



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
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Memorandum

To: The Honorable Helio Melo
Chairman, House Finance Committee

The Honorable Daniel DaPonte
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: May 15, 2012

Subject: Amendments to Article 4 of the FY 2013 Appropriations
Act (12-H-7323)

The Governor requests that several amendments be made to Article 4, Relating to Government Organization, of the FY 2013 Appropriations Act, which was submitted to the General Assembly on January 31, 2012. As originally submitted, Article 4 reorganized a number of state and quasi-public agencies including: 1) Merging the Rhode Island Higher Education Assistance Authority with the Office of Higher Education; 2) Creating the Office of Management and Budget; 3) Expanding the Office of Energy Resources and 4) Maintaining the Dispatch function within the Department of Environmental Management. The revised article, which replaces the original article, continues to support each of these reorganizations, but makes changes to some of the responsibilities and functions within each section. The Bureau of Audits is restored in the revised article. To fund the Bureau, general revenue appropriations of \$667,919 and 5.0 FTE will be added to Article 1 in a separate amendment request. The effective date of the article is also changed from "upon passage" to July 1, 2012.

May 15, 2012
Page Two

Attached are the revised Article 4 and a narrative summary of the proposed changes. The proposed changes in the revised Article 4 are shaded in grey.

If you have any questions regarding Article 4, please feel free to call me at 222-6300 or Kelly Mahoney at 222-8135.

TAM:12-26
Attachments

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Peter Marino, Senate Fiscal Advisor
Kelly Mahoney, Policy Director, Office of the Governor
Richard Licht, Director of Administration
Gregory Stack

Explanation of Revised Article 4

As originally submitted, Article 4 reorganized a number of State and Quasi-Public Agencies including: 1) Merging the Rhode Island Higher Education Assistance Authority with the Office of Higher Education; 2) Creating the Office of Management and Budget; 3) Expanding the Office of Energy Resources and 4) Maintaining the Dispatch function within the Department of Environmental Management. This revised article continues to support each of these reorganizations, but makes changes to some of the responsibilities and functions within each Section. The effective date of the article is also changed from “upon passage” to July 1, 2012. The amendments to the original article are as follows:

SECTION 1.

Section 16-62-7 has been added in order to reconstitute the board of the Rhode Island Student Loan Authority (RISLA). RISLA membership currently overlaps with the Rhode Island Higher Education Assistance Authority (RIHEAA) membership. The merger of RIHEAA and Office of Higher Education would eliminate the board members of RIHEAA and therefore impact the board of RISLA. The revisions to the article provide the membership needed to maintain the board of RISLA.

SECTION 4.

Sections 35-1.1-2(6) and 35-1.1-9(b) were deleted which authorized an audit function within the Office of Management and Budget. The Bureau of Audits’ statutory powers are being restored in the revised article and five (5) FTEs are being restored in revisions proposed for article 1.

SECTION 6.

Section 35-3-24.1(c)(2) regarding program performance measurement was amended to authorize coordination between the Office of Management and Budget and the Bureau of Audits regarding audit recommendations and management solutions.

Section 35-7-3.1 of the original article has been deleted regarding the cost of forensic examinations.

SECTION 8.

Most of Section 8 from the original article has been deleted with the exception of Section 35-7-3. This section has been amended to create an Internal Audit Oversight Committee. The primary purposes of the Committee are to ensure that the internal auditors are monitoring critical controls and identifying and addressing emerging risks and to adopt an annual strategic internal audit plan that takes into consideration the risk-based evaluation conducted by the bureau.

SECTION 9.

The low-income home energy assistance program (LIHEAP) and weatherization assistance program (WAP) are transferred from Office of Energy Resources to Department of Human Services and language was added to clarify the meaning of LIHEAP. This transfer was enacted in the FY 2012 budget and is effective on July 1, 2012.

SECTION 10.

Section 23-82-4 regarding the implementation of the Regional greenhouse gas initiative has been added to the article in order clarify the auction allowance process. The Department of Environmental Management (DEM) will continue to have regulatory and permitting authority over greenhouse gases however this amendment removes the requirement that DEM have regulations regarding the use of auction allowances.

Section 23-82-6 regarding the use of auction or sale proceeds clarifies that only the Office of Energy Resources should promulgate regulations regarding the use of the auction allowances in order to avoid bureaucratic duplication of the rule making process. The authorized uses of the auction proceeds have been amended to clarify the difference between cost-effective energy efficiency projects and cost-effective renewable energy projects.

The language regarding the carry-over of the administrative funding for the program has been clarified. Language has been added to exempt the administrative funding from indirect cost recovery provisions of law.

Finally, language has been added to provide more transparency regarding how auction proceeds are used and the funding support provided to both energy efficiency and renewable energy projects. The reporting date has been changed to April 15 to coincide with other annual reports the Council and the Office of Energy Resources have to submit.

SECTION 11.

Section 39-1-27.7 regarding system reliability and least-cost procurement has been added to the revised article. This section requires that the Public Utilities Commission allocate 1% of the existing demand-side management gas and electric funds be used to support innovative energy technologies and research and development activities located in Rhode Island. Such uses can include but not be limited to research and analytic capacities of institutions of higher education and for efforts that reduce carbon emissions, promote efforts around energy efficiency, distributed generation, system reliability, demand response, renewable energy, and reduce energy consumption from traditional and/or fossil fuel sources. The Office of Energy Resources is required to establish a plan for the recommended use of such funds and file the plan with the PUC within ninety (90) days of the effective date of the act. The PUC shall issue an order approving the plan within sixty (60) days of the filing.

SECTION 12.

Section 39-2-1.2 regarding the utility base rate has been amended to restore language that defined the criteria to rank qualified renewable energy projects. This language was mistakenly deleted in the original article.

Subsection (d) has been added to the article to provide adequate time for OER to promulgate rules for the renewable energy fund. This subsection authorizes OER to promulgate emergency rules to allow for an orderly transition of the Renewable Energy Fund from the Rhode Island Economic Development Corporation to the OER. Final rules must be promulgated no later than December 31, 2012.

Subsection (j) has been significantly revised to address concerns that the independence of the Energy Efficiency and Resources Management Council (EERMC) was being eliminated in the original article. The revisions provide that the EERMC maintains its financial independence from

OER. The Commission is required to allocate two percent (2%) of the demand-side management funds for the purposes of retaining expert consultants and reasonable administrations costs of the energy efficiency and resources management council and the OER associated with planning, management, and evaluation of energy efficiency programs, renewable energy programs, system reliability, least-cost procurement, and with regulatory proceedings, contested cases, and other actions pertaining to the purposes, powers and duties of the council and OER.

EERMC will now be allocated one and two hundredths percent (1.2%) of the funds and OER will be allocated eight hundredths percent (0.8%) annually. Language has been added to this section to require an annual report on April 15th from both EERMC and OER regarding the use of the administrative funds including any businesses, vendors and institutions that may have been provided with some of the administrative funds.

SECTION 13.

Section 39-26-7 establishing the renewable energy development fund has been revised from the original article to authorize the OER to enter into agreements with RIEDC for the purposes of promoting economic development opportunities associated with the renewable energy development fund. The uses of the fund have been amended to allow OER to establish a residential renewable energy program using eligible technologies and to provide technical and financial assistance to municipalities for interconnection and feasibility studies, and/or the installation of renewable energy projects.

SECTION 15.

Section 42-140-3 establishing the purposes of the Office of Energy Resources has been expanded from the original article. All of the statutory responsibilities of the OER and/or the Commissioner of Energy have been added to the purposes in the revised article. Prior to this amendment the responsibilities of the OER and the Commissioner were found in multiple sections of the general laws.

Section 42-140-9 which authorizes OER to promulgate rules and regulations has been amended from the original article to allow for emergency rules to be promulgated for the renewable energy development fund due to the transfer of the fund from RIEDC to OER. This will provide OER with enough time to implement an orderly transition of the fund from RIEDC to OER.

SECTION 16.

This section in the original article has been deleted. The original section restructured the reporting and management of EERMC and OER. In order to maintain EERMC's independence this section of the original article has been deleted.

SECTION 18.

The original effective date of the article was "upon passage." This amendment makes the article effective as of July 1, 2012.

REVISED ARTICLE 4 (5/14/12)

RELATING TO GOVERNMENTAL ORGANIZATION

SECTION 1. Section 16-62-7 of the General Laws in Chapter 16-62 entitled "The Rhode Island Student Loan Authority" is hereby amended to read as follows:

§ 16-62-7 Directors, officers, and employees. – (a) The powers of the authority shall be vested in a board of directors consisting of six (6) members as follows: five (5) members appointed by the governor to the Rhode Island higher education assistance authority from among members of the general public, who are qualified by training or experience in education, finance, or personal investment consulting and made in accordance with subsection (b) of this section as provided in § 16-57-7, all appointments and are subject to the advice and consent of the senate; and the general treasurer, ex-officio. The general treasurer may designate a subordinate within his or her department or agency to represent him or her at all meetings of the board.

(b) All members appointed by the governor shall be appointed to terms of five (5) years, and the governor shall, during the month of January preceding the expiration of each term, appoint a member whose term will then next expire. In the event of a vacancy occurring in the office of a member by death, resignation, removal, or otherwise, the vacancy shall be filled in the same manner as an original appointment but only for the remainder of the term of the former member.

(b)(c) The directors shall receive no compensation for the performance of their duties under this chapter, but each director shall be reimbursed for his or her reasonable expenses incurred in carrying out those duties. A director may engage in private employment, or in a profession or business.

(e)(d) The board of directors shall elect one of its members to serve as chairperson. Four (4) directors shall constitute a quorum and any action to be taken by the authority under the provisions of this chapter may be authorized by resolution approved by a majority of the directors present and voting at any regular or special meeting at which a quorum is present. A vacancy in the membership of the board of directors shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

(d)(e) In addition to electing a chairperson, the board of directors shall appoint a secretary and any additional officers and staff members as they shall deem appropriate and shall determine the amount of compensation, if any, each shall receive. The board of directors may appoint a chief executive officer and vest in that person or his or her subordinates the authority to appoint additional staff members and to determine the amount of compensation each individual shall receive.

(e)(f) No fulltime employee shall during the period of his or her employment by the authority engage in any other private employment, profession, or business, including, but not limited to, consulting.

(f)(g) Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for a director, officer, or employee of any financial institution, investment banking firm, brokerage firm, commercial bank, trust company, savings and loan association, credit union, insurance company, educational institution, or any other firm, person, or corporation to serve as a director of the authority nor shall any contract or transaction between the authority and any financial institution, investment banking firm, brokerage firm, commercial bank, trust company, savings and loan association, credit union, insurance company, educational institution, or any other firm, person, or corporation be void or voidable by reason of any service as director of the authority. If any director, officer, or employee of the authority shall be interested either directly or indirectly, or shall be a director, officer, or employee of or have an ownership interest (other than as the owner of less than one percent (1%) of the shares of a publicly held corporation) in any firm or corporation interested directly or indirectly in any contract with the authority, that interest shall be disclosed to the authority and set forth in the minutes of the authority, and the director, officer, or employee having that interest in it shall not participate on behalf of the authority in the authorization of this contract. Interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors of the authority which authorizes the contract or transaction.

(g)(h) Any action taken by the authority under the provisions of this chapter may be authorized by vote at any regular or special meeting, and each vote shall take effect immediately.

(h)(i) The board of directors may designate from among its members an executive committee and one or more other committees each of which, to the extent authorized by the board of directors, shall have

and may exercise all the authority of the board of directors, but no committee shall have the authority of the board of directors in reference to the disposition of all or substantially all the property and assets of the authority, or amending the bylaws of the authority.

(i) Any action required by this chapter to be taken at a meeting of the board of directors, or any action which may be taken at a meeting of the board of directors, or committee of it, may be taken without a meeting if a consent in writing, setting forth the action to be taken, shall be signed before or after that action by all of the directors, or all of the members of the committee.

(k) The board shall conduct a training course for newly appointed and qualified members and new designees of ex-officio members within six (6) months of their qualification or designation. The course shall be developed by the chair of the board, approved by the board, and conducted by the chair of the board. The board may approve the use of any board or staff members or other individuals to assist with training. The training course shall include instruction in the subject area of this chapter and chapters 46 of title 42, 14 of title 36, and 2 of title 38; and the board's rules and regulations. The director of the department of administration shall, within ninety (90) days of the effective date of this act, disseminate training materials relating to the provisions of chapters 46 of title 42, 14 of title 36, and 2 of title 38.

SECTION 2. Sections 16-57-1, 16-57-3 through 16-57-6.1, 16-57-6.3, 16-57-6.5, 16-57-7 through 16-57-8, 16-57-10 through 16-57-15 and 16-57-17 in Chapter 16-57 of the General Laws entitled "Higher Education Assistance Authority" are hereby amended to read as follows:

§ 16-57-1 Short title. – This chapter shall be known as the "Rhode Island Higher Education Assistance Authority Act".

§ 16-57-3 Definitions. – As used in this chapter, the following words and terms have the following meanings unless the context indicates another or different meaning or intent:

(1) "Authority" means the governmental agency and public instrumentality previously authorized, created, and established pursuant to §-16-57-4.

