



# Meeting Notice for the Governor's Commission on Disabilities Legislation Committee

**Monday April 16, 2007 3 – 4:30 PM**

John O. Pastore Center, 41 Cherry Dale Court,

Cranston, RI 02920-3049

(voice) 401-462-0100 (tty) 462-0101 (fax) 462-0106

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## ----- Agenda Topics -----

Call to Order and Acceptance of the Minutes	Tim Flynn Chairperson	5 min.
Action Items:		60 min.
1. Consideration of Tabled Bills	Committee Members	
<ul style="list-style-type: none"> <li>• 07 H-5770 Sub A &amp; 07 S-0442 Sub A Acts Relating To State Affairs and Government - Elderly Affairs Department</li> <li>• 07 S-0132 &amp; 07 H-5021 Acts Relating To Business and Professions -- Licensing of Rehabilitation Counselors</li> </ul>		
2. Consideration of New Bills	Bob Cooper, Executive Secretary	
<ul style="list-style-type: none"> <li>• 07 H-6187 Sub A An Act Relating To Human Services – Pharmaceuticals</li> <li>• 07 H-5061 Sub A An Act Relating To <del>Insurance—Cervical Cancer Vaccine</del> Health and Safety -- Department of Health</li> <li>• 07 H-6167 An Act Relating To Education - Health and Safety Of Pupils</li> <li>• S 341/ H 6070 Acts Relating To Public Records</li> <li>• H 6076 An Act Relating To Public Records -- Access</li> <li>• H 6278 An Act Relating To Human Services - Long-Term Care Service and Finance Reform</li> </ul>		
3. Consideration of Amended versions of Bills	Bob Cooper	
<ul style="list-style-type: none"> <li>• H 5300 Article 6 Relating To Making Revised Appropriations In Support of the State FY 2007 Section 3.</li> <li>• H 5371 / S 553 Acts Relating to Public Utilities and Carriers – Accessible Taxicabs</li> <li>• S 266 An Act Relating to Towns and Cities -- Zoning Ordinances</li> <li>• H 5140 An Act Relating to Health and Safety - Maternal and Child Health Services</li> <li>• S 307 &amp; H 5267 Sub A Acts Relating to Motor and Other Vehicles -- Disabled Veterans</li> <li>• H 5200 Sub A An Act Relating To Insurance -- Orthotic and Prosthetic Services</li> </ul>		
<b>Questions:</b> Report on Commission's Legislative Package Status (mailed with the agenda)	Bob Cooper	20 min.
Announcements and Scheduling of Meetings	Tim Flynn	5 min.
Adjournment	Tim Flynn	
<p><b>Special notes:</b></p> <p>We ask that you use unscented personal care products - that you not wear perfumes or scents to an environmental illness accessible event. Please realize that what may seem to you to be a mild fragrance can constitute a toxic exposure for a person with environmental illness.</p> <p>The public is welcome to any meeting of the Commission or its committees. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please contact the Commission at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting it.</p>		



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<b>Attendees:</b>	Timothy Flynn (Chair); Kate McCarthy-Barnett (Vice Chair); Raymond Bandusky; Jeanne Behie; Sharon Brinkworth; Rosemary C. Carmody; Linda Deschenes; Elaina Goldstein; Liberty Goodwin; William R. Inlow; Dianne Kayala; Paula Parker; & Gwendolyn Reeve
<b>Excused:</b>	Paul Choquette; Deborah Garneau; Ken Pariseau; Arthur M. Plitt; Rev. Gerard O. Sabourin; & Janet Spinelli; & Michael Spoerri
<b>Absent:</b>	

## ----- Agenda Topics -----

<b>Call to Order and Acceptance of the Minutes</b>	<b>Tim Flynn Chairperson</b>	<b>5 min.</b>
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Introductions: Meeting called to order at 3:06 PM

MOTION: To accept the minutes of the previous meeting as presented RB/KMcCB passed unanimously

<b>Action Items:</b>	<b>Discussion Leader:</b>	<b>Time:</b>
<b>1. Consideration of Tabled Bills</b>		

Tabled for more information from DEA

### Category: Civil Rights

#### **07 H-5770 Sub A & 07 S-0442 Sub A ACTS RELATING TO STATE AFFAIRS AND GOVERNMENT - ELDERLY AFFAIRS DEPARTMENT**

Sponsors: Rep. Singleton & Sen. June M. Gibbs Requested by the Department of Elderly Affairs

This act would include self-neglect of the elderly under the jurisdiction of the department of elderly affairs. This act would take effect upon passage.

Scheduled for consideration House Health, Education, & Welfare Committee 4/11/2007 & Continued Senate Finance Committee

- 1-1 SECTION 1. Sections 42-66-4.1, 42-66-8, 42-66-8.1, 42-66-8.2, 42-66-9 and 42-66-10 of
- 1-2 the General Laws in Chapter 42-66 entitled "Elderly Affairs Department" are hereby amended to
- 1-3 read as follows:
- 1-4 **42-66-4.1. Definitions. --** As used in this chapter:
- 1-5 (1) "Abuse" means physical abuse, sexual abuse, and/or emotional abuse of an elderly
- 1-6 person by a caregiver as defined in subsection (5).
- 1-7 (a) "Physical Abuse" means the willful infliction of physical pain or injury (e.g. slapping,
- 1-8 bruising or restraining) upon an elderly person.

1-9        (b) "Sexual Abuse" means the infliction of non-consensual sexual contact of any kind  
1-10 upon an elderly person. Sexual abuse includes, but is not limited to, sexual assault, rape, sexual  
1-11 misuse or exploitation of an elder, as well as threats of sexual abuse where the perpetrator has the  
1-12 intent and the capacity to carry out the threatened abuse.

1-13        (c) "Emotional Abuse" means a pattern of willful infliction of mental or emotional harm  
1-14 upon an elder by threat, intimidation, isolation or other abusive conduct.

1-15        (2) "Exploitation" means the fraudulent or otherwise illegal, unauthorized or improper act  
1-16 or process of an individual, including, but not limited to, a caregiver or fiduciary, that uses the  
1-17 resources of an elder for monetary or personal benefit, profit, gain, or that results in depriving an  
1-18 elder of rightful access to, or use of, benefits, resources, belongings, or assets by use of undue  
2-1 influence, harassment, duress, deception, false representation or false pretenses.

2-2        (3) "Neglect" means the willful failure by a caregiver or other person with a duty of care  
2-3 to provide goods or services necessary to avoid physical harm, mental harm or mental illness to  
2-4 an elderly person, including, but not limited to, "abandonment" (withdrawal of necessary  
2-5 assistance) and denial of food or health related services.

2-6        (4) "Willful" means intentional, conscious and directed toward achieving a purpose.

2-7        (5) "Caregiver" means a person who has assumed the responsibility for the care of the  
2-8 elderly person voluntarily, by contract or by order of a court of competent jurisdiction, or who is  
2-9 otherwise legally responsible for the care of the elderly person.

2-10       (6) "Self-Neglect" means a pattern of behavior in an elderly person that directly,  
2-11 imminently and significantly threatens his/her own health and/or, safety. Self-neglect includes,  
2-12 but is not limited to, an inability or an incapacity to provide self with food, water, shelter, or  
2-13 safety to the point of establishing imminent risk of any of the harm(s) described in the  
2-14 immediately preceding sentence.

2-15       (7)(10) "Protective services" means services and/or action intended to prevent and/or  
2-16 alleviate the abuse, neglect, exploitation or self-neglect of elderly persons. Protective services  
2-17 may include supervision, counseling, and assistance in securing health and supportive services,  
2-18 safe living accommodations and legal intervention.

2-19       (8) "Elderly person" or "elder" means any person sixty (60) years of age or older.

2-20       **42-66-8. Abuse of elderly persons -- Duty to report. -- Abuse and self-neglect of**  
2-21 **elderly persons -- Duty to report. -- Abuse, neglect, exploitation and self-neglect of elderly**  
2-22 **persons -- Duty to report. --**Any person who has reasonable cause to believe that any person  
2-23 sixty (60) years of age or older has been abused, neglected, or exploited, ~~or abandoned~~ or is self-  
2-24 neglecting, shall make an immediate report to the director of the department of elderly affairs or  
2-25 his or her designee. ~~Any~~ In cases of abuse, neglect or exploitation, any person who fails to make  
2-26 the report shall be punished by a fine of not more than one thousand dollars (\$1,000) ~~or shall be~~  
2-27 ~~imprisoned for a term of not more than one year, or both.~~ Nothing in this section shall require an  
2-28 elder who is a victim of abuse, neglect, exploitation or who is self-neglecting to make a report  
2-29 regarding such abuse, neglect, exploitation or self-neglect to the director or his or her designee.

2-30       **42-66-8.1. Abuse of elderly persons -- Telephone line. --** The director shall provide, for  
2-31 the use of the general public, a statewide toll free, twenty-four (24) hour a day, seven (7) days a  
2-32 week, ~~WATS~~ telephone line, to report abuse, neglect, exploitation and self-neglect of the elderly.

2-33       **42-66-8.2. Abuse of elderly persons -- Investigation of reports. -- Abuse, neglect,**  
2-34 **exploitation and self-neglect of elderly persons -- Investigation of reports. --** (a) The director  
3-1 of the department shall cause the report to be investigated immediately to determine the  
3-2 circumstances surrounding the alleged abuse, neglect, exploitation or ~~abandonment~~ self-neglect

3-3 and its cause. The investigation shall include personal contact with the ~~alleged-elderly~~ elder  
3-4 victim named in the report. Any person required to investigate reports of abuse, neglect,  
3-5 exploitation ~~or abandonment~~ or self-neglect may question the subjects of those reports with or  
3-6 without the consent of the caretaker, guardian, conservator, person possessing a power of attorney  
3-7 given by the subject or other person responsible for the elderly person's welfare.

3-8 (b) ~~When~~ In cases of reported abuse, neglect and exploitation, when deemed by the  
3-9 investigator or other person responsible for the investigation of the report to be in the best  
3-10 interests of the alleged victim, the interview of the alleged victim(s) shall take place in the  
3-11 absence of the caretaker, guardian, conservator, person possessing a power of attorney given by  
3-12 the subject or other person responsible for the elderly person's welfare, or any other person  
3-13 allegedly responsible for the abuse, neglect, or exploitation ~~or abandonment~~.

3-14 (c) In the event that any person required to investigate those reports is denied reasonable  
3-15 access to an ~~alleged~~ elderly victim subject of the report by the caretaker, guardian, conservator,  
3-16 person possessing a power of attorney given by the subject or other person responsible for the  
3-17 elderly person's welfare and the investigator determines that the best interests of the ~~alleged~~  
3-18 ~~elderly-victim~~ elder require, the investigator with the approval of the director may request the  
3-19 intervention of the local law enforcement agency to secure reasonable access to the ~~alleged~~  
3-20 elderly victim subject of the report.

3-21 (d) In the event that after investigation, the department has reasonable cause to know or  
3-22 suspect that a person sixty (60) years of age or older has been a victim of: (1) an "assault" as  
3-23 defined in chapter 5 of title 11; or, (2) an "assault" as defined in chapter 37 of title 11; or, (3) an  
3-24 offense under chapter 10 of title 11, or has been a victim of "exploitation" as defined in this  
3-25 chapter, the investigator, with the approval of the director, shall immediately forward that  
3-26 information to the local law enforcement agency.

3-27 (e) When it is determined after investigation that protective services are necessary, the  
3-28 department shall develop a protective services care plan and coordinate, in conjunction with  
3-29 existing public and private agencies and departments, available and existing services as are  
3-30 needed by the person abused, neglected, exploited ~~or abandoned~~ or self-neglecting. In developing  
3-31 the protective services care plan, the elderly person's rights to self-determination and lifestyle  
3-32 preferences commensurate with his or her needs shall be of prime consideration. If the elderly  
3-33 person withdraws consent or refuses to accept protective services, the services shall not be  
3-34 provided.

4-1 **42-66-9. Obstruction of provision of services.** -- (a) No person shall obstruct the  
4-2 provision of available and existing services to a person sixty (60) years of age or older who has  
4-3 been abused ,neglected, exploited or who is self-neglecting ~~neglected, exploited, or abandoned~~.  
4-4 For the purposes of this section, "obstruction" shall mean threats, intimidation, assaults and/or  
4-5 abuse, whether physical or psychological emotional, made with the intent to prevent or dissuade  
4-6 the recipient or proposed recipient from accepting, requesting, and/or receiving services available  
4-7 under section 42-66-8. Any person who violates the provisions of this section shall be punished  
4-8 by a fine of not more than five hundred dollars (\$500).

4-9 (b) However, nothing in this chapter is construed to mean a person is abused, neglected,  
4-10 exploited ~~or in need of emergency or protective services~~ or is self-neglecting for the sole reason  
4-11 that person is being furnished or relies upon treatment by spiritual means through prayer alone in  
4-12 accordance with the tenets and practices of a church or religious denomination recognized by the  
4-13 laws of this state.

4-14 (c) No person shall deny access ~~by departmental staff~~ to a person sixty (60) years of age

4-15 or older who is alleged to be a victim of abuse, neglect, exploitation ~~or abandonment~~ or who is  
 4-16 self-neglecting, while the staff person is investigating a report made under this chapter.  
 4-17 **42-66-10. Confidentiality of records.** -- Any records of the department or other agency  
 4-18 pertaining to a person reported to be abused, neglected, exploited ~~or abandoned~~ or self-neglecting  
 4-19 shall be confidential. The records shall not be deemed public and shall be considered records  
 4-20 under section 38-2-2(4)(i). The director may, however, disclose to the attorney general, any local  
 4-21 ~~or state;~~ or federal police officials, appropriate courts, state departments, public or private  
 4-22 agencies, or medical personnel, pertinent information that is necessary to investigate reports of  
 4-23 abuse, neglect, exploitation, or ~~abandonment~~ self-neglect, the coordination of needed services, the  
 4-24 protection of the elderly victim or criminal prosecution.  
 4-25 SECTION 2. This act shall take effect upon passage.

Discussion: Members discussed concerns regarding the age eligibility, and definition of self-neglect.

**MOTION: To find beneficial 07 H-5770 & 07 S-0442 Acts Relating to State Affairs and Government - Elderly Affairs Department EG/LG passed Nay BI Abstain RB, PP**

Tabled for more information from Salve Regina

**Category:**

**Health Care Services**

**07 S-0132 & 07 H-5021 ACTS RELATING TO BUSINESS AND PROFESSIONS -- LICENSING OF REHABILITATION COUNSELORS**

Sponsors: Sen. Cote By Request & Rep. Naughton

This act would provide for licensing of rehabilitation counselors. The professional application of rehabilitation counseling through a systemic process that assists persons who have physical, mental, developmental, cognitive and emotional disabilities to achieve their personal, career, and independent living goals in the most integrated settings possible. The rehabilitation counseling process involves communication, goal-setting and beneficial growth or change through self- advocacy, psychological, vocational, social and behavioral interventions. This act would take effect on March 31, 2008.

Continued Senate Health and Human Services Committee & Continued House Health, Education, & Welfare Committee

1-1 SECTION 1. The General Assembly hereby finds and declares that:

1-2 (1) Persons who have disabilities experience extremely high unemployment rates and low  
 1-3 incomes.

1-4 (2) Without accessible and appropriate rehabilitation services such persons will continue  
 1-5 to require public support when these persons could be productively employed.

1-6 (3) Persons who have disabilities cannot achieve maximum self-sufficiency at home, at  
 1-7 work, and in the community without comprehensive rehabilitation services provided by  
 1-8 competent rehabilitation counselors.

1-9 (4) Persons who have physical, cognitive and emotional disabilities should be protected  
 1-10 from harm due to unlicensed activities.

1-11 (5) The State of Rhode Island and its General Assembly has a strong commitment to  
 1-12 persons who have disabilities.

1-13 (6) The General Assembly must protect the State's most vulnerable populations through  
 1-14 the establishment of licensing requirements for persons providing rehabilitation counseling to  
 1-15 persons with disabilities in Rhode Island.

1-16 SECTION 2. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"  
 1-17 is hereby amended by adding thereto the following chapter:

1-18 **CHAPTER 81**

2-1 **REHABILITATION COUNSELORS**

2-2 **5-81-1. Short title.** -- **This chapter shall be known and may be cited as the "Rhode Island**  
 2-3 **Rehabilitation Counselor License Act."**

- 2-4 **5-81-2. Definitions.** – As used in this chapter:
- 2-5 (a) "Practice of rehabilitation counseling" means the professional application of
- 2-6 rehabilitation counseling through a systemic process that assists persons who have physical,
- 2-7 mental, developmental, cognitive and emotional disabilities to achieve their personal, career, and
- 2-8 independent living goals in the most integrated settings possible. The rehabilitation counseling
- 2-9 process involves communication, goal-setting and beneficial growth or change through self-
- 2-10 advocacy, psychological, vocational, social and behavioral interventions. The specific techniques
- 2-11 and modalities utilized within this rehabilitation counseling process may include, but are not
- 2-12 limited to:
- 2-13 (1) assessment and appraisal;
- 2-14 (2) diagnosis and treatment planning;
- 2-15 (3) career (vocational) counseling;
- 2-16 (4) person and group counseling treatment interventions focused on facilitating
- 2-17 adjustments to the medical and psychological impact of disability;
- 2-18 (5) case management, referral, and service coordination;
- 2-19 (6) program evaluation and research;
- 2-20 (7) interventions to remove environmental, employment, and attitudinal barriers;
- 2-21 (8) consultation services among multiple parties and regulatory systems;
- 2-22 (9) job analysis, job development, job retention and job placement services, including
- 2-23 assistance with employment and job accommodations; and
- 2-24 (10) the provision of consultation about access to rehabilitation technology and its
- 2-25 application.
- 2-26 (b) "Continuing education hours" means actual hours earned in continuing education
- 2-27 courses, seminars or workshops approved by entities acceptable to the department.
- 2-28 (c) "Department" means the Rhode Island department of health.
- 2-29 (d) "Director" means the director of the Rhode Island department of health.
- 2-30 **5-81-3. Title and practice regulation.** – (a) A person licensed under this chapter shall be
- 2-31 permitted to use the title "licensed rehabilitation counselor" and the abbreviation "L.R.C."
- 2-32 (b) No person shall represent himself or herself as a "licensed rehabilitation counselor" or
- 2-33 "L.R.C." unless he or she is licensed as a "licensed rehabilitation counselor" pursuant to this
- 2-34 chapter.
- 3-1 (c) No person shall use "rehabilitation counselor", "licensed rehabilitation counselor", or
- 3-2 any other designation implying qualification to practice clinical rehabilitation counseling unless
- 3-3 he or she is licensed as a "licensed rehabilitation counselor" pursuant to this chapter.
- 3-4 (d) Any person licensed as a "licensed rehabilitation counselor" pursuant to this chapter
- 3-5 shall be permitted to practice rehabilitation counseling, independently in a private practice or in
- 3-6 association with a public or private agency or institution.
- 3-7 (e) No person shall engage in the practice of rehabilitation counseling unless he or she
- 3-8 holds an active license as a "licensed rehabilitation counselor" issued pursuant to this chapter.
- 3-9 **5-81-4. Exemptions.** – The provisions of this chapter do not apply to the following
- 3-10 persons:
- 3-11 (a) Qualified members of other professions or occupations engaging in practices similar
- 3-12 in nature to rehabilitation counseling; provided, that they are authorized by the laws of this state
- 3-13 to engage in similar practices, do not represent themselves as a "licensed rehabilitation counselor"
- 3-14 and do not characterize their practices as rehabilitation counseling.
- 3-15 (b) Students engaged in doctorate or master's level study in rehabilitation counseling

3-16 accredited by the commission on rehabilitation education (CORE); provided, that the students are  
3-17 practicing as part of a supervised course of study and designated by such titles as "rehabilitation  
3-18 counseling intern", "rehabilitation counselor trainee", "rehabilitation counseling student" or  
3-19 similar title that clearly indicates training status; or

3-20 (c) State employees in the discharge of their duties.

