



SENATE FISCAL OFFICE
REPORT

**GOVERNOR'S FY2020
AND
FY2019 SUPPLEMENTAL
BUDGET**

2019-H-5151 AND 2019-H-5150

ARTICLE SUMMARIES

FEBRUARY 26, 2019

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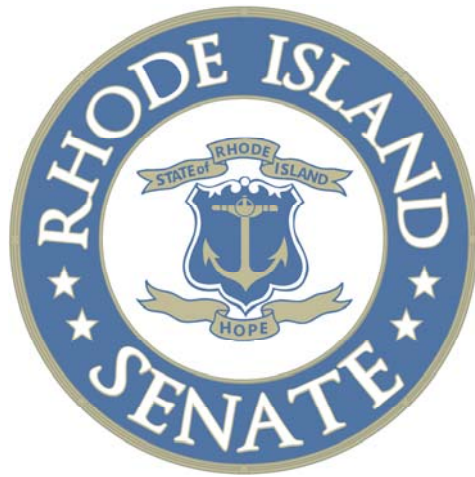
Table of Contents

FY2019 Supplemental Budget (2019-H-5150)

Article 1: Relating to Making Appropriations in Support of FY2019	5
Article 2: Relating to Taxes and Revenues	12
Article 3: Relating to Online Sports Wagering	14
Article 4: Relating to Transfers	17
Article 5: Relating to Effective Date	18

FY2020 Budget (2019-H-5151)

Article 1: Relating to Making Appropriations in Support of FY2020	21
Article 2: Relating to State Funds	26
Article 3: Relating to Government Reform	30
Article 4: Relating to Government Reorganization	34
Article 5: Relating to Taxes, Revenues and Fees	37
Article 6: Relating to Debt Management Act Joint Resolutions	48
Article 7: Relating to Motor Vehicles	50
Article 8: Relating to Transportation	52
Article 9: Relating to Local Aid	55
Article 10: Relating to Universal Prekindergarten	58
Article 11: Relating to Rhode Island Promise	63
Article 12: Relating to Economic Development	67
Article 13: Relating to Minimum Wage	76
Article 14: Relating to Healthcare Market Stability	77
Article 15: Relating to Children and Families	80
Article 16: Relating to Medical Assistance	86
Article 17: Relating to Medicaid Reform Act of 2008 Resolution	91
Article 18: Relating to Hospital Uncompensated Care	95
Article 19: Relating to Licensing of Hospital Facilities	96
Article 20: Relating to Marijuana	97
Article 21: Relating to Effective Date	102



FY2019 SUPPLEMENTAL BUDGET

Article 1: Relating to Making Revised Appropriations in Support of FY2019

Article 1 outlines the appropriation amounts from all fund sources for the FY2019 Supplemental Budget. In most cases, the appropriations are by fund source at the program level in each department or agency. The article includes the FTE position authorizations by department or agency. Other sections of the article outline the use of contingency funds; expenditure limits for internal service funds; and, disbursements of Lottery, Temporary Disability Insurance, Employment Security, and University and College Funds.

- This article makes appropriations for general revenues, federal, restricted, and other funds, and authorizes FTE levels for each agency and department. Article 1 also makes the following changes:
- Maintains the airport impact aid formula at \$1.0 million.
- Authorizes 15,230.7 FTE positions reflecting an increase of 21.0 FTE positions as compared to the authorized level set in the FY2019 Budget as Enacted.
- Requires that all unexpended or unencumbered balances relating to the University of Rhode Island, Rhode Island College, and the Community College of Rhode Island, be reappropriated to FY2020. In addition, the University of Rhode Island shall allocate \$350,000 to the Small Business Development Center and shall allocate \$50,000 to Special Olympics Rhode Island.
- Limits the amount the Judiciary may charge five state agencies (Public Defender's Office, Office of the Attorney General, Department of Corrections, DCYF, and Department of Public Safety) for public courthouse occupancy costs at \$1.2 million. It requires Judiciary to provide \$230,000 Rhode Island Coalition Against Domestic Violence for domestic abuse court advocacy and requires \$90,000 be provided to the Rhode Island Legal Services to provide housing and eviction defense to indigent individuals.
- Increases transfers from several quasi-public agencies and from unexpended bond proceeds by \$11.6 million to the State Controller by June 30, 2019, to support the General Fund. The following table illustrates the required transfers for FY2018 and FY2019:

APPROPRIATIONS

Article 1 makes appropriations from general revenues and authorizes expenditures of federal funds, restricted receipts, and other funds for the fiscal year ending June 30, 2019.

Expenditures by Source	FY2018 Final	FY2019 Enacted	FY2019 Governor	Change to Enacted
General Revenue	\$3,798.7	\$3,908.2	\$3,947.0	\$38.8
Federal Funds	2,996.5	3,208.2	3,339.6	131.4
Other Funds	1,978.4	2,174.5	2,227.8	53.3
Restricted Receipts	258.6	281.8	294.3	12.5
Total	\$9,032.2	\$9,572.7	\$9,808.7	\$236.0

\$ in millions. Totals may vary due to rounding.

In addition, Article 1 provides for the annual appropriation of the Contingency Fund; Temporary Disability Insurance Funds (TDI); Employment Security (UI Trust Fund); University and College Funds; and, Lottery Division funds for award winnings during FY2020.

Article 1 establishes 16 specific, capped internal service accounts to permit reimbursement of costs for work or other services performed by certain departments or agencies for any other department or agency. The FY2019 Budget as Enacted established centralized accounts for each agency and allows the Department of Administration to draw upon these accounts for billable centralized services and deposit the funds into the rotary accounts under the Department of Administration. Reimbursements may only be made up to the expenditure cap for each account, as outlined below.

Internal Service Account	FY2019 Enacted	FY2019 Governor	Change
State Assessed Fringe Benefits	\$41,383,271	\$40,889,406	(\$493,865)
Administration Central Utilities	22,910,320	23,049,565	139,245
State Central Mail	6,539,120	6,282,039	(257,081)
State Telecommunications	3,602,419	3,402,220	(200,199)
State Automotive Fleet	12,549,973	12,657,336	107,363
Surplus Property	3,000	3,000	-
Health Insurance	251,953,418	252,581,059	627,641
State Fleet Revolving Loan Fund	273,786	273,786	-
Other Post-Employment Benefits	63,858,483	63,858,483	-
Capital Police	1,395,433	1,434,314	38,881
Corrections Central Distribution Center	6,769,493	6,790,952	21,459
Correctional Industries	8,050,590	8,089,263	38,673
Secretary of State Records Center	947,539	983,402	35,863
Human Resources Internal Service Fund	12,131,620	13,377,854	1,246,234
DCAMM Facilities Internal Service Fund	39,212,184	38,693,072	(519,112)
Information Technology Internal Service Fund	32,282,229	39,077,346	6,795,117
Total	\$503,862,878	\$511,443,097	\$7,580,219

Analyst Note: The most significant change occurs with the Human Resources Internal Service Fund and the Information Technology Internal Service Fund. The Budget Office has not provided a detailed explanation for the increase in these two funds. However, the Budget Office does state that there are a number of reasons for the increases, including funding for Microsoft 365 in the Information Technology Internal Service Fund and the COLA/benefit changes initiated in FY2019 that impact all three of the centralized service funds Human Resources Internal Service Fund, DCAMM Facilities Internal Service Fund, Information Technology Internal Service Fund.

FUND TRANSFERS

Article 1 in the FY2019 Revised Budget proposes additional transfers from several quasi-public entities be made to the State Controller by June 30, 2019, to support the General Fund. The article further proposes the transfer of funds from two restricted receipt funds and the transfer of unexpended bond proceeds to the General Fund. This reflects an increase of \$16.4 million, including \$5.0 million from the Rhode Island Resource Recovery Corporation, \$2.5 million from Rhode Island Housing and Mortgage Finance Corporation, \$2.0 million from the Quonset Development Corporation, \$2.0 million from the Health and Education Building Authority, \$1.5 million from Rhode Island Student Loan Authority, and \$3.4 million from transfers of unexpended restricted receipt accounts and bond proceeds. The following table illustrates the required transfers for FY2018 and FY2019:

Agency	FY2018 Final	FY2019 Enacted	FY2019 Governor	Change
Electric and Gas Distribution Company	\$12.5	\$0.0	\$0.0	\$0.0
Health and Educational Building	6.0	-	2.0	2.0
Narragansett Bay Commission	5.0	-	-	-
Infrastructure Bank	3.5	4.0	4.0	-
RI Housing	1.0	-	2.5	2.5
Quonset Development Corporation	1.0	-	2.0	2.0
Public Utilities Commission	0.3	-	-	-
RI Resource Recovery	-	-	5.0	5.0
RI Student Loan Authority	-	-	1.5	1.5
DEM - Oil Spill Prevention, Administration Response Fund	-	-	1.0	1.0
DEM - Underground Storage Tank Trust Fund	-	-	1.0	1.0
DEM - Government Entities - Inceptors Bond Funds	-	-	1.1	1.1
DEM - Government Water Pollution Control Bond Funds	-	-	0.1	0.1
DEM - Private Water Pollution Control Facility Bond Funds	-	-	0.0	0.0
DEM - State Recreational Facilities Development Renovation Bo	-	-	0.0	0.0
DEM - Local Recreational Facilities Distressed Bond Fund	-	-	0.0	0.0
DEM - 25 India Street (Shooter's) Bond Fund	-	-	0.2	0.2
DBR - Insurance Companies Assessment for Actuaries	0.8	-	-	-
DBR - Commercial Licensing Restricted Receipts	0.8	-	-	-
Water Resources Board Corporate Account	1.1	-	-	-
Commerce Corporation - Anchor Institution Tax Credit	-	0.8	0.8	-
Total	\$32.0	\$4.8	\$21.2	\$16.4

\$ in millions

Rhode Island Resource Recovery Corporation: The article requires the Rhode Island Resource Recovery Corporation (RIRRC) to transfer \$5.0 million to the State Controller by the end of FY2019. According to the RIRRC, the 2017 State of Rhode Island Debt Affordability Study issued by the Public Finance Management Board (May 3, 2017) recommended that RIRRC refrain from the issuance of additional long-term debt. This recommendation may limit RIRRC's ability to raise capital and effectively requires RIRRC to self-fund future operations.

If enacted, the \$5.0 million forfeiture would impact existing FY2018 audited (October 1, 2018) unrestricted net position of \$22.2 million, which is expected to fund new landfill construction, heavy equipment, debt covenant requirements, and other capital investments required to provide long term disposal and recycling services to the state of Rhode Island. According to RIRRC, based on the current financial plan and projected corporate cash requirements, the Corporation would be required to take financial measures to offset this forfeiture. Such measures would include one or more of the following actions: deferring necessary capital investments, increasing revenues through price increases, reducing operational costs, or receiving direct subsidies from the State.

Rhode Island Housing and Mortgage Finance Corporation: The budget requires the Rhode Island Housing and Mortgage Finance Corporation (RIHousing) to transfer \$2.5 million in FY2019. RIHousing is a self-supporting agency that raises capital through the tax-exempt municipal market to fund loans and programs to help Rhode Islanders purchase homes and to finance housing development and preservation. Investors in RIHousing bonds rely heavily on credit ratings received from Standard & Poor's and Moody's Rating Services. According to the agency, any reduction to RIHousing's net income could have a negative effect on the rating agencies' review, which could result in higher interest rates for RIHousing borrowers. The rating agencies have noted that prior transfers required by the State limit RIHousing's ability to pay future debt service on bonds and put RIHousing at a risk for downgrade which could impair its ability to issue bonds in the future and result in higher interest rates for homebuyers and housing developers. Additionally, the transfer may limit RIHousing's ability to focus on its core mission of investing in housing production.

Quonset Development Corporation: The article requires the transfer of \$2.0 million from the Quonset Development Corporation (QDC). The QDC is a quasi-public agency, established as a subsidiary of the

Rhode Island Commerce Corporation which is responsible for the development and management of the Quonset Business Park.

However, according to the QDC, the actual available cash at the end of FY2018 was \$590,000. Although the audited financials list a \$5.1 million cash balance at the conclusion of FY2018, the report failed to note encumbrances on the cash balance. From the cash balance, \$1.5 million was restricted for previous ongoing work that is now complete and the funds expended, another \$1.5 million reflect funds deposited by Electric Boat (EB) for work that QDC are doing to support the expansion of the Electric Boat's facilities at Quonset Business Park, and \$1.5 million is funds held by the QDC in the Municipal Services Joint Infrastructure fund in conjunction with the Town of North Kingstown. Any transfer from the infrastructure fund would require approval by the Town of North Kingstown.

Cash Balance Reconciliation	Cash	Notes
Audited Cash Balance 2017	\$2.9	Pg 11 O'Connor and Drew Audit June 30, 2017
Audited Cash Balance 2018	2.2	Pg 12 O'Connor and Drew Audit June 30, 2018
Total Stated Cash Balances	\$5.1	

Deductions and Encumbrances		
Capital Projects	(\$1.5)	Encumbered and completed
Electric Boat Expansion Project	(1.5)	Deposit from EB
Municipal Services Joint Infrastructure Fund	(1.5)	Part of MSA services with Town of North Kingstown
Total Encumbrances	(\$4.5)	

\$ in millions

Source: QDC and O'Connor & Drew Financial Statements

QDC indicates that the transfer will have definite negative impacts on many projects underway or planned at the Quonset Business Park, particularly as it relates to the maintenance of its aging infrastructure. Specifically, projects at risk include:

- **Pier 2 Reconstruction - \$1.0 million:** The Pier 2 reconstruction requires the QDC to fund \$5.0 million of the ongoing work with agency capital funds over four years. QDC stated that the fund transfer included in the FY2018 Budget as Enacted prohibited QDC from contributing the first \$1.0 million towards the Pier 2 project, and that an additional \$2.0 million transfer as part of the FY2019 Supplemental Budget will cause the agency to miss current and future installments which will negatively impact the ongoing reconstruction of Pier 2. Work on the Pier 2 reconstruction is finance primarily with general obligation bond and RICAP funds, but the total of all phases of the work requires the QDC to fund \$25.0 million via agency operating reserves.
- **Planned Sewer Line Rehabilitation – \$500,000:** QDC owns and operates its own waste-water treatment facility which serves the more than 200 businesses at the Park. Currently the project is in the design/build phase. The proposed transfer will delay the project.
- **Port Expansion Planning for Offshore Wind - \$200,000:** QDC has completed \$100,000 of the \$300,000 authorized by the QDC Board for port expansion plans related to the offshore wind industry. The proposed transfer will delay the project.
- **Rail Improvement - \$1.0 million:** QDC is responsible to provide a \$1.0 million local match to support a \$3.0 million federal Consolidated Rail Infrastructure and Safety Improvement grant (CRISI) announced by Senator Reed in December. The transfer of funds will jeopardize this project.
- **Land Acquisition - \$1.4 million:** QDC has the potential to purchase land from the federal General Service Administration. The QDC is negotiating this sale from the GSA to acquire 16.0 acres of land adjacent to Route 403 and Amtrak's Northeast Corridor in West Davisville. This purchase would allow the QDC to create another large development site designed to host hundreds of jobs.

Rhode Island Health and Educational Building Corporation (RIHEBC): The article requires the transfer of \$2.0 million from RIHEBC to the State Controller by June 30, 2019. In FY2018, RIHEBC was required to transfer \$6.0 million to the State Controller. RIHEBC indicates that the transfer of these funds will seriously compromise its liquidity cushion especially given its funding of the SBA's personnel costs. Due to the uncertainty of the proposed transfer, RIHEBC has put mission-critical programs on hold, such as small loans and grants for smaller projects or borrowers that cannot access the bond market. Until the final outcome of the FY2019 Budget and the on-going funding for the School Building Authority (SBA) are finalized, RIHEBC will not reinstate these programs. The Governor's Budget includes \$745,536 in FY2019 and \$904,239 in FY2020 for personnel and administrative costs at the SBA. RIHEBC's revenues are derived from the administrative fee charged to not-for-profit borrowers. While RIHEBC anticipates a modest increase in revenue as communities take advantage of the new school construction bond, the increase will not be sufficient to offset the expenses of the SBA and RIHEBC is very reluctant to raise existing fees. The fee that RIHEBC can levy on districts is limited to one tenth of one percent (0.001) of the principal amount.

Rhode Island Student Loan Authority (RISLA): The Governor recommends transferring \$1.5 million from RISLA to the State Controller by June 30, 2019. RISLA, a non-profit State authority, provides affordable higher education loans. Since 1998, RISLA has also provided free educational admissions and financial aid assistance for students and parents through the College Planning Center of Rhode Island (CPC), with several locations around the State. According to RISLA, the transfer funds were to be used to make education loans. Consequently, RISLA's next bond issue will have to be increased by any amounts transferred to the state. Borrowing costs will thereby increase by about \$100,000 annually. This additional cost may increase loans rates slightly for students and their families; however, the actual impact is indeterminable at this time. RISLA has indicated that a ratings downgrade is unlikely at this time; but if the transfers become a regular occurrence there would be a negative impact on RISLA's ability to access low cost funding.

Restricted Receipt Funds: The article transfers \$1.0 million in restricted receipts from the Oil Spill Prevention, Administration Response (OSPAR) Fund and \$1.0 million in restricted receipts from the Underground Storage Tank Trust (UST) Fund to the State Controller for deposit in the General Fund by June 30, 2019.

- **Oil Spill Prevention, Administration and Response (OSPAR) Fund:** The article transfers \$1.0 million from the Oil Spill Prevention, Administration, and Response (OSPAR) restricted receipt fund to the general revenue fund by June 30, 2019. The OSPAR Fund was established in 1996 in response to the environmental damage caused by the North Cape Oil Spill along the Rhode Island coast. Pursuant to RIGL 46-12.7-5.1, the funds may be used to cover the costs of response, containment, and cleanup of oil spills into marine or estuarine waters. The OSPAR Fund may also be used for structural improvements to reduce the risk of oil tanker spills, restoration of natural resources, response training and equipment, and monitoring activities. The fund is capitalized primarily with a fee of \$0.05 for each barrel of petroleum products received at a marine terminal in the State. According to the Department of Environmental Management (DEM), the transfer of funds would temporarily limit the State's ability to respond to a large oil spill. The North Cape spill cost the State approximately \$3.0 million (\$4.8 million in today's dollars).

Through Article 5 of the FY2020 Budget, the Governor increases the cap on the per-barrel the fee from \$0.05 to \$0.10 to replenish the fund, as well as expands the permitted uses of the fund to include storm water management and brownfield remediation. According to DEM, which administers the fund, if the revenue increase is not approved, the impact of the proposed transfer would be significant.

The table below estimates the impact of the proposed transfer with and without the fee increase. The table reflects the Governor's budgeted expenditures which, according to the Office of Budget and

Management, include increases for storm water management or brownfield remediation. Over the last five years, expenditures from the fund have averaged \$2.2 million annually.

Oil Spill Prevention, Administration and Response Fund

	FY2019	FY2020	
		Current \$0.05 per Barrel Fee	Proposed \$0.10 per Barrel Fee
Balance Forward	\$2,630,879	\$1,002,262	\$1,002,262
Average Revenues FY2014 to FY2018	1,725,394	1,725,394	3,450,787
Governor's Budgeted Expenditures ¹	(2,354,011)	(2,635,466)	(2,635,466)
Transfer to General Fund	(1,000,000)	-	-
Balance Forward	\$1,002,262	\$92,189	\$1,817,583

¹ Over the last 5 years expenditures have averaged \$2.2 million annually.

Source: Department of Environmental Management

- **Underground Storage Tank (UST) Trust Fund:** The article transfers \$1.0 million from the UST restricted receipt fund to the general revenue fund by June 30, 2019. Rhode Island currently has 500 facilities with 1,350 underground storage tanks, all of which pose a potential environmental threat if leakage should occur. The Underground Storage Tank (UST) Clean-up Fund was created in 1994 to provide an effective mechanism for USTs owners to comply with financial responsibility requirements, and to insure that the environmental and public health impacts of UST leaks are addressed in an effective and timely manner. While the Rhode Island Department of Environmental Management (DEM) supervises the clean-up process and ensures that each project meets state requirements, the Rhode Island Underground Storage Tank Financial Responsibility Fund Review Board (Review Board) oversees the clean-up fund. Funding for the underground storage tank fund is derived from the following:
 - **Annual registration fees:** Owners/Operators of Underground Storage Tanks pay an annual Registration Fee of \$75 per tank. Furthermore, Rule 6.13 of the DEM Regulations allows for the collection of late fees of \$35.00 per tank, per year for failure to pay the renewal fee within 45 days from the date of the original notice and invoice.
 - **Application fees:** The first step of the reimbursement process requires the owner/operator to pay a \$150 fee with the submission of a Compliance Application.
 - **Gas Tax:** Of the one cent (\$0.01) per gallon environmental protection regulatory fee on motor fuel, one-half cent (\$0.005) is paid to the underground storage tank review board.
 - **Interest:** All environmental protection regulatory fees, including tank registration fees are kept in an interest-bearing restricted receipt account.
 - **Other:** The law allows for funding from gifts, grants, bequests, donations or other funds from any public or private sources as well as any funds the state may appropriate from time to time.

According to DEM, based on a review of the submitted claims, the transfer should not have a direct impact on the program. If claims increase, DEM would reimburse tank owners only for partial claims. In the last two years, all of the claims have been fully funded.

Underground Storage Tank Trust Fund		
	FY2019	FY2020
Balance Forward	\$2.0	\$1.2
Average Revenue FY2015 - FY2018	2.0	2.0
Budgeted Expenditures	(1.8)	(1.8)
Transfer to General Fund	(1.0)	-
Total	\$1.2	\$1.3

Source: Departmental Environmental Management

Unexpended General Obligation Bond Proceeds: The article transfers certain unexpended bond proceeds on six general obligation bond issuance for projects under the Department of Environmental Management to the State Controller for deposit in the General Fund by June 30, 2019. According to the Office of Management and Budget, per Internal Revenue Service Code any pooled bond funds are to be used within three years of issuance or else the funding can go towards debt servicing. OMB also stated that although the funds will be transferred to the general fund and assigned to pay off the outstanding debt related to these projects. The following table lists the unexpended bonds transferred to the General Fund.

Year Authorized	Bond Project	Unexpended Funds
1986	DEM - Government Entities - Interceptors Bond Funds	\$1,111,661
2010	DEM - 25 India Street (Shooter's) Bond Fund	160,028
1986	DEM - Government Water Pollution Control Bond Funds	107,267
1986	DEM - Private Water Pollution Control Facility Bond Funds	35,094
2000	DEM - State Recreational Facilities Development Renovation Bond	11,908
2000	DEM - Local Recreational Facilities Distressed Bond Fund	1,226
Total		\$1,427,184

FTE POSITION CAP AND APPROVAL

Article 1 establishes the authorized number of full-time equivalent (FTE) positions for each State department and agency. Departments and agencies may not exceed in any pay period the number of authorized FTE positions shown. Statewide, the Governor recommends a net increase of 21.0 FTE positions from the FY2019 Budget as Enacted. Following are the changes included in the Governor's proposal:

Expense by Function	FY2019 Enacted	FY2019 Governor	Change to Enacted
General Government	2,438.9	2,441.9	3.0
Human Services	3,682.6	3,698.6	16.0
Education	3,959.4	3,699.2	(260.2)
Public Safety	3,160.0	3,160.0	0.0
Natural Resources	425.0	425.0	0.0
Transportation	755.0	755.0	0.0
Subtotal	14,420.9	14,179.7	(241.2)
<i>Higher Ed. Sponsored Positions</i>	<i>788.8</i>	<i>606.0</i>	<i>(182.8)</i>
<i>Higher Ed. Auxiliary Enterprise Positions</i>	<i>0.0</i>	<i>445.0</i>	<i>445.0</i>
Total FTE Positions	15,209.7	15,230.7	21.0

Article 2: Relating to Taxes and Revenues

Article 2 adjusts the statutory framework underpinning the obligations of remote sellers (i.e. business not located in Rhode Island) and online retail sales facilitators (such as Amazon) to collect from or otherwise notify in-state purchasers of their sales tax liabilities. The adjustments align Rhode Island sales tax laws with a 2018 U.S. Supreme Court ruling (*South Dakota v. Wayfair, Ltd.*) that explicitly permitted states to collect sales tax from online commerce.

FISCAL IMPACT

Article 2 is estimated to yield \$11.5 million in additional general revenue in FY2020. There is no fiscal impact in FY2019. It is included as part of the FY2019 Supplemental Budget to ensure timely implementation in order to meet the FY2020 revenue estimate. According to the Division of Taxation, Article 2 will need to be enacted by April 1, 2019, in order for the Division to implement in time to meet the revenue estimate for FY2020.

ANALYSIS AND BACKGROUND

Historically, states have been prohibited from imposing sales taxes on purchases made from out-of-state sellers. Federal jurisprudence held that such taxes were unconstitutional because they create an undue burden on interstate commerce. The U.S. Supreme Court maintained states may only impose sales taxes on those sellers who have a physical presence in the state. In 2017, the Office of Revenue Analysis (ORA) estimated that the value of sales and use taxes on the purchases made by Rhode Islanders from out-of-state sellers (primarily via the internet) was worth no less than \$37.3 million. Given the legal prohibitions on remote sales tax collections, the shift from brick and mortar to e-commerce represented a significant threat to Rhode Island's tax base.

This condition began to change in 2016, when the 10th U.S. Circuit Court of Appeals upheld an approach used by Colorado to encourage remote sellers to voluntarily collect and remit sales and use taxes. The primary feature of the approach was a series of complicated notification requirements placed on those remote sellers who choose not to collect taxes. The objective was to make collection and remittance more palatable than complying with the notifications.

