

State of Rhode Island and Providence Plantations

Journal of the Senate

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

Volume 132, No. 17

Thursday, March 2, 2006

Seventeenth Legislative Day

The Senate meets pursuant to adjournment and is called to order by the Honorable Joseph A. Montalbano, President of the Senate, at 4:09 o'clock P.M.

The roll is called and a quorum is declared present with 29 Senators present and 9 Senators absent as follows:

PRESENT – 29: The Honorable President Montalbano and Senators Algieri, Alves, Badeau, Bates, Caprio, Ciccone, Connors, Cote, Doyle, Felag, Fogarty, Gallo, Goodwin, Issa, McBurney, McCaffrey, Metts, Paiva Weed, Perry, Pichardo, Polisena, Raptakis, Revens, Roberts, Ruggerio, Sheehan, Tassoni, Walaska.

ABSENT – 9: Senators Blais, Breene, Damiani, DaPonte, Gibbs, Lanzi, Lenihan, Levesque, Sosnowski.

INVOCATION

The Honorable President, by unanimous consent, presents Senator Bates, to deliver the invocation.

(See Appendix for Invocation)

PLEDGE OF ALLEGIANCE TO THE FLAG

The Honorable President, by unanimous consent, presents Senator Bates, to lead the Senate in the pledge of allegiance to the flag.

APPROVAL OF RECORD

The Senate Journal of the sixteenth Legislative Day of the 2006 proceedings is read in part.

Upon suggestion of Senator Bates, and by unanimous consent, further reading of the Journal is dispensed with and the Journal approved as recorded.

COMMUNICATION

The Honorable President presents the following communication:

March 2, 2006

The Honorable Joseph A. Montalbano
President of the Senate
317 State House
Providence, RI 02903

Dear Mr. President:

Please be advice and let the records reflect that I will be absent on Thursday March 2, 2006.

I would appreciate your recording my letter in the appropriate Senate Journal.

Thank you for your attention to this matter.

Sincerely,
Michael J. Damiani
State Senator – District 18

Read and ordered to be placed on file.

NEW BUSINESS

Senate Resolution No. 2886

BY Senator Felag

ENTITLED, JOINT RESOLUTION CONGRATULATING THE 2005 WARREN ATHLETIC HALL OF FAME INDUCTEES.

Senator Felag requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Senator Felag moves passage, seconded by Senator Bates and the entire Senate.

The resolution is read and passed, upon a voice vote.

Also:

Senate Resolution No. 2887

BY Senators Gallo, Walaska, Bates, Fogarty P, Levesque C

ENTITLED, SENATE RESOLUTION PROCLAIMING THE YEAR OF 2006 AS "THE YEAR OF POLIO EDUCATION" AND THE MONTH OF NOVEMBER AS "POLIO EDUCATION MONTH".

Senator Gallo requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Senator Gallo moves passage, seconded by Senators Fogarty, Polisena and the entire Senate.

The resolution is read and passed, upon a voice vote.

ANNOUNCEMENTS

Senator Felag announces that the Committee on Finance will meet on Tuesday, March 7, 2006, at the rise of the Senate, in Room 211 of the State House.

TRANSMITTAL

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

ADJOURNMENT

Upon motion of Senator Paiva Weed seconded by Senator Algieri the Senate adjourns at 4:14 o'clock P.M.

RAYMOND T. HOYAS, JR.
Secretary of the Senate

Appendix

INVOCATION

SENATOR DAVID E. BATES

Heavenly Father, we thank you for your blessings of health and strength. We seek your encouragement in using these qualities to their fullest potential. Amen.

Appendix**CALENDAR****IN ORDER FOR TUESDAY, MARCH 7, 2006:****1 2006-S 2011 SUB A****BY Walaska****ENTITLED,** AN ACT RELATING TO MOTOR AND OTHER VEHICLES --
DEFINITIONS AND GENERAL CODE PROVISIONS

Committee on Commerce, Housing & Municipal Government recommends indefinite postponement of the original bill and passage of Substitute A.

2 2006-S 2191**BY Gibbs****ENTITLED,** AN ACT RELATING TO MOTOR AND OTHER VEHICLES

Committee on Commerce, Housing & Municipal Government recommends passage.