3-21 **5-81-5. Agency powers.** – The department shall promulgate rules and regulations for the  
3-22 administration of this chapter and to further its purposes. The department shall issue licenses to  
3-23 those qualified under this chapter and to otherwise provide for the implementation of this statute.

3-24 **5-81-6. Qualifications for initial and renewed licensure.** – (a) Initial licensure – To  
3-25 qualify for initial license the applicant for licensure shall submit written evidence on forms  
3-26 furnished by the department verified under oath that the applicant is currently a certified  
3-27 rehabilitation counselor in good standing as determined by the commission on rehabilitation  
3-28 counselor certification or its successor agency and is of good moral character.

3-29 (b) Initial licensure of qualified rehabilitation counselors.

3-30 (1) To qualify for licensure prior to April 1, 2008 an applicant for initial licensure shall  
3-31 submit written evidence on forms furnished by the department verified under oath that the  
3-32 applicant: (i) is currently a qualified rehabilitation counselor in good standing pursuant to the  
3-33 provisions of section 41(f) of chapter 33, title 28 of the Rhode Island general laws; and (ii) is of  
3-34 good moral character.

4-1 (2) The provisions of subsection 5-78-8(b) shall expire on April 1, 2008.

4-2 (c) Renewal of license – To qualify for renewal of a license the applicant shall submit  
4-3 written evidence on forms furnished by the department verified under oath that the applicant has  
4-4 completed the required continuing education hours as established in regulation.

4-5 (d) In addition to the aforementioned requirements, an applicant for initial licensure or  
4-6 renewal of licensure shall demonstrate to the department's satisfaction:

4-7 (1) That the applicant is: (i) currently a certified rehabilitation counselor in good standing  
4-8 as determined by the commission on rehabilitation counselor certification or its successor agency  
4-9 and is of; (ii) good moral character; and

4-10 (2) United States citizenship or status as a legal resident alien; and

4-11 (3) Absence of a sanction from the commission on rehabilitation counselor certification,  
4-12 and/or absence a sanction from the department for violation of the code of ethics of the  
4-13 commission on rehabilitation counselors or its successor agency, or other related state board  
4-14 which may be waived by the department upon presentation of satisfactory evidence that the  
4-15 sanction does not impair the ability of the person to conduct with safety to the public the practice  
4-16 authorized by this license. The applicant shall bear the burden of proving that his or her sanction  
4-17 does not impair his or her ability to conduct with safety to the public the practice authorized by  
4-18 this license;

4-19 (4) If a felony conviction exists, said conviction may be waived by the department upon  
4-20 presentation of satisfactory evidence that the conviction does not impair the ability of the person  
4-21 to conduct with safety to the public the practice authorized by this license. The applicant shall  
4-22 bear the burden of proving that his or her conviction does not impair his or her ability to conduct  
4-23 with safety to the public the practice authorized by this license;

4-24 (5) That the applicant has not been declared mentally incompetent by any court, and if the  
4-25 decree has ever been rendered, that there has been a subsequent court determination that the  
4-26 applicant is competent; and

4-27 (6) Freedom from use of any controlled substance or any alcoholic beverages to the

4-28 extent that the use impairs the ability of the person to conduct with safety to the public the  
4-29 practice authorized by this license. The applicant shall bear the burden of proving that he or she is  
4-30 free from use of any controlled substance or any alcoholic beverages that impair his or her ability  
4-31 to conduct with safety to the public the practice authorized by this license.

4-32 **5-81-7. Fees and renewal.** -- (a) Any fees collected under the provisions of this chapter  
4-33 shall be deposited in the general fund.

4-34 (b) The initial fee for application for licensure is one hundred twenty-five dollars (\$125).

5-1 (c) Licenses shall be renewed every two (2) years on October first of odd numbered years  
5-2 upon payment of a fee of one hundred twenty-five dollars (\$125) and in compliance with any  
5-3 additional requirements that the department promulgates.

5-4 **5-81-8. Discipline.** – Licensees subject to this chapter shall conduct their activities,  
5-5 services, and practice in accordance with this chapter and with any rules promulgated pursuant to  
5-6 this chapter. The department may refuse to grant a license to, or otherwise discipline the license  
5-7 of any person whom the department, after a hearing, determines a finding of "unprofessional  
5-8 conduct" that includes, but is not limited to, the following items or any combination of these  
5-9 items and may be further defined by regulations established by the department.

5-10 (a) Is incompetent to practice under the provisions of this chapter, or is found to engage  
5-11 in the practice of rehabilitation counseling in a manner harmful or dangerous to a client or to the  
5-12 public;

5-13 (b) Has obtained or attempted to obtain a license, or renewal, by bribery or fraudulent  
5-14 representation;

5-15 (c) Has knowingly made a false statement on a form required by the department;

5-16 (d) Has failed to obtain the continuing education credits necessary for re-licensing;

5-17 (e) Has failed to remain free from the use of any controlled substance or any alcoholic  
5-18 beverages to the extent that the use impairs the ability of the person to conduct with safety to the  
5-19 public the practice authorized by this license. The applicant shall bear the burden of proving that  
5-20 he or she is free from use of any controlled substance or any alcoholic beverages that impair his  
5-21 or her ability to conduct with safety to the public the practice authorized by this license;

5-22 (f) Is incompetent or negligent misconduct in the practice of rehabilitation counseling;

5-23 (g) Has a conviction, including, a plea of nolo contendere, of one or more of the offenses  
5-24 listed in section 23-17-37 of the Rhode Island general laws, as amended;

5-25 (h) Has been convicted of a felony, which may be waived by the department upon  
5-26 presentation of satisfactory evidence that the conviction does not impair the ability of the person  
5-27 to conduct with safety to the public the practice authorized by this license. The applicant shall  
5-28 bear the burden of proving that his or her conviction does not impair his or her ability to conduct  
5-29 with safety to the public the practice authorized by this license;

5-30 (i) Has disciplinary action pending or has revocation, suspension, surrender, or probation  
5-31 taken against the licensee in Rhode Island to practice as a rehabilitation counselor in another state  
5-32 or territory of the United States;

5-33 (j) Has failed to maintain confidentiality;

5-34 (k) Has engaged in false or misleading advertising;

6-1 (l) Has been declared mentally incompetent by any court, until there is a subsequent court  
6-2 determination that the person is competent;

6-3 (m) Has violated any of the provisions of this chapter or any of the rules and regulations  
6-4 or departure from or failure to conform to the current standards of acceptable and prevailing  
6-5 practice and code of ethics of rehabilitation counseling; or

6-6 [\(n\) Has failed to maintain the community standard of practice.](#)  
6-7 [5-81-9. Disciplinary process. –Disciplinary procedures under this chapter shall be](#)  
6-8 [conducted in accordance with the Administrative Procedures Act, chapter 35 of title 42.](#)  
6-9 [5-81-10. Severability. -- The provisions of this chapter are severable and if any of its](#)  
6-10 [provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of](#)  
6-11 [that court shall not affect or impair any of the remaining provisions.](#)  
6-12 SECTION 3. This act shall take effect on March 31, 2008.

Email regarding the Rehab Counselor bills:

Hi Bob,

Thank you for your questions about the changes from last years Bill. A set of exemptions has been included in this years Bill. The wording of the exemption statement is attached.

The changes (these exemptions) in the Bill that I have been involved in address the concerns of community based organizations whose representatives felt that there was adequate protection for people with disabilities under state licensing and regulation arrangements. The purpose of the Bill is to ensure that people with disabilities receive rehabilitation counseling services from adequately trained and supported staff and that there were mechanisms for censure for inappropriate or unethical behavior. Of particular concern, has been individuals/non-licensed programs who are accessing ticket-to-work funding.

The government departments and community based organizations are all licensed, regulated or accredited, requiring adequate training and supervision of staff and of course censure for non-professional behavior. They believe that original draft of the Bill would make it difficult to offer services. The attached document is a compromise that addresses the concerns of the departments and organizations but still provides protection for people with disabilities against "rogue" operators.

**Please call me on my cell phone 781 698 8053 if your committee has any further questions.**

Dr Dimity Peter

Program Director

Rehabilitation Counseling

Salve Regina University

100 Ochre Point Rd

Newport RI 02840

ph 401 341 3189

Language below is an amendment to the bill and would replace Section 5-81-4 Exemptions on page 6 lines 3-9 to

3-18

1 [Exemptions. – \(a\) No provision of this chapter shall be construed to limit the practice of medicine,](#)  
2 [osteopathy, psychology, clinical social work, psychiatric nursing, or other recognized business or](#)  
3 [profession, or to prevent qualified members of other professions from doing work of a nature consistent](#)  
4 [with their training so long as they do not hold themselves out to the public as a licensed rehabilitation](#)  
5 [counselor.](#)  
6 [\(b\) No person shall be required to be licensed under this chapter who:](#)  
7 [\(1\) Is an employee of a government agency or of a developmental services program or of a mental](#)  
8 [health, alcohol, or drug abuse treatment facility or other program serving people with disabilities that is](#)  
9 [operating under a state license, state certification or state contract, or who is an employee of an accredited](#)  
10 [academic institution or research institution, if the employee is performing duties for which he or she was](#)  
11 [hired under the auspices of the agency, facility or institution;](#)  
12 [\(2\) Is a student who is pursuing a course of study which leads to a degree in medicine or a profession](#)  
13 [regulated by this chapter who is providing services in a training setting; provided, that the activities or](#)  
14 [services constitute part of a supervised course of study, or is a graduate accumulating the experience](#)  
15 [required for any licensure under this chapter; provided, that the graduate or student is designated by a title](#)  
16 [such as "intern" or "trainee" which clearly indicates the in-training status of the student;](#)  
17 [\(3\) Is certified in school psychology by the department of elementary and secondary education and is](#)  
18 [performing psychological services as an employee of a public or private educational institution;](#)  
19 [\(4\) Is a rabbi, priest, minister, or member of the clergy of any religious denomination or sect when](#)  
20 [engaging in activities which are within the scope of the performance of his or her regular or specialized](#)  
21 [ministerial duties and for which no separate charge is made, or when the activities are performed, with or](#)

22 [without charge, for or under the auspices or sponsorship, individually or in conjunction with others, of an](#)  
23 [established and legally recognized church, denomination, or sect, and when the person rendering service](#)  
24 [remains accountable to the established authority.](#)

Discussion: no position taken		
<b>2. Consideration of New Bills</b>		
	Request for Committee review from Rep. Naughton to: <b>H 5300 Article 6 Relating To Making Revised Appropriations In Support of FY 2007</b> Section 3.	
SECTION 3. Notwithstanding any provisions of Chapter 1-42 in Title 39 of the Rhode Island General Laws, the Public Utilities Commission shall transfer from the Dual Party Phone Relay Fund to the General Fund the sum of four hundred fifty thousand dollars (\$450,000) prior to June 30, 2007		

2 The text of Chapter 1-42 of Title 39 is below:  
3 39-1-42. Access to telephone information services for persons with disabilities.  
4 (a) The public utilities commission shall establish, administer and promote an information accessibility  
5 service that includes:  
6 (1) A statewide telephone relay service and, through the competitive bidding process, contract for the  
7 administration and operation of such a relay system for utilization of the telecommunications network by  
8 deaf, hard of hearing and speech impaired persons;  
9 (2) The adaptive telephone equipment loan program capable of servicing the needs of persons who are  
10 deaf, hard of hearing, severely speech impaired, or those with neuromuscular impairments for use with a  
11 single party telephone line, to any subscriber who is certified as deaf, hard of hearing, severely speech  
12 impaired, or with neuromuscular impairments by a licensed physician, audiologist, speech pathologist, or  
13 a qualified state agency, pursuant to chapter 23 of this title; and  
14 (3) A telephone access to the text of newspaper programs to residents who are blind, deaf or blind,  
15 visually impaired, or reading impaired with a single party telephone line.  
16 (b) The commission shall establish, by rule or regulation, an appropriate funding mechanism to recover  
17 the costs of providing this service from each residence and business telephone access line or trunk in the  
18 state, including PBX trunks and centrex equivalent trunks and each service line or trunk, and upon each  
19 user interface number or extension number or similarly identifiable line, trunk, or path to or from a digital  
20 network. Notwithstanding the foregoing, there shall not be any additional funding mechanism used to  
21 charge each residence and business telephone access line or truck in the state, including PBX trunks and  
22 centrex equivalent trunks and each service line or trunk, or upon each user interface number or extension  
23 number or similarly identifiable line, trunk or path to or from a digital network, to recover the costs of  
24 providing the services outlined in subsections (a)(1), (2) or (3) above.  
25 (c) The commission, with the assistance of the state commission on the deaf and hard of hearing, shall  
26 also develop the appropriate rules, regulations and service standards necessary to implement the  
27 provisions of subsection (a)(1) of this section. At a minimum, however, the commission shall require,  
28 under the terms of the contract, that the relay service provider:  
29 (1) Offer its relay services seven (7) days a week, twenty-four (24) hours a day, including holidays;  
30 (2) Hire only qualified salaried operators with deaf language skills; and  
31 (3) Maintain the confidentiality of all communications.  
32 (d) [Deleted by P.L. 2004, ch. 504, § 3.]  
33 (e) The commission shall collect from the telecommunications service providers the amounts of the  
34 surcharge collected from their subscribers and remit to the department of human services an additional ten  
35 thousand dollars (\$10,000) annually commencing in fiscal year 2005 for the adaptive telephone  
36 equipment loan program and forty thousand dollars (\$40,000) to the department of human services for the

37 establishment of a new telephone access to the text of newspaper programs. The surcharge referenced  
38 hereunder shall be generated from existing funding mechanisms and shall not be generated as a result of  
39 any new funding mechanisms charged to each residence and business telephone access line or trunk in the  
40 state, including PBX trunks and centrex equivalent trunks and each service line or trunk, or upon each  
41 user interface number or extension number or similarly identifiable line, trunk or path to or from a digital  
42 network.

MOTION: To find harmful unless amended to address the current fiscal year's unmet needs of the adaptive telephone equipment loan program, news line and tty relay in H 5300 Article 6 Relating to Making Revised Appropriations in Support of FY 2007 Section 3 EG/DK passed Nay BI

**Health Care Services**

**07 H-6187 Sub A AN ACT RELATING TO HUMAN SERVICES -- PHARMACEUTICALS**

Sponsors: Rep. Mumford Requested by the Department of Administration Recommend Passage House Calendar 4/24/2007 # 002

Description: This act would provide that the department of human services would be authorized and directed to impose co-payments for prescription drugs in the amount of \$1.00 for generic drug prescriptions and \$3.00 for brand name drug prescriptions as part of the medical care benefits to eligible beneficiaries through the direct vendor payment plan. This act would take effect upon passage and would apply retroactively to February 1, 2007.

Substitute would change the effective date to upon passage.

1-1 SECTION 1. Section 40-8-4 of the General Laws in Chapter 40-8 entitled "Medical  
1-2 Assistance" is hereby amended to read as follows:

1-3 **40-8-4. Direct vendor payment plan. --** (a) The department shall furnish medical care  
1-4 benefits to eligible beneficiaries through a direct vendor payment plan. The plan shall include, but  
1-5 need not be limited to, any or all of the following benefits, which benefits shall be contracted for  
1-6 by the director:

1-7 (1) Inpatient hospital services, other than services in a hospital, institution, or facility for  
1-8 tuberculosis or mental diseases;

1-9 (2) Nursing services for such period of time as the director shall authorize;

1-10 (3) Visiting nurse service;

1-11 (4) Drugs for consumption either by inpatients or by other persons for whom they are  
1-12 prescribed by a licensed physician;

1-13 (5) Dental services; and

1-14 (6) Hospice care up to a maximum of two hundred and ten (210) days as a lifetime  
1-15 benefit.

1-16 (b) For purposes of this chapter, the payment of federal Medicare premiums or other  
1-17 health insurance premiums by the department on behalf of eligible beneficiaries in accordance  
1-18 with the provisions of Title XIX of the federal Social Security Act, 42 U.S.C. section 1396 et  
1-19 seq., shall be deemed to be a direct vendor payment.