In 2017, the General Assembly enacted a framework based on this Colorado approach. It provided for three categories of entities with varying obligations relative to the sales tax. In all categories, the sales tax provisions applied to entities with at least \$100,000 in gross Rhode Island revenue or at least 200 transactions. The entities and obligations are:

- **Non-Collecting Retailers:** A non-collecting retailer is an out-of-state entity that sells, leases, or delivers products or services into Rhode Island to Rhode Island customers, either directly, via retail sales facilitators, or referrers (e.g. Amazon or catalogs). Non-collecting retailers are required to either collect and remit, or comply with extensive taxpayer notifications.
- **Retail Sale Facilitators:** A retail sale facilitator is an entity that contracts with retailers to list and or advertise for sale products and services (via internet or catalog) and either directly or indirectly collects payments from in-state purchasers and transmits payments to the retailer. Retail sales facilitators are required to provide the Division of Taxation with lists of retailers that collected and did not collect sales tax.
- **Referrers:** A referrer is an entity that contracts with retailers to list and or advertise for sale products and services (via internet or catalog), charges a fee to the retailer for the listing/advertisement, but does not transact payments between retailers and in-state customers. Referrers are required to notify retailers that their sales are likely subjected to Rhode Island's sales and use tax.

South Dakota v. Wayfair

In June 2018 the Supreme Court of the United States upheld a South Dakota law in a case involving the online retailer Wayfair. In doing so the Court overturned its previous rulings on the physical presence standard and held the imposition of sales and use taxes no longer constitute an undue burden on interstate commerce as long as the following conditions are met:

- The state provides a safe harbor to those who only sell small amounts into the state.
- The state does not require the retroactive collection of sales taxes.
- The state has a single, state-level administration of the sales tax.
- The state maintains a simplified tax rate structure.
- The state applies uniform definitions and rules.
- The state gives access to software provided by the state, with immunity to those who rely on it

Article 2 Changes

Article 2 simplifies current sales tax by aligning to the new standards set forth in the *Wayfair* decision. The article specifically:

Updates definitions: Article 2 redefines the categories of entities involved in remote sales.

- Marketplace Facilitators - entity that contracts with sellers to facilitate the sale of the seller's products through a physical or electronic marketplace.
- Marketplace Seller – an entity who contracts with a marketplace facilitator and makes retail sales through a marketplace owned, operated, or controlled by a marketplace facilitator.
- Non-collecting Retailers – this definition is eliminated on or after July 1, 2019.

Updates requirements: Article 2 makes several changes to ensure conformity with the new *Wayfair* standards. These:

- Compel all entities to register with the Division of Taxation for purposes of collecting and remitting sales tax.
- Codify safe harbor provisions so that entities with less than \$100,000 in gross revenue or less than 200 RI transaction are not required to collect and remit taxes.
- Update to include 2018 sales tax expansion changes involving “software as a service”.

Revenue Estimate

The Office of Revenue Analysis (ORA) estimates that the amount of e-commerce not currently being collected is worth approximately \$11.5 million in FY2020. The estimate is derived by taking an ORA estimated amount of total e-commerce sales in Rhode Island and deducting an estimated fraction of those sales attributed to non-collecting retailers. This estimate is further adjusted for to account for a level of non-compliance. The estimate is contingent upon a July 1, 2019, start date.

Analyst Note: Article 2 does not address the State's Marketplace Fairness “trigger” that is in current law. Marketplace Fairness refers to possible Congressional action to federally standardize e-commerce sales tax practices. In 2012 the General Assembly enacted provisions that called for automatic sales tax changes in the event that Congress passed a Marketplace Fairness act. The included, a reduction to the State sales tax to 6.5 percent, an elimination of the application of sales tax to certain clothing, and changes to the local meals and beverage tax and hotel tax calculations. . Since Article 2 closes the remote seller loophole, there would be no new remote sales tax revenue offset to the approximate \$80.0 million loss associated with the 0.5 percentage point drop in the rate.

Article 3: Relating to Online Sports Wagering

This article expands state-regulated sports betting to include online and mobile wagering. Specifically, Article 3:

- Expands state-regulated sports betting to include wagering that takes place outside of lottery facilities, but within the geographic boundaries of Rhode Island via websites or mobile applications.
- Requires that all sports wagering bets be transacted through Rhode Island Lottery-authorized facility computer servers. Bettors would be required to establish an account on the premises of authorized lottery facilities and all wagering would be transacted through this account.
- Subjects remote sports wagering to the same parameters as on-site betting, including the prohibition of bets on events taking place within Rhode Island or involving Rhode Island-based colleges and universities, regardless of location.

FISCAL IMPACT

The expansion of sports wagering to include statewide mobile betting is a FY2020 revenue initiative. It is included in the FY2019 Supplemental Budget in order to expedite implementation and ensure that there is enough time to meet the January 1, 2020, start date. The general revenue impact of Article 3 in FY2020 is projected to be \$3.0 million. There is no impact in FY2019.

Analyst Note: The OMB estimate makes several assumptions that may understate the projected revenue associated with mobile sports betting, including amending some base assumptions used to determine the consensus November 2018 Revenue Estimating Conference estimate. These assumptions involve applying a reduced hold percentage to the base handle as well as using a marginal handle calculation from that departs from the Oxford Economics study.

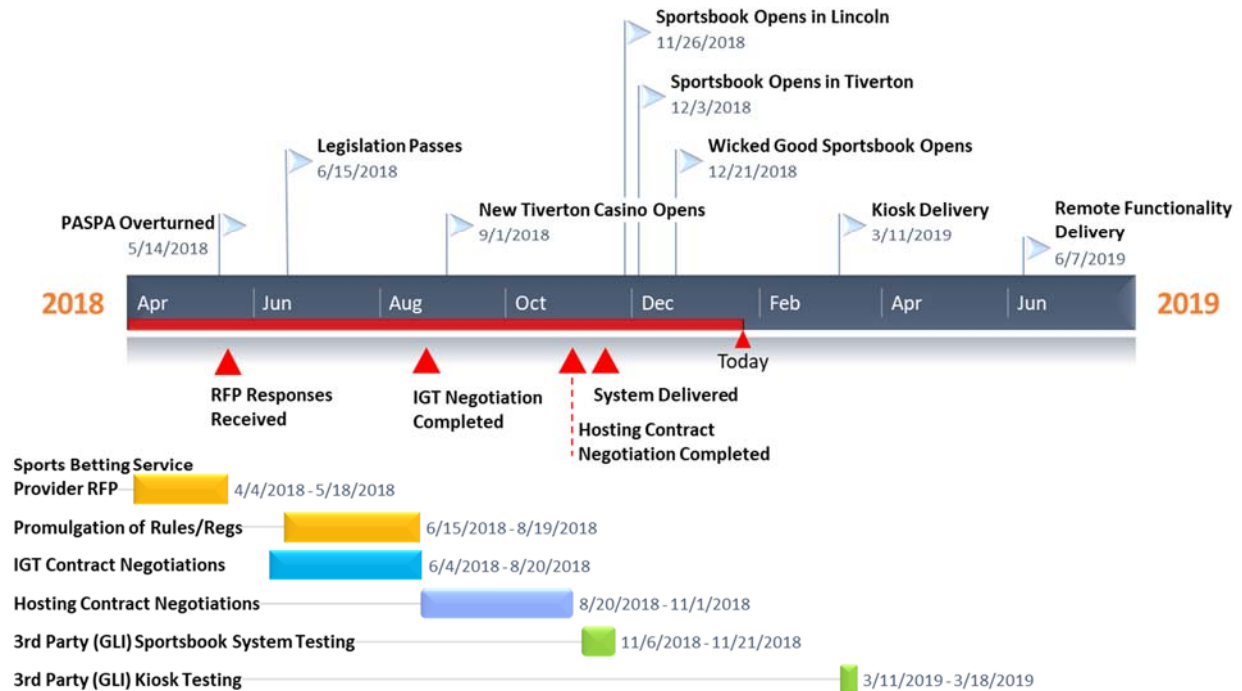
ANALYSIS AND BACKGROUND

In 2018, Rhode Island became one of the first states to permit state-regulated sports betting after the United States Supreme Court struck down its prohibition¹. The 2018 General Assembly authorized wagering at the Twin River and Tiverton Casinos and charged the Department of Revenue's Lottery Division with implementation and oversight of the program.

Initial Implementation: The FY2019 Budget as Enacted anticipated a sports betting start date of October 1, 2018. However, implementation experienced several delays. Although the request for proposals (RFP) for a sports betting service provider had been developed and issued prior to the US Supreme Court decision, the subsequent award and contract negotiations were unexpectedly lengthy. The first bets were placed at the sportsbook tills at Twin River Lincoln on November 26, 2018. Tiverton opened seven days later, and Lincoln's sportsbook lounge "Wicked Good" began receiving patrons on December 21st. Kiosk and facility-based remote betting (bets made away from the manned betting windows through a mobile application) are scheduled to come online in March and June, respectively (see attached graphic).

Because of the delays, estimators at the November 2018 Revenue Estimating Conference significantly reduced FY2019 revenue assumptions and projections associated with sports betting from \$23.5 million to \$11.5 million. The state share of sports betting revenue through December 31, 2018, which does not include kiosk or remote betting, stands at \$409,879.

¹ In May 2018 the United States Supreme Court ruled the federal Professional and Amateur Sports Protection Act (PASPA) of 1992 unconstitutional. PASPA prohibited sports betting in all states except those that already had it in place in 1992 - Delaware, Montana, Nevada, and Oregon.



Source: RI Lottery

Article 3 Changes: Gamblers in Rhode Island are currently permitted to place sports wagers only while physically on the premises of either of the State's two casinos and through sportsbook personnel, kiosks, or mobile devices. Article 3 expands the permission to include bets made online or through a mobile device while physically being within the geographic boundaries of the state.

Under the proposal, adults wishing to gamble on sporting events would be required to establish an account in person at the Twin River Lincoln or Tiverton facilities. Players would deposit funds into the account from which bets would be withdrawn. Payouts would be deposited into the account as well. All remote online or mobile wagers would be transacted through computer servers housed at the casinos.

Sports Betting Service Provider: International Game Technology (IGT), in partnership with William Hill, was awarded the contract as the sports betting service provider in May 2018. As the provider IGT is responsible for developing, putting into service, maintaining, and operating the remote betting platform for the State. This technology will first be implemented on premises at the Twin River Lincoln and Tiverton. The platform will use geo-fencing technology to ensure that bets are confined to the legally authorized areas. Geo-fencing uses global positioning system (GPS) technology to determine where mobile devices and computers are located.

Analyst Note: According to Department of Revenue officials, IGT was the only responder to the original RFP and would therefore be considered a sole source provider in the event of an expansion of sports betting within the state and a new RFP would not be required. Officials indicate that the current contract would have to be amended, requiring new negotiations.

Legal Considerations: The General Assembly enacted legislation in 2012 and again in 2016 which authorized casino-style (Class III) gaming. These measures were subsequently approved by voter referendum. The RI Constitution prohibits the expansion of gambling to new locations in Rhode Island without approval via a statewide voter referendum in addition to the approval of voters within the proposed municipality.

It is argued that sports wagering is a Class III type of gaming and therefore not considered an expansion of gambling requiring voter approval. Furthermore, it is argued that since all remote sports betting is proposed to take place through a platform and computer servers *physically located* on existing voter approved locations, it also does not represent an expansion of location either.

Revenue Projection Methodology: The Office of Management and Budget (OMB) projects that mobile sports wagering will yield an additional \$3.0 million in revenue in FY2020. There is no impact in FY2019.

In preparing its revenue estimate, OMB utilized a study conducted by Oxford Economics for the American Gaming Association, titled “Economic Impact of Legalized Sports Betting”. The study systematically looked at sports betting across the 50 states. The estimates for Rhode Island included in this study provide the foundation for OMB’s calculations.

The total amount wagered in known as the handle. According to the study, estimates of the sports betting handle for Rhode Island, range between \$813.6 million (for limited, location-based betting) to \$1,384.5 million (for convenient, statewide remote betting).

OMB adjusts the study’s estimated

handle based on several factors associated with current and proposed conditions in Rhode Island. First, OMB applies a 39.0 percent marginal increase to the base handle to account for both the addition of mobile sports betting as proposed by Article 3 and the fact that Rhode Island will already have a limited form of remote betting in place at the start of FY2020. OMB then adjusts the handle further to account for the proposed January 1, 2020 start date. The estimate uses 2018 data from Nevada which shows that 46.0 percent of annual sports wagers take place between January and June. Based on these factors OMB estimates an adjusted handle of \$1,064.7 million.

After all winnings are paid, the amount of money left over is known as the hold. OMB uses a 5.9 percent hold percentage based on data from New Jersey’s experience with implementing mobile sports betting. This hold percentage is a reduction from the hold applied at the November 2018 Revenue Estimating Conference. The percentage is applied to the handle resulting in a hold of \$62.8 million.

Sports wagering revenue is the hold net certain offsets and distributions. The offsets include federal taxes, marketing expenses of the Lottery, and a specified share to hosting communities (\$100,000 each for Lincoln and Tiverton). OMB estimates these to total \$3.5 million. The distributions are made to Twin River and IGT of sports betting revenue. These are estimated to be \$10.1 million and \$19.0 million, respectively. OMB calculates the State’s total sports wagering share, inclusive of a half year of mobile sports wagering, to be \$30.3 million. The estimate then backs out the November 2018 Revenue Estimate Conference estimate for FY2020 of \$27.3 million, which does not include mobile sports betting. This yields a fiscal impact of \$3.0 million in general revenue from mobile sports betting.

Handle & Hold	OMB Estimate
Base Handle	\$902.6
Growth Rate of Handle	39.0%
Increase to Handle Related to Online Betting	\$352.4
Half-Year of Mobile Sports Betting %	46.0%
Half-Year of Mobile Sports Betting \$	\$162.1
Article 3 Handle	\$1,064.7
Hold Percentage	5.9%
Article 3 Hold	\$62.8
Offsets	
Federal Tax (.25% applied to Handle)	(\$2.7)
Marketing Expenses	(\$0.6)
Local Community Share (\$100K each: Lincoln and Tiverton)	(\$0.2)
Total Offsets	(\$3.5)
Distribution	
Article 3 Sports Betting Revenue (Net Total)	\$59.4
Twin River Share (17%)	\$10.1
IGT Share (32%)	\$19.0
State Share (51%) - Article 3	\$30.3
State Share (51%) - Nov. 18 REC	27.3
Article 3 Marginal Increase to the State Share	\$3.0

\$ in millions

Article 4: Relating to Transfers

This article removes language requiring state budget proposals that include fund transfers from public corporations (quasi-public agency transfers) to also include alternatives to the transfers.

FISCAL IMPACT

Eliminating the language that requires state budget proposals that include fund transfers from public corporations (quasi-public agency transfers) to also include alternatives to the transfers could have a fiscal impact. Allowing the easier transfer of funds from quasi-public entities to the General Fund may negatively impact the fiscal health of the various quasi-public agencies, impede their normal business operations, and may delay or eliminate infrastructure improvements or entity initiatives.

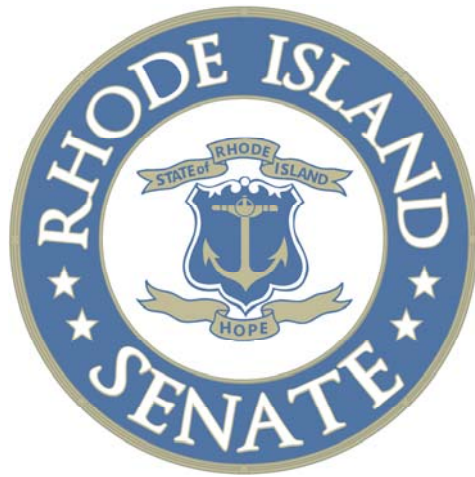
ANALYSIS AND BACKGROUND

This article amends RIGL 35-3-7 (a)(2) by removing language requiring that state budget proposals that include monetary transfers from public corporations (quasi-public agency transfers) also include alternatives to the transfers. This language was codified to curtail the perennial “scoop” of quasi-public agency reserve balances. The Administration claims that this requirement is “inconsistent with the constitutional framework.” The Governor, through the Director of Administration, issued a letter to the Chairmen of the House and Senate Finance Committees on January 17, 2019, that outlines some potential alternatives to the transfers.

Specifically, “To put this total amount of \$20.0 million in transfers in perspective, one would need to consider items such as forgoing an increase in education aid, reducing the motor vehicle phase-out, removing thousands of Rhode Islanders from Medicaid by cutting eligibility, deep cuts in vital programs, or layoffs impacting hundreds of state employees.”

Article 5: Relating to Effective Date

This provides that the Act will take effect upon passage, except as otherwise provided herein.



FY2020 BUDGET

Article 1: Relating to Making Appropriations in Support of FY2020

Article 1 outlines the appropriation amounts from all fund sources for FY2020. In most cases, the appropriations are by fund source at the program level in each department or agency. The article includes the FTE position authorizations by department or agency. Other sections of the article outline the use of contingency funds; out-year appropriation changes in Rhode Island Capital Plan Fund projects; expenditure limits for internal service funds; and, disbursements of Lottery, Temporary Disability Insurance, Employment Security, and University and College Funds.

This article also:

- Sets the airport impact aid formula at a reduced amount.
- Authorizes 15,413.7 FTE positions reflecting an increase of 204.0 FTE positions as compared to the authorized level set in the FY2019 Budget as Enacted.
- Requires that all unexpended or unencumbered balances relating to the University of Rhode Island, Rhode Island College, and the Community College of Rhode Island, be reappropriated to FY2021. In addition, the University of Rhode Island shall allocate \$350,000 to the Small Business Development Center and shall allocate \$50,000 to Special Olympics Rhode Island.
- Caps the amount the Judiciary may charge five state agencies (Public Defender's Office, Office of the Attorney General, Department of Corrections, DCYF, and Department of Public Safety) for public courthouse occupancy costs at \$1.2 million. It requires the Judiciary to provide \$230,000 to the Rhode Island Coalition Against Domestic Violence for domestic abuse court advocacy and requires \$90,000 be provided to the Rhode Island Legal Services to provide housing and eviction defense to indigent individuals.
- Requires that Rhode Island Housing and Mortgage Finance Corporation continue to provide resources to support the Neighborhood Opportunities Program; an amount, however, is not designated. The Article requires a report be provided to the Director of Administration, chair of the Housing Resources Commission, State Budget Officer, and the chairs of the House and Senate Finance Committees on the number of housing units produced and funding.
- Includes a total appropriation of \$8.4 million in general revenue for community service objective grants in FY2020. This reflects a net increase of \$60,000 from the previously enacted budget. The Governor eliminates the \$160,000 award to Urban Ventures and increases the award by \$200,000 for the Veterans at Risk program.
- Requires the following transfers be made to the State Controller by June 30, 2020: \$1.5 million from the Rhode Island Housing and Mortgage Finance Corporation, \$4.0 million from the Rhode Island Infrastructure Bank, and \$1.5 million from Rhode Island Student Loan Authority.

APPROPRIATIONS

Article 1 makes appropriations from general revenues and authorizes expenditures of federal funds, restricted receipts, and other funds for the fiscal year ending June 30, 2020.

Expenditures by Source	FY2018 Final	FY2019 Enacted	FY2020 Governor	Change to Enacted
General Revenue	\$3,798.7	\$3,908.2	\$4,075.1	\$166.9
Federal Funds	2,996.5	3,208.2	3,318.7	110.5
Other Funds	1,978.4	2,174.5	2,234.8	60.3
Restricted Receipts	258.6	281.8	301.4	19.6
Total	\$9,032.2	\$9,572.7	\$9,930.0	\$357.3

\$ in millions. Totals may vary due to rounding.

In addition, Article 1 provides for the annual appropriation of the Contingency Fund; Temporary Disability Insurance Funds (TDI); Employment Security (UI Trust Fund); University and College Funds; and, Lottery Division funds for award winnings during FY2020.

Article 1 establishes 16 specific, capped internal service accounts to permit reimbursement of costs for work or other services performed by certain departments or agencies for any other department or agency. The FY2018 Budget as Enacted established centralized accounts for each agency and allows the Department of Administration to draw upon these accounts for billable centralized services and deposit the funds into the rotary accounts under the Department of Administration. Reimbursements may only be made up to the expenditure cap for each account, as outlined below.

Internal Service Account	FY2019 Enacted	FY2020 Governor	Change
State Assessed Fringe Benefits	\$41,383,271	\$31,377,620	(\$10,005,651)
Administration Central Utilities	22,910,320	23,055,162	144,842
State Central Mail	6,539,120	6,290,947	(248,173)
State Telecommunications	3,602,419	3,450,952	(151,467)
State Automotive Fleet	12,549,973	12,740,920	190,947
Surplus Property	3,000	3,000	-
Health Insurance	251,953,418	252,562,111	608,693
State Fleet Revolving Loan Fund	273,786	273,786	-
Other Post-Employment Benefits	63,858,483	63,858,483	-
Capital Police	1,395,433	1,479,703	84,270
Corrections Central Distribution Center	6,769,493	6,798,359	28,866
Correctional Industries	8,050,590	8,191,195	140,605
Secretary of State Records Center	947,539	969,729	22,190
Human Resources Internal Service Fund	12,131,620	15,227,277	3,095,657
DCAMM Facilities Internal Service Fund	39,212,184	40,379,969	1,167,785
Information Technology Internal Service Fund	32,282,229	40,631,267	8,349,038
Total	\$503,862,878	\$507,290,480	\$3,427,602

- **State Assessed Fringe Benefit:** According to the Budget Office the correct amount that should be stated under the FY2020 Governor's recommendation is \$37.9 million, reflecting a decrease of \$3.5 million from the FY2019 Budget as Enacted. The decrease from current year is the anticipated annualized savings from having Beacon Mutual manage the Worker's Compensation program.

Analyst Note: According to the Budget Office, within the State Assessed Fringe Benefits fund, the budget request is misstated as funding was not included in two accounts that were not corrected before the Governor submitted the budget. The effected accounts and amounts include the Severance Account and the Flex Plan account, which should be budgeted at \$6.45 million and at \$90,000, respectfully. This would bring the State Assessed Fringe Benefits fund budget to approximately \$37.9 million.

In addition, three other accounts list significant changes in the budget. The accounts are the Human Resources Internal Service Fund, DCAMM Facilities Internal Service Fund, and the Information Technology Internal Service Fund. The Budget Office has not provided a detailed explanation for the increase in these two funds. However, the Budget Office does state that there are a number of reasons for the increases, including funding for Microsoft 365 in the Information Technology Internal Service Fund and the COLA/benefit changes initiated in FY2019 that impact all three of the centralized service funds Human Resources Internal Service Fund, DCAMM Facilities Internal Service Fund, Information Technology Internal Service Fund.

FUND TRANSFERS

Article 1 requires transfers from several quasi-public entities be made to the State Controller by June 30, 2020, to support the General Fund. This includes \$4.0 million from the Rhode Island Infrastructure Bank, \$1.5 million from Rhode Island Housing and Mortgage Finance Corporation, and \$1.5 million from Rhode Island Student Loan Authority.

Agency	FY2019 Enacted	FY2019 Governor	Change	FY2020 Governor	Change
Health and Educational Building	\$0.0	\$2.0	\$2.0	\$0.0	\$0.0
Infrastructure Bank	4.0	4.0	-	4.0	-
RI Housing	-	2.5	2.5	1.5	1.5
Quonset Development Corporation	-	2.0	2.0	-	-
RI Resource Recovery	-	5.0	5.0	-	-
RI Student Loan Authority	-	1.5	1.5	1.5	1.5
DEM - Oil Spill Prevention, Administration Response Fund	-	1.0	1.0	-	-
DEM - Underground Storage Tank Trust Fund	-	1.0	1.0	-	-
DEM - Government Entities - Inceptors Bond Funds	-	1.1	1.1	-	-
DEM - Government Water Pollution Control Bond Funds	-	0.1	0.1	-	-
DEM - Private Water Pollution Control Facility Bond Funds	-	0.0	0.0	-	-
DEM - State Rec. Facilities Development Renovation Bond	-	0.0	0.0	-	-
DEM - Local Recreational Facilities Distressed Bond Fund	-	0.0	0.0	-	-
DEM - 25 India Street (Shooter's) Bond Fund	-	0.2	0.2	-	-
Commerce Corporation - Anchor Institution Tax Credit	0.8	0.8	-	-	(0.8)
Total	\$4.8	\$21.2	\$16.4	\$7.0	\$2.2

\$ in millions

Rhode Island Infrastructure Bank: The Budget requires the Rhode Island Infrastructure Bank (RIIB) to transfer \$4.0 million to the State Controller by June 30, 2020. The transfer in FY2020 would result in RIIB losing \$11.5 million of infrastructure funds over three fiscal years. RIIB transferred \$3.5 million to the State in June 2018, and in accordance with the enacted FY2019 budget, will transfer \$4.0 million to the State in June 2019.

According to RIIB these transfers do not directly impact RIIB's restricted lending programs in Clean and Drinking Water State Revolving Fund, Municipal Road and Bridge Revolving Fund, and Efficient Building Fund. Instead, the transfers impact the Bank's operating capital, which is used to supplement RIIB's restricted lending programs. RIIB has made \$26.3 million dollars in loans for eligible RIIB projects from these funds when program funds were unavailable. Without this operating capital, these projects would have been financed by the borrowers at higher interest rates. RIIB also uses operating capital to make lending commitments when municipalities require the financing, rather than having to wait for when the Bank may issue its annual program bonds. This makes the RIIB financing programs more responsive to the timing of infrastructure needs.

Rhode Island Housing and Mortgage Finance Corporation: Article 1 requires the Rhode Island Housing and Mortgage Finance Corporation (RIHousing) to transfer \$1.5 million to the State Controller for deposit in the General Fund by June 30, 2020. This is in addition to the Governor's supplemental budget recommendation transferring \$2.5 million to the State Controller by the end of FY2019.