(2) "Board" means the Board of Governors for Higher Education authorized, created, and established pursuant to section 16-59-1 et seq, and further authorized pursuant to section 16-57-4.

~~(2)~~(3) "Commissioner of higher education" means the commissioner appointed by the Rhode Island board of governors for higher education or his or her designee.

~~(3)~~(4) "Eligible borrower" means a student, or the parent of a student, who is either a resident of the state or who, under rules promulgated by the authority, is qualified to make an eligible loan.

~~(4)~~(5) "Eligible institution", subject to further particular or more restrictive definition by regulation of the authority, means:

(i) An institution of higher learning;

(ii) A vocational school; or

(iii) With respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the authority and by the commissioner for purposes of the guaranteed student loan program.

~~(5)~~(6) "Eligible loan" means a loan to a student or to the parent of a student insured or guaranteed by the commissioner, by the authority, or by any other governmental or private agency, corporation, or organization having a reinsurance or guaranty agreement with the commissioner applicable to the student loan.

~~(6)~~(7) "Guaranteed student loan program" means the program of federal student loan insurance and reinsurance administered by the commissioner.

~~(7)~~(8) "Lender", subject to further particular or more restrictive definition by regulation of the authority, means any governmental or private agency, corporation, organization, or institution designated as an "eligible lender" by federal statute, regulation, or administrative ruling for the purposes of the guaranteed student loan program.

~~(8)~~(9) "Participant" means an individual, corporation, trust or other "person" within the meaning of § 529 of the Internal Revenue Code [26 U.S.C. § 529], who makes contributions to the tuition savings program established pursuant to § 16-57-6.1 for purposes of paying qualified higher education expenses on behalf of a beneficiary.

(9)(10) "Participating institution" means an institution for higher education which agrees to participate in a savings program or prepaid tuition program established pursuant to this chapter.

(10)(11) "Prepaid tuition program" means a program administered by the authority, in conjunction with the executive director of the Rhode Island Student Loan Authority, and the commissioner of higher education, which provides a means for qualified students, parents and others responsible for paying the costs of education to fix all or a portion of the direct cost of attendance at participating institutions in one or more future years.

(11)(12) "Program" means the tuition savings program established pursuant to § 16-57-6.1.

(12)(13) "Qualified higher education expenses" means the costs of tuition, fees, books, supplies and equipment required for enrollment or attendance at an institution of higher education, and other education costs defined by federal law.

(13)(14) "Secretary" means the United States secretary of education.

(14)(15) "State" means the state of Rhode Island and Providence Plantations.

(15)(16) "Student", as used with reference to the guaranteed student loan program and the parent loan program, means an individual who, under rules promulgated by the authority, is enrolled or accepted for enrollment at an eligible institution and who is making suitable progress in his or her education toward obtaining a degree or other appropriate certification in accordance with standards acceptable to the authority.

(16)(17) "Tuition savings program" or "Savings program" means a program approved and administered by the authority, in conjunction with the executive director of the Rhode Island Student Loan Authority, and the commissioner of higher education, designed to facilitate and encourage savings by or on behalf of students, future students and parents for the purpose of paying the costs of attending institutions of higher education.

§ 16-57-4 Creation Authorization. – (a) ~~There is authorized, created, and established a public corporation of the state having a distinct legal existence from the state and not constituting a department of state government, which is a governmental agency and public instrumentality of the state, to be known~~

as the "Rhode Island higher education assistance authority" with the powers set forth in this chapter. The Board of Governors for Higher Education is hereby granted and authorized to use all of the powers conferred by and set forth in this chapter, for the purposes of guaranteeing eligible loans to students in eligible institutions and to parents of those students and of administering other programs of postsecondary student financial assistance assigned by law to the authority.

(b) The exercise by the authority board of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the state for public purposes. It is the intent of the general assembly by the passage of this chapter to vest in the authority board all powers, authority, rights, privileges, and titles which may be necessary to enable it to accomplish the purposes set forth in this section and this chapter and the powers granted by it shall be liberally construed in conformity with these purposes.

(c) The authority and its corporate existence shall ~~continue until be terminated on September 1, 2012, and terminated by law or until the authority shall cease entirely and continuously to conduct or be involved in any business in furtherance of its purposes; provided, that no termination shall take effect so long as the authority shall have guaranties or other obligations outstanding, unless adequate provision shall have been made for the payment of the obligations pursuant to the documents securing them or to this law. Upon termination of the existence of the authority~~, all its rights, obligations and properties shall pass to and be vested in the stateboard. At no time shall the assets or other property of the authority inure to the benefit of any person or other corporation or entity.

§ 16-57-5 General powers. – The authority board shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including without limiting the generality of the foregoing the power:

- (1) To sue and be sued, complain and defend, in its corporate name.
- (2) To have a seal which may be altered at pleasure and to use the seal by causing it, or a facsimile of it, to be impressed or affixed or in any other manner reproduced.

(3) To acquire the assets and assume the liabilities or to effect the merger into itself of any corporation or other organization incorporated or organized under the laws of this state, which corporation or organization has as its principal business the guaranteeing of loans to students in eligible institutions, all upon any terms and for any consideration as the authority shall deem to be appropriate.

(4) To make contracts and guarantees and incur liabilities, and borrow money at any rates of interest as the authority may determine.

(5) To make and execute all contracts, agreements, and instruments necessary or convenient in the exercise of the powers and functions of the authority granted by this chapter.

(6) To lend money for its purposes, and to invest and reinvest its funds.

(7) To conduct its activities, carry on its operations, and have offices and exercise the powers granted by this chapter, within or without the state.

(8) To elect, appoint, or employ in its discretion officers and agents of the authority board, and define their duties.

(9) To make and alter bylaws, not inconsistent with this chapter, for the administration and regulation of the affairs of the authority board, and the bylaws may contain provisions indemnifying any person who is or was a director, officer, employee, or agent of the authority and/or the board, in the manner and to the extent provided in § 7-1.2-814.

(10) To have and exercise all powers necessary or convenient to effect its purposes.

§ 16-57-6 Additional general powers. – (a) In addition to the powers enumerated in § 16-57-5, the authority board shall have power:

(1) To guarantee one hundred percent (100%) of the unpaid principal and accrued interest of any eligible loan made by a lender to any eligible borrower for the purpose of assisting the students in obtaining an education in an eligible institution.

(2) To procure insurance of every nature to protect the authority against losses which may be incurred in connection with its property, assets, activities, or the exercise of the powers granted under this chapter.

(3) To provide advisory, consultative, training, and educational services, technical assistance and advice to any person, firm, partnership, or corporation, whether the advisee is public or private, in order to carry out the purposes of this chapter.

(4) When the authority board deems it necessary or desirable, to consent to the modification, with respect to security, rate of interest, time of payment of interest or principal, or any other term of a bond or note, contract, or agreement between the authority and/or the board and the recipient or maker of a loan, bond, or note holder, or agency or institution guaranteeing the repayment of, purchasing, or selling an eligible loan.

(5) To engage the services of consultants on a contract basis for rendering professional and technical assistance and advice, and to employ attorneys, accountants, financial experts, and any other advisers, consultants, and agents as may be necessary in its judgment, and to fix their compensation.

(6) To contract for and to accept any gifts, grants, loans, funds, property, real or personal, or financial or other assistance in any form from the United States or any agency or instrumentality of the United States, or from the state or any agency or instrumentality of the state, or from any other source, and to comply, subject to the provisions of this chapter, with the terms and conditions of those entities. Loans provided pursuant to subsection (b) of this section shall be repaid to the authority board and deposited as general revenues of the state.

(7) To prescribe rules and regulations deemed necessary or desirable to carry out the purposes of this chapter, including without limitation rules and regulations:

(i) To insure compliance by the authority with the requirements imposed by statutes or regulation governing the guaranty, insurance, purchase, or other dealing in eligible loans by federal agencies, instrumentalities, or corporations,

(ii) To set standards of eligibility for educational institutions, students, and lenders and to define residency and all other terms as the authority deems necessary to carry out the purposes of this chapter, and

(iii) To set standards for the administration of programs of postsecondary student financial assistance assigned by law to the ~~authority~~ board, including but not limited to savings programs. Administrative rules governing savings programs shall authorize the ~~authority~~ board, in conjunction with ~~the executive director of the Rhode Island student loan authority~~ and the commissioner of higher education, to negotiate reciprocal agreements with institutions in other states offering similar savings programs for the purpose of maximizing educational benefits to residents, students and institutions in this state.

(iv) The provisions of the administrative procedures act, chapter 35 of title 42, shall not apply to this chapter.

(8) To establish penalties for violations of any order, rule, or regulation of the ~~authority~~ board, and a method for enforcing these.

(9) To set and collect fees and charges, in connection with its guaranties and servicing, including without limitation reimbursement of costs of financing by the ~~authority~~ board, service charges, and insurance premiums and fees and costs associated with implementing and administering savings programs established pursuant to this chapter. Fees collected due to the Rhode Island work study program or due to unclaimed checks shall be deposited as general revenues of the state.

(10) To enter into an agreement with any university to secure positions for Rhode Island applicants in a complete course of study in its school of veterinary medicine, medicine, dentistry, optometry, and three (3) positions in osteopathic medicine and to guarantee and pay the university for each position.

(11) To enter into agreements with loan applicants providing preferential rates and terms relative to other applicants; provided, that the loan applicants agree to work in a licensed child care facility in Rhode Island for at least two (2) years upon completion or graduation in a course of study in early childhood education or child care.

(12) To develop and administer, in conjunction with ~~the executive director of the Rhode Island student loan authority~~ and the commissioner of higher education, savings programs on behalf of itself, the

state, students, parents, or any other private parties, all in cooperation with any other public and private parties and in accordance with any criteria or guidelines as the authority board shall deem appropriate to effectuate the purposes of this chapter. To the extent practicable, these savings programs shall provide students, parents, and others an opportunity to participate conveniently and shall enable them to set aside relatively small amounts of money at a time and shall incorporate or be available in conjunction with, directly or indirectly, tuition agreements from as many eligible institutions as feasible.

(13) In connection with any savings program, the authority board may accept, hold, and invest funds of students, parents, institutions of higher education, and others and may establish special accounts for carrying out the purposes of this chapter.

(14) To enter into contracts with institutions of higher education, financial institutions, financial consultants, attorneys, and other qualified entities on terms and conditions and for a term as it may deem advisable or desirable for the purpose of establishing and maintaining savings programs authorized pursuant to this chapter.

(15) To create and supervise a marketing plan dedicated to the promotion of savings programs created pursuant to this chapter and to hire professional consultants and attorneys for these purposes.

(16) To assist the general treasurer in the implementation of the college and university savings bond program established under chapter 15 of title 35.

(b) The authority board shall enter into agreements with the prospective students to the university for the repayment by the students of the money advanced under any terms and conditions as are reasonable. The authority board may charge students interest on the money advanced under this chapter at a fixed or variable rate not exceeding the greater of seven and one-half percent (7 1/2%) per annum or the maximum rate allowable under 42 U.S.C. § 292 et seq. and the regulations promulgated under that act by the United States office of education.

§ 16-57-6.1 Tuition savings program. – (a) The authority board shall, in conjunction with the ~~executive director of the Rhode Island student loan authority~~ general treasurer and the commissioner of

higher education, establish in any form as it deems appropriate, a tuition savings program to allow persons to save money for the sole purpose of meeting qualified higher education expenses.

(b) All money received in connection with the tuition savings program shall be segregated from all other funds of the ~~authority board~~ into two (2) funds, a program fund and an administrative fund. No more than two percent (2%) of money in the program fund may be transferred annually to the administrative fund for the purpose of paying operating costs of administering the tuition savings program. Money accrued by participants in the program fund may be used for payments to an eligible institution.

(c) The state investment commission shall invest money within the program fund in any investments which are authorized by the general laws, including equities and fixed income securities. The composition of investments shall be determined by the state investment commission, subject to the approval of the ~~authority board~~. The state investment commission shall consider the recommendations of the commissioner of higher education and the ~~executive director of the Rhode Island Student Loan Authority~~ general treasurer with respect to the appropriate composition of investments within the program fund.

(d) A participant may at any time withdraw funds from the participant's account in the tuition savings program in an amount up to the value of the account at the time the withdrawal is implemented, less such administrative fee as may be levied by the authority in connection with the withdrawal.

(e) Notwithstanding any of the foregoing provisions, no administrative fee may be levied by the ~~authority board~~ in the event that a participant requests withdrawal of funds from the participant's account in the tuition savings program on account of, and within the meanings of § 529 of the Internal Revenue Code [26 U.S.C. § 529]:

- (1) The death of the beneficiary of the account;
- (2) The disability of the beneficiary; or
- (3) A scholarship, allowance, or payment received by the beneficiary to the extent that the amount of the refund does not exceed the amount of the scholarship, allowance, or payment.

(f) In the event that a participant requests a withdrawal from an account in the tuition savings program other than (1) a withdrawal used for qualified higher education expenses of the beneficiary of the account, or (2) for a reason referred to in subdivision (e)(1), (e)(2), or (e)(3) of this section, the authority board shall impose a more than de minimus penalty on the earnings portion of the withdrawal in accordance with § 529 of the Internal Revenue Code [26 U.S.C. § 529]; provided that no penalty shall be imposed with respect to any such withdrawal, or any other withdrawal, from any account in the tuition savings plan to which the tax made applicable by § 529 of the Internal Revenue Code [26 U.S.C. § 529] is effective.

