

**State of Rhode Island and Providence Plantations**

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**JOURNAL**  
**-OF THE-**  
**HOUSE OF REPRESENTATIVES**

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**JANUARY SESSION of the General Assembly begun and held at the State House in the City of Providence on Tuesday, the sixth day of January in the year of Our Lord two thousand and four.**

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Volume 131, No. 69

Friday, July, 23, 2004

Sixty-ninth Day

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The House of Representatives meets at the State House in Providence, Friday, July 23, 2004 and is called to order at 3:18 o'clock P.M., by the Honorable William J. Murphy, Speaker

The roll is called and a quorum is declared present with 70 members present and 5 members absent as follows:

**PRESENT – 70:** The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anderson, Anguilla, Aubin, Benson, Brien, Callahan, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Faria, Flaherty, Fox, Gallison, Gemma, Giannini, Ginaitt, Gorham, Handy, Harwood, Jacquard, Kennedy, Kilmartin, Lally, Landroche, Laroche, Lima, Long, Lowe, Malik, McCauley, McHugh, McNamara, Menard, Moffitt, Montanaro, Moura, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Schadone, Scott, Shanley, Shavers, Slater, Smith, Story, Tejada, Trillo, Voccola, Wasylyk, Watson, Williams, Williamson, Winfield.

**ABSENT – 5:** Representatives Lewiss, McManus, Moran, Mumford, Savage.

**INVOCATION**

The Honorable Speaker presents Representative Picard who delivers the Invocation and leads the membership in the Pledge of Allegiance to the Flag.

(For Invocation, see Appendix, this Journal.)

**APPROVAL OF RECORD**

By unanimous consent, the House Journal of Friday, June 25, 2004, is approved as printed.

**COMMUNICATION**

The Honorable Speaker William Murphy announces receipt of the following communication:

State of Rhode Island and Providence Plantations  
House of Representatives  
Representative William J. McManus District 46  
Committee on Health, Education and Welfare  
Secretary, Joint Committee on Highway Safety

July 22, 2004

The Honorable William J. Murphy  
Speaker of the House of Representatives  
323 State House  
Providence, RI 02903

Dear Speaker Murphy:

I am unable to attend the General Assembly session on Friday, July 23, 2004. I am out of state on a family vacation visiting my brother who is recovering from recent cancer surgery.

Sincerely,

William J. McManus  
State Representative

Received and placed on file.

**COMMUNICATION FROM THE SENATE**

A message from the Honorable Senate transmits with announcement of passage, of the following measures:

**Senate Bill No. 3241**

**BY** Connors

**ENTITLED**, AN ACT RELATING TO ELECTIONS -- STATEWIDE REFERENDA  
ELECTIONS {LC3799/1}

Representative Fox requests unanimous consent for immediate consideration.

There is no objection.

Representative Fox moves passage of the act, seconded by Representatives Lima, Shavers, San Bento, and Gemma.

Representatives Watson, Gorham, and Fox discuss the act.

The act prevails on a roll call vote, 61 members voting in the affirmative and 0 members voting in the negative as follows:

YEAS - 61: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anguilla, Aubin, Benson, Brien, Caprio, Carter, Cerra, Coogan, Corvese, Costantino, Dennigan, DeSimone, Enos, Faria, Flaherty, Fox, Gallison, Gemma, Giannini, Ginaitt, Gorham, Handy, Harwood, Jacquard, Lally, Landroche, Laroche, Lima, Long, Lowe, Malik, McHugh, McNamara, Menard, Moffitt, Moura, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Schadone, Scott, Shanley, Shavers, Smith, Story, Tejada, Trillo, Voccola, Wasylyk, Watson, Williams, Williamson, Winfield.

NAYS - 0.

#### TRANSMITTAL

By unanimous consent, (04-S 3241), on the Clerk's desk, is ordered to be transmitted to His Excellency the Governor, forthwith.

#### NEW BUSINESS

##### **House Bill No. 8707**

**BY** Long

**ENTITLED**, AN ACT AUTHORIZING THE TOWN OF JAMESTOWN TO FINANCE THE CONSTRUCTION OF A PUBLIC WORKS HIGHWAY FACILITY AND TO ISSUE NOT MORE THAN \$2,400,000 BONDS AND NOTES THEREFOR {LC3803/1}

Representative Long requests unanimous consent for immediate consideration.

There is no objection.

Read and passed, on a motion of Representative Long seconded by Representatives Trillo and Scott on a roll call vote, 64 members voting in the affirmative and 0 members voting in the negative as follows:

YEAS - 64: Representatives Ajello, Almeida, Amaral, Anderson, Anguilla, Aubin, Benson, Brien, Callahan, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Faria, Flaherty, Fox, Gallison, Gemma, Ginaitt, Handy, Harwood, Jacquard, Kennedy, Kilmartin, Lally, Landroche, Laroche, Lima, Long, Lowe, Malik, McHugh, McNamara, Menard, Moffitt, Montanaro, Moura, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Scott, Shavers, Slater, Smith, Story, Tejada, Trillo, Voccola, Wasylyk, Watson, Williams, Williamson, Winfield.

NAYS - 0.

**House Bill No. 8708**

**BY** Flaherty, Trillo, Naughton, McNamara, Ginaitt

**ENTITLED**, AN ACT RELATING TO TAXATION -- PROPERTY SUBJECT TO TAXATION {LC3784/1}

Representative Flaherty requests unanimous consent for immediate consideration.

There is no objection.

Read and passed, on a motion of Representative Flaherty seconded by Representatives Naughton McNamara, Landroche, Ginaitt, Gemma, Trillo, and Carter on a roll call vote, 66 members voting in the affirmative and 0 members voting in the negative as follows:

YEAS - 66: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anderson, Anguilla, Aubin, Benson, Brien, Callahan, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Faria, Flaherty, Fox, Gallison, Gemma, Giannini, Ginaitt, Handy, Harwood, Jacquard, Kennedy, Kilmartin, Lally, Landroche, Laroche, Lima, Long, Lowe, Malik, McHugh, McNamara, Menard, Moffitt, Montanaro, Moura, Naughton, Palumbo, Petrarca, Picard, Rose, San Bento, Schadone, Shanley, Shavers, Slater, Smith, Story, Tejada, Trillo, Voccola, Wasylyk, Watson, Williams, Williamson, Winfield.

NAYS - 0.

**House Resolution No. 8709**

**BY** Fox, Menard, Watson

**ENTITLED**, JOINT RESOLUTION EXTENDING THE REPORTING DATE OF THE BI-PARTISAN PREPARATORY COMMISSION TO ASSEMBLE INFORMATION ON CONSTITUTIONAL QUESTIONS IN PREPARATION FOR A VOTE BY THE QUALIFIED ELECTORS ON THE HOLDING OF A CONSTITUTIONAL CONVENTION IN ACCORDANCE WITH ARTICLE XIV SECTION 2 OF THE RHODE ISLAND CONSTITUTION {LC3786/1}

Representative Fox requests unanimous consent for immediate consideration.

There is no objection.

Read and passed, on a motion of Representative Fox seconded by Representatives Menard and Watson and by unanimous consent, on a voice vote.

**House Resolution No. 8710****BY** Coderre E, Handy, Giannini, Picard, Dennigan**ENTITLED**, HOUSE RESOLUTION CELEBRATING SEPTEMBER OF 2004 AS NATIONAL ALCOHOL AND DRUG ADDICTION RECOVERY MONTH IN THE STATE OF RHODE ISLAND {LC3794/1}

Representative Coderre requests unanimous consent for immediate consideration.

There is no objection.

Read and passed, on a motion of Representative Coderre seconded by Representatives Long, McNamara, Shavers, Carter, San Bento, Ajello, Picard, Cerra and by unanimous consent, on a voice vote.

**House Resolution No. 8711****BY** Lowe**ENTITLED**, HOUSE RESOLUTION CONGRATULATING WILLIAM K. COHEN ON ATTAINING THE RANK OF EAGLE SCOUT {LC3801/1}

Representative Lowe requests unanimous consent for immediate consideration.

There is no objection.

Read and passed, on a motion of Representative Lowe seconded by Representatives Menard, Gemma, Smith, Moffitt, Aubin and by unanimous consent, on a voice vote.

**House Resolution No. 8712****BY** Lowe**ENTITLED**, HOUSE RESOLUTION CONGRATULATING LUCAS M. SIMMONS ON ATTAINING THE RANK OF EAGLE SCOUT {LC3782/1}

Representative Lowe requests unanimous consent for immediate consideration.

There is no objection.

Read and passed, on a motion of Representative Lowe seconded by Representatives Menard, Aubin, Moffitt, Smith, Gemma and by unanimous consent, on a voice vote.

**TRANSMITTAL**

By unanimous consent, all matters on the clerk's desk are ordered to be transmitted to His Excellency, the Governor, to the Honorable Secretary of State, and the Honorable Senate forthwith.

**CALENDAR**

From the Calendar are taken:

**IN ORDER FOR FRIDAY, JULY 23, 2004:****1 2004-H 8219 SUB A as amended****BY Watson****ENTITLED,** AN ACT RELATING TO MAKING APPROPRIATIONS FOR THE SUPPORT OF THE STATE FOR THE FISCAL YEAR ENDING JUNE 30, 2005

Ordered on the Calendar

**VETO BY THE GOVERNOR**

The Honorable Speaker announces the receipt of the following act from His Excellency the Governor, with his disapproval recorded thereon:

The act is accompanied by a communication.

Minority Leader Watson requests to have the veto message read.

The message is read and ordered to be placed on file. (For message, see Appendix, this Journal.)

Representative Costantino moves passage of the act, notwithstanding the veto of His Excellency, the Governor, seconded by Representatives Carter, Faria, Handy, Lima, Fox, Aubin, Gallison, Menard, Brien, McCauley, Williamson, Picard, Schadone, Gemma, Jacquard, Ginaitt, Naughton, Crowley, Lowe, Cerra, Shavers, Winfield, Flaherty, San Bento, Kennedy, Corvese, Slater, Malik, Dennigan, Almeida, McNamara, Anguilla, Rose, Lally, Anderson, Williams, Kilmartin, Moura, Shanley, Enos, Ajello, Montanaro, Landroche and Laroche.

Representatives Costantino, Gorham, Trillo, Gemma, Amaral, Crowley discuss the motion to override the veto.

Representative Crowley seconded by Representative Montanaro requests to place Representative Costantino's comments in the House Journal. (For Representative Costantino's comments see appendix of this Journal.)

Representatives Long, Slater, Watson, McNamara, Benson, Fox and Moffitt continue discussion on the motion.

The motion to override the veto of His Excellency, the Governor prevails, needing a 3/5 vote to override, on a roll call voice vote, 55 members voting in the affirmative and 15 members voting in the negative as follows:

YEAS 55: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Anderson, Anguilla, Aubin, Brien, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Faria, Flaherty, Fox, Gallison, Gemma, Giannini, Ginaitt, Handy, Jacquard, Kennedy, Kilmartin, Lally, Landroche, Laroche, Lima, Lowe, Malik, McCauley, McNamara, Menard, Montanaro, Moura, Naughton, Palumbo, Picard, Rose, San Bento, Schadone, Shanley, Shavers, Slater, Smith, Tejada, Voccola, Wasylyk, Williams, Williamson, Winfield.