RIHousing is a self-supporting agency that raises capital through the tax-exempt municipal market to fund loans and programs to help Rhode Islanders purchase homes and to finance housing development and preservation. Investors in RIHousing bonds rely heavily on credit ratings received from Standard & Poor's and Moody's Rating Services. According to the agency, reductions to RIHousing's net income could have a negative effect on the rating agencies' review, which could result in higher interest rates for RIHousing borrowers. The rating agencies have noted that prior transfers required by the State limited RIHousing's ability to pay future debt service on bonds and put RIHousing at a risk for downgrade which could impair its ability to issue bonds in the future and result in higher interest rates for homebuyers and housing

developers. Additionally, the transfer may limit RIHousing's ability to focus on its core mission of investing in housing production.

Rhode Island Student Loan Authority: The Budget requires the Rhode Island Student Loan Authority (RISLA) to transfer \$1.5 million to the State Controller for deposit in the General Fund by June 30, 2020. RISLA, a non-profit State authority, provides affordable higher education loans. Since 1998, RISLA has also provided free educational admissions and financial aid assistance for students and parents through the College Planning Center of Rhode Island (CPC), with several locations around the State. According to RISLA, the transferred funds were allocated to make education loans. Consequently, RISLA's next bond issue will have to be increased by any amounts transferred to the state. Borrowing costs will thereby increase by about \$100,000 annually. This additional cost may increase loans rates slightly for students and their families; however, the actual impact is indeterminable at this time. RISLA has indicated that a ratings downgrade is unlikely at this time; however, if the transfers become a regular occurrence there would be a negative impact on RISLA's ability to access low cost funding.

FTE POSITION CAP AND APPROVAL

Article 1 establishes the authorized number of full-time equivalent (FTE) positions for each State department and agency. Departments and agencies may not exceed in any pay period the number of authorized FTE positions shown. Statewide, the Governor recommends a net increase of 204.0 FTE positions from the FY2019 Budget as Enacted. Following are the changes included in the Governor's proposal:

Expense by Function	FY2019 Enacted	FY2020 Governor	Change to Enacted
General Government	2,438.9	2,513.9	75.0
Human Services	3,682.6	3,711.6	29.0
Education	3,959.4	3,706.2	(253.2)
Public Safety	3,160.0	3,210.0	50.0
Natural Resources	425.0	436.0	11.0
Transportation	755.0	785.0	30.0
Subtotal	14,420.9	14,362.7	(58.2)
<i>Higher Ed. Sponsored Positions</i>	<i>788.8</i>	<i>606.0</i>	<i>(182.8)</i>
<i>Higher Ed. Auxiliary Enterprise Positions</i>	<i>0.0</i>	<i>445.0</i>	<i>445.0</i>
Total FTE Positions	15,209.7	15,413.7	204.0

COMMUNITY SERVICE OBJECTIVES

The FY2017 Budget as Enacted changed the Community Service Objective (CSO) Grants program. Previously, CSO grants were funded in executive agency budgets, but were not specifically delineated in the appropriations act. The program now consists to two components: line-item grant awards, and pool grants. Line-item grants are identified in the appropriations act and include a brief description of the grant purpose. Pool grants will be allocated by executive branch agencies either by formula, or through a competitive process. State agencies will manage the application, award, and reconciliation processes for the awards. Consistent with previous practice, the awards may be subject to audits by the Bureau of Audits.

The FY2019 Budget as Enacted includes \$8.3 million in general revenue for CSO grant awards across 13 state agencies. The Governor recommends an appropriation of \$8.4 million in general revenue in FY2020, a net increase of \$60,000 from the previously enacted budget. The Governor recommends eliminating the \$160,000 award to Urban Ventures and increasing the award by \$200,000 for the Veterans at Risk program.

Agency	Grant Recipient	FY2019	FY2019	FY2020	Change
		Enacted	Governor	Governor	
Administration	City Year - Whole School Whole Child Program	\$130,000	\$130,000	\$130,000	\$0
Executive Office of Commerce	Polaris Manufacturing Technical Assistance Program	350,000	350,000	350,000	-
Executive Office of Commerce	Chafee Center at Bryant	476,200	476,200	476,200	-
Executive Office of Commerce	Urban Ventures	140,000	140,000	-	(140,000)
Secretary of State	Rhode Island Historical Society	125,000	125,000	125,000	-
Secretary of State	Newport Historical Society	18,000	18,000	18,000	-
Human Services - Elderly Affairs	Diocese of Providence - Elder Services	140,000	140,000	140,000	-
Human Services - Elderly Affairs	Alliance for Long Term Care Ombudsman Services	40,000	40,000	40,000	-
Human Services - Elderly Affairs	Elderly Housing Security	85,000	85,000	85,000	-
Human Services - Elderly Affairs	Meals on Wheels	530,000	530,000	530,000	-
Human Services - Elderly Affairs	Senior Center Support	800,000	800,000	800,000	-
Human Services - Elderly Affairs	Elderly Nutrition	50,000	50,000	50,000	-
Human Services	Coalition Against Domestic Violence	300,000	300,000	300,000	-
Human Services	Project Reach - Boys and Girls Club	250,000	250,000	250,000	-
Human Services	Day One	217,000	217,000	217,000	-
Human Services	RI Community Food Bank	175,000	175,000	175,000	-
Human Services	Crossroads Rhode Island	500,000	500,000	500,000	-
Human Services	Institute for the Study and Practice of Nonviolence	200,000	200,000	200,000	-
Human Services	Veterans' Organizations	200,000	200,000	400,000	200,000
Human Services	Community Action Fund	520,000	520,000	520,000	-
Education	Hasbro Children's Hospital - Hospital School	90,000	90,000	90,000	-
Education	Child Opportunity Zones	345,000	345,000	345,000	-
Office of Postsecondary Commissioner	Rhode Island College Crusade	355,000	355,000	355,000	-
Office of Postsecondary Commissioner	Best Buddies Rhode Island	60,000	60,000	60,000	-
University of Rhode Island	Small Business Development Center	350,000	350,000	350,000	-
University of Rhode Island	Special Olympics Rhode Island	50,000	50,000	50,000	-
Arts Council	WaterFire Providence	375,000	375,000	375,000	-
Historical Preservation	Fort Adam's Trust	30,000	30,000	30,000	-
Corrections	Crossroads Rhode Island	1,050,000	1,050,000	1,050,000	-
Judicial	Rhode Island Coalition Against Domestic Violence	230,000	230,000	230,000	-
Judicial	Rhode Island Legal Services	90,000	90,000	90,000	-
Environmental Management	Conservation Districts	50,000	50,000	50,000	-
Total		\$8,321,200	\$8,321,200	\$8,381,200	\$60,000

- Urban Ventures Community Service Obligation:** The Governor eliminates funding for the Urban Ventures organization based on the Executive Office of Commerce's recommendation. Since FY2000, Urban Ventures received \$3.5 million in general revenue appropriations, as illustrated in the table to the right:
- Veterans at Risk:** The Governor includes \$400,000 from general revenues to support community service grants distributed by Veterans' Affairs, an increase of \$200,000 relative to the FY2019 Budget as Enacted. In previous years, the funds provided have not been sufficient to support initiatives to reduce homelessness and increase employment.

Urban Ventures	
FY	Appropriation
2019	\$140,000
2018	140,000
2017	140,000
2016	140,000
2015	140,000
2014	73,011
2013	73,011
2012	97,348
2011	108,164
2010	108,164
2009	108,164
2008	216,328
2007	240,364
2006	250,000
2005	250,000
2004	250,000
2003	250,000
2002	250,000
2001	250,000
2000	250,000
Total	\$3,474,554

CAPITAL APPROPRIATIONS

Article 1 authorizes amounts from the Rhode Island Capital Plan (RICAP) Fund, not otherwise appropriated, to be expended during the fiscal years ending June 30, 2021, June 30, 2022, June 30, 2023, and June 30, 2024. These amounts supersede appropriations provided for FY2020 within the FY2019 Budget as Enacted.

Subject to final General Assembly approval, any unexpended or unencumbered funds from the RICAP Fund project appropriations in excess of \$500 may be reappropriated to the next fiscal year and made available for the same purpose. Any remaining funding less than \$500 may be reappropriated at the discretion of the State Budget Officer.

Article 2: Relating to State Funds

This article adjusts or establishes new restricted receipt accounts as follows:

- Amends RIGL 5-20.7-15 regarding the Real Estate Appraisers Registration – CLRA to create a restricted receipt account. The Department of Business Regulation collects and uses funds from this account.
- Amends RIGL 5-20.9-7 to codify the Appraisal Management Company – Registration restricted receipt account. The Department of Business Regulation collects and remits these funds to the federal government.
- Amends RIGL 16-59-6 to create the State Authorization Reciprocity Agreement (SARA) restricted receipt account. All fees related interstate reciprocity agreements regarding post-secondary distance education will be deposited into this account.
- Amends RIGL 23-1-20 to codify the Health Systems Monitoring and Compliance restricted receipt account. The Department of Health has collected and used funds from this uncodified account.
- Establishes a new restricted receipt account for the Healthcare Information Technology and Infrastructure Development Fund to support the development of healthcare technologies designed to improve the quality of healthcare services and provide patient data security.
- Exempts twenty-one restricted receipt accounts from the 10.0 percent indirect cost recovery charge provisions under RIGL 35-4-27. The proposed exemptions would apply to the Medical Marijuana Licensing, Adult Use Marijuana Licensing, Industrial Hemp Licensing restricted receipt accounts within the Executive Office of Health and Human Services, Department of Public Safety, Department of Health, Department of Revenue, and the Department of Business Regulation. In addition, the article exempts Health System Transformation Project, Medical Marijuana Patient Licenses, Healthcare Information Technology, the De Coppet Estate Fund, Marijuana Cash Surcharge, and the State Authorization Reciprocity Agreement (SARA) restricted receipt accounts.
- Establishes a new Health System Transformation Project restricted receipt account to record federal financial participation associated with healthcare workforce development activities at the State's institutions of higher education.

Analyst Note: Article 14 Section 2 adds a new Health Insurance Market Integrity Fund restricted receipt account within the Department of Administration and amends general law to exempt this account from the 10.0 percent indirect cost recovery charge provisions under RIGL 35-4-27.

FISCAL IMPACT

The proposed exemptions applicable to the Medical Marijuana Licensing, Adult Use Marijuana Licensing, Industrial Hemp Licensing restricted receipt accounts within the Executive Office of Health and Human Services, Department of Public Safety, Department of Health, Department of Revenue, and the Department of Business Regulation would reduce general revenue indirect cost recovery receipts by \$651,000 in FY2020, increasing to \$2.3 million by FY2024.

ANALYSIS AND BACKGROUND

This article addresses various restricted receipts accounts. The changes are explained in detail below.

Real Estate Appraisers Registration – CLRA

Section 1 of this article amends RIGL 5-20.7-15 regarding the Real Estate Appraisers Registration – CLRA fee to create a restricted receipt account. Pursuant to general law and federal code, the Department of Business Regulation collects fees on the issuance of a new license and on renewal fees. The amount of the annual fee is \$240 that is collected on a 2-year basis (\$480). The fee, except for the annual \$40, is deposited into the general fund. The department remits the \$40 (\$80 2-year basis) to the federal Appraisal Subcommittee per Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

The Department projects revenue collections of \$124,650 in FY2019 and \$125,000 for FY2020. Passage of this article would shift the revenue to restricted receipts. The account will not be exempt from the indirect cost recovery provision of RIGL 5-4-27.

Appraisal Management Company – Registration

Section 2 amends RIGL 5-20.9-7 concerning the Appraisal Management Company – Registration fee to create restricted receipt account. Pursuant to general law and federal code the Department of Business Regulation collects fees on the issuance of a new license and on renewal fees to appraisal management companies. The revenue is remitted to the federal Appraisal Subcommittee per Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989. The amount of the annual fee is \$500, which is deposited into the general fund. The department currently deposits the annual fee into the general fund. Since the department essentially acts as a pass-through entity, passage of this article would shift the revenue to restricted receipts. The account will not be exempt from the indirect cost recovery provision of RIGL 5-4-27.

The Department projects revenue collections of \$25,000 in FY2019 and for FY2020 based on 50 registrants at \$500 per license fee.

State Authorization Reciprocity Agreement (SARA)

Section 3 of this article amends RIGL 16-59-6 to create the State Authorization Reciprocity Agreement (SARA) fees restricted receipt account within the Office of the Postsecondary Commissioner budget. SARA is an agreement among member states, District of Columbia, and U.S. territories that established comparable national standards for interstate offering of postsecondary distance education courses and programs. Participation in this agreement makes it easier for Rhode Island students to take high-quality, online courses offered by institutions based in other states and streamlines administration for Rhode Island institutions offering distance learning opportunities out of state. SARA is overseen by the National Council for State Authorization Reciprocity Agreements (NC-SARA) and administered by four regional education compacts, with the New England Board of Higher Education (NEBHE) being the regional entity for Rhode Island.

The following institutions have been approved to participate in RI-SARA: Brown University, Bryant University, Johnson & Wales University, New England Institute of Technology, Roger Williams University, Salve Regina University, and the University of Rhode Island. RI-SARA institutions pay an application fee to RI-SARA and a national fee to NC-SARA. Once an institution is approved, these fees provide reciprocity for the Rhode Island institutions to operate in every NC-SARA. Approved RI-SARA institutions pay an annual fee to remain authorized.

All fees related to interstate reciprocity agreements regarding postsecondary distance will be deposited and disbursed from this account. Projected receipts are \$70,000 and the account will be exempt from the indirect cost recovery provisions of RIGL 35-4-27.

Health System Monitoring and Compliance

Section 4 of this article amends RIGL 16-59-6 to create the Health System Monitoring and Compliance restricted receipt account. The Health Systems Monitoring and Compliance fund is a new restricted receipt account that, according to the Department of Health (DOH), was established to deposit consent agreement fees paid by hospitals. The purpose of the fee is to oversee the corrective action plans in order to ensure compliance. These are one time fees that are used to monitor and provide quality assurance related to the consent agreements with the hospitals.

Healthcare Information Technology and Infrastructure Development Fund

Section 5 of this article amends RIGL 23-77-2 to clarify that the Healthcare Information Technology and Infrastructure Development Fund is a restricted receipt account. Public Law 2004, Chapter 397 created the Healthcare Information Technology and Infrastructure Development Fund within the Department of Health for the purpose of promoting the development and adoption of healthcare information technologies designed to improve the quality, safety and efficiency of healthcare services. The Health Information Technology (HIT) fund seeks to develop, maintain, expand and improve the State's HIT infrastructure. The current donations have been approved to support EOHHS's contract with Rhode Island Quality Institute PMPM work. The Executive Office of Health and Human Services (EOHHS) has been approved to use HIT Fund contributions as agreed upon by the Director of the Rhode Island Department of Health for state match to support activities in the approved EOHHS Medicaid HITECH Health Information Technology Implementation Advance Planning Document (IAPD).

Indirect Cost Recovery Exemptions

State law permits the assessment of a 10.0 percent indirect cost recovery charge on most state restricted receipt accounts in order to support the administrative overhead costs associated with the collection of funds and administration of the accounts. RIGL 35-4-27 enumerates those restricted receipts exempted from this assessment. Section 6 of this article expands the list to include the following accounts:

- **Medical Marijuana Licensing, Adult Use Marijuana Licensing, and Industrial Hemp Licensing:** Article 20 authorizes Medical Marijuana Licensing, Adult Use Marijuana Licensing, and Industrial Hemp Licensing restricted receipt accounts proposed within the Executive Office of Health and Human Services, Department of Public Safety, Department of Health, Department of Revenue, and the Department of Business Regulation.
- **Health System Transformation Project:** Section 7 of this article amends RIGL 42-7.2-10 to create the Health System Transformation Project (HSTP) restricted receipt account. The account will record federal financial participation associated with qualifying healthcare workforce development activities at the state's public institutions of higher education. The first round of HSTP from the federal Designated State Health Program (DSHP) matching financing is being initially recorded as a restricted receipt. The purpose of the restricted receipt account is to safeguard residual cash balances year to year, as any unexpended match will remain recognized in the account until they are disbursed. The restricted account would be used to be a "holding place" for federal dollars that have been earned through the quantification and documentation of eligible costs at the state's university and colleges for programs that train healthcare professionals that will ultimately provide services to Medicaid program participants. Those funds will then be subsequently used as the match for the federal reimbursement of the accountable entity payments.
- **Medical Marijuana Patient Licenses:** The Medical Marijuana Patient Licenses is an existing restricted receipt account created to support RIDOH's medical marijuana program. The revenue generated supports program costs. There is language in statute that any remaining balance at the end of the fiscal year is transferred to the general fund, however, there is usually minimal or no remaining balance.
- **Healthcare Information Technology:** Public Law 2004, Chapter 397 created the Healthcare Information Technology and Infrastructure Development Fund within the Department of Health for the

purpose of promoting the development and adoption of healthcare information technologies designed to improve the quality, safety and efficiency of healthcare services.

- **De Coppet Estate Fund:** This is a newly created restricted receipt account within the Department of Environmental Management (DEM) that was erroneously subsumed under a pre-existing restricted receipt account that was not exempt from the indirect cost recovery provision. The receipts in the fund relate to a bequest of land (Hillsdale) located in the Town of Richmond. The land consists of 1,825.2 acres was formally accepted as trust to the State in 2014, 75-years after the death of the property owner, Theakston de Coppet and after the passing of his last land tenant in 2010. Resolution 340 in 2014 placed the land in to the state and set that 8/40th of the annual trust income (approximately \$20,000) be used to provide support of the land. This action will exempt the trust income from the indirect cost recovery provisions.
- **Marijuana Cash Use Surcharge:** Article 20 Section 10 creates the Marijuana Cash Use Surcharge, a restricted receipt account within the Department of Revenue. The Marijuana Cash Use Surcharge is a 10.0 percent penalty imposed on licensees who make cash payments for excise taxes due to the Division of Taxation. Funds deposited into this account shall be used to finance processing and handling costs of the Division for the marijuana fees.

Health System Transformation Project

Section 7 of this article creates the Health System Transformation Project (HSTP) restricted receipt account within the Executive Office of Health and Human Services under RIGL 42-7.2-10. The account will record federal financial participation associated with qualifying healthcare workforce development activities at the state's public institutions of higher education. The project is part of the Governor's initiative to reinvent Medicaid. Funds will be used to promote improved access and quality of care for Medicaid beneficiaries in RI by supporting the education and training of the healthcare workforce.

The first round of HSTP from the federal Designated State Health Program (DSHP) matching financing is being initially recorded as a restricted receipt. The purpose of the restricted receipt account is to safeguard residual cash balances year to year, as any unexpended match will remain recognized in the account until they are disbursed. The restricted account would be used to be a "holding place" for federal dollars that have been earned through the quantification and documentation of eligible costs at the state's university and colleges for programs that train healthcare professionals that will ultimately provide services to Medicaid program participants. Those funds will then be subsequently used as the match for the federal reimbursement of the accountable entity payments.

Article 3: Relating to Government Reform

This article makes several changes to the Rhode Island General Laws regarding permits and licenses, regulatory authority, tax administration, and Injured on Duty benefits. Specifically, the article:

- Eliminates the permit fee required for parking facilities within the Warwick Airport Parking District.
- Amends licensing fees and requirements for various professions.
- Amends laws related to tax administration.
- Expands requirements for criminal background checks for those seeking employment in child care facilities.
- Clarifies language in RIGL 23-1.4 to require a credible threat based on scientific evidence in determining the environmental acceptability of sites for school construction.
- Adds civil penalties for violations to constable licensing regulations and increases penalties for violations for auto wrecking and salvage yard laws.
- Repeals legislation that required the Department of Revenue and the Division of Municipal Finance to monitor and report the compliance of the Town of Coventry Fire District.
- Consolidates regulatory authority for gas station inspections to the Department of Labor and Training (DLT).
- Amends Injured on Duty requirements for all state employees receiving injured on duty payments.

FISCAL IMPACT

Most of the statutory items with amendments have no direct savings attached to them. However, the changes to Injured on Duty (IOD) benefits for state employees is projected to generate general revenue savings of \$1.7 million in FY2020, including \$204,130 in Military Staff, \$1.4 million in the Department of Public Safety, and \$64,672 in the Department of Environmental Management.

The initiatives outlined in Article 3 would also decrease general revenue collections by an estimated \$51,680; however, the Governor's Budget does not account for these foregone revenues.

ANALYSIS AND BACKGROUND

Warwick Airport Parking District: Section 1 of the article eliminates fees associated with a permit to offer parking in a lot, garage, or other parking facility located within the Warwick Airport Parking District. Currently, this fee is \$10 per space, with a maximum of \$250 per permit. Although the fee would no longer be applicable, the permit would still be required. According to the Tax Administrator, no amount of the fee is passed through to the City of Warwick. The Department of Revenue collected \$1,250 in FY2018 and \$1,400 in FY2019 in permit fees. Elimination of the fee is estimated to reduce general revenue collections by \$1,500 in FY2020; however, the Governor's Budget does not account for these foregone revenues.

Licensing Changes: The article amends licensing fees and requirements for various professions.

- **Class P Liquor Licenses:** The article eliminates the \$1 fee for duplicate copies of caterer liquor licenses. According to the Department of Business Regulation (DBR), this fee has not been collected in the last two to three years; therefore, eliminating it would have no fiscal impact.
- **Hide and Leather Inspectors:** The article eliminates licensing and compensation requirements for hide and leather inspectors in certain towns. According to DBR, this language is outdated and unnecessary, as the state has not licensed hide and leather inspectors in many years.

- **Well-Drillers, Pump Installers, and Water-Filtration Contractors:** The article amends the requirements of well-drillers, pump installers, and water-filtration contractors by removing language requiring that contractors be “of good moral character,” which often creates the assumption that a criminal background check is required. The article also eliminates a notary requirement as part of the license application to simplify the process.
- **Certified Interpreters and Translators for the Deaf:** The article eliminates a requirement of Certified Interpreters and Translators for the Deaf to verify under oath that they meet the qualifications of the license. This is intended to ease the application process.
- **Bedding and Upholstered Furniture:** The article changes the requirements of licenses for the sterilization, disinfection, or disinfestation treatment of bedding and upholstered furniture. The article would change the requirement from a license to a registration. According to the Department of Business Regulation, this process currently brings in over \$1.0 million in revenue, with the majority from out of state. The fees associated with the registration would not be changed.
- **Gasoline Retail Sales:** The article eliminates two fees associated with gasoline permits in order to simplify business requirements in the state. This includes a \$10 license fee for a motor carrier fuel license, temporary license, or decal. The elimination of the associated fee with this license would result in a \$50,000 loss in general revenue collections, although the Governor’s Budget does not account for the loss in revenues. Section 13 of the article eliminates a \$5 license fee for the retail sale of gasoline, resulting in a \$180 loss in general revenues which is also not included in the Governor’s recommendation.
- **Mixed Martial Arts:** The article modifies Mixed Martial Arts (MMA) licensing requirements. The article would allow for the Department of Business Regulation (DBR) to create fees for referees and officials of MMA competitions. The article aligns the legislation with current legislation on boxing competitions by exempting amateurs from license requirements if prize winnings are less than \$25.
- **Contractors’ Registration and Licensing Board:** The article eliminates the requirement of a written affidavit in the Contractors’ Registration permit application. Instead, the article would require a signed statement. This change is meant to reduce the burden placed on contractors applying for permits. The article amends language to reflect the transfer of the Registration and Licensing Board from the Department of Administration to the Department of Business Regulation. There is no impact on general revenues; however, a change to an electronic system may increase efficiencies, thereby reducing restricted receipt expenditures.
- **Roofing Contractors:** The article makes several changes to the requirements of Roofing Contractors. The article eliminates the requirement that roofing contractors complete ten hours of an Occupational Safety and Health Administration (OSHA) course. The article changes continuing education requirements from every year to every two years, consistent with best practices.

The article also eliminates bonding requirements, which require roofing contractors to be insured against failure to complete work. This was previously set at \$100,000. The changes established in Article 3 in regard to roofing contractors are to align Rhode Island with neighboring states, which do not have bond requirements. The article simultaneously increases insurance requirements to \$2.0 million (currently \$1.5 million).

Penalty Changes: Article 3 amends penalties for failure to comply with licensing regulations.

- **Constables:** The article establishes civil penalties for constables, who are independent enforcement officers for court matters. According to the Department of Business Regulation, the only way to currently handle licensing violations is to revoke the certification of the constable. Between 2016 and 2019, six violations resulted in action taken by the Department, four of which were for the same individual. The proposed penalty amount varies, but can be as high as \$1,000. According to DBR, the

fee would likely be tiered based on the number of violations the constable has committed. This new penalty would result in a small increase in general revenue, but the precise impact is unknown.

- **Auto Wrecking and Salvage Yards:** The article increases penalties for violations of RIGL 42-14.2, entitled Department of Business Regulation – Automobile Wrecking and Salvage Yards, from \$500 to \$1,000. Penalties for wrecking and salvage yards would be applicable to those who fail to comply with requirements defined by DBR. According to DBR, these penalties would primarily be assessed against those entities acting as a wrecking and salvage yard without the proper permits. Due to a lack of data, an exact measure of the fiscal impact of the increase is difficult, but is estimated to be approximately \$7,500. This estimated increase in general revenue is not included in the Governor’s Budget.
- **Paper Filing:** The article establishes a penalty for companies who fail to electronically file their tax returns and who were taxed at least \$200 per month in the previous calendar year.

School Construction on Sites with Environmental Contamination: The article amends language to clarify the requirements of school construction sites that have been deemed contaminated. The changes would eliminate uncertainty and require a credible threat based on scientific evidence that the site is not fit for school-use. The language currently requires “reasonable potential” and is unclear as to what determines a site to be unsafe for a proposed school building. The changes in language would allow for the recently-approved bonds to be appropriated for the construction of school buildings.