(g) Resources of the authority board and the Rhode Island student loan authority shall be employed to effect implementation of the tuition savings program.

§ 16-57-6.3 Tax exempt earnings. – (a) For state income tax purposes, annual earnings of the tuition savings program and the prepaid tuition program shall be exempt from tax to the program, and shall not be includible in the Rhode Island income of either beneficiaries or participants in the program until withdrawn or distributed from it, and then in accordance with chapter 30 of title 44.

(b) The tax administrator, in consultation with the authority board, may adopt rules and regulations necessary to monitor, implement, and administer the Rhode Island personal income tax provisions referred to in subsection (a) relating to this chapter. These regulations shall provide for each taxable year for the timely submission to the tax administrator by the program manager of the tuition savings program of this information in the form the tax administrator shall prescribe concerning contributions to, and withdrawals including transfers and rollovers from, the tuition savings program during that year.

§ 16-57-6.5 Annual audited financial report to the governor and general assembly. – (a) The authority board, shall submit to the governor, the speaker of the house of representatives, the president of the senate, and the secretary of state an annual audited financial report, prepared in accordance with generally accepted accounting principles, on the operations of the tuition savings program by November 1 of each year. The annual audit shall be made either by the auditor general or by an independent certified

public accountant approved by the auditor general and shall include direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not state employees.

(b) The annual audited financial report shall be supplemented by the following information, to be submitted by April 1 of each year, on the operations of the program for the previous calendar year:

(1) A summary of meetings or hearings held, meeting minutes, subjects addressed, decisions rendered, rules or regulations promulgated, studies conducted, policies and plans developed, approved, or modified, and programs administered or initiated; and a summary of any clerical, administrative or technical support received; a summary of performance during the previous fiscal year including accomplishments, shortcomings and remedies; a synopsis of hearings, complaints, suspensions or other legal matters related to the authority of the board; a summary of any training courses held pursuant to subsection 16-57-7(a)(2); a briefing on anticipated activities in the upcoming fiscal year; and findings and recommendations for improvements;

(2) A summary of the benefits provided by the tuition savings program including the number of participants and beneficiaries;

(3) Any other information which is relevant in order to make a full, fair and effective disclosure of the assets and operations of the program; and

(4) The foregoing supplemental information shall be posted electronically on the general assembly's and the secretary of state's websites as prescribed in § 42-20-8.2 of the Rhode Island general laws. The director of the department of administration shall be responsible for the enforcement of this provision.

§ 16-57-7 Directors, Officers, and employees. – (a) ~~The powers of the authority shall be vested in a board of directors consisting of nine (9) members, five (5) of whom shall be appointed by the governor from among members of the general public, who are qualified by training or experience in education finance or personal investment consulting and made in accordance with subsection (b) of this section; three (3) of whom shall be appointed by the governor, who shall give due consideration to the~~

~~recommendations made by the chairperson of the board of governors for higher education and by the Rhode Island Independent Higher Education Association for those appointments; and the state general treasurer ex officio or his or her designee who shall be a subordinate from within the office of the general treasurer. All gubernatorial appointments made to this board shall be subject to the advice and consent of the senate. All board members first appointed to the board after the effective date of this act shall be residents of this state. Designees of members serving ex officio shall represent him or her at all meetings of the board. Except for the chairpersons of the house and senate finance committees or their designees who shall cease to be members of the authority upon the effective date of this act, each member shall serve until his or her successor is appointed and qualified. The original members appointed by the governor shall be appointed in a manner as to provide for the expiration of the term of one member on the first day of July of each year.~~

~~(2) Newly appointed and qualified public members and designees of ex officio members shall, within six (6) months of their qualification or designation, attend a training course that shall be developed with board approval and conducted by the chair of the board and shall include instruction in the following areas: the provisions of chapters 16-57, 42-46, 36-14 and 38-2; and the board's rules and regulations. The director of the department of administration shall, within ninety (90) days of the effective date of this act, prepare and disseminate training materials relating to the provisions of chapters 42-46, 36-14 and 38-2.~~

~~(3) Public members of the board shall be removable by the appointing authority for cause only, and removal solely for partisan or personal reasons unrelated to capacity or fitness for the office shall be unlawful.~~

~~(b) During the month of June of each year, the governor shall appoint a member to succeed the member whose term will then next expire to serve for a term of five (5) years commencing on the first day of July then next following, and after this, until a successor is appointed and qualified. As soon as practicable after the effective date of this act, the governor shall appoint a member to serve an initial term to expire on July 1, 2010. Thereafter, all members appointed by the general treasurer shall be appointed to terms of five (5) years, and the governor shall, during the month of June preceding the expiration of each~~

~~term, appoint a member whose term will then next expire. In the event of a vacancy occurring in the office of a member by death, resignation, removal, or otherwise, the vacancy shall be filled in the same manner as an original appointment but only for the remainder of the term of the former member.~~

~~(c) The directors shall receive no compensation for the performance of their duties under this chapter, but each director shall be reimbursed for his or her reasonable expenses incurred in carrying out the duties. A director may engage in private employment or in a profession or business.~~

~~(d) Upon appointment and qualification of the original board of directors, and during the month of July of each year after this, the board of directors shall elect one of its members to serve as chairperson. The board may elect from among its members such other officers as they deem necessary. Five (5) directors shall constitute a quorum and any action to be taken by the authority under the provisions of this chapter may be authorized by resolution approved by a majority of the directors present and voting at any regular or special meeting at which a quorum is present. A vacancy in the membership of the board of directors shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority.~~

~~(e) In addition to electing a chairperson, the board of directors shall appoint a secretary and any additional officers and staff members as they shall deem appropriate. The board of directors shall appoint an executive director who shall be in the unclassified service and vest in that person or his or her subordinates the authorization to appoint The board, acting through the commissioner of higher education, shall appoint additional staff members who shall be in the non-classified service and to determine the amount of compensation each individual shall receive. Those persons who were regularly established full time employees of the authority, prior to March 27, 1979, and who are required to be in the classified service may be placed in appropriate classifications within the classified service without the requirement of competitive examination (as approved by the executive director). All employees hired after March 27, 1979, will be hired in accordance with the requirements of the classified service for examination, approved state lists, and other procedures of the state division of personnel. Those persons who were regularly established full time employees of the authority, prior to March 27, 1979, shall have~~

the right to purchase retirement credits for the period commencing November 1, 1977, to March 27, 1979, at the its full actuarial cost.

~~(2) Any All employees, in either the classified or unclassified service who was, prior to his or her hiring by the authority, a participant in the retirement program adopted for personnel at any state or private college shall have the option to either remain with that retirement program while an employee of the authority or become a participant in the employees' retirement system of the state. shall be required to participate in the board's alternate retirement program upon becoming eligible for membership in that program and shall have the options, if applicable, as required by and set forth in 16-17.1-1 et seq.~~

~~(f)(b) No full time employee shall during the period of his or her employment by the authority board engage in any other private employment, profession, or business, except with the approval of the board of directors; provided, that the executive director shall not engage in any other private employment, profession, or business, including, but not limited to consulting.~~

~~(g)(c) Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for a director, officer, or employee of any financial institution, investment banking firm, brokerage firm, commercial bank, trust company, savings and loan association, credit union, insurance company, educational institution, or any other firm, person, or corporation to serve as a director member of the authority board, nor shall any contract or transaction between the authority board and any financial institution, investment banking firm, brokerage firm, commercial bank, trust company, savings and loan association, credit union, insurance company, educational institution, or any other firm, person, or corporation be void or voidable by reason of any service as director a member of the authority board. If any director, officer, or employee of the authority board shall be interested either directly or indirectly, or shall be a director, officer, or employee of or have an ownership interest (other than as the owner of less than one percent (1%) of the shares of a publicly held corporation) in any firm or corporation interested directly or indirectly in any contract with the authority, the interest shall be disclosed to the authority board and set forth in the minutes of the authority board, and the director, officer, or employee having interest in this shall not participate on behalf of the authority in the authorization of any contract.~~

Interested ~~directors~~ members may be counted in determining the presence of a quorum at a meeting of the board of ~~directors of the authority~~ which authorizes the contract or transaction.

(h)(d) Any action taken by the authority board under the provisions of this chapter may be authorized by vote at any regular or special meeting, and each vote shall take effect immediately.

(i)(e) The board of ~~directors~~ may designate from among its members an executive committee and one or more other committees each of which, to the extent authorized by the board of ~~directors~~, shall have and may exercise all the authority of the board of ~~directors~~ set forth in this chapter, but no committee shall have the authority of the board of ~~directors~~ in reference to the disposition of all or substantially all the property and assets of the authority board or amending the bylaws of the authority board.

§ 16-57-8 Designated agency. – The authority board is designated the state agency or corporation to apply for, receive, accept, and disburse federal funds, and funds from other public and private sources, made available to the state for use as reserves to guarantee student loans or as administrative money to operate student loan programs, and is designated to administer any statewide programs of student assistance that shall be established under federal law.

§ 16-57-10 Reserve funds. – To assure the continued operation and solvency of the authority board for the carrying out of its corporate purposes as set forth in this chapter, the authority board may create and establish any reserve funds as may be necessary or desirable for its corporate purposes, and may pay into the funds any money appropriated and made available by the state, the commissioner, or any other source for the purpose of the funds, and any money collected by the authority as fees for the guaranty of eligible loans.

§ 16-57-11 Exemption from taxation. – (a) The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of this state, the increase of their commerce, welfare, and prosperity and for the improvement of their living conditions and will constitute the performance of an essential governmental function and the authority board shall not be required to pay any taxes or assessments upon or in respect of any transaction or of any property or money of the authority board, levied by any municipality or political subdivision of the state.

(b) The authority board shall not be required to pay state taxes of any kind, and the authority board, its property, and money shall at all times be free from taxation of every kind by the state and by the municipalities and all political subdivisions of the state. The authority board shall not be required to pay any transfer tax of any kind on account of instruments recorded by it or on its behalf.

§ 16-57-12 Credit of state. – Guaranties made under the provisions of this chapter shall not constitute debts, liabilities, or obligations of the state or of any political subdivision of the state other than the authority board or a pledge of the faith and credit of the state or any political subdivision other than the authority board, but shall be payable solely from ~~the revenues or assets of the authority~~ reserve funds set forth and established by the board pursuant to section 16-57-10.

§ 16-57-13 Authorization to accept appropriated money. – The authority board is authorized to accept any money as may be appropriated by the general assembly for effectuating its corporate purposes including, without limitation, the payment of the initial expenses of administration and operation and the establishment of reserves or contingency funds to be available for the payment of obligations of the authority board and to reimburse the authority for sums forgiven pursuant to § 16-41-5.

§ 16-57-14 Assistance by state officer, departments, boards, and commissions. – (a) All state agencies may render any services to the authority within their respective functions as may be requested by the authority board.

(b) Upon request of the authority board, any state agency is authorized and empowered to transfer to the authority board any officers and employees as it may deem necessary to assist the authority board in carrying out its functions and duties under this chapter. Officers and employees transferred shall not lose their civil service status or rights.

§ 16-57-15 Annual report. – The authority board shall submit to the governor within four (4) months after the close of its fiscal year a report of its activities for the preceding fiscal year, and the report shall set forth a complete operating and financial statement covering the authority's board's operations under this chapter during the preceding fiscal year. The authority board shall include in its report the names and addresses of each recipient. The authority board shall cause an audit of its books and accounts

related to its operation under this chapter to be made at least once each fiscal year by certified public accountants selected by it and its cost shall be paid by the authority board from funds available to it pursuant to this chapter.

§ 16-57-17 Other statutes. – Nothing contained in this chapter shall restrict or limit the powers of the authority board arising under any laws of this state except where those powers are expressly contrary to the provisions of this chapter. This chapter shall be construed to provide a complete additional and alternative method for doing the things authorized by it and shall be regarded as supplemental and in addition to the powers conferred by other laws. The making of any guaranty under the provisions of this chapter need not comply with the requirements of any other statute applicable to the making of guaranties. Except as provided in this chapter no proceedings or notice of approval shall be required for the making of any guaranty.

SECTION 3. Section 16-59-4 of the General Laws in Chapter 16-59 entitled “Board of Governors for Higher Education” is hereby amended to read as follows:

§ 16-59-4 Powers and duties of board. – The board of governors for higher education shall have, in addition to those enumerated in § 16-59-1, the following powers and duties:

(1) To approve a systematic program of information gathering, processing, and analysis addressed to every level, aspect, and form of higher education in this state especially as that information relates to current and future educational needs so that current needs may be met with reasonable promptness and plans formulated to meet future needs as they arise in the most efficient and economical manner possible.

(2) To approve a master plan defining broad goals and objectives for higher education in the state including a comprehensive capital development program. These goals and objectives shall be expressed in terms of what men and women should know and be able to do as a result of their educational experience. The board of governors shall continuously evaluate the efforts and results of education in the light of these objectives.

