



Description of graphic: RI State Seal an anchor in gold behind a blue wheelchair logo. Just below is a blue banner with the state motto "Hope". All are in the center of a ring of 8 blue stars, in groups of 2 separated by the logos for Braille, hearing aids, low vision and amplified phone.

Governor's Commission on Disabilities Executive Committee Minutes Monday April 4, 2011 4-5:30 PM

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 <p>meeting graphic</p>	<p>Attendees: Timothy Flynn (Chair.); Bill Inlow; Andrew Argenbright; Judi Drew; Patricia Ryherd; & Linda Ward</p>
	<p>Absentees: Kate McCarthy-Barnett (Vice Chair); Rosemary Carmody; Paul Harden; Ronald McMinn; & Theresa Thaelke</p>
<p>Guests:</p>	<p>Joseph Cirillo; Angelina Stabile; Christopher Butler; Marylouise Gamache; & Cristina Amedeo</p>
<p>Staff:</p>	<p>Bob Cooper</p>

	Agenda Topics	Moderator/Leader	Time
 <p>Clock graphic</p>	<p>Call to Order and Acceptance of the Minutes</p>	<p>Timothy Flynn, Chairperson</p>	<p>4:00</p>
<p>Chair calls the meeting to order at 4:05. Introductions of Commissioners and guests</p>			
<p>MOTION: To accept the minutes of the previous meeting as presented / LW/PR passed Abstained JD</p>			

Action Items:			
 <p>people graphic</p>	<p>Appointment / Reappointment of Commissioners</p>	<p>Tim Flynn</p>	<p>4:05</p>
<p>Purpose/Goal: To make recommendations to the Governor regarding reappointment of Commissioners whose terms expire May 1, 2011 and appointments for two vacancies for terms to expire on May 1, 2013.</p>			
<p>Interviews of potential nominees:</p> <ol style="list-style-type: none"> 1. Joseph Cirillo, currently a member of the Accessibility Committee and the US Access Board, and formerly the RI State Building Commissioner. 2. Andrew Argenbright, currently Vice Chair of the Disability Business Enterprise Committee, owner of a small disability business enterprise. 3. Angelina Stabile, was the Edward J. Schroeder Fellow in 2002, the Vice President of the National Federation of the Blind of RI. 4. Christopher Butler, is the Executive Director of In-Sight, was the Executive Director of AIDS Project: RI. 5. Marylouise Gamache, the Aging and Disability Resource Center (POINT) Program 			

Agenda Topics		Moderator/Leader	Time
Coordinator.			
8 Members whose terms expire on May 1 st :			
Commissioner	Initial Appointment	Interest in being reappointed	
Cristina Amedeo	5/28/2008	No	
Judi Drew	7/19/1999	Yes	
Katherine Lowe	5/28/2008	NA	
Kate McCarthy-Barnett	7/18/2002	Yes	
Lisa McKay	11/8/2005	No	
James Pitassi, Jr	7/27/1998	Yes	
Patricia Ryherd	5/1/1979	Yes	
Linda Ward	5/28/2008	Yes	
 voting check off graphic	<p>MOTION: To recommend the reappointment for terms expiring on May 1, 2014: Judi Drew; Kate McCarthy-Barnett; James Pitassi, Jr; Patricia Ryherd; and Linda Ward BI/TF, Abstained PR, LW, JD</p> <p>MOTION: To recommend the appointment for terms expiring on May 1, 2013: Marylouise Gamache and Andrew Argenbright and appointment for terms expiring on May 1, 2014: Joseph Cirillo, Christopher Butler and Angelina Stabile LW/JD passed unanimously</p>		

 Public Bus	Recommendation for RI Public Transit Authority Board of Directors	William Inlow	4:30
Discussion: There are 8 members of the RIPTA Board, 7 appointed by the Governor and the Director of the Department of Transportation. Four members' terms expired April 1, 2010. One additional member's term expires April 1, 2011. The RI Transportation Advisory Committee has asked for our support in recommending the appointment of Anna Petra Liebenow (of Providence) to the RIPTA Board of Directors.			
MOTION: To recommend the appointment of Anna Petra Liebenow (of Providence) to RIPTA Board of Directors. JD/PR passed unanimously			

 Balancing Budget graphic	Commission Operations and Budget	Bob Cooper	4:35
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Purpose/Goal: To review the Governor's Recommendations for the Commission's FY 2011 Supplemental and FY 2012 Budget Requests

Account	GCD FY 11	Gov FY 11	GCD FY 12	Gov FY 12
Operations	\$339,212	\$337,097	\$362,094	\$361,661
Fellowships	\$10,350	\$10,350	\$10,212	\$10,350
DBE	\$18,271	\$15,861	\$17,189	\$16,775
Total State \$	\$367,832	\$363,308	\$389,495	\$388,786

Account	GCD FY 11	Gov FY 11	GCD FY 12	Gov FY 12
NE ADA	\$22,978	\$21,975	\$44,063	\$42,111
HAVA-EAID	\$176,044	\$174,238	\$140,385	\$139,731
Total Fed \$	\$199,023	\$196,213	\$184,448	\$181,842
Public Forum	\$9,108	\$9,108	\$9,264	\$9,264
RICAP	\$298,474	\$250,000	\$250,000	\$250,000
Grand Total	\$874,439	\$818,629	\$833,208	\$829,892
Differences	GCD Unconstrained Request to Governor's FY 2011 Recommendation		GCD Unconstrained Request to Governor's FY 2012 Recommendation	
Operating Account	-\$17 from payroll and benefits accruals -\$653 from employee benefit +3,216 restored to pay reduction days savings -\$696 from interpreters -\$3,715 from asbestos removal (work to be paid for by DOA) -\$32 from computer supplies -\$122 from janitorial supplies -\$20 from staff training -\$27 from bottled water -\$49 from rental of water dispenser -\$2,115 Operating Total		+\$495 to restore medical insurance waiver bonus +\$1 for Social Security -\$1,457 from employee health care +\$274 for retirement health insurance -\$124 from janitorial supplies -\$27 from bottled water -\$49 from rental of water dispenser +\$1 for mileage +\$453 for telephones -\$433 Operating Total	
Fellowships	No Reductions of Fellowship Stipends		+\$138 restored for fellowship stipends	
Disability Business Enterprises	-\$1 from payroll and benefits accruals +\$939 added for employee health care (for employee who has waived coverage) -\$49 from other employee benefits -\$142 for pay reduction days -\$3,156 from purchasing search engine -\$2,410 DBE Total		+\$85 to restore medical insurance waiver bonus +\$964 for employee health care (for employee who has waived coverage) +\$12 for retirement health insurance -\$1,475 from purchasing search engine -\$414 DBE Total	
NE ADA Center Grant	-\$1 from payroll and benefits accruals -\$144 from employee benefits -\$125 for Pay reduction days savings -\$734 Out-of-State: Transportation (air fare cut, but left intact lodging, registration, taxi, & meals) +1 for single audit fees -\$1,003 NE ADA Total		-\$80 from medical insurance waiver bonus -\$129 from employee health care +\$30 for retirement health insurance -\$176 from employee benefits +\$90 statewide savings offset -\$1,864 out of state travel -\$1,952 NE ADA Total	
HAVA-EAID Grant	-\$1 from payroll and benefits accruals -\$1,476 from employee benefits -\$316 for Pay reduction days savings -\$13 single audit fees -\$1,806 HAVA-EAID Total		-\$685 from employee health care +\$8 for retirement health insurance +\$23 statewide savings offset -\$654 HAVA-EAID Total	
Donations	No Reductions for Public Forums		No Reductions for Public Forums	
RICAP	-\$45,974 from Groden Center Elevator -\$2,500 from Paul Sherlock Artwork		-\$22,500 from Building Renovations -\$2,500 from Paul Sherlock Artwork	

Differences	GCD Unconstrained Request to Governor's FY 2011 Recommendation	GCD Unconstrained Request to Governor's FY 2012 Recommendation
		+\$25,000 for URI \$0 RICAP Total
	-\$48,474 RICAP Total	
Grand Total	-\$55,808	-\$3,315



voting check
off graphic

MOTION: To recommend the Commission accept the Commission's FY 2011 & 2012 Budget as Recommended by the Governor PR/LW passed unanimously

Budget Articles Effecting People with Disabilities:

4:45

Purpose/Goal: To recommend the Commission take positions on several Articles in the State Budget Act

11 H 5894 Art. 10 AN ARTICLE RELATING TO THE DEPARTMENT OF EDUCATION

This article's Section 1 would repeal the statewide transportation of students with special needs law.

Section 2 would instead, implement a statewide school transportation system for all students.

Sections 3 & 4 would ensure that all transportation vehicles will have audible warning alarms in place as well as improved emergency airway and bodily fluid spill kits.

Section 5 would assess school districts tuition to cover the costs of educational services that are additional to the core deaf and hard of hearing education program that is provided to resident students at the Rhode Island School for the Deaf.

All tuition paid by districts and any aid deducted for non-payment shall be deposited in a restricted receipt account.

The School for the Deaf is hereby authorized to rent or lease space in its school building. The school shall deposit any revenues from such agreements into a restricted receipt account, to be known as the School for the Deaf Rental Income Account.

This article shall take effect upon passage.

The reviewer recommends the Commission support this budget article.

- 1-1 **ARTICLE 10**
- 1-2 **RELATING TO THE DEPARTMENT OF EDUCATION**
- 1-3 **SECTION 1.** Section 16-21.1-7 of the General Laws in Chapter 16-21.1 entitled
- 1-4 "Transportation of School Pupils Beyond City and Town Limits" is hereby repealed, **in its**
- 1-5 **entirety:**
- 1-6 **16-21.1-7. Statewide transportation of students with special needs.--**
- 1-7 **~~Notwithstanding the regional structure created in this chapter, and pursuant to the~~**
- 1-8 **~~obligation of school committees to transport children with special needs to and from school either~~**
- 1-9 **~~within the school district or in another school district of the state created by 16-24-4, the~~**
- 1-10 **~~department of elementary and secondary education, in collaboration with the office of statewide~~**
- 1-11 **~~planning of the department of administration, and the Rhode Island public transit authority shall~~**
- 1-12 **~~develop a plan for the creation and implementation of a statewide system of transportation of~~**
- 1-13 **~~students with special needs to and from school. The statewide school transportation system for~~**
- 1-14 **~~children with special needs shall be provided through a competitive request for proposals to~~**
- 1-15 **~~which vendors of transportation services may respond. Effective upon the implementation of this~~**
- 1-16 **~~statewide system of transportation for students with special needs, each school committee shall~~**
- 1-17 **~~purchase the transportation services for their own resident students with special needs by~~**
- 1-18 **~~accessing this integrated statewide system of transportation for children with special needs on a~~**
- 1-19 **~~fee for service basis for each child; provided, however, that any school committee that fulfills its~~**

1-20 ~~transportation obligations primarily through the use of district owned buses or district employees~~
1-21 ~~may continue to do so. The goals of the statewide system of transportation for students with~~
1-22 ~~special needs shall be the reduction of duplication of cost and routes in transporting children from~~
1-23 ~~the various cities and towns to the same special education program providers using different~~
1-24 ~~buses from each city and town, the improvement of services to children through the development~~
1-25 ~~of shorter ride times and more efficient routes of travel, and the reduction of cost to local school~~
1-26 ~~committees through achieving efficiency in eliminating the need for each school district to~~
1-27 ~~contract for and provide these specialized transportation services separately. The department of~~
1-28 ~~elementary and secondary education shall submit a report of their findings and plans to the~~
1-29 ~~general assembly by March 30, 2008.—~~

1-30 SECTION 2. Section 16-21.1-8 of the General Laws in Chapter 16-21.1 entitled
2-1 “Transportation of School Pupils Beyond City and Town Limits” is hereby amended to read as
2-2 follows:

2-3 **16-21.1-8. Statewide transportation system for all students to be established. --**

2-4 (a) Notwithstanding the regional structure created in this chapter, and upon
2-5 implementation of ~~the department of elementary and secondary education, in collaboration with~~
2-6 ~~the office of statewide planning of the department of administration, and the Rhode Island public~~
2-7 ~~transit authority shall conduct a comprehensive study of all current transportation services for~~
2-8 ~~students in Rhode Island school districts in order to develop a plan for the creation and~~
2-9 ~~implementation of a statewide system of transportation of all students to and from school. The a~~
2-10 ~~statewide school transportation system for all students shall be provided through a competitive~~
2-11 ~~request for proposals to which vendors of transportation services may respond. Effective upon the~~
2-12 ~~implementation of this statewide system of transportation for all students, each school committee~~
2-13 ~~shall purchase the transportation services for their own resident students by accessing this~~
2-14 ~~integrated statewide system of transportation on a fee-for-service basis for each child; provided,~~
2-15 ~~however, that any school committee that fulfills its transportation obligations primarily~~
2-16 ~~predominantly through the use of district-owned buses or district employees may apply for a~~
2-17 ~~variance from the Commissioner of Education, or the Commissioner’s designee, thereby~~
2-18 ~~requesting that its transportation obligations continue to be achieved through the use of the buses~~
2-19 ~~owned by the district and staffed by district employees, do so.~~ All fees paid for transportation
2-20 services provided to students under the statewide system shall be paid into a statewide student
2-21 transportation services restricted receipt account within the department of elementary and
2-22 secondary education. Payments from the account shall be limited to payments to the
2-23 transportation service provider and transportation system consultants. This restricted receipt
2-24 account shall not be subject to the indirect cost recoveries provisions set forth in 35-4-27. The
2-25 goals of the statewide system of transportation for all students shall be the reduction of
2-26 duplication of cost and routes in transporting children from the various cities and towns using
2-27 different buses within and between each city and town, the improvement of services to children
2-28 through the development of shorter ride times and more efficient routes of travel, and the
2-29 reduction of cost to local school committees through achieving efficiency in eliminating the need
2-30 for each school district to contract for and provide these transportation services separately. ~~The~~
2-31 ~~comprehensive study of all current transportation services for students in Rhode Island school~~
2-32 ~~districts and development of a plan for a statewide system of transportation of all students to and~~
2-33 ~~from school shall be completed, with a report to the general assembly by March 30, 2008.~~

2-34 (b) There shall be deducted from the final aid payment to each school district any
3-1 amounts owed to the state at the end of the fiscal year for transportation of the district’s students
3-2 under the statewide transportation system established pursuant to R.I.G.L. section 16-21.1-7 and
3-3 this section. Districts shall receive monthly invoices summarizing the basis of the transportation
3-4 fees charged. Any such deductions in aid shall be transferred to the statewide student
3-5 transportation services restricted receipt account, as set forth in R.I.G.L. section 35-4-27.

3-6 SECTION 3. Sections 31-22.1-1, 31-22.1-2, and 31-22.1-3 of the General Laws in

3-7 Chapter 31-22.1 entitled “Pupil Transportation Vehicles” are hereby amended to read as follows:

3-8 **31-22.1-1. Pupil transportation vehicle - Definition. --**

3-9 A pupil transportation vehicle is a motor vehicle designed and constructed to seat not
3-10 more than eight (8) passengers ~~in addition to~~ including the operator, used by a school committee
3-11 to provide the transportation services required by law or regulation to students being conveyed
3-12 along a fixed school transportation route. In particular, such vehicles may be used to provide the
3-13 transportation services required by § 16-21-1, § 16-21.1-1, et seq., and §16-24-4 on routes in
3-14 which only small numbers of students are being conveyed.

3-15 **31-22.1-2. Pupil transportation vehicle - Vehicle standards.--**

3-16 Vans, sport utility vehicles, and heavy automobiles as defined by applicable federal
3-17 regulations may be used as pupil transportation vehicles provided that these vehicles meet the
3-18 highest federal crashworthiness standards for these categories of vehicles. Unless otherwise
3-19 specifically provided for herein, the provisions of § 31-20-4, et seq. (Special Stops Required)
3-20 shall be applicable to pupil transportation vehicles. The provisions of § 31-23-42 (First aid kit and
3-21 heating equipment), § 31-23-42.2 (Power equipment on school buses), § 31-23-54 (Fire
3-22 extinguishers), and § 31-23-55 (Speedometer and odometer) ~~and § 31-23-56 (Stop arm)~~ shall be
3-23 applicable to pupil transportation vehicles. A pupil transportation vehicle shall not be required to
3-24 be painted school bus yellow, provided it carries a sign in school bus yellow visible from forward
3-25 and from in back of the vehicle containing the lettering required by § 31-20-11.

3-26 **31-22.1-3. Equipment and operation of pupil transportation vehicles. --**

3-27 No person shall operate any student transportation vehicle, and the owner or custodian of
3-28 a student transportation vehicle shall not permit the same to be operated to convey students unless
3-29 the following requirements are complied with:

3-30 (1) The operator of a pupil transportation vehicle shall not allow the number of school
3-31 students riding in the pupil transportation vehicle at any one time to exceed the number of
3-32 adequate seats therein nor shall the operator drive said bus until each student is seated.

3-33 (2) No person shall operate a pupil transportation vehicle referred to in this section, nor
3-34 knowingly allow any passenger to ride in such vehicle unless the operator and all passengers are
4-1 wearing a safety belt which is properly adjusted and fastened.

4-2 (3) All doors shall be kept closed while the pupil transportation vehicle is in motion.

4-3 However, the vehicle shall have an audible open door warning alarm and an audible back up
4-4 warning alarm.

4-5 (4) No fueling shall take place while any pupil transportation vehicle is occupied by
4-6 ~~students~~ passengers.

4-7 (5) Each pupil transportation vehicle shall be equipped with Type I Class A turn signal
4-8 lamps, which shall have a four-way hazard warning signal switch to cause simultaneous flashing
4-9 of the turn signal lamps which may be activated when a pupil transportation vehicle is
4-10 approaching a stop to load or discharge school students and when needed as a vehicular traffic
4-11 hazard warning. Each pupil transportation vehicle shall also be equipped with front and rear
4-12 alternating flashing school bus red signal lamps, which shall remain flashing when school
4-13 pupils are entering or leaving the pupil transportation vehicle. All aforementioned lamps shall
4-14 comply with applicable Federal Motor Vehicle Safety Standards and any applicable rules and
4-15 regulations promulgated by the department of motor vehicles. The operator of a
4-16 pupil transportation vehicle shall cause its headlamps to be illuminated while such bus is in
4-17 operation.