Transfer of Regulatory Authority: The article transfers regulatory authority for the display of gasoline prices and advertising from the Department of Business Regulation (DBR) to the Department of Labor and Training (DLT). Currently, DLT is responsible for inspecting gas pumps, while DBR is responsible for inspecting listed prices and advertisements. DLT has agreed to handle the regulatory responsibility since it already inspects the gas pumps.

The article transfers the Small Business Ombudsman from the Office of Regulatory Reform within the Office of Management and Budget to DBR. DBR is currently operating under a memorandum of understanding with the Office of Regulatory Reform that allows the Ombudsman to work within DBR, and the article would formally transfer the Ombudsman to DBR.

Background Checks: Article 3 adds the responsibility and authority to conduct background checks for applicants and current employees in state positions with access to federal tax information. The article also expands background checks to all employees of facilities registered with the Department of Children, Youth, and Families or the Department of Human Services. The article would require that all applicants, employees, and volunteers of child care facilities obtain a criminal background check with continuous checks every five years.

Tax Administration: The article would provide authority for the Division of Taxation to prepare a list of entities licensed to collect taxes, such as retail sales tax permit holders, cigarette dealers, and liquor licenses. The Division is also authorized to publish the list online.

The article enables the Director of Lottery to withhold income tax from casino gambling and sports betting winnings, subject to regulations prescribed by the Tax Administrator.

The article amends Business Corporation Tax legislation to be in compliance with federal IRS changes and establishes the authority of the Tax Administrator to assess audited partnerships, direct partners, or indirect partners for owed taxes.

Coventry Fire Department: The article repeals language which required the monitoring of compliance of the Coventry Fire Department by the Division of Municipal Finance. The repeal of the language, according to the Division of Municipal Finance, was to remove redundancy. RIGL 44-5-69 requires that all fire districts that are authorized to assess and collect property taxes must submit annual financial statements that are audited by the auditor general.

Injured on Duty: The article makes a number of amendments to Injured on Duty benefits. Under current law, state and municipal first responders who are injured on duty are guaranteed full pay and benefits, inclusive of accruals, step increases, and cost of living adjustments, until they recover. Those who do not to qualify for or who are denied accidental disability pensions may apply for disability retirement, which entitles the employee to 50.0 percent of their salary. However, many employees do not apply for disability pensions and continue receiving IOD benefits.

Under current law, there is no mechanism to terminate benefits after an appealed case has been denied accidental disability by the State Retirement Board. The changes in the article provide mechanisms for terminating IOD benefits and hiring positions that are held by the employees receiving IOD. The inability to fill these positions results in higher overtime spending and problematic scheduling for departments. Presently, there are five individuals who continue to receive long-term IOD benefits, as they were determined to have been injured on duty prior to amendments in 2011 that required certification of improvement to track progress toward returning to work.

The article amends all Injured on Duty payments, estimated to reduce general revenue expenditures by \$1.7 million in FY2020. There is no savings projection for municipalities regarding municipal first responders receiving IOD benefits. Specifically, Article 3:

- Requires an independent medical examiner to certify maximum medical improvement or permanency of the injury. The result of the examination may trigger an obligation to apply for accidental disability benefits from the State Retirement Board.
- Requires individuals receiving injured on duty benefits to apply for disability with the State Retirement Board no later than eighteen months after the injury. Those who have been receiving benefits for longer than eighteen months upon passage of the article would have 90 days to apply.
- Amends RIGL 45-19-1 to include termination of injured on duty benefits after final adjudication by the State Retirement Board.
- Adds language to clarify that injured on duty personnel are eligible for 50.0 percent or 66.7 percent of their benefits, depending on the extent of their disability.

Article 4: Relating to Government Reorganization

This article makes several changes to the organization of state government. Specifically, this article:

- Clarifies that any time the Tax Administrator, Division of Taxation, Department of Administration, or the Department of Revenue is referenced concerning the collection of Temporary Disability Insurance, employee security taxes, or Job Development Fund it shall be construed to refer to the Director of the Department of Labor and Training.
- Amends several sections of general law to allow the transfer of powers and duties of the Water Resources Board to the Division of Public Utilities and Carriers. In addition, the article transfers the administration and management of the Big River Reservoir from the Water Resources Board to the Department of Administration.
- Eliminates the Motor Vehicle Inspection Commission. Under current law, the Motor Vehicle Inspection Commission functions as a division within the Department of Revenue. The seven-member commission is appointed by the Governor and is subject to Senate Advice and Consent. The commission shares a role with the Director of the Department of Revenue in overseeing State's motor vehicle inspection system and may conduct hearings.
- Eliminates the Office of Federal Grants Management within the Office of Management and Budget (OMB) and transfers the responsibility for federal grants management to the State Controller under the Accounts and Control program.
- Removes the Divisions of Elderly and Veterans' Affairs from the Department of Human Services and establishes them as offices within the Executive Office of Health and Human Services.
- Shifts the duties of licensing and monitoring day care facilities from the Department of Children, Youth, and Families to the Department of Human Services.

FISCAL IMPACT

Most of the statutory items selected for amendment have no direct savings attached to them. However, the transfer of the Water Resources Board to the Division of Public Utilities and Carriers transfers the funding source of the Water Resources Board from \$443,779 in general revenue to \$443,779 in restricted receipts.

ANALYSIS AND BACKGROUND

Transfer of Employer Tax Unit: This Article transfers the Employer Tax Unit from the Department of Revenue (DOR) to the Department of Labor and Training (DLT). The Employer Tax Unit administers the unemployment tax, the temporary disability insurance tax, and the job development assessment tax. These taxes are used to fund Unemployment Insurance (UI) benefits and Temporary Disability Insurance (TDI) benefits. Although the Employer Tax Unit has been housed in DOR, the funding they collect is used for DLT benefit programs. The transfer is intended to centralize the unit's efforts related to UI and TDI benefits. The transfer includes 42.0 FTE positions. There is no funding included, as the Employer Tax Unit is already funded by DLT.

Water Resources Board: Sections 13, 17, 18, and 30 of the article authorize the transfer of the Water Resources Board functions and 3.0 FTE positions from the Division of Planning to the Division of Public Utilities and Carriers, as well transfer the responsibilities of administering the Big River Management Area from the Water Resources Board to the Department of Administration. The transfer of the Board also transfers the funding source of the Water Resources Board from \$443,779 in general revenue to \$443,779 in restricted receipts.

Motor Vehicle Inspection Commission: Section 10 eliminates the Motor Vehicle Inspection Commission. State statute provides for a seven-member panel appointed by the Governor, with the advice and consent of the Senate, to share in the role of overseeing the State's motor vehicle inspection system. The laws establishing the Commission were enacted in their current form in 2006. However, the Commission has never been officially constituted. According to the Division of Motor Vehicle, eliminating the Commission from law will have no operational impact. It will also better align statute with the existing regulatory framework. Inspections stations are currently regulated by DOR, through the DMV, pursuant to other sections of the General Laws contained in Chapters 31-38 and 31-47.1. Inspections are further governed by DMV regulations, 280-RICR-30-15-1 (Rhode Island Motor Vehicle Safety and Emission Control Regulation No. 1) and 280-RICR-30-15-3 (Official Manual for Vehicle Inspection).

Office of Federal Grants Management: Sections 11 and 12 eliminate the Office of Federal Grants Management within the Office of Management and Budget (OMB) and transfers the responsibility for federal grants management to the State Controller under the Accounts and Control program. Currently, there is 1.0 FTE position in the Office of Federal Grants Management. According to the Department, the FTE position and funding will internally transfer between the two offices. According to the Office of Internal Audits, the transfer eliminates a potential conflict of interest because the Office of Federal Grants Management reported administratively to the Office of Internal Audits, thereby prohibiting the audit of the program. Generally accepted audit standards require the auditor to be independent and objective. Since Office of Internal Audit is responsible for oversight of the federal grants, there is no independence. By moving the responsibility for federal grants management to Accounts and Control, the conflict is avoided.

Division of Veterans' Affairs: Article 4 removes the Division of Veterans' Affairs as a function of the Department of Human Services (DHS) and creates it as the Office of Veterans' Affairs within the Executive Office of Health and Human Services (EOHHS). The Director of Veterans' Affairs shall be appointed by and report directly to the Governor, consistent with current practice, but the Office shall reside within EOHHS for administrative purposes.

The article adds two responsibilities to Veterans' Affairs and removes them from DHS by repealing current general laws 42-12-5 and 42-12-7. The first requires the Office to present all legal claims for benefits to the Veterans Benefits Administration of the United States. The second allows the director of Veterans' Affairs to control and supervise any special funds that may be provided for the purposes of decorating graves, burial expenses, or any other expenditures relating to veterans of the United States Armed Forces.

Analyst Note: These are the only duties which are transferred from DHS directly to Veterans' Affairs. All other responsibilities currently held by DHS are transferred to EOHHS.

In order to support the transfer of Veterans' Affairs to EOHHS, the article shifts certain responsibilities from the Director of DHS to the Secretary of EOHHS, where appropriate. Specifically, the article:

- Adds the Secretary of EOHHS to the Veterans' Services Strategic Plan Advisory Committee, which is responsible for ensuring that all state departments deliver comprehensive services and supports for veterans and their families.
- Transfers all responsibilities related to the Rhode Island Veterans' Home to the secretary of EOHHS. This allows the Secretary to appoint management staff for the Veterans' Home, accept gifts to be deposited into the Veterans' Home restricted receipt account, and promulgate rules and regulations governing admission of applicants to the facility.
- Establishes the Secretary as the custodian of the North Cemetery in Bristol and the Rhode Island Veterans' Memorial Cemetery in Exeter. The article also enables the Secretary to promulgate rules and regulations governing eligibility for burial in the Veterans' Memorial Cemetery.

- Section 7 repeals RIGL 30-27-1, which allowed the General Assembly to appropriate funds in support of the annual encampment of the United Spanish War Veterans. This statute is removed from general law because it is outdated, as there are no surviving veterans from this organization.

Division of Elderly Affairs: Article 4 removes the Division of Elderly Affairs as a function of the Department of Human Services (DHS) and creates it as the Office of Elder Affairs within the Executive Office of Health and Human Services (EOHHS). The Director of Elder Affairs shall be appointed by and report directly to the Governor, consistent with current practice, but the Office shall reside within EOHHS for administrative purposes. The structure, roles, and responsibilities of the Office remain the same.

The article also makes a technical correction by eliminating the former Department of Elderly Affairs from the list of enumerated departments in state government. The Department of Elderly Affairs was removed as a department and consolidated as a division within DHS in 2011.

Analyst Note: Section 19 repeals RIGL 42-12-1.3, which transferred the Elderly Transportation Program function to DHS when the Department of Elderly Affairs was consolidated. However, according to the Budget Office, the intent of the article is not to remove this responsibility from DHS. Since the program is not established elsewhere in statute and funding remains with DHS in FY2020, DHS will continue coordinating and providing transportation.

Licensing and Monitoring of Day Care Facilities: This article moves the authority to license and monitor child care providers from the Department of Children, Youth, and Families (DCYF) to the Department of Human Services (DHS). DCYF is still responsible for the licensing and monitoring of child-placing agencies, child caring agencies, foster and adoptive homes, and children’s behavioral health programs. The transfer includes 8.0 FTE positions and approximately \$800,000 for associated salary and benefit costs. DHS will be responsible for monitoring the operation, facilities, and programs of child care providers as well as issuing, denying, suspending and revoking licenses as deemed necessary. DHS is also responsible for creating and administering regulations pertaining to licensing and monitoring of the child care providers including compliance with fire regulation codes, staff to child ratios and workload assignments, program activities, immunization testing, among other regulations. The table below illustrates license fees and validity periods for each type of child care provider.

Child Day Care Licenses	License Fee	Validity Period
Child Day Care Center	\$500	1 Year
Group Family Day Care	\$250	1 Year
Family Day Care	\$100	2 Years

Article 5: Relating to Taxes, Revenues and Fees

This article increases taxes on cigarettes and other tobacco products, establishes an excise tax on firearms and makes changes and adjustments to several of the State's tax laws and their enforcement. Specifically, Article 5:

- **Sales Tax Changes:** Subjects digital downloads of videos, music, and electronic books to the State's sales tax. The article also subjects the hunting, trapping, and shooting services, lobbying services, and building services to the sales tax. The article also adjusts the statutory framework underpinning the obligations of remote sellers and online retail sales facilitators.
- **Cigarettes, Other Tobacco Products, and E-Cigarettes:** Increases the excise tax on cigarettes by \$0.25, which raises the tax from \$4.25 to \$4.50 per pack of twenty, subjects electronic cigarettes to the tobacco excise tax, and make numerous changes to the regulatory framework for all categories of products under RIGL 44-20.
- **Hotel Tax Changes:** Increases the 5.0 percent state hotel tax to 6.0 percent, authorizes the additional dollar to go to the general fund, and adjusts the tax distribution formula.
- **Beverage Containers and Hard to Dispose of Materials:** Doubles the taxes on hard to dispose of materials such as oil, antifreeze, and organic solvents. It also doubles the tax on beverage containers from four cents to eight cents.
- **Professional License Fee Increases:** Increases certain professional certifications and licensing fees administered by the Department of Business Regulation (DBR).
- **Firearms and Ammunition Surcharge:** Imposes a 10.0 percent surcharge on the first sale or use of firearms and ammunition in the state.
- **DMV Tax Block:** Authorizes the DMV to charge municipalities \$5.00 per individual to block vehicle registrations on those delinquent in their property tax payments.
- **DOR Collections Unit:** Adjusts the interest at which the Collections Unit at the Department of Revenue may place upon a delinquent debt referred to it by a State agency.
- **Jobs Development Assessment Expansion:** Applies the Jobs Development Assessment to non-profit and government employers (previously excluded) employing a minimum of 1,000 employees.

FISCAL IMPACT

The fiscal impact of Article 5 is summarized below

Article 5 Fiscal Impact	
Initiative	General Revenue
Sales Tax Changes	\$26.0
Cigarette, OTP, and E-Cigarette Changes	4.6
State Hotel Tax Increase	4.5
Beverage Containers and Hard to Dispose of Materials Fees	3.1
Professional Licenses Increases	1.8
Firearm Excise Tax	0.8
DMV Registration Block Fee	0.4
Total	\$41.2
Initiative	Other Funds
JDA Assessment of Non-Profits	\$1.2
Total	\$1.2

\$ in millions

ANALYSIS AND BACKGROUND

Sales Tax Changes

Article 5 makes several changes to sales and use taxes, including subjecting “digital downloads” and certain new categories of services to the State’s 7.0 percent sales tax.

Digital Downloads: Rhode Island has taken several steps to modernize the State’s sales and use tax in an effort to align with technological advances in the way commerce is conducted. For example, the 2018 General Assembly defined vendor-hosted prewritten computer software as a “service” that is subject the sales tax. Likewise, the enactment in 2018 of new framework aimed at facilitating tax collections on remote, internet-based sales was an attempt to keep up with modern retail.

FY2020 Revenue - Digital Content	
Video	\$1.5
Music	0.6
Books	0.5
Total	\$2.6

\$ in millions

Article 5 continues this modernization by expanding the sales tax to digitally downloaded content. According to the Office of Revenue Analysis (ORA), half of all states currently tax this content. This includes:

- **Digital Audio-Visual:** Applies to the purchase or rental of, or subscription to, streamed movies and video. Examples include Netflix movies and YouTube channels.
- **Digital Audio:** Applies to podcasts and music, including streaming services such as Spotify and Sirius XM radio.
- **Digital Books:** Applies to e-books.

ORA utilized 2017 data from three industry groups – the Digital Entertainment Group, the Recording Industry Association of America, and AuthorEarnings – to determine an estimate on the value of digital content consumption in the U.S. ORA then scaled the value to Rhode Island using census data. From this estimate, ORA’s modeling projects \$2.6 million in sales tax collection as a result of this initiative based on an October 1, 2019, start date.

Services: Article 5 requires sales tax to be collected on commercial building services, interior designers, lobbying, and hunting/shooting. Over the last decade, Rhode Island has consistently expanded the types of professional services that are subject to the State’s sales tax (i.e. security services in 2018, Uber and Lyft in 2017, and pet care services in 2012). Article 5 continues this trend.

- **Commercial Building Services:** Article 5 requires sales tax to be collected on a large array of services that are provided to commercial buildings. The specific services as delineated by the North American Industry Classification System (NAICS) are janitorial services, landscaping services, carpet/upholstery cleaning services, extermination/pest control services, and other building services.

FY2020 Revenue - Services	
Commercial Building Services	\$10.1
Interior Design	0.8
Hunting & Shooting	0.6
Lobbying	0.3
Total	\$11.8

\$ in millions

Services provided to a residential building are exempt. For mixed-use property, taxes would apply. Services supplied by a building owner to a business leasing office space are taxed upon the entire rental charge, unless separately stated.

ORA utilized NAICS and U.S. Census data to determine the percentage each service sector represented in Rhode Island. From this estimate, ORA calculated a “leakage” factor, to account for a reduction in the use of these services due to the tax, and a non-compliance factor. ORA’s final estimate of sales tax revenue, based on a October 1, 2019, start date, is \$10.1 million.

- **Lobbying:** For purposes of the sales tax, lobbying means “acting directly or soliciting others to act for the purpose of promoting, opposing, amending, or influencing any action or inaction by any member of the executive or legislative branch of state government or any public corporation”, or “any regional or municipal government, agency, or board”. It does not include these activities if directed towards the federal government, another state, or another country. It also does not include political consulting, public relations services, or public relations consulting services.

There are approximately 328 registered lobbyists in the state. Using an October 1, 2019, start date, ORA estimates \$297,151 in new revenue.

- **Hunting and Shooting:** Article 5 expands the sales tax base to include rod and gun clubs, shooting ranges, and hunting, fishing, and game preserves.

Rhode Island has nine private hunting and game reserves and 27 shooting ranges. The Department of Environmental Management also owns a shooting range that is open to the public. For purposes of Article 5, the services subject to the tax are those delineated by NAICS as “hunting and trapping” services. The sales tax would apply to charges paid for the right or privilege to access a place where these services are provided. This includes dues and membership fees. Special assessments of club members for capital improvements are exempt; however, any of these funds left unexpended would be taxable three years after the assessment. ORA’s modeling projects \$604,088 in FY2020 revenue based on an October 1, 2019, start date.

Interior Designers: Sales tax is expanded to include interior design services. The specific services as delineated by NAICS are specialized design services (interior design). ORA estimates \$754,836 in FY2020 revenue based on a October 1, 2019, start date.

Remote Sellers: Historically, states have been prohibited from imposing sales taxes on purchases made from out-of-state sellers. Federal jurisprudence held that such taxes were unconstitutional because they create an undue burden on interstate commerce. The U.S. Supreme Court maintained states may only impose sales taxes on those sellers who have a physical presence in the state. In 2017, the Office of Revenue Analysis (ORA) estimated that the value of sales and use taxes on the purchases made by Rhode Islanders from out-of-state sellers (primarily via the internet) was worth no less than \$37.3 million. Given the legal prohibitions on remote sales tax collections, the shift from brick and mortar to e-commerce represented a significant threat to Rhode Island’s tax base.

This condition began to change in 2016, when the 10th U.S. Circuit Court of Appeals upheld an approach used by Colorado to encourage remote sellers to voluntarily collect and remit sales and use taxes. The primary feature of the approach was a series of complicated notification requirements placed on those remote sellers who choose not to collect taxes. The objective was to make collection and remittance more palatable than complying with the notifications.

In 2017, the General Assembly enacted a framework based on this Colorado approach. It provided for three categories of entities with varying obligations relative to the sales tax. In all categories, the sales tax provisions applied to entities with at least \$100,000 in gross Rhode Island revenue or at least 200 transactions. The entities and obligations are:

- **Non-Collecting Retailers:** A non-collecting retailer is an out-of-state entity that sells, leases, or delivers products or services into Rhode Island to Rhode Island customers, either directly, via retail sales facilitators, or referrers (e.g. Amazon or catalogs). Non-collecting retailers are required to either collect and remit, or comply with extensive taxpayer notifications.
- **Retail Sale Facilitators:** A retail sale facilitator is an entity that contracts with retailers to list and or advertise for sale products and services (via internet or catalog) and either directly or indirectly collects payments from in-state purchasers and transmits payments to the retailer. Retail sales facilitators are

required to provide the Division of Taxation with lists of retailers that collected and did not collect sales tax.

- **Referrers:** A referrer is an entity that contracts with retailers to list and or advertise for sale products and services (via internet or catalog), charges a fee to the retailer for the listing/advertisement, but does not transact payments between retailers and in-state customers. Referrers are required to notify retailers that their sales are likely subjected to Rhode Island’s sales and use tax.

In June 2018 the Supreme Court of the United States upheld a South Dakota law in a case involving the online retailer Wayfair. In doing so the Court overturned its previous rulings on the physical presence standard and held the imposition of sales and use taxes no longer constitute an undue burden on interstate commerce as long as the following conditions are met:

- The state provides a safe harbor to those who only sell small amounts into the state.
- The state does not require the retroactive collection of sales taxes.
- The state has a single, state-level administration of the sales tax.
- The state maintains a simplified tax rate structure.
- The state applies uniform definitions and rules.
- The state gives access to software provided by the state, with immunity to those who rely on it

Article 5 simplifies current sales tax by aligning to the new standards set forth in the *Wayfair* decision. The article specifically:

- **Updates definitions:** Article 5 redefines the categories of entities involved in remote sales.
 - Marketplace Facilitators - entity that contracts with sellers to facilitate the sale of the seller’s products through a physical or electronic marketplace.
 - Marketplace Seller – an entity who contracts with a marketplace facilitator and makes retail sales through a marketplace owned, operated, or controlled by a marketplace facilitator.
 - Non-collecting Retailers – this definition is eliminated on or after July 1, 2019.
- **Updates requirements:** Article 5 makes several changes to ensure conformity with the new *Wayfair* standards. These:
 - Compel all entities to register with the Division of Taxation for purposes of collecting and remitting sales tax.
 - Codify safe harbor provisions so that entities with less than \$100,000 in gross revenue or less than 200 RI transaction are not required to collect and remit taxes.
 - Update to include 2018 sales tax expansion changes involving “software as a service”.
- **Revenue Estimate:** The Office of Revenue Analysis (ORA) estimates that the amount of e-commerce not currently being collected is worth approximately \$11.5 million in FY2020. The estimate is derived by taking an ORA estimated amount of total e-commerce sales in Rhode Island and deducting an estimated fraction of those sales attributed to non-collecting retailers. This estimate is further adjusted for to account for a level of non-compliance. The estimate is contingent upon a July 1, 2019, start date.

Analyst Note: Article 5 does not address the State's Marketplace Fairness "trigger" that is in current law. Marketplace Fairness refers to possible Congressional action to federally standardize e-commerce sales tax practices. In 2012 the General Assembly enacted provisions that called for automatic sales tax changes in the event that Congress passed a Marketplace Fairness act. The included, a reduction to the State sales tax to 6.5 percent, an elimination of the application of sales tax to certain clothing, and changes to the local meals and beverage tax and hotel tax calculations. . Since Article 5 closes the remote seller loophole, there would be no new remote sales tax revenue offset to the approximate \$80.0 million loss associated with the 0.5 percentage point drop in the rate.

Cigarettes, Other Tobacco Products, and E-Cigarettes

Article 5 makes numerous changes to the statutes governing the taxation of cigarettes and other tobacco products, including electronic cigarettes. The fiscal impact of these changes are summarized in the following table:

Cigarette, OTP, and E-Cig Licensing Fiscal Impact	
Cigarette Excise Tax Increase	\$3,079,250
Max Cigar Excise Increase	647,705
Cigarette, OTP, and E-Cig Licensing Fee	535,000
Increase and other Changes	
E-Cigarette Excise Tax	353,746
Total	\$4,615,701

Excise Tax on Cigarettes: This article increases the excise tax levied on cigarettes by \$0.25 per-pack of cigarettes, raising the total tax from \$4.25 to \$4.50 per pack of twenty, or to the equivalent of \$0.23 per cigarette. According to ORA, total retail price will increase by \$0.30, from \$10.52 to \$10.82 per individual pack. According to the Department of Revenue, this amount is \$0.60 less than the average total retail price in Massachusetts, and \$0.35 per pack below Connecticut. Floor stock tax is assessed at the same rate per pack of cigarettes. The additional excise, floor, and associated sales taxes from this change is estimated to generate an additional \$3.1 million in revenue.

Cigarette Tax Revenue Impact	
Revenue Item	FY2020
Cigarette Excise Tax	\$2.5
Cigarette Floor Tax	0.7
Sales and Use Tax	(0.1)
Total	\$3.1

\$ in millions

Source: Office of Revenue Analysis

Impact of Cigarette Excise Increase and Regional State Comparison

	Rhode Island		Massachusetts		Connecticut		
	Current	Proposed					
Base Price per Pack in \$	\$4.78	\$4.78	\$4.86		\$4.78		
Excise Tax in \$	4.25	4.50	3.51		4.35		
<i>Subtotal base price + Excise</i>	9.03	9.28	8.37		9.13		
Wholesale Markup	2.0%	0.18	0.19	2.0%	0.17	6.5%	0.59
Wholesale Cartage	0.75%	0.07	0.07	0.75%	0.06	0.0%	0.00
Retail Markup	6.0%	0.56	0.57	25.0%	2.15	8.0%	0.78
<i>Total Base Cost</i>	9.83	10.11	10.75		10.50		
Sales Tax	7.0%	0.69	0.71	6.25%	0.67	6.35%	0.67
Total Price per Pack	\$10.52	\$10.82	\$11.42		\$11.16		

Source: ORA

Note: The Office of Revenue Analysis calculated base price per pack using available data on states' websites. No base price for CT was available, so it was assumed that CT would have the same base price as RI.

In determining the revenue estimate, ORA takes into consideration the elasticity of the price of cigarettes. The \$0.25 excise tax increase amounts to a 5.9 percent price increase. Applying elasticity from decreased demand as calculated from previous tax increases results in a net estimated revenue increase of 2.2 percent.