NAYS 15: Representative Amaral, Benson, Callahan, Caprio, Gorham, Harwood, Long, McHugh, Moffitt, Petrarca, Reilly, Scott, Story, Trillo, Watson.

### TRANSMITTAL

By unanimous consent, (04-H 8219 SUB A aa ), on the Clerk's desk is, ordered to be transmitted to the Honorable Senate, forthwith.

#### **2 2004-H 8205 SUB A**

**BY Naughton**

**ENTITLED, AN ACT RELATING TO HUMAN SERVICES -- FAMILY  
INDEPENDENCE ACT**

Ordered on the Calendar

### VETO BY THE GOVERNOR

The Honorable Speaker announces the receipt of the following act from His Excellency the Governor, with his disapproval recorded thereon:

The act is accompanied by a communication.

The message is ordered to be placed on file. (For message, see Appendix, this Journal.)

Representative Costantino moves passage of the act, notwithstanding the veto of His Excellency, the Governor, seconded by Representatives Carter, McHugh, Faria, Crowley, Naughton, Flaherty, Wasylyk, Shavers, Cerra, Ginaitt, Kennedy, San Bento, Lowe, Jacquard, Schadone, Gemma, Tejada, Picard, Winfield, Williamson, Brien, Menard, McCauley, Gallison, Aubin, Handy, Lima, Fox, Almeida, Rose, Slater, Corvese, Coderre, Malik, McNamara, Dennigan, Anguilla, Shanley, Laroche, Enos, Moura, Kilmartin, Montanaro, Williams, Lally, Ajello, Anderson, and Landroche.

The motion to override the veto of His Excellency, the Governor prevails, needing a 3/5 vote to override, on a roll call voice vote, 61 members voting in the affirmative and 9 members voting in the negative as follows:

YEAS 61: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Anderson, Anguilla, Aubin, Benson, Brien, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Faria, Flaherty, Fox, Gallison, Gemma, Giannini, Ginaitt, Handy, Harwood, Jacquard, Kennedy, Kilmartin, Lally, Landroche, Laroche, Lima, Lowe, Malik, McCauley, McHugh, McNamara, Menard, Montanaro, Moura, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Schadone, Shanley, Shavers, Slater, Smith, Tejada, Voccola, Wasylyk, Williams, Williamson, Winfield.

NAYS 9: Representatives Amaral, Callahan, Gorham, Long, Moffitt, Scott, Story, Trillo, Watson.

### TRANSMITTAL

By unanimous consent, (04-H 8205 SUB A), on the Clerk's desk, is ordered to be transmitted to the Honorable Senate, forthwith.

### RECESS

At 5:20 o'clock P.M. the Honorable Speaker Murphy declares the House to be in recess.

At 5:48 o'clock P.M. the Honorable Speaker calls the House to order.

### **3 2004-H 7713 as amended**

**BY Dennigan**

**ENTITLED, AN ACT RELATING TO THE HEALTH CARE FOR FAMILIES ACT**

Ordered on the Calendar

Representative Fox moves passage of the act, seconded by Representatives Dennigan, Williams, Slater, McNamara, Tejada, Gemma, Almeida, Cerra, San Bento, and Naughton.

Read and passed, as amended, in concurrence, on a roll call vote, 55 members voting in the affirmative and 0 members voting in the negative as follows.

YEAS - 55: The Honorable Speaker Murphy and Representatives Almeida, Amaral, Anderson, Anguilla, Aubin, Benson, Caprio, Cerra, Coderre, Corvese, Costantino, Crowley, Dennigan, DeSimone, Faria, Flaherty, Fox, Gallison, Gemma, Giannini, Ginaitt, Gorham, Handy, Jacquard, Kilmartin, Laroche, Lima, Long, McCauley, McHugh, McNamara, Menard, Moffitt, Montanaro, Moura, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Schadone, Scott, Shanley, Shavers, Slater, Smith, Story, Tejada, Trillo, Wasylyk, Williams, Winfield.

NAYS - 0.



**4 2004-H 7806 SUB A as amended****BY Coderre E****ENTITLED, AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT**

Ordered on the Calendar

Representative Fox moves passage of the act, seconded by Representatives Coderre, Dennigan, Slater, Landroche, Naughton, Shanley, Gemma, San Bento, and Benson.

The bill marked Substitute "A" is read and passed, as amended, in concurrence, and the original bill indefinitely postponed, on a roll call vote, 59 members voting in the affirmative and 0 members voting in the negative as follows.

YEAS - 59: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anderson, Anguilla, Aubin, Benson, Brien, Caprio, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Faria, Flaherty, Fox, Gallison, Gemma, Giannini, Ginaitt, Gorham, Handy, Jacquard, Kilmartin, Landroche, Laroche, Lima, Long, Malik, McCauley, McHugh, McNamara, Menard, Moffitt, Montanaro, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Schadone, Scott, Shanley, Shavers, Slater, Smith, Story, Trillo, Wasylyk, Watson, Williams, Winfield.

NAYS - 0.

**5 2004-H 7751 SUB B****BY Lewiss****ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES -- CHILDREN**

Ordered on the Calendar

Representative Fox moves passage of the act, seconded by Representatives Gemma, Slater, Lally, Enos, Caprio, Carter, Faria, San Bento, and Cerra.

The bill marked Substitute "B" is read and passed, in concurrence, and the bill marked Substitute "A" and the original bill indefinitely postponed, on a roll call vote, 65 members voting in the affirmative and 0 members voting in the negative as follows.

YEAS - 65: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anderson, Anguilla, Aubin, Benson, Brien, Callahan, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Faria, Flaherty, Fox, Gallison, Gemma, Giannini, Ginaitt, Gorham, Handy, Jacquard, Kilmartin, Lally, Landroche, Laroche, Long, Malik, McCauley, McHugh, McNamara, Menard, Moffitt, Montanaro, Moura, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Schadone, Scott, Shanley, Shavers, Slater, Smith, Story, Tejada, Trillo, Voccola, Wasylyk, Watson, Williams, Winfield.

NAYS - 0.

**6 2004-S 2685****BY Walaska****ENTITLED,** AN ACT RELATING TO INSURANCE -- INDIVIDUAL DEFERRED ANNUITIES

Ordered on the Calendar

Representative Fox requests to hold (04-S 2685) on the desk. There is no objection.

**7 2004-S 2696****BY Tassoni****ENTITLED,** AN ACT RELATING TO THE BOARD OF MEDICAL LICENSURE AND DISCIPLINE

Ordered on the Calendar

Representative Fox requests to hold (04-S 2696) on the desk. There is no objection.

**8 2004-S 2832 SUB A****BY Sosnowski****ENTITLED,** AN ACT RELATING TO REGISTRATION OF VEHICLES

Ordered on the Calendar

Representative Fox requests to hold (04-S 2832 SUB A) on the desk. There is no objection.

**9 2004-H 7085 SUB A as amended****BY Corvese****ENTITLED,** AN ACT RELATING TO LABOR AND LABOR RELATIONS -- CORRECTIONAL OFFICERS -- ARBITRATORS

Ordered on the Calendar

**VETO BY THE GOVERNOR**

The Honorable Speaker announces the receipt of the following act from His Excellency the Governor, with his disapproval recorded thereon:

The act is accompanied by a communication.

The message is ordered to be placed on file. (For message, see Appendix, this Journal.)

Representative Corvese moves passage of the act, notwithstanding the veto of His Excellency, the Governor, seconded by Representatives Lima, Benson, Gallison, Aubin, Faria, McHugh,

Giannini, Carter, Menard, Palumbo, San Bento, Brien, Schadone, Jacquard, Gemma, Almeida, Malik, McNamara, Cerra, Shanley, Reilly, Slater, Enos, Williams, Montanaro, Lally, Laroche, Landroche, Moura, Smith, Tejada, and Ginaitt.

Representatives Watson, Benson and Montanaro discuss the motion to override.

The motion to override the veto of His Excellency, the Governor prevails, needing a 3/5 vote to override, on a roll call vote, 59 members voting in the affirmative and 6 members voting in the negative as follows:

YEAS - 59: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Anderson, Anguilla, Aubin, Benson, Brien, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Dennigan, DeSimone, Enos, Faria, Flaherty, Fox, Gallison, Gemma, Giannini, Ginaitt, Handy, Jacquard, Kilmartin, Lally, Landroche, Laroche, Lima, Lowe, Malik, McCauley, McHugh, McNamara, Menard, Moffitt, Montanaro, Moura, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Schadone, Shanley, Shavers, Slater, Smith, Tejada, Voccola, Wasylyk, Williams, Williamson, Winfield.

NAYS - 6: Representatives Amaral, Callahan, Gorham, Long, Story, Watson.

**10 2004-H 7914 as amended**

**BY Ginaitt**

**ENTITLED,** AN ACT RELATING TO WATERS AND NAVIGATION -  
MAINTENANCE OF MARINE WATERWAYS AND BOATING  
FACILITIES

Ordered on the Calendar

**VETO BY THE GOVERNOR**

The Honorable Speaker announces the receipt of the following act from His Excellency the Governor, with his disapproval recorded thereon:

The act is accompanied by a communication.

The message is ordered to be placed on file. (For message, see Appendix, this Journal.)

Representative Ginaitt moves passage of the act, notwithstanding the veto of His Excellency, the Governor, seconded by Representatives Fox, Faria, Gemma, Palumbo, Moura, Malik, Brien, and McNamara.

The motion to override the veto of His Excellency, the Governor prevails, needing a 3/5 vote to override, on a roll call vote, 58 members voting in the affirmative and 4 members voting in the negative as follows:

YEAS - 58: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anguilla, Aubin, Benson, Brien, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Dennigan, DeSimone, Enos, Faria, Flaherty, Fox, Gallison, Gemma, Giannini, Ginaitt, Handy, Jacquard, Lally, Landroche, Laroche, Lima, Long, Lowe, Malik, McCauley, McHugh, McNamara, Menard, Moffitt, Montanaro, Moura, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Schadone, Shanley, Shavers, Slater, Smith, Tejada, Voccola, Wasyluk, Williams, Winfield.

NAYS - 4: Representatives Callahan, Gorham, Story, Watson.

**11 2004-H 8542 as amended**

**BY Carter**

**ENTITLED,** AN ACT RELATING TO MILITARY AFFAIRS AND DEFENSE --  
RHODE ISLAND VETERANS' HOME

Ordered on the Calendar

**VETO BY THE GOVERNOR**

The Honorable Speaker announces the receipt of the following act from His Excellency the Governor, with his disapproval recorded thereon:

The act is accompanied by a communication.

The message is ordered to be placed on file. (For message, see Appendix, this Journal.).

Representative Carter moves passage of the act, notwithstanding the veto of His Excellency, the Governor, seconded by Representatives McHugh, Faria, Lima, Naughton, Benson, Giannini, Aubin, Gallison, Schadone, Gemma, Moura, Moffitt, Shanley, Almeida, Rose, McNamara, Corvese, Cerra, Shavers, San Bento, Coderre, Slater, Malik, Lally, Montanaro, Landroche, Brien, Laroche, Williams, Coogan, and Enos.

