

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 sixth day of January in the year of Our Lord two thousand and nine.

Volume 136, No.59

Wednesday, June 17, 2009

Fifty-ninth Legislative Day

The Senate meets pursuant to adjournment and is called to order by the Honorable M. Teresa Paiva Weed, Madam President of the Senate, at 4:29 o'clock P.M.

The roll is called and a quorum is declared present with 38 Senators present and 0 Senators absent as follows:

PRESENT – 38: The Honorable President Paiva Weed and Senators Algieri, Bates, Blais, Ciccone, Connors, Cote, Crowley, DaPonte, Devall, DiPalma, Doyle, Felag, Fogarty, Gallo, Goodwin, Jabour, Lanzi, Lenihan, Levesque, Lynch, Maher, Maselli, McBurney, McCaffrey, Metts, Miller, O'Neill, Perry, Picard, Pichardo, Pinga, Raptakis, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

ABSENT – 0:

INVOCATION

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

(See Appendix for Invocation)

PLEDGE OF ALLEGIANCE TO THE FLAG

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

APPROVAL OF RECORD

The Senate Journal of the Fifty-eighth Legislative Day of the 2009 proceedings is read in part.

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

APPOINTMENTS BY THE GOVERNOR

The Honorable President presents the following communication from His Excellency, the Governor, transmitting the following appointments and requesting the advice and consent of the Senate thereto:

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
STATE HOUSE**

June 17, 2009

TO THE HONORABLE, THE SENATE:

I have the honor to inform you that in accordance with the provisions of Article 10, Section 4 of the Rhode Island Constitution entitled Judicial Section, I have made the following appointment as Associate Justice of the Rhode Island Superior Court:

Kristin E. Rodgers of Warwick

VICE

ASSOCIATE JUSTICE VINCENT A. RAGOSTA

To this appointment, I respectfully request your advice and consent.

Sincerely,



Donald L. Carcieri

Governor

Read and referred to the Committee on Judiciary.

FROM THE HOUSE OF REPRESENTATIVES

A message from the House of Representatives transmits with announcement of passage, of the following measures:

House Bill No. 6240**BY** Lally**ENTITLED**, AN ACT TO VACATE THE FORFEITURE OR REVOCATION OF ETA ZETA OF LAMBDA CHI ALPHA {LC2663/1}

Read and ordered to be placed on the Senate Consent Calendar

Also:

House Bill No. 5345**BY** McCauley, Schadone, Corvese, Caprio D, Palumbo

ENTITLED, AN ACT RELATING TO SPORTS RACING AND ATHLETICS -- MIXED MARTIAL ARTS (would permit mixed martial arts matches in Rhode Island and provides the rules, regulations and guidelines for such matches)

Received and referred to the Senate Committee on Constitutional and Regulatory Issues

Also:

House Bill No. 5644

BY Ucci, Fellela, McNamara, Carnevale

ENTITLED, AN ACT RELATING TO EDUCATION - ELIGIBILITY FOR ATTENDANCE {LC1163/1}

Received and referred to the Senate Committee on Education

Also:

House Bill No. 5642

BY Carnevale, DaSilva, Ucci, MacBeth, Shallcross Smith

ENTITLED, AN ACT RELATING TO EDUCATION -- SCHOOL COMMITTEES AND SUPERINTENDENTS (would make every child who has completed a state recognized or accredited kindergarten program & has completed six years of life on or before September 30 of any school year eligible to attend first grade) {LC1794/1}

Received and referred to the Senate Committee on Education

Also:

House Bill No. 6220

BY Ehrhardt, Lally, Carter

ENTITLED, AN ACT AUTHORIZING THE TOWN COUNCIL OF THE TOWN OF NORTH KINGSTOWN TO EXEMPT FROM TAXATION THE COCUMCUSSOC ASSOCIATION (would increase the Cocumcussoc Association's property tax exemption to eight million dollars (\$8,000,000).) {LC2678/1}

Received and referred to the Senate Committee on Housing and Municipal Government

Also:

House Bill No. 5611

BY Lally, Brien

ENTITLED, AN ACT RELATING TO PUBLIC FINANCE -- STATE INVESTMENT COMMISSION (would expand the powers of the state investment commission to the extent of authorizing public funds investments in accordance with the prescribed conditions) {LC1866/1}

Received and referred to the Senate Committee on Finance

Also:

House Bill No. 6232**BY** Walsh**ENTITLED**, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES (would allow Marcia Reback to join Maureen G. Martin and Kevin W. Ryan in marriage within the Town of Narragansett, Rhode Island on or about August 1, 2009) {LC2695/1}

Received and referred to the Senate Committee on Judiciary

Also:

House Bill No. 6244**BY** Gallison**ENTITLED**, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES (would allow Richard Wolberg to join Julie Wolfson and Jamison Moeser in marriage within the Town of Bristol, Rhode Island on or about October 11, 2009) {LC2751/1}

Received and referred to the Senate Committee on Judiciary

Also:

House Bill No. 5650 SUB A**BY** Senators O'Neill JP, Jackson, Melo, Serpa**ENTITLED**, AN ACT RELATING TO FOOD AND DRUGS - VETERINARY DRUGS - VETERINARY PRESCRIPTIONS (would require that a veterinarian be required to give an honorable prescription form for any drug prescribed to treat an animal to the owner or caretaker of the animal) {LC1969/1/A}

Received and referred to the Senate Committee on Constitutional and Regulatory Issues

Also:

House Bill No. 5969**BY** Lima, Naughton, Giannini, Fellela, Ajello**ENTITLED**, AN ACT RELATING TO COURTS AND CIVIL PROCEDURE - PROCEDURE IN PARTICULAR ACTIONS - DEATH BY WRONGFUL ACT (would allow a parent to recover damages for loss of consortium or parental society and companionship irrelevant of the son or daughter's age) {LC2102/1}

Received and referred to the Senate Committee on Judiciary

Also:

House Bill No. 5738 SUB A**BY** Caprio D, Petrarca, Silva, Edwards, Lally**ENTITLED**, AN ACT RELATING TO COURTS AND CIVIL PROCEDURES - PROCEDURE IN PARTICULAR ACTIONS - WRONGFUL DEATH (would allow for the recovery of punitive damages in a wrongful death suit) {LC1852/1/A}

Received and referred to the Senate Committee on Judiciary

Also:

House Bill No. 5303 SUB A

BY Vaudreuil, Silva, Corvese, Serpa, Mattiello

ENTITLED, AN ACT RELATING TO LABOR AND LABOR RELATIONS -- TEMPORARY DISABILITY INSURANCE BENEFITS (would prevent injured in the line of duty personnel who receive full pay & benefits for their work related disability from simultaneously receiving TDI.) {LC893/1/A}

Received and referred to the Senate Committee on Labor

Also:

House Bill No. 5950

BY Diaz, Slater, Almeida, Williams, Segal

ENTITLED, AN ACT RELATING TO LABOR AND LABOR RELATIONS -- TEMPORARY EMPLOYEES (would require the employment agency of temporary employees to provide notification of new job descriptions and of potential violations of the temporary employee protection act) {LC2068/1}

Received and referred to the Senate Committee on Labor

**REPORTS OF COMMITTEES
COMMITTEE ON JUDICIARY**

Senator McCaffrey from the Committee on Judiciary, reports back, with recommendation of passage of the following measures:

Senate Bill No. 948

BY Senator DiPalma

ENTITLED, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES (would allow Jay Tanzman to join Jodie Paglia and Glenn Tanzman in marriage within the City of Newport, Rhode Island on or about August 1, 2009.) {LC2664/1}

Read and ordered to be placed on the Senate Consent Calendar

Also:

Senate Bill No. 949

BY Senator Miller

ENTITLED, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES (would allow Sarah Elisabeth Paquet to join Lee Ann Scotto and Robert G. Adams, Jr. in marriage within the Town of Tiverton, Rhode Island on or about August 1, 2009.) {LC2656/1}

Read and ordered to be placed on the Senate Consent Calendar

Also:

Senate Bill No. 950

BY Senators Maher, Blais, Algieri

ENTITLED, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES (would allow Benjamin Joseph Reddish, III to join Karen Grimes and Craig Carrigan in marriage within the Town of Narragansett, Rhode Island on or about June 27, 2009.) {LC2661/1}

Read and ordered to be placed on the Senate Consent Calendar

Also:

House Bill No. 6155

BY Martin, Shallcross Smith, Walsh, DaSilva

ENTITLED, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES (would allow William F. Jannott may join Sara M. Kwon and Casey C. Jannott in marriage within the City of Newport, Rhode Island on or about August 11, 2009) {LC2523/1}

Read and ordered to be placed on the Senate Consent Calendar

Also:

House Bill No. 6211

BY Lally

ENTITLED, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES (would allow Judge Robert S. Cohen to join Caroline Elizabeth Sartor and Peter Douglas Abrams in marriage within the Town of Narragansett, Rhode Island on or about July 25, 2009.) {LC2642/1}

Read and ordered to be placed on the Senate Consent Calendar

Also:

House Bill No. 6231

BY Menard

ENTITLED, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES {LC2707/1}

Read and ordered to be placed on the Senate Consent Calendar

Also:

Senate Bill No. 605 SUB A as amended

BY Senators Perry, Crowley, Gallo, Sosnowski, Lanzi

ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES - TRAFFICKING OF PERSONS AND INVOLUNTARY SERVITUDE (would mandate a fine of no less than \$40,000 and imprisonment for up to life for anyone found guilty of sex trafficking of a minor) {LC1530/2/A}

Read and ordered to be placed on the Calendar

Also:

Senate Bill No. 974

BY Senators Blais, Connors

ENTITLED, AN ACT RELATING TO THE RHODE ISLAND HOUSING AND MORTGAGE FINANCE CORPORATION (would provide that the appointment of the exec. director of RI Housing and Mortgage Finance Corp. would be for a term of 3 years & would be subject to the advice and consent of the senate.) {LC2712/1}

Read and ordered to be placed on the Calendar

Also:

Nomination of Magistrate Angela Paulhus (appointment) as Magistrate of the Rhode Island Family Court, for a term of ten (10) years.

Read and ordered to be placed on the Senate Consent Calendar

NEW BUSINESS

Senate Bill No. 990

BY Senators O'Neill E, Maher, Raptakis, Connors, Paiva-Weed

ENTITLED, AN ACT EXEMPTING FROM TAXATION THE REAL, MIXED AND PERSONAL PROPERTY OF RING RETIREES ASSOCIATION {LC2794/1}

Read and referred to the Senate Committee on Finance

Also:

Senate Bill No. 991

BY Senators Lanzi, Paiva-Weed, Connors, Maher, Perry

ENTITLED, AN ACT RELATING TO HEALTH AND SAFETY - LICENSING OF HEALTH CARE FACILITIES {LC2683/1}

Read and referred to the Senate Committee on Health and Human Services

Also:

Senate Bill No. 992

BY Senators Crowley, Blais

ENTITLED, AN ACT RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS -COPPER THEFT PREVENTION ACT {LC2634/1}

Read and referred to the Senate Committee on Judiciary

CALENDAR

IN ORDER FOR WEDNESDAY, JUNE 17, 2009:

1. 2009-S 111 SUB A

BY Miller

ENTITLED, AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS

Committee on Environment & Agriculture recommends indefinite postponement of the original bill and passage of Substitute A.