Cigars: The Budget increases the maximum tax imposed on cigars sold in the state. The current maximum tax is set at \$0.50 per cigar. Article 5 raises it to \$0.80, effective August 1, 2019. According to the ORA, cigars with a wholesale cost of over \$0.625 per cigar are taxed at the maximum rate. In FY2018, approximately 2.2 million cigars were taxed at this level. Cigars with a wholesale cost less than \$0.625 are taxed at the standard OTP rate of 80.0 percent of the wholesale. ORA estimates increasing the maximum cigar tax will generate \$647,705 in new general revenue in FY2019.

E-Cigarettes: Article 5 increases the regulation of electronic-cigarette (e-cigarette) related products.

- **Definitions:** The article establishes the following legal definitions for e-cigarette related products for the purposes of state-level regulation:
 - **Electronic nicotine delivery system:** An electronic device that may be used to simulate smoking in the delivery of nicotine or other substance to a person inhaling from the device, and includes, but is not limited to, electronic versions of cigarettes, cigars, cigarillos, pipes, hookahs, e-liquid, or any related device or cartridge, or component of such device.
 - **E-liquid and e-liquid products:** Any liquid or substance placed in or sold for use in an electronic delivery system which generally utilizes a heating element that vaporizes or combusts a liquid or other substance containing nicotine or nicotine derivative whether sold separately or in combination with a vaporizer, inhaler, or electronic nicotine delivery system.
- **New Excise Tax:** Article 5 subjects e-liquid products to the “other tobacco products” (OTP) excise tax at the rate of 40.0 percent of the wholesale cost. This is half the rate applied to the other categories of OTP. Using e-liquid and e-cigarette revenue data from other states, ORA projects that excise taxes associated with e-cigarettes will generate \$353,746 in general revenue in FY2020.

Consolidated Tobacco/E-cigarette Regulation and Licensing: Licensing and transaction regulations for dealers and distributors of cigarettes, vaping products, cigars and other tobacco products vary significantly under current law. Article 5 makes several changes to this regulation. The various classes of licensees that are subject to the changes in fees and regulation are defined in RIGL 44-20-1.

Class	Definition
Stamping	Cigarettes require Taxaion stamp. Refers to all classes involved with the sale of cigarettes in RI
Non-Stamping	OTP and electronic-cigarette related products do not require stamps. Refers to all classes involved with their sale in RI
Dealer	Any person whether located within or outside of this state, who sells or distributes cigarettes, other tobacco products to a consumer in this state.
Distributor	Any person whether located within or outside of this state, other than a dealer, who: <ol style="list-style-type: none"> 1) Sells or distributes cigarettes and/or other tobacco products within or into this state; 2) Sells cigarettes and/or other tobacco products directly to consumers in this state by means of at least twenty-five (25) vending machines; 3) Engages in this state in the business of manufacturing cigarettes and/or other tobacco products or any person engaged in the business of selling cigarettes and/or other tobacco products to dealers, or to other persons, for the purpose of resale only; provided, that seventy-five percent (75%) of all cigarettes and/or other tobacco products sold by that person in this state are sold to dealers or other persons for resale and selling cigarettes and/or other tobacco products directly to at least forty (40) dealers or other persons for resale; or 4) Maintains one or more regular places of business in this state for that purpose; provided, that seventy-five percent (75%) of the sold cigarettes and/or other tobacco products are purchased directly from the manufacturer and selling cigarettes and/or other tobacco products directly to at least forty (40) dealers or other persons for resale.
Manufacturer	Any person who manufactures, fabricates, assembles, processes, or labels a finished cigarette and/or other tobacco products.
Importer	Any person who imports into the United States, either directly or indirectly, a finished cigarette or other tobacco product for sale or distribution

Article 5 makes the following changes:

- **Regulatory Agency:** Dealers and distributors of cigarettes and OTP are currently required to be licensed through the Division of Taxation. E-cigarette related product dealers and distributors are licensed by the Department of Health. The Budget shifts this regulatory function to the Division of Taxation, but does not include any transfer of funding or staff.

- **Transactions Requiring a License:** Currently, manufacturers or importers of cigarettes are only permitted to sell their products into Rhode Island if they are purchased by a licensed cigarette dealer or distributor. That is not currently the case for OTP and e-cigarettes. Similarly, in-state dealers, distributors, and importers are not permitted to purchase or receive cigarettes from manufacturers or importers that are not licensed by the Division of Taxation. This also is not currently the case for OTP and e-cigarette-related products.

Class	Fee	Current	Article 5	Change
Importer	Application	\$1,000	\$1,000	\$0
Distributor	Application	1000	1000	-
Non-stamping Distributor	Application	150	250	100
Dealer	Application	25	75	50
Dealer	License	-	250	250
Dealer	Renewal	25	250	225

Note: According to the OMB the \$250 non-stamping distributor and dealer license fees are supposed to be \$400. An amendment is expected. The revenue estimate is based on the \$400 amount.

Article 5 makes all OTP and e-cigarette related products subject to the same transaction rules as cigarettes. OTP and e-cigarettes would only be allowed to be purchased by in-state dealers, distributors, manufacturers, and importers who are licensed by the Division of Taxation. Smoking bars, however, are specifically exempted by Article 5 from being required to have a specific license to receive OTP from out-of-state manufacturers or importers.

- **Fee Changes:** Article 5 increases fees related to the various classes of businesses associated with cigarette, OTP, and e-cigarette-related products. The Office of Management and Budget (OMB) estimates that these changes will yield \$535,000 in FY2020, based on the assumptions related to the number of licensees shown in the table.

Class	Licensees
Non-Stamping Distributor/Dealer	900
E-Cig Product Dealers	400
Non Compliant Dealers becoming Compliant	100
New Dealers	100
Total	1,500

Analyst Note: Article 5 raises three separate fees – dealer application, dealer renewal, and non-stamping distributor. The Office of Management and Budget indicates that the new fee amount as it currently appears in the article is incorrect. Section 14 of the article raises the fees to \$250. OMB states that it should be \$400. OMB notes that the revenue estimate of \$535,000 was based on the \$400 amount and that a Governor’s Budget Amendment request will be forthcoming.

Hotel Tax Changes

Section 10 of Article 5 raises the State's hotel tax rate from 5.0 percent to 6.0 percent. Section 7 alters the distribution of the state hotel tax.

State Hotel Tax Increase: Article 5 increases the state hotel tax from 5.0 percent to 6.0 percent. All revenue raised from the additional 1.0 percent is to be deposited into the general fund. The Budget assumes an estimated \$4.5 million in additional general revenue in FY2020 from this tax increase.

State Hotel Tax Distribution: Article 5 also changes state hotel tax share ratios in order to ensure that the entire increase in the hotel tax goes to the general fund and not to the various entities under the current formula. The adjustments to the shares are summarized in the table to the right. These adjustments have the practical effect of providing the entities the same amount they would have received had the state hotel tax remained at 5.0 percent.

Location of Room Rental/ State Hotel Tax Recipient	Current Share of Hotel Tax (5.0 %)	Article 5 Share of Hotel Tax (6.0%)
Providence		
Providence Convention Authority	30.0%	25.0%
City of Providence	25.0%	20.8%
RI Commerce Corporation	21.0%	17.5%
Providence Warwick Convention Visitors Bureau	24.0%	20.0%
General Revenue	0.0%	16.7%
Warwick		
Warwick Department of Economic Development	30.0%	25.0%
City of Warwick	25.0%	20.8%
RI Commerce Corporation	21.0%	17.5%
Providence Warwick Convention Visitors Bureau	24.0%	20.0%
General Revenue	0.0%	16.7%
Omni Hotel (Providence)		
Providence Convention Authority	30.0%	25.0%
RI Commerce Corporation	50.0%	41.6%
Providence Warwick Convention Visitors Bureau	20.0%	16.7%
General Revenue	0.0%	16.7%
Statewide District*		
Municipality of Room Rental	25.0%	20.8%
RI Commerce Corporation	70.0%	58.3%
Providence Warwick Convention Visitors Bureau	5.0%	4.2%
General Revenue	0.0%	16.7%
All Other Locations in the State		
Regional Tourism District of Room Rental	45.0%	37.5%
Municipality of Room Rental	25.0%	20.8%
RI Commerce Corporation	25.0%	20.8%
Providence Warwick Convention Visitors Bureau	5.0%	4.2%
General Revenue	0.0%	16.7%
Rental Via Hosting Platform (ie. Airbnb)		
Municipality of Room Rental	25.0%	20.8%
RI Commerce Corporation	75.0%	62.5%
General Revenue	0.0%	16.7%

*Rooms rentals in Cranston, Foster, Johnston, N. Providence, Scituate, and W. Warwick

Analyst Note: According to OMB the changes made to the distribution shares were calculated in such a way as to ensure that each entity would receive the amount of funds it would have if the tax had remained at 5.0 percent. In order for this to be true, however, the share percentage must be carried out to at least the ten-thousandths of a percentage point level, otherwise the amount received by the municipalities and other entities falls short by a marginal amount, with the difference going to the general fund. The article rounds to a tenth of a percent.

Beverage Containers and Hard to Dispose of Materials

The Taxation of Beverage Containers, Hard-to-Dispose Material, and Litter Control Participation Permittee Act (RIGL 44-44) was enacted in 1984 to provide funding for the litter reduction and recycling program and the hard-to-dispose material – control and recycling program.

Collections are deposited as general revenue. The table below outlines revenue collections associated with the Act:

	FY2017	FY 2018	FY 2019 YTD
Vehicle Title Fee	\$188,362	\$174,624	\$85,775
Antifreeze Tax	24,928	30,320	11,447
Organic Solvents	942	1,581	441
Motor Oil	487,453	608,223	233,214
Tire Sales	303,148	330,788	140,236
Beverage Container & Participation Fees	2,195,318	2,572,689	1,853,364
Total	\$3,200,151	\$3,718,225	\$2,324,477

Beverage Containers: A tax of four cents (\$0.04) is currently levied on each case of beverage containers sold by a beverage wholesaler to a beverage retailer or consumer within this state, excluding reusable and refillable beverage containers. The tax is collected by the beverage wholesaler and deposited as general revenue. The tax is applicable to beer, other malt beverages, and all non-alcoholic drinks except for milk. Section 17 proposes to double the tax to \$0.08 yielding an estimated \$2.1 million in new revenue.

Hard to Dispose of Materials: A tax is collected upon the sale by hard-to-dispose material wholesalers to hard-to-dispose material retailers. Every hard-to-dispose material retailer selling, using, or otherwise consuming any hard-to-dispose material in Rhode Island is liable for the tax imposed by this Act. The following table outlines the current tax rate for materials subject to collections and shows the changes proposed under Article 5, Section 17.

Material	per Unit of Measurement	Current Rate	Article 5	Change
Lubricating Oils	Quart (32.0 ounces)	\$0.05	\$0.10	0.05
	Liter	0.052	0.106	0.054
Antifreeze	Gallon	0.10	0.20	0.1
	Liter	0.0264	0.0528	0.0264
Organic Solvents	Gallon	0.0025	0.005	0.0025
	Liter	0.00066	0.00132	0.00066
Tire	per Tire	0.50	1.00	0.5
Vehicle Title Fee	each New Vehicle Sale	3.00	6.00	3.00
Beverage Containers*	per Case	0.04	0.08	0.04

**Does not include reusable and refillable containers*

In the case of new motor vehicles, a fee of three dollars (\$3.00) per vehicle is levied and paid to the Division of Motor Vehicles in conjunction with titling of the vehicle.

Professional License Fee Increases

Article 5 raises the licensing fees associated for mortgage loan originators and debt collectors.

- **Mortgage Loan Originators:** The current annual license fee for mortgage loan originators is \$100. Article 5 raises the fee to \$400. The increase is expected to generate \$1.3 million based on an assumption of approximately 3,119 licensees per year.
- **Debt Collectors:** The current annual license fee for mortgage loan originators is \$100. Article 5 raises the fee to \$500. The increase is expected to generate \$577,850 based on approximately 1,445 licensees per year

Firearms Excise Tax

The Governor proposes a new excise tax to be imposed on the sale of firearms and ammunition in Rhode Island.

Collection and Remittance: A 10.0 percent surcharge would be applied to the sale price of firearms and ammunition, with the surcharge constituting a part of the final price and therefore subject to the sales tax. Retail dealers must remit the sales taxes on the 20th day following the month in which the sale was made. Article 5 also establishes a framework for claiming of refunds and appeals.

Revenue: ORA used a tax simulation model that estimated the size of the firearms market in Rhode Island and took into account several factors. The model looked at the sales distribution across long guns (rifles and shotguns) and handguns. Long guns may be purchased out-of-state but a Rhode Islander may only purchase a handgun from an in-state licensed dealer. Because RI would be the first state in the region with such an excise tax, ORA factored into its estimate elasticity for out-of-state purchases. Based on an October 1, 2019 start date, ORA estimates that the excise tax would yield \$804,306.

Exemptions: Article 5 exempts weapon and ammunition purchases made by the military, military personnel, veterans' organizations associated with the military, and law enforcement from the excise tax. Starter pistols are also exempt.

DMV Tax Block

The Division of Motor Vehicles (DMV) blocks individuals from conducting vehicle registration transactions if local personal property or excise taxes on a motor vehicle remains unpaid. The blocks are placed at the request of municipalities and other local jurisdictions. These blocks are removed on a rolling basis as cities and towns report to the DMV that the taxes have been paid. This service is provided free of charge to municipalities.

Article 5 authorizes the DMV to charge municipalities \$5.00 per individual to block vehicle registrations on those delinquent in their property tax payments. In FY2018, 125,605 blocks were placed by the DMV. DMV estimates that the initiative will yield \$406,250 in FY2020 revenue.

DOR Collections Unit Interest Rate

The 2018 General Assembly authorized the creation of a dedicated Collections Unit within the DOR for the purposes of assisting state agencies in the collection of debts owed to the State.

The Collections Unit is authorized to enter into agreements with any State agency to collect any delinquent debt. The debt must arise from a debtor failing to make timely payments pursuant to a written settlement agreement, final administrative order, or final judgement from a court or department.

Currently, once a debt is referred to the Collections Unit it will accrue interest at an annual rate determined by adding 2.0 percent to the prime interest rate effective the preceding October 1. The interest rate cannot exceed 21.0 percent or be less than 18.0 percent per year.

Analyst Note: This proposal only impacts the interest rate charged by the Collections Unit at the DOR. The interest rate for the overdue taxes remains unchanged.

Article 5 establishes a new calculation that applies the greater of either 13.0 percent or the annual rate established by statute for the referring agency.

Nonprofits subject to Job Development Assessment

Effective January 1, 2020, Article 5 amends RIGL 28-43-29 to require nonprofit organizations, with 1,000 or more employees, to pay the Job Development Assessment. Under current law nonprofit organizations are not required to pay this assessment. The Budget includes an additional \$1.2 million related to this expansion.

Analyst Note: Although the change to the JDA to include nonprofit employers will not be effective until January 1, 2020, the Governor's Budget includes a full year of additional revenue. Per the Department of Labor and Training, the actual amount of revenue anticipated is approximately \$650,000.

Since 1989 Rhode Island employers have paid a Job Development Assessment (JDA) to support workforce development activities. The JDA is collected with the State's payroll and unemployment insurance taxes. The JDA is assessed as 0.21 percent of an employers' taxable wages, with 0.19 percent dedicated to job training programs operated by the Governor's Workforce Board (GWB) and 0.02 percent dedicated to costs associated with administering the State's Unemployment Insurance (UI) and employment service programs.

Under current law, for-profit employers of one or more employees are subject to the State's unemployment insurance taxes while nonprofit organizations are exempt, therefore they do not pay the JDA. Nonprofit organizations have been able to utilize the GWB's training programs and grants regardless of whether or not they pay the JDA.

The JDA is collected with employers' payroll and unemployment insurance taxes. Nonprofit organizations have two ways of paying for unemployment claims.

- They may be a contributory nonprofit, in which case they elect to pay unemployment insurance taxes like for-profit employers do. If an employee of a contributory nonprofit files an unemployment or temporary disability claim it is processed and paid for by DLT.
- Nonprofits may also elect not to pay unemployment insurance. In this case if an employee files an unemployment or temporary disability claim it is paid by DLT but the nonprofit must reimburse DLT for the claim dollar for dollar.

Contributory nonprofits are already paying the JDA, as it is collected as a part of the unemployment insurance taxes.

Article 6: Relating to Debt Management Act Joint Resolutions

This article authorizes the issuance of \$80.5 million in new revenue bonds to finance three projects at the University of Rhode Island (URI) and \$45.0 million in certificates of participation for the renovation of the high security center at the Department of Corrections.

FISCAL IMPACT

The article authorizes \$80.5 million in Rhode Island Health and Educational Building Corporation (RIHEBC) revenue bonds, authorized at up to 6.0 percent interest a period of up to 30 years, yielding a total debt service of \$174.7 million that will be financed primarily through University of Rhode Island unrestricted institutional revenue and auxiliary fee revenues. The article further authorizes the issuance of \$45.0 million in certificates of participation for the renovation of the high security center at the Department of Corrections, assuming an average interest rate of 5.0 percent over 15 years.

Proposed Debt Authorizations

Revenue Bonds	Department	Principal	Interest	Total Debt	Annual Debt	Loan
					Service	(years)
Memorial Union	URI	\$51.5	\$60.8	\$112.3	\$3.7	30.0
Fraternity Circle Master Plan	URI	2.1	1.6	3.7	0.2	20.0
Combined Health & Counseling	URI	26.9	31.8	58.7	2.0	30.0
High Security Center Renovation	DOC	45.0	21.2	66.2	4.4	15.0
Total		\$125.5	\$115.3	\$240.8		

\$ in millions. Totals may vary due to rounding.

ANALYSIS AND BACKGROUND

URI Memorial Union (\$51.5 million)

The article provides for the issuance of \$51.5 million in revenue bonds issued through the Rhode Island Health and Educational Building Corporation (RIHEBC) for the renovation and expansion of the Memorial Union. URI has completed an advanced planning study for this renovation. Total debt service is not expected to exceed \$112.3 million over 30 years, with an assumed interest rate of 6.0 percent. Annual payments are anticipated to be \$3.7 million. Debt service will be financed through auxiliary revenue.

URI Fraternity Circle Master Plan (\$2.1 million)

The article provides for the issuance of \$2.1 million in revenue bonds issued through the Rhode Island Health and Educational Building Corporation (RIHEBC) for utility and infrastructure improvements to the Fraternity Circle district of URI. While the first phase of this project (\$5.4 million) focused on utility improvements, the second phase will address streets and pedestrian networks. Fraternity Circle currently accommodates 13 Greek fraternities and sororities, providing housing to over 800 undergraduate students, and it is growing. Total debt service is not expected to exceed \$3.7 million over 20 years, with an assumed interest rate of 6.0 percent. Annual payments are anticipated to be \$183,088. Debt service will be financed through the University's unrestricted general fund.

URI Combined Health & Counseling Center (\$26.9 million)

The article provides for the issuance of \$26.9 million in revenue bonds issued through the Rhode Island Health and Educational Building Corporation (RIHEBC) for the design and construction of a new Combined Health & Counseling Center. This project will create a one-stop center to address the physical, emotional, and mental health needs of URI students. URI has completed an advanced planning study for the new facility. Total debt service is not expected to exceed \$58.7 million over 30 years, with an assumed

interest rate of 6.0 percent. Annual payments are anticipated to be \$2.0 million. Debt service will be financed through auxiliary revenue.

Department of Corrections – High Security Center Renovation (\$45.0 million)

The article provides for the issuance of \$45.0 million in certificates of participation (COPs) to renovate existing High Security housing units at the Department of Corrections to achieve operational efficiencies, reduce correctional officer to inmate ratios, provide energy/maintenance efficiencies, and increase the safety of correctional officers. Total debt service is not expected to exceed \$66.2 million over 15 years, with an assumed interest rate of 5.0 percent. For FY2020 the annual payment is assumed to be a single interest only payment of \$1.1 million, assuming six months of interest. Annual payments then increase to \$4.3 million through FY2035. Debt service will be financed through general revenue appropriations within the Department of Administration. Since total construction costs are projected at \$60.0 million, the article anticipates \$15.0 million in Rhode Island Capital Plan (RICAP) funds to be dedicated.

Article 7: Relating to Motor Vehicles

Article 7 makes a number of changes affecting the Division of Motor Vehicles (DMV).

- **License Plate Reissuance Requirement Eliminated:** The article eliminates the requirement that license plates be reissued no less than every ten years.
- **Technology Surcharge Fee Increased:** The DMV currently collects a \$1.50 surcharge on every fee transaction to defray costs associated with information technology projects. Article 7 raises the surcharge by an additional \$1.00 (\$2.50 total) per transaction.
- **Certificate of Title Required to Register Vehicles over 20 Years Old:** Under current law, once a vehicle is 20 years old a certificate of title is not required to get a registration. The article eliminates this exemption for vehicle model years 2001 and higher.

FISCAL IMPACT

The elimination of the requirement to reissue license plates every ten years results in a net loss of \$600,000 of general revenue in FY2020. This reflects a \$1.8 million loss in departmental fees associated with the \$6.00 per plate reissuance fee, and a savings of \$1.2 million in operational and personnel implementation costs.

The \$1.00 increase to the technology surcharge on DMV fee transactions is projected to yield an additional \$1.7 million in revenue in FY2020. This new revenue would be deposited into a new restricted receipt account at the DMV. Revenue from the existing \$1.50 surcharge would continue to go to the Information Technology Investment Fund (ITIF) and is projected to generate \$2.5 million in FY2020.

ANALYSIS AND BACKGROUND

License Plate Reissuance Requirement Eliminated

Pursuant to RIGL 31-3-33, the DMV is required to issue new reflective license plates for all registered vehicles every 10 years. Enacted in 2009, the law required the first reissuance in 2011. This requirement has been delayed six times. In the FY2012 Budget as En acted, the General Assembly changed the first full reissuance requirement from 2011 to 2013; the FY2014 Budget as Enacted delayed the reissuance until September 1, 2015; the FY2016 Budget as Enacted delayed the reissuance to July 1, 2016; the FY2017 Budget as Enacted delayed the reissuance to April 1, 2017; the FY2018 Budget as Enacted delayed it until January 1, 2019; and the FY2019 Budget as Enacted delayed it until January 1, 2020. Article 7 of the Budget eliminates the reissuance requirement altogether.

The purpose of the reissuance includes the reduction in motor vehicle registration fraud, revenue generation, and improving law enforcement's ability to identify vehicles. Each of the delays, however, has been accompanied by a different, overriding rationalization (see table).

Session	Date	Delay Date	Reason
2011	9/2011	9/2013	\$3.3 million savings initiative
2013	9/2013	9/2015	Budget reduction target initiative
2015	9/2015	7/2016	Need to align plate design w/ state tourism campaign
2016	7/2016	4/2017	RIMs - Staff would have to be taken away from implementation
2017	4/2017	1/2019	Launch of RIMs System/Reprogramming legacy IT system
2018	1/2019	1/2020	Real ID - Staff would have to be taken away from implementation
2019	1/2020	Eliminated	Condition of license plate will be addressed at the time of a vehicle's inspection

Analyst Note: According to DMV officials, enforcing license plate visibility/reflectivity standards and the accuracy of registrations will be primarily accomplished through the vehicle inspection process. The Budget includes \$169,038 in general revenue funding and 2.0 new FTE control inspector positions at the DMV to support enhanced inspection enforcement.

The net fiscal impact of the eliminating the license plate reissuance is an approximate loss of \$600,000 in revenue in FY2020. This reflects a \$1.8 million loss in departmental fees associated with the \$6.00 per plate reissuance fee, and a savings of \$1.2 million in operational and personnel implementation costs.

Analyst Note: According to DMV officials, the price of a set of plates was artificially low. They indicated that the cost per plate is likely much higher than \$6.00 given the rising price of the metal that the plates are made of.

Technology Surcharge Fee Increased

Under current law the DMV is authorized to charge a \$1.50 surcharge on every DMV fee transaction.

Surcharge Collections	
Fiscal Year	Amount
2016	\$2,186,713
2017	2,201,946
2018	2,183,401
2019*	2,339,398
2020*	2,533,970
Total	\$11,445,428

*Estimated, not inclusive of fee increase

Source: Department of Revenue

Surcharge revenue is deposited into the State's Information Technology Infrastructure Fund (ITIF). Funds generated through the surcharge are specifically used to pay the original and ongoing costs associated with the DMV's information technology system, known as the Rhode Island Modernization System, or RIMS. Collection of the surcharge is only authorized through June 30, 2022.

Article 7 makes several changes related to the technology surcharge. The surcharge is increased by \$1.00, for a total of \$2.50 per DMV fee transaction. Revenue from the additional \$1.00 is to

be deposited in a new restricted receipt within the DMV to pay for IT project-related payments and/or ongoing maintenance of and enhancements to the DMV's computer system. The article removes the existing sunset and shifts the remaining \$1.50 to the DMV account beginning on July 1, 2022.

Based on DOR projections \$4.2 million in surcharge revenue, inclusive of the fee increase, will be generated in FY2020. The ITIF would receive \$2.5 million of this revenue and \$1.7 million would be deposited into the DMV restricted receipt account.

Analyst Note: The RIMS contract is set to expire June 30, 2020, and will have to be renegotiated. Hewlett Packard Prospecta is the current sole source vendor. According to DMV officials, the ongoing maintenance of RIMS, including upgrading to new releases, is typically more expensive than the costs of the initial system implementation. DOR indicates that the additional resources (represented by the \$1.00 surcharge increase) will help pay for what it anticipates will be a more expensive contract going forward.

