHT TO PASS.**

Rep. Jean Jeudy for Executive Departments and Administration: This bill allows the aldermen of Manchester to place on the ballot a question for the Manchester voters to decide on the Manchester retirement system. This does not indicate either support or opposition from the New Hampshire legislature but only gives the permission for the question to be asked, in accordance with session law Chapter 218 passed in 1973. Vote 15-1.

SB 373, relative to definitions for and the application of the civil unions law to the retirement system. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Patricia M. McMahon for Executive Departments and Administration: This bill is

required to assure that the New Hampshire Retirement System retains its status as a qualified pension plan under Section 401(a) of the Internal Revenue Code. This bill addresses deficiencies in HB 437-FN-L, Chapter 58, 2007 and provides both corrections and clarifications for civil unions regarding post-retirement medical benefits, survivorship annuities, federal taxable benefits and directly transferred distributions by the NHRS to designated beneficiaries in order to be in compliance with federal requirements. Vote 17-0.

Amendment (1346h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to the application of the civil unions law to the retirement system.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Civil Unions. Amend RSA 100-A by inserting after RSA 100-A:2-a, the following new section:

100-A:2-b Civil Unions. RSA 457-A shall not apply to this chapter to the extent that such application will violate the Internal Revenue Code of 1986, as amended, or other federal law.

2 Effective Date. This act shall take effect January 1, 2008, at 12:01 a.m.

AMENDED ANALYSIS

This bill clarifies the application of the civil unions law, RSA 457, to the New Hampshire retirement system.

SB 449, relative to the status of emergency services volunteers. **OUGHT TO PASS.**

Rep. Russell C. Day for Executive Departments and Administration: This bill would enable communities to provide worker's compensation coverage to volunteer citizen's groups delivering emergency services to the public. These individuals are presently covered by liability insurance, but not for worker's compensation for injuries sustained in the performance of their duties. This is limited to those duly appointed, trained, and called out by community officials. The committee believes that this is an important addition to present coverage to encourage volunteers, particularly in rural areas. Vote 16-0.

SB 446, allowing probate court judges and district court justices to sit on either court in certain circumstances. **OUGHT TO PASS.**

Rep. Lucy M. Weber for Judiciary: This bill allows district court judges to sit in probate court and probate judges to sit in district court when a judge of that court is unavailable for a period of time that would cause delay or a burden on the rights of litigants in a particular matter. The judges so serving must be pre-certified as having adequate qualifications to sit in the other court. Further, certain core probate matters must, as a matter of constitutional law, continue to be heard by probate judges. The committee believes this bill will speed the orderly administration of justice, saving both litigants and the court system time and money. Vote 13-0.

SB 466, relative to probate court jurisdiction over special needs trust. **OUGHT TO PASS.**

Rep. Gregory M. Sorg for Judiciary: This bill amends RSA 547:3, I (c) by extending the jurisdiction of probate courts over trusts to those created by probate court judgment or decree, including special needs trusts created to facilitate payments to or on behalf of Medicaid beneficiaries. Vote 15-0.

SB 543, establishing a commission to study court security. **INEXPEDIENT TO LEGISLATE.**

Rep. Philip Preston for Judiciary: The committee agrees that court security is one of the most critical issues facing the judicial branch. That is why legislation was passed in 2005 and 2007 to establish study commissions similar to what is proposed in this bill. In spite of the importance the committee places on court security, it believes that a duplication of work

already completed would serve no useful purpose. Vote 15-0.

SB 501-FN, relative to workers' compensation on certain state projects and penalty collection powers of the department of labor. **OUGHT TO PASS WITH AMENDMENT.** Rep. Bette R. Lasky for Labor, Industrial and Rehabilitative Services: This bill fixes problems that occurred as a result of HB 471, Chapter 323, 2007 passed last year which unintentionally required all independent delivery drivers to be covered by worker's compensation insurance on state projects. This bill corrects that problem by excluding independent contractors who make deliveries to or removals from a project administered by the state. In addition, this bill forms a study committee to review the guidelines for determining permanent impairment awards under worker's compensation. Vote 17-1.

Amendment (1313h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to workers' compensation on certain state projects, penalty collection powers of the department of labor and permanent impairment awards under workers' compensation.

Amend the introductory paragraph of RSA 228:4-b, I as inserted by section 1 of the bill by replacing it with the following:

I. Prior to any work being done by an individual contractor on any state transportation project carried out under this subdivision, such contractor, including all subcontractors and independent contractors, working on a highway, bridge, or other construction, reconstruction, alteration, or maintenance project, excluding routine maintenance operations conducted utilizing the contract rental agreement process, ~~[funded]~~ **and excluding deliveries to and removals from a project administered** by the department shall provide to the commissioner of transportation:

Amend the bill by replacing all after section 4 with the following:

5 Major Projects; Workers' Compensation. Amend the introductory paragraph of RSA 21-I:80, VI(a) to read as follows:

VI.(a) Prior to any work being done by an individual contractor on any major project under this section, such contractor, including all subcontractors and independent contractors, **excluding deliveries to and removals from a project administered by the department**, shall provide to the commissioner of administrative services:

6 Workers' Compensation; Scheduled Permanent Impairment Awards. Amend RSA 281-A:32, IX to read as follows:

IX. MORE THAN ONE PERMANENT LOSS. If an injury results in more than one permanent bodily loss specified in paragraphs I-VIII, or if the injury is to the spinal column or the spinal cord, or to the brain, or involves scarring, disfigurement, or other skin impairment resulting from a burn or burns, an award shall be made on the basis of a maximum of 350 weeks with the appropriate number of weeks to be determined in proportion to the maximum in accordance with the percent of the whole person specified for such bodily losses in the ~~[most recent]~~ **5th** edition of "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association. Injury to spinal column or spinal cord shall not be construed to permit an award under this section as a result of soft tissue injury, nor to permit such an award on the basis of more than one permanent loss, unless such injury results in loss of use of upper or lower extremities. For the purposes of this paragraph "injury to the brain" means cerebral or neurological impairment due to central nervous system injury as described in said American Medical Association Guide.