Senator Sosnowski moves passage, seconded by Senators Levesque, Miller Connors, Ciccone, Picard, Jabour and Ruggerio.

Senator Sosnowski seconded by Senator Ruggerio, offers the following written motion to amend.

FLOOR AMENDMENT

2009 -- S 111 SUBSTITUTE A

AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS

Madam President:

I hereby move to amend 2009 -- S 111 SUBSTITUTE A, entitled "AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS", as follows:

(1) On page 1, line 15, by deleting the language "of a similar".

(2) On page 1, line 16, by deleting the word and period "nature.", and inserting in place thereof the language "involving newly developed renewable energy resources".

(3) On page 3, by deleting all of the language on lines 28 through 34, inclusive.

(4) On page 4, by deleting all of the language on lines 1 through 4 inclusive and inserting in lieu thereof the following language:

"(c)(1) No electric distribution company shall be obligated to enter into long-term contracts for newly developed renewable energy resources on terms which the electric distribution company reasonably believes to be commercially unreasonable; provided, however, if there is a dispute about whether these terms are commercially unreasonable, the commission shall make the final determination after an evidentiary hearing. The electric distribution company shall not be obligated to enter into long-term contracts pursuant to this section that would, in the aggregate, exceed the minimum long-term contract capacity, but may do so voluntarily subject to commission approval. As long as the electric distribution

company has entered into long-term contracts in compliance with this section, the electric distribution company shall not be required by regulation or order to enter into power purchase contracts with renewable generation projects for power, renewable energy certificates, or any other attributes with terms of more than three (3) years in meeting its applicable annual renewable portfolio standard requirements set forth in section 39-26-4 or pursuant to any other provision of the law."

(5) On page 4, line 20, by deleting the language "implemented in this chapter" and inserting in place thereof the language "promulgated by the commission pursuant to this chapter".

(6) On page 7, after line 15, add the following new paragraph (d):

"(d) Any contract entered into pursuant to this section shall count as part of the minimum long-term contract capacity."

Respectfully submitted,

SENATOR SOSNOWSKI

Senators Sosnowski, Lenihan, Blais and Raptakis discuss the amendment.

The motion to amend prevails upon a roll call vote with 36 Senators voting in the affirmative and 1 Senator voting in the negative as follows:

YEAS- 36: The Honorable President Paiva Weed and Senators Algieri, Bates, Blais, Ciccone, Connors, Cote, Crowley, DaPonte, Devall, DiPalma, Doyle, Felag, Fogarty, Gallo, Goodwin, Jabour, Lanzi, Lenihan, Levesque, Lynch, Maher, Maselli, McCaffrey, Metts, Miller, O'Neill, Perry, Picard, Pichardo, Pinga, Raptakis, Ruggerio, Sosnowski, Tassoni, Walaska.

NAYS- 1: Senator Sheehan

Senator Sosnowski moves passage of the act, as amended, seconded by Senators Levesque and Miller.

The act is read and passed, by unanimous consent, as amended, upon a roll call vote with 36 Senators voting in the affirmative and 1 Senator voting in the negative as follows:

YEAS- 36: The Honorable President Paiva Weed and Senators Algieri, Bates, Blais, Ciccone, Connors, Cote, Crowley, DaPonte, Devall, DiPalma, Doyle, Felag, Fogarty, Gallo, Goodwin, Jabour, Lanzi, Levesque, Lynch, Maher, Maselli, McCaffrey, Metts, Miller, O'Neill, Perry, Picard, Pichardo, Pinga, Raptakis, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS- 1: Senator Lenihan

2. 2009-S 86 SUB A

BY Perry

ENTITLED, AN ACT RELATING TO CRIMINAL PROCEDURE -- SENTENCE

AND EXECUTION

Committee on Judiciary recommends indefinite postponement of the original bill and passage of Substitute A.

Senator Perry moves passage, seconded by Senators Connors, Metts, Levesque and Ruggerio.

Senator Perry seconded by Senators Connors and Metts, offers the following written motion to amend.

F L O O R A M E N D M E N T

2009 -- S 86 SUBSTITUTE A

AN ACT RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

Madam President:

I hereby move to amend 2009 -- S 86 SUBSTITUTE A, entitled "AN ACT RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION", as follows:

On page 2, line 11, by deleting the word "capability" and inserting in place thereof the word "culpability".

Respectfully submitted,
SENATOR PERRY

The motion to amend prevails upon a roll call vote with 37 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS- 37: The Honorable President Paiva Weed and Senators Algieri, Bates, Blais, Ciccone, Connors, Cote, Crowley, DaPonte, Devall, DiPalma, Doyle, Felag, Fogarty, Gallo, Goodwin, Jabour, Lanzi, Lenihan, Levesque, Lynch, Maher, Maselli, McCaffrey, Metts, Miller, O'Neill, Perry, Picard, Pichardo, Pinga, Raptakis, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS- 0:

Senator Perry moves passage of the act, as amended, seconded by Senators Connors and Metts.

Senators Raptakis, Perry, Metts and Levesque discuss the act.