Representatives Watson, Long, Carter, and Gorham discuss the motion to override the veto. Representative Williams and several other members of the House rise on point of orders for Representative Gorham to speak germane to the motion. The Honorable Speaker Murphy rules for Representative Gorham to speak germane to the motion. Representatives Gorham, Benson and Gallison continue to discuss the motion.

The motion to override the veto of His Excellency, the Governor prevails, needing a 3/5 vote to override, on a roll call vote, 58 members voting in the affirmative and 5 members voting in the negative as follows:

YEAS - 58: The Honorable Speaker Murphy and Representatives Almeida, Amaral, Anguilla, Aubin, Benson, Brien, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Faria, Flaherty, Fox, Gallison, Gemma, Giannini, Ginaitt, Handy,

Jacquard, Lally, Landroche, Laroche, Lima, Lowe, Malik, McCauley, McHugh, McNamara, Menard, Moffitt, Moura, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Schadone, Shanley, Shavers, Slater, Smith, Tejada, Trillo, Voccola, Wasylyk, Williams, Williamson, Winfield.

NAYS - 5: Representatives Ajello, Gorham, Long, Story, Watson.

### **TRANSMITTAL**

By unanimous consent, all matters on the clerk's desk are ordered to be transmitted to His Excellency, the Governor, and the Honorable Senate forthwith.

### **ANNOUNCEMENTS**

Representative Anguilla announces that the Committee on Judiciary will meet Monday, July 26, 2004, at 4:00 o'clock P.M., in Room 35 of the State House for the appointment of Judge William P. Robinson III to the Supreme Court.

Majority Leader Fox announces session will reconvene next Friday, July 30, 2004.

### **FAREWELL**

Representatives Giannini, Carter, Almeida, Scott, Lima, Corvese, Jacquard, Menard, Enos and Fox all bid farewell and God speed to Representative Benson, a fourteen year veteran of the House of Representatives.

Representative Benson bids farewell, but not goodbye to the members of the House Chamber.

Also, Representatives Menard and Fox bid a fond farewell and best wishes to Representatives Anderson, Enos and Lowe.

### **ADJOURNMENT**

At 6:45 o'clock P.M. on motion of Representative Fox seconded by Representative Gorham and many other members of the House, the House adjourns, on a voice vote.

Linda M. McElroy  
Recording Clerk

APPENDIX

INVOCATION

REPRESENTATIVE ROGER A. PICARD

Heavenly Father, look with favor on our deliberation and assist us by your grace to do what is just and wise. Amen.

## APPENDIX

## TRANSMITTED TO THE GOVERNOR

**House Bill No. 7424 SUB A**

**BY** Kennedy, Giannini, San Bento, Lewiss, Anguilla

**ENTITLED**, AN ACT RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS - UNFAIR SALES PRACTICES {LC1313/1/A}

**House Bill No. 7425 as amended**

**BY** Kennedy

**ENTITLED**, AN ACT RELATING TO INSURANCE {LC1188/1}

**House Bill No. 7488 SUB A**

**BY** Jacquard, Moran, Tejada, Montanaro

**ENTITLED**, AN ACT RELATING TO HEALTH INSURANCE COVERAGE -- MANDATED HEARING AID COVERAGE {LC608/1/A}

**House Bill No. 7492 as amended**

**BY** Lewiss, Gallison, Anguilla, Crowley, Mumford

**ENTITLED**, AN ACT RELATING TO EDUCATION -- TEACHERS' RETIREMENT {LC1397/1}

**House Bill No. 7493 as amended**

**BY** Lewiss, Gallison, Anguilla, Crowley, Mumford

**ENTITLED**, AN ACT RELATING TO EDUCATION - TEACHERS' RETIREMENT {LC1398/1}

**House Bill No. 7626 SUB A as amended**

**BY** Costantino, Anguilla, Slater

**ENTITLED**, AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT -- GENERIC DRUGS {LC2264/1/A}

**House Bill No. 7647 SUB B**

**BY** Fox, Naughton, Moura, Ajello, Costantino

**ENTITLED**, AN ACT RELATING TO HEALTH AND SAFETY -- INDUSTRIAL PROPERTY REMEDIATION AND REUSE ACT {LC2158/1/B}

**House Bill No. 7658 as amended**

**BY** Giannini, Aubin, Gallison

**ENTITLED**, AN ACT RELATING TO BUSINESSES AND PROFESSIONS - BOARD OF RADIOLOGIC TECHNOLOGY {LC1563/1}

**House Bill No. 7722 SUB A****BY** Smith**ENTITLED**, AN ACT RELATING TO EDUCATION -- ALTERNATIVE EDUCATION PROGRAMS {LC1748/1/A}**House Bill No. 7734 SUB B****BY** Lewiss, Fox, Scott, Anguilla, Gorham**ENTITLED**, AN ACT RELATING TO PROBATE PRACTICE {LC2149/2/B}**House Bill No. 7986****BY** Crowley, Savage, Watson**ENTITLED**, AN ACT RELATING TO EDUCATION -- THE RHODE ISLAND STUDENT INVESTMENT INITIATIVE {LC2359/1}**House Bill No. 8198 as amended****BY** Flaherty, Naughton, Ginaitt, McNamara**ENTITLED**, AN ACT RELATING TO TOWNS AND CITIES {LC1954/1}**House Bill No. 8225 SUB A as amended****BY** Menard, Giannini**ENTITLED**, AN ACT RELATING TO HEALTH AND SAFETY -- COMMUNITY RESIDENCES {LC2780/1/A}**House Bill No. 8513 SUB A as amended****BY** Giannini, Naughton, Lewiss, Corvese, Kennedy**ENTITLED**, AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT -- THE DEPARTMENT OF BUSINESS REGULATION -- HEALTH INSURANCE {LC3363/1/A}**Senate Bill No. 2001****BY** Issa**ENTITLED**, AN ACT RELATING TO MOTOR VEHICLES - REGISTRATION FEES - DISABLED VETERANS {LC71/1}**Senate Bill No. 2031 SUB A****BY** Revens, Paiva-Weed, Gibbs**ENTITLED**, AN ACT RELATING TO TAXATION - SALES AND USE TAXES - AIRPLANES {LC103/1/A}**Senate Bill No. 2168****BY** Tassoni, Roberts, DaPonte, Lanzi, Polisena**ENTITLED**, AN ACT RELATING TO MOTOR AND OTHER VEHICLES -- TRAFFIC CONTROL DEVICES {LC1139/1}



**Senate Bill No. 2279 SUB A****BY** Alves, Walaska, Gallo, Perry, McCaffrey**ENTITLED**, AN ACT RELATING TO HEALTH INSURANCE COVERAGE --  
MANDATED HEARING AID COVERAGE {LC1231/2/A}**Senate Bill No. 2283 SUB A as amended****BY** Tassoni, Polisena, Roberts, Perry**ENTITLED**, AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT --  
CATASTROPHIC HEALTH INSURANCE PLAN ACT {LC1712/1/A}**Senate Bill No. 2294 SUB A as amended****BY** Lanzi, Ciccone, Badeau, Connors, DaPonte**ENTITLED**, AN ACT RELATING TO PUBLIC PROPERTY AND WORKS --  
GOVERNMENT OVERSIGHT AND FISCAL ACCOUNTABILITY REVIEW ACT  
{LC1348/1/A}**Senate Bill No. 2407 SUB A****BY** McCaffrey**ENTITLED**, AN ACT RELATING TO COMMERCIAL LAW -- GIFT CERTIFICATES  
{LC1561/1/A}**Senate Bill No. 2489****BY** Issa, Connors, Walaska**ENTITLED**, AN ACT RELATING TO PUBLIC OFFICERS AND EMPLOYEES --  
MILITARY SERVICE AND VETERANS {LC2713/1}**Senate Bill No. 2608 SUB A****BY** Walaska, Cote, Bates, Blais, Ruggerio**ENTITLED**, AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT - JOBS  
DEVELOPMENT ACT {LC1771/1/A}**Senate Bill No. 2651 SUB A****BY** Roberts, Felag, Alves, Pichardo, Paiva-Weed**ENTITLED**, AN ACT RELATING TO HEALTH AND SAFETY -- HEALTH CARE  
INFORMATION TECHNOLOGY AND INFRASTRUCTURE DEVELOPMENT FUND  
{LC2640/1/A}**Senate Bill No. 2672 SUB A as amended****BY** Blais**ENTITLED**, AN ACT RELATING TO EDUCATION -- CURRICULUM {LC2016/2/A}**Senate Bill No. 2723 SUB A****BY** McBurney**ENTITLED**, AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT -- STATE  
POLICE {LC2655/1/A}

**Senate Bill No. 2781****BY** Ruggerio, DaPonte, Ciccone, Lanzi**ENTITLED**, AN ACT RELATING TO LABOR AND LABOR RELATIONS -- HOISTING ENGINEERS {LC2119/1}**Senate Bill No. 2782****BY** Ruggerio, DaPonte, Ciccone, Lanzi, Goodwin**ENTITLED**, AN ACT RELATING TO HOISTING ENGINEERS {LC2070/1}**Senate Bill No. 2821 as amended****BY** Felag**ENTITLED**, AN ACT RELATING TO TAXATION -- SALES TAX (residents in the town of Warren available for writers composers and artists tax exemption) {LC2503/1}**Senate Bill No. 2891 SUB A****BY** Gallo**ENTITLED**, AN ACT RELATING TO EDUCATION -- CIVIC EDUCATION COMMISSION {LC1170/1/A}**Senate Bill No. 2886 SUB A as amended****BY** Paiva-Weed, Gallo, Sheehan, Perry, Roberts**ENTITLED**, AN ACT RELATING TO PRESCRIPTION DRUG DISCOUNT FOR THE UNINSURED {LC2726/1/A}**Senate Bill No. 2905 SUB A****BY** Gallo, Walaska, Fogarty P, Felag, Sheehan**ENTITLED**, AN ACT RELATING TO HEALTH AND SAFETY - STROKE TASK FORCE {LC2747/1/A}**Senate Bill No. 3012****BY** Ruggerio, Paiva-Weed, Goodwin, DaPonte**ENTITLED**, AN ACT RELATING TO THE DOWNCITY SECTION OF PROVIDENCE {LC3123/1}**Senate Bill No. 3073****BY****ENTITLED**, AN ACT RELATING TO TAXATION -- EXEMPTIONS FOR WRITERS, COMPOSERS AND ARTISTS {LC3217/1}**Senate Bill No. 3075 SUB A****BY** Alves, Goodwin**ENTITLED**, AN ACT RELATING TO LICENSING OF HEALTH CARE FACILITIES {LC3286/1/A}

