RI BUSINESS COALITION

Summary of 2014 Business Climate Legislation
Over the past year and a half, a diverse coalition of business associations has regularly collaborated on ways to make Rhode Island’s business climate more competitive. By compiling a collection of long-term policy priorities, and actively working with executive and legislative leadership to achieve policy changes, this Coalition has played an important role in Rhode Island’s public policy dialogues. This issue brief is intended to summarize the specific business climate policy changes, which the Coalition has closely monitored.

However, while the Coalition and other stakeholders were successful in proposing policies to improve Rhode Island’s business climate this legislative session, more progress is needed. Rhode Island’s lackluster employment statistics and continuously low business climate rankings are just two examples of indicators motivating reform. It took several years for Rhode Island’s economy to weaken to this point—this is not a problem that can be fixed in one or two legislative sessions. Rather, the Coalition recognizes that reform must be achieved incrementally, and that there will be no one single act that will systemically alter the economy.

Fundamentally, the Coalition believes that Rhode Islanders must change their perception about business. A paradigm shift must occur—Rhode Islanders, on the whole, must embrace a flourishing private sector. We must collectively recognize that growing Rhode Island’s economic opportunity is the only way for the state to emerge from its economic outlier status.

The Coalition stands ready and willing to assist as we collectively aim to accomplish this progress. In particular, the Coalition looks forward to engaging diverse sets of stakeholders over the coming years as future business climate reforms are developed, considered, enacted, and implemented.
House Bill 7133 Sub A as amended is the FY 2015 appropriations act, which was signed by the Governor on June 19, 2014. Several articles of the appropriation act affect economic development and the business climate in that they: alter the tax code and change the nature of employee-employer relationships.

**Tax Changes**
Article 12 of the budget includes provisions that modify Rhode Island’s tax code. Several of these reforms endorse proposals made in the Governor’s initial budget request, while others were generated by the General Assembly.

- One notable provision in Article 12 reforms Rhode Island’s corporate tax system through a rate reduction and the adoption of a combined reporting requirement. Under the enacted budget, Rhode Island’s corporate tax rate is reduced from 9.0 percent to 7.0 percent beginning in tax year 2015. By lowering the corporate tax rate to 7.0 percent, Rhode Island will now have the lowest top corporate tax rate in New England.
- The budget also adopts combined reporting, which requires that multi-state corporations operating in Rhode Island also report income earned by affiliates or subsidiary corporations in other states. Furthermore, Rhode Island will now use a single-sales factor to calculate the percentage of a multi-state corporation’s income that is subject to the corporate income tax, as opposed to the current three-factor apportionment method. On the whole, these corporate tax changes will make Rhode Island a more attractive place for businesses to locate and are estimated to result in an increase in tax revenue of $2.7 million above the Governor’s FY 2015 proposal.
- Another prominent provision in Article 12 is the change to Rhode Island’s estate tax. Prior to this budget, any estate valued at $921,655 or above was subject to the estate tax for the full value of the estate. The new estate tax proposal provides a non-refundable tax credit worth $64,400 that effectively exempts any estate valued up to $1.5 million from the tax. This ensures that only the portion of the estate above the exemption is subject to the tax, and is designed to remove disincentives that may have led to many retirees leaving the state in an attempt to avoid the estate tax. However, this change is estimated to reduce state revenue by $9.4 million in FY 2015.
- Article 12 also contains provisions that modify the Property Tax Relief Credit and Earned Income Tax Credit by changing the eligibility requirements. The Property Tax Relief Credit is modified by limiting eligibility to disabled, and those individuals age 65 or above. This change is estimated to result in a general revenue increase of $8.2 million in FY 2015 over the Governor’s proposed budget. The Earned Income Tax Credit is modified by reducing the size of the state credit from 25.0 percent to 10.0 percent of the federal Earned Income Tax Credit but increasing the share of the credit that is refundable to taxpayers from 15.0 percent to 100.0 percent. The changes to the Earned Income Tax Credit are anticipated to reduce general revenue collections by $4.3 million compared to the Governor’s FY 2015 budget proposal.