The act is read and passed, by unanimous consent, as amended, upon a roll call vote with 32 Senators voting in the affirmative and 3 Senators voting in the negative as follows:

YEAS- 32: The Honorable President Paiva Weed and Senators Algieri, Ciccone, Connors, Cote, Crowley, DaPonte, Devall, DiPalma, Doyle, Felag, Fogarty, Gallo, Goodwin, Jabour, Lanzi, Lenihan, Levesque, Lynch, Maselli, McCaffrey, Metts, Miller, Perry, Picard, Pichardo, Pinga, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS- 3: Senators Bates, Blais, Raptakis

GUESTS

Upon suggestion of Senator Connors and by unanimous consent, the Honorable President, welcomes to the Chamber Rhode Island Senior Olympic Award Winners, Earl Sweeny, winner of the John Costine Cup Award, Billie Ann Burrill & Petey Smith, winners of the Anna Tucker Cup Award and Apostolos Xanthopoulos, winner of the Dr. Paul H. Narcessian Track & Field Throwers Award.

CALENDAR

3. 2009-S 374 SUB A

BY Lenihan

ENTITLED, AN ACT RELATING TO PUBLIC RECORDS -- ACCESS TO PUBLIC RECORDS

Committee on Judiciary recommends indefinite postponement of the original bill and passage of Substitute A.

Senator Lenihan moves passage, seconded by Senators McCaffrey, Cote, Miller, Sheehan and Metts.

Senator Lenihan seconded by Senators McCaffrey, Cote, Miller, Sheehan and Metts, offers the following written motion to amend.

FLOOR AMENDMENT

2009 -- S 374 SUBSTITUTE A

AN ACT RELATING TO PUBLIC RECORDS -- ACCESS TO PUBLIC RECORDS

Madam President:

I hereby move to amend 2009 -- S 374 SUBSTITUTE A, entitled "AN ACT RELATING TO PUBLIC RECORDS - ACCESS TO PUBLIC RECORDS", as follows:

1. By deleting all of the language following the enactment clause and inserting in place thereof the following language:

"SECTION 1. Sections 38-2-2, 38-2-3, 38-2-4, 38-2-6, 38-2-7, 38-2-8 and 38-2-9 of the General Laws in Chapter 38-2 entitled "Access to Public Records" are hereby amended to read as follows:

38-2-2. Definitions. -- As used in this chapter:

(1) "Agency" or "public body" shall mean any executive, legislative, judicial, regulatory, or administrative body of the state, or any political subdivision thereof; including, but not limited to, any department, division, agency, commission,

board, office, bureau, authority, any school, fire, or water district, or other agency of Rhode Island state or local government which exercises governmental functions, any authority as defined in section 42-35-1(b), or any other public or private agency, person, partnership, corporation, or business entity acting on behalf of and/or in place of any public agency.

(2) "Chief administrative officer" means the highest authority of the public body ~~as defined in subsection (a) of this section.~~

(3) "Public business" means any matter over which the public body has supervision, control, jurisdiction, or advisory power.

(4) (i) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, computer stored data (including electronic mail messages, except specifically for any electronic mail messages of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities) or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. For the purposes of this chapter, the following records shall not be deemed public:

(A) (I) All records which are identifiable to an individual applicant for benefits, client, patient, student, or employee, including, but not limited to, personnel, medical treatment, welfare, employment security, pupil records, all records relating to a client/attorney relationship and to a doctor/patient relationship, and all personal or medical information relating to an individual in any files, including information relating to medical or psychological facts, personal finances, welfare, employment security, student performance, or information in personnel files maintained to hire, evaluate, promote, or discipline any employee of a public body; provided, however, with respect to employees, the name, gross salary, salary range, total cost of paid fringe benefits, gross amount received in overtime, and other remuneration in addition to salary, job title, job description, dates of employment and positions held with the state or municipality, work location, business telephone number, the city or town of residence, and date of termination shall be public. For the purposes of this section, "remuneration" shall include any payments received by an employee as a result of termination, or otherwise leaving employment.

(II) Notwithstanding the provisions of this section, or any other provision of the general laws to the contrary, the pension records of all persons who are either current or retired members of the retirement systems ~~established by the general laws~~ as well as all persons who become members of those retirement systems after June 17, 1991 shall be open for public inspection. "Pension records" as used in this section shall include all records containing information concerning pension and

retirement benefits of current and retired members of the retirement systems ~~established in title 8, title 36, title 42, and title 45~~ and future members of said systems, including all records concerning retirement credits purchased and the ability of any member of the retirement system to purchase retirement credits, but excluding all information regarding the medical condition of any person and all information identifying the member's designated beneficiary or beneficiaries.

(B) Trade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature.

(C) Child custody and adoption records, records of illegitimate births, and records of juvenile proceedings before the family court.

(D) All records maintained by law enforcement agencies for criminal law enforcement and all records relating to the detection and investigation of crime, including those maintained on any individual or compiled in the course of a criminal investigation by any law enforcement agency. Provided, however, such records shall not be deemed public only to the extent that the disclosure of the records or information (a) could reasonably be expected to interfere with investigations of criminal activity or with enforcement proceedings, (b) would deprive a person of a right to a fair trial or an impartial adjudication, (c) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (d) could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority, or any private institution which furnished information on a confidential basis, or the information furnished by a confidential source, (e) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions or (f) could reasonably be expected to endanger the life or physical safety of any individual. Records relating to management and direction of a law enforcement agency and records or reports reflecting the initial arrest of an adult and the charge or charges brought against an adult, including the initial narrative report, shall be public.

(E) Any records which would not be available by law or rule of court to an opposing party in litigation.

(F) Scientific and technological secrets and the security plans of military and law enforcement agencies, the disclosure of which would endanger the public welfare and security.

(G) Any records which disclose the identity of the contributor of a bona fide and lawful charitable contribution to the public body whenever public anonymity has been requested of the public body with respect to the contribution by the contributor.