3 2006-S 2454**BY Breene****ENTITLED,** AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT
-- DEPARTMENT OF TRANSPORTATION

Committee on Commerce, Housing & Municipal Government recommends passage.

4 2006-H 6717 SUB A**BY Fox****ENTITLED,** AN ACT RELATING TO MOTOR AND OTHER VEHICLES

Committee on Commerce, Housing & Municipal Government recommends indefinite postponement of the original bill and passage of Substitute A in concurrence.

5 2006-S 2592**BY Lenihan****ENTITLED,** AN ACT RELATING TO CITIES AND TOWNS -- MUNICIPAL
EMPLOYEES BENEFITS

Committee on Government Oversight recommends passage.

6 2006-S 2595**BY Lenihan****ENTITLED,** AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT --
INDUSTRIAL RECREATIONAL BUILDING AUTHORITY

Committee on Government Oversight recommends passage.

7 2006-S 2598**BY Felag****ENTITLED,** AN ACT RELATING TO HIGHWAYS -- MOUNT HOPE BRIDGE
AUTHORITY

Committee on Government Oversight recommends passage.

8 2006-S 2740**BY Lenihan****ENTITLED,** AN ACT RELATING TO HEALTH AND SAFETY -- RHODE
ISLAND RESOURCE RECOVERY CORPORATION

Committee on Government Oversight recommends passage.

9 2006-S 2742 SUB A**BY Levesque C****ENTITLED,** AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENTCommittee on Government Oversight recommends indefinite postponement of the
original bill and passage of Substitute A.**10 2006-S 2743 as amended****BY Levesque C****ENTITLED,** AN ACT RELATING TO PUBLIC PROPERTY AND WORKS --
NARRAGANSETT INDIAN LAND MANAGEMENT
CORPORATION

Committee on Government Oversight recommends passage as amended.

11 2006-S 2826**BY Connors****ENTITLED,** AN ACT RELATING TO SEPARATION OF POWERS

Committee on Government Oversight recommends passage.

Raymond T. Hoyas, Jr.
Secretary of the Senate

PROCEEDINGS IN JOINT SESSION

Thursday, March 2, 2006

The Honorable President of the Senate, Joseph A. Montalbano, in the Chair.

CALLED TO ORDER

The Joint Session is called to order at 4:53 o'clock P.M.

Upon suggestion of the Honorable President, and by unanimous consent, the reading of the roll of the Senate and the roll of the House of Representatives is dispensed with, there being a quorum of the Senate and a quorum of the House of Representatives present, therefore a quorum of the Joint Session.

Upon suggestion of the Honorable President, and by unanimous consent, the reading of the Resolution (06-H 7825) of invitation is dispensed with.

The Honorable President, by unanimous consent, appoints Senators Ruggerio, Ciccone, Tassoni, Felag, Doyle, Sheehan and Representatives O'Neill, Lewis, Jacquard, Jackson, Rice, Loughlin and Mumford as a Committee to escort the Honorable members of the Judiciary to the Chamber.

Joint Session attends while members of the Judiciary enter the Chamber.

The Honorable President, by unanimous consent, appoints Senators Paiva Weed, McCaffrey, Caprio, Bates and Representatives Dennigan, Williamson, Lally, Story, and Gorham as a Committee to escort the Honorable Chief Justice to the Chamber.

Joint Session attends while the Honorable Chief Justice, Frank J. Williams, enter the Chamber.

The Honorable Chief Justice, Frank J. Williams, enters the Chamber.

The Honorable President presents the Honorable Chief Justice, Frank J. Williams, to the Joint Session.

The Chief Justices delivers his State of the Judiciary Address.

Upon suggestion of the Honorable President, and by unanimous consent, the Joint Session attends while the committee escorts the Honorable Chief Justice Frank J. Williams, and invited guests from the Chamber.

ADJOURNMENT

Upon motion of Speaker Murphy, seconded by Senate Majority Leader Paiva Weed and House Majority Leader Fox, and by unanimous consent, Joint Session adjourns and the two Houses separate at 5:31 o'clock P.M.

Raymond T. Hoyas, Jr.
Secretary of the Senate

Gabriel Rei
Deputy Clerk of the Senate

Chief Justice Frank J. Williams
Fifth Annual State of the Judiciary
March 2, 2006

Thank you very much.

