State Fiscal Note for Bill Number: 2022-H-7444

Date of State Budget Office Approval: **Thursday, March 24, 2022**

Date Requested: **Monday, February 21, 2022** **UPDATED April 4, 2022 with Table**

Date Due: **Thursday, March 3, 2022**

Impact on Expenditures		*Impact on Revenues*	
FY 2022	N/A	FY 2022	N/A
FY 2023	See Below	FY 2023	(250,290,797)
FY 2024	See Below	FY 2024	(256,769,574)

Explanation by State Budget Office:

This bill would allow self-employed individuals to elect participation in the Rhode Island Temporary Disability Insurance (TDI) and Rhode Island Temporary Caregiver Insurance (TCI) programs; increase the taxable wage base on which employees make contributions to the TDI and TCI Reserve Fund; change the wage replacement formula to increase individual benefit rates for lower wage individuals; include sibling, grandchild, and care recipient in the coverage for temporary caregiver benefits; increase the maximum temporary caregiver weeks and establish fines and penalties for not reinstating an employee to work if they use the program; and, would create a personal income tax credit, known as the "Rhode Island Paid Leave Credit," equal to the greater of $150 or the amount paid into the TDI/TCI program.

Comments on Sources of Funds:

Changes impacting TCI and TDI taxes and payments impact their respective reserve funds.

Personal Income Taxes are general revenues.

Summary of Facts and Assumptions:

On page 11 of the Act, the proposed language on lines 23-24 is in direct conflict with the statutory language on page 11, lines 27-28. The Budget Office assumes that the language on lines 27-28 was intended to be stricken as part of this bill.

The Budget Office consulted with the Department of Labor and Training and the Department of Revenue, Office of Revenue Analysis to construct revenue and expenditure impacts of the various components of this bill. Some component provisions of this bill have a discrete impact and can be considered individually. Other provisions interact with each other and must be considered together. Items 1 – 5, below, relate to the TDI and TCI Reserve Fund revenues and expenditures. The fiscal impact of each proposal is presented individually when possible or reflected in the summary combined with other related initiatives. Item 6 relates to the general revenue impact of the proposed "Rhode Island Paid Leave Credit" and is discussed separately given that it is the only component of the bill with a general revenue impact.

1. INCREASE TAXABLE WAGE BASE

Under current law, the TDI and TCI tax consists of a 1.3 percent assessment on eligible wages up to a maximum taxable wage base of $74,000. This bill would effectively increase the taxable wage base to $250,000. Under current law, taxpayers earning more than the taxable wage base pay the maximum contribution of $962.

This bill would increase the maximum contribution to $3,250. The bill specifies that the increase shall take place effective beginning calendar year 2023.

To determine the revenue and expenditure impact of this provision, the Budget Office consulted the Department of Labor and Training. This provision would impact the revenue generated by the TDI and TCI assessment which flows to the TDI and TCI Reserve Fund. The Department of Labor and Training estimates that the increase in the taxable wage base would result in an additional $59.8 million in assessments being deposited into the TDI and TCI Reserve Fund. This bill would increase TDI/TCI tax contributions by as much as $2,288 for workers earning more than $74,000. This estimate relies upon calendar year 2021 data and therefore is subject to uncertainty given economic and demographic shifts. This data includes all employees who contributed to the TDI and TCI Reserve Fund and earnings are at the individual level.

2. SELF-EMPLOYED MAY ELECT PARTICIPATION IN TDI/TCI

Under current law, self-employed individuals do not participate in the TDI and TCI programs. This bill would allow these individuals to elect participation and become subject to tax, benefit, compliance, and reporting provisions of the TDI and TCI programs. Benefit eligibility becomes effective after the individual has made 12 consecutive months of tax contributions unless they had made qualifying tax contributions during prior employment. Enrollment in TDI and TCI programs among the self-employed shall be administered in a manner specified by the Department of Labor and Training. The bill does not specify an effective date for this provision; therefore, the Budget Office assumes that the provision would become effective upon passage on July 1, 2022.

This fiscal note does not include an estimate of the revenues and expenditures from the TDI and TCI Reserve Funds associated with providing benefits to self-employed claimants. The Budget Office, in consultation with the Department of Labor and Training, assumes that participation among self-employed individuals will be reduced by the fact that the bill requires individuals to "opt in" rather than "opt out." Additionally, the impact of the participation of self-employed individuals will be delayed by the fact that the bill requires that an enrolled participant make 12 months of contributions prior to receiving any benefits. Furthermore, while some fee and penalty revenue may result from various compliance provisions contained within the bill, the Budget Office does not assume any fiscal impact as a result of fee and penalty revenue associated with non-compliance.