**Senate Bill No. 3102 SUB A as amended****BY** Roberts, Perry, Connors, Tassoni, Gibbs**ENTITLED**, AN ACT RELATING TO INSURANCE -- NONPROFIT HOSPITAL SERVICE CORPORATIONS -- THE RI HEALTHCARE REFORM ACT OF 2004 -- NONPROFIT INSURERS' MISSION AND GOVERNANCE {LC3368/2/A}**Senate Bill No. 3220****BY** Fogarty P, Walaska, Tassoni, Sosnowski**ENTITLED**, AN ACT RELATING TO TAXATION -- PROPERTY SUBJECT TO TAXATION {LC3719/1}**Senate Bill No. 3223****BY** Lenihan, Sheehan**ENTITLED**, AN ACT AUTHORIZING THE TOWN OF NORTH KINGSTOWN TO FINANCE FIRE SUPPRESSION SYSTEMS, HEATING AND VENTILATION SYSTEMS, SEPTIC SYSTEMS AND OTHER REPAIRS AND RENOVATIONS AND/OR RELATED EQUIPMENT AT THE DAVISVILLE, FOREST PARK, FISHING COVE AND WICKFORD ELEMENTARY SCHOOLS AND THE WICKFORD MIDDLE SCHOOL AND TO ISSUE NOT MORE THAN \$9,000,000 BONDS AND NOTES THEREFOR {LC3740/1}**Senate Bill No. 3233****BY** Blais**ENTITLED**, AN ACT RELATING TO ADMINISTRATIVE PROCEDURES {LC3778/1}**Senate Bill No. 3234****BY** Perry, Roberts, Paiva-Weed, Gallo**ENTITLED**, AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT -- AUDITS {LC3772/1}**Senate Bill No. 3224****BY** Revens**ENTITLED**, AN ACT RELATING TO STATE AID TO LIBRARIES {LC3747/1}**Senate Bill No. 3225****BY** Pichardo, Roberts, Alves, Paiva-Weed**ENTITLED**, AN ACT RELATING TO HUMAN SERVICES -- SPECIAL PROGRAM FOR CARE OF SEVERELY DISABLED ELDERLY RESIDENTS WHO NEED NURSING FACILITY SERVICES {LC3754/1}**Senate Bill No. 3136****BY** Fogarty P, Gallo, Felag, Sheehan, Walaska**ENTITLED**, AN ACT AUTHORIZING THE TOWN OF BURRILLVILLE TO FINANCE THE CONSTRUCTION, EQUIPPING AND FURNISHING OF AN ADDITION TO AND REMODELING, RECONSTRUCTING AND MAKING EXTRAORDINARY REPAIRS TO THE W.L. CALLAHAN ELEMENTARY SCHOOL AND TO ISSUE NOT MORE THAN \$7,500,000 BONDS THEREFOR {LC3466/1}

**Senate Bill No. 3142 as amended****BY** Tassoni**ENTITLED**, AN ACT RELATING TO TOWNS AND CITIES -- RETIREMENT OF MUNICIPAL EMPLOYEES {LC3511/1}**Senate Bill No. 3160****BY** DaPonte, Damiani**ENTITLED**, AN ACT AUTHORIZING THE CITY OF EAST PROVIDENCE, TO FINANCE THE ACQUISITION OF A SITE AND THE DESIGN AND CONSTRUCTION OF A MULTI-PURPOSE COMMUNITY/RECREATION COMPLEX IN LIEU OF CONVERTING MARTIN MIDDLE SCHOOL TO SUCH PURPOSE, AS WAS PREVIOUSLY APPROVED BY THE VOTERS OF EAST PROVIDENCE, AND TO ISSUE NOT MORE THAN \$5,000,000 BONDS AND NOTES THEREFOR {LC3540/1}**Senate Bill No. 3162****BY** Pichardo**ENTITLED**, AN ACT RELATING TO TAXATION -- PROPERTY SUBJECT TO TAXATION {LC3549/1}**Senate Bill No. 3180****BY** Paiva-Weed, Gibbs**ENTITLED**, AN ACT RELATING TO TAXATION -- NEWPORT SENIOR RESIDENT PROPERTY TAX SERVICE CREDIT PROGRAM {LC3590/1}**Senate Bill No. 3189****BY** Fogarty P, Perry, Walaska, Tassoni, Gallo**ENTITLED**, AN ACT AUTHORIZING THE TOWN OF GLOCESTER TO FINANCE THE ACQUISITION OF LAND FOR AND THE DESIGN, CONSTRUCTION, FURNISHING AND EQUIPPING OF A SENIOR CENTER IN THE TOWN BY THE ISSUANCE OF NOT MORE THAN \$2,215,000 BONDS AND/OR NOTES THEREFOR {LC3597/1}**Senate Bill No. 3196****BY** Lanzi**ENTITLED**, AN ACT RELATING TO MOTOR AND OTHER VEHICLES {LC3652/1}**Senate Bill No. 3201****BY** Sosnowski**ENTITLED**, AN ACT RELATING TO WATERS AND NAVIGATION - WATER POLLUTION {LC3702/1}**Senate Bill No. 3203****BY** Breene**ENTITLED**, AN ACT CREATING THE SHANNOCK WATER DISTRICT {LC3671/1}

**Senate Bill No. 3208****BY** Felag, Parella, Issa, Polisen, Bates**ENTITLED**, AN ACT RELATING TO MILITARY AFFAIRS AND DEFENSE -- RHODE ISLAND VETERANS' HOME {LC3706/1}**Senate Resolution No. 3213****BY** DaPonte**ENTITLED**, JOINT RESOLUTION MAKING AN APPROPRIATION TO PAY CERTAIN CLAIMS {LC3680/1}**Senate Bill No. 2040****BY** Issa, Felag, Tassoni, Caprio F, Connors**ENTITLED**, AN ACT RELATING TO MOTOR AND OTHER VEHICLES -- REGISTRATION OF VEHICLES (veterans plates) {LC74/1}**Senate Bill No. 2048****BY** Roberts, Tassoni, Perry, Paiva-Weed, Alves**ENTITLED**, AN ACT RELATING TO HEALTH CARE FOR FAMILIES {LC522/1}**Senate Bill No. 2097 SUB A****BY** Sosnowski, Bates, Walaska, Felag, Paiva-Weed**ENTITLED**, AN ACT RELATING TO GROUND WATER PROTECTION {LC768/1/A}**Senate Bill No. 2121****BY** Walaska, Bates, Fogarty P**ENTITLED**, AN ACT RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES {LC731/1}**Senate Bill No. 2333 SUB A****BY** Walaska, Gallo, Fogarty P, Caprio F, Alves**ENTITLED**, AN ACT RELATING TO BUSINESSES AND PROFESSIONS -- CREDIT COUNSELORS {LC895/3/A}**Senate Bill No. 2881 SUB A****BY** DaPonte, Perry, Damiani**ENTITLED**, AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS -- REGULATORY POWERS OF ADMINISTRATION {LC2221/4/A}**Senate Bill No. 2975****BY** Sosnowski**ENTITLED**, AN ACT RELATING TO AGRICULTURE AND FORESTRY -- AGRICULTURAL FUNCTIONS {LC1382/1}

**Senate Bill No. 3047 as amended**

**BY** Tassoni

**ENTITLED**, AN ACT RELATING TO MOTOR AND OTHER VEHICLES - -  
REGISTRATION OF VEHICLES {LC3179/1}

**Senate Bill No. 3241**

**BY** Connors

**ENTITLED**, AN ACT RELATING TO ELECTIONS -- STATEWIDE REFERENDA  
ELECTIONS {LC3799/1}

**House Bill No. 7806 SUB A as amended (Lieutenant Governor)**

**BY** Coderre E, Lowe, Moura, Kilmartin

**ENTITLED**, AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT  
{LC1862/1/A}

**House Bill No. 7751 SUB B**

**BY** Lewiss, Anguilla, Fox, Lally, Schadone

**ENTITLED**, AN ACT RELATING TO CRIMINAL OFFENSES -- CHILDREN  
{LC2030/1/B}

**House Bill No. 7713 as amended (Lieutenant Governor)**

**BY** Dennigan, Malik, Anguilla, Almeida

**ENTITLED**, AN ACT RELATING TO THE HEALTH CARE FOR FAMILIES ACT  
{LC2142/1}

## APPENDIX

**DISAPPROVAL MESSAGES FROM  
HIS EXCELLENCY, THE GOVERNOR**

July 1, 2004

TO THE HONORABLE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

This budget is seriously flawed. It is anti-taxpayer and anti-separation of powers. Modest proposals to provide tax relief to the elderly were rejected without debate. Yet sweeping changes to the constitutional balance between the branches of government sailed through the legislature without discussion. My proposals to control the costs of the state personnel system were victims of special interest pressure. And the big winners once more are the owners of greyhounds who will continue to receive a multi-million dollar subsidy from the state. All of this is at the expense of the average taxpayer.

Specifically, this budget must be rejected for several reasons. First, this budget provides no significant tax relief even though the state's revenues are now projected to exceed original estimates by \$48 million. Instead, we are once again spending it all. Second, this budget contains two statutory provisions that weaken the power of the executive, in direct contradiction of the spirit of the separation of powers referendum that I expect the voters to approve this fall. Third, the General Assembly removed a provision included in my submission that would protect taxpayers by controlling the granting of state employee status. Fourth, this budget does not include funding to implement a state employee co-share of health insurance costs, which I have proposed in tandem with a state employee raise. It is time that state employees begin sharing the costs of health care, as do the overwhelming majority of private sector workers. Finally, this budget continues to subsidize the greyhounds at Lincoln Park. I proposed eliminating this subsidy once and for all. This budget restores \$5.8 million of this giveaway.

Therefore, in accordance with the provisions of Section 14, Article IX of the Constitution of the State of Rhode Island and Section 43-1-4 of the General Laws of the State of Rhode Island, I transmit, with my disapproval, 2004-H-8219, Substitute A, As Amended, "An Act Relating to Making Appropriations for the Support of the State for the Fiscal Year Ending June 30, 2005." These objections are also addressed to 2004-H8205, Substitute A, "An Act Relating to Human Services — Family Independence Act," which I also transmit with my disapproval. The budget for fiscal year 2005 is split between these two acts.

I based my recommended budget for fiscal year 2005 on revenue projections made in November 2003, as I was required by law. When I submitted my budget to the General Assembly in February, we estimated a combined deficit for 2004 and 2005 of approximately \$229 million. My budget eliminated that structural deficit by reducing the costs of

government programs, beginning the implementation of \$30 million in Fiscal Fitness ideas, and proposing limited revenue enhancements. In May of this year, the state's revenue estimators increased their projections of the amount of available revenues in fiscal years 2004 and 2005. This increase made an additional \$48 million available.

I strongly believe that Rhode Islanders are taxed too highly. Because of this, I recommended that the General Assembly use a portion of the additional revenue for tax relief. Specifically, I recommended \$23 million in tax relief for the elderly and for those who make out-of-pocket health care expenditures. At a cost of \$4 million, we can expand the property tax relief program for the elderly by doubling the maximum payment from \$250 to \$500 per year. We can also increase the number of eligible recipients from approximately 24,600 to 27,000 by increasing the income eligibility limit from \$30,000 to \$40,000. The General Assembly rejected this proposal.

I also proposed a new tax deduction for lower and middle income Rhode Islanders. Making health care more affordable is a priority of my administration. The General Assembly has also focused on this issue this year. Unlike many of the ideas discussed recently, however, my proposal is one of the few that is guaranteed to provide families with some relief from the increasing costs of health care. I proposed that all Rhode Island personal income tax filers making no more than \$75,000 per year be eligible for an income tax deduction for out-of-pocket health care expenses, like co-payments for doctor's visits and prescription drug costs. The deduction is capped at \$1,500 and even non-itemizers would be eligible. This new deduction would have cost the state approximately \$19 million, but would have provided real relief to Rhode Islanders. Unfortunately, the General Assembly also rejected this proposal.

