

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 four.

Volume 131, No. 17

Tuesday, March 02, 2004

Seventeenth Day

The Senate meets pursuant to adjournment and is called to order by the Honorable Joseph A. Montalbano, President of the Senate, at 4:20o'clock P.M.

The roll is called and a quorum is declared present with 36 Senators present and 1 Senator absent as follows:

PRESENT – 36: The Honorable President Montalbano and Senators Algieri, Alves, Badeau, Bates, Blais, Breene, Caprio, Celona, Ciccone, Connors, Cote, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Issa, Lanzi, Lenihan, McBurney, McCaffrey, Paiva-Weed, Parella, Perry, Polisena, Raptakis, Revens, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

ABSENT – 1: Senator Pichardo

INVOCATION

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

(See Appendix for Invocation)

PLEDGE OF ALLEGIANCE TO THE FLAG

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

APPROVAL OF RECORD

The Senate Journal of Wednesday, February 11, 2004 proceedings is read in part.

Upon suggestion of Senator Blais, 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:

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

SENATE CHAMBER

February 26, 2004

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

Dear Mr. President:

Please be advised that I will be out of town on State Business and will be absent from the Senate sessions on Tuesday March 2, Wednesday March 3, and Thursday March 4, 2004.

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

Sincerely,
Juan M. Pichardo

State Senator District – 02

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:

February 13, 2004

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 Selection, I have made the following appointment as Associate Justice of the Rhode Island District Court:

WILLIAM C. CLIFTON of CRANSTON

VICE

ASSOCIATE JUSTICE ROBERT RAHILL

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

Sincerely,
Donald L. Carcieri
Governor

Read and referred to the Committee on Judiciary.

Also:

February 13, 2004

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 Selection, I have made the following appointment as Associate Justice of the Rhode Island Family Court:

LAUREEN D'AMBRA of LINCOLN

VICE

ASSOCIATE JUSTICE PAUL SUTTELL

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

Sincerely,
Donald L. Carcieri
Governor

Read and referred to the Committee on Judiciary.

Also:

February 10, 2004

TO THE HONORABLE, THE SENATE:

I have the honor to inform you that in accordance with the provisions of Section 8-16-1 of the Rhode Island General Laws, I have made the following appointment to the Commission on Judicial Tenure and Discipline:

JERRY L. McINTYRE, ESQUIRE of JAMESTOWN

VICE
ALAN S. FLINK

for a term expiring April 1, 2006

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

Sincerely,
Donald L. Carcieri
Governor

Read and referred to the Committee on Judiciary.

REPORTS OF COMMITTEES

COMMITTEE ON RULES

Senator Connors, from the Committee on Rules, reports back, with recommendation of passage of the following measure:

Senate Resolution No. 2111 SUB A

BY Senators Fogarty P, Gallo, Walaska, Connors, Alves

ENTITLED, SENATE RESOLUTION AMENDING THE RULES OF THE SENATE FOR THE YEARS 2003-2004

Read and ordered to be placed on the Calendar

REPORTS OF COMMITTEES**TRANSFER OF BILLS**

Senator Caprio, for the Committee on Commerce, Housing, and Municipal Government, reports back the following measures, with recommendation of transfer to the Committee on Finance:

Senate Bill No. 2177

ENTITLED, AN ACT RELATING TO TOWNS AND CITIES -- BENEFITS FOR FIRE FIGHTERS (benefits for various forms of cancer and respiratory diseases)

Read and referred to the Committee on Finance.

Also:

Senate Bill No. 2271

ENTITLED, AN ACT RELATING TO TOWNS AND CITIES -- BURRILLVILLE.

Read and referred to the Committee on Finance.

Also:

Senate Bill No. 2760

ENTITLED, AN ACT RELATING TO THE INDEBTEDNESS OF TOWNS AND CITIES (interest rates cities over 125,000).

Read and referred to the Committee on Finance.

TRANSFER OF BILLS

Senator Caprio, for the Committee on Commerce, Housing, and Municipal Government, reports back the following measure, with recommendation of transfer to the Committee on Financial Services, Technology and Regulatory Issues:

Senate Bill No. 2408

ENTITLED, AN ACT RELATING TO BUSINESSES AND PROFESSIONS -- UNSOLICITED TELEPHONE SALES CALLS

Read and referred to the Committee on Financial Services, Technology and Regulatory Issues.

TRANSFER OF BILLS

Senator Caprio, for the Committee on Commerce, Housing, and Municipal Government, reports back the following measure, with recommendation of transfer to the Committee on Judiciary:

Senate Bill No. 2310

ENTITLED, AN ACT RELATING TO MOTOR AND OTHER VEHICLES -- MOBILE AND MANUFACTURED HOMES.

Read and referred to the Committee on Judiciary.

TRANSFER OF BILLS

Senator Alves, for the Committee on Finance, reports back the following measure, with recommendation of transfer to the Committee on Health and Human Services:

Senate Bill No. 2660

ENTITLED, AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT -- INSURANCE.