3. EXPAND DEFINITION OF TCI-ELIGIBLE RELATIONS

Under current law, the TCI program is a component of the TDI program which provides wage replacement benefits to workers who take time off to care for a seriously ill child, spouse, domestic partner, parent, parent-in-law, grandparent, or to bond with a new child. The bill would add sibling, care recipient, and grandchild to the list of eligible relations. A "care recipient" is defined as a person for whom the employee is responsible for providing or arranging health- or safety-related care, including but not limited to helping the person obtain diagnostic, preventative, routine, or therapeutic health treatment. The bill does not specify an effective date for this provision; therefore, the Budget Office assumes that the provision would become effective upon passage on July 1, 2022.

The Budget Office, in consultation with the Department of Labor and Training, estimates that this provision of the bill would result in an increase of 5% of total caregiving claims. The fiscal impact of this provision must be considered in conjunction with other provisions, such as changes in wage replacement rates and length of maximum benefit, with which it interacts. The summary of this impact is presented below in combination with these other changes.

4. INCREASE BENEFIT RATE FOR CERTAIN LOWER-INCOME CLAIMANTS

Under current law, the base wage replacement rate is effectively equal to 60 percent of qualifying wages and may increase as high as 85 percent with the addition of any eligible dependent allowances. This bill would modify the benefit calculation methodology to increase benefits for certain categories of low-wage workers. For claimants whose eligible wages are less than minimum wage, the bill would increase the base wage replacement rate to 90 percent of average weekly wages effective for benefit years beginning January 1, 2022. Given the fact that the effective date has already past, the Budget Office assumes that this provision would become effective upon passage on July 1, 2022 and not apply retroactively. For claimants whose eligible wages are greater than minimum wage but less than twice the minimum wage, the base wage replacement rate would increase to 75 percent effective for benefit years beginning January 1, 2023. For both of these categories of low-wage claimants, the bill specifies that an individual's weekly benefit shall never exceed that individual's average weekly wage in that period with the addition of any eligible dependent allowances.

This provision would primarily impact low- and middle-income individuals. A low-income individual, earning $24,000 annually, would experience an increase in weekly benefits of $137.72 from $276.28 to $414.00 under the terms of this bill compared to current law. A middle-income worker, earning $48,000 annually, would experience an increase in weekly benefits of $137.45 from $552.55 to $690.00. The fiscal impact of this provision interacts with other provisions in this bill and is presented below.

The Budget Office assumes that this provision may encourage some individuals to pursue TDI or TCI claims who may otherwise remain in the workforce; however, this impact is not considered separately from the increase 5% increase associated with provision 3, above.

5. INCREASE NUMBER OF BENEFIT WEEKS AVAILABLE TO TCI CLAIMANTS

Under current law, a claimant may receive benefits for a maximum of four weeks per year under the TCI program. This bill would increase this maximum to 12 weeks per calendar year effective January 1, 2023.

The Department of Labor and Training provided information describing the average claim duration by type under current law and an estimate under the terms of this bill. The Department estimates the following changes: the average TDI claim would not increase from 8.7 weeks under current law; bonding claims would increase by 6.5 weeks from 3.6 to 10.1; and caregiving claims would increase by 4.8 weeks from 3.3 to 8.1. The net impact of these changes would result in the average claim increasing by 0.9 weeks from 7.9 to 8.8 weeks. Expressed in terms of annual total TDI/TCI claim weeks paid, the Department estimates that total claim weeks would increase by 61,499 weeks from 344,784 weeks to 406,282 weeks. However, the fiscal impact of these increases is presented below as it interacts with the enhancement to the benefit rate.

6. ESTABLISH "RHODE ISLAND PAID LEAVE CREDIT"

Under current law, there is currently no tax credit offered against Rhode Island personal income tax with respect to tax contributions to TDI and TCI. This bill would create a tax credit known as the "Rhode Island Paid Leave Credit" which shall be equal to the greater of $150 or the taxpayers' contributions to paid to the TDI and TCI Reserve Funds. Eligible taxpayers must have paid into TDI/TCI, had not received benefits over the calendar year and have annual earnings less than 25 times the hourly minimum wage to be eligible to claim the personal income tax credit. The Budget Office consulted the Department of Revenue, Office of Revenue Analysis and the Department of Labor and Training to formulate this estimate.

To provide an estimate, the Department of Labor and Training provided 590,425 records of taxpayers that paid into the TDI system for tax year 2018. First the data set was filtered for those taxpayers who received TDI benefits during the calendar year. This excluded 31,479 taxpayers. In tax year 2018, the minimum wage was $10.10 an hour. Annual minimum wage earnings were calculated to be $10.10 * 40 hours * 52 weeks = $21,008. Twenty-five times the annual minimum wage provides an eligibility threshold for those taxpayers with earnings of less than $525,200 (i.e., $21,008 * 25). The 15 taxpayers who were over the threshold were filtered out of the analysis.

Finally, the personal income tax credit was calculated per taxpayer by taking the higher of the TDI contributions for TY 2018 or $150. The average amount of personal income tax credit per the 558,931 eligible taxpayers in TY 2018 was $367.09 for an estimated total of $205,179,738. The Office of Revenue Analysis (ORA) assumed this tax credit would be refundable, meaning that if the amount of credit awarded was greater than a taxpayer's tax liability, the taxpayer would get a refund of the amount. Therefore, the total revenue loss is the amount of estimated credit.