Certificate of Title Required to Register Vehicles over 20 Years Old

Current law exempts all vehicle models older than 2001 from the requirement of having to have a DMV title. The law, however, also extends the exemption to all vehicles that are 20 years or older. This would mean that a 2001 model vehicle would no longer require a title beginning in 2021. Article 7 eliminates this exemption going forward, effectively requiring titles for all vehicles models from 2001 onward. DMV officials indicate that establishing titles for very old vehicles has historically been difficult to do and therefore was not required as condition for vehicle registration. It is less difficult for later models vehicles given better record keeping technology. Additionally, Rhode Island has required a title as a condition of registration for newer vehicle models for almost 20 years. Establishing title to a vehicle helps to ensure that the individual who is registering the vehicle is its proper owner.

Article 8: Relating to Transportation

This article makes a number of changes to transit oriented departments, including the Department of Transportation, the Rhode Island Public Transit Authority, and the Division of Motor Vehicles. Specifically, Article 13:

- Increases the per-trip fee for overweight and oversize vehicle permits (OOVP). The fee for non-divisible loads exceeding 80,000 lbs. increases from \$20.00 to \$40.00, and the fee for non-divisible loads exceeding 130,000 lbs. increases from \$20.00 to \$300.00.
- Increases the annual OOVP fee for non-divisible loads up to 130,000 lbs. from \$300.00 to \$400.00.
- Increases the Rhode Island Public Transit Authority's (RIPTA) share of the Motor Fuel Tax (Gas Tax) from \$0.0975 per gallon to \$0.1025 per gallon, provided that the gas tax increases from \$0.33 per gallon to \$0.34 per gallon on July 1, 2019.
- Extends RIPTA's \$5.0 million annual appropriation to support the Free-Fare program through FY2020.
- Mandates the DOT to reimburse the Division of Motor Vehicles for salary and benefit costs of customer service representatives who collect funds that are deposited into the Highway Maintenance Account.

FISCAL IMPACT

The changes to the overweight and oversize vehicle permit fees included in this article would increase general revenues within the Division of Motor Vehicles by \$501,840.

The Governor includes an additional \$2.3 million within DOT and RIPTA's budgets, \$4.6 million total, related to each department receiving an additional \$0.005 of the gas tax. The Governor also includes an additional \$373,951 in DOT's budget and \$189,239 in RIPTA's budget due to a projected increase in the per penny gas tax yield as estimated by the Department of Revenue.

The Governor transfers \$4.5 million from the DOT's Highway Maintenance fund to the DMV for customer service representative personnel costs.

The Article also extends RIPTA's annual appropriation of \$5.0 million from the Highway Maintenance Account through FY2020. This funding is used to support RIPTA's free-fare program which provides transportation to low-income seniors and disabled residents.

ANALYSIS AND BACKGROUND

Overweight and Oversize Vehicle Permit Fees:

Under current law, the DOT may approve the issuance of special permits for the operation of vehicles exceeding 80,000 lbs. Article 8 expands the DOT's ability to approve permits for vehicles exceeding 130,000 lbs.

The article increases the per-trip fee for overweight and oversize vehicle permits (OOVP). The fee for non-divisible loads exceeding 80,000 lbs. increases from \$20.00 to \$40.00, and the per-trip fee for non-divisible loads exceeding 130,000 lbs. increases from \$20.00 to \$300.00. The article also increases the annual fee for non-divisible loads of less than 130,000 lbs. from \$300.00 to \$400.00. The operator of the overweight/oversize vehicle may pay the annual fee in lieu of individual per-trip fees.

The DOT issues OOVPs, but the Division of Motor Vehicles (DMV) collects the associated fees. The fee changes are estimated to generate an additional \$501,840 which will be payable to the DMV and deposited as general revenue.

Overweight, Oversize Vehicle Permit Fees	Trips	Original Fee	Fee Increase	Proposed Fee Total	Additional Revenue
Single Trip (80,000 - 130,000 lbs.)	8,181	\$20.00	\$20.00	\$40.00	\$163,620
Single Trip (over 130,000 lbs.)	1,164	20.00	280.00	300.00	325,920
Annual Trip Fee (under 130,000 lbs.)	123	300.00	100.00	400.00	12,300
Total					\$501,840

Source: RI Dept. of Transportation

Increase in Motor Vehicle Fuel Tax:

Pursuant to RIGL 31-36-7, beginning in FY2016, and each year after, the motor fuel tax (gas tax) is adjusted by the percentage increase in the Consumer Price Index for Urban Consumers (CPI-U). In December 2018, the Division of Taxation determined that the CPI-U increased by 2.3 percent for the applicable time period ending September 30, 2018. The current gas tax is \$0.33 per gallon, with the 2.3 percent increase applied the gas tax beginning in July 2019 will be \$0.34 per gallon. Article 8 mandates the additional penny be split evenly between RIPTA and DOT, increasing their shares to \$0.1025 and \$0.1975, respectively.

Motor Fuel Tax Allocations: Cents per Gallon

	DOT	RITBA	RIPTA	DHS	Total
FY2015	\$0.1825	\$0.0350	\$0.0975	\$0.0100	\$0.3250
FY2016	0.1925	0.0350	0.0975	0.0100	0.3350
FY2017	0.1925	0.0350	0.0975	0.0100	0.3350
FY2018	0.1925	0.0350	0.0975	0.0100	0.3350
FY2019	0.1925	0.0350	0.0975	0.0100	0.3350
FY2020	0.1975	0.0350	0.1025	0.0100	0.3450
FY2021	0.1975	0.0350	0.1025	0.0100	0.3450

Note: DOT includes 0.020 for GARVEE Debt Service

Note: RIPTA includes 0.005 for Underground Storage Tank Fee

Source: Budget Office

Changes to the motor fuel tax are estimated to generate an additional \$5.2 million. The increase in gas tax from \$.033 per gallon to \$0.34 per gallon is anticipate to yield an additional \$4.6 million, to be evenly split between the DOT and RIPTA. The remaining \$650,607 is generated due to an increase in the per penny gas tax yield. The per penny gas tax yield is estimated by the Department of Revenue, and is projected to increase by \$19,426 per penny.

Motor Fuel Tax Revenue	FY2017	FY2018	FY2019	FY2020	Change from FY2019	
DOT	\$85.0	\$86.5	\$87.0	\$89.7	\$2.6	3.0%
RITBA	15.5	15.7	15.8	15.9	0.1	0.4%
RIPTA	43.0	43.8	44.0	46.5	2.5	5.6%
DHS	4.4	4.5	4.5	4.5	0.0	0.4%
Total	\$147.9	\$150.5	\$151.4	\$156.6	\$5.2	3.4%

\$ in millions. Totals may vary due to rounding.

Estimate developed by Senate Fiscal Office

Transfer to DMV for Personnel Costs:

Beginning in FY2020, the DOT is required to reimburse the DMV for personnel costs associated with customer service representatives who collect fees that are deposited into the Highway Maintenance Account (HMA). In FY2020 there are a total of 62.5 FTE customer service representative positions at the DMV who collect HMA fees. The total salary and benefit cost for these positions is \$4.5 million.

Allocation to RIPTA for Free-Fare Program:

RIPTA operates the Free-Fare Bus Pass Program which allows eligible, low-income seniors (age 65+) or persons with a disability to ride a RIPTA bus free of charge. Federal law mandates that all persons who are over 65 or have a disability, regardless of income, be allowed to ride Federal Transit Administration (FTA) funded services for half-fare during off-peak hours.

In 2017, the General Assembly allowed RIPTA to implement a 50 cent fee for these rides, this change was part of a new fare structure intended to help RIPTA decrease their deficit. The General Assembly provided RIPTA with \$5.0 million annually in FY2018 and FY2019 to fund the Free-Fare program, and the 50 cent fee was rescinded.

The General Assembly also required RIPTA to convene a coordinating council charged with developing recommendations for the sustainable funding of the Free-Fare Program. The council was due to report their recommendations to the Governor, Speaker of the House, and Senate President by November 1, 2018; however, due to internal conflicts RIPTA did not present their findings until December 31, 2018. The major finding in the report determined that an additional penny of the gas tax allocated to RIPTA would adequately fund the Free-Fare program.

Article 8 extends \$5.0 million in funding for the Free-Fare program to RIPTA through FY2020.

Article 9: Relating to Local Aid

This article authorizes municipalities to levy property taxes on non-mission related buildings and property owned by tax-exempt entities. It also modifies the car tax phase-out formula.

Property Tax Expansion: Under current state and federal law, certain not-for-profit institutions such as colleges, universities, certain hospitals are exempt from paying local property taxes. Article 9 provides municipalities authority to assess the value of and levy taxes on property that is not exclusively used by non-profit institutions in support of carrying out their missions. It affirms the tax-exempt status of mission-related property and establishes December 31 of the year prior to the effective date of the article as the date of assessment.

Car Tax Phase-Out Formula: Article 7 adjusts the car tax phase-out formula. This effectively increases property tax assessments from current law, and reduces state reimbursements for foregone aid in FY2020.

FISCAL IMPACT

Expanding local taxes to non-mission related property has no direct fiscal impact to the State. The Governor, however, reduces funding for Payment-in-Lieu-Of-Taxes (PILOT), the state-aid program established to relieve the burden that tax-exempt institutions place on cities and towns. The FY2020 Budget reduces PILOT by \$5.3 million relative to the FY2019 Budget as Enacted.

The car tax phase-out modifications under the Article 9 proposal results in net reductions in planned state-aid in each of the next four fiscal years. State aid in FY2020 is reduced by \$16.3 million accordingly.

ANALYSIS AND BACKGROUND

Article 9 includes two major proposals related to local aid and local taxes.

Property Tax Expansion – Non-Profit Organizations

Background: Under current state and federal law, property, real or personal, owned by a tax-exempt non-profit organization is not required to pay taxes on said property to a municipality. Examples of such non-profit organizations include certain universities and hospitals. For some communities the amount of real and personal property owned by such organizations may represent a significant amount of the potential property tax base. Often municipalities will enter into agreements with such organizations where a payment in lieu of tax (PILOT) is negotiated. The payment is typically less than what the organization would have owed had the full valuation of the property been taxable. These agreements are an acknowledgement that municipal services, such as police, fire, and sanitation, provided to the non-profits are still required and have a cost and are used to offset it.

Article 9 Changes: The Governor proposes permitting municipalities to levy property taxes on the portion of a tax-exempt, nonprofit hospital or institution of higher education's property that is not used for mission-related purposes. Non-profits other than hospitals and colleges remain exempt from the provisions of Article 9. The magnitude of new revenue for municipalities under this proposal is not clear. Municipalities do not currently keep an inventory of non-mission related property owned by hospitals and universities. Article 9 makes explicitly clear that undeveloped real estate parcels owned by these organizations may be subject to property taxes.

Article 9 provides that any payments made to a municipality by a non-profit hospital or institution of higher education in lieu of taxes relative the portion of property that is non-mission related, are to be credited towards and reduce the taxes owed to the municipality. December 31st of the year prior to the effective date of Article 9 will be used as the date of the assessment of property value.

Analyst Note: The FY2020 Budget reduces the State's payment-in-lieu-of-taxes (PILOT) aid program in the FY2020 Budget by \$5.3 million. This reduction in PILOT is not related to any specific, corresponding estimate of reduced property tax revenue related to non-mission, nonprofit higher education or hospital property.

Municipal Impact: Certain municipal budget cycles apply the upcoming budget year PILOT appropriation to the current municipal budget year. Because of this, the PILOT reduction represents a challenge for these municipalities to address the local fiscal impact of Article 9 in a timely way. Moreover, the state-level PILOT program is based upon a property tax valuation that currently includes non-mission related property. It is not clear under Article 9 if the value of non-mission related property will be removed from the state-level PILOT calculation.

Modification to the Car Tax Phase-out Formula

Article 9 modifies several of the levers used in calculating the formula for the motor vehicle tax phase-out state aid. Specifically, the article modifies the assessment ratio utilized by the State's Vehicle Valuation Commission and local tax assessors when valuing motor vehicles in relation to levying the motor vehicle excise tax. It also make changes to the minimum required exemption amounts and the maximum allowable tax rates used in the phase-out formula. Changing these levers results in a \$16.3 million savings in general revenue in FY2020 and an equivalent reduction in state aid to municipalities.

Background: The Motor Vehicle and Trailer Excise Tax Elimination Act of 1998 was enacted to offer broad-based property tax relief to the residents of Rhode Island. The tax relief program, however, was halted in FY2011, freezing the total annual relief at \$10.0 million. The 2017 General Assembly revisited car tax reform. The FY2018 Budget as Enacted decreased the motor vehicle excise tax each year from FY2018 through FY2023, fully eliminating the tax in FY2024 and replacing it with state general revenue. The tax is reduced over a seven-year period by decreasing tax rate caps and assessment ratios, while raising exemption floors and exempting vehicles that are more than 15 years old.

Based on the current formula, total state aid in FY2020 for the car tax phase-out to municipalities will be \$94.3 million, 82.1 percent greater than the updated FY2019 level of \$56.2 million (inclusive of the standing \$10.0 million in state aid established prior to FY2018).

Article 9 Changes: As noted above Article 9 makes several changes to the car tax phase-out formula. These include:

- **Assessment Ratio:** When determining the value of a vehicle for purposes of the property tax levy, municipalities typically use an amount that is a function of the "clean retail" value reported in the National Automobile Dealers Association Official Used Car Guide -New England Edition. The car tax phase-out formula places includes a graduate d cap on the percentage of "clean retail" that assessors may use. Article 9 changes modifies these caps from 85.0 percent to 87.5 percent in FY2020, 80.0 percent to 84.0 percent in FY2021, 75.0 percent to 79.0 percent in FY2022, and 70.0 percent to 67.5 percent in FY2023.
- **Exemption Minimum:** Municipalities typically permit a partial minimum exemption on the value of a vehicle for purposes of levying their property taxes. The car tax phase-out formula establishes graduated minimum levels over the seven year phase-out. Article 9 reduces the FY2020 minimum from \$3,000 to \$2,800; the FY2021 minimum from \$4,000 to \$3,800; and the FY2022 minimum from \$5,000 to 4,800.

Assessment Ratio			
Fiscal Year	Current	Article 9	Change
FY2018 Baseline	100.0%	100.0%	0.0%
FY2018	95.0%	95.0%	-
FY2019	90.0%	90.0%	-
FY2020	85.0%	87.5%	2.5%
FY2021	80.0%	84.0%	4.0%
FY2022	75.0%	79.0%	4.0%
FY2023	70.0%	67.5%	-2.5%
FY2024	N/A	N/A	N/A

Exemption Minimum			
Fiscal Year	Current	Article 9	Change
FY2018 Baseline	\$500	\$500	\$0
FY2018	1,000	1,000	-
FY2019	2,000	2,000	-
FY2020	3,000	2,800	(200)
FY2021	4,000	3,800	(200)
FY2022	5,000	4,800	(200)
FY2023	6,000	6,000	-
FY2024	N/A	N/A	N/A

- Excise Rate Cap:** The various municipal property tax excise rates in effect in 1998 when the first car tax reforms were enacted were frozen until the FY2018 Budget as Enacted. At that time, an excise tax cap was established and gradually reduced until the complete phase-out in FY2024. Article 9 modifies the annual cap for FY2020, raising it from \$35 per \$1,000 of value to \$40. It also raises the cap in FY2023 from \$20 per \$1,000 value to \$25.

Fiscal Year	Excise Rate Cap		
	Current	Article 9	Change
FY2018 Baseline	N/A	N/A	N/A
FY2018	\$60	\$60	\$0
FY2019	50	50	-
FY2020	35	40	5
FY2021	35	35	-
FY2022	30	30	-
FY2023	20	25	5
FY2024	N/A	N/A	N/A

These changes have the practical effect of shifting the large general revenue impact scheduled for FY2020 out to FY2022. Under the current formula, the general revenue supported car tax phase-out state aid grows 82.1 percent in FY2020 and only 26.2 percent in FY2022. The formula as modified by Article 9 grows state aid by 46.9 percent in FY2020 and a 72.6 percent in FY2022. Overall, Article 9 moderates the year-over-year increases as compared to the current formula. The following table outlines the various changes to the car tax formula in Article 9 and their impact:

Comparison Between Current Law and Governor's Proposed Motor Vehicle Tax Phase-out							
	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024
Current Law							
State Assessment Ratio	95.0%	90.0%	85.0%	80.0%	75.0%	70.0%	-
Rate Cap	\$60	\$50	\$35	\$35	\$30	\$20	-
Exemption Amount	\$1,000	\$2,000	\$3,000	\$4,000	\$5,000	\$6,000	-
Total Statewide Aid:	\$24,544,191	\$46,282,300	\$84,275,463	\$105,314,412	\$132,917,367	\$167,127,304	\$224,421,893
Additional Aid from Previous FY	\$24,544,191	\$21,738,109	\$37,993,163	\$21,038,949	\$27,602,955	\$34,209,936	\$57,294,589
Taxed Car Count	602,385	593,702	568,413	514,521	451,273	389,426	-
Cars Dropped from Tax Roll	150,923	8,683	25,289	53,892	63,248	61,848	389,426
Governor's Proposal							
State Assessment Ratio	95.0%	90.0%	87.5%	84.0%	79.0%	67.5%	-
Rate Cap	\$60	\$50	\$40	\$35	\$30	\$25	-
Exemption Amount	\$1,000	\$2,000	\$2,800	\$3,800	\$4,800	\$6,000	-
Total Statewide Aid:	\$24,544,191	\$46,282,300	\$67,989,394	\$93,708,856	\$122,751,500	\$161,506,088	\$224,421,893
Additional Aid from Previous FY	\$24,544,191	\$21,738,109	\$21,707,094	\$25,719,462	\$29,042,644	\$38,754,588	\$62,915,805
<i>Statewide Aid Variance</i>			<i>(\$16,286,069)</i>	<i>(\$11,605,556)</i>	<i>(\$10,165,867)</i>	<i>(\$5,621,216)</i>	-
Taxed Car Count	602,385	593,953	578,408	537,996	478,892	384,023	-
<i>Variance from Current</i>	-	<i>251</i>	<i>9,995</i>	<i>23,475</i>	<i>27,619</i>	<i>(5,403)</i>	-
Cars Dropped from Tax Roll	150,923	8,432	15,545	40,412	59,105	94,869	384,023
<i>Variance from Current</i>	-	<i>(251)</i>	<i>(9,744)</i>	<i>(13,480)</i>	<i>(4,143)</i>	<i>33,021</i>	<i>(5,403)</i>

Article 10: Relating to Universal Prekindergarten

This article provides the framework for the Governor’s Prekindergarten Expansion Plan. The plan involves a two-phased approach. Phase I would happen in FY2020 and would involve expansion within the current infrastructure to add 540 new seats as well as assessment and planning for Phase II. Phase II would occur in FY2021 through FY2023, and would add 5,380 seats by increasing workforce and facility capacity, optimizing governance structures, engaging families across the state, and accelerating expansion across a mixed delivery system. Article 10 also increases reimbursement rates to the 75th percentile of the weekly market rate for licensed child care centers providing care for preschool age children.

To achieve this expansion, the article requires the alignment of standards, curriculum, instruction, and assessments to create a pathway from prekindergarten to third grade. Local education agencies (LEAs) must develop a transition plan for incoming kindergarten students and families, and a program-level transition plan including joint professional development and data sharing for prekindergarten to third grade teachers. The proposal requires continued investment, development, and support for the Early Childhood and Education Data System (ECEDS) and increases state child care subsidies for preschool reimbursements. The article defines “universal access” as having 70.0 percent of four-year-olds enrolled in high-quality prekindergarten programs.

The article does not provide a plan for the distribution or prioritization of funding.

FISCAL IMPACT

The Budget provides \$10.0 million to begin the expansion of the Rhode Island Prekindergarten Education Act (Act), including \$3.6 million to expand the number of prekindergarten seats, \$697,000 to increase the preschool tiered reimbursement rates, and \$5.8 million to replace federal funding needed to support the current seats. The article requires that the Department of Elementary and Secondary Education (Department) recommend criteria for the allocation of early childhood program funds consistent with the Act, instead of as determined by the General Assembly. The Act does not provide a plan for the distribution of funding.

Analyst Note: The \$4.2 million federal Preschool Development Grant recently awarded to the Department of Human Services (DHS) is a planning grant that cannot be used to support prekindergarten seats; however, \$450,000 of grant proceeds will be used for data system development and enhanced connectivity between providers on the Early Childhood and Education Data System (ECEDS) at the Department of Elementary and Secondary Education.

Rhode Island Pre-K Expansion Plan - Phase I

Action	Description	Seats Added	Budgeted Amount
A. Add 10 new classrooms in public schools, Head Start Centers, and/or child care centers	Created through revised RFP process with a request for a local match	200	\$2,000,000
B. Expand current pre-k classrooms from 18 to 20 students, where appropriate	Driven by capacity and demand for seats	60	225,000
C. Convert half-day Head Start classrooms to full-day programs with Head Start Expansion Grants	Increase quality and/or convert existing seats from 4 to 6 hours per day and 160 to 180 days per year	180	792,000
D. Invest in existing Child Care Assistance Program (CCAP)	Utilize tiered reimbursement for pre-school-age children, expand BrightStars Quality Rating and Improvement System (QRIS), and provide professional development and other supports to child care centers.	100	801,919
<i>Analyst Note: \$697,000 of this amount is to provide child care rate increases for children ages 3 up to first grade; therefore, the number includes but is not limited to the universal preschool proposal. The remaining \$104,919 will be used to provide coaching, technical assistance, professional development, and curriculum support for providers for four year olds.</i>			
E. Add additional capacity to support expansion	4.0 new FTE positions in the Department of Elementary and Secondary Education (Department) to support Phase I and conduct assessment and planning for Phase II.	-	431,081
<i>Analyst Note: The Governor's Budget includes the 4.0 new FTE positions in the Department; however, the database appears to provide only \$385,832 in salaries and benefits for these positions which would translate to an average salary of about \$55,000, instead of the \$63,000 provided in the proposal.</i>			
Total		540	\$4,250,000

Source: *The Road to Universal Pre-K in Rhode Island, Governor Gina M. Raimondo's Prekindergarten Expansion Plan, January 2019.*

ANALYSIS AND BACKGROUND

Through the existing Early Childhood Education category of the education funding formula, Rhode Island has been working to increase access to voluntary, free, high-quality pre-kindergarten programs. The FY2019 Budget as Enacted contains \$6.2 million in general revenue and \$5.8 million in federal and one-time funds for this program, providing support for 60 classrooms with approximately 1,080 seats across 11 communities. Currently, the funds are distributed through a competitive process targeting communities in three tiers, with the first tier having the highest concentration of children at risk for poor educational outcomes. Article 10 shifts the authority to determine the distribution of funds from the General Assembly to the Rhode Island Prekindergarten Education Act. The Act does not provide a plan for the distribution of funding.

This article seeks to expand high-quality prekindergarten programs to all communities in the State until every family who wants a seat has one. The article considers universal access achieved when 70.0 percent of four-year-olds are enrolled in high-quality prekindergarten programs. The 70.0 percent threshold is

based on the experience in other states and allows for families to choose not to enroll their four year olds in a prekindergarten program, since participation is voluntary. According to “The Road to Universal Pre-K in Rhode Island”, the Governor’s Prekindergarten Expansion Plan (Expansion Plan), the State needs to add nearly 6,000 seats to achieve this goal. This expansion would be delivered through classrooms in child care centers, public school districts, and Head Start centers.

High Quality Elements: The Department is authorized to promulgate regulations for the implementation of high-quality, universal prekindergarten. The standards to be addressed within the regulations include:

- Teacher education and certification
- Class size and staff ratios: The article is silent as to class size; however, the expansion plan proposes allowing state prekindergarten classrooms to serve up to 20 students and awarding new proposals additional points on their scoring based on a class size of 20 students. The Regulations of the Comprehensive Early Childhood Education (CECE), 200-ROCR-20-10-6, which were amended in December 2018, provide for a maximum class size of 18 with a staff-to-child ratio of 1 to 9 that is required to be maintained at all times of the day.
- Learning time: The article and current regulations are silent as to learning time; however, the Full-Day Kindergarten Accessibility Act, RIGL 16-99-3(a), requires “a minimum of five and one-half (5 1/2) hours or three hundred thirty (330) minutes of actual school work, excluding lunch, recess periods, common planning time, pre- and post-school teacher time, study halls, homeroom periods, student passing time and any other time that is not actual instructional time.”
- Learning standards
- Curriculum: As a potential method to align quality standards across the program, the Expansion Plan includes requiring the use of a curriculum from a RIDE-approved list and ensuring that RIDE maintains the list and updates annually. The article is silent on this requirement.
- Support for students with special needs
- Support for dual English Language Learners
- Professional development: As a potential method to align quality standards across the program, the Expansion Plan includes increased training requirements and certifications. The article is silent on specifics.
- Child assessments, and
- Observations to improve practice.

Analyst Note: The Department’s Early Childhood Education regulations were amended in December 2018 and can be found here: http://www.ride.ri.gov/Portals/0/Uploads/Documents/Board-of-Education/Regulations/200-RICR-20-10-6_SOS_Final.pdf. The Governor’s Prekindergarten Expansion Plan can be found here: <http://www.kids.ri.gov/documents/The%20Road%20to%20Universal%20Pre-K%20in%20Rhode%20Island%20-%20Report.pdf>.

Successful Transitions: The article requires all Local Education Agencies (LEAs) in the State to develop a transition plan for all incoming kindergarten students and families that addresses both student and family transition strategies, and program-level transition planning strategies. Student and family strategies include visiting kindergarten classrooms, workshops for incoming families, and orientation sessions the summer before school starts. Program-level transitions include transition teams and liaisons between prekindergarten programs and district schools, joint profession development and data sharing for prekindergarten through third grade teachers, and teacher-to-teacher conferences. The article also requires the alignment of standards, curriculum, instruction, and assessments to ensure a pathway from

prekindergarten through third grade; however, it is unclear from the language of the article who is responsible for the alignment.