4-18 (6) Any person who operates such a pupil transportation vehicle shall not permit the
4-19 boarding or discharging of school students therefrom unless the pupil transportation vehicle is
4-20 stopped as close as is practicable to the right-hand side or edge of the ways and shall announce
4-21 when discharging passengers there from that all persons who wish to cross to the other side of the
4-22 way shall do so by passing in front of the pupil transportation vehicle immediately upon alighting
4-23 therefrom. No person shall operate a pupil transportation vehicle ~~on a way~~ away from the point of

4-24 boarding until it is safe for ~~after discharging all discharged~~ passengers ~~therefrom unless all~~
4-25 ~~persons~~ who wish to cross to the other side have done so. The monitor requirement of § 16-21-1
4-26 shall not apply to pupil transportation vehicles.

4-27 (7) Each pupil transportation vehicle shall be required to be equipped with one pair of
4-28 adequate chock blocks and three (3) flares in compliance with United States Motor
4-29 Vehicle D.O.T. Safety Standard No. 125, which shall be placed upon the roadway in
4-30 conformance with section 14 B of chapter 85 when such vehicle becomes disabled upon the
4-31 traveled portion of any way, and seat belts for each permanent seating accommodation designed
4-32 and installed in compliance with applicable United States Motor Vehicle Safety Standards.

4-33 (8) All pupil transportation vehicles shall include an approved emergency airway and
4-34 bodily fluid spill kits.

5-1 ~~(8)~~(9) All pupil transportation vehicles used to transport school students under the
5-2 provisions of this section shall display sticker as authorized by the department of motor
5-3 vehicles for a reasonable fee established by the department of motor vehicles.

5-4 ~~(9)~~(10) All persons operating a pupil transportation vehicle to convey students shall hold
5-5 a Rhode Island chauffeurs license ~~shall operate a pupil transportation vehicle when the vehicle is~~
5-6 ~~being used to convey students, who and has~~ shall have passed a written test as may be prescribed
5-7 by the department of motor vehicles. In addition, all persons who operate a pupil transportation
5-8 vehicle to convey students shall submit to a national and statewide criminal and driving record
5-9 background check by the hiring agency.

5-10 SECTION 4. Section 31-22-11.6 of the General Laws in Chapter 31-22 entitled
5-11 "Miscellaneous Rules" is hereby amended to read as follows:

5-12 **31-22-11.6. Child care vehicles and school extra-curricular vehicles. --**

5-13 (a) (1) Pursuant to § 31-22-10, the division of motor vehicles is authorized to promulgate
5-14 rules and regulations concerning the type, construction, and equipment of motor vehicles used for
5-15 the transportation of children to and from child care facilities and to and from school sponsored
5-16 activities including athletics and extra-curricular activities.

5-17 (2) (i) For the purposes of this section, "school bus", as referred to in § 31-1-3(v), is
5-18 defined as a vehicle which is used to carry children to or from school on school bound routes at
5-19 the outset of the children's school day and/or on home bound routes at the end of the children's
5-20 school day. For these routes, a school bus or a pupil transportation vehicle as set forth in § 31-
5-21 22.1-1 and § 31-22.1-2 must be used regardless of the number of students being transported.

5-22 (ii) For purposes of this section, "school extra-curricular vehicles" is defined as
5-23 vehicles designed to transport fewer than fifteen (15) students to and from school sponsored
5-24 activities including athletics, internships, work experiences, and extra-curricular activities where
5-25 school buses are not used because of the small number of students being transported.

5-26 (iii) For the purpose of this section, "child care vehicle" is defined as a motor
5-27 vehicle owned or leased by a licensed child care agency that does not exceed fifteen (15)
5-28 passengers and is being used to transport children from schools to child care facilities and/or from
5-29 child care facilities to schools. Two (2) door sedans shall not be considered child care vehicles or
5-30 school extra-curricular vehicles.

5-31 (b) The division of motor vehicles shall have the authority to suspend the registration of
5-32 any vehicle used for child care transportation or school extra-curricular transportation that does
5-33 not meet the following requirements:

5-34 (1) Seating. Adequate seating space for all passengers shall be provided. The maximum
6-1 seating capacity of a child care vehicle and school extra-curricular vehicle shall be fifteen (15)
6-2 persons, including the driver. No standing shall be permitted while the vehicle is in operation.

6-3 (2) Safety belts. Safety belts shall be required for all passengers riding in the child care
6-4 vehicle and school extra-curricular vehicle.

6-5 (3) Vehicle registration. All child care vehicles and school extra-curricular vehicles shall
6-6 be registered as public vehicles.

6-7 (4) Vehicle inspection. All child care vehicles and school extra-curricular vehicles shall
6-8 be inspected for excessive emissions and/or safety items according to a staggered appointment
6-9 schedule as determined by the director of revenue, or his or her designee, and from time to time
6-10 thereafter as may be required, and the vehicle owner shall display upon the vehicle the certificate
6-11 of inspection and approval issued to the vehicle until the certificate shall expire.

6-12 (5) Inspector's rejection notice. The director of revenue, or his or her designee, may affix
6-13 a notice of rejection to any vehicle that fails to pass the required inspection requirements. The
6-14 rejection notice shall not be destroyed or removed from the vehicle until the vehicle has passed
6-15 the inspection requirements, or its removal has been authorized by the director of revenue or his
6-16 or her designee.

6-17 (6) (i) Vehicle identification. Any and all child care vehicles and school extra-
6-18 curricular vehicles must have the name of the child care organization conspicuously placed on the
6-19 side of the vehicle. The identification shall be required to possess two inch (2") letters, and be
6-20 permanently affixed on the side of the vehicle.

6-21 (ii) Should any child care vehicle and school extra-curricular vehicle be a leased vehicle,
6-22 the vehicle shall forego the requirement of having the name of the child care facility or school
6-23 permanently affixed to the side of the vehicle, but instead may satisfy the identification
6-24 requirement by placing a magnetized sign naming the child care facility or school or any other
6-25 temporarily affixed apparatus; provided, that the temporary identification sign not be
6-26 interchanged, replaced, or modified to change the purpose or function of the child care
6-27 vehicle and school extra-curricular vehicle.

6-28 (7) (i) Fire extinguisher. The child care vehicle and school extra-curricular vehicle shall
6-29 be equipped with at least one pressurized, potassium bicarbonate base dry chemical-type fire
6-30 extinguisher, mounted in the manufacturer's extinguisher bracket, and located in the driver's
6-31 compartment in full view of and readily accessible to the driver. A pressure gauge shall be
6-32 mounted on the extinguisher so as to be easily read without removing the extinguisher from its
6-33 mounted position.

6-34 (ii) The fire extinguisher shall have a minimum capacity of not less than two and a half
7-1 pounds (21/2 lbs.) and be of a type approved by the Underwriters Laboratories, Inc., with a rating
7-2 of not less than ten (10) B:C. The operating mechanism shall be sealed with a type of seal that
7-3 will not interfere with use of the fire extinguisher.

7-4 (8) First-Aid, [Airway, and Bodily Fluid Spill](#) kits. Every child care vehicle and school
7-5 extra-curricular vehicle shall be equipped with a first-aid kit mounted in an area accessible to the
7-6 operator which consists of bandages, sterile pads, adhesive tape, and Band-Aids, [as well as an](#)
7-7 [approved Emergency Airway Kit](#), for use in the administration of first-aid treatment. [In addition,](#)
7-8 [every child care vehicle and school extra-curricular vehicle shall be equipped with a bodily fluid](#)
7-9 [spill kit.](#)

7-10 [\(9\) Each vehicle shall also have an audible door alarm and an audible back up alarm.](#)

7-11 [\(10\) All persons operating a pupil transportation vehicle to convey children shall hold a](#)
7-12 [Rhode Island chauffeur's license and shall have passed a written test as may be prescribed by the](#)
7-13 [department of motor vehicles. In addition, all such persons who operate a pupil transportation](#)
7-14 [vehicle to convey children shall submit to a national and statewide criminal and driving record](#)
7-15 [background check by the hiring agency.](#)

7-16 ~~(9)~~(11) School extra-curricular vehicles purchased after January 1, 2000 shall further
7-17 comply with regulations which the division of motor vehicles is authorized to promulgate which
7-18 require these vehicles to meet appropriate safety standards. The additional safety requirements of
7-19 this subsection shall, effective January 1, 2008, also apply to school extra-curricular vehicles in
7-20 service prior to January 1, 2000, which are still in service after January 1, 2008.

7-21 SECTION 5. Relating to School for the Deaf - Section 16-26-7.1 of the General Laws in
7-22 Chapter 16-26 entitled "School for the Deaf" is hereby amended to read as follows:

7-23 **16-26-7.1. Regional hearing impaired programs.** -- (a) Each city and town may

7-24 contract with the Rhode Island School for the Deaf to establish and operate programs for the
7-25 hearing impaired.

7-26 (b) When these programs are operated by the Rhode Island School for the Deaf, each
7-27 participating city or town shall be assessed for the cost of the program in the proportion that their
7-28 enrollment bears to the total enrollment in the program. The assessments shall be deposited in a
7-29 restricted receipt account for the purpose of funding expenditures necessary to operate the
7-30 regional program.

7-31 (c) The provisions of R.I.G.L. § 16-26-7.1(a) and (b) notwithstanding, districts shall be
7-32 assessed tuition to cover the costs of educational services that are additional to the core deaf and
7-33 hard of hearing education program that is provided to resident students at the Rhode Island
7-34 School for the Deaf. This tuition shall be based on a graduated tuition schedule that is based on
8-1 the varying needs of students. The department of elementary and secondary education shall
8-2 develop and implement the schedule. Districts shall receive quarterly invoices summarizing the
8-3 basis for the tuition charged. There shall be deducted from the final aid payment to each school
8-4 district at the end of the fiscal year any amounts owed to the state for these additional educational
8-5 services.

8-6 Chapter 16-26 of the General Laws entitled "School for the Deaf" is hereby amended by
8-7 adding thereto the following section:

8-8 **16-26-12. Other sources of funding. --** (a) The provisions of R.I.G.L. section 16-26-7.1
8-9 notwithstanding, districts shall be assessed tuition to cover the costs of educational services that
8-10 are additional to the core deaf and hard of hearing education program that is provided to resident
8-11 students at the Rhode Island School for the Deaf. This tuition shall be based on a graduated
8-12 tuition schedule that is based on the varying needs of students. The department of elementary and
8-13 secondary education shall develop and implement this schedule. Districts shall receive monthly
8-14 invoices summarizing the basis for the tuition charged. There shall be deducted from the final aid
8-15 payment to each school district at the end of the fiscal year any amounts owed to the state for
8-16 these additional educational services. All tuition paid by districts and any aid deducted for non-
8-17 payment shall be deposited in a restricted receipt account and shall be exempt from the indirect
8-18 cost recovery provisions of section 35-4-7.

8-19 (b) The School for the Deaf is hereby authorized to rent or lease space in its school
8-20 building. The school shall deposit any revenues from such agreements into a restricted receipt
8-21 account, to be known as the School for the Deaf Rental Income Account, to be used for the same
8-22 educational purposes that its state appropriation is used for. Any such rental agreements must
8-23 receive prior approval from the school's board of trustees and by the state properties committee.

8-24 SECTION 6. Relating to Regional Vocational Schools - Section 16-45-6 of the General
8-25 Laws in Chapter 16-45 entitled "Regional Vocational Schools" is hereby amended to read as
8-26 follows:

8-27 **16-45-6. Powers additional to previous authority. --** (a) The powers delegated and
8-28 authorized in this chapter for the board of regents for elementary and secondary education and the
8-29 department of elementary and secondary education shall be in addition to those previously
8-30 authorized by any other general or public law.

8-31 (b) The governance, funding, and programming of the William M. Davies, Jr. vocational
8-32 technical school and the Metropolitan Career and Technical School shall be in accordance with
8-33 the rules and regulations formulated by the board of regents for elementary and secondary
8-34 education pursuant to chapter 35 of title 42. Provided, however, the additional appropriation by
9-1 the General Assembly in fiscal year 2005 for the William M. Davies, Jr. Vocational Technical
9-2 School shall be used to fund sixty (60) additional placements. Forty (40) of those placements
9-3 shall be made available to students from the City of Providence.

9-4 (c) The purpose of this chapter is to restructure the system of career and technical schools
9-5 in Rhode Island for the benefit of the students, the economy, and the general welfare. The
9-6 paramount aim is to enable the schools to make more significant contributions in providing the

9-7 state's students with the career preparation they need to compete and succeed in the world of
9-8 today and of the future. To ensure student success, a system of model career and technical schools
9-9 will be established and supported. These schools will provide: integrated academic and vocational
9-10 curricula, up to date technology, programs to meet the varying needs of all students, and strong
9-11 links to business, industry, postsecondary education, and the community.

9-12 (d)(1) There shall be a system of state operated career and technical schools serving
9-13 geographic areas of the state. Students attending these regional schools will do so on a full time
9-14 basis with the costs for their education at the regional school fully funded by the state.

9-15 (2) These schools shall be operated as local education agencies and each shall be
9-16 governed by a board of trustees. With the exception of those powers and duties reserved by the
9-17 director, the commissioner of elementary and secondary education, and the board of regents for
9-18 elementary and secondary education, the board of trustees shall have the powers and duties of
9-19 school committees. The Davies school shall be the first school operated under the provisions of
9-20 this chapter and shall be renamed the William M. Davies, Jr. career and technical high school.
9-21 The Metropolitan Career and Technical School shall be the second school operated under the
9-22 provisions of this chapter.

9-23 (e)(1) The board of regents for elementary and secondary education shall appoint the
9-24 members of the board of trustees from nominations made by the commissioner of elementary and
9-25 secondary education. The chairperson shall also be selected in this manner. The board of regents
9-26 shall determine the number, qualifications, and terms of office of members of the board of
9-27 trustees. The board of trustees will be broadly representative of the local communities served by
9-28 each school and the larger statewide workforce interests.

9-29 (2) The board of regents shall establish strategic directions for the career and technical
9-30 education system that are consistent with the state's economic development plans, workforce
9-31 requirements, and educational priorities and learner outcomes established by the board of regents.

9-32 (3) The board of regents shall provide parameters for the overall budget requests, approve
9-33 the budget, and participate in budget development as required in subsection (i).

9-34 (f)(1) The commissioner of elementary and secondary education shall recommend
10-1 parameters for the overall budget requests, recommend a budget and participate in budget
10-2 development as required in subsection (i).

10-3 (2) The commissioner shall approve the process for selection of a director of each
10-4 regional school. The commissioner shall develop a plan for statewide implementation of the
10-5 provisions of this chapter.

10-6 (g) The board of trustees shall meet monthly and serve without compensation. Nine (9)
10-7 members of the board of trustees shall be required to attend teacher appeal hearings conducted
10-8 pursuant to § 16-13-4. The board of trustees shall have broad policy making authority for the
10-9 operation of the school consistent with subsection (e) and the following powers and duties:

10-10 (1) To identify the educational needs of the communities in the district.

10-11 (2) To develop educational policies to meet the needs of students in the communities
10-12 served by the school district.

10-13 (3) To appoint a director of its regional school to serve as its chief executive officer and
10-14 to approve assistant and associate directors from nominations made by the director.

10-15 (4) To provide policy guidance and participate in budget development as required in
10-16 subsection (i).

10-17 (5) To develop staffing policies which ensure that all students are taught by educators of
10-18 the highest possible quality.

10-19 (h)(1) The director will serve at the pleasure of the board of trustees with the initial
10-20 appointment to be for a period of not more than three (3) years, provided, that the term and
10-21 conditions of employment are subject to the approval of the board of regents for elementary and
10-22 secondary education.

10-23 (2) It is the responsibility of the director to manage and operate the school on a day to day

10-24 basis. The director's duties shall include the following:

10-25 (i) To be responsible for the entire care, supervision, and management of the career and
10-26 technical high school.

10-27 (ii) To recommend to the board of trustees educational policies to meet the needs of the
10-28 district, and to implement policies established by the board of trustees.

10-29 (iii) To present nominations to the board of trustees for assistant and associate directors
10-30 and to appoint all other school personnel.

10-31 (iv) To provide for the evaluation of all school district personnel.

10-32 (v) To establish a school based management approach for decision making for the
10-33 operation of the school.

10-34 (vi) To prepare a budget and participate in budget development as required in subsection
11-1 (i), and to authorize purchases consistent with the adopted school district budget.

11-2 (vii) To report to the board of trustees on a regular basis the financial condition and
11-3 operation of the school, and to report annually on the educational progress of the school.

11-4 (viii) To establish appropriate advisory committees as needed to provide guidance on new
11-5 directions and feedback on the operation of the school.

11-6 (i) With policy guidance from the board of trustees and extensive involvement of the
11-7 administrators and faculty in the school, the director of each regional school shall annually
11-8 prepare a budget. The board of trustees will approve the budget and transmit it to the
11-9 commissioner. The board of regents for elementary and secondary education, upon
11-10 recommendation of the commissioner of elementary and secondary education, shall provide
11-11 parameters for the overall budget request. Based on review and recommendation by the
11-12 commissioner, the board of regents shall approve the total budget and incorporate it into its
11-13 budget request to the governor and to the general assembly. Line item budgeting decisions shall
11-14 be the responsibility of the director.

11-15 (j) Nothing in this section shall be deemed to limit or interfere with the rights of teachers
11-16 and other school employees to bargain collectively pursuant to chapters 9.3 and 9.4 of title 28 or
11-17 to allow the board of trustees or the director to abrogate any agreement by collective bargaining.
11-18 Employees at the William M. Davies school shall continue to be state employees and the
11-19 bargaining units which are presently established at the school shall remain intact.

11-20 (k) Any tuition payments, which are made to the William M. Davies Career and
11-21 Technical high school from the district of residence of its students, as authorized in R.I.G.L.
11-22 section 16-7.2-5, shall be deposited into a restricted receipt account to be used for the same
11-23 educational purposes that its state appropriation is used for. Any such funds shall be exempt from
11-24 the indirect cost recovery provisions of section 35-4-7.