We must find ways to provide tax relief. Our high tax burden restricts our ability to compete for new jobs. It also drives away the young and old alike to low-tax states, limiting our supply of the entrepreneurs and professionals we need to drive our economy. I will make tax reform a priority of my administration in the coming years. We cannot let another year go by without addressing this obstacle to our economic prosperity.

My second major objection to this budget is Article 45, Substitute A, As Amended. This article creates a separate budgetary and control process for the judiciary. At least one provision of this article clearly violates our state constitution. Other provisions will lead to an unnecessary multiplication of state bureaucracy and a wasteful increase in public expenditures. Proponents cite the principle of separation of powers in its defense. Yet separation of powers has little to do with it.

Perhaps most troubling was the lack of public discussion on this article. For the last several years, Rhode Island has been engaged in a great constitutional debate over the separation of powers among the branches of government. This conversation about the meaning of our constitution was not limited to the committee rooms and chambers of our legislature; it took place across our state in formal and informal settings among experts and common citizens alike. This debate exemplified the democratic process. In contrast, Article 45 was appended to the state budget at the last minute in committee, without the kind of in-depth discussion of this complex issue that a constitutional question deserves.



No one disputes that an independent judiciary is a cornerstone of our constitutional system. The system of checks and balances among the three branches of government is no less important. One of those checks is the executive's power to recommend changes in the budget requested by the judiciary. Our state constitution expressly provides this check by requiring the governor to prepare a consolidated budget for the entire state: "The governor shall prepare and present to the general assembly an annual, consolidated operating and capital improvement state budget." (R.J. Const. Art. IX, ~ 15).

Article 45 purports to limit the scope of the governor's constitutional power to present a state budget, which of course a statutory amendment cannot do. Section 3 of this article prohibits the governor from making any revisions in the budgets requested by the judiciary and the legislature before the governor presents the entire recommended budget to the legislature. This attempted curtailment of the governor's power to "prepare and present" a state budget is unconstitutional. The General Assembly may not place substantive limits on the budgetary recommendations made by the governor.

There is good reason for this constitutional prerogative. As chief executive, it is the governor's duty to represent all Rhode Islanders. The governor must weigh and balance the multitude of interests that compete for limited state resources. If one element of state government is immune to this process, any necessary reductions must fall disproportionately on the others. It is true that in some other states the judiciary's budget is protected from cuts by the executive. However, this is typical in states with elected judiciaries, where the voters ultimately have the power to hold the courts accountable for their spending decisions. In states, like Rhode Island, where judges are appointed, the executive typically retains the power to recommend changes in the judicial budget.

There is no conflict between the governor's power to recommend changes in the judicial budget and the principle of separation of powers. In our system of government, the powers and duties of the three branches often intersect and overlap. It is no more a violation of separation of powers for the executive to recommend changes in the judicial budget than it is for the legislature to make actual changes in the judicial budget. The constitutional referendum before the voters this fall aims to correct an historical imbalance in the distribution of power between the executive and legislative branches. It does not mandate three perfectly independent branches of government exercising autonomous powers. That would be a perversion of the American model of government that we hope to finally achieve for Rhode Islanders this year.

Article 45 also creates new bureaucracies in the judicial branch. It would require more staff and new systems for human resources, purchasing, Contracting, and budgeting. These services are now provided by the executive branch, through the centralized services of the Department of Administration. At a time when we should be striving to consolidate functions to reduce the costs of government, this article moves our state towards greater inefficiency.

This budget contains another separation of powers problem. It eliminates the power of the Board of Governors for Higher Education to allocate state funds among our three higher education institutions. Instead, it requires that each institution submit its budget request to

the Assembly separately, circumventing the Commissioner of Higher Education and the Board. This will needlessly politicize higher education. This form of micro-management of higher education runs counter to the best practice followed many other states. This budget substantially weakens the Board's ability to set priorities among the institutions. The result will be political jockeying within the State House for additional funds as well as opening up the process to undue influence. This is poor public policy and should be reversed.

This budget also fails to include a provision necessary to ensure that state personnel costs are kept in check. My budget included an article that defines the term "state employee." This definition is needed because the State Labor Relations Board recently issued a decision decreeing that 1,300 private-sector child care providers are state employees. The consequence is that the owners and employees of these private businesses would be entitled to state employee benefits. This decision is unprecedented and outrageous. The child care providers were never hired by the state as employees. They are the operators of private businesses who happen to provide services to some children whose parents receive a state child care subsidy. My administration is vigorously challenging it in the courts. But if it stands, it could cost the taxpayers over \$8 million annually.

I am concerned that groups of other private sector service providers may also seek to be declared state employees. The consequences to our fiscal solvency could be devastating. Fighting these in court will be a needless waste of taxpayer money. The executive branch, through the state personnel system, must be able to control the number of state employees. To that end, I introduced an article that would make it clear to the State Labor Relations Board and others that only persons placed into state service by our official state personnel system are entitled to state benefits.

The General Assembly also failed to include an appropriation in a salary adjustment fund that I proposed in order to implement a health care co-share for state employees. I believe that it is imperative that state employees begin to share the cost of their health care.

Most private sector workers share the cost of their own health care, as do state employees in neighboring Massachusetts and Connecticut. Because state employees received no raise this year, I proposed a state employee raise of two percent coupled with a health care co-share of seven percent of the premium cost. The costs associated with this plan amounted to \$5.9 million in general revenues. As a matter of equity with most working citizens of Rhode Island, I intend to move forward with my proposal to institute a health care co-share nevertheless. I urge the General Assembly to approve the funding necessary to accomplish this.

The owners of greyhounds at Lincoln Park also benefit yet again. In my recommended budget, I proposed eliminating the state subsidy for the owners of greyhounds at Lincoln Park. Under that proposal, the state would have saved approximately \$1 I million in fiscal year 2005. The General Assembly rejected this plan and opted to protect this special interest group again, just as they did last year when they rejected a similar proposal to eliminate the subsidy. The Assembly's budget includes a \$5.8 million subsidy for the dogs. It is no comfort that the subsidy is now disguised as an additional payment to Lincoln Park. The scheme to shift money that would otherwise have gone to the taxpayers to Lincoln Park so

that the Park can further subsidize the dogs is no better than the current system of direct subsidy. It is shameful that legislative budget makers could find millions of dollars to subsidize the dogs but find no time to consider additional relief for low-income elderly taxpayers.

For all of these reasons, I return this act with my objections.

Respectfully,

Donald L. Carcieri  
Governor

July 1, 2004

TO THE HONORABLE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

This budget is seriously flawed. It is anti-taxpayer and anti-separation of powers. Modest proposals to provide tax relief to the elderly were rejected without debate. Yet sweeping changes to the constitutional balance between the branches of government sailed through the legislature without discussion. My proposals to control the costs of the state personnel system were victims of special interest pressure. And the big winners once more are the owners of greyhounds who will continue to receive a multi-million dollar subsidy from the state. All of this is at the expense of the average taxpayer.

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I strongly believe that Rhode Islanders are taxed too highly. Because of this, I recommended that the General Assembly use a portion of the additional revenue for tax

relief. Specifically, I recommended \$23 million in tax relief for the elderly and for those who make out-of-pocket health care expenditures. At a cost of \$4 million, we can expand the property tax relief program for the elderly by doubling the maximum payment from \$250 to \$500 per year. We can also increase the number of eligible recipients from approximately 24,600 to 27,000 by increasing the income eligibility limit from \$30,000 to \$40,000. The General Assembly rejected this proposal.

I also proposed a new tax deduction for lower and middle income Rhode Islanders. Making health care more affordable is a priority of my administration. The General Assembly has also focused on this issue this year. Unlike many of the ideas discussed recently, however, my proposal is one of the few that is guaranteed to provide families with some relief from the increasing costs of health care. I proposed that all Rhode Island personal income tax filers making no more than \$75,000 per year be eligible for an income tax deduction for out-of-pocket health care expenses, like co-payments for doctor's visits and prescription drug costs. The deduction is capped at \$1,500 and even non-itemizers would be eligible. This new deduction would have cost the state approximately \$19 million, but would have provided real relief to Rhode Islanders. Unfortunately, the General Assembly also rejected this proposal.

We must find ways to provide tax relief. Our high tax burden restricts our ability to compete for new jobs. It also drives away the young and old alike to low-tax states, limiting our supply of the entrepreneurs and professionals we need to drive our economy. I will make tax reform a priority of my administration in the coming years. We cannot let another year go by without addressing this obstacle to our economic prosperity.

My second major objection to this budget is Article 45, Substitute A, As Amended. This article creates a separate budgetary and control process for the judiciary. At least one provision of this article clearly violates our state constitution. Other provisions will lead to an unnecessary multiplication of state bureaucracy and a wasteful increase in public expenditures. Proponents cite the principle of separation of powers in its defense. Yet separation of powers has little to do with it.

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There is no conflict between the governor’s power to recommend changes in the judicial budget and the principle of separation of powers. In our system of government, the powers and duties of the three branches often intersect and overlap. It is no more a violation of separation of powers for the executive to recommend changes in the judicial budget than it is for the legislature to make actual changes in the judicial budget. The constitutional referendum before the voters this fall aims to correct an historical imbalance in the distribution of power between the executive and legislative branches. It does not mandate three perfectly independent branches of government exercising autonomous powers. That would be a perversion of the American model of government that we hope to finally achieve for Rhode Islanders this year.

Article 45 also creates new bureaucracies in the judicial branch. It would require more staff and new systems for human resources, purchasing, Contracting, and budgeting. These services are now provided by the executive branch, through the centralized services of the Department of Administration. At a time when we should be striving to consolidate functions to reduce the costs of government, this article moves our state towards greater inefficiency.

This budget contains another separation of powers problem. It eliminates the power of the Board of Governors for Higher Education to allocate state funds among our three higher education institutions. Instead, it requires that each institution submit its budget request to the Assembly separately, circumventing the Commissioner of Higher Education and the Board. This will needlessly politicize higher education. This form of micro-management of higher education runs counter to the best practice followed many other states. This budget substantially weakens the Board’s ability to set priorities among the institutions. The result will be political jockeying within the State House for additional funds as well as opening up the process to undue influence. This is poor

public policy and should be reversed.

This budget also fails to include a provision necessary to ensure that state personnel costs are kept in check. My budget included an article that defines the term "state employee." This definition is needed because the State Labor Relations Board recently issued a decision decreeing that 1,300 private-sector child care providers are state employees. The consequence is that the owners and employees of these private businesses would be entitled to state employee benefits. This decision is unprecedented and outrageous. The child care providers were never hired by the state as employees. They are the operators of private businesses who happen to provide services to some children whose parents receive a state child care subsidy. My administration is vigorously challenging it in the courts. But if it stands, it could cost the taxpayers over \$8 million annually.