Mr. President, Mr. Speaker, honorable members of the General Assembly, my colleagues in the Judicial branch, and distinguished guests: It is an honor and a privilege to stand before you in our first joint session this afternoon to deliver my fifth annual State of the Judiciary Address.

We have come a long way together since 2001, and we have accomplished much collectively, thanks to your willingness to share in our vision of justice for all.

As I entered these chambers, I was greeted by your doorkeepers, who serve you with distinction. And it reminded me of how, in a sense, we are all doorkeepers. You in the General Assembly are the keepers of the doors that ensure legislative initiatives. We in the Judiciary are the keepers of the doors to justice. But we are not just keeping those doors – we are opening them further. And we both seek to keep the doors open for the independence of our respective branches of government.

Together over these past five years, we have opened new doors to accessible and more user-friendly courts. We have opened new doors with our education initiatives in the schools. New doors to procedures and practices. New doors to technology. And new doors to judicial independence.

Shortly before I took the oath as your Chief Justice, I said I believed I had ten good years left as a judge, with one good war left in me, and that I hoped I could make a difference. I have had five good years so far, with a few battles along the way. There is no doubt in my mind that together we have advanced the cause of justice in Rhode Island.

In our technological advancements, perhaps no large-scale accomplishment of the past year will have more of an impact than the decommissioning of our antiquated and inefficient WANG computer system. We accomplished that only a few weeks ago. With the \$6 million you provided over several years, we have brought our data-processing capabilities through the portal and into the 21st century. Thank you!

The judicial staff from all our courts worked diligently throughout the year and over the course of several weekends to make this transition. We converted the Supreme, Superior, Family, and Workers' Compensation Courts, the central registry, disciplinary counsel, and the court appointment panel.

These civil-case conversions represent the majority of the workload for our Judiciary. We entered the names of more than 444,000 parties into the system and we added more than 233,000 cases. By any stretch, this was a massive effort by our staff. We still face implementation for District Court civil cases, which were never on the WANG system to begin with.

The Judiciary continues to distribute refurbished computer equipment to agencies in need. As you may know, the courts have donated equipment in the past to school districts including Pawtucket, Woonsocket and Central Falls, as part of our Operation Phoenix program.

And now for some breaking news. We may have found a home for the antiquated WANG system. The New Orleans juvenile court had a WANG system that was wiped out by Hurricane Katrina. We learned

just last week that officials from Louisiana were desperate for WANG equipment, and I am happy to report that our Judicial Technology Center is now working to get it to Louisiana.

In addition to our technological advancements, our community outreach accomplishments continue to grow. Our "Justice Rules" program puts teams of lawyers, judges, and judicial staff into classrooms across the state to teach our youth about the basic principles of the legal system, to cultivate positive attitudes about the third branch of government, and to promote interest about careers in the Judiciary. We are now in 28 of your cities and towns, reaching more than 50,000 school children from kindergarten to Grade 12.

Now in its second year, our Citizens' Summit television program on Channels 36 and 12 added to the success of its inaugural show on the Truancy Court by putting the spotlight on jury service, the Supreme Court, and the important mission of the Workers' Compensation Court. The jury may still be out on our television ratings, but we are far more informative than Judge Judy.

A video co-produced by the Judiciary with students from the Hugh B. Bain Middle School in Cranston on the landmark 1954 *Brown v. Board of Education* case, earned a major honor, a 2005 Public, Educational, and Governmental Award for best educational video, as well as the John Notte Award for outstanding achievement in public access television.

The Supreme Court continues to ride the circuit to conduct oral arguments of actual cases in the counties where we sit. During our last term, we sat in Smithfield, at Bryant University, and in Kingston, at the University of Rhode Island. Next month the Supreme Court will sit and hear cases at Warwick City Hall and will invite more than 100 high school students to our oral arguments as well as legislators, public officials, and citizens from the area.

Our appellate mediation program, with the service of eight retired justices and judges sitting as mediators, has had remarkable success. In 2004, 36 percent of the cases were resolved through mediation. I can now report a successful mediation rate of 50 percent in 2005. This percentage was my goal from the start, and while we have now realized it, I expect this success rate to continue to grow.