(3) To formulate broad policy to implement the goals and objectives established and adopted by the board of governors, to adopt standards and require enforcement and to exercise general supervision

over all higher public education in the state and over independent higher education in the state as provided in subdivision (8) of this section. The board of governors shall not engage in the operation or administration of any subordinate committee, university, junior college, or community college, except its own office of higher education and except as specifically authorized by an act of the general assembly; provided, the presidents of each institution of higher learning shall be the chief administrative and executive officers of that institution; and provided that nothing contained in this section shall prohibit their direct access to or interfere with the relationship between the presidents and the board of governors. The adoption and submittal of the budget, the approval of tables of organization, the creation, abolishment, and consolidation of departments, divisions, programs, and courses of study, and the acquisition, holding, disposition, and general management of property shall not be construed to come within the purview of the preceding prohibition. The board shall communicate with and seek the advice of the commissioner of higher education and all those concerned with and affected by its determinations as a regular procedure in arriving at its conclusions and in setting its policy.

(4) To prepare and maintain a five (5) year funding plan for higher education; to prepare with the assistance of the commissioner of higher education and to present annually to the state budget officer in accordance with § 35-3-4 a state higher educational budget, which shall include, but not be limited to, the budget of the office of higher education and the budget of the state colleges. In the preparation of the budget, the board shall determine priorities of expenditures for public higher education purposes of state revenues and other public resources made available for the support of higher public education. Nothing contained in this subdivision shall authorize the board to alter the allocation of grants or aid otherwise provided by law.

(5) To maintain an office of higher education; to provide for its staffing and organization; and to appoint a commissioner of higher education pursuant to § 16-59-6, who shall serve at its pleasure. The commissioner of higher education and the office of higher education shall have the duties and responsibilities as defined in §§ 16-59-6 and 16-59-7.

(6) To appoint and dismiss presidents of the public institutions of higher learning with the assistance of the commissioner of higher education, and to establish procedures for this, and with the assistance of the commissioner to approve or disapprove vice presidents of the public institutions of higher learning appointed by the respective presidents of the public institutions of higher learning.

(7) To establish other educational agencies or subcommittees necessary or desirable for the conduct of any or all aspects of higher education and to determine all powers, functions, and composition of any agencies or subcommittees and to dissolve them when their purpose shall have been fulfilled.

(8) To exercise the authority vested in the board of regents for education with relation to independent higher educational institutions within the state under the terms of chapter 40 of this title, and other laws affecting independent higher education in the state.

(9) To enforce the provisions of all laws relating to higher education, public and independent.

(10) To be responsible for all the functions, powers, and duties which were vested in the board of regents for education relating to higher education, including but not limited to the following specific functions:

(i) To approve the tables of organization at public institutions of higher learning with the assistance of the commissioner of higher education.

(ii) To adopt and require standard accounting procedures for the office of higher education and all public colleges and universities.

(iii) To create, abolish, and consolidate departments, divisions, programs, and courses of study within the public colleges and universities with the assistance of the commissioner of higher education after consultation with the presidents.

(iv) To establish a clear and definitive mission for each public institution of higher learning with the assistance of the commissioner of higher education.

(v) To promote maximum efficiency, economy, and cooperation in the delivery of public higher educational services in the state and cooperation with independent institutions of higher education.

(11) To incorporate into its own affirmative action reporting process periodic reports monitoring specific faculty and staff searches by the chairperson of the search committee to include the rationale for granting those interviews and the final hiring results. The institutions must empower its affirmative action officer to monitor searches in this manner, to intervene during the search, and, when necessary, to cause a search to cease if affirmative action goals are not being adequately served.

(12) To incorporate a specific category for accountability on affirmative action goals and implementation as part of the board's annual evaluations and three (3) year reviews for the presidents of each of the public institutions of higher education.

(13) To make a formal request of the governor that whenever an opportunity arises to make new appointments to the board, that the governor make every effort to increase the number of African Americans, Native Americans, Asians, and Hispanics on the board.

(14) Within ninety (90) days after the end of each fiscal year, the board shall submit an annual report to the governor, the speaker of the house of representatives, and the president of the senate of its activities during that fiscal year. The report shall provide: an operating statement summarizing meetings or hearings held, subjects addressed, decisions rendered, rules or regulations promulgated, studies conducted, policies and plans developed, approved, or modified, and programs administered or initiated; a consolidated financial statement of all funds received and expended including the source of the funds, a listing of any staff supported by these funds, and a summary of any clerical, administrative or technical support received; a summary of performance during the previous fiscal year including accomplishments, shortcomings and remedies; a synopsis of hearings, complaints, suspensions, or other legal matters related to the authority of the board; a briefing on anticipated activities in the upcoming fiscal year; and findings and recommendations for improvements. The director of the department of administration shall be responsible for the enforcement of the provisions of this subsection.

(15) The board shall conduct a training course for newly appointed and qualified members within six (6) months of their qualification. The course shall be developed by the chairperson of the board, approved by the board, and conducted by the chairperson of the board. The board may approve the use of

any board or staff members or other individuals to assist with training. The training course shall include instruction in the following areas: the provisions of chapters 42-46, 36-14, and 38-2; and the board's own rules. The director of the department of administration shall, within ninety (90) days of the effective date of this act [March 24, 2006], prepare and disseminate training materials relating to the provisions of chapters 42-46, 36-14, and 38-2.

(16) To exercise the authority and powers vested in the board of governors for higher education with relation to higher education assistance, as set forth under the terms of chapter 57 of this title.

SECTION 4. Title 35 of the General Laws entitled "Public Finance" is hereby amended by adding thereto the following chapter:

CHAPTER 35-1.1

OFFICE OF BUDGET AND MANAGEMENT

35-1.1-1 Statement of Intent.- The purpose of this chapter is to establish a comprehensive public finance and management system for the State of Rhode Island that manages a data-driven budget process, monitors state departments' and agencies' performance, maximizes the application for and use of federal grants and ensures accountability and transparency regarding the use of public funds.

35-1.1-2 Establishment of the Office of Management and Budget.- There is hereby established within the department of administration an office of management and budget. This office shall serve as the principal agency of the executive branch of state government for managing budgetary functions, performance management, and federal grants management. In this capacity, the office shall:

(1) Establish an in-depth form of data analysis within and between departments and agencies, creating a more informed process for resource allocation to best meet the needs of Rhode Island citizens;

(2) Identify federal grant funding opportunities to support the Governor's and General Assembly's major policy initiatives and provide technical assistance with the application process and post-award grants management;

(3) Analyze federal budgetary issues and report on potential impacts to the State;

(4) Coordinate the budget functions of the state with performance management objectives;

(5) Maximize efficiencies in departments, agencies, advisory councils and instrumentalities of the State by improving processes and prioritizing programs;

35-1.1-3 Director of management and budget – Appointment and responsibilities. – (a)

Within the department of administration there shall be a director of management and budget, who shall be appointed by the director of administration with the approval of the governor. The director shall be responsible to the governor and director of administration for supervising the office of management and budget and for managing and providing strategic leadership and direction to the budget officer, the performance management office, and the federal grants management office.

(b) The director of management and budget shall be responsible to:

(1) Oversee, coordinate and manage the functions of the budget officer as set forth by section 35-3, program performance management as set forth by section 35-3-24.1, approval of agreements with federal agencies defined by section 35-3-25 and budgeting, appropriation and receipt of federal monies as set forth by chapter 42-41;

(2) Manage federal fiscal proposals and guidelines, and serve as the State Clearinghouse for the application of federal grants; and,

(3) Maximize the indirect cost recoveries by state agencies set forth by section 35-4-23.1.

35-1.1-4 Offices and functions assigned to the office management and budget – Powers and duties. – (a) The offices assigned to the office of management and budget include the budget office, the performance management office and the federal grants management office.

(b) The offices assigned to the office of management and budget shall:

(1) Exercise their respective powers and duties in accordance with their statutory authority and the general policy established by the governor or by the director acting on behalf of the governor or in accordance with the powers and authorities conferred upon the director by this chapter;

(2) Provide such assistance or resources as may be requested or required by the governor and/or the director;

(3) Provide such records and information as may be requested or required by the governor and/or the director, to the extent allowed under the provisions of any applicable general or public law, regulation, or agreement relating to the confidentiality, privacy or disclosure of such records or information; and,

(c) Except as provided herein, no provision of this chapter or application thereof shall be construed to limit or otherwise restrict the budget officer from fulfilling any statutory requirement or complying with any valid rule or regulation.

35-1.1-5 Federal grants management.- (a) The office of management and budget shall be responsible for managing federal grant applications, providing administrative assistance to agencies regarding reporting requirements, providing technical assistance and approving agreements with federal agencies pursuant to section 35-1-1. The director shall:

(1) Establish state goals and objectives for maximizing the utilization of federal aid programs;

(2) Ensure that the State establishes and maintains statewide federally-mandated grants management processes and procedures as mandated by the federal Office of Management and Budget;

(3) Promulgate procedures and guidelines for all state departments, agencies, advisory councils, instrumentalities of the state and public higher education institutions covering applications for federal grants;

(4) Require, upon request, any state department, agency, advisory council, instrumentality of the state or public higher education institution receiving a grant of money from the federal government to submit a report to the director of expenditures and program measures for the fiscal period in question;

(5) Ensure state departments and agencies adhere to the requirements of section 42-41-5 regarding Legislative appropriation authority and delegation thereof;

(6) Assist the state controller in managing and overseeing the disbursements of federal funds in accordance with § 35-6-42;

(7) Assist the state controller in the preparation of the Statewide Cost Allocation Plan and serve as the monitoring agency to ensure that state departments and agencies are working within the guidelines contained in the Plan; and,

(8) Provide technical assistance to agencies to ensure resolution and closure of all single state audit findings and recommendations made by the Auditor General related to Federal funding.

(b) The office of management and budget shall serve as the State Clearinghouse for purposes of coordinating federal grants, aid and assistance applied for and/or received by any state department, agency, advisory council or instrumentality of the state. Any state department, agency, advisory council, or instrumentality of the state applying for federal funds, aids, loans, or grants shall file a summary notification of the intended application with the director.

(1) When as a condition to receiving federal funds, the state is required to match the federal funds, a statement shall be filed with the notice of intent or summary of the application stating:

(i) The amount and source of state funds needed for matching purposes;

(ii) The length of time the matching funds shall be required;

(iii) The growth of the program;

(iv) How the program will be evaluated;

(v) What action will be necessary should the federal funds be canceled, curtailed, or restricted;

and,

(vi) Any other financial and program management data required by the office or by law.

(2) Except as otherwise required, any application submitted by an executive agency for federal funds, aids, loans, or grants which will require state matching or replacement funds at the time of application or at any time in the future, must be approved by the director or their designated agents prior to its filing with the appropriate federal agency. Any application submitted by an executive agency for federal funds, aids, loans, or grants which will require state matching or replacement funds at the time of application or at any time in the future, when funds have not been appropriated for that express purpose, must be approved by the General Assembly in accordance with section 42-41-5. When the general assembly is not in session, the application shall be reported to and reviewed by the Director pursuant to rules and regulations promulgated by the Director.

(3) When any federal funds, aids, loans, or grants are received by any state department, agency, advisory council or instrumentality of the state, a report of the amount of funds received shall be filed with the office; and this report shall specify the amount of funds which would reimburse an agency for indirect costs, as provided for under federal OMB Circular A-87.

(4) The director may refuse to issue approval for the disbursement of any state or federal funds from the State Treasury as the result of any application which is not approved as provided by this section, or in regard to which the statement or reports required by this section were not filed.

(5) The director shall be responsible for the orderly administration of this section and for issuing the appropriate guidelines and regulations from each source of funds used.

35-1.1-6 Office of Management and Budget expenses. – (a) There is created a restricted receipt account for the office of management and budget to be known as OMB administrative expense account. Payments from the account shall be limited to expenses for administrative oversight and management of federal and state funds received by the state agencies.

(b) All amounts deposited in the office of management and budget accounts shall be exempt from the indirect cost recovery provisions of § 35-4-27.

(c) The office of management and budget is authorized to receive indirect costs on federal funds to cover oversight expenses.

35-1.1-7 Appointment of employees. – The director of administration, subject to the provisions of applicable state law, shall be the appointing authority for all employees of the office of management and budget. The director of administration may delegate this function to such subordinate officers and employees of the office as may to him or her seem feasible or desirable.

35-1.1-8 Appropriations and disbursements. – The general assembly shall annually appropriate such sums as it may deem necessary for the purpose of carrying out the provisions of this chapter. The state controller is hereby authorized and directed to draw his or her orders upon the general treasurer for the payment of such sum or sums, or so much thereof as may from time to time be required, upon receipt

by him or her of proper vouchers approved by the director of the office of management and budget, or his or her designee.

35-1.1-9 Cooperation of other state executive branch agencies. – (a) The departments and other agencies of the state of the executive branch that have not been assigned to the executive office of management and budget under this chapter shall assist and cooperate with the executive office as may be required by the governor and/or requested by the director of management and budget, this assistance may include, but not be limited to, utilizing staff resources from other departments or agencies for special projects within a defined period of time to improve processes within agencies and/or lead to cost savings.