**Considerations**
Though Rhode Island has taken important steps towards improving the competitiveness of its tax structure, such as the 2011 income tax reforms, most national cost-of-doing-business and
and competitiveness rankings consistently suggest that Rhode Island has significant opportunity for improvement. The Tax Foundation, the Council on State Taxation, Forbes, CNBC, and the Lincoln-Land Institute consistently rank Rhode Island’s tax structure in the bottom half of the nation (see previous RIPEC analysis on business climate rankings). However, these changes to Rhode Island’s corporate income tax rate and estate tax have the potential to lower the costs-of-doing-business and to improve Rhode Island’s relative competitiveness in national comparisons. In fact, the change to Rhode Island’s corporate income tax rate will make it the lowest corporate income tax rate in New England.

Employee-Employer Relationships
Articles three and eight of the enacted budget relate to the relationship between employers and employees, which is a topic of reform that the Coalition previously expressed interest in adjusting. Article three exempts the entire Job Development Fund (JDF) from the previously mandated 10.0 percent indirect cost recovery. Since the JDF is an account that is funded by employers to pay for workforce training, exempting this fund from cost recovery shifts $1.0 million from general funds to job and skill training.

Article eight establishes a task force on employee misclassification (defined by the Senate Fiscal Office as the deliberate listing of employees as independent contractors) which is responsible for:
- Fostering voluntary compliance with the law by educating business owners and employees about applicable requirements;
- Protecting the health, safety, and benefit rights of workers; and
- Restoring competitive equality for law-abiding businesses.

Article eight calls on the task force to submit an annual report to the governor and the House and Senate Finance committees, which: describes the task force’s efforts and accomplishments; identifies administrative or legal barriers impeding the more effective operation of the task force; and proposes appropriate administrative, legislative, or regulatory changes. Members of the task force include the Director of the Department of Labor and Training; the Tax Administrator; the Director of Business Regulation; the head of the Workforce Regulation and Safety Division; the Attorney General; the Commissioner of the Department of Public Safety; and the Chief Judge of the Workers’ Compensation Court.

Considerations
Though there is essentially no business community representation on this task force, the proposal to create a task force to study misclassification was an important compromise step, particularly as there was alternative far-reaching legislation being considered that would have altered requirements related to the methodology for determining whether an individual is an independent contractor or employee. This article avoids creating new classification standards that are not uniform with other states, and instead focuses on the enforcement aspect of the misclassification problem. To do otherwise could have unintended consequences, and ultimately negatively affect businesses’ level of certainty moving forward. Furthermore, by reporting out to the House and Senate Finance committees, the task force’s actions and recommendations will become available to the public for further dialogue and assessment.
In addition to the enacted FY 2015 budget, there were several economic development related pieces of legislation that passed the General Assembly this session.

Workforce Development
Rhode Island’s provision of career readiness education and programs plays an essential role in improving Rhode Island’s workforce and overall economy. By most accounts, the demand for middle-skill workers is expected to increase substantially over the next decade (at least half of all newly created positions will be considered “middle-skill,” which are jobs that require some post-secondary training or education, but less than a four-year degree). However, as demand for these “middle-skill” workers increases, projections suggest that supply will not be commensurate with demand.

The General Assembly enacted several pieces of legislation that would alter the state’s approach to the challenge of training and re-training workers to meet labor force demand. This legislation can be categorized into three main areas: comprehensive career and technical education reform; the Senate’s Rhode to Work legislative package; and apprentice legislation.

Career and Technical Education (CTE) Reform
House Bill 8204 Sub A was introduced by Representatives McNamara, Mattiello, DeSimone, MacBeth, and Serpa on May 15, 2014. It was heard three times in the House Health Education and Welfare committee and its Sub A was passed unanimously by committee on June 11, 2014. The legislation was heard in the Senate Education committee on June 20, and passed the full General Assembly on June 21.