11-25 SECTION 7. Relating to Restricted Receipt Accounts - Section 35-4-27 of the General
11-26 Laws in Chapter 35-4 entitled "State Funds" is hereby amended to read as follows:

11-27 **35-4-27. Indirect cost recoveries on restricted receipt accounts. --** Indirect cost
11-28 recoveries of ten percent (10%) of cash receipts shall be transferred from all restricted receipt
11-29 accounts, to be recorded as general revenues in the general fund. However, there shall be no
11-30 transfer from cash receipts with restrictions received exclusively: (1) from contributions from
11-31 non-profit charitable organizations; (2) from the assessment of indirect cost recovery rates on
11-32 federal grant funds; or (3) through transfers from state agencies to the department of
11-33 administration for the payment of debt service. These indirect cost recoveries shall be applied to
11-34 all accounts, unless prohibited by federal law or regulation, court order, or court settlement. The
12-1 following restricted receipt accounts shall not be subject to the provisions of this section:

- 12-2 Department of Human Services
- 12-3 Veterans' home – Restricted account
- 12-4 Veterans' home – Resident benefits
- 12-5 Organ transplant fund
- 12-6 Veteran's Cemetery Memorial Fund

12-7 Department of Health
 12-8 Pandemic medications and equipment account
 12-9 Department of Mental Health, Retardation and Hospitals
 12-10 Eleanor Slater non-Medicaid third-party payor account
 12-11 Hospital Medicare Part D Receipts
 12-12 RICLAS Group Home Operations
 12-13 Vigneron Memorial Fund Grant
 12-14 Department of Environmental Management
 12-15 National heritage revolving fund
 12-16 Environmental response fund II
 12-17 Underground storage tanks registration fees
 12-18 Rhode Island Council on the Arts
 12-19 Art for public facilities fund
 12-20 Rhode Island Foundation Grant
 12-21 Rhode Island Historical Preservation and Heritage Commission
 12-22 Historic preservation revolving loan fund
 12-23 Historic Preservation loan fund – Interest revenue
 12-24 Department of Public Safety
 12-25 Forfeited property – Retained
 12-26 Forfeitures – Federal
 12-27 Forfeited property – Gambling
 12-28 Donation – Polygraph and Law Enforcement Training
 12-29 Rhode Island State Firefighter’s League Training Account
 12-30 Fire Academy Training Fees Account
 12-31 Attorney General
 12-32 Forfeiture of property
 12-33 Federal forfeitures
 12-34 Attorney General multi-state account
 13-1 Department of Administration
 13-2 Restore and replacement – Insurance coverage
 13-3 Convention Center Authority rental payments
 13-4 Investment Receipts – TANS
 13-5 Car Rental Tax/Surcharge-Warwick Share
 13-6 OPEB System Restricted Receipt Account
 13-7 ARRA Administrative Expenses – Bureau of Audits
 13-8 ARRA Administrative Expenses – Purchasing
 13-9 Legislature
 13-10 Audit of federal assisted programs
 13-11 Department of Elderly Affairs
 13-12 Pharmaceutical Rebates Account
 13-13 Department of Children Youth and Families
 13-14 Children's Trust Accounts – SSI
 13-15 Military Staff
 13-16 RI Military Family Relief Fund
 13-17 Treasury
 13-18 Admin. Expenses – State Retirement System
 13-19 Retirement – Treasury Investment Options
 13-20 Business Regulation
 13-21 Banking Division Reimbursement Account
 13-22 Office of the Health Insurance Commissioner Reimbursement Account
 13-23 Securities Division Reimbursement Account

- 13-24 Commercial Licensing and Racing and Athletics Division Reimbursement Account
- 13-25 Insurance Division Reimbursement Account
- 13-26 Historic Preservation Tax Credit Account.
- 13-27 Judiciary
- 13-28 Arbitration Fund Restricted Receipt Account
- 13-29 Department of Elementary and Secondary Education
- 13-30 Statewide Student Transportation Services Account
- 13-31 [School for the Deaf Fee for Service Account](#)
- 13-32 [Davies Career and Technical School Local Education Aid Account](#)
- 13-33 Office of the Governor
- 13-34 ARRA Administrative Expenses – Office of Economic Recovery and Reinvestment
- 14-1 Department of Labor and Training
- 14-2 Job Development Fund – Title XII loans principal and interest
- 14-3 SECTION 8. Relating to Reimbursements to Municipalities for the Non-Public Textbook
- 14-4 Reimbursement Fund - Section 16-23-3.1 of the General Laws in Chapter 16-7 entitled
- 14-5 “Textbooks” is hereby repealed.
- 14-6 ~~**16-23-3.1. Reimbursements to municipalities for costs of English/language arts and**~~
- 14-7 ~~**history/social studies textbooks for students in grades K-12.**~~
- 14-8 ~~There is hereby established a textbook reimbursement fund for which the general~~
- 14-9 ~~assembly shall make a specific appropriation. The department of elementary and secondary~~
- 14-10 ~~education shall administer the appropriation. School districts shall submit to the department of~~
- 14-11 ~~elementary and secondary education evidence of the cost of English/language arts and/or~~
- 14-12 ~~history/social studies textbooks that the district has provided to students in grades K-12 pursuant~~
- 14-13 ~~to § 16-23-2. The costs shall be reimbursed from the textbook reimbursement fund by the~~
- 14-14 ~~department of elementary and secondary education upon presentation by a school district of the~~
- 14-15 ~~evidence of cost.~~
- 14-16 SECTION 9. This article shall take effect upon passage.



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MOTION: To the Commission supports 11 H 5894 Art. 10 AN ARTICLE RELATING TO THE DEPARTMENT OF EDUCATION because of the safety standards, integration, etc. LW/BI passed unanimously

11 H 5894 Art. 11 AN ARTICLE RELATING TO THE CHILDREN'S HEALTH ACCOUNT

This article revises the list of services that are covered by the money in the Children's health account into "service categories".

The total annual assessment on all insurers shall be equivalent to the amount paid by the department of human services for such all of the services provided to each of the service categories, and increases the total amount from \$6,000 to \$7,500 per child per service per year.

This article shall take effect upon passage.

The reviewer recommends the Commission support this budget article.

- 1-1 **ARTICLE 11**
- 1-2 **RELATING TO THE CHILDREN'S HEALTH ACCOUNT**
- 1-3 **SECTION 1.** Section 42-12-29 of the General Laws in Chapter 42-12 entitled
- 1-4 “Department of Human Services“ is hereby amended to read as follows:
- 1-5 **42-12-29. Children's health account.** -- (a) There is created within the general fund a
- 1-6 restricted receipt account to be known as the "children's health account". All money in the
- 1-7 account shall be utilized by the department of human services to effectuate coverage for the
- 1-8 following [service categories](#): (1) home health services, which include pediatric private duty
- 1-9 nursing and certified nursing assistant services; (2) comprehensive, evaluation, diagnosis,

1-10 assessment, referral and evaluation (CEDARR) services, which include CEDARR family center
1-11 services, home based therapeutic services, personal assistance services and supports (PASS) and
1-12 kids connect services and (3) child and adolescent treatment services (CAITS). All money
1-13 received pursuant to this section shall be deposited in the children's health account. The general
1-14 treasurer is authorized and directed to draw his or her orders on the account upon receipt of
1-15 properly authenticated vouchers from the department of human services.

1-16 (b) Beginning in the fiscal year 2007, each insurer licensed or regulated pursuant to the
1-17 provisions of chapters 18, 19, 20, and 41 of title 27 shall be assessed for the purposes set forth in
1-18 this section. The department of human services shall make available to each insurer, upon its
1-19 request, information regarding the department of human services child health program and the
1-20 costs related to the program. Further, the department of human services shall submit to the
1-21 general assembly an annual report on the program and cost related to the program, on or before
1-22 February 1 of each year. Annual assessments shall be based on direct premiums written in the
1-23 year prior to the assessment and shall not include any Medicare Supplement Policy (as defined in
1-24 § 27-18-2.1(g)), Medicare managed care, Medicare, Federal Employees Health Plan,
1-25 Medicaid/Rite Care or dental premiums. As to accident and sickness insurance, the direct
1-26 premium written shall include, but is not limited to, group, blanket, and individual policies. Those
1-27 insurers assessed greater than five hundred thousand dollars (\$500,000) for the year shall be
1-28 assessed four (4) quarterly payments of twenty-five percent (25%) of their total assessment.
1-29 Beginning July 1, 2006, the annual rate of assessment shall be determined by the director of
1-30 human services in concurrence with the primary payors, those being insurers likely to be assessed
2-1 at greater than five hundred thousand dollars (\$500,000). The director of the department of
2-2 human services shall deposit that amount in the "children's health account". The assessment shall
2-3 be used solely for the purposes of the "children's health account" and no other.

2-4 (c) Any funds collected in excess of funds needed to carry out the programs shall be
2-5 deducted from the subsequent year's assessment.

2-6 (d) The total annual assessment on all insurers shall be equivalent to the amount paid by
2-7 the department of human services for ~~such~~ all services, as listed in subsection (a), but not to
2-8 exceed ~~six thousand dollars (\$6,000)~~ seven thousand five hundred dollars (\$7,500) per child per
2-9 service per year.

2-10 (e) The children's health account shall be exempt from the indirect cost recovery
2-11 provisions of § 35-4-27 of the general laws.

2-12 SECTION 2. This article shall take effect upon passage.



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**MOTION: The Commission support if amend to add an autism service category
11 H 5894 Art. 11 AN ARTICLE RELATING TO THE CHILDREN'S HEALTH
ACCOUNT JD/LW passed unanimously**

11 H 5894 Art. 22 AN ARTICLE RELATING TO REGISTRATION FEES

This article would require all fees collected by the division of motor vehicles transactions listed below would be deposited in a separate Intermodal Surface Transportation Fund. These fees will be transferred to the Intermodal Surface Transportation Fund according to the following schedule:

(1) Beginning in fiscal year 2012, twenty (20%) percent of the fees will be transferred to the Intermodal Surface Transportation Fund and the remainder shall be deposited to the general fund.

(2) In fiscal year 2013, forty (40%) percent of the fees will be transferred to the Intermodal Surface Transportation Fund

(3) In fiscal year 2014, sixty (60%) percent of the fees will be transferred to the Intermodal Surface Transportation Fund

(4) In fiscal year 2015, eighty (80%) percent of the fees will be transferred to the Intermodal Surface Transportation Fund

(5) In fiscal year 2016 and all subsequent fiscal years, one hundred (100%) percent of the fees will be transferred to the Intermodal Surface Transportation Fund.

The following fees will be paid into the Intermodal Surface Transportation Fund according to the schedule above:

(1) all fees collected by the division of motor vehicles pursuant to chapters 3 (registration of vehicles), 3.1 (certificates of title), 6 (registration fees), 10 (operators' and chauffeurs' licenses), and 10.3 (voluntary termination of operators' and chauffeurs' licenses) of title 31 (motor and other vehicles);

(2) license reinstatement fees as described in § 31-11-10 (Reinstatement after revocation or suspension);

(3) registration reinstatement fees listed in § 31-8-4 (Suspension or revocation of registration or certificate of title);

(4) all fees collected by the division of motor vehicles pursuant to §§ 3-8-6 (Unlawful drinking and misrepresentation by underage persons - Identification cards for persons twenty-one and older) and 3-8-6.1 (Identification cards for persons under the age of 21).

The reviewer recommends the Commission support this budget article.

ARTICLE 22

RELATING TO REGISTRATION FEES

SECTION 1. Chapter 31-6 entitled "Registration Fees" is hereby amended by adding thereto the following section:

31-6-13.1. Exempt Fees. -- (a) Notwithstanding any other provision of law to the contrary, all fees paid into the general treasury for the division of motor vehicles transactions listed in this section shall be applied to and held in a separate fund which fund shall be known as the Intermodal Surface Transportation Fund and be deposited in any depositories that may be selected by the general treasurer to the credit of the fund. These fees will be transferred to the Intermodal Surface Transportation Fund according to the following schedule:

(1) Beginning in fiscal year 2012, twenty percent (20%) of the fees outlined in this section which are collected by the division of motor vehicles shall be transferred to the Intermodal Surface Transportation Fund and the remainder shall be deposited to the general fund;

(2) In fiscal year 2013, forty percent (40%) of the fees outlined in this section which are collected by the division of motor vehicles shall be transferred to the Intermodal Surface Transportation Fund and the remainder shall be deposited to the general fund;

(3) In fiscal year 2014, sixty percent (60%) of the fees outlined in this section which are collected by the division of motor vehicles shall be transferred to the Intermodal Surface Transportation Fund and the remainder shall be deposited to the general fund;

(4) In fiscal year 2015, eighty percent (80%) of the fees outlined in this section which are collected by the division of motor vehicles shall be transferred to the Intermodal Surface Transportation Fund and the remainder shall be deposited to the general fund;

(5) In fiscal year 2016 and all subsequent fiscal years, one hundred percent (100%) of the fees outlined in this section which are collected by the division of motor vehicles shall be transferred to the Intermodal Surface Transportation Fund and the remainder shall be deposited to the general fund.

(b) The following fees will be paid into the Intermodal Surface Transportation Fund according to the schedule above:

(1) All fees collected by the division of motor vehicles pursuant to chapters 3, 3.1, 6, 10 and 10.3 of title 31;

(2) License reinstatement fees as described in § 31-11-10;

- 2-2 [\(3\) Registration reinstatement fees listed in § 31-8-4;](#)
- 2-3 [\(4\) All fees collected by the division of motor vehicles pursuant to §§ 3-8-6 and 3-8-6.1.](#)
- 2-4 SECTION 2. This act shall take effect July 1, 2011.



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MOTION: The Commission support if amend to spell out the distribution of the fund as Coalition for Transportation Choices' bill) 11 H 5894 Art. 22 AN
ARTICLE RELATING TO REGISTRATION FEES PR/LW passed, Recused BI

11 H 5894 Art. 27 AN ARTICLE RELATING TO PHARMACEUTICAL ASSISTANCE TO THE ELDERLY

This article repeals the Pharmaceutical Assistance to the Elderly law and replaces it with "Rhode Island Supplemental Prescription Assistance Program." The new law would authorize the director of the department of elderly affairs to implement a program for pharmaceutical assistance to the elderly during the period July 1, 2011 through December 31, 2018, with the intent to supplement prescription drug benefits provided under the provisions of the federal Patient Protection and Affordable Care Act (U.S. Public Law 111-148) enacted in March 2010. The director may design a financial prescription drug benefit program for eligible persons who are also eligible for prescription drug coverage under the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 or its successor legislation. Persons eligible for assistance under the provisions of this chapter may include any full time resident of the state (1) who is at least sixty-five (65) years of age or at least fifty-five (55) years of age and receiving social security disability benefits and (2) who meets such other eligibility requirements as shall be established by the director.

This article shall take effect upon passage.

The reviewer recommends the Commission oppose this budget article. Without the substitute mentioned being fully defined, seniors will potentially suffer not only financially but medically making the decision not to fill meds. if no money.

ARTICLE 27

RELATING TO PHARMACEUTICAL ASSISTANCE TO THE ELDERLY

SECTION 1. Chapter 42-66.2 of the General Laws entitled "Pharmaceutical Assistance to the Elderly" is hereby repealed:

~~§ 42-66.2-1 Short title. — This chapter shall be known and cited as the "Pharmaceutical Assistance to the Elderly Act".~~

~~§ 42-66.2-2 Program established. — There is established a program for pharmaceutical assistance to the elderly. This program is limited to eligible persons and eligible drugs.~~

~~§ 42-66.2-3 Definitions. — As used in this chapter, unless the context requires otherwise:~~

~~(1) "Consumer" means any full-time resident of the state who fulfills the eligibility requirements set forth in § 42-66.2-5. Residence for purposes of this chapter shall be in accordance with the definitions and evidence standards set forth in § 17-1-3.1.~~

~~(2) "Contractor" means a third party or private vendor capable of administering a program of reimbursement for prescription drugs, and drug program eligibility administrative support as required by the director, the vendor to be determined through a competitive bid process in which the director awards a three (3) year contract for services.~~

~~(3) "Department" means the department of elderly affairs.~~

~~(4) "Director" means the director of the department of elderly affairs.~~

~~(5) "Eligible drugs" means insulin, injectable drugs for multiple sclerosis, and shall mean non-injectable drugs which require a physician's prescription according to federal law and which are contained in the following American Hospital Formulary Service pharmacologic therapeutic classifications categories that have not been determined by the federal "Drug Efficacy and Safety Implementation (DESI) Commission" to lack substantial evidence of effectiveness. Eligible drugs are limited to the following classification categories: cardiac drugs, hypotensive drugs, diuretics,~~

1-25 anti-diabetic agents, insulin, disposable insulin syringes, vasodilators (cardiac indications only),
1-26 anticoagulants, hemorreologic agents, glaucoma drugs, drugs for the treatment of Parkinson's
1-27 disease, antilipemic drugs and oral antineoplastic drugs and drugs for the treatment of asthma and
1-28 other chronic respiratory diseases and prescription vitamin and mineral supplements for renal
1-29 patients, and drugs approved for the treatment of Alzheimer's disease, drugs used for the
1-30 treatment of depression, those drugs approved for the treatment of urinary incontinence, anti-
2-1 infectives, drugs used for the treatment of arthritis, drugs approved for the treatment of
2-2 osteoporosis, and neuraminidase inhibiting drugs indicated for the treatment of influenza A and
2-3 B.

2-4 (ii) "~~Additional drugs~~" means ~~non-injectable drugs which require a physician's~~
2-5 ~~prescription according to federal law and which are contained in the American Hospital~~
2-6 ~~Formulary Service pharmacologic therapeutic classifications categories that have not been~~
2-7 ~~determined by the federal "Drug Efficacy and Safety Implementation (DESI) Commission" to~~
2-8 ~~lack substantial evidence of effectiveness, which are not included in the definition of drugs as~~
2-9 ~~defined in this subdivision. However, this shall not include prescription drugs used for cosmetic~~
2-10 ~~purposes.~~

2-11 (6) "~~Income~~" for the purposes of this chapter means the sum of federal adjusted gross
2-12 income as defined in the Internal Revenue Code of the United States, 26 U.S.C. § 1 et seq., and
2-13 all nontaxable income including, but not limited to, the amount of capital gains excluded from
2-14 adjusted gross income, alimony, support money, nontaxable strike benefits, cash public assistance
2-15 and relief (not including relief granted under this chapter), the gross amount of any pension or
2-16 annuity (including Railroad Retirement Act benefits, 45 U.S.C. § 231 et seq., all payments
2-17 received under the federal Social Security Act, 42 U.S.C. § 301 et seq., state unemployment
2-18 insurance laws, and veterans' disability pensions), nontaxable interest received from the federal
2-19 government or any of its instrumentalities, workers' compensation, and the gross amount of "loss
2-20 of time" insurance. It does not include gifts from nongovernmental sources, or surplus foods or
2-21 other relief in kind supplied by a public or private agency.

2-22 (7) "~~Pharmaceutical manufacturer~~" means any entity holding legal title to or possession
2-23 of a national drug code number issued by the federal food and drug administration.