35-1.1-10 Organizational Reviews and Special Initiatives. – (a) The director of the office of management and budget is hereby directed to conduct research and analysis to study the powers, duties and programs of the department of environmental management, coastal resource management council, Narragansett Bay estuary program, Rhode Island bays, rivers, and watersheds coordination team, and the Narragansett Bay national estuarine research reserve and recommend a plan for the organizational structure of environmental and coastal marine programs. The director of the office of management and budget is authorized to consult with the appropriate federal agencies and departments that provide funds to or delegate authority to the state environmental and coastal resource management agencies listed above.

(b) This plan shall address the goal of improving efficiency of environmental and coastal marine programs; identifying similar programs that are being performed; and optimizing effectiveness of performance while providing sufficient support to the governance structure of environmental and coastal marine management.

(c) The office of management and budget is directed to report findings, recommendations, and alternative designs to the governor and general assembly no later than November 1, 2012 with copies to the governor, speaker of the house, senate president, chairs of the house and senate finance committees and their respective fiscal advisors.

(d) The report shall include a strategic plan that outlines the mission, goals, the estimated cost and timelines to implement said recommendations, and the federal and state mandates associated with the current programs. The report shall provide a clear definition of roles and responsibilities, including those responsible for implementing the proposed recommendations. The analysis shall develop measures of success, and an appropriate timeline to measure implementation progress. It shall also include:

(1) An examination of the various organizational structures in other states, evaluating their strengths and weaknesses, and how they may or may not be applicable in Rhode Island. This should include an evaluation of the best practices regarding organizational structures for environmental and coastal resource management, and consider the benefits and costs associated with these structures to Rhode Island programs.

(2) An analysis of what programs and responsibilities could be more efficiently implemented and managed. This should include, but not be limited to, strategies to reorganize and or centralize environmental and coastal resource management programs.

(3) An evaluation of the federal, state and other revenues that support these programs, and the impacts on revenues and expenses associated with the alternatives and recommendations.

(e) The department of environmental management, coastal resource management council, Narragansett bay estuary program, Rhode Island bays, rivers, and watersheds coordination team, and the Narragansett bay national estuarine research reserve shall furnish such advice and information, documentary or otherwise to the director of the office of management and budget as is deemed necessary or desirable to facilitate the purposes of the study.

35-1.1-11 Rules and regulations. – The office of management and budget shall be deemed an agency for purposes of § 42-35-1, et seq. of the Rhode Island general laws. The director shall make and promulgate such rules and regulations, and establish fee schedules not inconsistent with state law and fiscal policies and procedures as he or she deems necessary for the proper administration of this chapter and to carry out the policy and purposes thereof.

35-1.1-12 Severability. – If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect other provisions or applications of the chapter, which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

SECTION 5. Section 35-1-1 of the General Laws in Chapter 35-1 entitled “Fiscal Functions of Department of Administration” is hereby amended to read as follows:

§ 35-1-1 Approval of agreements with federal agencies. – No department or agency of the state shall enter into an agreement with a federal agency involving state funds without the approval of the ~~director of administration or the director's~~ director of the office of management and budget or his or her duly authorized agents.

SECTION 6. Sections 35-3-1 and 35-3-24.1 of the General Laws in Chapter 35-3 entitled “State Budget” are hereby amended to read as follows:

§ 35-3-1 Budget officer – General powers and duties. – (a) Within the ~~department of administration~~ office of management and budget there shall be a budget officer who shall be appointed by the director of administration with the approval of the governor. The budget officer shall be required to:

(1) Exercise budgetary control over all state departments and agencies and perform management analyses;

(2) Operate an appropriation allotment system;

(3) Prepare the annual budget of the receipts and expenditures of the state;

(4) Develop long term activity and financial programs, particularly capital improvement programs;

(5) Approve or disapprove all requests for new personnel and to investigate periodically the need of all existing positions in the state service and report thereon to the director of administration; and

(6) Prepare a five (5) year financial projection of anticipated general revenue receipts and expenditures, including detail of principal revenue sources and expenditures by major program areas, which projection shall be included in the budget submitted to the general assembly pursuant to § 35-3-7.

(b) The budget officer may approve or disapprove requisitions for equipment, materials, and supplies.

(c) The budget officer's duties and powers relating to budgetary controls and personnel requests of the legislative and judicial departments shall be purely ministerial, concerned only with the availability of the funds, and in no event shall the budget officer interpose his or her judgment regarding the wisdom or expediency of items of expenditure.

§ 35-3-24.1 Program performance measurement. – (a) Beginning with the fiscal year ending June 30, 1997, the governor shall submit, as part of each budget submitted to the general assembly pursuant to § 35-3-7, performance objectives for each program in the budget for the ensuing fiscal year, estimated performance data for the fiscal year in which the budget is submitted, and actual performance data for the preceding two (2) completed fiscal years. Performance data shall include efforts at achieving equal opportunity hiring goals as defined in the department's annual affirmative action plan. The governor shall, in addition, recommend appropriate standards against which to measure program performance. Performance in prior years may be used as a standard where appropriate. These performance standards shall be stated in terms of results obtained.

(b) The governor may submit, in lieu of any part of the information required to be submitted pursuant to subsection (a), an explanation of why the information cannot, as a practical matter be submitted.

(c)(1) The office of management and budget shall be responsible for managing and collecting program performance measures on behalf of the governor. The office is authorized to conduct performance reviews and audits of agencies to determine progress towards achieving performance objectives for programs.

(2) In order to collect performance measures from agencies, review performance and provide recommendations, the office of budget and management is authorized to coordinate with the bureau of audits regarding the findings and recommendations that result from of audits conducted by the bureau.

SECTION 7. Section 36-4-2 of the General Laws in Chapter 36-4 entitled "Merit System" is hereby amended to read as follows:

§ 36-4-2 Positions in unclassified service. – The classified service shall comprise all positions in the state service now existing or hereinafter established, except the following specific positions which with other positions heretofore or hereinafter specifically exempted by legislative act shall constitute the unclassified service:

(1) Officers and legislators elected by popular vote and persons appointed to fill vacancies in elective offices.

(2) Employees of both houses of the general assembly.

(3) Officers, secretaries, and employees of the office of the governor, office of the lieutenant governor, department of state, department of the attorney general, and the treasury department.

(4) Members of boards and commissions appointed by the governor, members of the state board of elections and the appointees of the board, members of the commission for human rights and the employees of the commission, and directors of departments.

(5) The following specific offices:

(i) In the department of administration: director, chief information officer, director of office of management and budget, and director of performance management;

(ii) In the department of business regulation: director;

(iii) In the department of elementary and secondary education: commissioner of elementary and secondary education;

(iv) In the department of higher education: commissioner of higher education;

(v) In the department of health: director;

(vi) In the department of labor and training: director, administrative assistant, administrator of the labor board and legal counsel to the labor board;

(vii) In the department of environmental management: director;

(viii) In the department of transportation: director;

- (ix) In the department of human services: director and director of veterans' affairs;
- (x) In the state properties committee: secretary;
- (xi) In the workers' compensation court: judges, administrator, deputy administrator, clerk, assistant clerk, clerk secretary;
- (xii) In the division of elderly affairs: director;
- (xiii) In the department of behavioral healthcare, developmental disabilities and hospitals: director;
- (xiv) In the department of corrections: director, assistant director (institutions/operations), assistant director (rehabilitative services), assistant director (administration), and wardens;
- (xv) In the department of children, youth and families: director, one assistant director, one associate director, and one executive director;
- (xvi) In the public utilities commission: public utilities administrator;
- (xvii) In the water resources board: general manager;
- (xviii) In the human resources investment council: executive director.
- (xix) In the office of health and human services: secretary of health and human services.
- (6) Chief of the hoisting engineers, licensing division, and his or her employees; executive director of the veterans memorial building and his or her clerical employees.
- (7) One confidential stenographic secretary for each director of a department and each board and commission appointed by the governor.
- (8) Special counsel, special prosecutors, regular and special assistants appointed by the attorney general, the public defender and employees of his or her office, and members of the Rhode Island bar occupying a position in the state service as legal counsel to any appointing authority.
- (9) The academic and/or commercial teaching staffs of all state institution schools, with the exception of those institutions under the jurisdiction of the board of regents for elementary and secondary education and the board of governors for higher education.

(10) Members of the military or naval forces, when entering or while engaged in the military or naval service.

(11) Judges, referees, receivers, clerks, assistant clerks, and clerical assistants of the supreme, superior, family, and district courts, the traffic tribunal, security officers of the traffic tribunal, jurors and any persons appointed by any court.

(12) Election officials and employees.

(13) Executive high sheriff, chief deputy sheriff, sheriffs, deputy sheriffs, and other employees of the sheriffs division within the department of public safety.

(14) Patient or inmate help in state charitable, penal, and correctional institutions and religious instructors of these institutions and student nurses in training, residents in psychiatry in training, and clinical clerks in temporary training at the institute of mental health within the state of Rhode Island medical center.

(15) Persons employed to make or conduct a temporary and special inquiry, investigation, project or examination on behalf of the legislature or a committee therefor, or on behalf of any other agency of the state if the inclusion of these persons in the unclassified service is approved by the personnel administrator. The personnel administrator shall notify the house fiscal advisor and the senate fiscal advisor whenever he or she approves the inclusion of a person in the unclassified service.

(ii) The duration of the appointment of a person, other than the persons enumerated in this section, shall not exceed ninety (90) days or until presented to the department of administration. The department of administration may extend the appointment another ninety (90) days. In no event shall the appointment extend beyond one hundred eighty (180) days.

(16) Members of the division of state police within the department of public safety.

(17) Executive secretary of the Blackstone Valley district commission.

(18) Artist and curator of state owned art objects.

(19) Mental health advocate.

(20) Child advocate.

(21) The position of aquaculture coordinator and marine infrastructure specialist within the coastal resources management council.

(22) Employees of the office of the health insurance commissioner.

(23) In the department of revenue: the director, secretary, attorney.

(24) In the department of public safety: the director.

SECTION 8. Section 35-7-3 of the general laws in chapter 35-7 entitled "Post Audit of Accounts" is hereby amended to read as follows.

§ 35-7-3 Audits performed by the bureau of audits. – (a) The bureau of audits is authorized to conduct audits of any state department, state agency, or private entity that is a recipient of state funding or state grants including acting as a subrecipient of a federal program. As deemed necessary or expedient by the bureau of audits, audits may be made relative to the financial affairs or the economy and efficiency of management of each department and agency. The bureau of audits shall determine, in consultation with the internal audit oversight committee, which such audits shall be performed in accordance with a risk-based evaluation. Unless there is an issue of misappropriation, the provisions of this section shall not apply to non-profit organizations.

(b) Within twenty (20) days following the date of the issuance of the final audit report, the head of the department, agency or private entity audited shall respond in writing to each recommendation made in the final audit report. This response shall address the department's, agency's or private entity's plan of implementation for each specific audit recommendation and, if applicable, the reasons for disagreement with any recommendation proposed in the audit report. Within one year following the date on which the audit report was issued, the bureau of audits may perform a follow-up audit for the purpose of determining whether the department, agency or private entity has implemented, in an efficient and effective manner, its plan of action for the recommendations proposed in the audit report.

(c) The bureau of audits shall maintain a full record of each audit. In the event that information gathered as a result of an audit indicates that criminal activity may have occurred, the chief of the bureau of audits may provide such information to a state or federal law enforcement agency. For any such

information that is otherwise exempt from public disclosure under the provisions of Rhode Island general law § 38-2-1 et seq., the provision of such information to a law enforcement agency shall not therefore require that this information be further disclosed.

(d) Copies of each audit report, the written response to the audit report, and the results of each follow-up audit as described in subsection (b) above shall be submitted to the chairpersons of the house finance committee and the senate finance committee.

(e) The director of the department of administration shall establish an internal audit oversight committee responsible for the oversight of the internal audit function. The primary purpose of the committee is to ensure that the internal auditors are monitoring critical controls and identifying and addressing emerging risks pursuant to this chapter of the general laws. The committee shall include the director of the department of administration or his or her designee, the budget officer or his or her designee, and a representative from the governor's office. The state controller shall participate on the committee in an advisory capacity only. In order to effectuate the purposes of this subsection the internal audit oversight committee may adopt an annual strategic internal audit plan that takes into consideration the risk-based evaluation conducted by the bureau.

SECTION 9. Chapter 42-12 of the General Laws entitled "Department of Human Services" is hereby amended by adding thereto the following section:

42-12-1.5 Transfer of functions from the Office of Energy Resources.- (a) There is hereby transferred from the office of energy resources to the department of human services the administration and management of the functions and resources associated with :

(1) The federal low-income home energy assistance program (LIHEAP), which provides heating assistance to eligible low-income persons and any state funded or privately funded heating assistance program of a similar nature assigned to it for administration;

(2) The weatherization assistance program, which offers home weatherization grants and heating system upgrades to LIHEAP eligible households; and,

(3) The emergency fuel program, which provides oil deliveries to families experiencing a heating emergency.

(b) The department is authorized to request advisory assistance from the office of energy resources in order to maintain continuity of assistance provided to LIHEAP eligible households pursuant to section 39-2-1(d).