Due to the nature of the timing of personal income tax returns, TY 2018 personal income tax payments are assumed to be recorded in FY 2019. Since the estimate was calculated utilizing TY 2018 data for FY 2019, ORA need to grow the estimate to TY 2023 when the tax credit is proposed to begin. First the FY 2019 estimate was grown by the growth realized in audited personal income tax revenues for FY 2020 of 0.6118% and FY 2021 of 14.9415%. This yields a FY 2021 and TY 2020 estimate of $237,279,518 (i.e., $205,179,738 * (1+0.006118) * (1+0.149415)). Next, the personal income tax growth rates adopted at the 2021 November Revenue Estimating Conference of 2.5433% for FY 2022 and 2.8673% for FY 2023 were applied to yield a TY 2022 and FY 2023 estimated revenue loss of $250,290,797 from implementation of the new personal income tax credit (i.e., $237,279,518 * (1+0.025433) * (1+0.028673)). Finally, the Department of Administration, Office of Management and Budget's (OMB) projection of growth in personal income tax revenues for FY 2024 of 2.5885% was applied to the estimate to arrive at an estimated revenue loss from implementing the new personal income tax credit of $256,769,574 (i.e., $250,290,797 * 0.025885) in FY 2024.

The bill specifies that the new tax credit shall take effect for tax years beginning on or after January 1, 2022, which is assumed to be fully realized in FY 2023.

It is important to note the above calculations only included data from the TDI system. It is likely the revenue loss is greater due to the inability to include taxpayers who contributed to the TCI system in the estimate.

Summary of Fiscal Impact:

SUMMARY OF FISCAL IMPACT ON THE TDI / TCI PROGRAM

Given the complexity of the fiscal impact and interactions between various provisions of this bill with various effective dates, the Department of Labor and Training constructed an estimate as if all provisions in the bill were fully implemented in a reference year of calendar year 2023. For purposes of constructing an estimate of fiscal impact, the Budget Office assumes that there would be a half-year impact in FY 2023 and full-year impact in FY 2024 and thereafter.

The combination of Items 1 through 5 results in an additional $59.8 million in expenditures from the TDI and TCI reserve funds in calendar year 2023. These additional expenditures result from higher wage replacement rates for many claimants, increasing the maximum claim duration under the TCI program, adding categories of eligible care providers, and assumptions regarding the increased likelihood that some individuals who would not have made a claim under current law would do so given the more generous benefits provided by the bill.

The bill would also generate additional income. The Department of Labor and Training estimates that TDI and TCI tax collections would increase by $56.5 million from $239.0 million to $295.5 million in calendar year 2023.

The Department estimates that the calendar year end surplus in the TDI and TCI Reserve Fund would exceed annual expenditures by $20.6 million in calendar year 2023 under current law, and if the bill were enacted then collections would exceed expenditures by $17.3 million. A table summarizing revenues and expenditures from the TDI and TCI Reserve Fund is included as Table 1 in the attachment.

For purposes of allocating activity recorded on a calendar year basis by state fiscal year, the Budget Office assumes that revenue and expenditure activity in the TDI and TCI Reserve Fund occurs evenly in the first and second six-month period of the year. Under these assumptions, the fiscal impact of this bill with respect to expenditures and revenues within the TDI and TCI Reserve Fund are as follows.

FY 2022: No revenue and expenditure impact given the assumed effective dates of this bill.

FY 2023: An expenditure increase of $29.9 million is forecast. A revenue increase of $28.3 million is forecast. The net impact on the balance of the TDI and TCI Reserve Fund is a decrease of $1.7 million.

FY 2024: An expenditure increase of $59.8 million is forecast. A revenue increase of $56.5 million is forecast. A net impact on the balance of the TDI and TCI Reserve Fund is a decrease of $3.3 million.

SUMMARY OF GENERAL REVENUE IMPACT

The "Rhode Island Paid Leave Credit" is the only provision of the bill which has a general revenue impact. Under these assumptions the revenue impact of this provision is as follows:

FY 2022: No revenue impact given the effective date of this provision.

FY 2023: A general revenue loss of $250,290,797 is forecast.

FY 2024: A general revenue loss of $256,769,574 is forecast.

Budget Office Signature: Digitally signed by Joseph Codega
Date: 2022.04.04 14:24:54 -04'00'

Fiscal Advisor Signature:

TABLE 1

Estimated CY 2023 TDI/TCI Reserve Fund Activity

(Numbers in $Millions)

	Current Law	**With Bill**
Tax Collections	239.0	295.5
Benefit Payments	205.8	264.1
Program Administration Costs	12.6	14.1
Total Expenditures	**218.4**	**278.2**
Year-end Surplus	*20.6*	*17.3*