I am concerned that groups of other private sector service providers may also seek to be declared state employees. The consequences to our fiscal solvency could be devastating. Fighting these in court will be a needless waste of taxpayer money. The executive branch, through the state personnel system, must be able to control the number of state employees. To that end, I introduced an article that would make it clear to the State Labor Relations Board and others that only persons placed into state service by our official state personnel system are entitled to state benefits.

The General Assembly also failed to include an appropriation in a salary adjustment fund that I proposed in order to implement a health care co-share for state employees. I believe that it is imperative that state employees begin to share the cost of their health care.

Most private sector workers share the cost of their own health care, as do state employees in neighboring Massachusetts and Connecticut. Because state employees received no raise this year, I proposed a state employee raise of two percent coupled with a health care co-share of seven percent of the premium cost. The costs associated with this plan amounted to \$5.9 million in general revenues. As a matter of equity with most working citizens of Rhode Island, I intend to move forward with my proposal to institute a health care co-share nevertheless. I urge the General Assembly to approve the funding necessary to accomplish this.

The owners of greyhounds at Lincoln Park also benefit yet again. In my recommended budget, I proposed eliminating the state subsidy for the owners of greyhounds at Lincoln Park. Under that proposal, the state would have saved approximately \$1 I million in fiscal year 2005. The General Assembly rejected this plan and opted to protect this special interest group again, just as they did last year when they rejected a similar proposal to eliminate the subsidy. The Assembly's budget includes a \$5.8 million subsidy for the dogs. It is no comfort that the subsidy is now disguised as an additional payment to Lincoln Park. The scheme to shift money that would otherwise have gone to the taxpayers to Lincoln Park so that the Park can further subsidize the dogs is no better than the current system of direct subsidy. It is shameful that legislative budget makers could find millions of dollars to subsidize the dogs but find no time to consider

additional relief for low-income elderly taxpayers.

For all of these reasons, I return this act with my objections.

Respectfully,

Donald L. Carcieri  
Governor



June 16, 2004

TO THE HONORABLE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

In accordance with the provisions of Section 14, Article IX of the Constitution of the State of Rhode Island and Section 43-1-4 of the General Laws of the State of Rhode Island, I transmit, with my disapproval, 2004-H-7085, Substitute A, As Amended, "An Act Relating to Labor and Labor Relations — Correctional Officers — Arbitrators."

This act would establish special labor relations and arbitration rules for correctional officers. Existing law guarantees the right of state employees to organize, requires the parties to bargain, permits mediation and conciliation, and demands binding arbitration of certain unresolved issues. RI. Gen. Laws § 36-1-1 et seq. In light of this existing law—wholly applicable to correctional officers—the creation of a specialized labor relations system solely for correctional officers is unnecessary. Moreover, the precedent of establishing special labor rules for particular classes of state employees is a dangerous one. The public interest is best served by a uniform system, not by creating endless exceptions for the innumerable subclasses of employees.

There are further problems with this act. Under the existing labor laws applicable to state employees, arbitration of negotiable issues is binding on the parties with one exception. The arbitration decision is not binding and is only "advisory in nature" with respect to "an issue which involves wages." R.I. Gen. Laws § 36-1-9(c). The principle behind this provision is clear: elected officials, not arbitrators, must control the public purse. This act changes this well-established principle by making arbitrator decisions on wages binding on the parties.

It is no comfort that this act allows arbitrators to consider, among other factors, the "state's ability to pay." An arbitrator does not answer to the people of Rhode Island. The Governor and the General Assembly bear the constitutional responsibility for expending public funds. The elected branches of government must determine which of the myriad competing interests are to be supported, and to what extent, with the public's tax dollars. Correctional costs are of great concern to the public and its elected officials. Payroll comprises eighty percent of the budget of the Department of Corrections. Placing a blank check in the hands of a third party is fiscally imprudent.

This act also eliminates mediation of disputes as an option. Under existing law, the parties can agree to submit a dispute to mediation or conciliation. This act extinguishes even the possibility of mediation by requiring binding arbitration as early as 30 days after the first meeting of the parties. While the last contract dispute between the state and the Rhode Island Brotherhood of Correctional Officers (RIBCO) took over four years to resolve, it is important to note that a tentative agreement was entered into by the state and the union leadership after two years of bargaining. The tentative agreement was rejected by the membership. Two years later, following an illegal strike, RIBCO ultimately agreed to nearly identical wage increases and contract provisions. Therefore, the argument that this act is needed to preclude the state from prolonging the negotiating

process is without merit.

The act is further flawed because only correctional officers are afforded its protection, yet other class titles are represented by the union. RIBCO represents correctional officers, lieutenants, captains, correctional specialists, clerical support, correctional industries supervisors, special investigators, nurses, food service stewards, training instructors and building maintenance supervisors, among others. This act defines "correctional officer" as "the full-time correctional officer of the State of Rhode Island." This definition is confusing as certain union members would be covered by the act's provisions, while others would not. This lack of clarity may slow down the negotiation process, as members of the same bargaining unit will be subject to different statutory provisions. It is likely that litigation would be necessary to clarify these issues. The likelihood that negotiations would be delayed because of this ambiguity frustrates the very intent of the bill.

Correctional officers provide a valuable and necessary service to the people. The state respects their rights to organize and collectively bargain. These rights are adequately protected under current law. Because this act is unnecessary and contrary to the public interest, I return it with my objections.

Respectfully,

Donald L. Carcieri  
Governor

July 2, 2004

TO THE HONORABLE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

In accordance with the provisions of Section 14, Article IX of the Constitution of the State of Rhode Island and Section 43-1-4 of the General Laws of the State of Rhode Island, I transmit, with my disapproval, 2004-H-7914, As Amended, "An Act Relating to Waters and Navigation — Maintenance of Marine Waterways and Boating Facilities."

This act would mandate that the Rhode Island Economic Development Corporation ("RIEDC") to set aside land at Quonset-Davisville for acceptance of dredge spoils until 2012. There are several problems with this act.

The RIEDC is charged with maximizing the value of the assets it manages for the benefit of the citizens of Rhode Island. I recognize that dredging is a necessary component of any bay management plan and that dredging has been neglected for too long in this state to our economic detriment. However, rendering significant tracts of prime waterfront industrial acreage unusable for many years is not a necessary or cost effective solution to the dredging problem. The General Assembly has approved my request to place before the voters this fall a bond referendum to improve the infrastructure at Quonset. In order to develop Quonset into a jobs engine for our state, we must be able to maximize the use of this prime land. This act will hamper these efforts.

Since environmentally sensitive areas cannot be used for dredge spoil dewatering anymore than they could be used for development, it would be necessary to take otherwise productive land off the market for the duration of the dewatering use. Additionally, as the dewatering activities are not conducive to other types of uses in the general vicinity, a significant buffer zone would be required, taking even more productive and valuable land out of service. This proposal is in direct conflict with the careful and well-thought out master planning and park improvement efforts undertaken by the RIEDC over the last eighteen months. 2004-H-7914, As Amended

There are Serious environmental concerns relating to the types of contamination present in dredge spoils. This act does not identify the party responsible for environmental permitting, monitoring, and cleanup. Nor does the bill address how these arrangements can be made by the October 2004 deadline contained in the bill. It has taken the state two decades of costly and complex work to solve a host of environmental issues inherited from the Navy at Quonset-Davisville. To risk further contamination without a full environmental analysis would be inappropriate.

I encourage the RIEDC, other state agencies, and representatives of the marine trades industry to work diligently to determine the optimal solution to our dredging issues and to do their best to stimulate and support that vital component of our economy.

For these reasons, I return the act with my objections.

Respectfully,

Donald L. Carcieri  
Governor

July 1, 2004

TO THE HONORABLE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

In accordance with the provisions of Section 14, Article IX of the Constitution of the State of Rhode Island and Section 43-1-4 of the General Laws of the State of Rhode Island, I transmit, with my disapproval, 2004-H-8542, As Amended, "An Act Relating to Military Affairs and Defense — Rhode Island Veterans' Home."

This act purports to restrict the executive's use of the veterans' home restricted account without prior approval of the House and Senate finance committees. The account is now administered by the Department of Human Services for "the improvement of social, recreational, and educational programs ... and for operational expenses and capital improvements at the veterans' home and veterans' cemetery." R.I. Gen. Laws § 30-24-6. Capital projects are included in the capital budget submitted to the legislature, while other expenditures are made at the discretion of the director of human services.

This act is an unconstitutional intrusion on the executive power. The General Assembly is free to restrict the use of the account with proper legislation. But the legislature may not delegate to its committees the power to give "prior approval" — and presumably disapproval — for executive actions. If the legislature wishes to control the use of the account, it must budget for this account as it does other funds. This requires at least a majority vote of both chambers of the legislature and presentment of that budget to the governor for approval or disapproval.

This act amounts to an improper legislative veto over the executive and an inappropriate delegation of the legislative power to a committee. For these reasons, I return the act with my objections.

Respectfully,

Donald L. Carcieri  
Governor

**REPRESENTATIVE COSTANTINO'S COMMENTS**

To the Honorable, the Speaker of the House of Representatives:

This budget is seriously flawed. It is anti-taxpayer and anti-separation of powers. Modest proposals to provide tax relief to the elderly were rejected without debate. Yet sweeping changes to the constitutional balance between the branches of government sailed through the legislature without discussion. My proposals to control the costs of the state personnel system were victims of special interest pressure. And the big winners once more are the owners of greyhounds who will continue to receive a multi-million dollar subsidy from the state. All of this is at the expense of the average taxpayer.

Specifically, this budget must be rejected for several reasons. First, this budget provides no significant tax relief even though the state's revenues are now projected to exceed original estimates by \$48 million. Instead, we are once again spending it all.