Last year, more than 230,000 cases were filed or heard in the Judiciary. In turn, we disposed of more than 227,000 cases. And we did this, in part, utilizing only 1.3 percent of the state's entire budget.

I am proud to report that our courts and the state's judges continue to work diligently and carefully as they attend to their judicial responsibilities.

Joining me this afternoon are my judicial colleagues and staff from each of our six state courts. Tomorrow the Judiciary will honor 125 members of our judicial staff in our fourth annual Employee Awards Day. It is their dedication and commitment that make us succeed. Because of them, we are able to get up and make the doughnuts each and every day.

In the Supreme Court, we heard 464 cases in 2005. It may interest you to know that the United States Supreme Court, by comparison, heard 87 cases in its most recent term.

With no intermediate appellate court in Rhode Island, the Supreme Court receives all the appeals from the trial courts. We deal with a vast array of cases, from constitutional issues, to all criminal appeals, to the heart-rending termination of parental rights.

The gun calendar in our Superior Court disposed of 192 cases within an average of 177 days. The Adult Drug Court offers services to eligible people facing criminal charges statewide. The program developed from a pilot initiative that began with about 40 people to a full-time program with more than 115 active participants.

In the Family Court, we have expanded our Truancy Court into 200 schools and in 33 of our cities and towns. With the assistance of Congressman Patrick Kennedy, a \$400,000 grant has been secured to implement a Mental Health Clinic within the Family Court. This program will provide timely assessments for children and families that have suspected mental health issues and it will make the appropriate referrals.

The District Court has continued its rollout of the criminal complaint interface with state and local police departments. This will allow police personnel to transfer criminal data back and forth with the courts.

Last fall, the Workers' Compensation Court unveiled its YES-RI initiative, a program conceived by Chief Judge George Healy, Jr. to educate our youngest workers about safety and their rights in the workplace.

Our Traffic Tribunal continues to be the state's busiest court, processing more than half the Judiciary's caseload and continuing to erase backlog by disposing of more cases than it takes in.

But for all that we have achieved since 2001, and for all that we must continue to do, I am alarmed at the Governor's proposed budget that expects the courts to balance the Judiciary's books on the backs of the very people we serve. This plan would turn the Judiciary into a collection agency. We cannot collect enough fines and court costs to pay our way, nor should we be expected to do so. The Judiciary is not the revenue raising branch of state government.

The Governor's recommendation of \$50.8 million represents a \$35.9 million reduction from our request of \$86.8 million – a 41 percent cut. The Governor's proposal assumes the Judicial branch would collect \$22.4 million in costs, fines, and fees – as we did last year – with an additional \$7.7 million to be collected in Fiscal Year 2007, while recommending that we do so with 21 fewer employees available for revenue enhancement. In addition, \$5.3 million in court technology cuts has been targeted, which would further inhibit our daily operations.

This pay-as-you-go approach is not only inadvisable, it raises serious constitutional issues. The United States Supreme Court has twice struck down this kind of budgetary funding. Specifically, the highest court in the land has found that a person who is subject to legal proceedings must appear before a disinterested and impartial judicial officer.

I do not often say this, but today I will. YOU be the judge: The Governor's budget would hardly leave our courts disinterested if we are forced to collect fines and costs for our operating revenue. The Judiciary should continue to exist to administer justice fairly and evenly, to all who come before it.

The Judiciary is not part of the Executive branch. Like you, we are an independent arm of government, and the Governor's budget would roll back our respective independence. As a separate, co-equal branch of government, we find this unacceptable and unfair to the very people who appear in our courts on a daily basis.

You in the General Assembly are the appropriating authority, as required by our Constitution and separation of powers, and we ask that our Fiscal Year 2007 funding request of \$86.8 million be approved to allow us to continue to function efficiently and effectively. Quite simply, this amount is what the Judiciary needs to operate the courts at current levels of service.

We recognize the hard economic times we live in, yet we continue to hold our spending to just 1.3 percent of the state's entire budget. Despite a built-in budget shortfall last year of \$3.2 million, we lived within your appropriation, but not without sacrifice. We need to be made whole again.

Since I took over the responsibilities of overseeing our state courts, I have not come back to you with a supplemental budget request for four straight years. I promised I would not do that, and I have kept my word. Please understand, we put a lot of effort into formulating our budget request. There is still a lot of pain in it, but the number we have given you is REAL and it is ESSENTIAL, and without it we would be crippled.