SECTION 10. Sections 23-82-3, ~~23-82-4~~, and 23-82-6 of the General Laws in Chapter 23-82 entitled "Implementation of the Regional Greenhouse Gas Initiative Act" are hereby amended to read as follows:

§ 23-82-3. Definitions. As used in this chapter:

- (1) "Allowance" means an authorization to emit a fixed amount of carbon dioxide;
- (2) "Department" means department of environmental management;
- (3) "Regional greenhouse gas initiative" or "RGGI" means the memorandum of understanding (MOU) dated December 20, 2005, as may be amended, and corresponding model rule, as may be amended, that establishes an electric power sector carbon emissions cap and trade program.
- (4) "Office" means the office of energy resources; and
- (5) "Council" means the energy efficiency and resources management council.
- (6) "Board" means the renewable energy coordinating board established pursuant to chapter 42-140.3.

§ 23-82-4. Regional greenhouse gas initiative implementation. – (a) The department shall, in consultation with the public utilities commission, the office, and the council, and board, through rules and regulations, establish the state's rules for participation in RGGI.

(b) The department's rules and regulations for participation in a carbon cap and trade program shall be designed to meet the mutual understandings and commitments for participation in RGGI, and permit the holders of carbon allowances to trade them in a regional market to be established through the RGGI.

~~(c) The department's rules and regulations shall ensure that the carbon allowances under this program and the revenues associated with their sale are used exclusively for the purposes contained in this legislation.~~

~~(d)(c) The responsibilities created by implementing RGGI shall be in addition to all other responsibilities imposed by any other general or special law or rule or regulation and shall not diminish or reduce any power or authority of the department, including the authority to adopt standards and regulations necessary for the state to join and fully participate in any multi-state program, at any stage in the development and implementation of such a program, intended to control emissions of carbon dioxide and/or other substances that are determined by the department to be damaging and/or altering the climate.~~

§ 23-82-6. Use of auction or sale proceeds. – (a) The proceeds from the auction or sale of the allowances shall be used for the benefit of energy consumers through investment in the most cost-effective available projects that can reduce long-term consumer energy demands and costs. Such proceeds may be used only for the following purposes in a proportion to be determined annually by the office in consultation with the council and the ~~board~~ department:

(1) Promotion of cost-effective energy efficiency and conservation in order to achieve the purposes of section §39-1-27.7 and chapter §39-26.3 entitled “Distributed Generation Interconnection”;

(2) Promotion of cost-effective renewable non-carbon emitting energy technologies in Rhode Island as defined in section § 39-26-5 and to achieve the purposes of chapter 39-26 entitled “Renewable Energy Standard”;

(3) Cost-effective direct rate relief for consumers;

(4) Direct rate relief for low-income consumers;

(5) Reasonable compensation to an entity selected to administer the auction or sale; and

(6) Reasonable costs of the department and office in administering this program, which shall not in any year exceed three hundred thousand dollars (\$300,000) or five percent (5%) of the proceeds from sale or auction of the allowances, whichever is less. Administrative funds not expended in any fiscal year shall remain in the administrative account to be used as needed in subsequent years. The office of energy

resources shall have the ability to apply administrative funds not used in a fiscal year to achieve the purposes of this section. The funds deposited into the administrative funds account shall be exempt from the indirect cost recovery provisions of § 35-4-27

(b) Any interest earned on the funds so generated must be credited to the fund. Funds not spent in any fiscal year shall remain in the fund to be used for future energy efficiency and carbon reduction programs.

(c) Annually, the office, in consultation with ~~the department and the council~~ and board shall prepare a draft proposal on how the proceeds from the allowances shall be allocated. The draft proposal shall be designed to augment and coordinate with existing energy efficiency and renewable energy ~~low-income~~ programs, and shall not propose use of auction proceeds for projects already funded under other programs. The proposal for allocation of proceeds in subsections 23-82-6(1), (2) and (3) shall be one that best achieves the purposes of the law, namely, lowering carbon emissions and minimizing costs to consumers over the long term. The office shall hold a public hearing and accept public comment on the draft proposal in accordance with chapter 42-35 (the "Administrative Procedure Act"). Once the proposal is final, the ~~department office~~ shall authorize the disbursement of funds in accordance with the final plan.

(d) The office shall prepare, in consultation with ~~the department and the council~~ and the board, a report by ~~January 1st~~ April 15th of each year describing the implementation and operation of RGGI, the revenues collected and the expenditures, including funds that were allocated to the energy efficiency and renewable energy programs, and the individuals, businesses and vendors that received funding, made under this section, the statewide energy efficiency, renewable energy, and carbon reduction programs, and any recommendations for changes to law relating to the state's energy conservation or carbon reduction efforts. The report shall be made public and be posted electronically on the website of the office of energy resources, and shall also be submitted to the general assembly.

SECTION 11. Section 39-1-27.7 of the General Laws in Chapter 39-1 entitled "Public Utility Commission" is hereby amended to read as follows:

§ 39-1-27.7 System reliability and least-cost procurement. – Least-cost procurement shall comprise system reliability and energy efficiency and conservation procurement as provided for in this section and supply procurement as provided for in § 39-1-27.8, as complementary but distinct activities that have as common purpose meeting electrical and natural gas energy needs in Rhode Island, in a manner that is optimally cost-effective, reliable, prudent and environmentally responsible.

(a) The commission shall establish not later than June 1, 2008, standards for system reliability and energy efficiency and conservation procurement, which shall include standards and guidelines for:

(1) System reliability procurement, including but not limited to:

(i) Procurement of energy supply from diverse sources, including, but not limited to, renewable energy resources as defined in chapter 26 of this title;

(ii) Distributed generation, including, but not limited to, renewable energy resources and thermally leading combined heat and power systems, which is reliable and is cost-effective, with measurable, net system benefits;

(iii) Demand response, including, but not limited to, distributed generation, back-up generation and on-demand usage reduction, which shall be designed to facilitate electric customer participation in regional demand response programs, including those administered by the independent service operator of New England ("ISO-NE") and/or are designed to provide local system reliability benefits through load control or using on-site generating capability;

(iv) Innovative energy technologies and research and development activities located in Rhode Island, including but not limited to research and analytic capacities of institutions of higher education and for efforts that reduce carbon emissions, promote efforts around energy efficiency, distributed generation, system reliability, demand response, renewable energy, and reduce energy consumption from traditional and/or fossil fuel sources, provided that such technologies and activities are consistent with a plan duly adopted by the commissioner pursuant to subsection (c)(6) of this section;

(v) To effectuate the purposes of this division, the commission may establish standards and/or rates (A) for qualifying distributed generation, demand response, and renewable energy resources; (B) for

net-metering; (C) for back-up power and/or standby rates that reasonably facilitate the development of distributed generation; and (D) for such other matters as the commission may find necessary or appropriate.

(2) Least-cost procurement, which shall include procurement of energy efficiency and energy conservation measures that are prudent and reliable and when such measures are lower cost than acquisition of additional supply, including supply for periods of high demand.

(b) The standards and guidelines provided for by subsection (a) shall be subject to periodic review and as appropriate amendment by the commission, which review will be conducted not less frequently than every three (3) years after the adoption of the standards and guidelines.

(c) To implement the provisions of this section:

(1) The commissioner of the office of energy resources and energy efficiency and resources management council either or jointly or separately, shall provide the commission findings and recommendations with regard to system reliability and energy efficiency and conservation procurement on or before March 1, 2008, and triennially on or before March 1, thereafter through March 1, 2017. The report shall be made public and be posted electronically on the website of the office of energy resources.

(2) The commission shall issue standards not later than June 1, 2008, with regard to plans for system reliability and energy efficiency and conservation procurement, which standards may be amended or revised by the commission as necessary and/or appropriate.

(3) The energy efficiency and resources management council shall prepare by July 15, 2008, a system reliability and efficiency procurement opportunity report which shall identify opportunities to procure efficiency, distributed generation, demand response and renewables, which report shall be submitted to the electrical distribution company, the commission, the office of energy resources and the joint committee on energy.

(4) Each electrical and natural gas distribution company shall submit to the commission on or before September 1, 2008, and triennially on or before September 1, thereafter through September 1, 2017, a plan for system reliability and energy efficiency and conservation procurement. In developing the

plan, the distribution company shall may seek the advice of the commissioner and the council. The plan shall include measurable goals, and target percentages, and funding allocations for each energy resource, pursuant to standards established by the commission, including efficiency, distributed generation, demand response, combined heat and power, and renewables. The report shall be made public and be posted electronically on the website of the office of energy resources, and shall also be submitted to the general assembly.

(5) The commission shall issue an order approving all energy efficiency measures that are cost effective and lower cost than acquisition of additional supply, with regard to the plan from the electrical and natural gas distribution company, and reviewed and approved by the energy efficiency and resources management council and the commissioner of the office of energy resources, and any related annual plans, and shall approve a fully reconciling funding mechanism to fund investments in all efficiency measures that are cost effective and lower cost than acquisition of additional supply, not greater than sixty (60) days after it is filed with the commission.

(6)(i) Effective January 1, 2013, the electrical and gas distribution company shall allocate one percent (1%) of the demand-side management gas and electric funds on an annual basis for section 39-1-27.7 (1)(iv) involving innovative energy technologies and research and development activities located in Rhode Island. The electrical and gas distribution company shall establish and maintain a separate account, which shall be held and disbursed by the electrical and gas distribution company in consultation with the office of energy resources. The technologies and activities included in the plan shall be excluded from the assessment of the cost-effectiveness of the electric and natural gas distribution utility's triennial and annual plans for system reliability energy efficiency, renewable energy, and conservation procurement. Activities shall promote energy efficiency, renewable energy, reduced greenhouse gas emissions, reduced energy consumption from fossil fuel resources, and may include, but are not limited to, research and analytic capacity at institutes of higher education.

(ii) Within a period of time sufficient to accomplish the purposes of this section, but not longer than ninety (90) days after the effective date of this chapter, the office of energy resources shall establish

a plan and make a filing with the commission pursuant to this chapter recommending such plan for use of the funds. In order to effectuate this provision the office of energy resources shall seek input from the public, the electric and natural gas distribution company, energy efficiency resources management council, and the renewable energy coordinating board, and adopt an annual plan for supporting such technologies and activities. The office of energy resources shall hold at least one (1) community review meeting prior to submitting the plan to the commission for approval. The commission shall issue an order approving the plan within sixty (60) days of the filing. The plan shall be posted electronically on the website of the office of energy resources.

(iii) On April 15, of each year the office shall submit to the governor, the president of the senate, and the speaker of the house of representatives a financial and performance report regarding the program, including the institutions and businesses that received funding. The report shall be posted electronically on the website of the office of energy resources.

(6)(7) Each electrical and natural gas distribution company shall provide a status report, which shall be public, on the implementation of least cost procurement on or before December 15, 2008, and on or before February 1, 2009, to the commission, the division, the commissioner of the office of energy resources the energy efficiency and resources management council which may provide the distribution company recommendations with regard to effective implementation of least cost procurement. The report shall include the targets for each energy resource included in the order approving the plan and the achieved percentage for energy resource, including the achieved percentages for efficiency, distributed generation, demand response, combined heat and power, and renewables as well as the current funding allocations for each eligible energy resource and the businesses and vendors in Rhode Island participating in the programs. The report shall be posted electronically on the website of the office of energy resources.

(d) If the commission shall determine that the implementation of system reliability and energy efficiency and conservation procurement has caused or is likely to cause under or over-recovery of overhead and fixed costs of the company implementing said procurement, the commission may establish

a mandatory rate adjustment clause for the company so affected in order to provide for full recovery of reasonable and prudent overhead and fixed costs.

(e) The commission shall conduct a contested case proceeding to establish a performance based incentive plan which allows for additional compensation for each electric distribution company and each company providing gas to end-users and/or retail customers based on the level of its success in mitigating the cost and variability of electric and gas services through procurement portfolios.

SECTION 12. Section 39-2-1.2 in Chapter 39-2 of the General Laws entitled “Duties of Utilities and Carriers” is hereby amended to read as follows:

§ 39-2-1.2 Utility base rate – Advertising, demand side management and renewables. – (a) In addition to costs prohibited in § 39-1-27.4(b), no public utility distributing or providing heat, electricity, or water to or for the public shall include as part of its base rate any expenses for advertising, either direct or indirect, which promotes the use of its product or service, or is designed to promote the public image of the industry. No public utility may furnish support of any kind, direct, or indirect, to any subsidiary, group, association, or individual for advertising and include the expense as part of its base rate. Nothing contained in this section shall be deemed as prohibiting the inclusion in the base rate of expenses incurred for advertising, informational or educational in nature, which is designed to promote public safety conservation of the public utility's product or service. The public utilities commission shall promulgate such rules and regulations as are necessary to require public disclosure of all advertising expenses of any kind, direct or indirect, and to otherwise effectuate the provisions of this section.

(b) Effective as of January 1, 2008, and for a period of ten (10) years thereafter, each electric distribution company shall include charges per kilowatt-hour delivered to fund demand side management programs and 0.3 mills per kilowatt-hour delivered to fund renewable energy programs. The electric distribution company shall establish and after July 1, 2007, maintain two (2) separate accounts, one for demand side management programs, which shall be administered and implemented by the distribution company, subject to the regulatory reviewing authority of the commission, and one for renewable energy programs, which shall be administered by the ~~economic development corporation~~ office of energy

~~resources pursuant to § 42-64-13.2~~ 42-140-10 and, shall be held and disbursed by the distribution company as directed by the ~~economic development corporation~~ office of energy resources for the purposes of developing, promoting and supporting renewable energy programs.