2-1 (c) With respect to medical care benefits furnished to eligible individuals under this  
2-2 chapter or Title XIX of the federal Social Security Act, the department is authorized and directed  
2-3 to impose;

2-4 (i) nominal co-payments or similar charges upon eligible individuals for non-emergency  
2-5 services provided in a hospital emergency room; and (ii) co-payments for prescription drugs in  
2-6 the amount of one dollar (\$1.00) for generic drug prescriptions and three dollars (\$3.00) for brand  
2-7 name drug prescriptions in accordance with the provisions of 42 U.S.C. section 1396, et seq., ~~and~~  
2-8 ~~the~~

2-9 (d) The department is authorized and directed to promulgate rules and regulations to  
2-10 impose such co-payments or charges and to provide that, with respect to subdivision (ii) above,  
2-11 those regulations shall be effective upon filing.  
2-12 SECTION 2. This act shall take effect upon passage.

**MOTION: To find harmful H 6187 Substitute A Human Services – Pharmaceuticals**  
RB/JB passed, Abstain DK, PP

**07 H-5061 Sub A An Act Relating To Insurance – Cervical Cancer Vaccine Health and Safety -- Department of Health** Sponsors: Rep. Gemma & Reps. Ginaitt, Naughton, Serpa, Williams Recommend Passage House Desk  
Description: ~~This act would require insurance coverage for the cervical cancer vaccine. This act would direct the director of the department of health to appoint an advisory committee to review the findings of the advisory committee for immunization practices (ACIP) regarding the cost and feasibility of adult immunization. This act would take effect upon passage.~~

1-1 SECTION 1. Section 23-1-44 of the General Laws in Chapter 23-1 entitled "Department  
1-2 of Health" is hereby amended to read as follows:

1-3 **23-1-44. Routine childhood and adult immunization vaccines.** – (a) The department of  
1-4 health shall include in the department's immunization program those vaccines for routine  
1-5 childhood immunization as recommended by the advisory committee for immunization practices  
1-6 (ACIP) and the academy of pediatrics (AAP), and for adult influenza immunization as  
1-7 recommended by the ~~advisory committee for immunization practices (ACIP)~~, to the extent  
1-8 permitted by available funds.

1-9 (b) The director of the department of health shall appoint an advisory committee that will  
1-10 be convened after the ACIP makes a recommendation regarding adult immunization. The  
1-11 committee will review the ACIP recommendations for the state, assess the vaccine cost and  
1-12 feasibility, and advise the director of health and the office of the health insurance commissioner  
1-13 regarding insurers and providers acting on the ACIP adult immunization recommendation. All  
1-14 recommendations will be posted on the department of health website. The advisory committee  
1-15 membership shall include, but not be limited to, a primary care provider, pharmacist,  
1-16 representatives of the nursing home industry, the home health care industry and major insurers.

2-1 SECTION 2. This act shall take effect upon passage.

No position taken

**07 H-6167 An Act Relating To Education - Health and Safety of Pupils** Sponsors: Rep. Fellela & Reps. Ucci, Walsh, and Church In Committee House Health, Education, & Welfare Committee  
Description: This act would require that there be a 504 plan in effect for any student who is at risk of anaphylactic shock reaction. This act would take effect upon passage.

1-1 SECTION 1. Chapter 16-21 of the General Laws entitled "Health and Safety of Pupils" is  
1-2 hereby amended by adding thereto the following section:

1-3 **16-21-22.1. Requirement of 504 plan for anaphylaxis shock. -- Any child in any**  
1-4 **school within the state who is at risk of anaphylactic shock reaction shall have a 504 plan in**  
1-5 **place.**

1-6 SECTION 2. This act shall take effect upon passage.

**MOTION: To find beneficial H 6167 An Act Relating To Education - Health and Safety of Pupils** LG/PP

MOTION: To table to prior motion, for additional information from RI Department of Elementary & Secondary Education BI/GR passed, Abstain LG & PP

**S 341/ H 6070 Acts Relating To Public Records** Sponsors Sen. Lenihan / Rep. Dennigan  
Senate Judiciary heard on 04/12/2007 & In House Judiciary

This act would amend the access to public records law by expanding these circumstances when an award of attorneys' fees may be made and by mandating that most requests for the search and retrieval of public records be complied within three (3) days of the request. This act would also require the chief administrative officer or each agency to certify in writing to the attorney general that all officers and employees have been trained regarding this chapter if they have the authority to grant or deny access to records.

This act would take effect upon passage.

1-1 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  
1-2 General Laws in Chapter 38-2 entitled "Access to Public Records" are hereby amended to read as  
1-3 follows:

1-4 **38-2-2. Definitions.** -- As used in this chapter:

1-5 (1) "Agency" or "public body" shall mean any executive, legislative, judicial, regulatory,  
1-6 or administrative body of the state, or any political subdivision thereof; including, but not limited  
1-7 to, any department, division, agency, commission, board, office, bureau, authority, any school,  
1-8 fire, or water district, or other agency of Rhode Island state or local government which exercises  
1-9 governmental functions, any authority as defined in section 42-35-1(b), or any other public or  
1-10 private agency, person, partnership, corporation, or business entity acting on behalf of and/or in  
1-11 place of any public agency.

1-12 (2) "Chief administrative officer" means the highest authority of the public body as  
1-13 defined in subsection (a) of this section.

1-14 (3) "Public business" means any matter over which the public body has supervision,  
1-15 control, jurisdiction, or advisory power.

1-16 (4) (i) "Public record" or "public records" shall mean all documents, papers, letters,  
1-17 maps, books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data  
1-18 processing records, computer stored data (including electronic mail messages, except specifically  
1-19 for any electronic mail messages of or to elected officials with or relating to those they represent  
2-1 and correspondence of or to elected officials in their official capacities) or other material  
2-2 regardless of physical form or characteristics made or received pursuant to law or ordinance or in  
2-3 connection with the transaction of official business by any agency. For the purposes of this  
2-4 chapter, the following records shall not be deemed public:

2-5 (A) (I) All records ~~which are identifiable to an individual applicant for benefits, client,~~  
2-6 ~~patient, student, or employee, including, but not limited to, personnel, medical treatment, welfare,~~  
2-7 ~~employment security, pupil records, all records relating to a client/attorney relationship and to a~~  
2-8 ~~doctor/patient relationship, and all~~ reflecting personal or medical information relating to an  
2-9 individual in any files, including information relating to medical or psychological facts, personal  
2-10 finances, welfare, employment security, student performance, or information in personnel files  
2-11 maintained to hire, evaluate, promote, or discipline any employee of a public body; provided,  
2-12 however, with respect to employees, the name, gross salary, salary range, total cost of paid fringe  
2-13 benefits, gross amount received in overtime, and other remuneration in addition to salary, job  
2-14 title, job description, dates of employment and positions held with the state or municipality, work  
2-15 location, business telephone number, the city or town of residence, and date of termination shall  
2-16 be public.

2-17 (II) Notwithstanding the provisions of this section, or any other provision of the general  
2-18 laws to the contrary, the pension records of all persons who are either current or retired members  
2-19 of the retirement systems established by the general laws as well as all persons who become  
2-20 members of those retirement systems after June 17, 1991 shall be open for public inspection.

2-21 "Pension records" as used in this section shall include all records containing information  
2-22 concerning pension and retirement benefits of current and retired members of the retirement

2-23 systems established in title 8, title 36, title 42, and title 45 and future members of said systems,  
2-24 including all records concerning retirement credits purchased and the ability of any member of  
2-25 the retirement system to purchase retirement credits, but excluding all information regarding the  
2-26 medical condition of any person and all information identifying the member's designated  
2-27 beneficiary or beneficiaries.

2-28 (B) Trade secrets and commercial or financial information obtained from a person, firm,  
2-29 or corporation which is of a privileged or confidential nature.

2-30 (C) Child custody and adoption records, records of illegitimate births, and records of  
2-31 juvenile proceedings before the family court.

2-32 (D) All records maintained by law enforcement agencies for criminal law enforcement  
2-33 and all records relating to the detection and investigation of crime, including those maintained on  
2-34 any individual or compiled in the course of a criminal investigation by any law enforcement  
3-1 agency. Provided, however, such records shall not be deemed public only to the extent that the  
3-2 disclosure of the records or information (a) could reasonably be expected to interfere with  
3-3 investigations of criminal activity or with enforcement proceedings, (b) would deprive a person of  
3-4 a right to a fair trial or an impartial adjudication, (c) could reasonably be expected to constitute an  
3-5 unwarranted invasion of personal privacy, (d) could reasonably be expected to disclose the  
3-6 identity of a confidential source, including a state, local, or foreign agency or authority, or any  
3-7 private institution which furnished information on a confidential basis, or the information  
3-8 furnished by a confidential source, (e) would disclose techniques and procedures for law  
3-9 enforcement investigations or prosecutions, or would disclose guidelines for law enforcement  
3-10 investigations or prosecutions or (f) could reasonably be expected to endanger the life or physical  
3-11 safety of any individual. Records relating to management and direction of a law enforcement  
3-12 agency and records or reports, reflecting including narrative reports relating to the initial arrest of  
3-13 an adult and the charge or charges brought against an adult shall be ~~public~~: accessible to the  
3-14 public as soon as practicable.

3-15 (E) Any records which would not be available by law or rule of court to an opposing  
3-16 party in litigation.

3-17 (F) Scientific and technological secrets and the security plans of military and law  
3-18 enforcement agencies, the disclosure of which would endanger the public welfare and security.

3-19 (G) Any records which disclose the identity of the contributor of a bona fide and lawful  
3-20 charitable contribution to the public body whenever public anonymity has been requested of the  
3-21 public body with respect to the contribution by the contributor.

3-22 (H) Reports and statements of strategy or negotiation involving labor negotiations or  
3-23 collective bargaining.

3-24 (I) Reports and statements of strategy or negotiation with respect to the investment or  
3-25 borrowing of public funds, until such time as those transactions are entered into.

3-26 (J) Any minutes of a meeting of a public body which are not required to be disclosed  
3-27 pursuant to chapter 46 of title 42.

3-28 (K) Preliminary drafts, notes, impressions, memoranda, working papers, and work  
3-29 products; provided, however, any documents submitted at a public meeting of a public body shall  
3-30 be deemed public.

3-31 (L) Test questions, scoring keys, and other examination data used to administer a  
3-32 licensing examination, examination for employment or promotion, or academic examinations;  
3-33 provided, however, that a person shall have the right to review the results of his or her  
3-34 examination.

- 4-1 (M) Correspondence of or to elected officials with or relating to those they represent and  
4-2 correspondence of or to elected officials in their official capacities.
- 4-3 (N) The contents of real estate appraisals, engineering, or feasibility estimates and  
4-4 evaluations made for or by an agency relative to the acquisition of property or to prospective  
4-5 public supply and construction contracts, until such time as all of the property has been acquired  
4-6 or all proceedings or transactions have been terminated or abandoned; provided the law of  
4-7 eminent domain shall not be affected by this provision.
- 4-8 (O) All tax returns.
- 4-9 (P) All investigatory records of public bodies, with the exception of law enforcement  
4-10 agencies, pertaining to possible violations of statute, rule, or regulation other than records of final  
4-11 actions taken provided that all records prior to formal notification of violations or noncompliance  
4-12 shall not be deemed to be public.
- 4-13 (Q) Records of individual test scores on professional certification and licensing  
4-14 examinations; provided, however, that a person shall have the right to review the results of his or  
4-15 her examination.
- 4-16 (R) Requests for advisory opinions until such time as the public body issues its opinion.
- 4-17 (S) Records, reports, opinions, information, and statements required to be kept  
4-18 confidential by federal law or regulation or state law, ~~or~~ rule of court, or client/attorney privilege.
- 4-19 (T) Judicial bodies are included in the definition only in respect to their administrative  
4-20 function provided that records kept pursuant to the provisions of chapter 16 of title 8 are exempt  
4-21 from the operation of this chapter.
- 4-22 (U) Library records which by themselves or when examined with other public records,  
4-23 would reveal the identity of the library user requesting, checking out, or using any library  
4-24 materials.
- 4-25 (V) Printouts from TELE -- TEXT devices used by people who are deaf or hard of  
4-26 hearing or speech impaired.
- 4-27 (W) All records received by the insurance division of the department of business  
4-28 regulation from other states, either directly or through the National Association of Insurance  
4-29 Commissioners, if those records are accorded confidential treatment in that state. Nothing  
4-30 contained in this title or any other provision of law shall prevent or be construed as prohibiting  
4-31 the commissioner of insurance from disclosing otherwise confidential information to the  
4-32 insurance department of this or any other state or country, at any time, so long as the agency or  
4-33 office receiving the records agrees in writing to hold it confidential in a manner consistent with  
4-34 the laws of this state.
- 5-1 (X) Credit card account numbers in the possession of state or local government are  
5-2 confidential and shall not be deemed public records.
- 5-3 (ii) However, any reasonably segregable portion of a public record excluded by this  
5-4 section shall be available for public inspections after the deletion of the information which is the  
5-5 basis of the exclusion, if disclosure of the segregable portion does not violate the intent of this  
5-6 section.
- 5-7 (5) "Supervisor of the regulatory body" means the chief or head of a section having  
5-8 enforcement responsibility for a particular statute or set of rules and regulations within a  
5-9 regulatory agency.
- 5-10 (6) "Prevailing plaintiff" means and shall include those persons and entities deemed  
5-11 prevailing parties pursuant to 42 U.S.C. section 1988. [A judgment in the plaintiff's favor shall not](#)  
5-12 [be a prerequisite to the award of attorneys' fees.](#)

5-13 **38-2-3. Right to inspect and copy records -- Duty to maintain minutes of meetings --**

5-14 **Procedures for access.** -- (a) Except as provided in section 38-2-2(4), all records maintained or  
5-15 kept on file by any public body, whether or not those records are required by any law or by any  
5-16 rule or regulation, shall be public records and every person or entity shall have the right to inspect  
5-17 and/or copy those records at such reasonable time as may be determined by the custodian thereof.

5-18 (b) Each public body shall make, keep, and maintain written or recorded minutes of all  
5-19 meetings.

5-20 (c) Each public body shall establish procedures regarding access to public records but  
5-21 shall not require written requests for public information available pursuant to R.I.G.L. section 42-  
5-22 35-2 or for other documents prepared for or readily available to the public.

5-23 (d) A public body receiving a request shall permit the inspection immediately or as soon  
5-24 as is practicable within three (3) business days after receiving a request. If the inspection is not  
5-25 permitted within three (3) business days, the public body shall forthwith explain in writing when  
5-26 the records will be available for inspection or when the public body will respond to the request,  
5-27 but which in any event shall not be more than ten (10) business days after receiving a request.

5-28 ~~(d)~~ (e) If a public record is in active use or in storage and, therefore, not available at the  
5-29 time a person or entity requests access, the custodian shall so inform the person or entity and  
5-30 make an appointment for the ~~citizen~~ person or entity to examine such records as expeditiously as  
5-31 they may be made available.

5-32 ~~(e)~~ (f) Any person or entity requesting copies of public records may elect to obtain them  
5-33 in any and all media in which the public agency is capable of providing them. Any public body  
5-34 which maintains its records in a computer storage system shall provide any data properly  
6-1 identified in a printout or other reasonable format, as requested.

6-2 ~~(f)~~ (g) Nothing in this section shall be construed as requiring a public body to reorganize,  
6-3 consolidate, or compile data not maintained by the public body in the form requested at the time  
6-4 the request to inspect the public records was made except to the extent that such records are in an  
6-5 electronic format and the public body would not be unduly burdened in providing such data.

6-6 ~~(g)~~ (h) Nothing in this section is intended to affect the public record status of information  
6-7 merely because it is stored in a computer.

6-8 ~~(h)~~ (i) No public records shall be withheld based on the purpose for which the records  
6-9 are sought.

6-10 (ii) At the election of the person or entity requesting the public records, the public body  
6-11 shall provide the public records by mail unless such mailing would be unduly burdensome due to  
6-12 the volume of the records requested and the costs that would be incurred.

6-13 **38-2-4. Cost.** -- (a) Subject to the provisions of section 38-2-3, a public body must allow  
6-14 copies to be made or provide copies of public records. The cost per copied page of written  
6-15 documents provided to the public shall not exceed fifteen cents (\$.15) per page for documents  
6-16 copyable on common business or legal size paper. A public body may not charge more than the  
6-17 reasonable actual cost for providing electronic records.

6-18 (b) A reasonable charge may be made for the search or retrieval of documents. Hourly  
6-19 costs for a search and retrieval shall not exceed fifteen dollars (\$15.00) per hour and no costs  
6-20 shall be charged for the first hour of a search or retrieval.

6-21 (c) Copies of documents shall be provided and the search and retrieval of documents  
6-22 accomplished ~~within a reasonable time after a request.~~ immediately or as soon as practicable  
6-23 within three (3) business days after receipt of a request except that for good cause shown, this  
6-24 time limit may be extended for a period not to exceed ten (10) business days. A public body shall

6-25 provide an estimate of the costs of a request for documents prior to providing copies.

6-26 (d) Upon request, the public body shall provide a detailed itemization of the costs  
6-27 charged for search and retrieval.

6-28 (e) A court may reduce or waive the fees for costs charged for search or retrieval if it  
6-29 determines that the information requested is in the public interest because it is likely to contribute  
6-30 significantly to public understanding of the operations or activities of the government and is not  
6-31 primarily in the commercial interest of the requester.

6-32 **38-2-6. Commercial use of public records.** -- No person or business entity shall use  
6-33 information obtained from public records pursuant to this chapter ~~to solicit for commercial~~  
6-34 ~~purposes or~~ to obtain a commercial advantage over the party furnishing that information to the  
7-1 public body. Anyone who knowingly and willfully violates the provision of this section shall, in  
7-2 addition to any civil liability, be punished by a fine of not more than five hundred dollars (\$500)  
7-3 and/or imprisonment for no longer than one year.

7-4 **38-2-7. Denial of access.** -- (a) Any denial of the right to inspect or copy records, in  
7-5 whole or in part, provided for under this chapter shall be made to the person or entity requesting  
7-6 the right by the public body official who has custody or control of the public record in writing  
7-7 giving the specific reasons for the denial within ten (10) business days of the request and  
7-8 indicating the procedures for appealing the denial. Except for good cause shown, any reason not  
7-9 specifically set forth in the denial shall be deemed waived by the public body.