7 Workers' Compensation; Scheduled Permanent Impairment Awards. Amend RSA 281-A:32, XIV to read as follows:

XIV. RULEMAKING REQUIRED. In order to reduce litigation and establish more certainty and uniformity in the rating of permanent impairment, the commissioner shall adopt rules, under RSA 541-A, incorporating by reference the ~~[most recent]~~ **5th** edition of the

American Medical Association's "Guides to the Evaluation of Permanent Impairment" to determine the degree of permanent impairment and on which to base awards under this chapter.

8 Committee Established. There is established a committee to study issues associated with the most recent edition of "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association and its impact on workers' compensation permanent bodily loss.

9 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(b) One member of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

10 Duties. The committee shall study issues associated with the most recent edition of "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association and determine whether the 6th edition has a detrimental impact on compensation for permanent bodily loss or losses.

11 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

12 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2008.

13 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

I. Clarifies certain workers' compensation procedures relating to state projects.

II. Provides the department of labor with the same penalty collection powers as the department of revenue administration.

III. Changes the edition of "Guides to the Evaluation of Permanent Impairment" which is used to determine permanent impairment awards under workers' compensation.

IV. Establishes a committee to evaluate issues related to which edition of "Guides to the Evaluation of Permanent Impairment" should be used for purposes of workers' compensation.

SB 462, limiting liability for overseers of public welfare when acting in the course of their official duties. **OUGHT TO PASS.**

Rep. Eric G. Stohl for Municipal and County Government: This bill seeks to limit the liability for overseers of public welfare, also referred to as welfare directors, overseers of the poor, and other titles, when they are acting in the course of their official duties. The bill simply adds the overseers of public welfare to RSA 31:104, which provides the same protection to governing bodies, boards, commissions, and bureaus. This protection limits liability for civil damages for any decision made by the overseer of public welfare while acting in his or her official capacity in good faith and within the scope of his or her authority. Vote 17-0.

SB 473, naming the Prisoners of War/Missing in Action Memorial in Hesky Park in the town of Meredith. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert J. Elliott for Municipal and County Government: It was the feeling of the entire committee that this is a good bill to honor the memory of our many brave young warriors

who are still missing in action or were, at one point, a Prisoner of War. The amendment changes one small word from “the” memorial to “a” memorial so that other communities may also have “a” memorial in their towns as well, if they so wish. Vote 16-0.

Amendment (1367h)

Amend the title of the bill by replacing it with the following:

AN ACT naming a Prisoners of War/Missing in Action Memorial in Hesky Park in the town of Meredith.

Amend the bill by replacing section 1 with the following:

1 Town of Meredith; Prisoners of War/Missing in Action Memorial Named. The site in Hesky Park in the town of Meredith consisting of a large stone and a flagpole shall be hereby named a Prisoners of War/Missing in Action Memorial in honor of our country’s veterans who were prisoners of war or are missing in action. Appropriate signage may be placed at the location of the memorial.

AMENDED ANALYSIS

This bill establishes a Prisoners of War/Missing in Action Memorial in Hesky Park in the town of Meredith.

SB 524, relative to eligibility for persons to receive the elderly property tax exemption. **INEXPEDIENT TO LEGISLATE.**

Rep. Robert J. Elliott for Municipal and County Government: The committee was united in believing that the present law is fair. If the husband, wife or partner is 65 years old and dies, his/her spouse or this 62 year old newly married/partner would not qualify for a tax exemption. They would only qualify if they had been married five years before the 65 year old husband/wife or partner died. That is a fair rule. Vote 17-0.

SB 158, relative to review of activities affecting surface waters. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Frank A. Tupper for Resources, Recreation and Development: This bill makes New Hampshire statutes consistent with section 401 of the federal Clean Water Act. It puts into statute the department of environmental service’s (DES) existing federal responsibilities to certify that activities affecting surface waters will ensure that water quality standards will be maintained. The amendment clarifies the original bill and was developed with affected water suppliers. Vote 18-0

Amendment (1307h)

Amend the bill by replacing sections 1 and 2 with the following:

1 Purpose. This act provides for technical review and certification of proposed activities affecting surface waters to ensure that water quality standards appropriate to the legislative classification of the waters are attained. The act makes New Hampshire statutes consistent with section 401 of the Clean Water Act for activities requiring federal permits or licenses, and extends the review to activities requiring registration under RSA 488:3.

2 New Paragraphs; Enforcement of Classification. Amend RSA 485-A:12 by inserting after paragraph II the following new paragraphs:

III. No activity, including construction and operation of facilities, that requires certification under section 401 of the Clean Water Act and that may result in a discharge, as that term is applied under section 401 of the Clean Water Act, to surface waters of the state may commence unless the department certifies that any such discharge complies with the state surface water quality standards applicable to the classification for the receiving surface water body. The department shall provide its response to a request for certification to the federal agency or authority responsible for issuing the license, permit, or registration that requires the certification under section 401 of the Clean Water Act. Certification shall include any conditions on, modifications to, or monitoring of the proposed activity necessary

to provide assurance that the proposed discharge complies with applicable surface water quality standards. The department may enforce compliance with any such conditions, modifications, or monitoring requirements as provided in RSA 485-A:22.

IV. No activity that involves water withdrawal or diversion of surface water that requires registration under RSA 488:3, that does not otherwise require the certification required under paragraph III, and which was not in active operation as of the effective date of this act, may commence unless the department certifies that the withdrawal or diversion complies with state surface water quality standards applicable to the classification for the surface water body. The certification shall include any conditions on, modifications to, or monitoring of the proposed activity necessary to provide reasonable assurance that the proposed activity complies with applicable surface water quality standards. The department may enforce compliance with any such conditions, modifications, or monitoring requirements as provided in RSA 485-A:22.

SB 486, relative to the duties and responsibilities of special deputy forest rangers. **OUGHT TO PASS.**

Rep. Susan R. Kepner for Resources, Recreation and Development: This bill allows part time, non-benefit special duty forest rangers to be employees of the bureau of forests and lands. It will give more time for full time regular rangers to fulfill their higher level of duties like enforcing timber harvesting laws, wetland protection, and forest health. The “auxiliary” or part time rangers can deal with violations like fires without a permit, speeding on park land, vandalism, etc. Funds will come from an already existing forest management and protection fund. Vote 18-1.