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

TRANSFER OF BILLS

Senator Alves, for the Committee on Finance, reports back the following measure, with recommendation of transfer to the Committee on Commerce, Housing, and Municipal Government:

Senate Bill No. 2727

ENTITLED, AN ACT RELATING TO TAXATION -- COLLECTION OF TAXES GENERALLY.

Read and referred to the Committee on Commerce, Housing, and Municipal Government.

FROM THE HOUSE OF REPRESENTATIVES

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

House Bill No. 7590

BY Menard, Winfield, Corvese, Lowe, Gallison

ENTITLED, AN ACT RELATING TO INSURANCE -- SMALL EMPLOYER HEALTH INSURANCE.

Referred to Senate Committee on Health and Human Services.

Also:

House Bill No. 7326

BY Shanley, Lally, Caprio D, Slater

ENTITLED, AN ACT RELATING TO PROPERTY SUBJECT TO TAXATION -- SOUTH KINGSTOWN.

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

Also:

House Bill No. 7424 (Attorney General)

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

ENTITLED, AN ACT RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS - UNFAIR SALES PRACTICES.

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

Also:

House Bill No. 7191 as amended

BY Senators Winfield, Lewiss, Malik, Lally, Enos

ENTITLED, AN ACT RELATING TO TOWNS AND CITIES - LOW AND MODERATE INCOME HOUSING

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

Also:

House Bill No. 7166

BY Giannini, Handy

ENTITLED, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES

Received and referred to the Senate Committee on Judiciary

NEW BUSINESS

Senate Bill No. 2942

BY Senators Alves, Ruggiero

ENTITLED, AN ACT RELATING TO EDUCATION -- CHARTER PUBLIC SCHOOLS.

Read and referred to the Senate Committee on H.E.W..

Also:

Senate Bill No. 2943

BY Senators DaPonte, Damiani, Connors, Polisena
ENTITLED, AN ACT RELATING TO PUBLIC PROPERTY AND WORKERS - STATE PURCHASES.

Read and referred to the Senate Committee on Finance.

Also:

Senate Bill No. 2944

BY Senators Perry, Goodwin, Alves, Paiva-Weed
ENTITLED, AN ACT RELATING TO BUSINESSES AND PROFESSIONS -- CHIROPRACTORS.

Read and referred to the Senate Committee on Environment and Agriculture.

Also:

Senate Bill No. 2945

BY Senators McCaffrey, Ruggerio
ENTITLED, AN ACT RELATING TO SOVEREIGN IMMUNITY.

Read and referred to the Senate Committee on Judiciary.

Also:

Senate Bill No. 2946

BY Senators Polisena, Sosnowski, Breene, Blais
ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES -- WEAPONS.

Read and referred to the Senate Committee on Judiciary.

Also:

Senate Bill No. 2947

BY Senators Polisena, Damiani, Sosnowski, Lenihan, Gallo
ENTITLED, AN ACT RELATING TO COURTS AND CIVIL PROCEDURE -- MEDICAL MALPRACTICE {LC7/1}

Read and referred to the Senate Committee on Judiciary.

Also:

Senate Bill No. 2948

BY Senators Polisena, Damiani, Tassoni
ENTITLED, AN ACT RELATING TO BUSINESSES AND PROFESSIONS -- HEALTH CLUBS

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

Also:

Senate Resolution No. 2949

BY Senator Polisena

ENTITLED, JOINT RESOLUTION TO APPROVE AND PUBLISH AND SUBMIT TO THE ELECTORS A PROPOSITION OF AMENDMENT TO THE CONSTITUTION OF THE STATE (GENERAL ASSEMBLY)

Read and referred to the Senate Committee on Constitutional and Gaming Issues.

Also:

Senate Bill No. 2950

BY Senators Polisena, Damiani, Algieri, Sosnowski, Raptakis

ENTITLED, AN ACT RELATING TO MOTOR VEHICLE OFFENSES

Read and referred to the Senate Committee on Judiciary.

Also:

Senate Bill No. 2951

BY Senator Algieri

ENTITLED, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES.

Read and referred to the Senate Committee on Judiciary.

CONSENT CALENDAR

In order for the day is taken up as follows:

Upon motion of Senate Majority Leader Paiva-Weed, seconded by Senator Algieri, the following measure on today's Consent Calendar, by unanimous consent, is read and passed, upon a voice vote:

1 2004-S 2941

BY DaPonte

ENTITLED, SENATE RESOLUTION CONGRATULATING ARIANA DEANGELIS ON BEING RECOGNIZED AS A DISTINGUISHED FINALIST FOR A PRUDENTIAL SPIRIT OF COMMUNITY AWARD

STATEMENT OF POTENTIAL CONFLICT

TO THE HONORABLE SENATE:

I, Dennis L. Algieri, under oath depose and say:

1. I am a duly elected member of the Rhode Island Senate.
2. This statement is made in accord with Rhode Island General Law section 36-14-6.
3. In my official capacity, I may be expected or required to vote or participate in the deliberations of bill 2004-S 2164 Substitute A now pending before the Senate or a committee thereof.
4. I request that I be excused from voting, deliberating or taking action on the matter.
5. I do not desire to vote or deliberate because I have a potential conflict of interest as follows:

I am an employee of The Washington Trust Company.