House Bill 8204 Sub A as amended alters and creates two entities. The first of these entities, the Rhode Island Career and Technical Board of Trustees, is a modification of an existing statutory organization, the Rhode Island State Advisory Council on Vocational Education, which has not been operational for several years. The second entity, the Rhode Island Career and Technical Trust, is a newly created not-for-profit organization.

The CTE Board of Trustees, composed of 15 members, has several enumerated duties and responsibilities in the legislation, including:

- Advising the commissioner of elementary and secondary education and the board of education on the development of a biannual state plan for CTE;
- Advising the commissioner of elementary and secondary education on items including policies the state should pursue to strengthen CTE and initiatives the private sector could undertake to modernize CTE;
- Analyzing and reporting on the distribution of spending for CTE in the state and the availability of CTE education activities and services; consulting on the evaluation criteria and processes for CTE;
- Submitting recommendations on the conduct of CTE programs;
- Providing advice and consent on the policy principles and goals that govern the distribution of financial assistance;
- Recommending procedures to enhance public participation in CTE processes;
- Reporting to the board of education on the extent to which students are provided quality CTE programs; and furnishing consultation to the commissioner of elementary and secondary education at least once every two years on the CTE program delivery systems offered by the state;
• Taking control and management of state-owned and operating CTE schools, at the request of a local school committee or its equivalent, and taking control of other CTE schools as agreed to by local education districts. The trustees are required to: prepare a plan, which shall examine and make recommendations over the management of the CTE school; the management of other state owned facilities for the sole purpose of offering CTE programs; and the method of assuming ownership and management of CTE facilities; and
• Establishing, supporting, and expanding private sector participation programs that enhance CTE at the local level.

Ultimately, this legislation aims to improve efficiencies and the effectiveness of Rhode Island’s CTE systems by providing more opportunities for the employer community to provide direction and insight into CTE curriculum and funding.

Rhode to Work Legislation
In January 2014, the Rhode Island Senate introduced “Rhode to Work” as its 2014 legislative action plan. The proposal discussed workforce supply and demand; current workforce development efforts; and proposals for reform. By the end of the legislative session, some of these proposals were incorporated into the FY 2015 budget as enacted, while others were passed as enacted legislation. The proposals from Rhode to Work, which passed the legislature include:

• Reforming the Governor’s Workforce Board (S 2997 Sub A): this proposal codifies the Governor’s Workforce Board into statute and elevates it to the forefront of Rhode Island’s workforce development and career readiness policies. The statute stipulates that the state’s Department of Labor and Training is designated as the administrative entity responsible for the administration and management of the board.
• Developing a GED Hardship Waiver (S 2182 Sub A): this proposal calls on the Board of Education to adopt and provide funding, for a rule or regulation, granting a sliding scale-based waiver of fees associated with the high school equivalency test for individuals with limited income who can prove a financial hardship. However, this individual must have received at least a passing score on the practice test or pertinent section of the test.
• Providing a member of the Governor’s Workforce Board to the state Board of Education (S 2183 as amended): this proposal calls on the chairs of the Governor’s Workforce Board and the Rhode Island Commerce Corporation, or their designees, to serve as non-voting, ex-officio members of the state Board of Education. It also stipulates that the chair of the Board of Education must consult with the chairs of the Board’s two councils (elementary and secondary education; and higher education) to develop board agendas, goals, policies, and strategic plans for the Board.
• Amending the current “Work Immersion” program (S 2977): this program provides job development fund money to match investments made by employers who provide meaningful work immersion positions. This legislation changes the eligibility of participants by specifying that recent college graduates are eligible participants in the program. This proposal also increases the required number of work experience hours from 200 to 400 hours.
• Shifting the focus of the “State Career Pathways Task Force” (S 2998): this proposal calls on the Governor’s Workforce Board to support, oversee, and convene an advisory com-
mittee with diverse stakeholders to better develop and expand career pathways for individuals within specific industries or occupations.