Governance and Data System: The article requires the Department of Elementary and Secondary Education and the Department of Human Services to work with the other state departments on the Children's Cabinet to facilitate implementation of universal prekindergarten. The state agencies on the Children's Cabinet identified in the article include the Department of Health; the Department of Children, Youth and Families; and, the Executive Office of Health and Human Services. The article requires these agencies to work together toward the coordination of federal, state, and local policies concerning early learning and child care, as well as encouraging the use of federal funds, the alignment of goals, and the elimination inefficiencies.

The article requires continued investment in the Early Childhood and Education Data System (ECEDS), which is currently housed in the Department of Elementary and Secondary Education.

Reporting: The article does not contain any reporting requirements or performance metrics. While the article requires continued investment, development, and support of the ECEDS, responsibility for the data system is not assigned and no parameters are provided on the type of data to be collected.

Early Childhood Workforce Development: The article adds the Department of Human Services to RIGL 16-87-4 requiring the Department of Elementary and Secondary Education to work with other state departments and private philanthropy to establish an early childhood workforce development scholarship program. The program is to expand the number of educators with an associate's or bachelor's degree in early childhood and who work with children from birth to age five. This statute was originally enacted in 2008.

Child Care Rates: The FY2019 Budget as Enacted implemented a tiered rating system for licensed child care centers providing care for infants and toddlers, age one week up to three years, as well as preschool aged children, age 3 through entry into 1st grade. Tier ratings are reflective of the quality rating the provider has achieved within the State's Quality Rating system.

Article 10 increases reimbursement rates to the 75th percentile of the weekly market rate for licensed child care centers providing care for preschool age children. Beginning in FY2020, licensed child care centers providing care for preschool aged children will be reimbursed 3.2 percent above the FY2018 weekly amount, \$161.71, for tier one, 5.8 percent for tier two, 13.0 percent for tier three, 15.0 percent for tier four, and 33.0 percent for tier five. The tiered system is intended to incentivize best practices in childcare. The Budget includes an additional \$697,000 to fund the tiered reimbursement rates for licensed child care centers. Although the additional funding supports preschool aged children, it is not specifically allocated for the expansion of universal prekindergarten. The increase in funding is intended to increase rates for the licensed centers who provide child care to low-income families through the Child Care Assistance Program.

The following table shows the change in weekly rates to licensed child care centers based on the increases to the tiered rating system. Rates may only be changed through legislation.

Pre-School Children Reimbursement Rates						
Tier	FY2019 Increased	FY2019 Increased	FY2020 Increased	FY2020 Increased	Change from	
	Percentage	Amount	Percentage	Amount	FY2019	
1	2.5%	\$165.75	3.2%	\$166.88	\$1.13	0.7%
2	5.0%	\$169.80	5.8%	\$171.09	\$1.29	0.8%
3	10.0%	\$177.88	13.0%	\$182.73	\$4.85	2.7%
4	13.0%	\$182.73	15.0%	\$185.97	\$3.23	1.8%
5	21.0%	\$195.67	33.0%	\$215.07	\$19.41	9.9%

Rhode Island's Tiered Quality Rating and Improvement System (TQRIS) is BrightStars. A TQRIS is used by states to assess, improve, and communicate the level of quality in child care programs. Through the star

rating system, BrightStars helps child care providers learn and apply best practices, and families access quality child care, early learning, and school-age programs. The Rhode Island Association for the Education of Young Children manages BrightStars and Rhode Island KIDS COUNT coordinates and supports the evaluation of BrightStars.

Analyst Note: Article 15 increases the tiered reimbursement rates for licensed family child care providers caring for infants/toddlers and preschool aged children. The Budget includes an additional \$150,000 to fund the rate increase. Although an unspecified portion of these funds support preschool aged children, the funding is not specifically for the universal prekindergarten expansion.

Article 11: Relating to Rhode Island Promise

The Governor recommends numerous changes to the Rhode Island (RI) Promise program including:

- Repealing the sunset provision for the RI Promise program that would have ended the current program at CCRI with the high school graduating class of 2020.
- Exempting the Department of Children, Youth, and Families' (DCYF) Higher Education Opportunity Incentive Grant and the College Crusade Scholarship Act from the last-dollar calculation for all Promise scholarship students.
- Extending the scholarship program to adults at the Community College of Rhode Island (CCRI), and first-time, full-time students at Rhode Island College (RIC) in their junior and senior years who enrolled beginning in the fall of 2017.
- Phasing out the need-based, block grants to private institutions and RIC.
- Imposing tasks and deadlines on the Council on Postsecondary Education, RIC, and CCRI to preserve credits upon transfer from one institution to another and to better support students outcomes.
- Extending eligibility for child care assistance to students receiving the RI Promise scholarship.

FISCAL IMPACT

The article expands the RI Promise program to adults at CCRI and juniors and seniors at RIC. In FY2020, this expansion, estimated at \$5.3 million, is entirely funded from reserve funds accrued by the Division of Higher Education Assistance (DHEA) through its function as a guaranty agency for the Federal Family Education Loan Portfolio. The loan portfolio was transferred to the United States Department of Education in FY2018; consequently, DHEA no longer receives guaranty agency fee revenues. Using the reserves for the RI Promise expansion in FY2020 will reduce funding for other programs supported by that limited source. The table below shows projected revenue and expenditures for DHEA Resources.

Office of the Postsecondary Commissioner						
Projection of DHEA Revenues/Expenses for FY2019 through FY2024						
	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024
Revenues	Governor	Governor	Projected	Projected	Projected	Projected
Reserves	\$21,752,385	\$14,812,964	\$3,599,943	(\$1,442,614)	(\$5,985,171)	(\$10,027,728)
CollegeBound Fund Fees (from Treasurer)	5,355,579	4,840,120	4,590,256	4,590,256	4,590,256	4,590,256
Total	\$27,107,964	\$19,653,084	\$8,190,199	\$3,147,642	(\$1,394,915)	(\$5,437,472)
Expenditures						
Promise 1 Scholarship	(10,095,000)	(8,007,013)	(6,932,813)	(6,432,813)	(5,932,813)	(5,932,813)
RI Promise Expansion	-	(5,346,128)	-	-	-	-
Dual/Concurrent Enrollment	(1,800,000)	(2,300,000)	(2,300,000)	(2,300,000)	(2,300,000)	-
Personnel Expenses	(400,000)	(400,000)	(400,000)	(400,000)	(400,000)	(205,000)
Total	(\$12,295,000)	(\$16,053,141)	(\$9,632,813)	(\$9,132,813)	(\$8,632,813)	(\$6,137,813)
Ending Balance	\$14,812,964	\$3,599,943	(\$1,442,614)	(\$5,985,171)	(\$10,027,728)	(\$11,575,285)

Source: Reserves and expenditure projections from the OPC and updated based on Governor's FY2020 Budget. CollegeBound Fee projections from the General Treasurer's Office.

Analyst Note: While the entire cost of the RI Promise expansion in FY2020 is funded from reserves, the expansion is projected to have a \$6.8 million general revenue impact in FY2021.

The article repeals the fall of 2020 sunset provision included in the original Promise legislation; therefore, it does have an impact on the out-year budget calculations.

ANALYSIS AND BACKGROUND

As part of an effort to increase Rhode Island's postsecondary attainment rate to at least 70.0 percent by 2025 to meet the needs of a job market that increasingly requires a postsecondary degree or certificate, the article expands the Rhode Island Promise scholarship program to adults at the Community College of Rhode Island (CCRI) and juniors and seniors at Rhode Island College (RIC). As with the current program at CCRI, the scholarship would only cover tuition and mandatory fees. Other costs, such as textbooks, specific course fees, or travel are not included. Consistent with the original program, the article requires the General Assembly to annually appropriate the funds necessary to implement the scholarship program; however, the article repeals the fall of 2020 sunset provision included in the original Promise legislation.

Exemption from Last-Dollar Calculation: The Promise program is a last-dollar scholarship, meaning the program covers the cost of tuition and mandatory fees minus all federal and other financial aid available to the recipient student. The article creates an exemption for grants received by students from the Department of Children, Youth, and Families' (DCYF) Higher Education Opportunity Incentive Grant and the College Crusade Scholarship Act. The Opportunity Incentive Grants are for qualifying students who are in the legal custody of DCYF, or who were in the Department's legal custody on their eighteenth (18th) birthday. The College Crusade is a nonprofit that works to reduce high school dropout rates and increase educational and career success for low-income urban youth. Exempting these grants will provide additional support for low-income, high-risk students by allowing them to access grants that may be used for other expenses beyond tuition and mandatory fees, such as textbooks and living expenses.

Employer-Sponsored Tuition Assistance: For recipient students who are eligible to receive employer-sponsored tuition assistance, the institution must enter into an agreement with the student and/or the employer stipulating that the institution will provide an upfront scholarship and the employer will submit tuition reimbursements upon completion of the applicable course.

Adult Students at CCRI: The Governor extends the RI Promise program to adult students at CCRI age 25 years of age or older, who are enrolled in at least 18 credit hours annually beginning in the fall of 2019. The program will cover up to 60 credit hours of tuition and mandatory fees over a duration of no more than four years from enrollment. As with recent high school graduates in the program, adults must complete the Free Application for Federal Student Aid (FAFSA) form; remain on track to graduate on time; maintain an a minimum of 2.5 grade point average; and commit to live, work, or continue their education in Rhode Island after graduation.

Junior and Senior Year at RIC: The article extends the RI Promise to juniors and seniors at RIC beginning with students who enrolled at RIC in the fall of 2017. To qualify, students will be required to meet the same requirements as the students in the current program at CCRI, and to have enrolled in RIC as a freshman. Individual students are not eligible to receive a RI Promise scholarship at both CCRI and RIC: the scholarship is limited to two years of tuition and mandatory fees. The requirements include the following:

- Qualify for in-state tuition and fees pursuant to the *Residency Policy* adopted by the Council on Postsecondary Education.
- Be currently enrolled as a full-time student, have declared a major, and have earned a minimum of 60 credits toward an eligible program of study.
- Have completed the Free Application for Federal Student Aid (FAFSA) form by the deadline prescribed by RIC for each academic year in which the student seeks a scholarship.
- Enroll on a full-time basis as a freshman and a first-time student, and continue to be enrolled on a full-time basis. Students who received secondary credit through dual/concurrent enrollment are eligible, as are students who earned a postsecondary certificate; however, a student who otherwise previously attended a postsecondary institution would not be eligible.

- Be “on track to graduate on time” as determined by RIC. The statute does recognize that some students, including those who require developmental education, are double majors, or are enrolled in certain programs, may require extended time for degree completion.
- Must not have already received an award under the Promise Scholarship program.
- Commit to live, work, or continue their education in Rhode Island after graduation, based on a policy developed by RIC.

A student who is a member of the National Guard or a reserve unit of a branch of the United States military who is unable to satisfy all the conditions due to basic or special military training or deployment may continue to receive a scholarship upon completion of the training or deployment.

Need-based Grants: The article repeals the requirement that the lesser of 20.0 percent or \$2.0 million of the funds appropriated annually for need-based grants be distributed to students attending private, non-profit, higher education institutions, leaving the allocation of appropriated funds to the discretion of the Commissioner of Postsecondary Education. The following table shows the distribution proposed by the Governor for FY2019 through FY2024, which includes phasing out the scholarship program at RIC, due to the expansion of the RI Promise program: only seniors will be eligible in FY2020.

Promise 1 Need-Based Scholarship Program Distributions						
Institution	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024
CCRI	\$3,338,620	\$3,338,620	\$3,338,620	\$3,338,620	\$3,338,620	\$3,338,620
RIC	1,740,000	574,200	-	-	-	-
URI	2,594,193	2,594,193	2,594,193	2,594,193	2,594,193	2,594,193
Private Colleges	1,856,505	1,500,000	1,000,000	500,000	-	-
Total	\$9,529,318	\$8,007,013	\$6,932,813	\$6,432,813	\$5,932,813	\$5,932,813

Source: Office of Management and Budget

Requirements of the Postsecondary Institutions and the Council on Postsecondary Education: The article imposes a number of requirements on the Council on Postsecondary Education (Council) and eligible postsecondary institutions in an effort to support the success of the Promise program. “Eligible postsecondary institutions” (institutions) are defined as Rhode Island College (RIC) and the Community College of Rhode Island (CCRI). Requirements are intended to advance the goal of increasing the State’s postsecondary attainment rate to at least 70.0 percent by 2025. Requirements imposed by the article include, but are not limited to, the following.

- Requiring the Council to adopt a policy, by January 1, 2020, that reduces incentive funding for CCRI and RIC for every student who completes more than 135 credit hours to achieve a bachelor’s degree or more than 75 credit hours to complete an associate degree.
- CCRI and RIC are required to offer credit courses during summer and winter intersessions by January 1, 2020.
- The article requires the Council to revise the Transfer and Articulation policies for CCRI and RIC to strengthen the transfer process. The changes focus primarily on conserving credits and establishing deadlines for landmarks such as developing a unified statewide transfer agreement by January 1, 2020, and utilizing the same course numbering system by July 1, 2021.
- CCRI and RIC must establish a common curriculum of general education coursework containing a minimum of 30 to 32 college-level credits.
- The institutions must submit policies and procedures for students to earn college-level credit hours for prior learning to the Council by July 1, 2021.
- Each institution must complete and receive approval from the Council of an Academic Program Prioritization Process by September 1, 2021. This process shall include an analysis of the

postsecondary and workforce need of the State and identification of a plan for program reorganization based on that analysis.

- Each institution must establish and submit to the Council a guided pathway program available to all entering students with an effective date of not later than September 1, 2020.
- The Office of the Postsecondary Commissioner (OPC) must maintain and publish data on the State's postsecondary system. The institutions will transmit data disaggregated by institution, race/ethnicity, program/major enrollment, enrollment status, and income level, including Pell status, to OPC. This information will include data points such as the average net cost of attendance, retention by term or year, remedial and gateway course enrollment and completion, and graduation rates.

Eligibility for Child Care Assistance: Students eligible for RI Promise may qualify for child care assistance pursuant to rules and regulation promulgated by the Department of Human Services.

Analyst Note: Article 15 extends child care assistance to families pursuing an educational degree or vocational, technical, or professional certificate directly related to employment in an accredited postsecondary institution. The language is included here to make it clear the Promise recipients are eligible for child care assistance.

Article 12: Relating to Economic Development

Article 12 introduces new or amends existing economic development incentives. The changes include:

- **New Site Readiness Partnership Council:** The Governor creates a new quasi-public organization to develop pad-ready sites and other economic development projects in partnership with municipalities.
- **New Research and Development Transferable Tax Credit:** Article 12 creates a new transferable credit against taxes for early stage companies or those significantly increasing investments in research and development (R&D). The article also allows the State's existing qualified research tax credit to be carry forward for up to 15 years.
- **New Rhode Island Opportunity Zones Incentive:** The article allows investors claiming the new federal tax deduction to receive a Rhode Island benefit for investments made in designated Rhode Island opportunity zones after seven years instead of ten years.
- **Rebuild RI – Cap Increase:** The Governor raises the maximum aggregate number of credits from \$150.0 million to \$250.0 million, an increase of 66.7 percent.
- **Rebuild RI – Program Changes:** The article modifies certain elements of the Rebuild RI program including providing for “streamlined” application processes and exemptions from project thresholds.
- **Qualified Jobs Incentive – Program Changes:** The article reduces the maximum available credit rules under the Rhode Island Qualified Jobs Incentive program.
- **Tax Increment Financing Incentive – Program Changes:** Article 12 makes administrative changes to the State's tax incremental financing (TIF) incentive.
- **Reauthorization of Incentives:** Article 12 extends the authorization of twelve incentives for another three years by pushing their sunsets out to 2023.

FISCAL IMPACT

The FY2020 Budget includes \$1.5 million in general revenue and \$1.0 million in Rhode Island Capital Plan (RICAP) funding for the Site Readiness Partnership Council proposal. Personal income and business tax revenue is reduced by \$1.3 million in FY2020 to account for the proposed R&D tax incentive. The Budget does not assume a fiscal impact for any other program changes in Article 12.

ANALYSIS AND BACKGROUND

New Site Readiness Partnership Council

Article 12 includes several strategies aimed at mitigating municipal barriers to economic development. According to the Executive Office of Commerce (EOC), developers face challenges at the local level related to limited municipal resources. Municipal capacity varies tremendously relative to planning and land-use initiatives, building and permitting review, and comprehensive zoning. The Governor's proposal envisions “scaling-up Quonset-style services and development tools and strategies” to advance site development across Rhode Island in partnership with cities and towns.

The complex initiative, referred to as the Site Readiness Partnership (SRP), involves structured but voluntary collaboration between the State and willing municipalities focused on three areas – training and technical assistance, investments in site readiness, and the delegation of authority when local capacity is weak.

Analyst Note: According to the Secretary of Commerce, this initiative was submitted as a budget article both to begin a “conversation” around addressing municipal barriers to economic development and as a proposed solution. Indicative of its early stage concept is the fact that it known by different names throughout the budget documents. The several names include Site Readiness Partnership (SRP), the State and Local Partnership Council, and the “40th Portal”. For purposes of this analysis SRP will be used.

The SRP approach consists, in part, of a new quasi-public development organization, created as a subsidiary of the Rhode Island Commerce Corporation (Commerce), with a distinct board of directors and provisions for staff.

Board Provisions: The powers of the SRP are vested in a nine member board of directors, eight being appointed by the Governor (there is no provision in the article for Senate confirmation) and the ninth being the Secretary of Commerce, in his capacity as Chief Executive Officer (CEO) of the Rhode Island Commerce Corporation. The Secretary also serves as chairperson. The members serve staggered, three-year terms. Two members of the board must be representatives of the municipalities.

Analyst Note: According to the Executive Office of Commerce, the nominees for the municipal representative appointments will be considered from names submitted to the Governor by the League of Cities and Towns. Pursuant to the article, the chairperson is established ex-officio by statute in one part and appointed by the Governor in another. How the SRP board membership reflects municipal participation is different from the separately proposed option under Article 12 related to the Quonset Development Corporation (QDC). Article 12 proposes offering the comprehensive development services of the QDC to municipalities outside the industrial park. The article would require the addition of two representatives from a willingly participating municipality to be added to the QDC board solely for the purposes of a specified project.

Staff: The SRP would be jointly managed and staffed by the Department of Business Regulation (DBR) and the RI Commerce Corporation. DBR’s budget includes 7.0 new FTE positions in its Division of Building, Design, and Fire Professionals. According to the Department, 2.0 of these are related to the SRP initiative; however, because of the anticipated time needed to ramp up the program’s implementation, these positions are not currently budgeted for in FY2020.

Analyst Note: The SRP personnel and operation budget are not aligned. It is not clear how FY2020 operational funds will be deployed without dedicated implementation staff. If DBR or Commerce hire unbudgeted SRP staff, it would have to be addressed later in next year’s FY2020 Supplemental Budget.

Authority and Functions: Article 12 provides the SRP with extensive powers to carry out its mission. These powers include tools to build local capacity, the authority to receive and perform any local regulatory functions related to parcel development granted to it by a willing municipality, and investment authority that supports site preparation.

- **Local Capacity Building:** The SRP is authorized to provide training and assistance to municipalities on best practices that support economic development. This includes technical assistance with model ordinances, expedited permitting and pre-permitting processes, zoning code reform, local land use processes, and planning support. According to EOC, the SRP would also use this authority to support training on planning and zoning board decision making, affordable housing, programmatic and lean process improvement, and grant writing.

Analyst Note: While not specifically authorized, nothing in the statute prohibits the EOC or Commerce Corporation from providing technical assistance and capacity building now.

- **Investments in Site Preparation:** The FY2020 Budget includes \$2.5 million in combined general revenue and capital funding for the SRP proposal. In addition to using these funds to acquire parcels for development, the SRP is authorized to use resources to conduct site and topographic surveys, wetland determinations, phase 1 environmental site assessments, zoning reviews, utility availability studies, and preliminary site engineering to determine building potential and site improvement costs.

- **Delegated Municipal Authority:** The SRP is authorized to develop permitting and pre-permitting processes at the state level that may be used in partnership with municipalities in preparing sites for development. The SRP has the authority to issue permits, licenses, other authorizations appropriate to carry out the program.

In addition to these state-level powers, the SRP is also authorized to assume and perform certain local powers related to economic development that are delegated to it by willing municipalities. These powers include:

- Planning, constructing, rehabilitating, improving, or maintaining any parcels, tracts, or projects owned by or conveyed to the SRP.
 - These parcels and projects would be exempt from any municipal zoning and land use ordinances, codes, including building and fire codes, plans and regulations, as granted by the municipality.
 - A municipality may not, except as otherwise agreed to within the SRP, modify or change plans, architectural drawings, or specifications related to the project or require approvals, permits, or certificates from either the municipality or political subdivision thereof.
 - The city or town in which an SRP project is completed, the municipality must provide typical services, such as police, fire, sanitation, etc. to the project site.

Quonset Development Corporation Expansion: Article 12 also expands the authority and scope of the Quonset Development Corporation (QDC) as part of a strategy to enhance economic development tools available to municipalities.

The QDC is a quasi-public subsidiary of the RI Commerce Corporation responsible for the comprehensive development and management of the Quonset Business Park in North Kingstown. The 3,212 acre park is home to 203 companies and approximately 12,000 jobs. The QDC is governed by an eleven-member board of directors (CEO of Commerce; 6 gubernatorial appointees, subject to advice and consent of the Senate; two appointed by North Kingstown; and one each from Jamestown and East Greenwich) and has a professional staff of approximately 50.0 FTEs.

The QDC has extensive authority act as a real estate development and management firm. This authority includes, but is not limited to:

- Lease, purchase, bargain for, and acquire real property within the park
- Market and sell property within the park
- Own, improve, manage, and regulate utilities in the park and set rates, fees, and charges.
- Improve, maintain, and expand infrastructure components of the park, including roads, water, power, and marine elements.

Article 12 proposes making the full-suite of Quonset-style services available to communities that prefer this model to the more limited SRP. The article does this by integrating QDC authority, tools, and staff with the Site Readiness Partnership initiative. The legislation assigns SRP powers to the QDC and permits it to act in the place and stead of the SRP when mutually agreed upon by the SRP, QDC, and participating municipalities.

Analyst Note: The Budget does not include funding for this initiative. The Budget does, however, require the QDC to transfer \$2.0 million of its reserves to the general fund in FY2019. The QDC indicates it does not have sufficient reserves to make this transfer. It is not clear if QDC has the capacity or funding to undertake this initiative.

To ensure local input in the governance structure, the article proposes a modified QDC board structure with flexible membership. For each project, a distinct board of directors of nine members would be established.

Seven of the members would be the same six gubernatorial appointments currently serving on the QDC plus the Secretary of Commerce (serving as chair). The remaining two would be appointed by the governing body of the municipality in which the project is located, or one from each municipality if multiple communities are involved.

SRP Tax Stabilization Incentive: Under Article 12, the SRP may recommend certain qualifying projects to the Rhode Island Commerce Corporation for special consideration under the State’s tax stabilization incentive (TSA). Under current law, qualifying municipalities may receive up to 10.0 percent of foregone property tax revenue lost due to any tax stabilization agreement made by the municipality with qualifying project developers.

- **Incentive Status:** Reimbursements are paid from a fund that originally was capitalized through savings from debt refinancing on general obligation bonds. Tax stabilization credits are limited to amount of funds appropriated to the program by the General Assembly. To date, only one project has been awarded TSA incentive funds – the Residence Inn project being developed on the site previously occupied by the Fogarty Building in Providence includes \$246,547 from the fund. The FY2020 Budget does not include additional funds for the TSA incentive.

Budget	Appropriation	Awarded	Balance	Percent Awarded	Obligated	Percent Obligated
2016 Enacted	\$0	\$0	\$0	0.0%	\$0	0.0%
2017 Enacted	500,000	246,547	253,453	49.3%	246,547	49.3%
2018 Enacted	-	-	253,453	49.3%	-	49.3%
2019 Enacted	-	-	253,453	49.3%	-	49.3%
Total	\$500,000	\$246,547	\$253,453	49.3%	\$246,547	49.3%

- **Article 12 Changes:** Article 12 authorizes the Rhode Island Commerce Corporation to cover up to 50.0 percent (500.0 percent increase) of a municipality’s foregone revenue for SRP-recommended projects. This special consideration may only be granted to five projects per year.

New Research and Development Transferable Tax Credit

Rhode Island offers a tax credit incentive to attract and retain businesses focused on research and development (R&D). The credit as currently configured is 22.5 percent for the first \$111,111 of qualified R&D expenses. For expenses above \$111,111, the tax credit rate drops to 16.9 percent. The credit may be carried forward for seven years.

Article 12 changes the R&D tax credit structure in two ways. First, it expands the carryforward period from seven to fifteen years. It also creates a new transferable tax credit available to early stage companies.

The proposed new credit would be up to 22.5 percent of qualified R&D expenses and would be available starting July 1, 2019, to taxpayers that are either early stage companies or companies which are “substantially increasing” investment in R&D in Rhode Island.

Analyst Note: Article 12 does not define “early stage company” or a “company substantially increasing its investment in research and development in the state”. Rather, it notes that both terms will be defined by the RI Commerce Corporation through regulation.

Taxpayers awarded the credit may:

- Apply the tax credit, in whole or in part, to their tax liability; or
- Carry the credit forward for up to 15 years; or
- Sell, assign, transfer, or convey the tax credit.

Proceeds from the sale of these tax credits would be exempt from taxation by the State. Eligibility criteria for the credit are to be determined by the RI Commerce Corporation and set by regulation as are the rules for the selling and transferring of credits. Article 12 limits the amount of credits awarded annually to \$1.3 million. The Budget reduces revenue by the same amount in FY2020.