2-24 (8) "~~Pharmacy~~" means a pharmacy licensed by the state of Rhode Island.

2-25 (9) [~~Deleted by P.L. 2008, ch. 100, art. 8, § 2].~~

2-26 ~~§ 42-66.2-4 Amount of payment.~~— The state shall pay the percentage rate of the
2-27 maximum allowable amount per prescription as formulated in the contract, as of the date of
2-28 purchase of the drug, between the contractor and participating pharmacies in accordance with the
2-29 income eligibility and co-payment shares set forth in § 42-66.2-5. The rebates generated pursuant
2-30 to § 42-66.2-10 shall be used to offset the state's payment. The pharmacy shall collect from the
2-31 consumer the percentage rate of the maximum allowable amount per prescription as formulated in
2-32 the contract, as of the date of the purchase of the eligible drug or additional drug, between the
2-33 contractor and participating pharmacies in accordance with the income eligibility and co-payment
2-34 shares set forth in § 42-66.2-5.

3-1 ~~§ 42-66.2-4.1 Catastrophic illness coverage.~~— The state shall pay one hundred percent
3-2 (100%) of the prescription drug costs for eligible drugs as defined in § 42-66.2-3(5) for any
3-3 consumer, as defined in § 42-66.2-3(1), who is eligible to receive pharmaceutical drug coverage
3-4 benefits under § 42-66.2-5(a)(1)(i) or (a)(2)(i) and who has expended at least one thousand five
3-5 hundred dollars (\$1,500) in total co-payments within a state fiscal year. The initial one thousand
3-6 five hundred dollars (\$1,500) paid by the consumer shall not be reimbursed by the state. The state
3-7 shall make payments under this section only until the end of the fiscal year.

3-8 ~~§ 42-66.2-5 Persons eligible.~~— (a) Persons eligible for assistance under the provisions of
3-9 this chapter include any resident of the state who is at least sixty-five (65) years of age or at least
3-10 fifty-five (55) years of age and receiving social security disability benefits. State and consumer
3-11 co-payment shares for these persons shall be determined as follows:

3-12 ~~(1) For unmarried persons or married persons living separate and apart whose income for~~
3-13 ~~the calendar year immediately preceding the year in which assistance is sought is:~~
3-14 ~~(i) Less than nineteen thousand three hundred forty one dollars (\$19,341) the state shall~~
3-15 ~~pay sixty percent (60%) of the cost of the prescriptions and the consumer shall pay forty percent~~
3-16 ~~(40%) of the cost of the prescriptions.~~
3-17 ~~(ii) More than nineteen thousand three hundred forty one dollars (\$19,341) and less than,~~
3-18 ~~twenty four thousand two hundred and eighty dollars (\$24,280) the state shall pay thirty percent~~
3-19 ~~(30%) of the cost of the prescriptions and the consumer shall pay seventy percent (70%) of the~~
3-20 ~~cost of the prescriptions; and~~
3-21 ~~(iii) More than twenty four thousand two hundred and eighty dollars (\$24,280) and less~~
3-22 ~~than forty two thousand four hundred and ninety three dollars (\$42,493), the state shall pay~~
3-23 ~~fifteen percent (15%) of the cost of prescriptions and the consumer shall pay eighty five percent~~
3-24 ~~(85%) of the cost of prescriptions.~~
3-25 ~~(2) For married persons whose income for the calendar year immediately preceding the~~
3-26 ~~year in which assistance is sought hereunder when combined with any income of the person's~~
3-27 ~~spouse in the same year is:~~
3-28 ~~(i) Twenty four thousand one hundred and seventy nine dollars (\$24,179) or less, the~~
3-29 ~~state shall pay sixty percent (60%) of the cost of the prescriptions and the consumer shall pay~~
3-30 ~~forty percent (40%) of the cost of the prescriptions;~~
3-31 ~~(ii) More than twenty four thousand one hundred and seventy nine dollars (\$24,179) and~~
3-32 ~~less than thirty thousand three hundred and fifty two dollars (\$30,352), the state shall pay thirty~~
3-33 ~~percent (30%) of the cost of the prescriptions and the consumer shall pay seventy percent (70%)~~
3-34 ~~of the cost of prescriptions; and~~
4-1 ~~(iii) More than thirty thousand three hundred and fifty two dollars (\$30,352) and less than~~
4-2 ~~forty eight thousand five hundred and sixty three dollars (\$48,563), the state shall pay fifteen~~
4-3 ~~percent (15%) of the cost of prescriptions and the consumer shall pay eighty five percent (85%)~~
4-4 ~~of the cost of prescriptions.~~
4-5 ~~(3) Eligibility may also be determined by using income data for the ninety (90) days prior~~
4-6 ~~to application for benefits and projecting that income on an annual basis. The income levels shall~~
4-7 ~~not include those sums of money expended for medical and pharmaceutical that exceed three~~
4-8 ~~percent (3%) of the applicant's annual income or three percent (3%) of the applicant's preceding~~
4-9 ~~ninety (90) day income computed on an annual basis.~~
4-10 ~~(4) For persons on social security disability benefits who are: (i) unmarried or married~~
4-11 ~~and living separate and apart with income for the calendar year immediately preceding the year in~~
4-12 ~~which assistance is sought that is less than forty two thousand four hundred and ninety three~~
4-13 ~~dollars (\$42,493); or (ii) married with income that is less than forty eight thousand five hundred~~
4-14 ~~and sixty three dollars (\$48,563) the state shall pay fifteen percent (15%) of the cost of~~
4-15 ~~prescriptions and the consumer shall pay eighty five percent (85%) of the cost.~~
4-16 ~~(b) On July 1 of each year, the maximum amount of allowable income for both unmarried~~
4-17 ~~and married residents set forth in subsection (a) shall be increased by a percentage equal to the~~
4-18 ~~percentage of the cost of living adjustment provided for social security recipients.~~
4-19 ~~(c) No person whose prescription drug expenses are paid or reimbursable, either in whole~~
4-20 ~~or in part, by any other plan of assistance or insurance is eligible for assistance under this section,~~
4-21 ~~until the person's prescription drug coverage for a specific covered prescription medication is~~
4-22 ~~exhausted or the specific prescription medication is not covered by the plan during a benefit year,~~
4-23 ~~and as provided in subsection (d).~~
4-24 ~~(d) The fact that some of a person's prescription drug expenses are paid or reimbursable~~
4-25 ~~under the provisions of the federal Medicare program shall not disqualify that person, if he or she~~
4-26 ~~is otherwise eligible, to receive assistance under this chapter. In those cases, the state shall pay~~
4-27 ~~the eligible percentage of the cost of those prescriptions for qualified drugs for which no payment~~
4-28 ~~or reimbursement is made by the federal government.~~

4-29 ~~(e) Eligibility for receipt of any other benefit under any other provisions of the Rhode~~
4-30 ~~Island general laws as a result of eligibility for the pharmaceutical assistance program authorized~~
4-31 ~~under this section shall be limited to those persons whose income qualify them for a sixty percent~~
4-32 ~~(60%) state co-payment share of the cost of prescriptions.~~
4-33 ~~(f) For all additional drugs, the consumer shall pay one hundred percent (100%) of the~~
4-34 ~~cost of prescriptions as set forth in § 42-66.2-4.~~
5-1 ~~(g) To promote coordination of benefits between the pharmaceutical assistance program~~
5-2 ~~created under this chapter and the Medicare Part D prescription drug program created in the~~
5-3 ~~federal Medicare Prescription Drug, Improvement and Modernization Act of 2003, RIPAE~~
5-4 ~~enrollees must apply for and enroll in the Medicare Part D prescription drug program.~~
5-5 ~~§ 42-66.2-6 Responsibilities of department of elderly affairs. —(a) Determination of~~
5-6 ~~eligibility. The department shall adopt regulations relating to the determination of eligibility of~~
5-7 ~~prospective consumers and the determination and elimination of program abuse. The department~~
5-8 ~~has the power to declare ineligible any consumer who abuses or misuses the established~~
5-9 ~~prescription plan. The department has the power to investigate cases of suspected provider or~~
5-10 ~~consumer fraud.~~
5-11 ~~(b) Rebates for expenses prohibited. (1) A system of rebates or reimbursements to the~~
5-12 ~~consumer for pharmaceutical expenses shall be prohibited.~~
5-13 ~~(2) Subdivision (1) shall not be interpreted to exclude other consumers not participating~~
5-14 ~~in the pharmaceutical assistance to the elderly program from receiving financial offers or~~
5-15 ~~redeemable coupons that are available to only those who have paid for the service or product~~
5-16 ~~through direct cash payment, insurance premiums, or cost sharing with an employer.~~
5-17 ~~(c) Program criteria. The program includes the following criteria:~~
5-18 ~~(1) Collection of the co-payment by pharmacies is mandatory;~~
5-19 ~~(2) Senior citizens participating in the program are not required to maintain records of~~
5-20 ~~each transaction but shall sign a receipt for eligible and additional drugs;~~
5-21 ~~(3) A system of rebates or reimbursements to the consumer for pharmaceutical expenses~~
5-22 ~~is prohibited;~~
5-23 ~~(ii) This subdivision shall not be interpreted to exclude other consumers from receiving~~
5-24 ~~financial offers or redeemable coupons that are available to only those who have paid for the~~
5-25 ~~service or product through direct cash payment, insurance premiums, or cost sharing with an~~
5-26 ~~employer.~~
5-27 ~~(4) Prescription benefits for any single prescription may be dispensed in the amounts~~
5-28 ~~authorized by the physician, and agreed to by the consumer, up to a maximum of a one hundred~~
5-29 ~~(100) day supply or two hundred (200) doses, whichever is less and/or a one hundred (100) day~~
5-30 ~~supply or one quart of liquid, whichever is less; provided, however, that disposable insulin~~
5-31 ~~syringes are dispensed in a quantity of one hundred (100);~~
5-32 ~~(5) Experimental drugs are excluded from the program;~~
5-33 ~~(6) A system of mail order delivery for prescriptions is allowed under this program; and~~
5-34 ~~(7) Eligible and additional drugs must be dispensed within one year of the original~~
6-1 ~~prescription order.~~
6-2 ~~(d) The director shall issue an eligibility card containing a program ID number and the~~
6-3 ~~time period for which the card is valid.~~
6-4 ~~(e) The director shall provide a mechanism, within the department, to handle all public~~
6-5 ~~inquiries concerning the program.~~
6-6 ~~(f) The director shall establish a process, in accordance with the Administrative~~
6-7 ~~Procedures Act, chapter 35 of this title, to provide an appeals hearing on the determination of~~
6-8 ~~eligibility.~~
6-9 ~~(g) The director shall forward to the contractor a list of all eligible consumers.~~
6-10 ~~(h) Expenditures for multiple sclerosis drugs shall not exceed thirty thousand dollars~~
6-11 ~~(\$30,000).~~

6-12 ~~(i) Generic drug substitution is mandatory when there is an available generic drug~~
6-13 ~~equivalent.~~

6-14 ~~§ 42-66.2-7 Contract.—(a) The director is authorized and shall enter into a contract with~~
6-15 ~~the contractor for the effective administrative support of this program.~~

6-16 ~~(b) A competitive bid and contract award shall occur in accordance with the state~~
6-17 ~~Medicaid authority's competitive bid process and cycle.~~

6-18 ~~§ 42-66.2-8 Penalties.—(a) Criminal penalties. Any person who submits a false or~~
6-19 ~~fraudulent claim under this chapter, or who aids or abets another in the submission of a false or~~
6-20 ~~fraudulent claim, or who is eligible under a private, state, or federal program for prescription~~
6-21 ~~assistance and who claims or receives duplicative benefits hereunder or who otherwise violates~~
6-22 ~~any provisions of this chapter is deemed guilty of a misdemeanor and is subject to imprisonment~~
6-23 ~~for a term of not more than one year or a fine of not less than five hundred dollars (\$500), or both.~~

6-24 ~~(b) Any provider or consumer found guilty of intentionally violating the provisions of~~
6-25 ~~this chapter shall be subject to immediate termination from this program for a period of no less~~
6-26 ~~than one year.~~

6-27 ~~(c) Repayment of gain. Any provider or consumer who is found guilty under this chapter~~
6-28 ~~is subject to repay three (3) times the value of the material gain he or she received.~~

6-29 ~~§ 42-66.2-9 Annual report.—(a) The director shall submit an annual report to the~~
6-30 ~~governor, the budget officer, the chairperson of the house finance committee, the chairperson of~~
6-31 ~~the senate finance committee, and the chairperson of the board of pharmacy as established by § 5-~~
6-32 ~~19.1-4. The report shall contain the number of consumers eligible for the program, the number of~~
6-33 ~~consumers utilizing the program, the number of appeals, an outline of problems encountered in~~
6-34 ~~the administration of the program and suggested solutions to the problems, and any~~
7-1 ~~recommendations to enhance the program.~~

7-2 ~~(b) The contractor shall submit an annual report to the governor, the budget officer, the~~
7-3 ~~chairperson of the house finance committee, the chairperson of the senate finance committee, and~~
7-4 ~~the board of pharmacy as established by § 5-19.1-4. The report shall contain financial and~~
7-5 ~~utilization statistics as to drug use by therapeutic category, actuarial projections, an outline of~~
7-6 ~~problems encountered in the administration of the program, and suggested solutions to the~~
7-7 ~~problems and any recommendations to enhance the program.~~

7-8 ~~(c) [Deleted by P.L. 2008, ch. 100, art. 8, § 2].~~

7-9 ~~§ 42-66.2-10 Pharmaceutical manufacturer drug rebates.—(a) The director shall enter~~
7-10 ~~into prescription drug rebate agreements with individual pharmaceutical manufacturers under~~
7-11 ~~which the department shall receive a rebate from the pharmaceutical manufacturer equal to the~~
7-12 ~~basic rebate supplied by the manufacturer under 42 U.S.C. § 1396a for every eligible prescription~~
7-13 ~~drug dispensed under the program. Each prescription drug rebate agreement shall provide that the~~
7-14 ~~pharmaceutical manufacturer shall make quarterly rebate payments to the department equal to the~~
7-15 ~~basic rebate supplied by the manufacturer under 42 U.S.C. § 1396a for the total number of dosage~~
7-16 ~~units of each form and strength of a prescription drug which the department reports as reimbursed~~
7-17 ~~to providers of prescription drugs, provided these payments shall not be due until thirty (30) days~~
7-18 ~~following the manufacturer's receipt of utilization data from the department including the number~~
7-19 ~~of dosage units reimbursed to providers of eligible prescription drugs during the quarter for which~~
7-20 ~~payment is due.~~

7-21 ~~(b) Upon receipt of the utilization data from the department, the pharmaceutical~~
7-22 ~~manufacturer shall calculate the quarterly payment. The department may, at its expense, hire a~~
7-23 ~~mutually agreed upon independent auditor to verify the calculation and payment. In the event that~~
7-24 ~~a discrepancy is discovered between the pharmaceutical manufacturer's calculation and the~~
7-25 ~~independent auditor's calculation, the pharmaceutical manufacturer shall justify its calculations or~~
7-26 ~~make payment to the department for any additional amount due.~~

7-27 ~~(2) The pharmaceutical manufacturer may, at its expense, hire a mutually agreed upon~~
7-28 ~~independent auditor to verify the accuracy of the utilization data provided by the department. In~~

7-29 ~~the event that a discrepancy is discovered, the department shall justify its data or refund any~~
7-30 ~~excess payment to the pharmaceutical manufacturer. The department may, at its expense,~~
7-31 ~~establish a grievance adjudication procedure, which provides for independent review of~~
7-32 ~~manufacturer documentation substantiating the basic rebate amount per unit delivered under 42~~
7-33 ~~U.S.C. § 1396a. In the event that a discrepancy is discovered, the department shall justify its data~~
7-34 ~~or refund any excess payment to the pharmaceutical manufacturer.~~

8-1 ~~(c) All eligible prescription drugs of a pharmaceutical manufacturer that enters into an~~
8-2 ~~agreement pursuant to subsection (a) shall be immediately available and the cost of these eligible~~
8-3 ~~drugs shall be reimbursed and not subject to any restrictions or prior authorization requirements.~~
8-4 ~~Any prescription drug of a manufacturer that does not enter into an agreement pursuant to~~
8-5 ~~subsection (a) shall not be reimbursable, unless the department determines the eligible~~
8-6 ~~prescription drug is essential to program participants.~~

8-7 ~~(d) All rebates collected by the department from the rebate payments made for drugs for~~
8-8 ~~persons eligible under the provisions of § 42-66.2-5(a) shall be deposited in a restricted receipt~~
8-9 ~~account, hereby created within the agency and known as Pharmaceutical Rebates, to pay costs in~~
8-10 ~~accordance with the provisions of § 42-66.2-4.~~

8-11 ~~§ 42-66.2-11 Repealed.—~~

8-12 SECTION 2. TITLE 42 of the General Laws entitled “STATE AFFAIRS AND
8-13 GOVERNMENT” is hereby amended by adding thereto the following chapter:

8-14 CHAPTER 42-66.2.2

8-15 THE RHODE ISLAND SUPPLEMENTAL PRESCRIPTION ASSISTANCE PROGRAM

8-16 42-66.2.2-1. Short Title. -- This chapter shall be known and cited as the “Rhode Island
8-17 Supplemental Prescription Assistance Program.”

8-18 42-66.2.2-2. Program. -- This chapter establishes authority for the director of the
8-19 department of elderly affairs to implement a program for pharmaceutical assistance to the elderly
8-20 during the period July 1, 2011 through December 31, 2018, with the intent to supplement
8-21 prescription drug benefits provided under the provisions of the federal Patient Protection and
8-22 Affordable Care Act (U.S. Public Law 111-148) enacted in March 2010. This program is limited
8-23 as set forth in this chapter.

8-24 42-66.2.2-3. Definitions. -- As used in this chapter:

8-25 (1) “Department” means the department of elderly affairs.

8-26 (2) “Director” means the director of the department of elderly affairs.

8-27 42-66.2.2-4. Authorization to Establish Program. -- (a) Notwithstanding any general
8-28 law to the contrary, pursuant to section 42-66.2.2-5 herein, the director may design a financial
8-29 prescription drug benefit program for eligible persons who are also eligible for prescription drug
8-30 coverage under the federal Medicare Prescription Drug, Improvement, and Modernization Act of
8-31 2003 or its successor legislation. Any prescription drug benefit program established by the
8-32 director pursuant to this chapter shall be subject to availability of funds allocated to such purposes
8-33 and shall be limited to such drugs as shall be determined by the director.