SB 489, establishing a commission to study erecting a fire tower on Copple Crown mountain in Brookfield. **OUGHT TO PASS.**

Rep. Harry C. Merrow for Resources, Recreation and Development: Currently there is a dead spot that prevents triangulation to locate a fire in the Copple Crown area. This commission would determine if it is feasible to erect a tower on Copple Crown Mountain to give full coverage. The commission members are limited to legislators, agency personnel and the owner of the property. Vote 18-0.

SB 523, relative to requirements for the estuary alliance for sewage treatment to take and hold land. **OUGHT TO PASS.**

Rep. Chris Christensen for Resources, Recreation and Development: The Estuary Alliance for Sewage Treatment was established under RSA 485-E. EAST allows the various municipalities in the seacoast region to join together to implement regional solutions for sewage. Included in the alliance authority was the power of eminent domain that might enable solutions such as intercommunity sewage pipelines. SB 523 simply reduces that authority so it can be exercised only in those municipalities that have joined the alliance. Vote 18-0.

SCR 10, urging the New Hampshire delegation to actively seek an increase in federal funding for wastewater treatment facility improvements. **OUGHT TO PASS.**

Rep. Suzanne H. Gottling for Resources, Recreation and Development: New Hampshire’s municipalities are facing one billion dollars in necessary upgrades to their wastewater treatment facilities. Many were built under decades-old funding under the Clean Water Act, funding which has diminished drastically. Not only are these systems aging, but also in need of upgrading to meet stricter federal standards. The committee recommends supporting a nationwide call for funding for these critical facility upgrades. Vote 18-0.

SB 525, establishing the first Saturday in May as Emergency Medical Services Provider Recognition Day. **OUGHT TO PASS.**

Rep. Doreen Howard for State-Federal Relations and Veterans Affairs: The majority of the committee agrees with the federal observance set aside for Emergency Medical Providers. Unlike the federal observance of the last week and weekend of May, this bill designates the first Saturday in May as "Emergency Medical Providers Recognition Day." All past, present and deceased providers will be recognized for their dedication and service to the citizens of the state of New Hampshire. Vote 11-0.

INTRODUCTION OF SPECIAL GUESTS

The Speaker introduced members of the Rollins Family: Skip and Rhonda Rollins, parents of Justin Rollins. Samantha Huntoon, girlfriend of brother, Jonathan. Brittany Murray, girlfriend of Justin. Family friends: Ella Casey, Betty and Anthony Maiola and Sally and William Gottling, all guests of the House.

COMMITTEE REPORTS REGULAR CALENDAR

SPECIAL ORDER

SB 506, naming the Elm Street bridge in Newport after Specialist Justin A. Rollins. **OUGHT TO PASS.**

Rep. David B. Campbell for Public Works and Highways: Specialist Justin A. Rollins, a soldier attached to the 82nd Airborne Division and a son of Newport, was killed in a bomb attack during combat operations in the Iraqi province of Salahuddin on March 5, 2007. He was 22 years old. Justin told his father "there is no greater honor than to be buried at Arlington National Cemetery," which is where Specialist Rollins has been laid to rest. Justin Rollins is proudly and fondly remembered by his family and friends, his Town, his State and his Country. It is a fitting tribute that the Elm Street Bridge on Routes 103 & 11, one of the oldest and most traveled bridges in Newport, will forever bear his name. Vote 15-0.

Committee report adopted and ordered to third reading.

Rep. Skinder spoke in favor.

Committee report adopted and ordered to third reading.

MOTION TO PRINT REMARKS

Rep. Daniel Eaton moved that the remarks made by Rep. Skinder on **SB 506**, naming the Elm Street bridge in Newport after Specialist Justin A. Rollins, be printed in the Permanent Journal. Adopted.

REMARKS

Rep. Skinder: Thank you, Madam Speaker. Honorable members of the House and invited guests, I come before you to engage us all in a celebration of the life of Army Specialist, Justin Rollins, a member of the 82nd Airborne Division. A young man who gave his life in the name of freedom and democracy on March 5th, 2007 in Samarra, Iraq. Justin was 22. Although I never had the pleasure of meeting Justin, I spent an evening with his parents, Rhonda and Skip and his older brother Jonathan with his girlfriend Samantha. I spoke with Justin's girlfriend Brittany Murray on the phone and read her articles that she wrote about Justin. I have had the pleasure of meeting her today. I have spoken with many people that knew Justin and everyone has told me that he was a gentle giant with a lot of spunk, a hell raiser to put it mildly, but a young man that matured in the Army. When I arrived at their home, the first thing that I saw was Rhonda's Gold Star brand new license plate, number 5. Justin was killed on the 5th of March. I also saw the bumper sticker with Justin's picture with the saying, "you will not be forgotten." I went on line to Gold Star mothers and I would like to share a bit of what I found. American Gold Star Mothers began on June 4, 1928. In

the words of President Franklin D. Roosevelt in 1944, "There is nothing adequate which anyone in any place can say to those who are entitled to display the gold star in their windows. America lives in freedom because of the sacrifices of America's finest citizens and of the mothers who raised them..."

I think the saddest day
That someone ever told
When someone tells a mother
That her blue star turned to gold.
Her head goes up so proudly
While her heart within her dies
She may be choked with sorrow
But she never cries.
She has waited for days on end
For the war to pass
When she could see her son again
And hold him close at last.
Now, the news has come
In words so bleak and cold
Which tells her what she fears;
Her blue star has turned to gold.