*The Governor submitted a budget with rising outyear deficits, beginning with \$68.9 million in FY 2006 growing to \$177.8 million in FY 2009. He then, in a press release on May 25, announced a plan for spending virtually all of the gains from the May Revenue Estimating Conference in FY 2005, even though most of the gain came from FY 2004. His latest plan would have used one-time revenues for ongoing programs, thereby increasing his out year deficits even further.*

*The Budget enacted by the Assembly has a smaller operating deficit than the one proposed in the Governor's May 25 press release by \$3.0 million, or 6.6 percent. The Assembly used the bulk of the new revenue to plug holes in the Governor's budget, increase municipal and education aid, and to preserve the safety net. For example:*

- **EDC.** *The Assembly included \$946,720 to restore community service grants funded through the Economic Development Corporation. The Governor's budget included elimination of 21 of the 24 annual grant awards.*
- **Debt Service Fidelity Job Rents Program.** *The Assembly included \$460,000 of additional general revenue to make debt service payments under the Fidelity Job Rent Credits agreement, based on a revised estimate submitted by the Administration.*
- **Distressed Communities.** *The Assembly included \$1.0 million from general revenues to the Governor's recommendation for the Distressed Communities Relief Fund. The Governor's recommended budget attempted to freeze the amount to be distributed for the program at the FY 2004 appropriation amount of \$7.5 million.*
- **General Revenue Sharing.** *The Assembly added \$1.0 million from general revenues to the Governor's recommendation for the General Revenue Sharing Program. The Governor had recommended the same level as included in the FY 2004 enacted budget.*

- **Library Aid - Allow Endowment Funding.** *The Assembly included additional general revenues of \$224,544 to allow 25.0 percent of all libraries' endowment funding to become part of the State Aid to Libraries formula calculation.*
- **Payment in Lieu of Taxes.** *The Assembly included \$1.0 million in additional general revenues for the Payment in Lieu of Taxes program. The Governor had recommended the same level as included in the FY 2004 enacted budget.*
- **Tall Ships.** *The Assembly included a \$250,000 grant award to the Newport Chamber of Commerce to help defray costs of the tall ships visit to Rhode Island.*
- **Historical Societies Grants.** *The Assembly included \$206,753 from general revenues for restoration of the various grants to historical societies that were cut in half by the Governor in his FY 2005 recommended budget. This includes restoration of the Rhode Island Historical Society Grant, the Newport Historical Grant, Newspapers Published in Rhode Island Grant, and the Nathanael Greene Papers grant.*
- **Ethics Commission.** *The Assembly included \$220,000 more general revenues for personnel and operating to provide 3.0 new full-time equivalent positions, upgrade an existing legal assistant position to staff attorney, provide additional stenographic services, and provide for contract investigators to investigate complaints filed against staff and Commission members. Additional operating funds will be used to upgrade the Commission's database system, train new staff, and provide for additional software licenses for the new positions.*
- **Information Technology Contracted Services.** *The Assembly included \$125,000 from general revenues to continue funding of the Rhode Island Child Welfare and Research Project following the September 2004 expiration of the federal grant currently funding the program. The purpose of the program is to allow the Department to build analytical capacity to make use of the information being recorded in the Statewide Automated Child Welfare Information System.*
- **Home and Community Care Co-Pay Programs.** *The Assembly added \$650,000 from general revenues for adult day care and home care services provided through its home and community care co-pay program. The Department has not accepted new clients or additional services for existing clients since October 2003 and the program continues to have a waiting list of approximately 200 persons.*
- **Ombudsman.** *The Assembly adds \$28,500 from general revenues to restore funding for the state ombudsman to the FY 2004 enacted level. The Alliance for Better Long Term Care, the state's ombudsman, is an advocacy group for residents of nursing homes, board and care homes, and assisted living facilities.*
- **May Caseload Change to Governor.** *The Assembly included an additional \$11.6 million from all sources, of which \$5.8 million is from general revenues to adjust the Governor's budget recommendation for the May Caseload Conference estimates for cash assistance caseloads and Medical Assistance expenditures for FY 2005.*

- **Child Care Co-Pay.** *The Assembly did not concur with the Governor's recommendation to increase the co-payment a family is charged for child care services and added \$800,000 from general revenues.*
- **Child Care Eligibility at 225 Percent.** *The Assembly included \$3.9 million from general revenues to maintain childcare eligibility at 225 percent of the federal poverty level. The Governor's budget proposes to reduce eligibility to 200 percent of the federal poverty level.*
- **Community Food Bank to \$300,000.** *The Assembly included adding \$100,420 from general revenues to bring funding for the Rhode Island Community Food Bank to \$300,000 in FY 2005. The Governor recommended a 25 percent reduction.*
- **Community Service Adjustments.** *The Assembly included \$546,734 to adjust the Governor's community service grant recommendations of 25 percent reductions to approximately one hundred agencies that support various social service agencies.*
- **Dental Clinics Support.** *The Assembly included \$25,000 from general revenues and \$31,203 from federal sources to bring total funding for the Samuels' and St. Joseph's Clinics to \$723,877 for FY 2005. The two clinics provide affordable dental care to Rhode Island's low-income children and families for several years and require additional funds to maintain their quality of operations.*
- **Nursing Home Reimbursements.** *The Assembly did not concur with the Governor's recommendation to delay, for one year, the start date of the second phase of the nursing home reimbursements calculation for allowable reimbursement based on a fair rental value system.*
- **Veterans' Allowance Disregard.** *The Assembly included an additional \$50,000 from general revenues with a similar reduction to restricted receipts based on the state retaining 80 percent of a Veterans Home resident's monthly pension. Currently, the maintenance fee assessed to residents of the Veterans' Home is 90 percent. The additional general revenues for the five percent decrease provides level funding at the home since the Department of Human Services retains a portion of the fee collected.*
- **Detoxification Services.** *The Assembly included the restoration of \$60,000 from general revenues to reverse the recommended reduction to detoxification case management based on elimination of case management for detoxification services.*
- **Mobile Treatment Teams Rate Reduction.** *The Assembly included the restoration of \$1.8 million to reverse the Mobile Treatment Teams rate reduction that the Governor recommended based on reducing the operating margin for the provider system.*
- **Problem Gambling.** *The Assembly included the restoration of \$63,066 from general revenues to reverse the recommended reduction.*
- **Substance Abuse Outpatient Services.** *The Assembly included the restoration of \$400,000 for substance abuse outpatient treatment services.*



- **Training and I&R Services.** *The Assembly included the restoration of \$20,000 for the purchase of training and information and referral services in the Division of Substance Abuse. The Governor's FY 2005 recommendation included a reduction based on consolidating training and information services into a single procurement from one agency; currently three contractors provide services.*
- **Davies Additional 60 Students.** *The Assembly added 5.0 positions and \$815,000 from general revenues to fund the addition of 60 students to the Davies Career and Technical School. The School currently serves about 800 students, but has capacity to serve 1,000.*
- **Davies Personnel and Operating.** *The Assembly included adding \$160,000 from general revenues to fully fund the Davies Career and Technical School's current service level personnel and operating request. The Governor's recommendation included turnover assumptions that would require keeping two teaching positions vacant, which would increase class size and affect programming plans.*
- **Education Aid to Prior Level.** *The Assembly included adding \$10.0 million to the Governor's budget to ensure that education aid to locally operated school districts is at least at the FY 2004 level. This would also allow for updating of all data used to calculate the distributions. This also assumes that operations aid for Central Falls would remain at the \$36.0 million level contained in the Governor's budget, a 1.0 percent increase over FY 2004.*
- **WaterFire.** *The Assembly added \$300,000 from general revenues to the Governor's recommended budget, which eliminated funding for WaterFire activities.*
- **Pretrial Detainees.** *The Assembly included \$500,000 from general revenues to offset the loss of revenues from federal immigration detainees.*
- **Interpreter Services.** *The Assembly included \$425,221 from general revenues to fund the Interpreter Services Program in FY 2005. .*

Second, this budget contains two statutory provisions that weaken the power of executive, in direct contradiction of the spirit of the separation of powers referendum that I expect the voters to approve this fall. *Those provisions are consistent with practices in many other states.*

Third, the General Assembly removed a provision included in my submission that would protect taxpayers by controlling the granting of state employee status. *That appears to contradict the testimony for the past three years, including this one, as to the purpose of that article. In fact, it was not until April 28, after an unfavorable labor ruling, that he requested an amendment to 04-H 8219 to "clarify in state statute the definition of a state employee."*

Fourth, this budget does not include funding to implement a state employee co-share of health insurance costs, which I have proposed in tandem with a state employee raise. It is time that

state employees begin sharing the costs of health care, as do the overwhelming majority of private sector workers. *The Administration was made aware, and acknowledged, that the funding had been preserved, but not dedicated. The Assembly did not take a position on this collective bargaining issue, but did retain the Governor's funding flexibility.*

Finally, this budget continues to subsidize the greyhounds at Lincoln Park. I proposed eliminating this subsidy once and for all. This budget restores \$5.8 million of this giveaway. *The commission paid to the kennel owners will have ended July 1 of this month with passage of the budget.*

Therefore, in accordance with the provisions of Section 14, Article IX of the Constitution of the State of Rhode Island and Section 43-1-4 of the General Laws of the State of Rhode Island, I transmit, with my disapproval, 2004-H-8219, Substitute A, As Amended, "An Act Relating to Making Appropriations for the Support of the State for the Fiscal Year Ending June 30, 2005." These objections are also addressed to 2004-H-8205, Substitute A, "An Act Relating to Human Services – Family Independence Act," which I also transmit with my disapproval. The budget for fiscal year 2005 is split between these two acts.

I based my recommended budget for fiscal year 2005 on revenue projections made in November 2003, as I was required by law. When I submitted my budget to the General Assembly in February, we estimated a combined deficit for 2004 and 2005 of approximately \$229 million. My budget eliminated that structural deficit by reducing the costs of government programs beginning the implementation of \$30 million in Fiscal Fitness ideas, and proposing limited revenue enhancements.

*The reality is that the Governor solved over half of his FY 2005 deficit with revenue enhancements, of which many were tax or fee increases, and under funded programs in some cases (e.g. Department of Children, Youth and Families at \$10.3 million).*

*The Governor recommended \$15.7 million in changes to the November 2003 Revenue Estimating Conference general revenue estimates for FY 2004 and \$168.9 million for FY 2005. The FY 2005 changes included \$6.2 million in tax expenditures proposed to be eliminated, \$15.2 million from enhanced enforcement, \$50.7 million from tax and fee increases, \$67.0 million from extending current items, and \$29.8 million from other actions.*

In May of this year, the state's revenue estimators increased their projections of the amount of available revenues in fiscal years 2004 and 2005. This increase made an additional \$48 million available.

I strongly believe that Rhode Islanders are taxed too highly. Because of this, I recommended that the General Assembly use a portion of the additional revenue for tax relief. Specifically, I

recommended \$23 million in tax relief for the elderly and for those who make out-of-pocket health care expenditures.

*The Governor states that Rhode Islanders' state and local tax burden is one of the highest in the nation. Indeed the Tax Foundation ranks Rhode Island 5<sup>th</sup> highest. However, review of the Foundation's statistics shows that:*

- *Rhode Island ranks 21<sup>st</sup> for state taxes as percent of personal income*
- *It ranks 25<sup>th</sup> for state tax growth compared to income growth from 1992 to 2002, and 40<sup>th</sup> for state tax growth compared to income growth from 2001 to 2002*
- *It appears that the relatively high tax Rhode Island tax burden is caused by the over reliance on local property taxes, compared to other states.*
- *The Governor: recommended reducing funding for most communities for municipal and education aid and eliminating the local meal and beverage tax; and vetoed the local hotel tax. The General Assembly restored the cuts in State Aid and supports both local taxes, reducing the need for broad based property tax increases*

*The Governor did not submit legislation to the Assembly nor did his administration request public hearings from the Assembly for these "proposals". Rather, they were presented in a press release from the Governor's Office on May 25.*

*Chapter 35-3-12 of the General Laws states: "The governor, before final action by the general assembly, may offer a supplement to the budget and submit amendments in conformity therewith to the accompanying appropriation bill or bills." The Budget Office submitted eight such amendments on April 2, April 9, April 13, April 15, April 19, April 28, May 4, and May 26. These tax proposals were not included in any of them; even the one submitted the day after the press release.*

At a cost of \$4 million, we can expand the property tax relief program for the elderly by doubling the maximum payment from \$250 to \$500 per year. We can also increase the number of eligible recipients from approximately 24,600 to 27,000 by increasing the income eligibility limit from \$30,000 to \$40,000. The General Assembly rejected this proposal.