8-34 (b) Any prescription drug benefit program established by the director pursuant to this
9-1 chapter shall expire no later than December 31, 2018.

9-2 (c) The director, at his or her discretion, may enter into agreements and/or arrangements
9-3 with other parties in order to effectuate the intent of this chapter to supplement, for persons
9-4 eligible for assistance under this chapter for the period through December 31, 2018, the
9-5 prescription drug benefits provided under the provisions of the federal Patient Protection and
9-6 Affordable Care Act (U.S. Public Law 111-148). Such agreements and/or arrangements may
9-7 include, but are not limited to, the development, modification and/or expansion of other programs
9-8 operated by third parties in order to include persons eligible for assistance under this chapter.

9-9 42-66.2-5. Persons Eligible. -- Persons eligible for assistance under the provisions of this
9-10 chapter may include any full time resident of the state: (1) Who is at least sixty-five (65) years of
9-11 age or at least fifty-five (55) years of age and receiving social security disability benefits; and (2)

9-12 Who meets such other eligibility requirements as shall be established by the director. To promote
9-13 coordination of benefits between any prescription drug benefit program created under this chapter
9-14 and the Medicare Part D prescription drug program created in the federal Medicare Prescription
9-15 Drug, Improvement and Modernization Act of 2003, enrollees in any prescription drug benefit
9-16 program created under this chapter must also be enrolled in the Medicare Part D prescription drug
9-17 program.

9-18 **42-66.2.2-6. Regulations.** -- The director shall promulgate regulations to implement and
9-19 conduct any prescription drug benefit program established by the director pursuant to this chapter.

9-20 **42-66.2.2-7. Severability.** -- If any provision of this act or the application thereof to any
9-21 circumstances shall be held invalid, such invalidity shall not affect the provisions or application
9-22 of the act which can be given effect, and to this end, the provisions of this act are declared to be
9-23 severable.

9-24 SECTION 3 This article shall take effect upon passage.



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MOTION: The Commission opposes 11 H 5894 Art. 27 AN ARTICLE RELATING TO PHARMACEUTICAL ASSISTANCE TO THE ELDERLY JD/LW passed unanimously

11 H 5894 Art. 28 AN ARTICLE RELATING TO THE RHODE ISLAND VETERANS' HOME

This article increases the net per diem expenses of maintenance of residents in the facility from 80% to 100% of the resident's net income, provided that fee shall not exceed the actual cost of care and maintenance for the resident.

The reviewer recommends the Commission oppose this budget article.

1-1

ARTICLE 28

1-2

RELATING TO VETERANS' HOME

1-3

SECTION 1. Section 30-24-10 of the General Laws in Chapter 30-24 entitled "Rhode Island Veteran's Home" is hereby amended to read as follows:

1-5

30-24-10. Admissible to home – Fees. -- (a) Any person who has served in the army, navy, marine corps, coast guard, or air force of the United States for a period of ninety (90) days or more and that period began or ended during any foreign war in which the United States shall have been engaged or in any expedition or campaign for which the United States government issues a campaign medal, and who was honorably discharged from it, and who shall be deemed to be in need of care provided at the Rhode Island veterans' home, may be admitted to that facility subject to such rules and regulations as shall be adopted by the director of veterans' affairs to govern the admission of applicants to the facility. Any person who has served in the armed forces of the United States designated herein and otherwise qualified, who has served less than the ninety-day period described in this section, and who was honorably discharged from service, and who, as a result of the service, acquired a service-connected disability or disease, may be admitted. No person shall be admitted to the facility unless the person has been accredited to the enlistment or induction quota of the state or has resided in the state for at least two (2) consecutive years next prior to the date of the application for admission to the facility.

1-19

(b) The director shall, at the end of each fiscal year, determine the net per diem expenses of maintenance of residents in the facility and shall assess against each resident who has "net income", as defined in this section, a fee equal to ~~eighty percent (80%)~~ one hundred percent (100%) of the resident's net income, provided that fee shall not exceed the actual cost of care and maintenance for the resident; and provided that an amount equal to twenty percent (20%) of the maintenance fee assessed shall be allocated to and deposited in the veterans' restricted account. For the purposes of this section, "net income" is defined as gross income minus applicable federal and state taxes and minus:

1-27

(i) An amount equal to one hundred fifty dollars (\$150) per month of residency and fifty percent (50%) of any sum received due to wounds incurred under battle conditions for which

1-28

1-29 the resident received the purple heart; and
 1-30 (ii) The amount paid by a resident for the support and maintenance of his or her spouse,
 2-1 parent(s), minor child(ren), or child(ren) who is/are blind or permanently and totally disabled as
 2-2 defined in title XVI of the Federal Social Security Act, 42 U.S.C. §§ 1381 – 1383d, subject to a
 2-3 maximum amount to be determined by rules and regulations as shall be adopted by the director.
 2-4 (2) The fees shall be paid monthly to the home and any failure to make payment when
 2-5 due shall be cause for dismissal from the facility. Prior to dismissal, the resident shall be afforded
 2-6 administrative due process.
 2-7 (c) Admissions to the veterans' home shall be made without discrimination as to race,
 2-8 color, national origin, religion, sex, disability, marital status, age, sexual orientation, gender
 2-9 identity or expression, assets, or income.
 2-10 (d) Laundry services shall be provided to the residents of the Rhode Island veterans'
 2-11 home at no charge to the residents, with such funds to cover the cost of providing laundry
 2-12 services for residents of the Rhode Island Veterans' Home derived from monies appropriated to
 2-13 the department of veterans' affairs.
 2-14 SECTION 2. This article shall take effect upon passage.



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MOTION: The Commission opposes 11 H 5894 Art. 28 AN ARTICLE RELATING TO THE RHODE ISLAND VETERANS' HOME JD/LW passed unanimously

11 H 5894 Art. 31 AN ARTICLE RELATING TO HUMAN SERVICES--ABUSED AND NEGLECTED CHILDREN

This article would require a person other than a physician or duly certified registered nurse practitioner alleging that a child has been physically abused, shall investigate the report, and if the investigation reveals evidence of injury (as opposed to "physical injury") or that the child has been the victim of sexual abuse, the department shall have the child examined by a licensed physician or duly certified registered nurse practitioner.

The department shall investigate reports (as opposed to "each report") of child abuse and neglect made under this chapter in accordance with the rules the department has promulgated and in order to determine the circumstances surrounding the alleged abuse or neglect and the cause thereof.

In the event that after investigation it is determined by the department that the child is being or has been abused or neglected but that the circumstances of the child's family or otherwise do not require the removal of the child for his or her protection, the department may allow the child to remain at home and provide the family and child with access to preventative support and services (rewording).

The department shall also have the duty to petition the family court for removal of the child from the care and custody of the parents, or any other person having custody or care of the child if there is a determination that a child has been abused or neglected; which results in a child death, serious physical or emotional harm, sexual abuse or exploitation or an act or failure to act which represents an imminent risk of serious harm (rewording).

This article shall take effect upon passage.

The reviewer recommends the Commission support this budget article.

1-1 **ARTICLE 31**
 1-2 **RELATING TO HUMAN SERVICES--ABUSED AND NEGLECTED CHILDREN**

1-3 SECTION 1. Sections 40-11-6 and 40-11-7 of the General Laws in Chapter 40-11
 1-4 entitled "Abused and Neglected Children" are hereby amended to read as follows:

1-5 **40-11-6. Report by physicians of abuse or neglect.** -- (a) When any physician or duly
 1-6 certified registered nurse practitioner has cause to suspect that a child brought to him or her or
 1-7 coming to him or her for examination, care, or treatment, is an abused or neglected child as

1-8 defined in this chapter, or when he or she determines that a child under the age of twelve (12)
1-9 years is suffering from any sexually transmitted disease, he or she shall report the incident or
1-10 cause a report thereof to be made to the department as provided in subsection (b).

1-11 (b) An immediate oral report shall be made by telephone or otherwise, to both the
1-12 department and law enforcement agency, and shall be followed by a report, in writing, to the
1-13 department and law enforcement agency explaining the extent and nature of the abuse or neglect
1-14 the child is alleged to have suffered.

1-15 (c) The department, upon receipt of such a report by a person other than a physician or
1-16 duly certified registered nurse practitioner alleging that a child has been physically abused, shall
1-17 investigate the report, and if the investigation reveals evidence of ~~physical injury~~ or that the child
1-18 has been the victim of sexual abuse, the department shall have the child examined by a licensed
1-19 physician or duly certified registered nurse practitioner. Any child protective investigator shall,
1-20 with or without the consent of the parent or other person responsible for the child's welfare, have
1-21 the right to remove the child from the place where the child may be to secure the examination
1-22 required by this subsection. Upon completion of the examination, it shall be mandatory for the
1-23 physician or duly certified registered nurse practitioner to make a written report of his or her
1-24 findings to the department.

1-25 (d) The department shall promulgate rules and regulations to implement the intent of this
1-26 section.

1-27 **40-11-7. Investigation of reports – Petition for removal from custody – Report to**
1-28 **child advocate – Attorney general – Court-appointed special advocate. --** (a) The department
1-29 shall investigate ~~each report~~ reports of child abuse and neglect made under this chapter in
1-30 accordance with the rules the department has promulgated and in order to determine the
2-1 circumstances surrounding the alleged abuse or neglect and the cause thereof. The investigation
2-2 shall include personal contact with the child named in the report and any other children in the
2-3 same household. Any person required to investigate reports of child abuse and/or neglect may
2-4 question the subjects of those reports with or without the consent of the parent or other person
2-5 responsible for the child's welfare. The interviewing of the child or children, if they are of the
2-6 mental capacity to be interviewed, shall take place in the absence of the person or persons
2-7 responsible for the alleged neglect or abuse. In the event that any person required to investigate
2-8 child abuse and/or neglect is denied reasonable access to a child by the parents or other person,
2-9 and that person required to investigate deems that the best interests of the child so require, they
2-10 may request the intervention of a local law enforcement agency, or seek an appropriate court
2-11 order to examine and interview the child. The department shall provide such social services and
2-12 other services as are necessary to protect the child and preserve the family.

2-13 (b) In the event that after investigation it is determined by the department that the child
2-14 is being or has been abused or neglected but that the circumstances of the child's family or
2-15 otherwise do not require the removal of the child for his or her protection, the department may
2-16 allow the child to remain at home and ~~shall petition the family court for an order for the provision~~
2-17 ~~of treatment of the family and child~~ provide the family and child with access to preventative
2-18 support and services.

2-19 (c) The department shall ~~also~~ have the duty to petition the family court for removal of
2-20 the child from the care and custody of the parents, or any other person having custody or care of
2-21 the child ~~in cases where it is felt that a particular child has suffered abuse or neglect and that~~
2-22 ~~continued care and custody by that person might result in further harm to the child~~ if there is a
2-23 determination that a child has been abused or neglected; which results in a child death, serious
2-24 physical or emotional harm, sexual abuse or exploitation or an act or failure to act which
2-25 represents an imminent risk of serious harm. In addition, in cases of alleged abuse and/or neglect,
2-26 the department may petition the family court for the removal of the alleged perpetrator of that
2-27 abuse, and/or neglect from the household of the child or children when the child or children are
2-28 eleven (11) years of age or older. It shall be the responsibility of the department to make the

- 2-29 parent or other person responsible for the child's welfare aware of the court action, the possible
 2-30 consequences of the court action, and to explain the rights of the parent relative to the court
 2-31 action.
- 2-32 (d) The department shall forward immediately any reports of institutional child abuse
 2-33 and neglect to the child advocate who shall investigate the report in accordance with chapter 73 of
 2-34 title 42, and also to any guardian ad litem and/or attorney of record for the child.
- 3-1 (e) In the event that after investigation the department takes any action regarding
 3-2 placement of the child, the department shall immediately notify the child advocate of such action.
- 3-3 (f) In the event that after investigation the department has reasonable cause to know or
 3-4 suspect that a child has been subjected to criminal abuse or neglect, the department shall forward
 3-5 immediately any information as it relates to that knowledge or suspicion to the law enforcement
 3-6 agency.
- 3-7 SECTION 2. This article shall take effect upon passage.



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MOTION: The Commission supports if amend to retain on page 1 line 29 “each report” and page 2 lines 16 & 17 retain the stricken and delete the new language 11 H 5894 Art. 31 AN ARTICLE RELATING TO HUMAN SERVICES--ABUSED AND NEGLECTED CHILDREN LW/PR passed unanimously

11 H 5894 Art. 16 AN ARTICLE RELATING TO THE MEDICAID REFORM ACT

This article would authorize the secretary of health and human services to amend the Medicaid Consumer Choice Compact Waiver:

- (a) Nursing Facility Payment Rate Reform. The Medicaid single state agency proposes to reform the methodology used for determining rates by revising completely the Principles of Reimbursement to simplify and change the amount paid to nursing facilities.
- (b) Selective Contracting -Medicaid Home Health Services. The Medicaid single state agency proposes to selectively contract with home health agencies that meet specific standards related to economy, efficiency and performance. This process of selective contracting will result in a change to the payment structure for a Medicaid funded service.
- (c) Pain Management Benefits for Medicaid Beneficiaries. The Medicaid single state agency proposes to include a pain management benefit for targeted beneficiaries to reduce utilization of pharmaceuticals, emergency departments and inpatient hospital stays.
- (d) Health Homes - EOHHS Departments. The Medicaid single state agency proposes to pursue authorization from the Centers for Medicare and Medicaid Services (CMS) for the purposes of accessing additional federal matching funds for services provided through the departments that are integrated in accordance with the Health Home Initiative established under the federal Patient Protection and Affordable Health Care Act of 2010. This includes, but is not limited to, behavioral healthcare services provided through the department of behavioral healthcare, developmental disabilities, and hospitals, and CEDARR services available through the department of human services as well as other services deemed qualified under the Health Home Initiative by the Medicaid singles state agency.
- (e) Medicaid Hospital Rate Reform- Outpatient Payments. The Medicaid single state agency is proposing a restructuring of the payment methodology for certain Medicaid funded outpatient hospital services.
- (f) Medicaid Money Follows the Person Demonstration. The Medicaid single state agency has been accepted to participate in the federal Money Follows the Person Demonstration, which provides enhanced funding for certain services provided to Medicaid long-term care beneficiaries receiving care and support at home or in the community.
- (g) System of Care Implementation -- Department of Children, Youth and Families (DCYF). The DCYF proposes to continue implementation of comprehensive reform of the system of

care for children at risk for or requiring out-of-home placement and their families. Components of implementation involve restructuring the payment methodology for certain Medicaid funded services and establishing prior approval for the duration of residential services, paid in part or in full by Medicaid.

(h) Medicaid Coverage for Costs Not Otherwise Matchable (CNOM) for DCYF parent aides and other home-based services. The DCYF proposes to begin Medicaid claiming for certain core home and community based services, approved under the Global Consumer Choice Compact Waiver, that are provided to children and families at risk for Medicaid and/or out of home placement.

(i) Project Sustainability for Persons with Development Disabilities -Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (DBHDDH). The DBHDDH proposes to continue system reforms that are changing how beneficiaries are assessed for services and the manner in which services are obtained as well as the payment structure.

Reviewer's Comments: Need more info on health homes and the selective contracting on home care services

From Centers of Medicare and Medicaid Services Website:

<http://www.cms.gov/HomeHealthQualityInits/>

Overview

In 2008, there were over 9000 Medicare certified home health agencies throughout the United States. In 2006, over 3 million beneficiaries were served, and 103,931,188 visits made.

Home health is covered under the Part A Medicare benefit. It consists of part-time, medically necessary skilled care (nursing, physical therapy, occupational therapy, and speech-language therapy) that is ordered by a physician.

Quality health care for people with Medicare is a high priority for the Department of Health and Human Services, and the Centers for Medicare & Medicaid Services (CMS).

CMS has adopted the mission of The Institute of Medicine (IOM) who has defined quality as having the following properties or domains:

Effectiveness. Relates to providing care processes and achieving outcomes as supported by scientific evidence.

Efficiency. Relates to maximizing the quality of a comparable unit of health care delivered or unit of health benefit achieved for a given unit of health care resources used.

Equity. Relates to providing health care of equal quality to those who may differ in personal characteristics other than their clinical condition or preferences for care.

Patient Centeredness. Relates to meeting patients' needs and preferences and providing education and support.

Safety. Relates to actual or potential bodily harm.

Timeliness. Relates to obtaining needed care while minimizing delays.

The instrument/data collection tool used to collect and report performance data by home health agencies is called the Outcome and Assessment Information Set (**OASIS**). Since fall 2003, CMS has posted on www.medicare.gov a subset of OASIS-based quality performance information showing how well home health

agencies assist their patients in regaining or maintaining their ability to function. Based on the 2005 NQF endorsement, as of 12/2007 12 of these measures have been posted to Home Health Compare. The measures (all collected via the OASIS data set) are:

- Improvement in Ambulation/Locomotion
- Improvement in Bathing
- Improvement in Transferring
- Improvement in Management of Oral Medication
- Improvement in Pain Interfering with Activity
- Acute Care Hospitalization
- Emergent Care
- Discharge to Community
- Improvement in Dyspnea (Shortness of Breath)
- Improvement in Urinary Incontinence
- Improvement in Surgical Wound Status, and
- Emergent Care for Wound Deterioration

At the request of CMS, *NQF will review for potential endorsement a set of refined and newly developed home health measures in particular process measures for immunization, medication management, pain management, fall prevention, depression screening/intervention, care coordination, risk assessment, heart failure, and diabetes. These measures were tested in the revised OASIS tool. (See OASIS C link in the left column.)

NQF also will look to harmonize the home health measures with similar NQF-endorsed TM measures in other care settings (e.g., ambulatory, hospital, and nursing homes). NQF will work in partnership with the Agency for Healthcare Research and Quality (AHRQ) and CMS, the accrediting entities, alliances, and representatives from major stakeholder groups to establish priorities and identify a set of national goals, measures corresponding to each goal and a framework for accountability.

It is too early to know exactly how these changing priorities may impact the entire health care system. Planning/discussions are in a preliminary phase. Pay for performance logically will link to Value and Efficiency and actual activities and efforts of providers - using evidence-based practices and systems (in the form of process measures that will be collected at the agency level) - to promote use of such practices. Providers, consumers, and interested parties, such as the many organizations that represent and work with patients in post-acute, home, community, and long-term care settings will be part of these efforts as they evolve. As we look to become stewards of the Medicare trusts funds those that are quality and mission driven while maintaining some efficiencies will become increasingly important in transforming the healthcare system.