When I arrived at the Rollins' house, three dogs, two of which Justin rescued, greeted me enthusiastically as Skip tried to control them. I knew that the evening would be relaxed for I am an animal person and I truly believe that they help to subdue our sorrows and help us to cope. Justin always slept with his animals under the covers. I was invited in and met the family. Skip then proceeded to show me around the house so that I could see that Justin was very much alive in their life. There were pictures everywhere; many from Iraq, for Justin had a camera so that he could share his army life with his family and friends. Then, I was shown Justin's room. There was the flag given to his mother and father in a beautiful wooden box. There were the badges in a frame built by a friend. A combat infantry badge, a badge 1 inch in height and 3 inches in width, consisting of an infantry musket on a light blue bar with a silver border on and over an elliptical oak wreath, the symbol of steadfastness, strength and loyalty. His father proudly stated that he was true blue meaning that he never failed a test, even when it was slammed on to his chest, a tradition. Two Purple Hearts, a Bronze Star and Irish Jump Wings. Justin had Irish blood and he won a lottery ticket to jump with an Irish Jump Master. He was offered \$1000 for that ticket and refused! Then I saw a stack of bumper stickers, the one of Justin's picture. Skip asked if I would like one. I had held up pretty well until that moment and had to choke back a tear to say I would be honored, but that I would never put it on my car, it would be a treasure for life. Skip then told me about the wonderful flag that they bought for his services, 20 by 39 feet! It takes two ladder trucks to fly it and it is available to all soldiers, firemen and policemen that are killed in action. It is in a special box at the Newport fire department. Justin was an expert shooter and when he went in to the Army he spent \$600 out of his own pocket to buy a scope that would allow him to be the best. He was promoted to a squad sniper two days before his death. He saved a squad that had been pinned under their hummer because he was an expert shooter. The Captain of that squad called the family after his death to thank them for Justin's courageous act. Justin never wanted to talk about the lives he took; he was saving his friends from being killed. Justin was a firm believer in no man left behind. He believed that they were all brothers regardless of their differences. Skip said that he loved children and that Justin wanted the Iraqi children to have the same opportunities and freedom that American children have today. Justin wore a Mickey Mouse patch on his sleeve and a Mickey Mouse watch, and he was naughty, he passed out candy to the children, he loved kids, it was against the rules. Skip, Justin's dad, had wonderful stories to tell. He was so

proud of his son. Jonathan, Justin's older brother who unfortunately is not here today, remembers him as the guy that everyone thought was a riot, outgoing and funny. Of course, as kids they fought but as they got older they became best friends. He told a story about when they lost their Boston Whaler off the back of a trailer when Justin thought he could turn fast around a corner. Jonathan said that he wasn't afraid of anything. His favorite saying was, "Come on, let's go...saddle up...let's go get 'em." Jonathan said that Justin waited for the right girl and he found her, Brittany Murray. Jonathan met Samantha while Justin was in Iraq and they talked about having a dual wedding, a run for the alter to see who could get there first. Rhonda, Justin's mother, showed me Justin's blog where there were a lot of pictures and stories about his army life and his loves. Rhonda told me that Justin's first experience in the Army was going to New Orleans after Katrina, an experience he said he never wanted to experience again. He called her one day from New Orleans and said that he had a blind dog that he wanted to send home. She said no and he found a home for the dog. Justin discovered a lady that refused to leave her flooded home because she could not take her 21 dogs. Justin was able to get the story out and it reached Tom Brokaw. Brokaw went out the next day by boat to do a story on the woman. Justin gave up his seat so that Brokaw could go and the dogs were rescued. The last pictures of Justin on his blog were of Justin and Hero. Hero, just a puppy in a litter of 19 and the only survivor of that litter, now lives in Newport with Justin's family. Justin's mother named him Hero. I had to name the dog Hero, after him. Justin's girlfriend Brittany said, "It's the last bit of happiness that we know Justin had, and as everyone knows, it was the night before he was killed, so we're just excited to have something that brought him happiness." Well, let me tell you, I spent a few hours with Hero and from what I have been told about Justin, Hero is a chip off the old block, full of life and mischief. He did have permission to join us today but he chose to stay home. Just before Justin was deployed to Iraq, Justin had the opportunity to talk with David Ortiz of the Red Sox before a game. Justin had said, "If he hits this ball out of the park, I can go to Iraq and die a happy man." Ortiz hit a home run that night. After Justin's death, the family started a scholarship in his name for any Newport graduate of a parent that has served in the service. Skip and Jonathan bought matching Harleys with gold plated keys and began a bike ride to raise money for the scholarship. They raised \$12,000 on the ride and \$17,000 in lieu of flowers at his memorial service. A great beginning of a wonderful legacy in memory of Justin. Justin was buried at Arlington Cemetery on March 19, 2007 with a signed ball by Ortiz...To Justin Rollins, rest in peace...God Bless, David Ortiz. Skip and Jonathan returned to Justin's grave after the bike race and buried the gold plated Harley keys in front of his stone. As we dedicate the Elm Street Bridge in Newport to Justin Rollins I believe that right now there are two Harleys going down the street side by side without a visible rider, but we all know that Justin is riding them Ben-Hur style with a big smile. As Pastor Donna Leslie said at his funeral services, "Justin was never an angel on earth, but, yeah, he's earned his wings."

REGULAR CALENDAR (CONT'D)

SB 376, requiring local fire chiefs to annually inspect all school buildings within his or her jurisdiction and report on the condition of all such school buildings. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Judith E. Day for the Majority of Education: This bill requires that each local fire chief annually inspect all school buildings within his or her jurisdiction and that this inspection be done while school is in session. It further requires that the chief submit a written report on the condition of all such school buildings to the state fire marshal by December 15th each year. The report shall detail any state fire code compliance issues in each school building. The bill states that the report shall be furnished to the school district superintendent and school board members. For the safety of our school children, a bi-partisan majority of the committee felt it was critical to pass this bill. Testimony by the state fire marshal indicated that there would be no fiscal impact. Vote 14-3.

Rep. Sharon M. Carson for the Minority of Education: This bill, while well intentioned, is an unfunded mandate. The accompanying fiscal note states this is a local expenditure and unless the state pays for the associated costs of this program, it violates Part II, Article 28-a of the New Hampshire state constitution.

On a division vote, 164 members having voted in the affirmative and 110 in the negative, the majority committee report was adopted.

Ordered to third reading.

Rep. Rodeschin did not vote and notified the Clerk that she wished to be recorded against.

SB 436, enabling certain persons to vote in primaries prior to turning 18 years of age.

REFER FOR INTERIM STUDY.

Rep. David M. Pierce for Election Law: This bill, which would allow 17 year olds to vote in a primary if they will be 18 years old by the time of the general election, raises some constitutional questions. The committee recommends interim study. However, an immediate motion to table the bill will be made and a committee resolution introduced to request the Supreme Court to resolve the constitutional questions. Vote 9-6.