(H) Reports and statements of strategy or negotiation involving labor negotiations or collective bargaining.

(I) Reports and statements of strategy or negotiation with respect to the investment or borrowing of public funds,

until such time as those transactions are entered into.

(J) Any minutes of a meeting of a public body which are not required to be disclosed pursuant to chapter 46 of title 42.

(K) Preliminary drafts, notes, impressions, memoranda, working papers, and work products; provided, however, any documents submitted at a public meeting of a public body shall be deemed public.

(L) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment or promotion, or academic examinations; provided, however, that a person shall have the right to review the results of his or her examination.

(M) Correspondence of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities.

(N) The contents of real estate appraisals, engineering, or feasibility estimates and evaluations made for or by an agency relative to the acquisition of property or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all proceedings or transactions have been terminated or abandoned; provided the law of eminent domain shall not be affected by this provision.

(O) All tax returns.

(P) All investigatory records of public bodies, with the exception of law enforcement agencies, pertaining to possible violations of statute, rule, or regulation other than records of final actions taken provided that all records prior to formal notification of violations or noncompliance shall not be deemed to be public.

(Q) Records of individual test scores on professional certification and licensing examinations; provided, however, that a person shall have the right to review the results of his or her examination.

(R) Requests for advisory opinions until such time as the public body issues its opinion.

(S) Records, reports, opinions, information, and statements required to be kept confidential by federal law or regulation or state law, or rule of court.

(T) Judicial bodies are included in the definition only in respect to their administrative function provided that records kept pursuant to the provisions of chapter 16 of title 8 are exempt from the operation of this chapter.

(U) Library records which by themselves or when examined with other public records, would reveal the identity of the library user requesting, checking out, or using any library materials.

(V) Printouts from TELE -- TEXT devices used by people who are deaf or hard of hearing or speech impaired.

(W) All records received by the insurance division of the department of business regulation from other states, either

directly or through the National Association of Insurance Commissioners, if those records are accorded confidential treatment in that state. Nothing contained in this title or any other provision of law shall prevent or be construed as prohibiting the commissioner of insurance from disclosing otherwise confidential information to the insurance department of this or any other state or country, at any time, so long as the agency or office receiving the records agrees in writing to hold it confidential in a manner consistent with the laws of this state.

(X) Credit card account numbers in the possession of state or local government are confidential and shall not be deemed public records.

(Y) Any documentary material, answers to written interrogatories, or oral testimony provided under any subpoena issued under Rhode Island general law section 9-1.1-6.

(ii) However, any reasonably segregable portion of a public record excluded by this section shall be available for public inspections after the deletion of the information which is the basis of the exclusion, if disclosure of the segregable portion does not violate the intent of this section.

~~(5) "Supervisor of the regulatory body" means the chief or head of a section having enforcement responsibility for a particular statute or set of rules and regulations within a regulatory agency.~~

~~(6)(5) "Prevailing plaintiff" means and shall include those persons and entities deemed prevailing parties pursuant to 42 U.S.C. section 1988; provided, however, that a judgment in the plaintiff's favor shall not be a prerequisite to a plaintiff obtaining an award of attorneys' fees from the court.~~

38-2-3. Right to inspect and copy records -- Duty to maintain minutes of meetings -- Procedures for access. --

(a) Except as provided in section 38-2-2(4), all records maintained or kept on file by any public body, whether or not those records are required by any law or by any rule or regulation, shall be public records and every person or entity shall have the right to inspect and/or copy those records at such reasonable time as may be determined by the custodian thereof.

(b) Each public body shall make, keep, and maintain written or recorded minutes of all meetings.

(c) Each public body shall establish procedures regarding access to public records but shall not require written requests for public information available pursuant to R.I.G.L. section 42-35-2 or for other documents prepared for or readily available to the public. These procedures must include, but need not be limited to, the identification of a designated public records officer, how to make a public records request, and where a public records request should be made, and a copy of these procedures shall be posted on the public body's website if such a website is maintained and be made otherwise readily available to the public. The unavailability of a designated public records officer shall not be deemed good cause for failure to timely comply with a request to inspect and/or copy public records pursuant to subsection (d). A written request for public

records need not be made on a form or in a specified format established by a public body if the request is otherwise readily identifiable as a request for public records.

(d) A public body receiving a request shall permit the inspection or copying within seven (7) business days after receiving a request. If the inspection or copying is not permitted within seven (7) business days, the public body shall forthwith explain in writing the need for additional time to comply with the request. Any such explanation must be particularized to the specific request made. In such case, the public body may have up to twenty (20) business days to respond to the request if it can demonstrate that the voluminous nature of the request, the number of requests for records pending, or the difficulty in searching for and retrieving or copying the requested records, is such that additional time is necessary to avoid imposing an undue burden on the public body. If a request is so voluminous that search and retrieval is reasonably expected to exceed twenty (20) business days, a public body may apply to a justice of the superior court to further extend the time to comply.

~~(d)~~(e) If a public record is in active use or in storage and, therefore, not available at the time a person or entity requests access, the custodian shall so inform the person or entity and make an appointment for the ~~citizen~~ person or entity to examine such records as expeditiously as they may be made available.

~~(e)~~(f) Any person or entity requesting copies of public records may elect to obtain them in any and all media in which the public agency is capable of providing them. Any public body which maintains its records in a computer storage system shall provide any data properly identified in a printout or other reasonable format, as requested.

~~(f)~~(g) Nothing in this section shall be construed as requiring a public body to reorganize, consolidate, or compile data not maintained by the public body in the form requested at the time the request to inspect the public records was made except to the extent that such records are in an electronic format and the public body would not be unduly burdened in providing such data.