7-10 (b) Failure to timely comply with a request to inspect or copy the public record ~~within~~  
7-11 ~~the ten (10) business day period shall be deemed to be a denial. Except that for good cause, this~~  
7-12 ~~limit may be extended for a period not to exceed thirty (30) business days.~~

7-13 **38-2-8. Administrative appeals.** -- (a) Any person or entity denied the right to inspect a  
7-14 record of a public body by the custodian of the record may petition the chief administrative  
7-15 officer of that public body for a review of the determinations made by his or her subordinate. The  
7-16 chief administrative officer shall make a final determination whether or not to allow public  
7-17 inspection within ten (10) business days after the submission of the review petition.

7-18 (b) If the custodian of the records or the chief administrative officer determines that the  
7-19 record is not subject to public inspection, the person or entity seeking disclosure may file a  
7-20 complaint with the attorney general. The attorney general shall investigate the complaint and if  
7-21 the attorney general shall determine that the allegations of the complaint are meritorious, he or  
7-22 she may institute proceedings for injunctive or declaratory relief on behalf of the complainant in  
7-23 the superior court of the county where the record is maintained. Nothing within this section shall  
7-24 prohibit any individual or entity from retaining private counsel for the purpose of instituting  
7-25 proceedings for injunctive or declaratory relief in the superior court of the county where the  
7-26 record is maintained.

7-27 (c) The attorney general shall consider all complaints filed under this chapter to have  
7-28 also been filed pursuant to the provisions of section 42-46-8(a), if applicable.

7-29 ~~(d) Nothing within this section shall prohibit any individual or entity from retaining~~  
7-30 ~~private counsel for the purpose of instituting proceedings for injunctive or declaratory relief in the~~  
7-31 ~~superior court of the county where the record is maintained.~~

7-32 **38-2-9. Jurisdiction of superior court.** -- (a) Jurisdiction to hear and determine civil  
7-33 actions brought under this chapter is hereby vested in the superior court.

7-34 (b) The court may examine any record which is the subject of a suit in camera to  
8-1 determine whether the record or any part thereof may be withheld from public inspection under  
8-2 the terms of this chapter.

8-3 (c) Actions brought under this chapter may be advanced on the calendar upon motion of.  
8-4 any party, or sua sponte by the court made in accordance with the rules of civil procedure of the  
8-5 superior court.

8-6 (d) The court shall impose a civil fine not exceeding ~~one~~ fifteen thousand dollars  
8-7 ~~(\$1,000)~~ (\$15,000) against a public body or official found to have committed a knowing and  
8-8 willful violation of this chapter, and shall award reasonable attorney fees and costs to the  
8-9 prevailing plaintiff. The court shall further order a public body found to have wrongfully denied  
8-10 access to public records to provide the records at no cost to the prevailing party; provided, further,  
8-11 that in the event that the court, having found in favor of the defendant, finds further that the  
8-12 plaintiff's case lacked a grounding in fact or in existing law or in good faith argument for the  
8-13 extension, modification, or reversal of existing law, the court may award attorneys fees and costs  
8-14 to the prevailing defendant.

8-15 SECTION 2. Chapter 38-2 of the General Laws entitled "Access to Public Records" is  
8-16 hereby amended by adding thereto the following section:

8-17 **38-2-16. Compliance by law enforcement agencies.** – No later than January 1, 2007,  
8-18 and annually, thereafter, the chief administrative officer of each agency shall certify in writing to  
8-19 the attorney general that the agency has provided orientation and training regarding this chapter to  
8-20 all officers and employees who have the authority to grant or deny persons access to records  
8-21 under this chapter.

8-22 SECTION 3. This act shall take effect upon passage.

**MOTION: To find harmful S 341/ H 6070 Acts Relating To Public Records LD/BI  
passed unanimously**

**H 6076 An Act Relating To Public Records -- Access** Sponsor Rep. Dennigan In House Judiciary  
This act would modify the definition of public records in the open records law to prevent the disclosure of records  
that would constitute a clear unwarranted invasion of privacy or which are otherwise exempt pursuant to state law  
including those protected by attorney/client and doctor/patient relationships.  
This act would take effect upon passage.

1-1 SECTION 1. Section 38-2-2 of the General Laws in Chapter 38-2 entitled "Access to  
1-2 Public Records" is hereby amended to read as follows:

1-3 **38-2-2. Definitions.** -- As used in this chapter:

1-4 (1) "Agency" or "public body" shall mean any executive, legislative, judicial, regulatory,  
1-5 or administrative body of the state, or any political subdivision thereof; including, but not limited  
1-6 to, any department, division, agency, commission, board, office, bureau, authority, any school,  
1-7 fire, or water district, or other agency of Rhode Island state or local government which exercises  
1-8 governmental functions, any authority as defined in section 42-35-1(b), or any other public or  
1-9 private agency, person, partnership, corporation, or business entity acting on behalf of and/or in  
1-10 place of any public agency.

1-11 (2) "Chief administrative officer" means the highest authority of the public body as  
1-12 defined in subsection (a) of this section.

1-13 (3) "Public business" means any matter over which the public body has supervision,  
1-14 control, jurisdiction, or advisory power.

1-15 (4) (i) "Public record" or "public records" shall mean all documents, papers, letters,  
1-16 maps, books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data  
1-17 processing records, computer stored data (including electronic mail messages, except specifically  
1-18 for any electronic mail messages of or to elected officials with or relating to those they represent  
1-19 and correspondence of or to elected officials in their official capacities) or other material  
2-1 regardless of physical form or characteristics made or received pursuant to law or ordinance or in

2-2 connection with the transaction of official business by any agency. For the purposes of this  
2-3 chapter, the following records shall not be deemed public:

2-4 (A) (I) All records which are identifiable to an individual ~~applicant for benefits, client,~~  
2-5 ~~patient, student, or employee, including, but not limited to, personnel, medical treatment, welfare,~~  
2-6 ~~employment security, pupil records, all records relating to a client/attorney relationship and to a~~  
2-7 ~~doctor/patient relationship, and all~~ pertaining to personal, confidential and protected health  
2-8 information or medical information ~~relating to an individual in any files,~~ including information  
2-9 relating to medical or psychological facts, personal finances, welfare, employment security,  
2-10 student performance, or information in personnel files maintained to hire, evaluate, promote, or  
2-11 discipline any employee of a public body and which would constitute a clearly unwarranted  
2-12 invasion of personal privacy; provided, however, with respect to employees, the name, gross  
2-13 salary, salary range, total cost of paid fringe benefits, gross amount received in overtime, and  
2-14 other remuneration in addition to salary, job title, job description, dates of employment and  
2-15 positions held with the state or municipality, work location, business telephone number, the city  
2-16 or town of residence, and date of termination shall be public.

2-17 (II) Notwithstanding the provisions of this section, or any other provision of the general  
2-18 laws to the contrary, the pension records of all persons who are either current or retired members  
2-19 of the retirement systems established by the general laws as well as all persons who become  
2-20 members of those retirement systems after June 17, 1991 shall be open for public inspection.  
2-21 "Pension records" as used in this section shall include all records containing information  
2-22 concerning pension and retirement benefits of current and retired members of the retirement  
2-23 systems established in title 8, title 36, title 42, and title 45 and future members of said systems,  
2-24 including all records concerning retirement credits purchased and the ability of any member of  
2-25 the retirement system to purchase retirement credits, but excluding all information regarding the  
2-26 medical condition of any person and all information identifying the member's designated  
2-27 beneficiary or beneficiaries.

2-28 (B) Trade secrets and commercial or financial information obtained from a person, firm,  
2-29 or corporation which is of a privileged or confidential nature.

2-30 (C) Child custody and adoption records, records of illegitimate births, and records of  
2-31 juvenile proceedings before the family court.

2-32 (D) All records maintained by law enforcement agencies for criminal law enforcement  
2-33 and all records relating to the detection and investigation of crime, including those maintained on  
2-34 any individual or compiled in the course of a criminal investigation by any law enforcement  
3-1 agency. Provided, however, such records shall not be deemed public only to the extent that the  
3-2 disclosure of the records or information (a) could reasonably be expected to interfere with  
3-3 investigations of criminal activity or with enforcement proceedings, (b) would deprive a person of  
3-4 a right to a fair trial or an impartial adjudication, (c) could reasonably be expected to constitute an  
3-5 unwarranted invasion of personal privacy, (d) could reasonably be expected to disclose the  
3-6 identity of a confidential source, including a state, local, or foreign agency or authority, or any  
3-7 private institution which furnished information on a confidential basis, or the information  
3-8 furnished by a confidential source, (e) would disclose techniques and procedures for law  
3-9 enforcement investigations or prosecutions, or would disclose guidelines for law enforcement  
3-10 investigations or prosecutions or (f) could reasonably be expected to endanger the life or physical  
3-11 safety of any individual. Records relating to management and direction of a law enforcement  
3-12 agency and records or reports reflecting the initial arrest of an adult and the charge or charges  
3-13 brought against an adult shall be public.

- 3-14 (E) Any records which would not be available by law or rule of court to an opposing  
3-15 party in litigation.
- 3-16 (F) Scientific and technological secrets and the security plans of military and law  
3-17 enforcement agencies, the disclosure of which would endanger the public welfare and security.
- 3-18 (G) Any records which disclose the identity of the contributor of a bona fide and lawful  
3-19 charitable contribution to the public body whenever public anonymity has been requested of the  
3-20 public body with respect to the contribution by the contributor.
- 3-21 (H) Reports and statements of strategy or negotiation involving labor negotiations or  
3-22 collective bargaining.
- 3-23 (I) Reports and statements of strategy or negotiation with respect to the investment or  
3-24 borrowing of public funds, until such time as those transactions are entered into.
- 3-25 (J) Any minutes of a meeting of a public body which are not required to be disclosed  
3-26 pursuant to chapter 46 of title 42.
- 3-27 (K) Preliminary drafts, notes, impressions, memoranda, working papers, and work  
3-28 products; provided, however, any documents submitted at a public meeting of a public body shall  
3-29 be deemed public.
- 3-30 (L) Test questions, scoring keys, and other examination data used to administer a  
3-31 licensing examination, examination for employment or promotion, or academic examinations;  
3-32 provided, however, that a person shall have the right to review the results of his or her  
3-33 examination.
- 3-34 (M) Correspondence of or to elected officials with or relating to those they represent and  
4-1 correspondence of or to elected officials in their official capacities.
- 4-2 (N) The contents of real estate appraisals, engineering, or feasibility estimates and  
4-3 evaluations made for or by an agency relative to the acquisition of property or to prospective  
4-4 public supply and construction contracts, until such time as all of the property has been acquired  
4-5 or all proceedings or transactions have been terminated or abandoned; provided the law of  
4-6 eminent domain shall not be affected by this provision.
- 4-7 (O) All tax returns.
- 4-8 (P) All investigatory records of public bodies, with the exception of law enforcement  
4-9 agencies, pertaining to possible violations of statute, rule, or regulation other than records of final  
4-10 actions taken provided that all records prior to formal notification of violations or noncompliance  
4-11 shall not be deemed to be public.
- 4-12 (Q) Records of individual test scores on professional certification and licensing  
4-13 examinations; provided, however, that a person shall have the right to review the results of his or  
4-14 her examination.
- 4-15 (R) Requests for advisory opinions until such time as the public body issues its opinion.
- 4-16 (S) Records, reports, opinions, information, and statements required to be kept  
4-17 confidential by federal law or regulation, or state law, or rule of court [including those protected](#)  
4-18 [by attorney/client privilege and physician/patient relationship](#).
- 4-19 (T) Judicial bodies are included in the definition only in respect to their administrative  
4-20 function provided that records kept pursuant to the provisions of chapter 16 of title 8 are exempt  
4-21 from the operation of this chapter.
- 4-22 (U) Library records which by themselves or when examined with other public records,  
4-23 would reveal the identity of the library user requesting, checking out, or using any library  
4-24 materials.
- 4-25 (V) Printouts from TELE -- TEXT devices used by people who are deaf or hard of

4-26 hearing or speech impaired.

4-27 (W) All records received by the insurance division of the department of business  
4-28 regulation from other states, either directly or through the National Association of Insurance  
4-29 Commissioners, if those records are accorded confidential treatment in that state. Nothing  
4-30 contained in this title or any other provision of law shall prevent or be construed as prohibiting  
4-31 the commissioner of insurance from disclosing otherwise confidential information to the  
4-32 insurance department of this or any other state or country, at any time, so long as the agency or  
4-33 office receiving the records agrees in writing to hold it confidential in a manner consistent with  
4-34 the laws of this state.

5-1 (X) Credit card account numbers in the possession of state or local government are  
5-2 confidential and shall not be deemed public records.

5-3 (ii) However, any reasonably segregable portion of a public record excluded by this  
5-4 section shall be available for public inspections after the deletion of the information which is the  
5-5 basis of the exclusion, if disclosure of the segregable portion does not violate the intent of this  
5-6 section.

5-7 (5) "Supervisor of the regulatory body" means the chief or head of a section having  
5-8 enforcement responsibility for a particular statute or set of rules and regulations within a  
5-9 regulatory agency.

5-10 (6) "Prevailing plaintiff" means and shall include those persons and entities deemed  
5-11 prevailing parties pursuant to 42 U.S.C. section 1988. [A judgment in the plaintiff's favor shall](#)  
5-12 [not be a prerequisite to the award of attorneys' fees.](#)

5-13 SECTION 2. This act shall take effect upon passage.

**MOTION: To find harmful H 6076 An Act Relating To Public Records RB/JB passed unanimously**

**07 H 6278 An Act Relating To Human Services - Long-Term Care Service and Finance Reform** Sponsor Rep. Sullivan Referred to House Finance.

This act would authorize the department of human services to use "presumptive eligibility" screening to avoid unnecessary institutionalization of persons during the full established determination process for Medicaid community based care. This act would take effect on January 1, 2008.

1 SECTION 1. Section 40-8.9-3 of the General Laws in Chapter 40-8.9 entitled "Medical Assistance -  
2 Long-Term Care Service and Finance Reform" is hereby amended to read as follows:

3 **40-8.9-3. Least restrictive setting requirement.** -- Beginning on July 1, 2006, the department of human  
4 services is directed and authorized to allocate existing Medicaid resources as needed to ensure that those  
5 in need of long-term care and support services receive them in the least restrictive setting appropriate to  
6 their needs and preferences. The department is hereby authorized to utilize screening [and presumptive](#)  
7 [eligibility](#) criteria, to avoid unnecessary institutionalization of persons during the full eligibility  
8 determination process for Medicaid community based care.

9 SECTION 2. This act shall take effect on January 1, 2008.

**MOTION: Tabled for information from the Department of Human Services**

### **3. Consideration of Amended versions of Bills**

Discussion: The following "Commission bills" are being amended:

#### **H 5371 / S 553 Acts Relating to Public Utilities and Carriers – Accessible Taxicabs.**

The draft Sub A deletes the mandate for taxicabs, and instead expands the sales tax credit to include both taxicabs and public motor vehicles that modified to become wheelchair accessible. Public motor vehicles have more flexibility than taxicabs of the regulated carriers; the Division of Utilities and Carriers felt this category would be able to meet the need for wheelchair accessible transportation better than taxicabs.

1-1 SECTION 1. Section 39-14-1 of the General Laws in Chapter 39-14 entitled "Taxicabs  
1-2 and Limited Public Motor Vehicles" is hereby amended to read as follows:

1-3 **39-14-1. Definitions.** -- Terms used in this chapter shall be construed as follows, unless  
1-4 another meaning is expressed or is clearly apparent from the language or context:

1-5 (1) "Certificate" means a certificate of public convenience and necessity issued to a  
1-6 common carrier;

1-7 (2) "Common carrier" means any person who holds himself or herself out to the general  
1-8 public as engaging in the transportation by motor vehicle of passengers for compensation in a  
1-9 taxicab or in a limited public motor vehicle;

1-10 (3) "Driver" means any person operating a motor vehicle used for the transportation of  
1-11 passengers which he or she owns or is operating with the expressed or implied consent of the  
1-12 owner;

1-13 (4) "Limited public motor vehicle" means and includes every motor vehicle for hire,  
1-14 other than a jitney, as defined in section 39-13-1, or a taxicab, as defined in this chapter, equipped  
1-15 with a taximeter used for transporting members of the general public for compensation only from  
1-16 a designated location on private property to such points as may be directed by the passenger;

1-17 (5) "Motor carrier" means a common carrier by motor vehicle;

1-18 (6) "Person" means and includes any individual, firm, partnership, corporation,  
2-1 company, association, joint stock association, or company, and his, her or its lessee, trustee,  
2-2 receiver, assignee, or personal representative, and, where the context requires, "driver" as defined  
2-3 in this section;

2-4 (7) "Taxicab" means and includes every motor vehicle for hire, other than a jitney as  
2-5 defined in section 39-13-1, equipped with a taximeter, used for transporting members of the  
2-6 general public for compensation to any place within this state as may be directed by a passenger  
2-7 on a call and demand basis, when the solicitation or acceptance of the passenger occurs within the  
2-8 location named in the certificate; provided, that the vehicle's driver may, if and when solicited on  
2-9 a public highway at any location at which he or she is discharging a passenger, which location is  
2-10 not shown in the certificate, provide transportation from the location only to a place named in the  
2-11 certificate;

2-12 (8) "Taximeter" means any instrument or device by which the charge for transportation  
2-13 in any taxicab or limited public motor vehicle is mechanically calculated and indicated by means  
2-14 of figures, either for distances traveled or for waiting time, or for both.

2-15 (9) "Wheelchair accessible taxicab" means a taxicab designed and equipped to allow the  
2-16 transportation of a person(s) who uses a wheelchair without requiring that person(s) to be  
2-17 removed from the wheelchair, but such taxicab is not restricted to transporting only persons using  
2-18 wheelchairs.