ARTICLE 16

RELATING TO THE MEDICAID REFORM ACT

- 1-1
1-2
1-3 WHEREAS, the general assembly enacted Chapter 12.4 of Title 42 entitled “The Rhode
1-4 Island Medicaid Reform Act of 2008”; and
1-5 WHEREAS, a Joint Resolution is required pursuant to Rhode Island General Laws § 42-

1-6 12.4-1, et seq.; and

1-7 WHEREAS, Rhode Island General Law § 42-12.4-7 provides that any change that
1-8 requires the implementation of a rule or regulation or modification of a rule or regulation in
1-9 existence prior to the implementation of the global consumer choice section 1115 demonstration
1-10 (“the demonstration”) shall require prior approval of the general assembly, and further provides
1-11 that any category II change or category III change as defined in the demonstration shall also
1-12 require prior approval by the general assembly; and

1-13 WHEREAS, Rhode Island General Law § 42-7.2-5 provides that the Secretary of the
1-14 Office of Health and Human Services is responsible for the “review and coordination of any
1-15 Global Consumer Choice Compact Waiver requests and renewals as well as any initiatives and
1-16 proposals requiring amendments to the Medicaid state plan or category I or II changes” as
1-17 described in the demonstration, with “the potential to affect the scope, amount, or duration of
1-18 publicly-funded health care services, provider payments or reimbursements, or access to or the
1-19 availability of benefits and services provided by Rhode Island general and public laws”; and

1-20 WHEREAS, in pursuit of a more cost-effective consumer choice system of care that is
1-21 fiscally sound and sustainable, the secretary requests general assembly approval of the following
1-22 proposals to amend the demonstration:

1-23 (a) Nursing Facility Payment Rate Reform. The Medicaid single state agency proposes to
1-24 reform the methodology used for determining rates by revising completely the Principles of
1-25 Reimbursement to simplify and change the amount paid to nursing facilities. Because
1-26 implementation of this proposal will result in a new payment process and structure for a Medicaid
1-27 funded service, a Category II change is required under the terms and conditions established for
1-28 the Global Consumer Choice Compact Waiver. Further, effectuating such reforms in the
1-29 methodology for setting nursing facilities rates may also require the adoption of new or amended
1-30 rules, regulations and procedures for providers and/or beneficiaries.

2-1 (b) Selective Contracting –Medicaid Home Health Services. The Medicaid single state
2-2 agency proposes to selectively contract with home health agencies that meet specific standards
2-3 related to economy, efficiency and performance. This process of selective contracting will result
2-4 in a change to the payment structure for a Medicaid funded service. Therefore, a Category II
2-5 change is required for implementation under the terms and conditions of the Global Consumer
2-6 Choice Waiver Compact.

2-7 (c) Pain Management Benefits for Medicaid Beneficiaries. The Medicaid single state
2-8 agency proposes to include a pain management benefit for targeted beneficiaries to reduce
2-9 utilization of pharmaceuticals, emergency departments and inpatient hospital stays. Establishing a
2-10 targeted benefit requires amendments to or new rules, regulations and procedures pertaining to
2-11 coverage for the Medicaid populations affected as well as a Category II change to the Global
2-12 Consumer Choice Compact Waiver in those areas where additional authority is warranted under
2-13 the terms and conditions of the demonstration agreement.

2-14 (d) Health Homes – EOHHS Departments. The Medicaid single state agency proposes to
2-15 pursue authorization from the Centers for Medicare and Medicaid Services (CMS) for the
2-16 purposes of accessing additional federal matching funds for services provided through the
2-17 departments that are integrated in accordance with the Health Home Initiative established under
2-18 the federal Patient Protection and Affordable Health Care Act of 2010. This includes, but is not
2-19 limited to, behavioral healthcare services provided through the department of behavioral
2-20 healthcare, developmental disabilities, and hospitals, and CEDARR services available through the
2-21 department of human services as well as other services deemed qualified under the Health Home
2-22 Initiative by the Medicaid single state agency. As a condition of obtaining approval to participate
2-23 in the Initiative, the single state agency is required to submit a Medicaid state plan amendment
2-24 and any waiver changes that may be mandated by CMS thereafter. Also, each of the EOHHS
2-25 departments participating may be required to adopt new or amended rules, regulations and
2-26 procedures related to the populations and/or providers affected upon implementation.

2-27 (e) Medicaid Hospital Rate Reform- Outpatient Payments. The Medicaid single state
2-28 agency is proposing a restructuring of the payment methodology for certain Medicaid funded out-
2-29 patient hospital services. Under the terms and conditions of the Global Consumer Choice
2-30 Compact Waiver, provider rate reforms such as those proposed require a Category II change.
2-31 Certain regulations, rules and procedures pertaining to provider payment rates may also require
2-32 revision.

2-33 (f) Medicaid Money Follows the Person Demonstration. The Medicaid single state
2-34 agency has been accepted to participate in the federal Money Follows the Person Demonstration,
3-1 which provides enhanced funding for certain services provided to Medicaid long-term care
3-2 beneficiaries receiving care and support at home or in the community. Although no changes to the
3-3 Global Consumer Choice Compact Waiver are expected to be necessary during implementation
3-4 of the demonstration, certain new or amended rules, regulations and procedures may be required
3-5 to take full advantage of the federal funding available for transition and diversion services
3-6 authorized under the Money Follows the Person Demonstration.

3-7 (g) System of Care Implementation -- Department of Children, Youth and Families
3-8 (DCYF). The DCYF proposes to continue implementation of comprehensive reform of the system
3-9 of care for children at risk for or requiring out-of-home placement and their families. Components
3-10 of implementation involve restructuring the payment methodology for certain Medicaid funded
3-11 services and establishing prior approval for the duration of residential services, paid in part or in
3-12 full by Medicaid. Accordingly, the DCYF and Medicaid single state agency are required to
3-13 pursue Category II changes to the Global Consumer Choice Compact Waiver in those areas
3-14 where additional authority is warranted for implementation to proceed under the terms and
3-15 conditions of the demonstration agreement. The DCYF may adopt or amend rules, regulations
3-16 and procedures as appropriate, once such federal authorities have been secured.

3-17 (h) Medicaid Coverage for Costs Not Otherwise Matchable (CNOM) for DCYF parent
3-18 aides and other home-based services. The DCYF proposes to begin Medicaid claiming for certain
3-19 core home and community based services, approved under the Global Consumer Choice Compact
3-20 Waiver, that are provided to children and families at risk for Medicaid and/or out of home
3-21 placement. The DCYF and Medicaid single state agency are required to obtain the necessary
3-22 Category I or Category II changes necessary to begin this claiming.

3-23 (i) Project Sustainability for Persons with Development Disabilities –Department of
3-24 Behavioral Healthcare, Developmental Disabilities, and Hospitals (DBHDDH). The DBHDDH
3-25 proposes to continue system reforms that are changing how beneficiaries are assessed for services
3-26 and the manner in which services are obtained as well as the payment structure. Because
3-27 implementation of this proposal is related to adoption of a new payment structure for a Medicaid
3-28 funded service, a Category II change is required under the terms and conditions established for
3-29 the Global Consumer Choice Compact Waiver. Further, implementation of Project Sustainability
3-30 may also require changes to the rules, regulations and procedures related to Medicaid services for
3-31 persons with developmental disabilities served by the DBHDDH; now therefore, be it

3-32 RESOLVED, that the general assembly hereby approves proposals (a) through (f) listed
3-33 above to amend the demonstration; and be it further

3-34 RESOLVED, that the secretary of the office of health and human services is authorized
4-1 to pursue and implement any waiver amendments, category II or category III changes, state plan
4-2 amendments and/or changes to the applicable department's rules, regulations and procedures
4-3 approved herein and as authorized by § 42-12.4-7; and be it further

4-4 RESOLVED, that this joint resolution shall take effect upon passage.



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MOTION: The Commission opposes unless it is amended to spell out the policies and procedures for items (a) - (i) 11 H 5894 Art. 16 AN ARTICLE RELATING TO THE MEDICAID REFORM ACT JD/LW passed unanimously

11 H 5894 Art. 26 Sec. 03 & 04 AN ARTICLE RELATING TO SALES TAX MODERNIZATION

This Article's Section 3. "Sales and Use Taxes -Liability and Computation--Services defined" (23) Personal care services including, but not limited to: (i) Barber shops; (ii) Beauty salons; (iii) Nail salons; (iv) Diet and weight reducing centers; and (v) Other personal care services including but not body piercing establishments. {It appears that the intent is not to include health care related services, but the personal care assistance and other home and community based care is not specifically excluded from the definition}. *{See lines: 9-8 to 9-14}*

Section 4. "Sales and Use Taxes - Liability and Computation -- Measures subject to 1% tax rate" include: (8) Charitable, educational, and religious organizations. (i) The sale to charitable, educational and religious organizations as defined in this section and the storage use and other consumption of tangible personal property, specified digital property, and/or services as defined in § 44-18-7.3. {The new Section 3 above}

This shall also include hospitals not operated for profit, "educational institutions" as defined in § 44-18-30(17) not operated for a profit, churches, orphanages, and other institutions or organizations operated exclusively for religious or charitable purposes, interest free loan associations not operated for profit, nonprofit it organized sporting leagues and associations and bands for boys and girls under the age of nineteen (19) years, the following vocational student organizations that are state chapters of national vocational students organizations: Distributive Education Clubs of America, (DECA); Future Business Leaders of America, phi beta lambda (FBLA/PBL); Future Farmers of America (FFA); Future Homemakers of America/Home Economics Related Occupations (FHA/HERD); and Vocational Industrial Clubs of America (VICA), organized nonprofit golden age and senior citizens clubs for men and women, and parent teacher associations. *{See lines: 12-18 to 13-5}*

This article shall take effect upon passage.

Reviewer's Comments: Need to know if services delivered to people such as personal care will be subject to this tax.

Two questions were posed to the Director of the Department of Revenue:

Article 26 Section 3:

44-18-7.3. Services defined:

" (23) Personal care services including, but not limited to: (i) Barber shops; (ii) Beauty salons; (iii) Nail salons; (iv) Diet and weight reducing centers; and (v) Other personal care services including but not body piercing establishments."

It appears that the intent is not to include health care related services, but the personal care assistance and other home and community based care is not specifically excluded from the definition.

1. Is our assumption correct, that "personal care services" do not include health care services such as personal care attendants? If so an amendment may be needed to make that clear.
2. Is the 1% sales tax applied only to items sold to the not-for-profit entities named in subsection 8? Does it apply to not-for-profit health and/or human service providers that have state contracts for the provision of services?

Response from the Department of Revenue:

Hi Bob,

Rosemary asked me to respond to your inquiry.

Personal care services referenced in the law is categorized under NAICS code 812 and is defined as follows:

812 Personal and Laundry Services

Industries in the Personal and Laundry Services subsector group establishments that provide personal and laundry services to individuals, households, and businesses. Services performed include: personal care services; death care services; laundry and drycleaning services; and a wide range of other personal services, such as pet care (except veterinary) services, photofinishing services, temporary parking services, and dating services.

The Personal and Laundry Services subsector is by no means all-inclusive of the services that could be termed personal services (i.e., those provided to individuals rather than businesses). There are many other subsectors, as well as sectors, that provide services to persons. Establishments providing legal, accounting, tax preparation, architectural, portrait photography, and similar professional services are classified in Sector 54, Professional, Scientific, and Technical Services; those providing job placement, travel arrangement, home security, interior and exterior house cleaning, exterminating, lawn and garden care, and similar support services are classified in Sector 56, Administrative and Support, Waste Management and Remediation Services; those providing health and social services are classified in Sector 62, Health Care and Social

Assistance; those providing amusement and recreation services are classified in Sector 71, Arts, Entertainment and Recreation; those providing educational instruction are classified in Sector 61, Educational Services; those providing repair services are classified in Subsector 811, Repair and Maintenance; and those providing spiritual, civic, and advocacy services are classified in Subsector 813, Religious, Grantmaking, Civic, Professional, and Similar Organizations.

No amendment is necessary as the section of the law specifically refers to the NAICS code when detailing personal care services.

With respect to the non-profits, the 1.0 percent tax does apply to purchases made by these organizations. The section indicating that the 1.0 percent applies to "other institutions or organizations operated exclusively for religious or charitable purposes" could make the application of this tax broad depending on the definition of charitable purposes. If a non-profit health or human service provider is deemed to be an institution or organization operated exclusively for charitable purposes then it would be subject to the 1.0 percent tax. A non-profit health or human service provider that is deemed subject to the 1.0 percent tax but under contract with the state would be exempt from the 1.0 percent tax on items that are purchased and used exclusively for the state contract. If an item that was purchased for exclusive use under the state contract was later used for a non-exempt purpose at that time the contractor would have to pay the 1.0 percent tax on the item.

Let me know if you have any other questions.

Paul L. Dion, Ph.D.
Chief, Office of Revenue Analysis
RI Department of Revenue

1-1

ARTICLE 26

1-2

RELATING TO SALES TAX MODERNIZATION

- 5-26 SECTION 3. Chapter 44-18 of the General Laws entitled "Sales and Use Taxes –
5-27 Liability and Computation" is hereby amended by adding thereto the following sections:
5-28 **44-18-7.3. Services defined. --** (a) "Services" means all activities engaged in for other
5-29 persons for a fee, retainer, commission, or other monetary charge, which activities involve the
5-30 performance of a service in this state as distinguished from selling property. In determining what
5-31 is a service, the intended use, principal objective or ultimate objective of the contracting parties
5-32 shall not be controlling. For the purposes of this section, services rendered by an employee for
5-33 his./her employer are not taxable.
5-34 (b) The following businesses and services performed in this state along with the
6-1 applicable 2007 North American Industrial Classification System (NAICS) codes are included in
6-2 the definition of services:
6-3 (1) Software publishers (511210) (delivered electronically).
6-4 (2) Taxicab and limousine services including, but not limited to:
6-5 (i) Taxicab services including taxi dispatchers (485310); and
6-6 (ii) Limousine services (485320).
6-7 (3) Other road transportation service including, but not limited to:
6-8 (i) Charter bus service (485510); and
6-9 (ii) All other transit and ground passenger transportation (485999).
6-10 (4) Moving, storage and freight services, including, but not limited to:
6-11 (i) General freight services - local (484110);
6-12 (ii) Household and office goods moving services (484210);
6-13 (iii) General warehousing and storage (493110);
6-14 (iv) Refrigerated warehousing and storage (493120);
6-15 (vii) Farm product warehousing and storage (493130);
6-16 (viii) Other warehousing and storage (493190); and
6-17 (ix) Mini-warehouses and self-storage units (531130).
6-18 (5) Motion picture theaters (512131) and drive-in motion picture theaters (512132).
6-19 (6) Photo studios and commercial photography including, but not limited to:
6-20 (i) Photo studios (541921); and
6-21 (ii) Commercial photography (541922).
6-22 (7) Facilities support services (561210).
6-23 (8) Employment services including, but not limited to:

- 6-24 [\(i\) Employment placement agencies \(561311\);](#)
6-25 [\(ii\) Executive placement agencies \(561312\);](#)
6-26 [\(iii\) Temporary help services \(561320\); and](#)
6-27 [\(iv\) Professional employer organizations \(561330\).](#)
6-28 [\(9\) Business support services including, but not limited to:](#)
6-29 [\(i\) Document preparation services \(561410\); and](#)
6-30 [\(ii\) Telephone call centers \(561422\);](#)
6-31 [\(10\) Package tours and tour operators including, but not limited to:](#)
6-32 [\(i\) Package tours including travel agencies \(561510\); and](#)
6-33 [\(ii\) Tour operators \(561520\).](#)
6-34 [\(11\) Investigation and security services including, but not limited to:](#)
7-1 [\(i\) Investigation \(561611\);](#)
7-2 [\(ii\) Security guard and patrol services \(561612\);](#)
7-3 [\(iii\) Armored car services \(561613\);](#)
7-4 [\(iv\) Security systems services \(561621\); and](#)
7-5 [\(v\) Locksmiths \(561622\).](#)
7-6 [\(12\) Services to buildings and dwellings; excluding heavy and civil engineering](#)
7-7 [construction \(Major Sector 237\) and residential maintenance and repair \(Major Sector 238\)](#)
7-8 [including, but not limited to:](#)
7-9 [\(i\) Exterminating and pest control services \(561710\);](#)
7-10 [\(ii\) Janitorial services \(561720\) \(excluding residential\);](#)
7-11 [\(iii\) Landscaping services \(561730\);](#)
7-12 [\(iv\) Carpet and upholstery cleaning services \(561740\); and](#)
7-13 [\(v\) Other services to buildings and dwellings \(561790\).](#)
7-14 [\(13\) Other support services including, but not limited to:](#)
7-15 [\(i\) Packaging and labeling services \(561910\); and](#)
7-16 [\(ii\) Convention and trade show organizers \(561920\).](#)
7-17 [\(14\) Waste management and remediation services including, but not limited to:](#)
7-18 [\(i\) Solid waste collection, garbage and trash collection \(562111\);](#)
7-19 [\(ii\) Hazard waste collection \(562112\);](#)
7-20 [\(iii\) Other waste collection \(562119\);](#)
7-21 [\(iv\) Hazardous waste treatment and disposal \(562211\);](#)
7-22 [\(v\) Solid waste landfill \(562212\);](#)
7-23 [\(vi\) Solid waste combustors and incinerators \(562213\);](#)
7-24 [\(vii\) Other nonhazardous waste treatment and disposal \(562219\);](#)
7-25 [\(viii\) Remediation services \(562910\);](#)
7-26 [\(ix\) Materials recovery facilities \(562920\);](#)
7-27 [\(x\) Septic tank and related services \(562991\); and](#)
7-28 [\(xi\) All other miscellaneous waste management services \(562998\).](#)
7-29 [\(15\) Membership clubs and participant sports centers including, but not limited to:](#)
7-30 [\(i\) Membership clubs \(813410\);](#)
7-31 [\(ii\) Participant sports centers, including flight training schools \(611512\); and](#)
7-32 [\(iii\) Skiing facilities \(713920\).](#)
7-33 [\(16\) Fitness and recreational sports centers \(713940\).](#)
7-34 [\(17\) Amusement parks, campgrounds and related recreational services including, but not](#)
8-1 [limited to:](#)
8-2 [\(i\) Amusement parks \(713110\);](#)
8-3 [\(ii\) Arcades \(713120\);](#)
8-4 [\(iii\) Campgrounds \(721211\);](#)
8-5 [\(iv\) Providers of instruction or classes in dance, music, art and similar activities, except](#)
8-6 [when provided by an accredited institution of higher education;](#)