~~(g)~~(h) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer.

~~(h)~~(i) No public records shall be withheld based on the purpose for which the records are sought, nor shall a public body require, as a condition of fulfilling a public records request, that a person or entity provide a reason for the request or provide personally identifiable information about him/herself.

(j) At the election of the person or entity requesting the public records, the public body shall provide copies of the public records electronically, by fax, or by mail unless doing so would be unduly burdensome due to the volume of the records requested and the costs that would be incurred.

(k) Notwithstanding the provisions of subsection (d), the following information reflecting the initial arrest of an adult and charge or charges shall be made available within twenty-four (24) hours after receipt of a request and may not be redacted except as provided in this subsection.

(1) Full name of the arrested adult;

(2) Home address of the arrested adult unless doing so would identify a minor crime victim as prohibited in sections 11-37-8.5 or 9-1-44;

(3) Date of birth of the arrested adult;

(4) Charge or charges;

(5) Date of the arrest;

(6) Time of the arrest;

(7) Gender of the arrested adult;

(8) Race of the arrested adult;

(9) Name of the arresting officer.

38-2-4. Cost. -- (a) Subject to the provisions of section 38-2-3, a public body must allow copies to be made or provide copies of public records. The cost per copied page of written documents provided to the public shall not exceed fifteen cents (\$.15) per page for documents copyable on common business or legal size paper. A public body may not charge more than the reasonable actual cost for providing electronic records, or retrieving records from storage where the public body is assessed a retrieval fee.

(b) A reasonable charge may be made for the search or retrieval of documents. Hourly costs for a search and retrieval shall not exceed fifteen dollars (\$15.00) per hour and no costs shall be charged for the first hour of a search or retrieval. A public body may also charge the reasonable actual cost of mailing records to a requester.

(c) Copies of documents shall be provided and the search and retrieval of documents accomplished within a reasonable time after a request. A public body shall, upon request, provide an estimate of the costs of a request for documents prior to providing copies.

(d) Upon request, the public body shall provide a detailed itemization of the costs charged for search and retrieval.

(e) A court may reduce or waive the fees for costs charged for search or retrieval if it determines that the information requested is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

38-2-6. Commercial use of public records. -- No person or business entity shall use information obtained from

public records pursuant to this chapter ~~to solicit for commercial purposes or to obtain a commercial advantage over the party~~ furnishing that information to the public body. Anyone who knowingly and willfully violates the provision of this section shall, in addition to any civil liability, be punished by a fine of not more than five hundred dollars (\$500) and/or imprisonment for no longer than one year.

38-2-7. Denial of access. -- (a) Any denial of the right to inspect or copy records, in whole or in part, provided for under this chapter shall be made to the person or entity requesting the right ~~by the public body official who has custody or control of the public record~~ in writing giving the specific reasons for the denial within ~~ten (10)~~ seven (7) business days of the request and indicating the procedures for appealing the denial. Except for good cause shown, any reason not specifically set forth in the denial shall be deemed waived by the public body.

(b) Failure to timely comply with a request to inspect or copy the public record ~~within the ten (10) business day period~~ within the seven (7) business day period shall be deemed to be a denial. Except that for good cause, this limit may be extended ~~for a period not to exceed thirty (30) business days.~~ in accordance with the provisions of subsection 38-2-3(d) of this chapter. All copying and search and retrieval fees shall be waived if a public body fails to produce requested records in a timely manner; provided, however, that the production of records shall not be deemed untimely if the public body is awaiting receipt of payment for costs properly charged under 38-2-4.

(c) A public body that receives a request to inspect or copy records not within its custody or control shall respond to the request in accordance with this chapter and indicate that it does not maintain such requested records.

38-2-8. Administrative appeals. -- (a) Any person or entity denied the right to inspect a record of a public body ~~by the custodian of the record~~ may petition the chief administrative officer of that public body for a review of the determinations made by his or her subordinate. The chief administrative officer shall make a final determination whether or not to allow public inspection within ten (10) business days after the submission of the review petition.

(b) If the custodian of the records or the chief administrative officer determines that the record is not subject to public inspection, the person or entity seeking disclosure may file a complaint with the attorney general. The attorney general shall investigate the complaint and if the attorney general shall determine that the allegations of the complaint are meritorious, he or she may institute proceedings for injunctive or declaratory relief on behalf of the complainant in the superior court of the county where the record is maintained. Nothing within this section shall prohibit any individual or entity from retaining private counsel for the purpose of instituting proceedings for injunctive or declaratory relief in the superior court of the county where the record is maintained.

(c) The attorney general shall consider all complaints filed under this chapter to have also been filed pursuant to the

provisions of section 42-46-8(a), if applicable.

(d) Nothing within this section shall prohibit the attorney general from initiating a complaint on behalf of the public interest.

38-2-9. Jurisdiction of superior court. -- (a) Jurisdiction to hear and determine civil actions brought under this chapter is hereby vested in the superior court.

(b) The court may examine any record which is the subject of a suit in camera to determine whether the record or any part thereof may be withheld from public inspection under the terms of this chapter.

(c) Actions brought under this chapter may be advanced on the calendar upon motion of: any party, or sua sponte by the court made in accordance with the rules of civil procedure of the superior court.

(d) The court shall impose a civil fine not exceeding ~~one thousand dollars (\$1,000)~~ five thousand dollars (\$5,000) against a public body or official found to have committed a knowing and willful violation of this chapter, and a civil fine not to exceed two thousand dollars (\$2,000) against a public body or official found to have recklessly violated this chapter, and shall award reasonable attorney fees and costs to the prevailing plaintiff. The court shall further order a public body found to have wrongfully denied access to public records to provide the records at no cost to the prevailing party; provided, further, that in the event that the court, having found in favor of the defendant, finds further that the plaintiff's case lacked a grounding in fact or in existing law or in good faith argument for the extension, modification, or reversal of existing law, the court may award attorneys fees and costs to the prevailing defendant.