As you know, technology is a force that is constantly changing. We cannot afford to sit idly by and incur sustained cuts to this program. That is what caused the crisis that you and I were forced to confront five years ago, and I am confident you do not want us to lose the ground that we gained with your help.

Our Judicial Technology Center has become a nationally recognized resource and it is relied upon by many Rhode Island agencies other than the courts, such as: the Department of the Attorney General, the Department of Corrections, the Public Defender's Office, and our state and local police departments. Indeed, some 60 percent of our registered database users are from outside the Judiciary. This service is vital to our state.

Ladies and gentlemen, the citizens of our great state are fortunate that you, the General Assembly, recognize the need for improvements in our infrastructure.

This spring, we will open the doors to our beautiful new courthouse in Kent County. This facility will house a state-of-the-art data center with multiple backup and disaster-recovery capabilities and will provide a safe and secure facility for the people of Kent County.

The Traffic Tribunal, on the grounds of the John O. Pastore Center in Cranston, is expected to open by year's end. Included in our budget request for 2007 are the annualized costs for the operations of these courthouses, as well as the funds necessary for critical facility upgrades in our existing judicial buildings. I wish to emphasize, we plan to open these facilities with minimal adjustments to our staffing levels.

We appreciate your continued support for construction of a badly needed courthouse in Blackstone Valley. Thanks to your efforts over the past two years, we were able to finance the necessary preliminary work, and we are happy to report that our task force of legislators, lawyers, and citizens has provided a design for a functional, user-friendly courthouse to reflect this historic region's rich manufacturing heritage and culture.

Not only will this structure provide a more convenient and more accessible courthouse for the residents in the northern part of our state, it will relieve the overcrowding and overflow of cases now being handled in the Garrahy Judicial Complex in downtown Providence. The Garrahy building is 25 years old and it is used by over 3,000 people a day – twice the number it was designed to accommodate.

When the timing is right, and the Governor has approved it, we will seek your approval of a Kushner letter authorizing us to go forward, consistent with the state's fiscal condition.

As we continue to strive for more accessibility and understanding, we seek an expansion of one of our most successful initiatives – that of our court interpreter program. In its first full year of operation in 2005, this program assisted more than 3,000 people in our courts. That is a far cry from the days when a judge solicited volunteers in the courtroom to help non-English speaking litigants gain access to justice.

This competent and highly motivated group of six Spanish-speaking interpreters provides assistance that ranges from directing citizens to the proper courtroom at help desks, to translating delicate matters such as parental rights, custody battles, and trials. Judges and interpreters have appeared on Spanish radio shows to inform this growing population of this service in the Judiciary. Last year, you supported our move to add interpreters in Southeast Asian, Cape Verdean, and Portuguese languages. These were unfunded FTEs and I hope to find the funds to have them on board this year.

We continue our commitment to separation of powers by asking your support for our legislative package this year, which includes a bill to transfer the Domestic Violence Training and Monitoring Unit to the Executive branch, where it belongs.

We also seek to remove the payment of indigent defense services from the Judiciary to the Executive branch. Not one other New England state requires that this service come from the Judiciary. Of course, the FTEs and funding for these functions would also be transferred.

Another bill would move the appeal of State Housing Appeals Board decisions from the Supreme Court to the Superior Court, so that they would be heard in much the same manner as zoning appeals.

As Winston Churchill said, it is not enough to say you are doing your best. You have got to succeed in doing what is necessary. We must do what is right, what is just, what is necessary for all who enter Rhode Island's halls of justice.

I invite each of you to once again pass through our doors and participate in our next Legislators' Law Day after the election. This orientation to our courts proved so popular with many of you last year that we plan to make it a biennial event.

Rosa Parks, who passed away just last year, said: "I would like to be known as a person who is concerned about freedom and equality and justice and prosperity for all people."

I share in that quest, and I ask you once again to join me at the threshold as we continue to advance our goal of safe, efficient, and user-friendly courts for all Rhode Islanders and all who come through the doors of our courts – the last refuge of our democracy.

I thank you for this opportunity to address you in joint session this evening. May God bless you and our beloved State of Rhode Island.