During the ten (10) year period the commission may, in its discretion, after notice and public hearing, increase the sums for demand side management and renewable resources; thereafter, the commission shall, after notice and public hearing, determine the appropriate charge for these programs. The office of energy resources ~~and/or the administrator of the renewable energy programs~~ may seek to secure for the state an equitable and reasonable portion of renewable energy credits or certificates created by private projects funded through those programs. As used in this section, "renewable energy resources" shall mean: (1) power generation technologies as defined in § 39-26-5, "eligible renewable energy resources", including off-grid and on-grid generating technologies located in Rhode Island as a priority; (2) research and development activities in Rhode Island pertaining to eligible renewable energy resources and to other renewable energy technologies for electrical generation; or (3) projects and activities directly related to implementing eligible renewable energy resources projects in Rhode Island. Technologies for converting solar energy for space heating or generating domestic hot water may also be funded through the renewable energy programs, ~~so long as these technologies are installed on housing projects that have been certified by the executive director of the Rhode Island housing and mortgage finance corporation as serving low income Rhode Island residents.~~ Fuel cells may be considered an energy efficiency technology to be included in demand sided management programs. Special rates for low-income customers in effect as of August 7, 1996 shall be continued, and the costs of all of these discounts shall be included in the distribution rates charged to all other customers. Nothing in this section shall be construed as prohibiting an electric distribution company from offering any special rates or programs for low-income customers which are not in effect as of August 7, 1996, subject to the approval by the commission.

~~(c) On or before November 15, 2008, the economic development corporation shall create the municipal renewable energy investment program, utilizing the lesser of fifty percent (50%) or one million dollars (\$1,000,000) collected annually from the .3 mils per kilo-watt hour charge for renewable energy~~

programs, to fund qualified municipal renewable energy projects in accordance with this chapter and the following provisions:

~~(1) The municipal renewable energy investment programs shall be administered pursuant to rules established by the economic development corporation. The office of energy resources shall promulgate rules regarding the administration of the renewable energy development fund created pursuant to section 39-26-7. Said rules shall provide transparent criteria to rank qualified municipal renewable energy projects, giving consideration to:~~

~~(i) the feasibility of project completion;~~

~~(ii) the anticipated amount of renewable energy the project will produce;~~

~~(iii) the potential of the project to mitigate energy costs over the life of the project; and~~

~~(iv) the estimated cost per kilo-watt hour (kwh) of the energy produced from the project.~~

~~Municipalities that have not previously received financing from this program shall be given priority over those municipalities that have received funding under this program.~~

~~(2) Beginning on January 1, 2009, the economic development corporation shall solicit proposals from municipalities for eligible projects and shall award grants, in accordance with the rules and ranking criteria, of no more than five hundred thousand dollars (\$500,000) to each eligible project.~~

~~(3) Any funds not expended from the municipal renewable energy investment programs in a given year shall remain in the fund and be added to the balance to be distributed in the next award cycle. For the purposes of this section, qualified municipal renewable energy projects means any project that produces renewable energy resources and whose output of power and other attributes is controlled in its entirety by at least one Rhode Island city or town.~~

~~(d) On or before November 15, 2008, the economic development corporation shall create the nonprofit affordable housing renewable energy investment program utilizing the lesser of ten percent (10%) or two hundred thousand dollars (\$200,000) collected annually from the 3 mils per kilo-watt hour charge for renewable energy programs to fund qualified nonprofit affordable housing renewable energy projects in accordance with this chapter and the following provisions:~~

~~(1) The nonprofit affordable housing renewable energy investment programs shall be administered pursuant to rules established by the economic development corporation in consultation with the Rhode Island housing mortgage finance corporation. Said rules shall provide transparent criteria to rank qualified nonprofit affordable housing renewable energy projects, giving consideration to:~~

~~(i) the feasibility of project completion;~~

~~(ii) the anticipated amount of renewable energy the project will produce;~~

~~(iii) the potential of the project to mitigate energy costs over the life of the project; and~~

~~(iv) the estimated cost per kilo watt hour (kwh) of the energy produced from the project.~~

~~Nonprofit affordable housing agencies that have not previously received financing from this program shall be given priority over those agencies that have received funding under this program.~~

~~(2) Beginning on January 1, 2009, the economic development corporation, in consultation with the Rhode Island housing and mortgage finance corporation, shall solicit proposals from eligible nonprofit housing agencies for renewable energy projects and shall award grants, in accordance with the rules and ranking criteria. The economic development corporation shall consult with the Rhode Island housing and mortgage finance corporation in the grant making process and shall notify the corporation of the awardees.~~

~~(3) Any funds not expended from the affordable housing renewable energy investment program in a given year shall remain in the fund and be added to the balance to be distributed in the next award cycle. For the purposes of this section, "qualified nonprofit affordable housing renewable energy projects" means any project that produces renewable energy resources and whose output of power and other attributes is controlled in its entirety by at least one nonprofit affordable housing development as defined in § 42-55-3 and is restricted to producing energy for the nonprofit affordable housing development.~~

~~(e) The executive director of the economic development corporation is authorized and may enter into a contract with a contractor for the cost effective administration of the renewable energy programs funded by this section. A competitive bid and contract award for administration of the renewable energy programs may occur every three (3) years and shall include as a condition that after July 1, 2008 the~~

account for the renewable energy programs shall be maintained and administered by the economic development corporation as provided for in subdivision (b) above.

(d) The office of energy resources shall create on or before December 31, 2012 a renewable energy investment program in accordance with sections 39-26-7 and 42-140-10. In order to continue the operation and administration of the renewable energy development fund the office may promulgate emergency rules to be in effect until the renewable energy investment program is approved by the commissioner.

~~(f)~~(e) Effective January 1, 2007, and for a period of eleven (11) years thereafter, each gas distribution company shall include, with the approval of the commission, a charge per deca therm delivered to demand side management programs, including, but not limited to, programs for cost-effective energy efficiency, energy conservation, combined heat and power systems, and weatherization services for low income households.

~~(g)~~(f) The gas company shall establish a separate account for demand side management programs, which shall be administered and implemented by the distribution company, subject to the regulatory reviewing authority of the commission. The commission may establish administrative mechanisms and procedures that are similar to those for electric demand side management programs administered under the jurisdiction of the commissions and that are designed to achieve cost-effectiveness and high life-time savings of efficiency measures supported by the program.

~~(h)~~(g) The commission may, if reasonable and feasible, except from this demand side management change:

(i) gas used for distribution generation; and

(ii) gas used for the manufacturing processes, where the customer has established a self-directed program to invest in and achieve best effective energy efficiency in accordance with a plan approved by the commission and subject to periodic review and approval by the commission, which plan shall require annual reporting of the amount invested and the return on investments in terms of gas savings.

(h) The commission may provide for the coordinated and/or integrated administration of electric and gas demand side management programs in order to enhance the effectiveness of the programs. Such coordinated and/or integrated administration may after March 1, 2009, upon the recommendation of the office of energy resources, be through one or more third-party entities designated by the commission pursuant to a competitive selection process.

(i) Effective January 1, 2007, the commission shall allocate from demand-side management gas and electric funds authorized pursuant to § 39-2-1.2, an amount not to exceed two percent (2%) of such funds on an annual basis for the retention of expert consultants and reasonable administrations costs of the energy efficiency and resources management council associated with planning, management, and evaluation of energy efficiency programs, renewable energy programs ~~and~~, system reliability, least-cost procurement, and with regulatory proceedings, contested cases, and other actions pertaining to the purposes, powers and duties of the council ~~which allocation may by mutual agreement, be used in coordination with the office of energy resources to support such activities.~~

(j) Effective January 1, 2013, the commission shall allocate from the two-percent (2%) administrative funding from the demand-side management program as described in subsection (f) as followed: one and two hundredths percent (1.2%) for the purposes identified in subsection (i) and eight hundredths percent (0.8%) annually to the office of energy resources for activities associated with planning, management, and evaluation of energy efficiency programs, renewable energy programs, system reliability, least-cost procurement, and with regulatory proceedings, contested cases, and other actions pertaining to the purposes, powers and duties of the office of energy resources.

(k) On April 15, of each year the office and the council shall submit to the governor, the president of the senate, and the speaker of the house of representatives, separate financial and performance reports regarding the demand-side management programs, including the specific level of funds that were contributed by the residential, municipal, and commercial and industrial sectors to the overall programs; the businesses, vendors, and institutions that received funding from demand-side management gas and electric funds used for the purposes in section 39-2-1.2; and the businesses, vendors, and institutions that

received the administrative funds for the purposes in sections 39-2-1.2(i)(j). These reports shall be posted electronically on the websites of the office of energy resources and the energy efficiency resource management council.

SECTION 13. Section 39-26-7 of the General Laws in Chapter 39-26 entitled “Renewable Energy Standard” is hereby amended as follows:

§ 39-26-7 Renewable energy development fund. – (a) There is hereby authorized and created within the ~~economic development corporation~~ office of energy resources a renewable energy development fund for the purpose of increasing the supply of NE-GIS certificates available for compliance in future years by obligated entities with renewable energy standard requirements, as established in this chapter. The fund shall be located at and administered by the ~~Rhode Island economic development corporation~~ office of energy resources in ~~accordance~~ accordance with ~~§ 42-64-13.2~~ 42-140-10. The ~~economic development corporation office of energy resources~~ shall: ~~Adopt~~ adopt plans and guidelines for the management and use of the fund in accordance with ~~§ 42-64-13.2~~ this section and section 42-140-10, and;

(b) The ~~economic development corporation~~ office of energy resources shall enter into agreements with obligated entities to accept alternative compliance payments, consistent with rules of the commission and the purposes set forth in this section; and alternative compliance payments received pursuant to this section shall be trust funds to be held and applied solely for the purposes set forth in this section.

(c) The commissioner of the office of energy resources is authorized and may enter into contracts and or agreements with the economic development corporation for the purposes of promoting economic development opportunities associated with the renewable energy development fund and implementing the provisions of this chapter.

~~(e)~~(d) The uses of the funds ~~shall~~ may include but not be limited to:

(1) Stimulating investment in renewable energy development by entering into agreements, including multi-year agreements, for renewable energy certificates;

(2) Establishing and maintaining a residential renewable energy program using eligible technologies in accordance with section 39-26-5; and

~~(3) Providing technical and financial assistance to municipalities for interconnection and feasibility studies, and/or the installation of renewable energy projects;~~

~~(2)(4) Issuing assurances and/or guarantees to support the acquisition of renewable energy certificates and/or the development of new renewable energy sources for Rhode Island;~~

~~(3)(5) Establishing escrows, reserves, and/or acquiring insurance for the obligations of the fund;~~
~~and,~~

~~(4)(6) Paying administrative costs of the fund incurred by the economic development corporation, the board of trustees, or the office of energy resources, not to exceed ten percent (10%) of the income of the fund, including, but not limited to, alternative compliance payments. All funds transferred from the economic development corporation to support the office of energy resources' administrative costs shall be deposited as restricted receipts.~~

(d) NE-GIS certificates acquired through the fund may be conveyed to obligated entities or may be credited against the renewable energy standard for the year of the certificate provided that the commission assesses the cost of the certificates to the obligated entity, or entities, benefiting from the credit against the renewable energy standard, which assessment shall be reduced by previously made alternative compliance payments and shall be paid to the fund.

SECTION ~~14~~. Section 42-64-13.2 of the General Laws in Chapter 42-64 entitled "Rhode Island Economic Development Corporation" is hereby repealed.