SECTION 2. Chapter 38-2 of the General Laws entitled "Access to Public Records" is hereby amended by adding thereto the following section:

38-2-16. Compliance by state agencies Compliance by agencies and public bodies. -- No later than January 1, 2010, and annually thereafter, the chief administrator of each agency and each public body shall certify in writing to the attorney general that all officers and employees who have the authority to grant or deny persons or entities access to records under this chapter have been provided orientation and training regarding this chapter. The attorney general may, in accordance with the provisions of chapter 35 of title 42, promulgate rules and regulations necessary to implement the requirements of this section.

SECTION 3. This act shall take effect on September 1, 2009."

Respectfully submitted,
SENATOR LENIHAN

The motion to amend prevails upon a roll call vote with 36 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS- 36: The Honorable President Paiva Weed and Senators Algieri, Bates, Blais, Ciccone, Connors, Cote, Crowley, DaPonte, Devall, DiPalma, Felag, Fogarty, Gallo, Goodwin, Jabour, Lanzi, Lenihan, Levesque, Lynch, Maher, Maselli, McCaffrey, Metts, Miller, O'Neill, Perry, Picard, Pichardo, Pinga, Raptakis, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS- 0:

Senator Lenihan moves passage of the act, as amended, seconded by Senators McCaffrey, Cote, Miller Sheehan and Metts.

The act is read and passed, by unanimous consent, as amended, upon a roll call vote with 37 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS- 37: The Honorable President Paiva Weed and Senators Algieri, Bates, Blais, Ciccone, Connors, Cote, Crowley, DaPonte, Devall, DiPalma, Doyle, Felag, Fogarty, Gallo, Goodwin, Jabour, Lanzi, Lenihan, Levesque, Lynch, Maher, Maselli, McCaffrey, Metts, Miller, O'Neill, Perry, Picard, Pichardo, Pinga, Raptakis, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS- 0:

4. 2009-S 798 SUB A

BY Perry

**ENTITLED, AN ACT RELATING TO ALCOHOLIC BEVERAGES -
REGULATION OF SALES**

Committee on Constitutional & Regulatory Issues recommends indefinite postponement of the original bill and passage of Substitute A.

Upon suggestion of Senator Ruggerio, and without objection, ordered to be recommitted to the committee on Constitutional and Regulatory Issues.

5. 2009-S 869

BY Lenihan

ENTITLED, AN ACT RELATING TO HIGHWAYS - OUTDOOR ADVERTISING

Committee on Housing & Municipal Government recommends passage.

Senator Lenihan moves passage, seconded by Senators Tassoni, Sheehan, Miller and DiPalma.

Senators Blais and Lenihan discuss the act.

The act is read and passed, by unanimous consent, upon a roll call vote with 36 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS- 36: The Honorable President Paiva Weed and Senators Algieri, Bates, Blais, Ciccone, Connors, Cote, Crowley, DaPonte, Devall, DiPalma, Doyle, Felag, Fogarty, Gallo, Goodwin, Jabour, Lanzi, Lenihan, Levesque, Lynch, Maselli, McCaffrey, Metts, Miller, O'Neill, Perry, Picard, Pichardo, Pinga, Raptakis, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS- 0:

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.

ANNOUNCEMENTS

Senator Lynch announces that the Committee on Constitutional and Regulatory Issues will meet today, at the rise of the Senate, in Room 211 of the State House.

Senator Felag announces that the Committee on Environment and Agriculture will meet today, at the rise of the Senate, in Room 310 of the State House.

Senator Felag announces that the Committee on Finance will meet tomorrow, at 3:00 o'clock P.M. in Room 211 of the State House.

Senator Sheehan announces that the Committee on Health and Human Services will meet today, at the rise of the Senate, in Room 212 of the State House.

Senator DeVall announces that the Committee on Housing and Municipal Government will meet tomorrow, at the rise of the Senate, in Room 310 of the State House.

Senator Levesque announces that the Committee on Judiciary will meet tomorrow, at the rise of the Senate, in Room 313 of the State House.

Senator Ciccone announces that the Committee on Labor will meet today, at the rise of the Senate, in the Senate Lounge of the State House.

ADJOURNMENT

Upon motion of Senator Doyle seconded by Senator Connors the Senate adjourns at 5:22 o'clock P.M.

JOSEPH R. BRADY
Secretary of the Senate

Appendix

INVOCATION

SENATOR MICHAEL J. PINGA

Dear God, keep alive our faith in You as we endeavor to perform our duties in order to ensure a better state of Rhode Island. Amen.

Appendix

CONSENT CALENDAR

IN ORDER FOR THURSDAY, JUNE 18, 2009:

1. 2009-S 989

BY Sosnowski

ENTITLED, SENATE RESOLUTION CONGRATULATING FRANCIS KENYON AND RITA KENYON-NUTILLA ON BEING NAMED THE 2009 AGRICULTURALISTS OF THE YEAR BY RICHMOND GRANGE #6

Ordered to be placed on the Consent Calendar

2. 2009-H 5193 SUB A

BY Kennedy

ENTITLED, AN ACT RELATING TO INSURANCE -- CASUALTY INSURANCE RATINGS

Committee on Corporations recommends passage in concurrence.