- 8-7 [\(v\) Sports and recreation instruction \(611620\);](#)
- 8-8 [\(vi\) Promoters or providers of performing arts, sports, and similar events \(711310\) and](#)
- 8-9 [\(711320\);](#)
- 8-10 [\(vii\) Botanical or zoological gardens \(712130\);](#)
- 8-11 [\(viii\) Nature parks and reserves \(712190\); and](#)
- 8-12 [\(ix\) Coin-operated amusement machines \(713120\).](#)
- 8-13 [\(18\) Other amusement and recreational industries including, but not limited to:](#)
- 8-14 [\(i\) Golf courses and country clubs \(713910\);](#)
- 8-15 [\(ii\) Skiing facilities \(713920\);](#)
- 8-16 [\(iii\) Bowling centers \(713950\); and](#)
- 8-17 [\(iv\) All other amusement and recreation industries \(713990\).](#)
- 8-18 [\(19\) Automotive Repair and Maintenance including, but not limited to:](#)
- 8-19 [\(i\) General automotive repair \(811111\);](#)
- 8-20 [\(ii\) Automotive exhaust system repair \(811112\);](#)
- 8-21 [\(iii\) Automotive transmission repair \(811113\);](#)
- 8-22 [\(iv\) Other automotive mechanical and electrical repair and maintenance \(811118\);](#)
- 8-23 [\(v\) Automotive body, paint, and interior repair and maintenance \(811121\);](#)
- 8-24 [\(vi\) Automotive glass replacement shops \(811122\);](#)
- 8-25 [\(vii\) Automotive oil change and lubrication shops \(811191\); and](#)
- 8-26 [\(viii\) All other automotive repair and maintenance \(811198\).](#)
- 8-27 [\(20\) Electronic and precision equipment repair and maintenance including, but not](#)
- 8-28 [limited to:](#)
- 8-29 [\(i\) Consumer electronics repair and maintenance \(811211\);](#)
- 8-30 [\(ii\) Computer and office machine repair and maintenance \(811212\);](#)
- 8-31 [\(iii\) Communication equipment repair and maintenance \(811213\); and](#)
- 8-32 [\(iv\) Other electronic and precision equipment repair and maintenance \(811219\).](#)
- 8-33 [\(21\) Commercial and industrial machinery and equipment repair and maintenance](#)
- 8-34 [\(811310\).](#)
- 9-1 [\(22\) Personal, furniture, and household goods repair and maintenance including, but not](#)
- 9-2 [limited to:](#)
- 9-3 [\(i\) Home and garden equipment repair and maintenance \(811411\);](#)
- 9-4 [\(ii\) Appliance repair and maintenance \(811412\);](#)
- 9-5 [\(iii\) Reupholstery and furniture repair \(811420\);](#)
- 9-6 [\(iv\) Footwear and leather goods repair \(811430\); and](#)
- 9-7 [\(v\) Other personal and household goods repair and maintenance \(811490\).](#)
- 9-8 [**\(23\) Personal care services including, but not limited to:**](#)
- 9-9 [**\(i\) Barber shops \(812111\);**](#)
- 9-10 [**\(ii\) Beauty salons \(812112\);**](#)
- 9-11 [**\(iii\) Nail salons \(812113\);**](#)
- 9-12 [**\(iv\) Diet and weight reducing centers \(812191\); and**](#)
- 9-13 [**\(v\) Other personal care services \(812199\) including but not limited to tattoo parlors and**](#)
- 9-14 [**body piercing establishments.**](#)
- 9-15 [\(24\) Laundry and dry cleaning services, including, but not limited to:](#)
- 9-16 [\(i\) Coin-operated laundry and dry cleaning \(812310\);](#)
- 9-17 [\(ii\) Dry cleaning and laundry services \(812320\);](#)
- 9-18 [\(iii\) Linen supply garments, flatwork, and linens rental \(812331\); and](#)
- 9-19 [\(iv\) Industrial launderers \(812332\).](#)
- 9-20 [\(25\) Other personal services including, but not limited to:](#)
- 9-21 [\(i\) Pet care \(812910\) \(except veterinary\);](#)
- 9-22 [\(ii\) Photofinishing laboratories \(812921\);](#)
- 9-23 [\(iii\) One-hour photofinishing \(812922\);](#)

9-24 (iv) Parking lots and garages (812930); and
9-25 (v) All other personal services (812990).
9-26 (26) Scenic and sightseeing transportation and support activities for transportation
9-27 including, but not limited to:
9-28 (i) Scenic and sightseeing transportation (Major Sector 487); and
9-29 (ii) Support activities for transportation (Major Sector 488).
9-30 (27) Couriers and messengers (Major Sector 492) including, but not limited to:
9-31 (i) Couriers and express delivery services (492110); and
9-32 (ii) Local messengers and local delivery (492210).
9-33 (28) Data processing, hosting and related services (518210).
9-34 (29) Performing arts companies and live entertainment services including, but not limited
10-1 to:
10-2 (i) Theater companies and dinner theaters (711110);
10-3 (ii) Dance companies (711120);
10-4 (iii) Musical groups and artists (711130);
10-5 (iv) Cover charges at drinking establishments (722410) or other music/entertainment
10-6 establishments; and
10-7 (v) Other performing arts companies (711190).
10-8 (30) Spectator sports (except spectator sports involving primary and secondary
10-9 educational institutions and youth organizations) including, but not limited to:
10-10 (i) Sport teams and clubs (711211);
10-11 (ii) Racetracks (711212); and
10-12 (iii) Other spectator sports (711219).
10-13 (31) Cultural facilities and similar institutions including, but not limited to:
10-14 (i) Museums (712110);
10-15 (ii) Libraries (519120);
10-16 (iii) Historical sites (712120);
10-17 (iv) Zoos and botanical gardens (712130); and
10-18 (v) Nature parks and other similar institutions (712190).
10-19 (32) Car washes (811192).
10-20 (33) Civic, social, professional, and similar organizations:
10-21 (i) Civic and social organizations (813410);
10-22 (ii) Business associations (813910);
10-23 (iii) Professional organizations (813920); and
10-24 (iv) Other similar organizations (813990).
10-25 (c) The tax administrator is authorized to promulgate rules and regulations to carry out
10-26 the provisions, policies, and purposes of this chapter including, but not limited to, emergency
10-27 rules and regulations pursuant to § 42-35-3(b).
10-28 **44-18-7.4. Newspaper defined.** -- "Newspaper" means an unbound publication printed
10-29 on newsprint, which contains news, editorial comment, opinions, features, advertising matter,
10-30 and/or other matters of public interest.
10-31 **44-18-7.5. Specified digital products defined.** -- "Specified digital products" includes
10-32 electronically transferred:
10-33 (1) "Digital audio-visual works" means a series of related images which, when shown in
10-34 succession, impart an impression of motion, together with accompanying sounds;
11-1 (2) "Digital audio works" means works that result from the fixation of a series of musical,
11-2 spoken, or other sounds, including ringtones. For purposes of the definition of "digital audio
11-3 works", "ringtones" means digitized sound files that are downloaded onto a device and that may
11-4 be used to alert the customer with respect to a communication.
11-5 (3) "Digital books" means works that are generally recognized in the ordinary and usual
11-6 sense as "books".

11-7 SECTION 4. Section 44-18-12.2 of the General Laws in Chapter 44-18 entitled "Sales
11-8 and Use Taxes – Liability and Computation" is hereby amended by adding the following:
11-9 **44-18-12.2. Measures subject to 1% tax rate. --** (a) The following items will be subject
11-10 to sales and use tax at the rate of one percent (1%):

11-11 (1) Agricultural products for human consumption. The sale, storage, use or other
11-12 consumption: (i) Of livestock and poultry, the kind of which ordinarily provide food for human
11-13 consumption; and (ii) Of livestock, the products of which ordinarily constitute fibers for human
11-14 use.

11-15 (2) Air and water pollution control facilities. The sale, storage, use, or other consumption
11-16 in this state of tangible personal property, specified digital property, services as defined in § 44-
11-17 18-7.3, or supplies acquired for incorporation into or used and consumed in the operation of a
11-18 facility, the primary purpose of which is to aid in the control of the pollution or contamination of
11-19 the waters or air of the state, as defined in chapter 12 of title 46 and chapter 25 of title 23,
11-20 respectively, and which has been certified as approved for that purpose by the director of
11-21 environmental management. The director of environmental management may certify to a portion
11-22 of the tangible personal property or supplies acquired for incorporation into those facilities or
11-23 used and consumed in the operation of those facilities to the extent that that portion has as its
11-24 primary purpose the control of the pollution or contamination of the waters or air of this state. As
11-25 used in this subdivision, "facility" means any land, facility, device, building, machinery, or
11-26 equipment.

11-27 (3) Aircraft and aircraft parts. The sale, storage, use, or other consumption in this state
11-28 of any new or used aircraft or aircraft parts.

11-29 (4) Banks and Regulated investment companies interstate toll-free calls. The furnishing
11-30 of interstate and international, toll-free terminating telecommunication service that is used
11-31 directly and exclusively by or for the benefit of an eligible company as defined in this
11-32 subdivision; provided, that an eligible company employs on average during the calendar year no
11-33 less than five hundred (500) "full-time equivalent employees", as that term is defined in § 42-
11-34 64.5-2. For purposes of this section, an "eligible company" means a "regulated investment
12-1 company" as that term is defined in the Internal Revenue Code of 1986, 26 U.S.C. § 1 et seq., or a
12-2 corporation to the extent the service is provided, directly or indirectly, to or on behalf of a
12-3 regulated investment company, an employee benefit plan, a retirement plan or a pension plan or a
12-4 state chartered bank.

12-5 (5) Boats. The sale of a boat or vessel to a bona fide nonresident of this state who does
12-6 not register the boat or vessel in this state, or document the boat or vessel with the United States
12-7 government at a home port within the state, whether the sale or delivery of the boat or vessel is
12-8 made in this state or elsewhere.

12-9 (6) Boats or vessels brought into the state exclusively for winter storage, maintenance,
12-10 repair or sale. For the period commencing on the first day of October in any year to and
12-11 including the thirtieth (30th) day of April next succeeding with respect to the use of any boat or
12-12 vessel within this state exclusively for purposes of: (i) Delivery of the vessel to a facility in this
12-13 state for storage, including dry storage and storage in water by means of apparatus preventing ice
12-14 damage to the hull, maintenance, or repair; (ii) The actual process of storage, maintenance, or
12-15 repair of the boat or vessel; or (iii) Storage for the purpose of selling the boat or vessel.

12-16 (7) Boats or vessels generally. The sale, storage, use, or other consumption in this state of
12-17 any new or used boat.

12-18 **(8) Charitable, educational, and religious organizations. (i) The sale to charitable,**
12-19 **educational and religious organizations as defined in this section and the storage use and other**
12-20 **consumption of tangible personal property, specified digital property, and/or services as defined**
12-21 **in § 44-18-7.3. This shall also include hospitals not operated for profit, "educational institutions"**
12-22 **as defined in § 44-18-30(17) not operated for a profit, churches, orphanages, and other**
12-23 **institutions or organizations operated exclusively for religious or charitable purposes, interest free**

12-24 loan associations not operated for profit, nonprofit organized sporting leagues and associations
12-25 and bands for boys and girls under the age of nineteen (19) years, the following vocational
12-26 student organizations that are state chapters of national vocational students organizations:
12-27 Distributive Education Clubs of America, (DECA); Future Business Leaders of America, phi beta
12-28 lambda (FBLA/PBL); Future Farmers of America (FFA); Future Homemakers of America/Home
12-29 Economics Related Occupations (FHA/HERD); and Vocational Industrial Clubs of America
12-30 (VICA), organized nonprofit golden age and senior citizens clubs for men and women, and parent
12-31 teacher associations. Sales made to the United States government, this state and its political
12-32 subdivisions are exempt from this section.

12-33 (ii) In the case of contract entered into with any agency, institution, or organization as
12-34 described in subsection (i), the contractor shall charge the one percent (1%) sales or use tax and
13-1 shall in that instance provide his or her suppliers with certificates in the form as determined by
13-2 the division of taxation showing the reason for the one percent (1%) exemption; and the
13-3 contractor's records must substantiate the claim for exemption by showing the disposition of all
13-4 property so purchased. If any property is then used for a nonexempt purpose, the contractor must
13-5 pay the tax on the property used.

13-6 (9) Clothing and footwear. The sales of articles of clothing, including footwear, intended
13-7 to be worn or carried on or about the human body. For the purposes of this section, "clothing or
13-8 footwear" does not include clothing accessories or equipment or special clothing or footwear
13-9 primarily designed for athletic activity or protective use as these terms are defined in § 44-18-
13-10 7.1(f).

13-11 (10) Coffins, caskets, and burial garments. The sale, storage, use, or other consumption
13-12 in this state of coffins or caskets, and shrouds or other burial garments which are ordinarily sold
13-13 by a funeral director as part of the business of funeral directing.

13-14 (11) Coins. The sale, storage, use, or other consumption in this state of coins having
13-15 numismatic or investment value.

13-16 (12) Commercial fishing vessels. From the sale and storage, use, or other consumption in
13-17 this state of vessels and other watercraft which are in excess of five (5) net tons and which are
13-18 used exclusively for "commercial fishing", as defined in this subdivision, and the repair,
13-19 alteration, or conversion of those vessels and other watercraft, and the sale of property purchased
13-20 for the use of those vessels and other watercraft including provisions, supplies, and material for
13-21 the maintenance and/or repair of the vessels and other watercraft and the boats nets, cables,
13-22 tackle, and other fishing equipment appurtenant to or used in connection with the commercial
13-23 fishing of the vessels and other watercraft.

13-24 (13) Commercial vessels. Sales made to a commercial ship, barge, or other vessel of fifty
13-25 (50) tons burden or over, primarily engaged in interstate or foreign commerce, and from the
13-26 repair, alteration, or conversion of the vessels, and from the sale of property purchased for the use
13-27 of the vessels including provisions, supplies, and material for the maintenance and/or repair of the
13-28 vessels.

13-29 (14) Compressed air. The sale, storage, use, or other consumption in the state of
13-30 compressed air.

13-31 (15) Containers.

13-32 (i) The sale, storage, use, or other consumption in this state of:

13-33 (A) Non-returnable containers, including boxes, paper bags, and wrapping materials
13-34 which are biodegradable and all bags and wrapping materials utilized in the medical and healing
14-1 arts, when sold without the contents to persons who place the contents in the container and sell
14-2 the contents with the container.

14-3 (B) Containers when sold with the contents if the sale price of the contents is not required
14-4 to be included in the measure of the taxes imposed by this chapter.

14-5 (C) Returnable containers when sold with the contents in connection with a retail sale of
14-6 the contents or when resold for refilling.

14-7 (ii) As used in this subdivision, the term "returnable containers" means containers of a
14-8 kind customarily returned by the buyer of the contents for reuse. All other containers are "non-
14-9 returnable containers."

14-10 (16) Economic development corporation project status designees as described in § 42-
14-11 64-20. Sales to economic development corporation project status designees as described in § 42-
14-12 64-20.

14-13 (17) Educational institutions. The rental charged by any educational institution for living
14-14 quarters, or sleeping or housekeeping accommodations or other rooms or accommodations to any
14-15 student or teacher necessitated by attendance at an educational institution. "Educational
14-16 institution" as used in this section means an institution of learning not operated for profit which is
14-17 empowered to confer diplomas, educational, literary, or academic degrees, which has a regular
14-18 faculty, curriculum, and organized body of pupils or students in attendance throughout the usual
14-19 school year, which keeps and furnishes to students and others records required and accepted for
14-20 entrance to schools of secondary, collegiate, or graduate rank, no part of the net earnings of which
14-21 inures to the benefit of any individual.

14-22 (18) Equipment used for research and development. The sale, storage, use, or other
14-23 consumption of equipment and the repair and maintenance of equipment to the extent used for
14-24 research and development purposes by a qualifying firm. For the purposes of this subdivision,
14-25 "qualifying firm" means a business for which the use of research and development equipment is
14-26 an integral part of its operation, and "equipment" means scientific equipment, computers,
14-27 software, and related items.

14-28 (19) Farm equipment. The sale, storage or use of machinery and equipment used directly
14-29 for commercial farming and agricultural production; including, but not limited to, tractors,
14-30 ploughs, harrows, spreaders, seeders, milking machines, silage conveyors, balers, bulk milk
14-31 storage tanks, trucks with farm plates, mowers, combines, irrigation equipment, greenhouses and
14-32 greenhouse coverings, graders and packaging machines, tools and supplies and other farming
14-33 equipment, including replacement parts, appurtenant to or used in connection with commercial
14-34 farming and tools and supplies used in the repair and maintenance of farming equipment.

15-1 (20) Farm structure construction materials. The sale, storage, use, or other consumption
15-2 of lumber, hardware and other materials used in the new construction of farm structures,
15-3 including production facilities such as, but not limited to, farrowing sheds, free stall and
15-4 stanchion barns, milking parlors, silos, poultry barns, laying houses, fruit and vegetable storages,
15-5 rooting cellars, propagation rooms, greenhouses, packing rooms, machinery storage, seasonal
15-6 farm worker housing, certified farm markets, bunker and trench silos, feed storage sheds, and any
15-7 other structures used in connection with commercial farming.

15-8 (21) Flags. The sale, storage, consumption, or other use in this state of United States,
15-9 Rhode Island or POW-MIA flags.

15-10 (22) Heating fuels. The sale, storage, use, or other consumption in this state of every type
15-11 of fuel used in the heating of homes and residential premises.

15-12 (23) Horse food products. The sale, storage, use, or other consumption in this state of
15-13 horse food products purchased by a person engaged in the business of the boarding of horses.

15-14 (24) Industrial facilities corporation lessees as described in § 45-37.1-9. Sales to
15-15 industrial facilities corporation lessees as described in § 45-37.1-9.

15-16 (25) Manufacturing machinery and equipment.