LAID ON THE TABLE

Rep. Pierce moved that **SB 436**, enabling certain persons to vote in primaries prior to turning 18 years of age, be laid on the table.

Adopted.

RESOLUTION

Rep. Pierce offered the following: RESOLVED, that late drafting and introduction having been approved by request of the Election Law Committee, pursuant to House Rule 35c, House Resolution number 32 shall be by this resolution read a first and second time by the therein listed title.

INTRODUCTION OF HOUSE BILL

First and second reading

HR 32, requesting an opinion of the justices concerning the constitutionality of SB 436.

CONSIDERATION OF HR 32

HR 32, requesting an opinion of the justices concerning the constitutionality of SB 436.

Rep. Pierce moved Ought to Pass and spoke in favor.

Rep. Vaillancourt spoke against.

On a division vote, 196 members having voted in the affirmative and 104 in the negative, the motion was adopted.

Ordered to third reading.

REGULAR CALENDAR (CONT'D)

SB 518-FN, relative to agricultural restricted covenants. **REFER FOR INTERIM STUDY.**

Rep. Timothy D. O'Connell for Environment and Agriculture: In 1985 the agricultural lands preservation program under the New Hampshire department of agriculture, markets, and food was created. Although the program has not been funded for well over a decade, lands originally protected remain and are overseen by the department. SB 518 enables an "agricultural restricted covenant" within the program. This would be a "covenant entered into between landowner and the department for a limited time set by the parties with financial or technical assistance provided by the department in return for guarantees of continued farm use of the property for a minimum specified time period." There is currently a study commission underway dealing with this issue and others to enhance the profitability

of New Hampshire agriculture for the long term. The commission is due to issue its report by November 1, 2008. The majority's position reflects this timeline and prudently supports postponing any legislative action at this time. Vote 13-1.
Committee report adopted.

SB 385, requiring pharmacies to report an inability to fill prescriptions. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. James F. Headd for the Majority of Executive Departments and Administration: The majority of the committee believes that this bill is unnecessary and places an undue burden on local pharmacies. The testimony offered to shed light on this perceived problem was anecdotal at best. Should a problem exist in the pharmaceutical community, the board of pharmacy already has the authority to resolve these issues. Vote 12-6.

Rep. Ken Hawkins for the Minority of Executive Departments and Administration: This bill would require a pharmacy to report to the pharmacy board each time that they could not dispense prescriptions because there is not a pharmacist on duty, or they did not have the medication available. There have been instances where pharmacies advertise 24 hour, 7 day a week hours, but they cannot support those hours because of staffing or inventory problems. This can create an extreme hardship for the elderly, especially when they go from the doctor's office to the pharmacy and are told they have to come at a future time. There is no way of knowing how often this is happening, and this bill would give us that information. The pharmacy could report by phone, email, filing in a form over the web, or by mail each instance and how long it lasted. Lastly, the bill would sunset after two years to give enough time to study the problem.

Rep. Hawkins spoke against.

Rep. Schmidt spoke against and yielded to questions.

Rep. Headd spoke in favor.

On a division vote, 246 members having voted in the affirmative and 59 in the negative, the majority committee report was adopted.

SB 442-FN, requiring that the proceeds of fees for motions to appear in court pro hac vice be paid into the law library revolving fund. **OUGHT TO PASS.**

Rep. David L. Smith for Finance: The judicial system established a \$225 fee for out-of-state attorneys who appear in our courts on a pro hac vice basis effective the first of 2008. These funds will be used to help defendants pro se who may require greater access to legal material so as to advance their own cases. The expansion of the programs will be adjusted to the funds received. It is expected that in the first year, perhaps \$50,000 will be realized, and in subsequent years perhaps \$100,000. The first objective will be to increase the hours our law libraries are open so as to include working man hours (evenings). As the program continues, it is hoped that more hours will be added at more facilities. The objective will be to have the courts run more effectively, court time per case may be reduced, and defendants pro se will be better prepared. There are some who feel that this program and funding for same are outside the policy of responsible budgetary processes. There is some validity to this argument. However, there is another stronger argument that the citizens of New Hampshire, as citizens in a democratic republic, should be equal both before and under the law, and they are due a speedy trial as soon as possible. This bill will promote this most basic right. Vote 17-8.

On a division vote, 181 members having voted in the affirmative and 105 in the negative, the committee report was adopted.

Ordered to third reading.

SB 370, relative to emergency powers of the supreme court. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Lucy M. Weber for Judiciary: This bill is similar to SB 109 which passed the Senate

and House last year but was vetoed by the governor. The bill allows the chief justice to suspend or toll time deadlines imposed in the courts by statute or rule for a period of up to 21 days. It provides for a succession of other judges to act if the chief justice is unavailable. The bill differs from last year's bill in that the chief justice may act only in a declared state of emergency. The General Court retains the right to terminate the judicial action as to any statutory time limitations by concurrent resolution. Vote 16-0.

Amendment (1197h)

Amend RSA 490:6-a, I as inserted by section 1 of the bill by replacing it with the following:

I. The chief justice of the supreme court or, if the chief justice is unavailable, the most senior associate justice available, shall have the power, upon the request of the governor, attorney general, or the chief judge or administrative judge of any court, or on his or her own motion, in the event of a declared state of emergency, as defined in RSA 4:45, to enter such order or orders as may be appropriate to suspend, toll, or otherwise grant relief for a period of up to 21 calendar days from time deadlines imposed by otherwise applicable statutes and rules of procedure regarding speedy trial procedures in criminal and juvenile court proceedings, all civil and equitable court process and court proceedings, and all appellate court time limitations. Such order or orders may be renewed by a majority of the justices of the supreme court as justice may require; provided, however, that any such renewal with respect to applicable statutes shall be effective only upon the concurrence of the governor.

Amendment adopted.

The question now being adoption of the committee report of Ought to Pass with Amendment.

Rep. Weber yielded to questions.

Committee report adopted and ordered to third reading.