2-19 ~~SECTION 2. Chapter 39-14 of the General Laws entitled "Taxicabs and Limited Public~~  
2-20 ~~Motor Vehicles" is hereby amended by adding thereto the following section:~~

2-21 ~~**39-14-9.1. Wheelchair accessible taxicabs.**— Any certificate holder authorized for~~  
2-22 ~~twenty five (25) or more vehicles for hire that purchases or leases a new vehicle after January 1,~~  
2-23 ~~2008 shall ensure that the new vehicle is a wheelchair accessible taxicab (applies only to ground~~  
2-24 ~~transportation service providers that furnish taxicab service). Once two percent (2%) but not less~~  
2-25 ~~than one vehicle is a wheelchair accessible taxicab, additional purchases or leases of new vehicles~~  
2-26 ~~will not have to be wheelchair accessible taxicabs.~~

2-27 SECTION 2. Section 39-14.1-1 of the General Laws in Chapter 39-14.1 entitled "Public  
2-28 Motor Vehicles" is hereby amended to read as follows:

2-29        **39-14.1-1. Definitions. --** Terms used in this chapter shall be construed as follows, unless  
2-30 another meaning is expressed or is clearly apparent from the language or context:

2-31        (1) "Certificate" means a certificate of operating authority issued to a public motor  
2-32 vehicle;

2-33        (2) "Charter carrier" means a provider of transportation services to groups such as:  
2-34 lodges, bands, athletic teams, schools or other travel groups, assembled by someone other than  
3-1 the carrier who collectively contracts for the exclusive use of certain equipment for the duration  
3-2 of a particular trip or tour. Charter carrier services shall also include transportation services  
3-3 provided by employment agencies or employers to individuals in the context of providing  
3-4 transportation to and from their place of employment;

3-5        (3) "Common carrier" as used in this chapter, means any person engaging in the business  
3-6 of providing transportation services for compensation to passengers through the use of a public  
3-7 motor vehicle as defined in this chapter;

3-8        (4) "Division" means the division of public utilities and carriers;

3-9        (5) "Driver" means any person operating a motor vehicle used for the transportation of  
3-10 passengers which he or she owns or is operating with the expressed or implied consent of the  
3-11 owner;

3-12        (6) "Person" means and includes any individual, partnership, corporation, or other  
3-13 association of individuals;

3-14        (7) "Public motor vehicle" means and includes every motor vehicle for hire, other than a  
3-15 jitney, as defined in section 39-13-1, or a taxicab or limited public motor vehicle, as defined in  
3-16 section 39-14-1, used for transporting members of the general public for compensation in  
3-17 unmarked vehicles at a predetermined or prearranged rate or fee to such points as may be directed  
3-18 by the passenger. Transportation services provided by charter carriers, as defined in this chapter,  
3-19 or by funeral homes in association with funeral services, and by ambulance companies shall be  
3-20 exempt from this chapter;

3-21        (8) "Unmarked vehicles" means motor vehicles that do not display the transportation  
3-22 company's name, address or telephone number, or any advertisements or commercial information  
3-23 beyond that included by the vehicle's manufacturer on the vehicle's exterior surfaces.

3-24        (9) "Wheelchair accessible public motor vehicle" means a public motor vehicle designed  
3-25 and equipped to allow the transportation of a person(s) who uses a wheelchair without requiring  
3-26 that person(s) to be removed from the wheelchair, but such public motor vehicle is not restricted  
3-27 to transporting only persons using wheelchairs.

3-28        SECTION 3. Section 44-18-30 of the General Laws in Chapter 44-18 entitled "Sales and  
3-29 Use Taxes - Liability and Computation" is hereby amended to read as follows:

3-30        **44-18-30. Gross receipts exempt from sales and use taxes. [Effective January 1,**  
3-31 **2007.] --** There are exempted from the taxes imposed by this chapter the following gross receipts:

9-3        (19) Motor vehicle and adaptive equipment for persons with disabilities.

9-4        (i) From the sale of: (A) special adaptations, (B) the component parts of the special  
9-5 adaptations, or (C) a specially adapted motor vehicle; provided, that the owner furnishes to the  
9-6 tax administrator an affidavit of a licensed physician to the effect that the specially adapted motor  
9-7 vehicle is necessary to transport a family member with a disability or where the vehicle has been  
9-8 specially adapted to meet the specific needs of the person with a disability. This exemption  
9-9 applies to not more than one motor vehicle owned and registered for personal, noncommercial  
9-10 use.

9-11        (ii) For the purpose of this subsection the term "special adaptations" includes, but is not

9-12 limited to: wheelchair lifts; wheelchair carriers; wheelchair ramps; wheelchair securements; hand  
9-13 controls; steering devices; extensions, relocations, and crossovers of operator controls; power-  
9-14 assisted controls; raised tops or dropped floors; raised entry doors; or alternative signaling  
9-15 devices to auditory signals.  
9-16 (iii) From the sale of: (A) special adaptations; and (B) the component parts of the special  
9-17 adaptations, for a "wheelchair accessible taxicab" as defined in section 39-14-1 and/or  
9-18 "wheelchair accessible public motor vehicle" as defined in section 39-14.1-1.  
9-19 ~~(iii)~~ (iv) For the purpose of this subdivision the exemption for a "specially adapted motor  
9-20 vehicle" means a use tax credit not to exceed the amount of use tax that would otherwise be due  
9-21 on the motor vehicle, exclusive of any adaptations. The use tax credit is equal to the cost of the  
9-22 special adaptations, including installation.

MOTION: To accept the draft substitute for H 5371 / S 553 Acts Relating to Public Utilities and Carriers – Accessible Taxicabs RC/LD passed unanimously

**S 266 An Act Relating To Towns and Cities -- Zoning Ordinances**

The draft sub A will limit the "accessory family dwellings" to persons with severe impairments and prohibit the unit from being separately metered for utilities. It is being reviewed by Municipal Affairs/Statewide Planning and should be ready by Monday's meeting.

1 SECTION 1. Section 45-24-37 of the General Laws in Chapter 45-24 entitled "Zoning  
2 Ordinances" is hereby amended to read as follows:

3 **45-24-37. General provisions -- Permitted uses.** -- (a) The zoning ordinance provides a listing of all  
4 land uses and/or performance standards for uses which are permitted within the zoning use districts of the  
5 municipality.

6 (b) Notwithstanding any other provision of this chapter, the following uses are permitted uses within  
7 all residential zoning use districts of a municipality and all industrial and commercial zoning use districts  
8 except where residential use is prohibited for public health or safety reasons:

- 9 (1) Households;  
10 (2) Community residences;  
11 (3) Family day care homes.

12 (c) Any time a building or other structure used for residential purposes, or a portion of a building  
13 containing residential units, is rendered uninhabitable by virtue of a casualty such as fire or flood, the  
14 owner of the property is allowed to park, temporarily, mobile and manufactured home or homes, as the  
15 need may be, elsewhere upon the land, for use and occupancy of the former occupants for a period of up  
16 to twelve (12) months, or until the building or structure is rehabilitated and otherwise made fit for  
17 occupancy. The property owner, or a properly designated agent of the owner, is only allowed to cause the  
18 mobile and manufactured home or homes to remain temporarily upon the land by making timely  
19 application to the local building official for the purposes of obtaining the necessary permits to repair or  
20 rebuild the structure.

21 (d) Notwithstanding any other provision of this chapter, appropriate access for people with disabilities  
22 to residential structures is allowed as a reasonable accommodation for any person(s) residing, or intending  
23 to reside, in the residential structure.

24 (e) Notwithstanding any other provision of this chapter, an accessory family dwelling  
25 unit shall be permitted within a single family residence, for the sole use of one or more members of the  
26 family of the occupant or occupants of the principal residence, one of whom is a person with severe  
27 impairments. The accessory family dwelling must share the same utility meter(s) with the residence.  
28 When the structure is serviced by an individual sewage disposal system, the applicant shall have the  
29 existing or any new system approved by the department of environmental management. Once the family

1 member or members departs the premises, the accessory family dwelling unit shall cease to exist. The  
2 permit for such unit shall be recorded in the local land evidence records. "Person with severe  
3 impairments" means a person who has a disability which is attributable to a mental or physical  
4 impairment or combination of mental and physical impairments and results in substantial functional  
5 limitations in one or more of the following areas of major life activity: (i) mobility; (ii) self-care; (iii)  
6 communication; (iv) receptive and/or expressive language; (v) learning; (vi) self-direction; (vii) capacity  
7 for independent living; or (viii) economic self-sufficiency.

8 SECTION 2. This act takes effect upon passage.

MOTION: to delete the words “severe” and “substantial” in the above draft. LG/GR passed, Nay JB

MOTION: To accept the draft substitute for **S 266 An Act Relating to Towns and Cities -- Zoning Ordinances** or language similar to the above amended draft. BI/SB passed, Nay JB

**The following bills that the Legislation Committee requested amendments are being redrafted**

**H 5140 An Act Relating to Health and Safety - Maternal and Child Health Services.**

The draft Sub A replaces the entire bill with new language directing the interagency transition council to conduct an evaluation of the transition of young persons with disabilities aged eighteen (18) or older from school to self-sufficient adult life and the interagency coordinating council to conduct an evaluation of the transition of children aged two and one half (2 ½) with developmental disabilities from the early intervention system to the free appropriate public education system, and report their findings and recommendations to the speaker of the house of representatives, the president of the senate, the house oversight committee, and the governor.

1 SECTION 1. Section 16-24-18 of the General Laws entitled “Education - Children with disabilities” is  
2 hereby amended to read as follows:

3 **16-24-18. Transition from school to self-sufficient adulthood for students with disabilities.**

4 (a) There is established within the department of elementary and secondary education an interagency  
5 transition council (the "transition council") composed of:

6 (1) The administrators or their designees of the following:

7 (i) Department of human services - office of rehabilitation services;

8 (ii) Department of mental health, retardation and hospitals - division of developmental disabilities;

9 (iii) Department of mental health, retardation, and hospitals - division of mental health;

10 (iv) Department of children, youth, and families - mental health services;

11 (v) Department of elementary and secondary education - special education office;

12 (vi) Department of elementary and secondary education - vocational and technical education;

13 (vii) Department of labor and training - human resource investment council;

14 (viii) Department of health - division of family health; and

15 (2) Commissioner of higher education or his or her designee; and

16 (3) Two (2) young persons with disabilities, two (2) parents of young persons with disabilities, and two  
17 (2) representatives of local school districts and one transition coordinator from one of the regional  
18 educational collaboratives, appointed by the governor.

19 (b) The goal of the transition council is to ensure the preparedness of students with disabilities, upon  
20 leaving school, to live and work in the community.

21 (c) The transition council shall draft and propose periodic revisions to the cooperative agreement among  
22 the state departments and offices for the provisions of services in the transition of young persons with  
23 disabilities from school to self-sufficient adult life. The directors of the state departments and agencies  
24 shall sign the cooperative agreement and any revisions, prior to their implementation. The transition

1 council shall oversee the implementation of the cooperative agreement. The council shall issue guidelines  
2 or instructions and recommend to the state departments and agencies appropriate directives necessary to  
3 effectuate the implementation of the cooperative agreement. The transition council shall develop joint  
4 plans for state departments and agencies and local school districts for providing transition services to  
5 assist young persons with disabilities. The transition council shall, after hearing from the public, issue an  
6 annual report to the governor, children's cabinet, and general assembly on the status of transition services  
7 and recommendations for improving opportunities for young persons with disabilities to make a  
8 successful transition from school to self-sufficient adult life.

9 (d) Individualized transition planning will be initiated by the school district to include the young person  
10 with a disability, guardian, general education and special education personnel as appropriate, vocation  
11 technical education, and representatives of any party to the delivery and implementation of the individual  
12 plan. Transition planning will begin by age sixteen (16) and, when determined appropriate in the  
13 individualized education program, at age fourteen (14) or younger for each eligible young person with a  
14 disability and shall be reviewed and updated annually.

15 (e) As used in this section:

16 (1) "Transition services" means a coordinated set of activities for a young person with a disability,  
17 designed within an outcome oriented process, that promotes movement from school to post-school  
18 activities including postsecondary education, vocational training, integrated employment (including  
19 supported employment), continuing and adult education, adult services, independent living, or community  
20 participation. The activities shall be based on the needs of the individual young person with a disability,  
21 taking into account the young person with a disability's preferences and interests; and shall include needed  
22 activities in the areas of:

23 (i) Instruction;

24 (ii) Community experiences;

25 (iii) The development of employment and other post-school adult living objectives; and

26 (iv) If appropriate, acquisition of daily living skills and functional vocational evaluation.

27 (2) "Young person(s) with a disability" means those students:

28 (i) Evaluated in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.,  
29 as having mental retardation, hearing impairments including deafness, speech or language impairments,  
30 visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism,  
31 traumatic brain injury, other health impairments, specific learning disabilities, deaf-blindness, or multiple  
32 disabilities; or

33 (ii) Who because of those impairments needs special education and related services, and

34 (iii) Age sixteen (16) and, when determined appropriate in the individualized education program, at age  
35 fourteen (14) or younger.

36 (f) Within six (6) months after the effective date of this act the transition council shall conduct an  
37 evaluation of the transition of young persons with disabilities aged eighteen (18) or older from school to  
38 self-sufficient adult life, its successes and shortcomings from the previous fiscal year and shall be  
39 submitted to the speaker of the house of representatives, the president of the senate, the house oversight  
40 committee, and the governor recommendations for improving the smooth transition from school to post-  
41 school activities including postsecondary education, vocational training, integrated employment  
42 (including supported employment), continuing and adult education, adult services, independent living, or  
43 community participation.

44 SECTION 2. Section 23-13-24 of the General Laws entitled "Maternal and child health services  
45 for children with special health care needs" is hereby amended to read as follows:

46 **23-13-24. Recommendations of the council.**

1 The interagency coordinating council shall offer recommendations for the betterment of the delivery of  
2 early intervention services to the appropriate state agencies and the general assembly whenever necessary.  
3 Within six (6) months after the effective date of this act the interagency coordination council shall  
4 conduct an evaluation of the transition of children aged two and one half (2 ½) with developmental  
5 disabilities from the early intervention system to the free appropriate public education system, its  
6 successes and shortcomings from the previous fiscal year and shall be submitted to the speaker of the  
7 house of representatives, the president of the senate, the house oversight committee, and the governor  
8 recommendations for improving the coordination and continuity of early intervention services, including  
9 but not limited to expanding the early intervention program from age 3 to age 6.

10 SECTION 3. This act takes effect upon passage.

**MOTION: To accept the draft substitute for H 5140 An Act Relating to Health and Safety - Maternal and Child Health Services section 2, and take no position on section 1 of the above. GR/RC passed Abstain EG & KMCCB**

**S 307 & H 5267 Sub A Acts Relating to Motor and Other Vehicles -- Disabled Veterans**

The draft sub A would allow Motor Vehicles to issue disability parking placards to eligible disabled veterans.

**DRAFT S 307 Sub A**

1 SECTION 1. Section 31-28-7 of the General Laws in Chapter 31-28 entitled "Parking facilities and  
2 privileges" is hereby amended to read as follows

3 **31-28-7. Motor vehicle plates for persons with disabilities – Entitlement – Designated parking**  
4 **spaces – Violations.**

5 (a) Persons, as defined in subsection (h) of this section, upon application and proof of permanent or  
6 long-term disability to the division of motor vehicles, shall be issued one motor vehicle disability parking  
7 privilege placard or in the case of a motorcycle, one motor vehicle sticker, of blue which shall be  
8 imprinted with the white international symbol of access, certificate number, the words "Rhode Island  
9 Disability Parking Permit" and shall bear the expiration date upon its face. A placard or motorcycle  
10 sticker issued to a person whose disability is temporary shall be substantially similar to that issued to a  
11 person with a permanent or long term disability. The temporary placard, however, shall be a red placard  
12 with a white international symbol of access, certificate number, the words "Rhode Island Disability  
13 Parking Permit" and shall bear the expiration dates upon its face. Persons issued a placard or motorcycle  
14 sticker pursuant to this section shall be entitled to the immunities of §§ 31-28-4 and 31-28-6. The placard  
15 shall conform to the Uniform Parking System for Disabled Drivers standard issued by the United States  
16 Department of Transportation. If an application for a placard or motorcycle sticker is denied, the division  
17 of motor vehicles shall promptly notify the applicant in writing, stating the specific reason(s) for the  
18 denial, and advising the applicant of the procedures for requesting a hearing to appeal the denial. Prior to  
19 the appeal hearing, the applicant shall be provided with any and all documents relied upon by the division  
20 in denying the application. If an application contains a physician certification that the applicant is  
21 sufficiently disabled to require a placard or motorcycle sticker, and the division has not provided specific  
22 reasons in its denial letter to the applicant, the hearing officer shall summarily order that a placard or  
23 motorcycle sticker be provided to the applicant. At all other hearings of application denials where a  
24 physician certification has been provided, the division shall bear the burden of proof that the individual is  
25 not entitled to a placard or motorcycle sticker pursuant to this chapter.

26 (b) A placard issued pursuant to this section shall be portable and used only when the person is being  
27 transported. The placard is to be hung from the rear view mirror so as to be seen through the front or rear  
28 windshield of the motor vehicle. A placard may be issued to a person with a disability who does not own

1 a motor vehicle, to be used only when he or she is being transported. A motorcycle sticker issued pursuant  
2 to this section shall not be portable and shall be affixed to the rear plate of the motorcycle.

3 I (1) The certificate of entitlement to the placard or motorcycle sticker shall be renewed every three (3)  
4 years for individuals with a long-term disability, as defined in subsection (d) of this section, and the  
5 renewal application shall require a physician's certification that the condition has not changed since the  
6 previous approval, and three (3) years for individuals with a permanent disability as defined in subsection  
7 (h) of this section, in accordance with a schedule prepared by the division of motor vehicles that uses the  
8 last name of an individual to determine the month of renewal. If an application or subsequent renewal is  
9 accompanied by a physician's certification that the applicant's condition is a chronic, permanent  
10 impairment and that application is approved, then any subsequent renewal shall be authorized upon  
11 receipt of a notarized affidavit from the applicant or applicant's, guardian or legal representative or a  
12 certificate from the applicant's physician that his or her condition has not changed since the previous  
13 approval.