*As noted above, this proposal was never presented to the Assembly. If it had been, it might have answered significant questions, such as whether the program was capped, or a free running new entitlement? Or why relief for the non-elderly poor was to be eliminated?*

I also proposed a new tax deduction for lower and middle income Rhode Islanders. Making health care more affordable is a priority of my administration. The General Assembly has also focused on this issue this year. Unlike many of the ideas discussed recently, however, my proposal is one of the few that is guaranteed to provide families with some relief from the increasing costs of health care. I proposed that all Rhode Island personal income tax filers making no more than \$75,000 per year be eligible for an income tax deduction for out-of-pocket

health care expenses, like co-payments for doctor's visits and prescription drug costs. The deduction is capped at \$1,500 and even non-itemizers would be eligible. This new deduction would have cost the state approximately \$19 million, but would have provided real relief to Rhode Islanders. Unfortunately, the General Assembly also rejected this proposal.

*Again, the Governor did not submit a budget amendment containing this proposal with necessary legislation to the Assembly nor did his administration request public hearings from the Assembly on this proposal. Given that it first came to light on May 25, it is difficult to see how appropriate hearings could have been held for it to be included in a budget to be enacted prior to the beginning of the new fiscal year.*

*A budget amendment would have provided the legislation telling us the effective date, how it was to be administered, and what the ongoing fiscal impact would be.*

We must find ways to provide tax relief. Our high tax burden restricts our ability to compete for new jobs. It also drives away the young and old alike to low-tax states, limiting our supply of the entrepreneurs and professionals we need to drive our economy. I will make tax reform a priority of my administration in the coming years. We cannot let another year go by without addressing this obstacle to our economic prosperity.

*Most sources indicate that the property tax is the one tax upon which the state is most over reliant. The Governor's recommended budget exacerbated that by \$38.1 million. He recommended legislation and funding that deprived local governments of \$18.4 million in direct aid payments due under existing law and provided \$19.7 million less in education aid than current practice would have. The Assembly sought to partially address that by:*

- *Adding \$7.4 million to education aid above the Governor's budget*
- *Adding \$3.0 million to municipal aid and slightly increasing library aid*
- *Limiting the distressed communities decoupling from the realty transfer tax to this budget.*

My second major objection to this budget is Article 45, Substitute A, As Amended. This article creates a separate budgetary and control process for the judiciary. At least one provision of this article clearly violates our state constitution. Other provisions will lead to an unnecessary multiplication of state bureaucracy and a wasteful increase in public expenditures. Proponents cite the principle of separation of powers in its defense. Yet separation of powers has little to do with it.

Perhaps most troubling was the lack of public discussion on this article. For the last several years, Rhode Island has been engaged in a great constitutional debate over the separation of powers among the branches of government. This conversation about the meaning of our constitution was not limited to the committee rooms and chambers of our legislature; it took place across our state in formal and informal settings among experts and common citizens alike. This debate exemplified the democratic process. In contrast, Article 45 was appended to the

state budget at the last minute in committee, without the kind of in-depth discussion of this complex issue that a constitutional question deserves.

*The appropriate committees heard this legislation during the 2002 and 2003 legislative sessions. Testimony has been taken. The issue has been presented in the press in op-ed pieces. At one point, even the state's largest newspaper editorially endorsed the judiciary's position on the issue.*

No one disputes that an independent judiciary is a cornerstone of our constitutional system. The system of checks and balances among the three branches of government is no less important. One of those checks is the executive's power to recommend changes in the budget requested by the judiciary. Our state constitution expressly provides this check by requiring the government to prepare a consolidated budget for the entire state: "The governor shall prepare and present to the general assembly an annual, consolidated operating and capital improvement state budget." (R.I. Constit. Art. IX, § 15).

Article 45 purports to limit the scope of the governor's constitutional power to present a state budget, which of course a statutory amendment cannot do. Section 3 of this article prohibits the governor from making any revisions in the budgets requested by the judiciary and the legislature before the governor presents the entire recommended budget to the legislature. This attempted curtailment of the governor's power to "prepare and present" a state budget is unconstitutional. The General Assembly may not place substantive limited on the budgetary recommendations made by the governor.

There is good reason for this constitutional prerogative. As chief executive, it is the governor's duty to represent all Rhode Islanders. The governor must weigh and balance the multitude of interests that compete for limited state resources. If one element of state government is immune to this process, any necessary reductions must fall disproportionately on the others. It is true that in some other states the judiciary's budget is protected from cuts by the executive. However, this is typical in states with elected judiciaries, where the voters ultimately have the power to hold the courts accountable for their spending decisions. In states, like Rhode Island, where judges are appointed, the executive typically retains the power to recommend changes in the judicial budget.

There is not conflict between the governor's power to recommend changes in the judicial budget and the principle of separation of powers. In our system of government, the powers and duties of the three branches often intersect and overlap. It is no more a violation of separation of powers for the executive to recommend changes in the judicial budget than it is for the legislature to make actual changes in the judicial budget. The constitutional referendum before the voters this fall aims to correct an historical imbalance in the distribution of power between the executive and legislative branches. It does not mandate three perfectly independent branches of government exercising autonomous powers. That would be a perversion of the American model of government that we hope to finally achieve for Rhode Islanders this year.

*Rhode Island is not setting a precedent. In at least five states the Governor must include the courts budget as submitted by the courts (Arkansas, Florida, Georgia, New York, Vermont). In a number of other states, the Governor cannot tinker with the judiciary's budget submission.*

Article 45 also creates new bureaucracies in the judicial branch. It would require more staff and new systems for human resources, purchasing, contracting, and budgeting. These services are now provided by the executive branch, through the centralized services of the Department of Administration. At a time when we should be striving to consolidate functions to reduce the costs of government, this article moves our state towards greater inefficiency.

*There is not any language in Article 45 nor is funding included in Article 1, nor are positions authorized in Article 1 for creation of any new bureaucracies in the judicial branch. The Court has indicated it would likely continue to use existing state services.*

This budget contains another separation of powers problem. It eliminates the power of the Board of Governors, for Higher Education to allocate state funds among our three higher education institutions. Instead, it requires that each institution submit its budget request to the Assembly separately, circumventing the Commissioner of Higher Education and the Board. .

*It is entirely consistent with the legislature's power to appropriate funds. The Assembly took action to eliminate the power of the Board to implement a budget that looks nothing like the budget the Governor recommended, the House and Senate Finance committees considered at length in budget hearings, and the version the Assembly ultimately enacted.*

*The Assembly **did not** make changes to the budget request and submission process. The law **continues** to require the board to review, develop and submit the higher education budget. The article further included language to clarify that fact. "The board shall receive, review, and adjust the budgets of its several subordinate committees and agencies and for the office of higher education and present the budget as part of the budget for higher education, under the requirements of section 35-3-4."*

This will needlessly politicize higher education. This form of micro-management of higher education runs counter to the best practice followed many other states. This budget substantially weakens the Board's ability to set priorities among the institutions

*Less than one third of other states vest authority for the allocation of appropriations in a single state board. Even among states that do report having such a system, some still have limitations, such as making appropriations for 4- year institutions separate from those for 2-year institutions. The most common system, used in 20 states, is one in which the legislatures appropriate funds directly to the institutions, most of which have wide discretion in the use of those funds. The rest of the states have some combination of these two systems.*

*The Board has simply lost its ability to reset its priorities after the budget has been enacted without returning to the Governor and the Assembly. The Board continues to exercise control over the institutions as it did before. The Board continues to control the content of the budget submitted to the Governor, which presumably reflects the Board's priorities.*

The result will be political jockeying within the State House for additional funds as well as opening up the process to undue influence. This is poor public policy and should be reversed.

*That jockeying has occurred for years, and continues to occur under this administration. It is common practice for individuals and groups associated with the institutions to express support for initiatives, not deemed Board priorities, directly to the Governor and the General Assembly. It appears that the Board's authority to allocate funds among the institutions does not prevent attempts to secure executive or legislative backing for specific activities.*

This budget also fails to include a provision necessary to ensure that state personnel costs are kept in check. My budget included an article that defines the term "state employee." This definition is needed because the State Labor Relations Board recently issued a decision decreeing that 1,300 private-sector child care providers are state employees. The consequence is that the owners and employees of these private businesses would be entitled to state employee benefits. This decision is unprecedented and outrageous. The child care providers were never hired by the state as employees. They are the operators of private businesses who happen to provide services to some children whose parents receive a state child care subsidy. My administration is vigorously challenging it in the courts. But if it stands, it could cost the taxpayers over \$8.0 million annually.

I am concerned that groups of other private sector service providers may also seek to be declared state employees. The consequences to our fiscal solvency could be devastating. Fighting these in court will be a needless waste of taxpayer money. The executive branch, through the state personnel system, must be able to control the number of state employees. To that end, I introduced an article that would make it clear to the State Labor Relations Board and others that only persons placed into state service by our official state personnel system are entitled to state benefits.

*The Assembly did not include this item - it is being adjudicated.*

The General Assembly also failed to include an appropriation in a salary adjustment fund that I proposed in order to implement a health care co-share for state employees. I believe that it is imperative that state employees begin to share the cost of their health care. Most private sector workers share the cost of their own health care, as do state employees in neighboring Massachusetts and Connecticut. Because state employees received no raise this year, I proposed a state employee raise of two percent coupled with a health care co-share of seven percent of the premium cost. The costs associated with this plan amounted to \$5.9 million in general revenues. As a matter of equity with most working citizens of Rhode Island, I intend to move forward with my proposal to institute a health care co-share nevertheless. I urge the General Assembly to approve the funding necessary to accomplish this.

*The Assembly retained the funding as proposed by the Governor in balances. It did not endorse nor reject his proposal – that is a matter for collective bargaining. It is ironic that the Governor would choose to involve the Assembly in the collective bargaining process, which has generally been considered the purview of the executive function.*

The owners of greyhounds at Lincoln Park also benefit yet again. In my recommended budget, I proposed eliminating the state subsidy for the owners of greyhounds at Lincoln Park. Under that proposal, the state would have saved approximately \$11.0 million in FY 2005. The General Assembly rejected this plan and opted to protect this special interest group again, just as they did

last year when they rejected a similar proposal to eliminate the subsidy. The Assembly's budget includes a \$5.8 million subsidy for the dogs. It is no comfort that the subsidy is now disguised as an additional payment to Lincoln Park. The scheme to shift money that would otherwise have gone to the taxpayers to Lincoln Park so that the Park can further subsidize the dogs is no better than the current system of direct subsidy. It is shameful that legislative budget makers could find millions of dollars to subsidize the dogs but find no time to consider additional relief for low-income elderly taxpayers.

*The Assembly ended the commission paid to the kennel owners. Payments to kennel owners are a business or contractual matter between them and the facility. There have been such contracts since the beginning of dog racing, that the state is not party to.*

*The Assembly increased the commission to the Lincoln facility with the hopes of encouraging the investment necessary so that previously authorized machines can be installed. This is similar to the resolution offered to the Governor last year, which he rejected, with the resulting revenue losses.*

*The Assembly also increased the share of Lincoln net terminal income paid to the town of Lincoln to help compensate for losses from what is likely to be lower dog racing receipts.*

For all these reasons, I return this act with my objections.

*This is a good budget. I move passage of 2004 H-8219 notwithstanding the veto of the Governor.*