SB 444, relative to settlements on behalf of minors and judgments and decrees in favor of minors. **OUGHT TO PASS.**

Rep. Gail C. Morrison for Judiciary: This housekeeping bill moves the section that establishes a protective role for the courts over awards of \$10,000 or more to minors into RSA Chapter 463, Guardianship of Minors and Estates of Minors. It also fleshes out and clarifies certain definitions. The bill was introduced at the request of the Judicial Branch. Vote 16-0. Committee report adopted and ordered to third reading.

SB 447, eliminating obsolete provisions regarding pleas by mail and noncomputerized courts. **OUGHT TO PASS.**

Rep. Philip Preston for Judiciary: This bill nullifies all amendments to RSA 502-A:19-b which apply to courts not computerized in coordination with the division of motor vehicles. Since there are no longer any non-computerized courts, the supreme court requests this housekeeping change, and the committee concurs. Vote 15-0.

Committee report adopted and ordered to third reading.

SB 537, relative to allowing the commissioner of the department of employment security to participate in a joint local employment dynamics program with the United States Census Bureau and the Bureau of Labor Statistics. **MAJORITY: OUGHT TO PASS.**

MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Franklin C. Bishop for the Majority of Labor, Industrial and Rehabilitative Services: This bill allows the commissioner of employment security to participate in a joint local employment dynamics program with the United States Census Bureau and the Bureau of Labor Statistics. This bill is supported unanimously by the advisory council. Vote 11-5.
Rep. Gary L. Daniels for the Minority of Labor, Industrial and Rehabilitative Services: This bill would enable the department of employment security to send certain information to the

United States Census Bureau. The minority is concerned that this information includes your name and social security number. As hard as it is to protect our information, breaches do happen at the federal level (i.e. the recent breach of VA personal information). The minority is concerned with the potential of identity theft and feels people are best protected when their information is not spread to various places.

Reps. Kurk and Daniels spoke against and yielded to questions.

Rep. Pierce spoke in favor and yielded to questions.

On a division vote, 147 members having voted in the affirmative and 166 in the negative, the committee report failed.

Rep. Kurk moved Inexpedient to Legislate.

LAID ON THE TABLE

Rep. Gorman moved that **SB 537**, relative to allowing the commissioner of the department of employment security to participate in a joint local employment dynamics program with the United States Census Bureau and the Bureau of Labor Statistics, be laid on the table. Adopted.

REGULAR CALENDAR (CONT'D)

SB 542, relative to a mediated settlement dispute in the town of Rye. **OUGHT TO PASS.**

Rep. Christopher F. Nevins for Municipal and County Government: This bill is the result of a court mediated land dispute between the Town of Rye and abutters of a parcel of land deeded to the town under public trust of former RSA 221-A:11, now RSA 162-C:10. The town's land was obtained under the public land trust provisions of a state statute and the court granted a continuance so that the legislature could address the issue of allowing the Town of Rye to release .23 acres out of the 58.7 acres to the abutter. The court mediation found that both the town and the abutter had a valid dispute concerning the ownership of the disputed parcel. The court recommended that the legislature could end the pending litigation by allowing the town to release the deminimus piece of land to the abutter. If the legislature fails to act on this issue, the litigation will resume in the trial court to determine the ownership of the parcel. The town could lose more than the .23 acres if the court finds against it. If a party is also dissatisfied with the decision, that party can appeal the decision to the supreme court and it may end up before this body in the future. This committee supports the mediated solution as it allows the majority of the trust land to stay intact by releasing only .23 acres. Allowing the deminimus portion to be released will not affect the purpose and use of the remaining parcel by the land trust commission under the statute. This will prevent a long and costly litigation that mostly likely will not result in a meritorious solution as the one provided here. Vote 14-2.

Committee report adopted and ordered to third reading.

SB 396, relative to the establishment of a statewide transportation policy. **REFER FOR INTERIM STUDY.**

Rep. David B. Campbell for Public Works and Highways: The purpose of this bill is to integrate land use considerations and public transportation alternatives into a statewide transportation policy. The majority of the committee is in complete agreement with the intent and purpose of the bill. However, the committee unanimously voiced concern that the bill, as written, could give standing in state courts for individuals or groups to challenge "capital investment decisions, transportation planning decisions and project decisions of the department of transportation," which is not the stated intent of the sponsors. Therefore, the committee asks the House to refer this bill to Interim Study so that the committee can tighten up the language and establish a state transportation policy that includes: land use and planning, multiple means of transportation, energy and economic efficiency and environmental considerations. Vote 14-0.

Committee report adopted.

SB 452, relative to transportation planning. **INEXPEDIENT TO LEGISLATE.**

Rep. David B. Campbell for Public Works and Highways: This bill sets legislative policy for transportation planning by relying heavily on the comprehensive state development plan, a document, which has not been updated in years and which is currently scheduled for release sometime this summer. Further, the comprehensive state development plan is a planning instrument prepared by the office of energy and planning and is not subject to legislative review or approval. The committee also heard testimony by the director of the office of energy and planning, who voiced concern over the difficulties of integrating the timing and the substance of local, regional and planning documents and efforts as contemplated in this bill. So, while the intent of SB 452 is good, the committee saw no alternative other than to recommend that it be inexpedient to legislate. Some of the concepts of this bill can and will be studied by the committee in the context of SB 396, should the full House refer that bill to interim study. Vote 14-0.

Committee report adopted.

SB 384, relative to the repair of septic systems prior to the sale of waterfront property.

MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: REFER FOR INTERIM STUDY.

Rep. Marcia G. Moody for the Majority of Resources, Recreation and Development: Under current law, septic systems on water front properties that are being sold must be inspected. This bill merely requires that if the system is in failure, the local health officer and the department of environmental services (DES) must be notified. The terms “developed waterfront property” and “septic system failure” are also clarified. The criteria for determining failure of a system are so simple that little special training should be necessary for installer/designers, beyond that specified in the bill. Vote 13-6.