~~§ 42-64-13.2 Renewable energy investment coordination. (a) Intent. To develop an integrated organizational structure to secure for Rhode Island and its people the full benefits of cost-effective renewable energy development from diverse sources.~~

~~(b) Definitions. For purposes of this section, the following words and terms shall have the meanings set forth in RIGL 42-64-3 unless this section provides a different meaning. Within this section, the following words and terms shall have the following meanings:~~

~~(1) "Corporation" means the Rhode Island economic development corporation.~~

~~(2) "Municipality" means any city or town, or other political subdivision of the state.~~

~~(3) "Office" means the office of energy resources established by chapter 42-140.~~

~~(c) Purpose. The corporation is authorized to integrate the management of public funds to promote the expansion and sound development of renewable energy resources by providing coordinated and cost effective use of funds from:~~

~~(1) The renewable energy program of the demand side management program as set forth in § 39-2-1.2; and~~

~~(2) The renewable energy development fund of the renewable energy standard, as set forth in chapter 39-26.~~

~~(3) The office of energy resources from the sale of allowances under the greenhouse gas initiative act to the extent available for renewable energy, as set forth in chapter 23-82.~~

~~(d) Renewable energy development fund. The corporation shall, in the furtherance of its responsibilities to promote and encourage economic development, establish and administer a renewable energy development fund as provided for in § 39-26-7, may exercise the powers set forth in this chapter, as necessary or convenient to accomplish this purpose, and shall provide such administrative support as may be needed for the coordinated administration of the renewable energy standard as provided for in chapter 39-26 and the renewable energy program established by § 39-2-1.2. The corporation may upon the request of any person undertaking a renewable energy facility project, grant project status to the project, and a renewable energy facility project, which is given project status by the corporation, shall be deemed an energy project of the corporation.~~

~~(e) Duties. The corporation shall, with regards to renewable energy project investment:~~

~~(1) Establish by rule, in consultation with the office, standards for financing renewable energy projects from diverse sources.~~

~~(2) Enter into agreements, consistent with this chapter and renewable energy investment plans adopted by the office, to provide support to renewable energy projects that meet applicable standards established by the corporation. Said agreements may include contracts with municipalities and public corporations.~~

~~(f) Conduct of activities.~~

~~(1) To the extent reasonable and practical, the conduct of activities under the provisions of this chapter shall be open and inclusive; the director shall seek, in addressing the purposes of this chapter, to involve the research and analytic capacities of institutions of higher education within the state, industry, advocacy groups, and regional entities, and shall seek input from stakeholders including, but not limited to, residential and commercial energy users.~~

~~(2) By January 1, 2009, the director shall adopt:~~

~~(A) Goals for renewable energy facility investment which is beneficial, prudent, and from diverse sources;~~

~~(B) A plan for a period of five (5) years, annually upgraded as appropriate, to meet the aforementioned goals; and~~

~~(C) Standards and procedures for evaluating proposals for renewable energy projects in order to determine the consistency of proposed projects with the plan.~~

~~(g) Reporting.~~ ~~On March 1, of each year after the effective date of this chapter, the corporation shall submit to the governor, the president of the senate, the speaker of the house of representatives, and the secretary of state, a financial and performance report. These reports shall be posted electronically on the general assembly and the secretary of state's websites as prescribed in § 42-20-8.2. The reports shall set forth:~~

~~(1) The corporation's receipts and expenditures in each of the renewable energy program funds administered in accordance with this section.~~

~~(2) A listing of all private consultants engaged by the corporation on a contract basis and a statement of the total amount paid to each private consultant from the two (2) renewable energy funds administered in accordance with this chapter; a listing of any staff supported by these funds, and a summary of any clerical, administrative or technical support received; and~~

~~(3) A summary of performance during the prior year including accomplishments and shortcomings; project investments, the cost effectiveness of renewable energy investments by the corporation; and recommendations for improvement.~~

SECTION 15. Sections 42-140-3, 42-140-7 and 42-140-9 of the General Laws in Chapter 42-140 entitled "Rhode Island Energy Resources Act" are hereby amended to read as follows:

§ 42-140-3 Purposes. – The purposes of the office shall be to:

(1) Develop and put into effect plans and programs to promote, encourage, and assist the provision of energy resources for Rhode Island in a manner that enhances economic well-being, social equity, and environmental quality;

(2) Monitor, forecast, and report on energy use, energy prices, and energy demand and supply forecasts, and make findings and recommendations with regard to energy supply diversity, reliability, and procurement, including least-cost procurement;

(3) Develop and to put into effect plans and programs to promote, encourage and assist the efficient and productive use of energy resources in Rhode Island, and to coordinate energy programs for natural gas, electricity, and heating oil to maximize the aggregate benefits of conservation and efficiency of investments;

(4) Monitor and report technological developments that may result in new and/or improved sources of energy supply, increased energy efficiency, and reduced environmental impacts from energy supply, transmission and distribution;

(5) Administer the programs, duties, and responsibilities heretofore exercised by the state energy office, except as these may be assigned by executive order or the general laws to other departments and agencies of state government;

(6) Develop, recommend and, as appropriate, implement integrated and/or comprehensive strategies, including at regional and federal levels, to secure Rhode Island's interest in energy resources, their supply and efficient use, and as necessary to interact with persons, private sector, non-profit, regional, federal entities and departments and agencies of other states to effectuate this purpose;

(7) Cooperate with agencies, departments, corporations, and entities of the state and of political subdivisions of the state in achieving its purposes;

(8) Cooperate with and assist the state planning council and the division of state planning in developing, maintaining, and implementing state guide plan elements pertaining to energy and renewable energy;

(9) Coordinate the energy efficiency, renewable energy, least cost procurement, and system reliability plans and programs with the energy efficiency resource management council and the renewable energy coordinating board and to ensure adequate funding, including administrative support to implement said plans and programs;

(10) Participate in, monitor implementation of, and provide technical assistance for the low income home energy assistance program enhancement plan established pursuant to section 39-1-27.12;

(11) Participate in and monitor the distributed generation standard contracts program pursuant to chapter 39-26.2;

(12) Monitor and enforce the distributed generation interconnection review timelines for renewable energy projects pursuant to chapter 39-26.3;

(13) Coordinate opportunities with and enter into contracts and/or agreements with the economic development corporation associated with the energy efficiency, least cost procurement, system reliability, and renewable energy fund programs; and

(14) Monitor in coordination with the economic development corporation the participation of Rhode Island businesses and vendors in the energy efficiency, renewable energy, least cost procurement, and system reliability plans and programs annually;

(15) Prepare and adopt a plan to implement section 39-1-27.7(a)(1)(iv) regarding innovative energy technologies and research and development activities located in Rhode Island, including but not limited to research and analytic capacities of institutions of higher education and for efforts that reduce carbon emissions, promote efforts around energy efficiency, distributed generation, system reliability, demand response, renewables, and reduce energy consumption from traditional and/or fossil fuel sources;

(16) Provide support and information to the division of planning and the state planning council in developing a ten (10) year Rhode Island Energy Guide Plan, which shall be reviewed and amended if necessary every five (5) years;

(17) Provide funding support if necessary to the renewable energy coordinating board and/or the advisory council to carry out the objectives pursuant to chapter 42-140.3.

(18) Coordinate with the renewable energy coordinating board and/or the advisory council in participating in system reliability program plans and efforts pursuant to chapter 39-1-27.7.

(19) Provide support and venues to host meetings around system reliability, energy efficiency, and renewable energy programs with the economic development corporation, energy efficiency resource management council, renewable energy coordinating board, and the electric and gas distribution company.

(20) Apply for and accept grants with the approval of the director of administration from other states, interstate agencies and independent authorities, and private firms, individuals and foundations, in order to carry out the purposes and duties of the office. All expenditures from the accounts shall be subject to appropriation by the general assembly, and shall be expended in accordance with the provisions of the grant.

~~(9)(21) Administer as assigned by law or executive order, state and federally funded or authorized energy programs, which may include, but not be limited to~~ Advise and provide technical assistance to state and federally funded energy programs to support:

(i) The federal low-income home energy assistance program which provides heating assistance to eligible low-income persons and any state funded or privately funded heating assistance program of a similar nature assigned to it for administration;

(ii) The weatherization assistance program which offers home weatherization grants and heating system upgrades to eligible persons of low-income;

(iii) The emergency fuel program which provides oil deliveries to families experiencing a heating emergency;

~~(iv)(22)~~ Participate in the development and management of ~~The~~ the energy conservation program, which offers service and programs to all sectors; and

~~(23)~~ Administer the renewable energy program established by Rhode Island general laws chapters 39-2 and 39-26.

~~(10)~~ Advise the economic development corporation in the development of standards and rules for the solicitation and award of renewable energy program investment funds in accordance with ~~§ 42-64-13.2;~~

~~(11)(24)~~ Develop, recommend, and evaluate energy programs for state facilities and operations in order to achieve and demonstrate the benefits of energy-efficiency, diversification of energy supplies, energy conservation, and demand management; and

~~(12)(25)~~ Advise the governor and the general assembly with regard to energy resources and all matters relevant to achieving the purposes of the office.

§ 42-140-7 Conduct of activities. – (a) To the extent reasonable and practical, the conduct of activities under the provisions of this chapter shall be open and inclusive; the commissioner and the council shall seek in addressing the purposes of the office to involve the research and analytic capacities of institutions of higher education within the state, industry, advocacy groups, and regional entities, and shall seek input from stakeholders including, but not limited to, residential and commercial energy users.

(b) The commissioner shall ~~transmit any unencumbered funds from the renewable energy program under chapter 39-2 to the economic development corporation to be administered in accordance with a the provisions of § 39-2-1.2.~~ Adopt, in the manner as set forth in section 42-140-9, investment and/or procurement standards and procedures for evaluating proposals for renewable energy projects in order to determine the consistency of proposed projects with the renewable energy program adopted pursuant to section 39-2 and section 39-26-7.

§ 42-140-9 Adoption of standards, procedures and rules. – (a) The commissioner shall have the authority to adopt, amend, and implement such rules as may be necessary ~~to~~ or desirable to effectuate the purposes of this chapter. ~~In~~ However, in any rule making by the commissioner, the commissioner

shall consider as a matter of record the advise advice of the energy resources council and the renewable energy coordinating board.

(b) In order to continue the operation and administration of the renewable energy development fund previously administered by the economic development corporation, the office may promulgate emergency rules to be in effect until the renewable energy investment program required in section 39-2-1.2(c) is approved by the commissioner.

SECTION 16. Chapter 42-140 of the general laws entitled, “Rhode Island Energy Resources Act” is hereby amended by adding thereto the following section:

§ 42-140-10 Renewable energy investment coordination. – (a) Intent. To develop an integrated organizational structure to secure for Rhode Island and its people the full benefits of renewable energy development from diverse sources.

(b) Purpose. The office is authorized to integrate the management of public funds to promote the expansion and sound development of renewable energy resources by providing coordinated and cost-effective use of funds from:

(1) The renewable energy program of the demand side management program, as set forth in § 39-2-1.2; and

(2) The renewable energy development fund of the renewable energy standard, as set forth in chapter 39-26.

(3) The sale of allowances under the greenhouse gas initiative act to the extent available for renewable energy, as set forth in chapter 23-82.

(d) Renewable energy development fund. The office shall, in the furtherance of its responsibilities to promote the provision of energy resources for Rhode Island, establish and administer a renewable energy development fund as provided for in § 39-26-7, may exercise the powers set forth in this chapter, as necessary or convenient to accomplish this purpose, and shall provide such administrative support as may be needed for the coordinated administration of the renewable energy standard as provided for in chapter 39-26 and the renewable energy program established by § 39-2-1.2.

(e) Duties. The office may, with regards to renewable energy project investment:

(1) Establish standards for financing renewable energy projects from diverse sources.

(2) Establishing and maintaining a residential renewable energy program using eligible technologies in accordance with section 39-26-5; and

(3) Providing technical and financial assistance to municipalities for interconnection and feasibility studies, and/or the installation of renewable energy projects;

(4) Enter into agreements, consistent with this chapter and renewable energy investment plans adopted by the office, to provide support to renewable energy projects that meet applicable standards established by the office. Said agreements may include contracts with municipalities and public corporations.

(5) Enter into a memorandum of understanding with the economic development corporation to provide assistance for economic development opportunities associated with the renewable energy development fund.

(f) Conduct of activities.

(1) To the extent reasonable and practical, the conduct of activities under the provisions of this section shall be open and inclusive; the commissioner shall seek, in addressing the purposes of this chapter, research and analytic capacities of institutions of higher education within the state, industry, advocacy groups, renewable energy developers, and regional entities, and shall seek input from stakeholders including, but not limited to, residential and commercial energy users.

(g) Reporting. On March 1, of each year the office shall submit to the governor, the president of the senate, the speaker of the house of representatives, and the secretary of state, a financial and performance report, including businesses and vendors that received funding. These reports shall be posted electronically on the office's website. The reports shall set forth:

(1) The office's receipts and expenditures in each of the renewable energy program funds administered in accordance with this section.

(2) A listing of all private consultant companies engaged by the office on a contract basis and a statement of the total amount paid to each private consultant from the two (2) renewable energy funds administered in accordance with this chapter; a listing of any staff supported by these funds, and a summary of any clerical, administrative or technical support received; and

(3) A summary of performance during the prior year including accomplishments and shortcomings; project investments of renewable energy investments by the office; and recommendations for improvement.

SECTION 17. Section 42-17.1-17 of the General Laws in Chapter 42-17.1 entitled “Department of Environmental Management” is hereby amended to read as follows:

42-17.1-17 Transfer of powers and functions from department of environmental management. [Effective January 1, 2012]. – (a) There are hereby transferred to the department of administration:

(1) Those functions of the department of environmental management which were administered through or with respect to departmental programs in the performance of strategic planning as defined in § 42-11-10(c);

(2) All officers, employees, agencies, advisory councils, committees, commissions, and task forces of the department of environmental management who were performing strategic planning functions as defined in § 42-11-10(c); and

(3) So much of other functions or parts of functions and employees and resources, physical and funded, related thereto of the director of environmental management as are incidental to and necessary for the performance of the functions transferred by subdivisions (1) and (2).

~~(b) There are hereby transferred to the department of public safety dispatch functions of the division of enforcement of the department of environmental management.~~

~~(c) In order that there is no interruption in the dispatch functions of the division of enforcement, the actual transfer of the dispatch functions, corresponding resources, and personnel to the department of public safety, may be postponed until such time, as determined by the director of public safety, that the~~

~~transfer provided herein may be best put into force and effect, but shall occur no later than January 1, 2012 and shall be reflected in the FY 2012 supplemental budget submission.~~

SECTION 18. This article shall take effect as of July 1, 2012.