15-17 (i) The sale, storage, use, or other consumption in this state of tools, dies, and molds, and
15-18 machinery and equipment (including replacement parts), and related items, specified digital
15-19 property and services as defined in § 44-18-7.3, to the extent used in an industrial plant in
15-20 connection with the actual manufacture, conversion, or processing of tangible personal property,
15-21 or to the extent used in connection with the actual manufacture, conversion or processing of
15-22 computer software as that term is utilized in industry numbers 7371, 7372, and 7373 in the
15-23 standard industrial classification manual prepared by the technical committee on industrial

15-24 classification, office of statistical standards, executive office of the president, United States
15-25 bureau of the budget, as revised from time to time, to be sold, or that machinery and equipment
15-26 used in the furnishing of power to an industrial manufacturing plant. For the purposes of this
15-27 subdivision, "industrial plant" means a factory at a fixed location primarily engaged in the
15-28 manufacture, conversion, or processing of tangible personal property to be sold in the regular
15-29 course of business;

15-30 (ii) Machinery and equipment and related items are not deemed to be used in connection
15-31 with the actual manufacture, conversion, or processing of tangible personal property, or in
15-32 connection with the actual manufacture, conversion or processing of computer software as that
15-33 term is utilized in industry numbers 7371, 7372, and 7373 in the standard industrial classification
15-34 manual prepared by the technical committee on industrial classification, office of statistical
16-1 standards, executive office of the president, United States bureau of the budget, as revised from
16-2 time to time, to be sold to the extent the property is used in administration or distribution
16-3 operations;

16-4 (iii) Machinery and equipment and related items used in connection with the actual
16-5 manufacture, conversion, or processing of any computer software or any tangible personal
16-6 property which is not to be sold and which would be exempt under or this subdivision if
16-7 purchased from a vendor or machinery and equipment and related items used during any
16-8 manufacturing, converting or processing function is exempt under this subdivision even if that
16-9 operation, function, or purpose is not an integral or essential part of a continuous production flow
16-10 or manufacturing process.

16-11 (26) Precious metal bullion. (i) The sale, storage, use, or other consumption in this state
16-12 of precious metal bullion, substantially equivalent to a transaction in securities or commodities.

16-13 (ii) For purposes of this subdivision, "precious metal bullion" means any elementary
16-14 precious metal which has been put through a process of smelting or refining, including, but not
16-15 limited to, gold, silver, platinum, rhodium, and chromium, and which is in a state or condition
16-16 that its value depends upon its content and not upon its form.

16-17 (iii) The term does not include fabricated precious metal which has been processed or
16-18 manufactured for some one or more specific and customary industrial, professional, or artistic
16-19 uses.

16-20 (27) Purchase for manufacturing purposes.

16-21 (i) The sale and storage, use, or other consumption in this state of computer software,
16-22 tangible personal property, specified digital property, services as defined in § 44-18-7.3,
16-23 electricity, natural gas, artificial gas, steam, refrigeration, and water, when the property or service
16-24 is purchased for the purpose of being manufactured into a finished product for resale, and
16-25 becomes an ingredient, component, or integral part of the manufactured, compounded, processed,
16-26 assembled, or prepared product, or if the property or service is consumed in the process of
16-27 manufacturing for resale computer software, tangible personal property, electricity, natural gas,
16-28 artificial gas, steam, refrigeration, or water.

16-29 (28) Trade-in value of motor vehicles. The sale, storage, use, or other consumption in this
16-30 state of so much of the purchase price paid for a new or used automobile as is allocated for a
16-31 trade-in allowance on the automobile of the buyer given in trade to the seller or of the proceeds
16-32 applicable only to the automobile as are received from the manufacturer of automobiles for the
16-33 repurchase of the automobile whether the repurchase was voluntary or not towards the purchase
16-34 of a new or used automobile by the buyer. For the purpose of this subdivision, the word
17-1 "automobile" means a private passenger automobile not used for hire and does not refer to any
17-2 other type of motor vehicle.

17-3 (29) Manufacturing business reconstruction materials.

17-4 (i) The sale, storage, use or other consumption in this state of lumber, hardware, and
17-5 other building materials used in the reconstruction of a manufacturing business facility which
17-6 suffers a disaster in this state. For the purposes of this section, "Disaster" means any occurrence,

17-7 natural or otherwise, which results in the destruction of sixty percent (60%) or more of an
17-8 operating manufacturing business facility within this state. "Disaster" does not include any
17-9 damage resulting from the willful act of the owner of the manufacturing business facility.

17-10 (ii) Manufacturing business facility includes, but is not limited to, the structures housing
17-11 the production and administrative facilities.

17-12 (iii) In the event a manufacturer has more than one manufacturing site in this state, the
17-13 sixty percent (60%) provision in subsection (28)(i) above applies to the damages suffered at that
17-14 one site.

17-15 (30) Promotional and product literature of boat manufacturers. The sale, storage, use, or
17-16 other consumption of promotional and product literature of boat manufacturers which are mailed
17-17 to customers at no charge.

17-18 (31) Renewable energy products. The sale, storage use, or other consumption in this state
17-19 of solar photovoltaic modules or panels, or any module or panel that generates electricity from
17-20 light; solar thermal collectors, including, but not limited to, those manufactured with flat glass
17-21 plates, extruded plastic, sheet metal, and/or evacuated tubes; geothermal heat pumps, including
17-22 both water-to-water and water-to-air type pumps; wind turbines; towers used to mount wind
17-23 turbines if specified by or sold by a wind turbine manufacturer; DC to AC inverters that
17-24 interconnect with utility power lines; manufactured mounting racks and ballast pans for solar
17-25 collector, module or panel installation, provided this section shall not include materials that could
17-26 be fabricated into such racks; monitoring and control equipment, if specified or supplied by a
17-27 manufacturer of solar thermal, solar photovoltaic, geothermal, or wind energy systems or if
17-28 required by law or regulation for such systems but not to include pumps, fans or plumbing or
17-29 electrical fixtures unless shipped from the manufacturer affixed to, or an integral part of, another
17-30 item specified on this list; and solar storage tanks that are part of a solar domestic hot water
17-31 system or a solar space heating system.

17-32 (32) Sales tax for sales by writers, composers, artists as described in § 44-18-30B. The
17-33 sales by writers, composers, and artists defined in § 44-18-30B.

17-34 (33) Sales and use taxes for municipal economic development zones as described in § 44-
18-1 18-30C. Sales by retailers located in a municipal economic development zone as described in §
18-2 44-18-30C.

18-3 (34) Tangible personal property and supplies used in the processing or preparation of
18-4 floral products and floral arrangements. The sale, storage, use, or other consumption in this state
18-5 of tangible personal property or supplies purchased by florists, garden centers, or other like
18-6 producers or vendors of flowers, plants, floral products, and natural and artificial floral
18-7 arrangements which are ultimately sold with flowers, plants, floral products, and natural and
18-8 artificial floral arrangements or are otherwise used in the decoration, fabrication, creation,
18-9 processing, or preparation of flowers, plants, floral products, or natural and artificial floral
18-10 arrangements, including descriptive labels, stickers, and cards affixed to the flower, plant, floral
18-11 product or arrangement, artificial flowers, spray materials, floral paint and tint, plant shine, flower
18-12 food, insecticide and fertilizers.

18-13 (35) Tangible personal property and supplies used in on-site hazardous waste recycling,
18-14 reuse, or treatment. The sale, storage, use, or other consumption in this state of tangible personal
18-15 property or supplies, repair and maintenance, specified digital products, and services as defined in
18-16 § 44-18-7.3 used or consumed in the operation of equipment, the exclusive function of which is
18-17 the recycling, reuse, or recovery of materials (other than precious metals, as defined in
18-18 subdivision (24)(ii) of this section) from the treatment of "hazardous wastes", as defined in § 23-
18-19 19.1-4, where the "hazardous wastes" are generated in Rhode Island solely by the same taxpayer
18-20 and where the personal property is located at, in, or adjacent to a generating facility of the
18-21 taxpayer in Rhode Island and services as defined in § 44-18-7.3 are provided and repair and
18-22 maintenance are delivered. The taxpayer shall procure an order from the director of the
18-23 department of environmental management certifying that the equipment and/or supplies as used,

18-24 or consumed, qualify for the exemption under this subdivision.

18-25 (36) Textbooks. The sale and from the storage, use, or other consumption in this state of

18-26 textbooks by an "educational institution" as defined in subdivision (16) of this section and as well

18-27 as any educational institution within the purview of § 16-63-9(4) and used textbooks by any

18-28 purveyor.

18-29 (37) Transfers or sales made to immediate family members, and dissolutions and partial

18-30 liquidations of a business entity. The storage, use, or other consumption in this state of a motor

18-31 vehicle, a boat, an airplane, or a trailer purchased from other than a licensed motor vehicle dealer

18-32 or other than a retailer of boats, airplanes, or trailers; provided, however; (i) The transferee or

18-33 purchaser is the spouse, mother, father, brother, sister, or child of the transferor or seller; or (ii)

18-34 The transfer or sale is made in connection with the dissolution, or partial liquidation of a business

19-1 entity.

19-2 (38) Water for residential use. The sale and from the storage, use, or other consumption

19-3 in this state of water furnished for domestic use by occupants of residential premises.

19-4 (b) The tax administrator is authorized to promulgate rules and regulations to carry out

19-5 the provisions, policies, and purposes of this chapter including, but not limited to, emergency

19-6 rules and regulations pursuant to § 42-35-3(b).

19-7 (c) In recognition of the work being performed by the Streamlined Sales and Use Tax

19-8 Governing Board, the provisions of 44-18-12.2 shall sunset as of the effective date of any federal

19-9 law which requires remote sellers to collect and remit taxes assessed on sales to this state's

19-10 residents.



voting check
off graphic

No position taken on 11 H 5894 Art. 26 Sec. 03 & 04 AN ARTICLE RELATING TO SALES TAX MODERNIZATION

11 H 5894 Art. 30 AN ARTICLE RELATING TO MEDICAL ASSISTANCE NURSING FACILITIES RATE REFORM

This article authorizes the department of human services to issue new reimbursement rates as of July 1, 2011 for nursing facilities.

The new rate would replace the current cost based methodology rates with rates based on a price-based methodology to be paid to all facilities with recognition of the acuity of patients and the relative Medicaid occupancy.

Reviewer's Comments: Don't know the impact this will have

ARTICLE 30

RELATING TO MEDICAL ASSISTANCE NURSING FACILITIES RATE REFORM

SECTION 1. Section 40-8-19 of the General Laws in Chapter 40-8 entitled "Medical Assistance" is hereby amended to read as follows:

40-8-19. Rates of payment to nursing facilities. -- (a) Rate reform.

(1) The rates to be paid by the state to nursing facilities licensed pursuant to chapter 17 of title 23, and certified to participate in the Title XIX Medicaid program for services rendered to Medicaid-eligible residents, shall be reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in accordance with 42 U.S.C. § 1396a(a)(13). The department of human services shall promulgate or modify the principles of reimbursement for nursing facilities ~~currently~~ in effect ~~on~~ as of July 1, 2003 2011 to be consistent with the provisions of this section and Title XIX, 42 U.S.C. § 1396 et seq., of the Social Security Act.

(2) The department of human services shall review the current methodology for providing Medicaid payments to nursing facilities, including other long-term care services providers, and is authorized to modify the principles of reimbursement to ~~provide for an acuity based rate adjustment to nursing facilities. The department of human services is authorized to implement changes to the payment structure for the purpose of basing compensation for Medicaid~~

1-19 ~~services to nursing facilities and long term care service providers for services which shall be~~
1-20 ~~based upon performance, quality, and the scope and the intensity of the services required by the~~
1-21 ~~provider to meet the Medicaid recipient's level of care needs replace the current cost based~~
1-22 ~~methodology rates with rates based on a price based methodology to be paid to all facilities with~~
1-23 ~~recognition of the acuity of patients and the relative Medicaid occupancy.~~

1-24 ~~No adjustment, subject to this section, that is made on the basis of, or in order to~~
1-25 ~~accommodate or address, resident acuity shall be designed or implemented in such a way as to:~~

1-26 ~~(i) Decrease the total of Medicaid funding for nursing facility care, although such~~
1-27 ~~methodology may reallocate such funding from one nursing facility to another;~~

1-28 ~~(ii) Provide incentives, financial or otherwise, that would disproportionately influence~~
1-29 ~~the nursing facilities that loses funding under the acuity adjustment to accommodate those losses~~
1-30 ~~by decreasing nursing staff, as opposed to non-nursing staff or other areas of expense. Such a~~
2-1 ~~prohibited incentive would be created by incorporating incentives for cost containment only with~~
2-2 ~~regard to nursing labor costs, or disproportionately disfavoring nursing labor costs.~~

2-3 ~~(iii) Result, by itself, in any single nursing facility gaining or losing more than two and~~
2-4 ~~two tenths percent (2.2%) of its existing per diem rate between July 1, 2010 and October 1, 2011.~~

2-5 (3) By no later than October 1, 2011, under the direction of the Secretary of Health and
2-6 Human Services, the Department of Human Services shall modify the principles of
2-7 reimbursement to include the acuity needs of patients and the relative Medicaid occupancy as a
2-8 factor in determining the reimbursement rates to nursing facilities.

2-9 ~~(b) Rate reform. Subject to the phase in provisions in subsections (c) and (d), the~~
2-10 ~~department shall, on or before October 1, 2005, modify the principles of reimbursement for~~
2-11 ~~nursing facilities to include the following elements:~~

2-12 ~~(1) Annual base years;~~

2-13 ~~(2) Four (4) cost centers: direct labor, property, other operating, and pass through items;~~

2-14 ~~(3) Re-array of costs of all facilities in the labor and other operating cost centers every~~
2-15 ~~three (3) years beginning with calendar year 2002;~~

2-16 ~~(4) A ceiling maximum for allowable costs in the direct labor cost center to be~~
2-17 ~~established by the department between one hundred ten percent (110%) and one hundred twenty-~~
2-18 ~~five percent (125%) of the median for all facilities for the most recent array year.~~

2-19 ~~(5) A ceiling maximum for allowable costs in the other operating cost center to be~~
2-20 ~~established by the department between ninety percent (90%) and one hundred fifteen percent~~
2-21 ~~(115%) of the median for all facilities for the most recent array year;~~

2-22 ~~(6) Adjustment of costs and ceiling maximums by the increase in the National Nursing~~
2-23 ~~Home Price Index ("NNHPI") for the direct labor cost center and the other operating cost center~~
2-24 ~~for year between array years; such adjustments to be applied on October 1st of each year~~
2-25 ~~beginning October 1, 2003 for the direct labor cost center and October 1, 2005 for the other~~
2-26 ~~operating cost center, except for the fiscal year beginning July 1, 2006 for which the price index~~
2-27 ~~shall be applied on February 1, 2007 and for the fiscal year beginning October 1, 2007 for which~~
2-28 ~~the adjustment of costs and ceiling maximums shall be one and one-tenth percent (1.1%). For the~~
2-29 ~~fiscal year beginning July 1, 2008, the price index shall be applied on April 1, 2009.~~

2-30 ~~(7) Application of a fair rental value system to be developed by the department for~~
2-31 ~~calculating allowable reimbursement for the property cost center;~~

2-32 ~~(8) Such quality of care and cost containment incentives as may be established by~~
2-33 ~~departmental regulations.~~

2-34 ~~(9) Notwithstanding the above provisions, for FY 2009 the department is authorized to~~
3-1 ~~reduce the per diem room and board rate calculated in accordance with the principles of~~
3-2 ~~reimbursement as described above, paid to the nursing facilities certified to participate in the Title~~
3-3 ~~XIX Medicaid program for services rendered to Medicaid-eligible residents by five percent (5%).~~
3-4 ~~This reduction is deemed to be reasonable and adequate to meet the costs which must be incurred~~
3-5 ~~by efficiently and economically operated facilities in accordance with 42 U.S.C. § 1396a(a)(13).~~

3-6 (e) (b) Phase I Implementation. The department shall file a state plan amendment with
 3-7 the U.S. Department of Health and Human Services on or before August 1, ~~2003~~ 2011 to modify
 3-8 the principles of reimbursement for nursing facilities, to be effective on October 1, ~~2003~~ 2011, or
 3-9 as soon thereafter as is authorized by an approved state plan amendment, to establish ~~the direct~~
 3-10 ~~labor cost center and the pass through items cost center utilizing calendar year 2002 cost data, and~~
 3-11 ~~to apply the ceiling maximums in subsections (b)(4) and (b)(5). Nursing facilities whose~~
 3-12 ~~allowable 2002 direct labor costs are below the median in the direct labor cost center may make~~
 3-13 ~~application to the department for a direct labor cost interim payment adjustment equal to twenty-~~
 3-14 ~~five percent (25%) of the amount such allowable 2002 direct labor costs are below the median in~~
 3-15 ~~the direct labor cost center, provided that the interim payment adjustment granted by the~~
 3-16 ~~department on or after October 1, 2003 must be expended by the facility on expenses allowable~~
 3-17 ~~within the direct labor cost center, and any portion of the interim payment not expended on~~
 3-18 ~~allowable direct labor cost center expenses shall be subject to retroactive adjustment and~~
 3-19 ~~recoupment by the department upon the department's determination of a final direct labor~~
 3-20 ~~payment adjustment after review of the facility's actual direct labor expenditures. The final direct~~
 3-21 ~~labor payment adjustment will be included in the facility's October 1, 2004 rate until the facility's~~
 3-22 ~~next base year.~~

3-23 (d) Phase II Implementation. The department shall file a state plan amendment with the
 3-24 U.S. Department of Health and Human Services to modify the principles of reimbursement for
 3-25 nursing facilities, to be effective on September 1, 2004, or as soon thereafter as is authorized by
 3-26 an approved state plan amendment, to establish a fair rental value system for calculating
 3-27 allowable reimbursement for the property cost center in accordance with subsection (b)(7);
 3-28 provided, however, that no facility shall receive a payment as of September 1, 2004 for property-
 3-29 related expenses pursuant to the fair rental value system that is less than the property-related
 3-30 payment they would have received for the other property-related ("OPR") cost center system in
 3-31 effect as of June 30, 2004 [price based payment rates for nursing facilities, recognizing patient](#)
 3-32 [acuity and Medicaid occupancy.](#)

3-33 SECTION 2. This article shall take effect upon passage.

 voting check off graphic	No position taken on 11 H 5894 Art. 30 AN ARTICLE RELATING TO MEDICAL ASSISTANCE NURSING FACILITIES RATE REFORM		
 Announcer graphic	Announcements	Tim Flynn	5:20
No announcements made			
 calendar graphic	Agenda and Scheduling the Next Meeting	Tim Flynn	5:25
Items to be placed on the next meeting's agenda: Fellowship interviews			
Next meeting will be on: Monday June 20 th 4 - 5:30			



alarm clock graphic

Adjournment

Tim Flynn

5:30



voting check off graphic

MOTION: To adjourn at 6:15 PM LW/PR passed unanimously