Rep. Chris Christensen for the Minority of Resources, Recreation and Development: The minority supports the goals of protecting our water resources. We support the variety of reporting requirements relative to septic systems that are already in place. These existing statutes certainly reduce the urgency of passing HB 384. The inspection requirements raise some questions that we believe could be easily addressed with further study, thus allowing a more comprehensive bill to be passed. At present, there are no specified criteria to be met to call oneself a qualified septic inspector. Thus, who will inspect and what is the value of that inspection? The department of environmental services assured the committee such criteria could be developed in a few months and ready for fall. Next, while sale cannot be delayed based on the inspection results, failure to inspect could prevent a sale. There is no provision for an inspection in winter when the ground is snow-covered, or the property is inaccessible, as in the case of island locations, or areas where roads are closed seasonally. In other instances, a planned upgrade of the system would require a new design to be filed with the department of environmental services (DES). The value of the inspection in that case is nil, but the owner must still pay the inspection fee. Mortgage companies routinely require certification that a septic system is properly functioning, so a simple notification to DES that a property without an approved design has sold might easily satisfy the inspection intent of this bill.

Majority Amendment (1309h)

Amend RSA 485-A:39, VIII as inserted by section 1 of the bill by replacing it with the following:

VIII. If the septic disposal system designer, during the course of a site assessment, discovers evidence that there is sewage discharge on the ground surface or directly into surface waters, the designer shall notify, in writing, the department

and the local health officer, and shall include that information in the site assessment report.

Amend RSA 485-A:39 as inserted by section 1 of the bill by deleting paragraph IX.

Amend RSA 485-A:2, IV as inserted by section 2 of the bill by replacing it with the following:

IV. "Failure" means the condition produced when a subsurface sewage or waste disposal system does not properly contain or treat sewage or causes ~~[or threatens to cause]~~ the discharge of sewage on the ground surface or **directly** into ~~[adjacent surface or groundwaters]~~ **surface waters, or the effluent disposal area is located in the seasonal high groundwater table.**

Amend the bill by replacing section 6 with the following:

6 Effective Date. This act shall take effect January 1, 2009.

Majority committee amendment adopted.

On a division vote, 176 members having voted in the affirmative and 122 in the negative, the majority committee report was adopted.

Ordered to third reading.

SB 177, relative to orders of reparation by the public utilities commission and penalties against public utilities. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Michael A. Kaelin for Science, Technology and Energy: This bill allows the public utilities commission (PUC) to provide credits to customers when it imposes a penalty against a utility for violating a statute, rule or PUC order. The bill also increases the maximum penalty against a utility from \$25,000 to \$250,000, and against a utility agent who willfully violates from \$10,000 per day to a maximum of \$100,000. The penalty changes reflect that twenty years have passed since the amounts were last changed in 1988. In cases where it is determined that the credits would be insignificant on a per-customer basis with administrative costs exceeding the amount credited, the penalty money may instead be distributed to a low income program. The committee amendment made two small changes to the language, to clarify when the 2-year time limit starts, and to change "low income account" to "low income programs." Vote 8-3.

Amendment (1142h)

Amend the bill by replacing all after the enacting clause with the following:

1 Reparations. Amend RSA 365:29 to read as follows:

365:29 Orders for Reparation. ~~[Whenever]~~ **On its own initiative or whenever a petition or** complaint has been ~~[made to]~~ **filed with** the commission covering any rate, fare, charge, or price demanded and collected by any public utility, and the commission has found, after hearing and investigation, that an illegal or unjustly discriminatory rate, fare, charge, or price has been collected for any service, the commission may order the public utility which has collected the same to make due reparation to the person who has paid the same, with interest from the date of the payment. Such order for reparation shall cover only payments made within 2 years before the **earlier of the date of the commission's notice of hearing or the filing of** the petition for reparation.

2 Penalty Against Utility. Amend RSA 365:41 to read as follows:

365:41 Penalty Against Utility. Any public utility which shall violate any provisions of this title, or fails, omits or neglects to obey, observe or comply with any order, direction or requirement of the commission, shall be subject to a civil penalty, as determined by the commission, not to exceed ~~[\$25,000]~~ **\$250,000 or 2.5 percent of the annual gross revenue that the utility received from sales in the state, whichever is lower. Such penalties shall be applied to the benefit of the utility's ratepayers through a credit to bills, or, if the credit is of an amount determined by the commission to be insignificant on a per customer basis, to programs that benefit low income ratepayers.** No portion of any fine, nor any costs associated with an administrative or court proceeding which results

in a fine pursuant to this section, shall be considered by the commission in fixing any temporary, permanent, or emergency rates or charges of such utility.

3 Penalty Against Agent. Amend RSA 365:42 to read as follows:

365:42 Penalty Against Agent. Every officer and agent of any such public utility who shall wilfully violate, or who procures, aids, or abets any violation of this title, or who wilfully fails to obey, observe, and comply with any order of the commission, or procures, aids or abets any such public utility in its failure to obey, observe, and comply with any such order or provision, shall be subject to a civil penalty, as determined by the commission, not to exceed [~~\$10,000~~] **\$100,000** for each violation, [~~or for each day of a continuing violation~~].

Such penalties shall be distributed to the benefit of the utility's ratepayers through a credit to bills, or, if the credit is of an amount determined by the commission to be insignificant on a per customer basis, to programs that benefit low income ratepayers.

4 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted.

Committee report adopted and ordered to third reading.

INTRODUCTION OF SPECIAL GUESTS

The Speaker recognized the members of the New Hampshire Army Reserve on this date, the 100th anniversary of the United States Army Reserve.

REGULAR CALENDAR (CONT'D)

SB 303-FN, relative to special number plates. **OUGHT TO PASS.**

Rep. Carole J. Estes for Transportation: This bill has two purposes: (1) to issue, without fees, license plates identifying armed forces members as being on active duty status, and (2) eliminate license plate fees for Gold Star Mothers. The department of safety approves the bill and estimates 15,000 pairs of plates will be issued to NH armed forces members. There was concern regarding those who might be discharged from the service prior to the expiration date of the plates, but the committee believes that is of small consequence and can be addressed when the plates are renewed. The department of safety estimates that any negative impact on fees will be addressed by its contingency fund. Vote 13-3.

Committee report adopted and ordered to third reading.

DISPOSITION OF HOUSE ADDRESS 1

MOTION TO WITHDRAW

Reps. Wallner and Hess moved that ***HA 1***, an address for the removal of Patricia C. Coffey, superior court justice, from office, be withdrawn from the Joint Committee on Address.

Rep. David Cote spoke in favor.