14 (2) The certificate of entitlement to the placard or motorcycle sticker shall be covered with plastic or  
15 similar material. The applicant shall, upon timely renewal, receive a sticker bearing the expiration date of  
16 the certificate of entitlement to be affixed across the expiration date of the disability parking privilege  
17 placard or in the case of a motorcycle the applicant shall receive a new motorcycle sticker. The division of  
18 motor vehicles shall establish rules and regulations allowing for the renewal of the certificates of  
19 entitlement by mail.

20 (3) Whenever the division of motor vehicles proposes to suspend, revoke or fail to renew the certificate of  
21 entitlement for noncompliance with the requirements of this section or for violation of subsection (h) of  
22 this section, the individual shall first be entitled to a hearing before the division of motor vehicles to  
23 contest the proposed action. At the hearing, the division of motor vehicles shall bear the burden of proof  
24 that the individual is not entitled to the placard or motorcycle sticker pursuant to this chapter. There shall  
25 be no renewal fee charged for the placards or motorcycle sticker. The division of motor vehicles shall be  
26 authorized to issue a temporary disability parking privilege placard or motorcycle sticker immediately  
27 upon receipt of an application for individuals with a temporary impairment, as defined in subsection (h) of  
28 this section. A temporary placard or motorcycle sticker shall be valid for sixty (60) days from the date of  
29 issuance. Temporary placards or motorcycle stickers may be renewed for a period of one year or less, as  
30 determined by the medical advisory board upon application if the disability persists. The division of  
31 motor vehicles shall subsequently review the applications in accordance with the procedures currently in  
32 effect as to applications from persons whose disability is long term. Any issuance which, after subsequent  
33 review, shall be found to be inappropriate shall be revoked and notice of the revocation shall be sent to the  
34 applicant.

35 (d) A person, other than a person with a disability, who for his or her own purposes uses the parking  
36 privilege placard, shall be fined five hundred dollars (\$500) for each violation. A person issued a special  
37 placard who uses the placard after expiration, or who shall allow unauthorized use of the disability  
38 parking placard or sticker, may be subject to immediate revocation of the use of the placard by the  
39 division of motor vehicles, and subject to a fine of five hundred dollars (\$500).

40 (e) Disability parking spaces shall be designated and identified by the posting of signs above ground level  
41 incorporating the international symbol of access of white on blue, and the words "Handicapped Parking",  
42 "Disability Parking," "Disabled Parking," or "Reserved Parking" at each space, at both ends of a row or  
43 series of adjacent disability parking spaces, or at the entrance to a parking lot restricted to only disability  
44 parking.

45 (f) A person, other than a person issued a special placard or motorcycle sticker pursuant to this section,  
46 who parks a vehicle in a parking space designated for persons with disabilities, shall be fined: (1) one

1 hundred dollars (\$100) for a first violation, (2) one hundred seventy-five dollars (\$175) for a second  
2 violation, and (3) three hundred twenty-five dollars (\$325) for a third or subsequent violation. The vehicle  
3 may be subject to towing at the owner's expense. Provided further, that it shall not be unlawful for a  
4 person to park a vehicle in a space designated for person with disabilities if that person is transporting a  
5 person who has been issued a special placard and is properly displaying the placard on the vehicle.

6 (g) Enforcement of the parking provisions of this section shall be enforced by the local or state authorities  
7 on public or private property when the location of the parking spaces is within the purview of the State  
8 Building Code, chapter 27.3 of title 23.

9 (h) Definitions. For the purpose of this section:

10 (1) "Disabled" or "disability" means a permanent or long-term impairment which prevents or impedes  
11 walking, which shall include but not be limited to: (i) an impairment which prevents walking and requires  
12 use of a wheelchair; (ii) an impairment which involuntarily causes difficulty or insecurity in walking or  
13 climbing stairs with or without the need to use braces, crutches, canes or artificial support; (iii) an  
14 impairment caused by amputation, arthritis, blindness (including legally blind), or orthopedic condition;  
15 ~~or~~ (iv) an impairment in respiratory, circulatory, or neurological health which limits the person's walking  
16 capability; or (v) disabled veteran, pursuant to § 31-6-8 after certification of eligibility from the Veterans'  
17 Administration or other satisfactory documentation of eligibility is presented. Persons with disabilities  
18 may be capable of working or may be presently working.

19 (2) "Long-term disability" means an impairment which is potentially reversible or may improve with  
20 appropriate medical treatment. At the time of application and or renewal, the impairment should not be  
21 expected to improve prior to the expiration of the certification, to a point where the individual does not  
22 meet the provisions of subdivision (1) of this subsection.

23 (3) "Permanent disability" means an impairment which is non-reversible.

24 (4) "Temporary impairment" means an impairment which is expected to improve to a point where the  
25 individual does not meet the provisions of subdivision (1) of this subsection, within two (2) years of the  
26 application.

27 (i) The department of administration shall inform each licensed driver of the certificate procedures and  
28 parking restrictions of this section and §§ 31-28-4 and 31-28-6, and a facsimile of the portable placards  
29 and motorcycle stickers issued under this section shall be sent to the enforcing authority of each state, and  
30 each enforcing authority shall be informed of the parking restrictions of this section and §§ 31-28-4 and  
31 31-28-6. Recipients of disability parking privilege placards shall also receive instructions on their use and  
32 the penalties for misuse, when the placard is initially issued.

33 (j) Any person who makes, manufactures, offers for sale or knowingly uses a counterfeit parking  
34 privilege placard shall be fined up to five hundred dollars (\$500) and/or forty (40) hours of community  
35 restitution.

36 SECTION 2. This act shall take effect upon passage.

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H 5267 Sub A An Act Relating to Motor and Other Vehicles – Disabled Veterans

1-1 SECTION 1. Section 31-6-8 of the General Laws in Chapter 31-6 entitled "Registration  
1-2 Fees" is hereby amended to read as follows:

1-3 **31-6-8. Disabled veterans.** -- (a) Any veteran who has been honorably discharged from  
1-4 the service of the armed forces or the merchant marine of the United States in any of the wars or  
1-5 campaigns in which the United States has been engaged and who, while engaged in these wars or  
1-6 campaigns or as a result of engagement in these wars or campaigns, by reason of amputation, has  
1-7 lost one or both of his or her arms, hands, feet, or legs, or who, by reason of other permanent  
1-8 injury, has lost the use of one or both of his or her arms, hands, feet, or legs, or to whom has been

1-9 granted a motor vehicle under chapter 870-2D, United States Public Laws 663, enacted 1946,  
1-10 79th Congress, or has been determined by the Veterans' Administration to have a service  
1-11 connected disability of one hundred percent (100%) shall be forever exempt from the payment of  
1-12 any fee for the annual registration of and a license to operate that motor vehicle.

1-13 (b) The administrator for the division of motor vehicles shall issue to an eligible veteran  
1-14 for use on an automobile, or on a commercial vehicle having a gross weight of six thousand three  
1-15 hundred pounds (6,300 lbs.) or less, registration plates designated "Disabled Veteran". Upon the  
1-16 death of the holder of "Disabled Veteran" plates, the plates may be transferred to his or her  
1-17 surviving spouse for his or her lifetime or until he or she remarries. Only one set of "Disabled  
1-18 Veteran" plates shall be issued to an eligible veteran and only after certification of eligibility from  
1-19 the Veterans' Administration or other satisfactory documentation of eligibility is presented.

2-1 [\(c\) Any veteran who has been issued a "Disabled Veteran" plate shall be entitled to all](#)  
2-2 [parking privileges of handicapped persons without displaying the motor vehicle disability parking](#)  
2-3 [privilege placard required by section 31-28-7.](#)

2-4 SECTION 2. This act shall take effect upon passage.

MOTION: To accept the draft substitute for S 307 & H 5267 Act Relating to Motor and Other Vehicles – Disabled Veterans and to find harmful the current H 5267 Sub A DK/BI passed unanimously

07 S-0186 Sub A **An Act Relating To Public Utilities and Carriers -- Rhode Island Public Transit**

**Authority** Sponsor Sen. Raptakis, Recommendation for Passage on Senate Desk

Description This act would require all RIde buses to be installed with passenger security cameras and would require that all new drivers of RIde buses have a BCI criminal records check. This act would take effect upon passage.

Substitute deleted the requirement that the applicants pay for the criminal records check.

1-1 SECTION 1. Section 39-18-4.1 of the General Laws in Chapter 39-18 entitled "Rhode  
1-2 Island Public Transit Authority" is hereby amended to read as follows:

1-3 39-18-4.1. Health and safety of passengers. -- (a) The authority shall have the power to  
1-4 establish reasonable rules of conduct for passengers for the protection of the health and safety of  
1-5 passengers and employees of the authority. The rules shall incorporate the provisions of the  
1-6 Americans with Disabilities Act of 1990, 42 USC section 12101 et seq., and section 28-5.1-7,  
1-7 chapter 28 of title 11 and chapter 87 of title 42 and be promulgated in accordance with the  
1-8 provisions of chapter 35 of title 42.

1-9 (b) All controversies arising out of application of any provision of this section shall be  
1-10 determined by the general manager or his or her designated hearing officer, who shall afford a  
1-11 hearing to the passenger and/or his or her parent or guardian, and, after hearing, shall render a  
1-12 written decision. The decision of the general manager or hearing officer shall be final except that  
1-13 the passenger aggrieved by the decision shall have a right of appeal to the superior court, which  
1-14 shall affirm the decision unless it is clearly erroneous or contrary to law. The hearing shall be  
1-15 conducted in accordance with the provisions of chapter 35 of title 42.

1-16 (c) Notice shall be provided to the RIde funding agency or agencies for any hearing  
1-17 regarding their client/passengers on RIde vehicles. A representative of the RIde funding agency  
1-18 or agencies may attend the hearing. The general manager or hearing officer will consider the  
2-1 recommendation of the RIde funding agency's representative in rendering his/her decision.

2-2 (d) The decision of the general manager or hearing officer may include:

2-3 (1) Refusing to transport a person whose violation of the rules of the authority threatens  
2-4 the health and safety of passengers or employees of the authority, for a period not to exceed six

- 2-5 (6) months; and/or
- 2-6 (2) Revoking a passenger's ticket, pass, or other fare medium, regardless of the number
- 2-7 of trips or time period for which the ticket, pass, or other fare medium is valid, if the passenger's
- 2-8 continued presence on an authority vehicle or at an authority facility threatens the health or safety
- 2-9 of the authority's other passengers or employees. The authority shall within a reasonable time
- 2-10 after such a revocation, refund to the passenger the unused value of the ticket, pass, or other fare
- 2-11 medium.
- 2-12 (e) Nothing under this section precludes any other action permitted by law.
- 2-13 (f) All RIdE buses shall be installed with passenger security cameras when federal funds
- 2-14 become available for this purpose.
- 2-15 (g) Any person seeking employment as a RIdE bus driver shall undergo a criminal
- 2-16 background check to be initiated prior to or within one week of employment. All employees
- 2-17 hired prior to the enactment of this subsection shall be exempted from its requirements.
- 2-18 (1) The applicant shall apply to the bureau of criminal identification (BCI), department of
- 2-19 attorney general, state police or local police department where he or she resides, for a statewide
- 2-20 criminal records check. Fingerprinting shall not be required. Upon the discovery of any
- 2-21 disqualifying information as defined in section 23-17-37, the bureau of criminal identification of
- 2-22 the state police or the local police department will inform the applicant, in writing, of the nature
- 2-23 of the disqualifying information; and, without disclosing the nature of the disqualifying
- 2-24 information, will notify the employer, in writing, that disqualifying information has been
- 2-25 discovered.
- 2-26 (2) An individual against whom disqualifying information has been found may request
- 2-27 that a copy of the criminal background report be sent to the employer who shall make a judgment
- 2-28 regarding the ability of the individual to drive a RIdE bus. In those situations in which no
- 2-29 disqualifying information has been found, the bureau of criminal identification, state police or
- 2-30 local police department shall inform the applicant and the employer in writing of this fact.
- 2-31 (3) The criminal record check requirements of this section shall apply only to persons
- 2-32 seeking to drive RIdE buses.
- 3-1 SECTION 2. This act shall take effect upon passage.

**MOTION: To find beneficial S-0186 Sub A An Act Relating To Public Utilities and Carriers -- Rhode Island Public Transit Authority RC/LD passed Abstain BI**

**07 H-5200 Sub A An Act Relating To Insurance -- Orthotic and Prosthetic Services** Rep. Giannini Identical to S0062

Description: This act would require that every individual or group health insurance contract, plan or policy delivered, issued for delivery or renewed in this state on or after January 1, 2006, which provides medical coverage that includes coverage for physician services in a physician's office and every policy, which provides major medical or similar comprehensive type coverage shall provide coverage for benefits for orthotic and prosthetic devices that equal those benefits provided for under federal laws for health insurance for the aged and disabled. Covered benefits for orthotic or prosthetic devices shall be limited to the most appropriate model that adequately meets the medical needs of the patient as determined by the insured's treating physician. The repair and replacement of orthotic or prosthetic devices also shall be covered subject to co-payments and deductibles, unless necessitated by misuse or loss. This act shall take effect upon passage.

Substitute would exempt to insurance coverage providing benefits for: (1) hospital confinement indemnity; (2) disability income; (3) accident only; (4) long-term care; (5) Medicare supplement; (6) limited benefit health; (7) specified disease indemnity; (8) sickness or bodily injury death.

- 1-1 SECTION 1. Chapter 27-41 of the General Laws entitled "Health Maintenance
- 1-2 Organizations" is hereby amended by adding thereto the following section:
- 1-3 27-41-72. Reimbursement for orthotic and prosthetic services. – (a) As used in this

1-4 section:

1-5 (1) "Federal reimbursement rates" means the current listed fee schedule from the Centers  
1-6 for Medicare and Medicaid Services, listing the current Healthcare Common Procedure Coding  
1-7 system (HCPCS) and the corresponding reimbursement rates.

1-8 (2) "Orthosis" means a custom fabricated brace or support that is designed based on  
1-9 medical necessity. Orthosis does not include prefabricated or direct-formed orthotic devices, as  
1-10 defined in this section, or any of the following assistive technology devices: commercially  
1-11 available knee orthoses used following injury or surgery; spastic muscle-tone inhibiting orthoses;  
1-12 upper extremity adaptive equipment; finger splints; hand splints; wrist gauntlets; face masks used  
1-13 following burns; wheelchair seating that is an integral part of the wheelchair and not worn by the  
1-14 patient independent of the wheelchair; fabric or elastic supports; corsets; low-temperature formed  
1-15 plastic splints; trusses; elastic hose; canes; crutches; cervical collars; dental appliances; and other  
1-16 similar devices as determined by the director of the department of health, such as those  
1-17 commonly carried in stock by a pharmacy, department store, corset shop, or surgical supply  
1-18 facility.

1-19 (3) "Orthotics" means the science and practice of evaluating measuring, designing,  
2-1 fabricating, assembling, fitting, adjusting or servicing, as well as providing the initial training  
2-2 necessary to accomplish the fitting of, an orthosis for the support, correction, or alleviation of  
2-3 neuromuscular or musculoskeletal dysfunction, disease, injury or deformity. The practice of  
2-4 orthotics encompasses evaluation, treatment, and consultation; with basic observational gait and  
2-5 postural analysis, orthotists assess and design orthoses to maximize function and provide not only  
2-6 the support but the alignment necessary to either prevent or correct a deformity or to improve the  
2-7 safety and efficiency of mobility or locomotion or both. Orthotic practice includes providing  
2-8 continuing patient care in order to assess its effect on the patient's tissues and to assure proper fit  
2-9 and function of the orthotic device by periodic evaluation.

2-10 (4) "Prosthesis" means an artificial limb that is alignable or, in lower-extremity  
2-11 applications capable of weight bearing. Prosthesis means an artificial medical device that is not  
2-12 surgically implanted and that is used to replace a missing limb, appendage, or other external  
2-13 human body part including an artificial limb, hand, or foot. The term does not include artificial  
2-14 eyes, ears, noses, dental appliances, osotmy products, or devices such as eyelashes or wigs.

2-15 (5) "Prosthetics" means the science and practice of evaluation, measuring, designing,  
2-16 fabricating, assembling, fitting, aligning, adjusting or servicing, as well as providing the initial  
2-17 training necessary to accomplish the fitting of, a prosthesis through the replacement of external  
2-18 parts of a human body lost due to amputation or congenital deformities or absences. The practice  
2-19 of prosthetics also includes the generation of an image, form, or mold that replicates the patient's  
2-20 body or body segment and that requires rectification of dimensions, contours and volumes for use  
2-21 in the design and fabrication of a socket to accept a residual anatomic limb to, in turn, create an  
2-22 artificial appendage that is designed either to support body weight or to improve or restore  
2-23 function or cosmesis, or both. Involved in the practice of prosthetics is observational gait analysis  
2-24 and clinical assessment of the requirements necessary to refine and mechanically fix the relative  
2-25 position of various parts of the prosthesis to maximize function, stability, and safety of the  
2-26 patient. The practice of prosthetics includes providing and continuing patient care in order to  
2-27 assess the prosthetic device's effect on the patient's tissues and to assure proper fit and function of  
2-28 the prosthetic device by periodic evaluation.