- Redefining school counselors’ roles in career readiness (S 2947): this legislation encourages districts to provide professional development opportunities for school counselors that focus on best practices in collaborating with business, industry, and other community organizations to create internships and apprenticeships for high school students.
- Changing funding related to full-day kindergarten (S 2791 Sub A): this proposal stipulates that for those districts who have plans to convert from half- to full-day kindergarten programs, the increase in funding formula aid (relating to average daily membership) shall be funded at the fully transitioned value of the formula beginning in FY 2017. It also changes requirements for eligibility of the districts who propose full-day kindergarten programs, as it gives priority to school districts with enrollment greater than 8,000 students (or 4,000 students, if no district applicants have greater than 8,000).

**Apprenticeship**

Another workforce development issue that was discussed through several iterations of legislation this session and the last legislative session is the topic of apprenticeship prerequisites as a component of public works contracts. Currently, under today’s interpretation of the statutes, contractors must prove to a state agency at the time of bidding on a public works contract over $1.0 million dollars that the contractor has an approved apprenticeship program in order to bid. The approval process for apprenticeship program approval is different for union signatory and merit shop contractors.

Originally, legislation filed this session (H 7623) would have expanded this requirement to municipal and quasi-public projects. It would have also required that contractors and sub-contractors have at least one apprentice on the job and that person must perform 15.0 percent of the work. Since requirements for approved apprenticeship programs are different for union and non-union companies, and since the constitutionality of public works apprenticeship programs have been questioned in other locations, this was met with resistance. The resulting legislation that passed the full General Assembly, H 7623 Sub A, creates a special legislative commission to make a comprehensive study and provide recommendations for the necessary requirements and potential feasibility of implementing apprenticeship requirements as a component of public works contracts. The study commission consists of 7 members, all of which are appointed by the Speaker of the House.

**Considerations**

It is widely acknowledged that Rhode Island faces a fundamental skills mismatch, which has the potential to grow even worse in the near future. Especially as Rhode Island struggles to recover from the recent economic downturn and high unemployment rates, the supply of competitively skilled workers is paramount to the state’s recovery. The decision to enhance private sector participation in Rhode Island’s CTE system through the re-establishment of the Board of Trustees and the creation of the Rhode Island Career and Technical Education Trust is pivotal to ensuring that funding and directional guidance is used as efficiently and effectively as possible. Similarly, the enacted legislative priorities
resulting from the Rhode to Work initiative take a multi-faceted approach to improving and coordinating the state’s career readiness programs. Lastly, the decision to study the impact of potentially costly apprenticeship requirements will ensure that research and data drives decision making on this potential policy change.

Regulatory Reform
The Office of Regulatory Reform seeks to improve Rhode Island’s state and municipal permitting and regulatory process. The Office has published quarterly reports reviewing its regulatory review initiatives, the latest of which included a series of recommendations. Some of these recommendations were ultimately incorporated into enacted legislation this session:

- H 7520 and S 2480: Prior to the adoption of any regulation that may impact small businesses, this legislation stipulates that agencies must submit their proposed economic impact statements to the Governor’s Office and the Office of Regulatory Reform at least 15 days in advance of the commencement of the formal rulemaking process. This legislation also exempts certain business types from the Office’s review. The specific exemptions mentioned include public utilities whose rates are regulated by the Public Utilities Commission, and regulated financial institutions, broker dealers and insurance companies. This latter part of the legislation addresses the Office of Regulatory Review’s second highest recommendation in its 2013 Annual Report.

- H 7703 and S 2457: Agencies already have requirements to review rules every five years to determine whether they should stand without change. However, this legislation states that beginning January 1, 2017, the agencies’ timeline for review must align with the Secretary of State’s rules and regulations refiling process.

Additional regulatory reform legislation, (H 8135 Sub A and S 2858) would have authorized the Office of Regulatory Reform to review state regulatory and permitting processes and develop maps, flow charts, and other visualizations of such processes to increase their navigability and efficiency. These visualizations would have been designed to inform businesses of their responsibilities and obligations through each step of the regulatory process. In fact, this recommendation was the top recommendation listed in the Office of Regulatory Reform’s 2013 Annual Report. However, this proposal did not pass the full General Assembly.