3. 2009-H 5195

BY Walsh

ENTITLED, AN ACT RELATING TO BUSINESSES AND PROFESSIONS -- SOLICITATION BY CHARITABLE ORGANIZATIONS

Committee on Corporations recommends passage in concurrence.

4. 2009-H 5827

BY Ehrhardt

ENTITLED, AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS - REGULATORY POWERS OF ADMINISTRATION

Committee on Corporations recommends passage in concurrence.

5. 2009-H 6007

BY Ruggiero

ENTITLED, AN ACT RELATING TO TAXATION

Committee on Housing & Municipal Government recommends passage in concurrence.

6. 2009-H 6144 as amended

BY Pacheco

ENTITLED, AN ACT RELATING TO THE BURRILLVILLE SEWER COMMISSION

Committee on Housing & Municipal Government recommends passage as amended in concurrence.

IN ORDER FOR TUESDAY, JUNE 23, 2009:**1. Nomination of Magistrate Angela Paulhus (appointment) as Magistrate of the Rhode Island Family Court, for a term of ten (10) years..**

Committee on Judiciary recommends that the Senate give its Advice and Consent to this nomination.

2. 2009-S 948**BY DiPalma****ENTITLED, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES**

Committee on Judiciary recommends passage.

3. 2009-S 949**BY Miller****ENTITLED, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES**

Committee on Judiciary recommends passage.

4. 2009-S 950**BY Maher****ENTITLED, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES**

Committee on Judiciary recommends passage.

5. 2009-H 6155**BY Martin****ENTITLED, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES**

Committee on Judiciary recommends passage in concurrence.

6. 2009-H 6211**BY Lally****ENTITLED, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES**

Committee on Judiciary recommends passage in concurrence.

7. 2009-H 6231**BY Menard****ENTITLED, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES**

Committee on Judiciary recommends passage in concurrence.

8. 2009-H 6240**BY Lally****ENTITLED, AN ACT TO VACATE THE FORFEITURE OR REVOCATION OF
ETA ZETA OF LAMBDA CHI ALPHA**

Ordered to be placed on the Consent Calendar

Appendix**CALENDAR****IN ORDER FOR THURSDAY, JUNE 18, 2009:****1. 2009-S 568 as amended****BY McCaffrey****ENTITLED, AN ACT RELATING TO ELECTIONS -- BALLOT ARRANGEMENT**

Committee on Judiciary recommends passage as amended.

2. 2009-S 450**BY Goodwin****ENTITLED, AN ACT RELATING TO BUSINESSES AND PROFESSIONS -
AUTOMOBILE BODY REPAIR SHOPS**

Committee on Constitutional & Regulatory Issues recommends passage.

3. 2009-S 229 SUB A**BY Walaska****ENTITLED, AN ACT RELATING TO INSURANCE -- LIFE SETTLEMENTS ACT**

Committee on Corporations recommends indefinite postponement of the original bill and passage of Substitute A.

4. 2009-S 387**BY Bates****ENTITLED, AN ACT RELATING TO INSURANCE -- EXAMINATIONS**

Committee on Corporations recommends passage.

5. 2009-S 461 SUB A**BY Bates****ENTITLED, AN ACT RELATING TO FINANCIAL INSTITUTIONS**

Committee on Corporations recommends indefinite postponement of the original bill and passage of Substitute A.

6. 2009-S 462 SUB A**BY Blais****ENTITLED, AN ACT RELATING TO INSURANCE - RHODE ISLAND LIFE
AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT**

Committee on Corporations recommends indefinite postponement of the original bill and passage of Substitute A.

7. 2009-S 475**BY Walaska****ENTITLED,** AN ACT RELATING TO FIDUCIARIES - UNIFORM
MANAGEMENT OF INSTITUTIONAL FUNDS

Committee on Corporations recommends passage.

8. 2009-S 953**BY Fogarty P****ENTITLED,** AN ACT RELATING TO BUSINESSES AND PROFESSIONS -
HOME PROPANE GAS SALES

Committee on Corporations recommends passage.

9. 2009-S 968**BY Walaska****ENTITLED,** AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS
-- BROADBAND DEPLOYMENT AND INVESTMENT ACT

Committee on Corporations recommends passage.

10. 2009-S 973**BY Algieri****ENTITLED,** AN ACT RELATING TO THE CHARLESTOWN FIRE DISTRICT

Committee on Housing & Municipal Government recommends passage.

11. 2009-S 428 SUB A**BY Sheehan****ENTITLED,** AN ACT RELATING TO COURTS AND CIVIL PROCEDURE --
JUDICIAL SELECTIONCommittee on Judiciary recommends indefinite postponement of the original bill and
passage of Substitute A.**12. 2009-H 5088 SUB A****BY Costantino****ENTITLED,** AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS -
LOCATION OF GAS REGULATORS AND GAS METERSCommittee on Corporations recommends indefinite postponement of the original bill
and passage of Substitute A.**13. 2009-H 5181 as amended****BY Menard****ENTITLED,** AN ACT RELATING TO CUMBERLAND HILL FIRE DISTRICT
IN THE TOWN OF CUMBERLANDCommittee on Housing & Municipal Government recommends passage as amended in
concurrence.

IN ORDER FOR TUESDAY, JUNE 23, 2009:

1. 2009-S 605 SUB A as amended

BY Perry

ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES - TRAFFICKING
OF PERSONS AND INVOLUNTARY SERVITUDE

Committee on Judiciary recommends indefinite postponement of the original bill and passage of Substitute A as amended.

2. 2009-S 974

BY Blais

ENTITLED, AN ACT RELATING TO THE RHODE ISLAND HOUSING AND
MORTGAGE FINANCE CORPORATION

Committee on Judiciary recommends passage.