2-29 (6) "Private insurance company" means any insurance company, or management  
2-30 company hired by an insurance company, who is any of the following:

- 2-31 (i) based in the state of Rhode Island; or
- 2-32 (ii) provides coverage for citizens for the state of Rhode Island; or
- 2-33 (iii) allows subscribing patients to seek prosthetic or orthotic services in the state of
- 2-34 Rhode Island.
- 3-1 (b) Every individual or group health insurance contract, plan or policy delivered, issued
- 3-2 for delivery or renewed in this state on or after January 1, 2006, which provides medical coverage
- 3-3 that includes coverage for physician services in a physician's office and every policy, which
- 3-4 provides major medical or similar comprehensive type coverage shall provide coverage for
- 3-5 benefits for orthotic and prosthetic devices that equal those benefits provided for under federal
- 3-6 laws for health insurance for the aged and disabled pursuant to 42 U.S.C. sections 1395K, 1395I
- 3-7 and 1395M and 42 CFR 414.202, 414.210, 414.228, and 410.100 as applicable to this section.
- 3-8 (c) A health insurance contract, plan or policy may require prior authorization for orthotic
- 3-9 and prosthetic devices in the same manner that prior authorization is required for any other
- 3-10 covered benefit.
- 3-11 (d) Covered benefits for orthotic or prosthetic devices shall be limited to the most
- 3-12 appropriate model that adequately meets the medical needs of the patient as determined by the
- 3-13 insured's treating physician.
- 3-14 (e) The repair and replacement of orthotic or prosthetic devices also shall be covered
- 3-15 subject to co-payments and deductibles, unless necessitated by misuse or loss.
- 3-16 (f) An insurer may require, if coverage is provided through a managed care plan, that
- 3-17 benefits mandated pursuant to this section be covered benefits only if the orthotic or prosthetic
- 3-18 devices are provided by a vendor and orthotic or prosthetic services are rendered by a provider
- 3-19 who is licensed by the state of Rhode Island to provide orthotics and prosthetics.
- 3-20 (g) This chapter shall not apply to insurance coverage providing benefits for:
- 3-21 (1) hospital confinement indemnity;
- 3-22 (2) disability income;
- 3-23 (3) accident only;
- 3-24 (4) long-term care;
- 3-25 (5) Medicare supplement;
- 3-26 (6) limited benefit health;
- 3-27 (7) specified disease indemnity;
- 3-28 (8) sickness or bodily injury death by accident or both; and
- 3-29 (9) other limited benefit policies.
- 3-30 SECTION 2. This act shall take effect upon passage.

**MOTION: To find beneficial H-5200 Sub A An Act Relating To Insurance -- Orthotic and Prosthetic Services BI/LD passed unanimously**

Questions on Report: (mailed with the agenda)	20 min.
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**Report on Commission's Legislative Package Status (mailed with the agenda)**

Commission's Legislative Package includes

- (7) Advocate during the budget hearing for funding of:
- (c) Modifications to homes/apartments owned or rented by families with disabled members (expand to include Medicare only recipients) and create flexible funding plan such as cash and counseling for families to modify home or yard.

Does the bill below fit that criterion?

**H 5613 An Act Relating To State Affairs And Government - Rhode Island Housing And Mortgage Finance Corporation**

This act would establish a program of loan guarantees or interest subsidies within the Rhode Island housing and mortgage finance corporation for the purpose of making home modifications to the primary residence of persons who have a disability, or age 65 or older, or are the caregiver of a family member with a disability or age 65 or older; for the purpose of improved accessibility to allow such persons to live more independently in the community. Sections 1, 2 and 3 of this act would take effect upon passage. As to sections 4 and 5, if a majority of the people voting on the proposition provided for in section 2 of this act shall vote to approve the proposition as to any project provided for in section 2 hereof, sections 4 and 5 would take effect upon passage.

- 1-1        SECTION 1. **Legislative findings** -- (a) The general assembly hereby finds and declares
- 1-2        that:
- 1-3        (1) All Rhode Islanders, regardless of age or disability, want to live independently in the
- 1-4        community or housing arrangement of their choice;
- 1-5        (2) The lack of available, affordable and accessible housing for people with disabilities
- 1-6        and the elderly prevent many Rhode Islanders from obtaining this goal;
- 1-7        (3) The use of home modifications provides people with disabilities and elders the
- 1-8        opportunity to live and remain in the living environment of their choice;
- 1-9        (4) Accessibility features can assist an individual in completing daily living tasks as well
- 1-10       as enhance opportunities for work, community or social events, and supportive services;
- 1-11       (5) Without necessary home modifications, many people feel isolated from the
- 1-12       community and some are left with no choice but to move into a nursing home or institutional
- 1-13       setting;
- 1-14       (6) Currently, in Rhode Island, there is limited funding for home modifications and the
- 1-15       funding that is available is difficult to identify and obtain;
- 1-16       (7) The implementation of a home modification revolving loan fund will provide loans
- 1-17       for accessibility modifications to the residences, whether rentals or purchased homes, of people
- 1-18       with disabilities and the elderly so they can remain active members of our society.
- 2-1        SECTION 2. **Proposition to be submitted to the people.** -- At the general election to be
- 2-2        held on the Tuesday next after the first Monday in November 2008, there shall be submitted to
- 2-3        the people for their approval or rejection the following proposition:
- 2-4        "Shall the action of the general assembly, by an act passed at the January 2008 session,
- 2-5        authorizing the issuance of bonds, refunding bonds, and temporary notes of the state in the
- 2-6        amount of five million dollars (\$5,000,000) be approved, and the issuance of bonds, refunding
- 2-7        bonds, and temporary notes authorized in accordance with the provisions of said act?"
- 2-8        SECTION 3. **Ballot labels and applicability of general election laws.** – The secretary
- 2-9        of state shall prepare and deliver to the state board of elections ballot labels for the project
- 2-10       provided for in section 2 hereof with the designations "approve" or "reject" provided next to the
- 2-11       description of each such project to enable voters to approve or reject each such proposition. The
- 2-12       general election laws, so far as consistent herewith, shall apply to this proposition.
- 2-13        SECTION 4. Chapter 42-55 of the General Laws entitled "Rhode Island Housing and
- 2-14        Mortgage Finance Corporation" is hereby amended by adding thereto the following section:
- 2-15        **42-55-31. Home modification revolving loan fund program for people with**
- 2-16        **disabilities and the elderly.** – (a) There is created, as a separate fund within the treasury, the
- 2-17        home modifications revolving loan fund people with disabilities and the elderly. The fund shall
- 2-18        consist of general obligation bonds and temporary notes approved by the people, any sums that
- 2-19        the state may from time to time appropriate, as well as money received from donations, gifts,
- 2-20        bequests, or otherwise form any public or private source, which money is intended for the

2-21 purpose of making home modifications to the primary residence of persons who:  
2-22 (1) Have a disability; or (2) are age 65 or older; or (3) are the caregiver of a family  
2-23 member who has a disability who lives in the caregiver's primary residence, to allow such persons  
2-24 improved accessibility and/or an opportunity to live more independently in the community.  
2-25 (b) The treasurer shall contract with the Rhode Island housing and mortgage finance  
2-26 corporation for the administration and disbursement of funding. The Rhode Island housing and  
2-27 mortgage finance corporation shall adopt rules and regulations in conjunction with the governor's  
2-28 commission on disabilities consistent with the purposes of this section and the Administrative  
2-29 Procedures Act, chapter 35 of this title, which provides for the orderly and equitable disbursement  
2-30 and repayment of funds.  
2-31 (c) All funds placed in the home modifications revolving loan fund for people with  
2-32 disabilities and the elderly shall be made available to make loans to individuals, and landlords for  
2-33 the purpose of making modifications to the primary residence of persons who: (1) Have a  
2-34 disability; or (2) Are age 65 or older; or (3) Are the caregiver of a family member who has a  
3-1 disability and lives in the caregiver's primary residence, to allow such persons to live more  
3-2 independently in the community and for necessary costs for the administration of the program.  
3-3 (d) Loans made available under the provisions of this section may be made directly, or in  
3-4 cooperation with independent living centers, other public and private lenders, or any agency,  
3-5 department, or bureau of the federal government or the state.  
3-6 (1) The loans pursuant to this section shall be available on the basis of a sliding scale  
3-7 relative to the homeowner's income and assets to the cost of the home modifications.  
3-8 (2) Interest rates shall be means tested and may be determined pursuant to income  
3-9 standards developed by the director of the Rhode Island housing and mortgage finance  
3-10 corporation.  
3-11 (3) Repayment of any loan pursuant to this chapter may be delayed until the sale of the  
3-12 principal residence by the homeowner.  
3-13 (e) The proceeds from the repayment of any loans made for that purpose shall be  
3-14 deposited in and returned to the home modifications revolving loan fund for people with  
3-15 disabilities and the elderly to constitute a continuing revolving loan fund for the purposes  
3-16 provided in this section.  
3-17 (f) Nothing contained herein shall be construed as giving rise to enforceable legal rights  
3-18 on entitlement to any services.  
3-19 (g) The director of Rhode Island housing and mortgage finance corporation shall submit  
3-20 annually reports to the general assembly detailing the status of the home modification revolving  
3-21 loan fund program.  
3-22 (h) As used in this section the term:  
3-23 (1) "home modification" shall mean an adaptation to the physical living environment for  
3-24 ease of use, safety, security and/or to allow such persons to live more independently in the  
3-25 community;  
3-26 (2) "major life activities" include walking, talking, hearing, seeing, breathing, learning,  
3-27 performing manual tasks, and caring for oneself; and  
3-28 (3) "person who has a disability" shall mean a person who has a physical or mental  
3-29 impairment which substantially limits one or more of such person's major life activities.  
3-30 **SECTION 5. Independent evaluation of home modification revolving loan fund**  
3-31 **program.** – An independent evaluation of the effectiveness and administration of this program  
3-32 will take place no later than one year after the fund becomes operational. The evaluation and a

- 3-33 [full report with findings will be presented to the House and Senate Finance Committees for](#)  
3-34 [review no later than eighteen months after the fund becomes operational. Funding for this](#)  
4-1 [evaluation is authorized from the revolving loan fund.](#)  
4-2 [SECTION 6. Sections 1, 2, and 3 of this act shall take effect upon passage. As to sections](#)  
4-3 [4 and 5, if a majority of the people voting on the proposition provided for in section 2 of this act](#)  
4-4 [shall vote to approve the proposition as to any project provided for in section 2 hereof, sections 4](#)  
4-5 [and 5 shall take effect upon approval of voters.](#)  
4-6 [SECTION 7. This act shall take effect upon passage.](#)

**MOTION:** To include in the Commission's legislative package [as item 7 (c)] **H 5613 An Act Relating To State Affairs And Government - Rhode Island Housing and Mortgage Finance Corporation** and authorize the Executive Secretary to negotiate a substitute BI/KMcCB passed unanimously

The Commission's Legislation

**Bills Recommend for Passage**

**07 S-0142 AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT -- OPEN MEETINGS**

Sen. Ciccone on Senate Desk

Description: This act would authorize the use of electronic communication or telephone communications as a reasonable accommodation for a member of a public body who has a disability and would not otherwise be able to participate. This act would take effect upon passage.

The Commission Supports this bill - There was an unintended consequence of the 2005 amendments to the Open Meetings law regarding the use of speaker telephones. For many years, people with severe impairments who were unable to leave their residence due to their disability have served on advisory boards. They were allowed to attend, participate and vote via speaker phone, under an interpretation of the Open Meetings Law, from Attorney General O'Neil. Last year's change in the law had the effect of excluding those people from membership on local and state boards.

This bill mirrors the provision enacted last year that allows members of boards on active duty in the armed services to participate via speaker telephone. The provision has been narrowly tailored so only a member who:

- 1) has a disability (defined in Section 42-87-2(4) "Is regarded as having an impairment" means: (i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated as constituting a limitation) and will remain substantially limited for more than 1 year or is expected to die within a year and

- 2) is not otherwise able to participate in meetings of that public body without the use of electronic communication or telephone communications;

**07 S-0330 AN ACT RELATING TO COURTS AND CIVIL PROCEDURE - PROCEDURE GENERALLY GOVERNMENTAL TORT LIABILITY - DEPARTMENT OF ATTORNEY GENERAL**

Sen. Lenihan Identical to H 5290 on Senate Desk

Description: This act would require that the Rhode Island attorney general provide a legal defense to members of the state board and commissions when sued for acts performed within the scope of state service. This act shall take effect upon passage.

The Commission Supports this bill - The state government tort liability laws do not cover volunteers serving on state boards and commissions. Legal representation is provided for "commissioners appointed by the general assembly". A great many citizens serve on state boards and commissions without compensation. Most are not aware that they could be sued for their service and have to hire their own legal counsel.

This issue arose last spring for the members of the Governor's Commission on Disabilities. During an employee's misconduct preceding it was learned that a similar incident was reported to one of the Commissioners a year earlier, but never passed on to the Commission Officers or me, as the Commission's administrator. The Department of Administration's Legal Services Office advised the Commissioners that they are the employer, and jointly and separately liable for the official actions/or non-action. At the recommendation of the state's Risk Manager and the Chief of the Civil Division of the Attorney General's Office a one million dollar "non-profit" directors' liability insurance policy was purchased. Faced with the prospect of losing homes and savings, the Commissioners, especially small business owners should have the

**Held for a substitute version:**

**07 S-0266 AN ACT RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES** Sen. Levesque In Senate Housing and Municipal Government

Description: This act would permit an accessory family dwelling within a single family residence for the sole use of one or more members of the family of the occupant who is a person with a disability or is over the age of sixty-five (65). This act would take effect upon passage.

The Commission Supports this bill - For families who include an adult off-spring or aging parent with a disability, the ability to create within their residence an "apartment" for that disabled family member, provides a degree of independence within a family support system that is quite often necessary to maintaining that person outside an institutional setting. The State of Rhode Island should be encouraging families to assist their relatives with disabilities remain in the community, rather than through zoning and other public policies encouraging families to turn over responsibility to the state to provide assistive housing.

S. Housing and Municipal Gov. Cmte. chair asked for sub A working out issues with DoA, emailed sponsor 4/4 and will get him sub A.

**07 S-0553 AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS -- ACCESSIBLE TAXICABS** Sen. Walaska Identical to H 5371 – Sub A has been authorized and will be voted on by Senate Corporations the week of April 23<sup>rd</sup>.

**Continued**

**07 H-5290 AN ACT RELATING TO COURTS AND CIVIL PROCEDURE - PROCEDURE GENERALLY GOVERNMENTAL TORT LIABILITY - DEPARTMENT OF ATTORNEY GENERAL** Rep. Mumford Identical to S 0330 In House Judiciary

**Scheduled for hearing and/or consideration**

**07 H-5313 AN ACT RELATING TO HEALTH AND SAFETY -- HEALTH PROFESSIONAL LOAN REPAYMENT PROGRAM** Rep. Ginaitt Identical to S0597 In House Finance

Description: This act would expand the health professional loan repayment program to include physical therapists, psychiatric social workers and pharmacists. This act would take effect on July 1, 2007.

The Commission Supports this bill - Health care facilities serving the poor, including community health centers throughout the state, are experiencing increasing difficulty in attracting and retaining physicians and other health professionals to administer to the needy populations they serve. The current health professional loan repayment program includes most, but not all of the "health care provider(s)", as defined Confidentiality of Health Care Communications and Information Act. In response to concerns from the disability community this bill expands the health care fields to mirror the "health care provider" definition; physical therapist, psychiatric social workers, and pharmacists.

**In Finance Committees (exempt from the 4/12/07 consideration deadline)**

**07 S-0086 AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT - DEPARTMENT OF HUMAN SERVICES** Sen. Blais Identical to **07 H-5191 AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT** Rep. McNamara

Description: This act would require the department of human services may utilize up to ten percent (10%) of the sums appropriated for the traumatic brain injury program for the purpose of administering the program. Services including, but not limited to: case management; cognitive rehabilitation; transitional living; structured day programs; assistive technology services; devices and equipment; transportation; housing; neuropsychological evaluations; behavioral health treatment; substance abuse treatment; respite; and other services and/or assistance as deemed appropriate by the commission for individuals with traumatic brain injury to accomplish a successful re-entry and maintenance in the community. This act shall take effect on July 1, 2007.

The Commission Supports this bill - In order for the Department of Human Services to effectively administer the Traumatic Brain Injury program, it needs the authority to utilize a small portion (10%) for administrative expenses. The Traumatic Brain Injury program is providing in-state services for individuals with traumatic brain injuries, for the first time. These services ensure a smoother transition from in-patient hospital care to community based services.

**07 S-0597 AN ACT RELATING TO HEALTH AND SAFETY -- HEALTH PROFESSIONAL LOAN REPAYMENT PROGRAM** Sen. Sosnowski Identical to H 5313

Description: This act would expand the health professional loan repayment program to include physical therapists, psychiatric social workers and pharmacists. This act would take effect on July 1, 2007.

The Commission Supports this bill - Health care facilities serving the poor, including community health centers throughout the state, are experiencing increasing difficulty in attracting and retaining physicians and other health professionals to administer to the needy populations they serve. The current health professional loan repayment program includes most, but not all of the "health care provider(s)", as defined Confidentiality of Health Care Communications and Information Act. In response to concerns from the disability community this bill expands the health care fields to mirror the "health care provider" definition; physical therapist, psychiatric social workers, and pharmacists.

**07 S-0127 AN ACT RELATING TO HUMAN SERVICES -- HEALTH CARE FOR ELDERLY AND DISABLED RESIDENTS ACT** Sen. Ciccone

Description: This act would raise the income eligibility for categorically needy medical assistance beneficiaries, for individuals with disabilities to qualify for Medicare, from 100% to 185% of the federal poverty level. This act shall take effect upon passage.

The Commission Supports this bill - Currently Medicaid is available to families whose income is less than 185% of the federal poverty level, but person with disabilities who have worked, are excluded from Medicaid if their income is over 100% of the poverty level. This policy penalizes people with disabilities who worked and discourages other people with disabilities from going to work.

**07 S-0128 AN ACT RELATING TO EDUCATION - SCHOOL AND MUNICIPAL PLAYGROUND SAFETY** Sen. Blais

Description: This act would provide grants to cities and towns for projects undertaken specifically to comply with the department of education and department of health's joint health and environment recreational facility safety regulations and/or to provide access for people with disabilities. This act would take effect upon passage.

The Commission Supports this bill - Current school housing aid does not reimburse school districts for playground safety expenses. As of Spring 2000, 49% of the elementary school playgrounds did not meet the state safety standards for recreational facilities. Smaller children could become disabled if safety hazards are not removed from school and municipal playgrounds.

**The Committee finds these bills Beneficial**

**Recommend Passage**

**07 S-0484 AN ACT RELATING TO PROPERTY -- RHODE ISLAND FAIR HOUSING PRACTICES ACT** Sen. Metts Identical to H 5509 On Senate Desk

Description: This act would prohibit discrimination in housing against those persons who are recipients of government assistance. This act would take effect upon passage.