Adopted.

LAID ON THE TABLE

Reps. Wallner and Hess moved that ***HA 1***, an address for the removal of Patricia C. Coffey, superior court justice, from office, be laid on the table.

Adopted.

MOTION TO PRINT REMARKS

Rep. Daniel Eaton moved that the remarks made by Rep. David Cote on ***HA 1***, an address for the removal of Patricia C. Coffey, superior court justice, from office, be printed in the Permanent Journal.

Adopted.

Rep. Gary Richardson declared a conflict of interest on ***HA 1*** and did not participate.

REMARKS

Rep. David Cote: Thank you, Madam Speaker. I rise to speak in favor of the motion and there will be a motion to table subsequent to my remarks, but I do want to state for the record that on April 21st the subject of the bill of Address resigned her office. Thank you very much.

RESOLUTION

Rep. Wallner offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Wednesday, April 30, 2008 at 1:00 p.m.
Adopted.

LATE SESSION

Third reading and final passage

SB 319-FN, relative to third party liability and state recovery of public assistance.

SB 318-FN, establishing a commission to study the creation of a large animal care worker classification.

SB 326-FN, relative to salaries for certain unclassified positions.

SB 347, establishing a commission to study making changes to the New Hampshire accountancy act.

SB 349, allowing continuation of judicial retirement plan benefits for judges called to full-time active military duty.

SB 371, making various changes to the city of Manchester employees' contributory retirement system.

SB 373, relative to definitions for and the application of the civil unions law to the retirement system.

SB 449, relative to the status of emergency services volunteers.

SB 446, allowing probate court judges and district court justices to sit on either court in certain circumstances.

SB 466, relative to probate court jurisdiction over special needs trust.

SB 501-FN, relative to workers' compensation on certain state projects and penalty collection powers of the department of labor.

SB 462, limiting liability for overseers of public welfare when acting in the course of their official duties.

SB 473, naming the Prisoners of War/Missing in Action Memorial in Hesky Park in the town of Meredith.

SB 158, relative to review of activities affecting surface waters.

SB 486, relative to the duties and responsibilities of special deputy forest rangers.

SB 489, establishing a commission to study erecting a fire tower on Copple Crown mountain in Brookfield.

SB 523, relative to requirements for the estuary alliance for sewage treatment to take and hold land.

SCR 10, urging the New Hampshire delegation to actively seek an increase in federal funding for wastewater treatment facility improvements.

SB 525, establishing the first Saturday in May as Emergency Medical Services Provider Recognition Day.

SB 506, naming the Elm Street bridge in Newport after Specialist Justin A. Rollins.

SB 376, requiring local fire chiefs to annually inspect all school buildings within his or her

jurisdiction and report on the condition of all such school buildings.

HR 32, requesting an opinion of the justices concerning the constitutionality of SB 436.

SB 442-FN, requiring that the proceeds of fees for motions to appear in court pro hac vice be paid into the law library revolving fund.

SB 370, relative to emergency powers of the supreme court.

SB 444, relative to settlements on behalf of minors and judgments and decrees in favor of minors.

SB 447, eliminating obsolete provisions regarding pleas by mail and noncomputerized courts.

SB 542, relative to a mediated settlement dispute in the town of Rye.

SB 384, relative to the repair of septic systems prior to the sale of waterfront property.

SB 177, relative to orders of reparation by the public utilities commission and penalties against public utilities.

SB 303-FN, relative to special number plates.

UNANIMOUS CONSENT

Reps. Rowe, Peter Allen, DiFruscia and Hess addressed the House.

RECESS MOTION

Rep. Wallner moved that the House stand in recess for the purpose of introduction of bills, enrolled bill amendments, enrolled bill reports and receiving Senate messages.

Adopted.

The House recessed at 11:55 a.m.

RECESS

(Rep. Batula in the Chair)

ENROLLED BILL AMENDMENTS

HB 740-FN, relative to mental health services.

Amendment (1423-EBA)

Amend RSA 135-C:19-a, II-a as inserted by section 2 of the bill by replacing line 3 with the following:

admitted pursuant to RSA 135-C:27 - RSA 135-C:54 and the consent of the person admitted cannot

Adopted.

HB 1245, relative to insurance department records, investigations, and enforcement.

Amendment (1401-EBA)

Amend RSA 400-A:16, V as inserted by section 1 of the bill by replacing lines 2 and 3 with the following:

of this title for which criminal prosecution is provided, he **or she** shall so inform the attorney general. The attorney general shall promptly institute such action or proceedings against such person as in his **or her**

Adopted.

ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly Enrolled House Bills numbered 415, 1153, 1155, 1167, 1186, 1215, 1239, 1341, 1377 and 1584, House Joint Resolution number 11 and Senate Bills numbered 325 and 431.

Rep. Hager, Sen. D'Allesandro for the Committee

SENATE MESSAGES
CONCURRENCE WITH AMENDMENT

SB 437, relative to access to voter information.

CONCURRENCE

HB 172-FN, relative to state meat inspection.

HB 666-FN, relative to the immunizations included for reimbursement in the animal population control program.

HB 1129, relative to special number plates for municipal police department vehicles.

HB 1157, relative to requirements for approval of village plan alternative subdivisions.

HB 1294, establishing the offense of public urination or defecation.

HB 1297, relative to licenses for aquaculture issued by the fish and game department.

HB 1338, establishing an arboviral illness task force and relative to mosquito control and abatement.

HB 1351, relative to fish and game license and registration agents.

HB 1378, relative to insurance taxes and fees.

HB 1448-FN, relative to documents prepared by the department of transportation and reimbursement fees for such documents.

HB 1604-FN, relative to the electronic toll collection system.

NONCONCURRENCE

HB 461, relative to purchasing alliances.

HB 1293, relative to eligibility of dog and cat owners to participate in the state's reduced fee companion animal population control program.

LAI D ON THE TABLE

HB 1345, establishing a commission to study vehicle dealer licenses, dealer plates, and temporary plates.

HB 1430, relative to the application of animal cruelty laws to horse and dog race tracks.

HB 1457, allowing smoking in cigar bars.

HB 1581-FN-L, relative to the formation of stormwater utility districts.

RECESS