Considerations
As demonstrated by the Office of Regulatory Reform’s annual reports and period 1-3 regulatory review publications, progress has been made in evaluating regulations and their impact. The two enacted legislative proposals will further assist the Office’s goals. However, the legislation related to visualization and mapping is pivotal moving forward, as it has the potential to identify duplications and inconsistencies, and ultimately make the regulatory system more user-friendly for individuals and businesses. Moreover, the Office’s supplemental recommendations in its 2013 Annual Report should be reviewed by policymakers and considered for action.
Though many of the FY 2015 budget as enacted and supplemental legislative reforms will likely positively affect Rhode Island’s approach to economic and workforce development, outstanding issues still remain. For example, as noted in some national business climate rankings, as well as recent presentations to the House caucus, the out-year fiscal stability of state and local governments is a factor in business climate relocation decisions. RIPEC previously commented upon Rhode Island’s budget projections for out-years (based on the FY 2015 budget as proposed). However, changes that were ultimately enacted into the budget have the potential to fundamentally worsen the out-year projections, and thereby, the state’s business climate.

- One prominent out-year issue for consideration is the fact that the budget as enacted did not account for future costs associated with the already constructed HealthSource Rhode Island (HSRI), which by some estimates, could be between $17.9 and $23.0 million next fiscal year. Also, these costs do not consider the fiscal implications of Medicaid expansion, as the federal Medicaid match starts to decline in 2017.

- Another issue for consideration relates to the state’s availability of competitively priced energy resources—an important component of the cost-of-doing-business in Rhode Island. While the General Assembly made some progress on this issue by passing legislation (H 7991 and S 2439) to require that the Rhode Island Public Utility Commission and the Office of Energy Resources work with utility companies and regional states to advance the development and construction of incremental natural gas transmission capacity, continued focus on this issue will be needed. Policymakers must consider how Rhode Island’s current and potential energy resources can be best leveraged, particularly in this time of plentiful domestic natural gas supplies.

- In addition to addressing potential out-year budget deficits, there remains an opportunity to fundamentally alter the most troublesome components of Rhode Island’s tax system—the unemployment insurance tax system and the property tax. Using the Tax Foundation’s 2014 State Business Tax Climate Index as a source for comparison, Rhode Island’s unemployment insurance and property tax systems rank 50th and 46th in the U.S., respectively. There were two pieces of legislation introduced this session to study these two issues (H 7702 focused on the property tax system and H 7928 focused on the unemployment insurance system), but neither of them passed the General Assembly. It is critical that these two systems be reformed in future legislative sessions.

- Lastly, though policymakers took an important step forward with economic and workforce development reform initiatives, they also made decisions that will set the state back. Of particular concern was the decision to enact S 2059, which provides that no state assessment conducted prior to July 1, 2017 be used to determine a student’s eligibility to graduate from high school. This decision delayed the statewide assessment component of the Department of Education’s diploma system. This move starkly contradicts the policy direction already established and approved by the Commissioner, Governor and the state Board of Education, and signals that Rhode Island is not serious about education reform.

- This type of attempt to undo education reform runs the risk of making Rhode Island’s workforce even less competitive than it currently is. By their nature, assessments like NECAP and PARCC, are intended to be challenging, as they aim to raise the bar, and to set goals for teaching and learning. The results of these rigorous standards provide a way
to confirm that public education is working, and that the resources we devote to this public good are being used efficiently and effectively. Without tying assessment to the diploma system, the state cannot ensure that its diplomas have educational merit. Moreover, while Rhode Island undoes education reform progress, neighboring states continue to embrace it. Massachusetts went through education reform in 1993 and over 20 years later, data continues to illustrate that the Massachusetts public education system consistently outperforms Rhode Island’s.

The actions of the 2013 and 2014 legislative sessions ultimately resulted in important policy changes that will make Rhode Island more competitive in the long-run. However, shifting the state’s economic policy climate cannot be done overnight—rather, it requires continued, focused attention, and a commitment to staying the course.