The Committee finds this bill Beneficial - Many people with disabilities receive government assistance, including housing subsidies/rental assistance. They are often denied housing solely because a portion of their rent would come from Section 8 or other housing assistance. As a result, families utilize shelters or living in housing that is not able to accommodate their physical needs, which places their health in jeopardy.

**07 H-5294 AN ACT RELATING TO LABOR AND LABOR RELATIONS -- EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION** Rep. Almeida On House Calendar

Description; This act would delete references in the Rhode Island general laws which exempt the legislative branch of state government from compliance with provisions of equal opportunity and affirmative action. This act would take effect upon passage.

The Committee finds this bill Beneficial - The legislative branch should be obligated to comply with the same equal opportunity and affirmative action requirements that all other state and local government entities and government contractors must comply with. Enactment is more a statement of support for the concept of equal opportunity and a demonstration of the importance the Assembly places on equality. Several years ago, Congress imposed similar federal civil rights laws on itself.

**07 H-5969 AN ACT RELATING TO ELECTIONS -- MATCHING PUBLIC FUNDS** Rep. Handy On House Calendar

Description: This act would require captioning for the deaf and hard of hearing of television political advertisements and a written or text format of radio political advertisements available at the time of request by candidates who elect to receive matching campaign financing. This act would take effect on January 1, 2008.

The Committee finds this bill Beneficial - Voters with hearing impairments have the same need to cast an informed vote as all other voters. Tax funded campaign commercials should be accessible to all voters/taxpayers. Adding a caption for the deaf to TV ads and providing the text of radio ads (on candidate websites) provides voters with hearing impairments the same information other voters have about candidates.

**In Finance Committees (exempt from the 4/12/07 consideration deadline)**

**07 H-5203 AN ACT RELATING TO COURTS AND CIVIL PROCEDURE - SOVEREIGN IMMUNITY** Rep. Lally Identical to S 0193 In House Finance

Description: This act would clarify that a cause of action exists against the state of Rhode Island by state employees and other parties seeking to enforce rights with respect to certain federal statutes, including those which address fair labor standards, discrimination, family and medical leave and patent protection. The United States Congress has indicated its intent and federal statutes will be applicable to the states. This act would take effect on July 1, 2007 and would apply to causes of action arising on or after that date.

The Committee finds this bill Beneficial - Many years ago the state enacted civil rights laws that mirrored and/or went beyond those enacted by the federal government to protect people with disabilities (and others) from discrimination. These acts have always been seen protecting Rhode Islanders from discrimination by public or private entities. Only recently has the state been raising the 11th Amendment "state's rights" argument claiming, in effect, that state/local governments may discriminate, but private businesses may not. The state should set a positive example, not hide its discrimination behind the old segregationist's argument.

Cases brought under the state disability rights laws could be more expensive than if the same case was brought under federal law since: (1) state law allows punitive damages, federal law prohibits punitive damages when the discriminator is a governmental body and (2) the RI Supreme Court has never imposed the tort liability cap to civil rights judgments, federal law has caps on compensatory based on the size of the workforce.

**Continued**

**07 S-0325 AN ACT RELATING TO INSURANCE -- COVERAGE FOR MENTAL ILLNESS AND SUBSTANCE ABUSE** Sen. Perry Identical to H 5738 In Senate Health and Human Services, not scheduled for a vote.

Description: This act would specify that reimbursement for professional providers for mental illness coverage shall be comparable to the amount paid for similar medical services. This act would take effect upon passage. The Committee finds this bill Beneficial - It has been getting increasingly difficult to find mental health practitioners, especially for children's mental health services, who will accept new patients, due to low rates of reimbursement.

**07 H-5178 AN ACT RELATING TO HEALTH AND SAFETY OF PUPILS** Rep. Lewiss In House Health, Education & Welfare, not scheduled for a vote.

Description: This act would require that all elementary and secondary schools, whether public, private, parochial, or charter, must use environmentally-sensitive cleaning and maintenance products which minimize the adverse impacts on children's health, safety and the environment. The commissioner of education shall disseminate to all elementary and secondary schools guidelines and specifications for the purchase and use of environmentally-sensitive cleaning and maintenance products in elementary and secondary schools. The commissioner of education, in consultation with the director of the department of environmental management, shall also prepare and disseminate to all elementary and secondary schools a sample list of environmentally-sensitive cleaning and maintenance products that meet these guidelines or specifications. All elementary and secondary schools shall follow these guidelines, specifications and sample list when purchasing cleaning and maintenance products for use in their facilities. The commissioner of education shall provide assistance and guidance to elementary and secondary schools in carrying out the requirements of this section. Elementary and secondary schools shall notify their personnel of the availability of the guidelines, specifications and sample list; provided, nothing in this section shall preclude an elementary or secondary school from depleting existing cleaning and maintenance supplies purchased prior to the effective date of this section. This act shall take effect upon passage.

The Committee finds this bill Beneficial - For many years the Governor's Commission on Disabilities and many state and community based agencies have conducted a series of Public Forums on the Concerns of People with Disabilities and their Families. The testimony from people with multiple chemical sensitivities and their families was very impressive but also very disturbing. Many Rhode Islanders are unable to go to emergency rooms, hospitals, and other health care providers, because of the toxic environment at these facilities. They are unable

to attend school, job training, or college. They are often dependant on other family members to perform simple everyday tasks such as go shopping for food, clothing, or holiday gifts. Toxic free housing is almost impossible to find. They are effectively denied health care services; education, housing, human services, employment and access to their government.

The Department of Administration, in response to a Senate Resolution is now using environmentally-sensitive cleaning and maintenance products in the State House and the William Powers Building. Our school children deserve no less protection than leaders of government.

**07 H-5509 AN ACT RELATING TO PROPERTY -- RHODE ISLAND FAIR HOUSING PROTECTION ACT** Rep. Segal Identical to S 0484 In House Judiciary, not scheduled for a vote.

Description: This act would prohibit and make it an unlawful housing practice to discriminate against a person based upon their source of income in residential real estate transactions and in the renting of residential housing. This act would take effect upon passage.

The Committee finds this bill Beneficial - Many people with disabilities receive government assistance, including housing subsidies/rental assistance. They are often denied housing solely because a portion of their rent would come from Section 8 or other housing assistance. As a result, families utilize shelters or living in housing that is not able to accommodate their physical needs, which places their health in jeopardy.

**07 H-5738 AN ACT RELATING TO INSURANCE -- INSURANCE COVERAGE FOR MENTAL ILLNESS AND SUBSTANCE ABUSE** Rep. Ajello Identical to S 0325 In House Corporations, not scheduled for a vote.

Description: This act would require that reimbursement paid by a health care insurer for mental illness and substance abuse coverage be comparable to that paid for similar medical services. This act would take effect upon passage.

The Committee finds this bill Beneficial - It has been getting increasingly difficult to find mental health practioners, especially for children's mental health services, who will accept new patients, due to low rates of reimbursement.

**In Committee (never had a hearing)**

**07 S-0062 AN ACT RELATING TO INSURANCE -- ORTHOTIC AND PROSTHETIC SERVICES** Sen. Ciccone Identical to H 5200 In Senate Health & Human Services, not scheduled for a hearing or vote.

**07 S-0193 AN ACT RELATING TO COURTS AND CIVIL PROCEDURE -- PROCEDURE GENERALLY -- SOVEREIGN IMMUNITY** Sen. McCaffrey Identical to H 5203 In Senate Judiciary, not scheduled for a hearing or vote.

**The Committee finds these bills Beneficial if amended**

**In Finance Committees (exempt from the 4/12/07 consideration deadline)**

**07 S-0166 AN ACT RELATING TO HEALTH AND SAFETY -- BREAST CANCER ACT** Sen. Pichardo Identical to **07 H-5350 AN ACT RELATING TO HEALTH AND SAFETY -- CANCER SCREENING** Rep. Naughton

Description: This act would provide \$250,000 for mammographies for women aged 40-49 who are eligible to use the Rhode Island women's cancer screening program. This act would take effect on July 1, 2007.

The Committee finds this bill Beneficial if amended - The Commission supports funding free mammography screening according to American Cancer Society standards, and, where required, follow-up, diagnostic testing, and case management for both women and men who are uninsured or underinsured. Breast cancer isn't exclusively a "women's" disease.

**07 S-0572 AN ACT RELATING TO HOUSING RESOURCES - NEIGHBORHOOD OPPORTUNITIES PROGRAM** Sen. Pichardo Identical to **07 H-5723 AN ACT RELATING TO HOUSING RESOURCES - NEIGHBORHOOD OPPORTUNITIES PROGRAM** Rep. Fox

Description: This act would establish and fund the neighborhood opportunities program to address the housing and revitalization needs of the state's deteriorating neighborhoods. the housing and revitalization needs of the state's deteriorating neighborhoods. The neighborhood opportunities program shall provide financial assistance to implement the following three components: (a) The family affordable housing program, to produce an additional supply of housing units at rents affordable to families working at or near minimum wage; (b) The permanent supportive housing program, the purpose of which shall be to produce additional housing for disabled individuals to be coupled with services and case management to stabilize homeless individuals in permanent housing at affordable rents for persons receiving supplemental social security income (SSI); and (c) The neighborhood revitalization program, the purpose of

which shall be to provide grants to local communities for renovation, demolition, and homeownership opportunities in neighborhoods designated for revitalization. This act would take effect upon passage. The Committee finds this bill Beneficial if amended - Families that include a person with a disability, have a very difficult time finding housing that is physically accessible, affordable and safe. Any assistance to families that include a person with a disabilities or single units that are physical accessible, affordable and safe will help. The supportive employment program has a proven track record of low cost support services that enable persons with severe disabilities to remain in the work force. A similar supportive housing program will provide similar low cost supports that keep persons with severe disabilities in stable housing rather than the "revolving door" of getting into housing and then bounced out onto the street and then starting the process .

**The Committee finds these bills Harmful**

**Recommend No Passage (On House Desk)**

**07 H-5649 AN ACT RELATING TO INITIATIVE AND REFERENDUM** Rep. Picard Related to H 5887, & H 6026, S 0037, & S 0036

Description: This act would provide a detailed process by which a proponent of a voter initiative and referendum proposal would present the proposal to the secretary of state, the general assembly and the governor. This act would take effect upon ratification of a constitutional amendment entitled "JOINT RESOLUTION TO APPROVE AND PUBLISH, AND SUBMIT TO THE ELECTORS A PROPOSITION OF AMENDMENT TO THE CONSTITUTION OF THE STATE (INITIATIVE AND REFERENDUM)."

The Committee finds this bill Harmful - This would subvert the give-and-take of the legislative process that allows the views and concerns of any minority to be incorporated into the final law.

**07 H-6026 AN ACT TO APPROVE AND PUBLISH AND SUBMIT TO THE ELECTORS A PROPOSITION OF AMENDMENT TO THE CONSTITUTION OF THE STATE (INITIATIVE AND REFERENDUM** Rep. Gorham Related to H 5887, H 5649, S 0036 & S 0037

Description: This resolution would propose an amendment to the state constitution by establishing a voter initiative process to allow voters to initiate proposed legislation which would, upon vote of the electorate, become law.

The Committee finds this bill Harmful - This would subvert the give-and-take of the legislative process that allows the views and concerns of any minority to be incorporated into the final law.

**In Finance Committees (exempt from the 4/12/07 consideration deadline)**

**07 H-5451 AN ACT RELATING TO EDUCATION -- SCHOOL COMMITTEES AND SUPERINTENDENTS** Rep. Loughlin Similar to H 5242 & H

Description: This act would allow city and town councils to seek waivers of any state law or regulation related to education, including, but not limited to, regulations governing the education of children with disabilities, in order to reduce school budget increases to specified levels. This act would take effect upon passage. The Committee finds this bill Harmful - This bill appears to target special education services for cuts, since it's the only "example" provided in the text of the legislation. Rhode Island has been in the forefront of services to children and adults with disabilities, and reducing services to the lowest possible level "permitted by federal law, etc. is a short term solution with long term economic consequences. Cutting special education expenses, when our prison population is made of largely of adults whose disabilities (cognitive, behavioral, or learning) were undiagnosed or ignored) just shifts to a much more expensive lifetime government expense. The US Department of Education's studies of Temporary Aid to Needy Families (TANF) have shown that between 60% & 80% of the beneficiaries (of what use to be called welfare) are women with undiagnosed learning disabilities. It's much more economic to provide appropriate education early that makes that child with a disability a working adult than to skimp on education and end up with an adult who is unemployable and/or an inmate. In addition, starting in 1995 the General Assembly merged the state special education, vocational education, and general education aid into one account.

**Continued**

**07 H-5887 AN ACT RELATING TO INITIATIVE AND REFERENDUM** Rep. Gorham Related to H 5649, H 6026, S 0036 & S 0037 In House Judiciary, not scheduled for a vote.

**07 S-0225 JOINT RESOLUTION CREATING A SPECIAL LEGISLATIVE COMMISSION TO MAKE A COMPREHENSIVE STUDY OF THE AFFECTS OF UNFUNDED MANDATES ON THE EDUCATION AND FINANCING OF SCHOOL DISTRICTS IN THE STATE OF RHODE ISLAND** Sen. Raptakis Similar

**07 S-0361 JOINT RESOLUTION CREATING A SPECIAL LEGISLATIVE COMMISSION TO MAKE A**

**COMPREHENSIVE STUDY OF THE IMPACT OF MANDATES ON RHODE ISLAND'S SCHOOL**

**DISTRICTS** Sen. Tassoni In Senate Constitutional and Regulatory Issues not scheduled for a vote.

Description: This resolution would create an eleven (11) member special legislative commission whose purpose it would be to make a comprehensive study of the impact of mandates on Rhode Island's school district's and who would report back to the general assembly no later than January 029, 2008 and whose life would expire on March 29, 2008.

The Committee finds this bill Harmful - his bill appears to target special education services for cuts. Rhode Island has been in the forefront of services to children and adults with disabilities, and reducing services to the lowest possible level "permitted by federal law, etc. is a short term solution with long term economic consequences. The membership of the Commission does not include any parents of children with special needs and does not look at the impact of not providing services to other aspects of society. Cutting special education expenses, when our prison population is made of largely of adults whose disabilities (cognitive, behavioral, or learning) were undiagnosed or ignored) just shifts to a much more expensive lifetime government expense. The US Department of Education's studies of Temporary Aid to Needy Families (TANF) have shown than between 60% & 80% of the beneficiaries (of what use to be called welfare) are women with undiagnosed learning disabilities. It's much more economic to provide appropriate education early that makes that child with a disability a working adult than to skimp on education and end up with an adult who is unemployable and/or an inmate.

**07 H-5242 AN ACT RELATING TO EDUCATION - SCHOOL COMMITTEES AND SUPERINTENDENTS**

Rep. Rose In House Health, Education & Welfare, not scheduled for a vote. Similar to H 5451 & H 5662

Description: This act would allow school committees to seek relief from state directives that are unfunded and which exceed federal limits and guidelines by bringing an action in the Rhode Island Superior Court. This act would take effect upon passage.

**07 H-5662 AN ACT RELATING TO EDUCATION - - MANDATES** Rep. Corvese In House Health, Education & Welfare, not scheduled for a vote. Similar to H 5242 & H 5451

Description: This act would require that educational mandates be fully funded or else unenforceable. This act would take effect upon passage.

**07 H-5553 AN ACT RELATING TO INSURANCE -- MANDATED BENEFITS REVIEW ACT** Rep. Mernard In House Corporations, not scheduled for a vote. Identical to S 0088

Description: This act would create an independent committee to review the cost effectiveness, medical efficacy and social need for mandated health insurance benefits. This act would take effect on July 1, 2007.

The Committee finds this bill Harmful - Persons with chronic health conditions are most often the ones seeking mandated health insurance benefits. Weighing the "social impact" of that benefit, essentially is weighing their life and the degree they can remain in the community against the cost of treatment, spread across the community. When the State of Oregon used a "social worth/impact" method to structure their Medicaid program, it was struck down for discriminating on the basis of disability. Can the social impact of an infant with HIV/AIDS be weight?

**In Committee (Never had a hearing)**

**07 S-0036 AN ACT RELATING TO INITIATIVE AND REFERENDUM** Sen. Cote In Senate Constitutional and Regulatory Issues, not scheduled for a vote. Related to S 0037, H 5887, H 5649, & H 6026

**07 S-0037 JOINT RESOLUTION TO APPROVE AND PUBLISH AND SUBMIT TO THE ELECTORS A PROPOSITION OF AMENDMENT TO THE CONSTITUTION OF THE STATE (INITIATIVE AND REFERENDUM)** Sen. Cote In Senate Constitutional and Regulatory Issues, not scheduled for a vote. Related to H 5887, H 5649, & H 6026 & S 0036

**07 S-0088 AN ACT RELATING TO INSURANCE** Sen. Blais Identical to H 5553 In Senate Health & Human Services, not scheduled for a vote.

**07 H-5500 JOINT RESOLUTION CREATING A SPECIAL LEGISLATIVE COMMISSION TO MAKE A COMPREHENSIVE STUDY OF THE IMPACT OF MANDATES ON RHODE ISLAND'S SCHOOL**

**DISTRICTS** Rep. Church In House Health, Education & Welfare, not scheduled for a vote. Identical to S 0361

**07 H-5857 AN ACT RELATING TO HEALTH AND SAFETY -- HEALTH CARE FACILITIES --**

**HANDICAPPED ACCESS** Rep. Ucci In House Health, Education & Welfare, not scheduled for a vote.

Description: This act would require medical treatment facilities open to ambulatory patients to, within two (2) years of passage of this act, provide handicapped access. This act would take effect upon passage and subject

facilities would have two (2) years to comply with the act. The Committee finds this bill Harmful -		
Announcements and Scheduling of Meetings	Chairperson	5 min.
Next meeting will be on:	Monday May 14 <sup>th</sup>	Starting at: 3 PM
Adjournment:	Chairperson adjourned the meeting at 5:12 PM	

**Other Information**

<b>Observers:</b>	
<b>Resource persons:</b>	Bob Cooper, Committee Staff