6. This statement is true to the best of my knowledge.

Dennis L. Algieri

Signed and sworn to before me this 3rd day of March, 2004.

Raymond T. Hoyas, Jr.
Notary Public

CALENDAR

In order for the day is taken up as follows:

1 2004-S 2164 SUB A

BY Blais

**ENTITLED, AN ACT RELATING TO COMMERCIAL LAW - GENERAL
REGULATORY PROVISIONS - INTEREST AND USURY**

Senator Blais, moves passage, seconded by Senators Breene and Fogarty.

The bill marked Substitute "A" is read and passed, and the original bill indefinitely postponed, upon roll call vote with 30 Senators voting in the affirmative and 1 Senator voting in the negative and 1 Senator abstaining as follows:

YEAS- 30: The Honorable President Montalbano and Senators, Alves, Badeau, Bates, Blais, Breene, Caprio, Ciccone, Connors, Cote, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Lanzi, Lenihan, McCaffrey, Paiva-Weed, Parella, Perry, Polisena, Raptakis, Revens, Ruggerio, Sosnowski, Tassoni, Walaska.

NAYS- 1: Senator Issa.

ABSTAINED- 1: Senator Algieri

2 2004-S 2025 as amended

BY Blais

**ENTITLED, AN ACT RELATING TO CRIMINAL PROCEDURE -- SENTENCE
AND EXECUTION**

Senator Blais, moves passage, seconded by Senators Polisena, Damiani, Tassoni, McCaffrey and many others.

Senators Perry and Blais, discuss the act.

The act is read and passed, by unanimous consent, as amended, upon a roll call vote with 35 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS- 35: The Honorable President Montalbano and Senators Algieri, Alves, Badeau, Bates, Blais, Breene, Caprio, Celona, Ciccone, Connors, Cote, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Issa, Lanzi, Lenihan, McCaffrey, Paiva-Weed, Parella, Perry, Polisena, Raptakis, Revens, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS- 0:

GUESTS

Upon suggestion of Senator Fogarty and by unanimous consent, the Honorable President welcomes to the Chamber Gerald Fournier, who is celebrating 50 years of devoted service to the Harrisville Fire Department, along with his wife Beverly and family members Donna Houle, Debra Winsor, Doreen Guittarr, Denise Stone, Brain Fournier, Gina Fournier, Bruce Fournier, Dorinda Fournier, Gerald Fournier Jr., Joanne Fournier, Brandon Fournier, Gianna Fournier, Jody Fournier, Jenna Fournier, Jarrad Winsor, Jessica Winsor, Jenifer Winsor, and Great Grand Child Kyla, along with many members of the Harrisville Fire Department.

Upon suggestion of Senator Breene and by unanimous consent, the Honorable President welcomes to the Chamber Nancy Giorgi, Assistant Town Solicitor in West Greenwich and South Kingstown.

Upon suggestion of Senator Ciccone and by unanimous consent, the Honorable President welcomes to the Chamber Lauren DeManro, a junior attending Providence College, who will be serving as an intern this year.

ANNOUNCEMENTS

Senator Raptakis announces that the Committee on Judiciary will meet today at the rise of the Senate in Room 313 of the State House.

Senator Ciccone announces that the Committee on Labor will meet on Wednesday, March 3, 2004, at 3:00 o'clock P.M. in Room 212 of the State House.

Senator Goodwin announces that the Committee on Constitutional and Gaming Issues will meet on Wednesday, March 3, 2004 at the rise of the Senate, in Room 211 of the State House.

Senator Bates announces that the Committee on Financial Services, Technology and Regulatory Issues will meet Wednesday, March 3, 2004 at the rise of the Senate in the Senate Lounge of the State House.

Senator Gallo announces that the Committee on Finance will meet Thursday, March 4, 2004 at the rise of the Senate, in Room 211 of the State House.

Senator Sheehan announces that the Committee on Health and Human Services will meet on Wednesday, March 3, 2004 at the rise of the Senate, in Room 313 of the State House.

TRANSMITTAL

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

ADJOURNMENT

Upon motion of Senator DaPonte, seconded by Senator Algieri, the Senate adjourns at 4:37 o'clock P.M.

RAYMOND T. HOYAS, JR.
Secretary of the Senate

Appendix**INVOCATION****SENATOR LEO R. BLAIS**

Dear God, we ask you today to grant us the strength and confidence to make the decisions that will be of the greatest benefit to our citizens. We are eternally grateful to have the opportunity to serve the people of our state, and therefore, serve you. Amen.

Appendix

CALENDAR

IN ORDER FOR THURSDAY, MARCH 4, 2004:

1 2004-S 2111 SUB A

BY Fogarty P

ENTITLED, SENATE RESOLUTION AMENDING THE RULES OF THE SENATE
FOR THE YEARS 2003-2004

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

Raymond T. Hoyas, Jr.
Secretary of the Senate