According to EOC, an early stage company is one that is in a nascent phase of capital raising and typically lacks enough business activity to generate a meaningful tax liability. The value of transferable R&D credits to such a firm is that they can be monetized through their sale, thereby making additional resources available to the company immediately. Commerce states that a 22.5 percent credit would be the highest in the Northeast, making Rhode Island more competitive in attracting R&D type companies.

New Rhode Island Opportunity Zones Incentive

The federal Tax Cuts and Jobs Act of 2018 (TCJA) provided a federal tax incentive for private investors to direct capital gains into equity investments in development projects located in certain defined low income communities, or “opportunity zones”. Rhode Island has 25 census tract-designated opportunity zones. Article 12 provides for an additional incentive to those taxpayers who choose to invest in Rhode Island opportunity zones.

TCJA Tax Incentive: Under the existing program, taxpayers may defer, reduce, or potentially eliminate tax liability on capital gains by making timely investments in opportunity funds which, in turn, invest in opportunity zone projects. There are three levels of the incentive. The first is immediate tax deferral on eligible capital gains invested in an opportunity fund. The second is a 10.0 percent reduction in the capital gain liability if the deferred-gain investment is held in the fund for five years, 15.0 percent if held for seven years. The third is, for investments made by the fund in qualifying opportunity zone projects, the elimination of any tax liability on gains related to the project if the investment in the project is held for ten years.

Rhode Island Incentive: Rhode Island, like many states, conforms its state tax laws to the federal law. The State, therefore, treats capital gains invested in Rhode Island opportunity zones similarly to the TCJA for purposes of state tax liability. Article 12 accelerates the time period in which the entire capital gains liability is eliminated, from ten years down to seven. There is no fiscal impact of the incentive until at least FY2026.



Source: RI Commerce Corporation

Analyst Note: According to the EOC the incremental difference in terms of impact between seven years and ten is minimal because hard-asset development such as buildings and equipment usually occurs early in a project's timeline. These types of investments are usually in place by year seven and represent the bulk of any new development in an opportunity zone. EOC further argues that an accelerated elimination of tax liability provides a competitive advantage in the market for opportunity zone investment.

Rebuild Rhode Island Tax Credit Program Changes

Article 12 makes several changes to the Rebuild Rhode Island Tax Credit Program (Rebuild RI).

Cap Increase and Sunset Extension: The Governor raises the cap on the total value of Rebuild RI tax credits that may be awarded from \$150.0 million to \$250.0 million, an increase of \$100.0 million, or 66.7 percent. The Governor also extends the sunset from June 30, 2020, to December 31, 2023.

When the Rebuild RI tax credit program was first established by the General Assembly, it instituted several limits on the program to prevent awarded credits from outpacing general revenues and to ensure program performance. These checks included a \$150.0 million cap on the total amount of credits permitted to be issued and an initial sunset date of December 31, 2018. These limits ensured that the General Assembly had an opportunity to evaluate the effectiveness of the program over time and, based on its analysis, either reauthorize the program or curtail it. In 2018, the General Assembly chose to extend the sunset out to June 30, 2020; however, it did not change the cap. At that time the RI Commerce Corporation had awarded \$84.4 million, or 56.3 percent of the total amount of the cap. The total award through December 31, 2018, is \$109.3 million, or 72.8 percent of the cap.

Analyst Note: The EOC argues that not increasing the cap and not extending the sunset beyond June 30, 2020, sends a signal to the developer market that the program is not stable, or worse, effectively over, and thereby stifle any momentum gained by the program to date.

Expedited Application Processes: Article 12 charges the RI Commerce Corporation with developing streamlined application processes for the issuance of Rebuild RI tax credits for projects involving certified or recognized historic structures, manufacturers, or affordable or workforce housing.

Easing of Eligibility Criteria for Certain Projects: Article 12 reduces the eligibility criteria for projects involving manufacturers, and clarifies the eligibility criteria for historic structures. Specifically, it exempts these projects from the minimum threshold requirements for square footage (25,000 sf), employment (at least 25 full-time employees), and residential units (at least 20, if applicable). It also exempts them from the minimum total project cost requirement of \$5.0 million.

Article 12 also directs the Division of Taxation, at the expense of the RI Commerce Corporation, to contact all developers awaiting consideration for the historic preservation investment tax credit and inform them of their potential eligibility for the Rebuild RI program. There are currently 35 projects waiting for an estimated \$62.0 million in historic tax credits.

I-195 Land Projects: A requirement of the current Rebuild RI program is that no qualified development project may receive tax credits valued in excess of \$15.0 million. Pursuant to RIGL 42-64.20-5, this limit also pertains to developments that are built in phases or that consist of multiple projects, except in the I-195 district where both a developer of multi-use building and its tenants may each receive up to \$15.0 million Rebuild RI awards (however no more than two separate awards per year may take place). For example, a developer may receive a full \$15.0 million award to build a multi-tenant office building. A prospective tenant of the office building requiring an extensive, customized build-out of the space may also receive a separate \$15.0 million Rebuild RI award. A second or third tenant may still apply an receive Rebuild RI tax credits but not until the following year at the earliest.

Article 12 allows that, for purposes of eligibility under the Rebuild RI program, any project in the I-195 district that includes a distinct building is to be considered separate from any other qualified project in the district.

Analyst Note: According to the EOC, this proposed amendment is required to ensure that a multi-phased, multi-building development is eligible for credits above \$15.0 million awarded for earlier phases. This potentially includes existing projects such as Wexford and others.

Technical Assistance on Applications: Under current program regulations, applicants for Rebuild RI tax credits are required to prepare and submit commercial and economic data and analysis related to their proposed projects. The preparation of a successful application requires a level of sophistication that, the EOC argues, may present a burden to certain otherwise worthy projects.

Article 12 authorizes the RI Commerce Corporation to provide technical assistance to applicants who, according to the EOC, may lack the technical capacity to appropriately prepare a responsive application.

The article further authorizes that up to \$250,000 in RI Rebuild funds may be used to pay for this assistance per year.

Analyst Note: The language in the article does not specify that the applicant must lack capacity to effectively comply with the application requirements. Absent this criteria it is may be possible that the RI Commerce Corporation could complete an application as a courtesy for an otherwise capable company. Furthermore, there may be the appearance of a conflict of interest if the RI Commerce Corporation is both assisting with the application and then also evaluating that same application for award.

Qualified Jobs Incentive – Program Changes

Article 12 modifies the tax credit amount per job created under the Qualified Jobs Incentive Act. Businesses seeking Qualified Jobs Incentive Act tax credits must demonstrate the creation of a minimum number of new full-time jobs based on a graduated scale depending on the number of existing full time employees (FTEs) the business employs in the state at the time of application. The maximum credit per new job is \$7,500.

Incentive Status: There are currently 27 companies that have been awarded qualified jobs incentives, with agreements totaling \$64.9 million. The incentives are paid out over a 14-year period from FY2019-FY2032, and averaging \$4.6 million per year. The incentives are based upon commitments to create 3,191 jobs.

Article 12 Changes: Article 12 lowers the maximum credit to \$6,500 for most businesses. The article does, however, establish a new classification of business to which the RI Commerce Corporation may award tax credits up to \$7,500 per job. This special consideration is reserved only for a “major economic development opportunity”. This classification includes the expansion or relocation of a business in a targeted industry where at least 51.0 percent of the new full-time jobs are classified as high-wage and which meets criteria established by RI Commerce Corporation that includes, but is not limited to:

- Creation of a minimum of 100 new full-time jobs in Rhode Island; or
- Relocation or establishment of a regional or national headquarters or other major corporate hub in Rhode Island.

Analyst Note: Part of the original argument for the qualified jobs incentive was that it could be paid for by the increase in revenue from economic activity associated with the job creation. This “but for” argument, however, is not applicable in the event of an intra-state relocation of a business or headquarters that does not add new jobs, but rather preserves them. It is not clear from the legislation if existing in-state jobs that relocate in-state would be prohibited from counting towards the qualified jobs incentive. EOC indicates that the incentive is only available to new jobs over a baseline of in-state jobs.

Tax Increment Financing Incentive – Program Changes

Tax increment financing (TIF) is a public financing method that uses future tax revenue to subsidize economic development projects. The revenue used is typically generated from taxable activities taking place within a specified geographic area and that are the direct result of the subsidized development.

Company	New Jobs	Total Incentive amount
Infinity Meat Solutions, LLC.	702	\$9,484,000
Infosys Limited	500	8,500,000
Amgen	146	6,000,000
General Electric Company	100	4,591,700
Johnson & Johnson Services, Inc.	75	4,425,860
Rubius Therapeutics, Inc.	154	3,715,000
Ocean State Jobbers, Inc.	125	3,230,190
eMoney Holdings, LLC	100	3,162,196
Agoda Travel Operations USA, Inc.	200	3,039,390
Virgin Pulse, Inc.	292	2,501,072
VistaPrint Corporate Solutions, Inc.	125	2,244,546
Magellan HRSC, Inc.	75	2,138,660
United Natural Foods, Inc.	150	1,873,802
Finlay Extracts & Ingredients USA, Inc.	73	1,354,105
Collette Travel Service, Inc.	50	1,300,000
Epiq Systems, Inc.	25	1,210,000
iXblue Defense Systems, Inc.	22	1,032,000
Gotham Greens Holdings, LLC	68	934,610
Xeros, Inc.	25	784,970
Granite Telecommunications, LLC	50	779,464
Trade Area Systems, Inc.	28	521,507
Greystone of Lincoln, Inc.	25	459,720
Surplus Solutions, LLC	16	454,681
Ivory Ella, LLC.	11	362,055
Alliance Paper Company, Inc.	20	296,790
Advertising Ventures	10	260,000
Lexington Lighting Group, LLC	24	218,831
Total	3,191	\$64,875,148

In 2016 the General Assembly created a state-level TIF incentive to encourage economic development. The program provides for two similar, but distinct, mechanisms to implement financing using future revenue.

True TIF: The first mechanism, outlined in RIGL 42-64.21-5(a) thru (c), involves the RI Commerce Corporation entering into a TIF agreement with a developer for any qualified development project located within a qualifying TIF area. Commerce may agree to pledge up to 75.0 percent of projected new revenue. This incremental revenue must be generated from business, sales, and/or personal income taxes related to activity directly resulting from the development. The taxes that are pledged must also be identified in the agreement. Commerce may not pledge an amount that is more than 30.0 percent of the total project cost. The Division of Taxation is required to segregate the annual incremental revenues and have the General Treasurer deposit them into a restricted TIF fund. The incentives agreed to in the TIF agreement are paid out of this TIF fund by the General Treasurer. Agreements structured this way are required to contain a provision acknowledging that the incentive benefits are subject to annual appropriation by the General Assembly.

PILOT TIF: The second financing mechanism, described in RIGL 42-64.21-5(d), does not involve the pledging of future tax revenue, but rather revenue generated by an agreed upon payment in lieu of taxes. Commerce is authorized, in consultation with the Department of Revenue, to exempt significant taxpayers within a TIF designated area, up to 75.0 percent of the future incremental business, sales, and/or personal income tax liabilities created by activity related to the development. Commerce may instead require TIF area taxpayers to make a payment of equivalent amount in lieu of taxes. These payments are then deposited into a restricted account managed by Commerce. Commerce may then use this revenue flow to issue revenue bonds that pay for the PILOT TIF incentives up front. This mechanism also is subject to the 30.0 percent total project cost limit. However, it is not contingent upon annual appropriation by the General Assembly.

Incentive Status: There are currently seven TIF incentive agreements totaling \$22.7 million in incentives. The incentives are paid out over a nine year period from FY2019-FY2027, and average \$2.2 million per year. All seven projects include hotels.

TIF Incentives		
Project	Location	Amount
Residence Inn	Providence	\$6.0
Hotel Beatrice	Providence	4.3
Hammitt Wharf	Newport	3.5
Hyatt Place	Warwick	3.5
Exchange Street	Providence	3.0
Southern Hospitality	South Kingstown	1.8
Bristol Belvedere	Bristol	0.6
Total		\$22.7
<i>\$ in millions</i>		

Article 12 Changes: Article 12 makes technical amendments to that part of the TIF incentive statute related to PILOT TIF to clarify:

- The mechanics of how RI Commerce Corporation shall exempt taxes and implement PILOT payments.
- The type of taxable activity that may be subject to TIF provisions, including sales and hotel taxes generated by tenants of a TIF project.
- That the balance of the incremental revenue not exempted shall be deposited in the general fund by the Division of Taxation.
- That RI Commerce Corporation and parties to the TIF agreement must provide Taxation information that will allow it to confirm compliance with the act, the terms of the documents giving rise to the tax exemptions, and all applicable state law.

Reauthorization of Incentives

Article 12 reauthorizes the following incentives for another three years:

- Rebuild RI
- Rhode Island Tax Increment Financing
- Tax Stabilization Incentive
- First Wave Closing Fund
- I-195 Redevelopment Project Fund
- Small Business Assistance Fund
- Wavemaker Fellowship program
- Main Street Rhode Island Streetscape Improvement Fund
- Innovation Initiative
- Industry Cluster Grants
- High School, College, and Employer Partnerships
- Qualified Jobs Incentive

These programs are set to expire on June 30, 2020. The General Assembly originally established a two-year authorization for these incentives, calling for a sunset date of December 31, 2018, which was extended by the FY2019 Budget as Enacted. Article 12 establishes a new sunset date of December 31, 2023.

Article 13: Relating to Minimum Wages

The article increases the minimum wage from \$10.50 to \$11.10 per hour effective January 1, 2020.

FISCAL IMPACT

The Budget includes \$87,599 to fund the impact of the proposed minimum wage increase on the Department of Environmental Management's seasonal recreational program.

ANALYSIS AND BACKGROUND

The article increases minimum wage from \$10.50 to \$11.10 per hour effective January 1, 2020. Rhode Island has increased the minimum wage for the past two years, 2018 and 2019, this will be the third consecutive year with an increase. The Governor's FY2017 Budget proposed to increase the minimum wage from \$9.60 per hour to \$10.10 per hour on January 1, 2017; however, this was not included in the FY2017 Budget as Enacted.

Calendar Year	Amount	Change
2007	\$7.40	
2013	7.75	4.7%
2014	8.00	3.2%
2015	9.00	12.5%
2016	9.60	6.7%
2017	9.60	0.0%
2018	10.10	5.2%
2019	10.50	4.0%
2020	11.10	5.7%

Massachusetts' minimum wage increased from \$11.00 to \$12.00 on January 1, 2019, and is set to increase each year until reaching \$15.00 in 2023. Connecticut's last minimum wage increase was from \$9.60 to \$10.10 on January 1, 2017. Vermont and Maine both increased minimum wage on January 1, 2019, and will again in 2020. New Hampshire is the only state in New England that has not had an increase in the past four years.

	2016	2017	2018	2019	2020
Massachusetts	\$10.00	\$11.00	\$11.00	\$12.00	\$12.75
Rhode Island	9.60	9.60	10.10	10.50	11.10
Connecticut	9.60	10.10	10.10	10.10	10.10
Vermont	9.60	10.00	10.50	10.78	10.78*
Maine	7.50	9.00	10.00	11.00	12.00
New Hampshire	7.25	7.25	7.25	7.25	7.25

As of January 1, 2019, Vermont's minimum wage increases by 5.0 percent or the percentage increase of the Consumer Price Index-U (CPI-U) as calculated by the U.S. Department of Labor, whichever is smaller. Vermont's minimum wage for 2020 is not yet known as the applicable CPI-U percent change will not be available until late 2019. Beginning in 2021, Maine's minimum wage will increase by the percentage increase in the Consumer Price Index -W.

Article 14: Relating to Healthcare Market Stability

This article establishes several initiatives to promote stability in the health insurance market in the State of Rhode Island. Specifically, the article:

- Amends the definition of health insurance coverage within the Individual Health Insurance Coverage Act to include short-term limited duration (STLD) policies.
- Establishes a state-level Shared Responsibility Payment Penalty to be assessed when an applicable individual fails to maintain minimum essential coverage.
- Creates the Health Insurance Market Integrity Fund (HIMIF), funded through restricted receipts gained from the shared responsibility penalty and federal funds through a Medicaid Innovation Waiver, to act as a reinsurance program for health insurance carriers in the state.

FISCAL IMPACT

This article increases general revenue expenditures by \$400,000 within the Rhode Island Health Benefits Exchange (HealthSource RI) in FY2020 for administrative costs associated with implementing the Shared Responsibility Payment Penalty (SRPP). In FY2021 and thereafter, the penalty revenue would fund the administrative costs of both the SRPP and the reinsurance program. The penalty would take effect in calendar year 2020, with the assessment of the penalty beginning with tax filings in calendar year 2021.

The Health Insurance Market Integrity Fund (HIMIF) will be funded through a federal State Relief and Empowerment Waiver and the restricted receipts raised from the SRPP. The restricted receipt account established for the Shared Responsibility Payment Penalty will be exempt from the indirect cost recovery provision of RIGL 35-4-27. The exclusion of the Health Insurance Market Integrity Fund from indirect cost recovery requirements prevents 10.0 percent of the fund's balance from being deposited as general revenues.

Analyst Note: As of February 11, 2019, the anticipated balance of the HIMIF is unknown. The state has hired actuaries that will provide estimates on the size of the reinsurance program and the balance of the HIMIF and estimates should be late winter of 2019. In addition, the HIMIF was exempted from cost recovery in Article 14 but was not included in Article 2, which outlines new indirect cost recovery exemptions.

ANALYSIS AND BACKGROUND

Short Term Limited Duration Policies

This article amends the definition of health insurance coverage within RIGL 27-18.5, entitled the Individual Health Insurance Coverage Act, to include short-term limited duration (STLD) policies. This amendment requires STLD plans to meet the same regulations as other health insurance policies sold in the state. Under federal law, STLD policies are not required to comply with the requirements of the Affordable Care Act. This allows STLD plans to deny coverage of preexisting conditions or health benefits such as emergency services, hospitalization, maternity care, preventive care, prescription drugs, and behavioral health services. The plans can have lifetime or plan dollar limits on benefits. These plans do not qualify as “minimum essential coverage” under the Affordable Care Act.

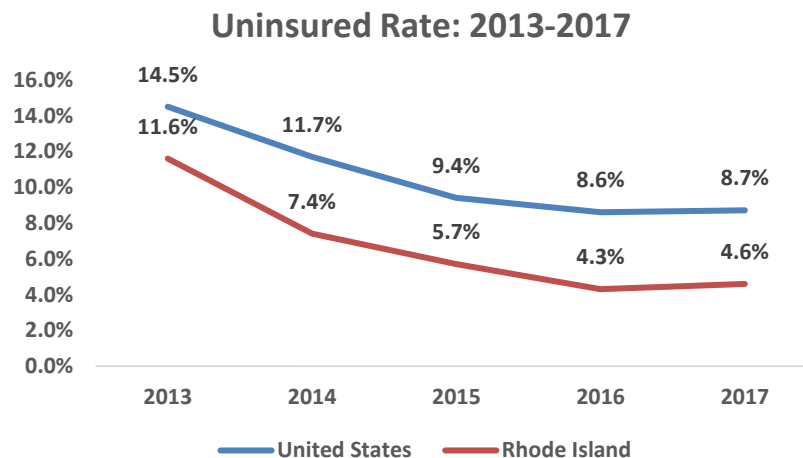
On August 3, 2018, the federal government issued a final rule on STLD policies. Pursuant to the terms of the final rule, short-term plans can provide coverage for up to twelve months and can be renewed for up to thirty-six months. Previously, short-term plans were limited to a maximum duration of three months and were non-renewable. STLD plans have lower premiums, and the extension of the maximum duration makes plans more appealing and could cause healthy individuals who do not have subsidized premiums to leave the individual health insurance market and reduce market stability.

The amendment under Article 14 would codify requirements that STLD policies meet the same standards of coverage as other policies sold in the state. STLD plans are heavily marketed in Rhode Island but are regulated by the Office of the Health Insurance Commissioner (OHIC.) However, to date, the OHIC has not authorized the sale of any STLD plans in the State of Rhode Island. Currently, California, Hawaii, Massachusetts, New Jersey, New York, and Vermont have blocked the sale of STLD plans through legislation or state regulations.

Blue Cross Blue Shield of Rhode Island estimates that for every 10.0 percent of healthy individuals that leave the market for STLD plans, premium rates would increase by 5.0 percent. This would equate to an average of approximately \$324 per member per year in additional premium costs.

Shared Responsibility Payment Penalty

This article establishes a state Shared Responsibility Payment Penalty (SRPP), or individual mandate, to assess a penalty on applicable taxpayers who fail to maintain minimum essential coverage. General revenue expenditures increase by \$400,000 in FY2020 to fund implementation of the penalty. Penalty payments would be made beginning with the 2020 tax filing season and would be deposited as restricted receipts into the Health Insurance Market Integrity Fund. The Shared Responsibility Payment Penalty is designed to keep the uninsured rate low. Rhode Island's uninsured rate is currently 4.6 percent, down from 11.6 percent in 2013. A low uninsured rate mitigates uncompensated care costs which, according to the March 2017 Medicaid and CHIP Payment and Access Commission (MACPAC) report to Congress, uncompensated care, as a percentage of operating costs, has decreased by 60.0 percent from 2013 to 2015.



Source: US Census Bureau

Under the Patient Protection and Affordable Care Act, federal law required a Shared Responsibility Payment Penalty beginning in calendar year 2014. The national and state uninsured rate decreased during the years in which the penalty was assessed. However, beginning in calendar year 2019, the federal government eliminated the financial penalties associated with failing to maintain minimum essential health insurance coverage. Without a financial penalty, the uninsured rate is expected to rise in the state of Rhode Island. This risks driving the healthy population away from the individual market (the market that offers health insurance coverage without a connection to group health insurance plans) which would increase premium costs.

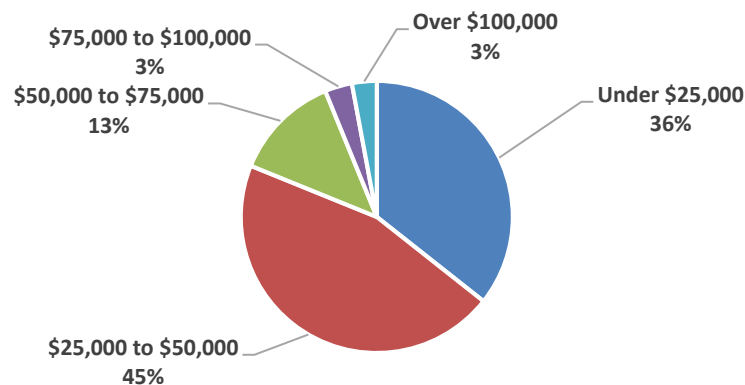
The penalty amount is set at the greater amount of \$695 per adult and \$348 per child, or 2.5 percent above the tax filing threshold, each tax year. A family would not pay a penalty for more than two adults and two children, and the overall maximum penalty is set at the statewide average cost of a bronze plan. Bronze plans are the marketplace plans with the lowest premiums and the highest copays and coinsurance

requirements. In 2019, the average cost of a Rhode Island bronze plan was \$2,388 for a single person and \$9,522 for a family of four.

Those who have an income below the tax filing threshold, set at \$12,000 for a single filer in 2018, are not required to pay the penalty. Exemptions to the penalty are to be regulated by HealthSource RI and modeled after the federal exemptions to include an affordability exemption and a hardship exemption. Within sixty days after the penalty is assessed, the taxpayer shall be offered a special enrollment period to enroll in health insurance through the marketplace to avoid future penalties.

In 2016, prior to the repeal of federal financial penalties, taxpayers in the State of Rhode Island paid \$11.3 million in shared responsibility penalty payments. Because the proposed penalty is modeled after the federal mandate, the revenue generated by the mandate is expected to be comparable. If a comparable penalty were to be reinstated at the federal level, or if federal premium tax credits were eliminated, the state penalty would not be assessed.

Percentage of Shared Responsibility Payments in RI by Individual Income: 2016



Source: IRS Data, 2016.

Massachusetts was the first state to enact a state-based Shared Responsibility Payment Penalty in 2006 and has the lowest uninsured rate in the country. New Jersey, Washington D.C., and Vermont have all enacted mandates since the elimination of financial penalties at the federal level.

Reinsurance Program

The article establishes a reinsurance program through a State Relief and Empowerment Medicaid waiver and funded by restricted receipt revenues from the Shared Responsibility Payment Penalty. The reinsurance program would pay for a portion of an insurance carrier's claims after they surpass a specified dollar amount. The program is designed to mitigate individual market premium increases that are associated with high-cost insured individuals. The program would offset costs associated with providing coverage for sicker individuals, allowing insurers to reduce premiums in the individual market.

Currently, eight states have received approval for State Relief and Empowerment Waivers for reinsurance programs including Alaska, Hawaii, Maine, Maryland, Minnesota, New Jersey, Oregon, and Wisconsin. States fund their programs through premium taxes and assessments, provider taxes, and general revenues. New Jersey is the only state that funds a reinsurance program through a shared responsibility payment, which has resulted in a 9.3 percent reduction in premium rates in the state, on average.

Over 44,000 individuals (4.0 percent of the insured population) receive their coverage through the individual market in Rhode Island. Approximately 40.0 percent of this population is unsubsidized, which means it is the most susceptible to rising premium costs, which a reinsurance program would mitigate. The reinsurance program would be funded by the aforementioned Health Insurance Market Integrity Fund.

Article 15: Relating to Children and Families

This article modifies a number of child and family service programs administered by the Departments of Elementary and Secondary Education (RIDE); Children, Youth, and Families (DCYF); and Human Services (DHS). Specifically, the article:

- Requires certain schools to take advantage of a federal provision for free meal programs.
- Shifts the costs of educating certain youth in the care of DCYF to local education authorities (LEAs).
- Modifies licensing requirements for foster homes.
- Implements a lifetime limit for RI Works benefits.
- Expands child care supports.
- Implements a tiered reimbursement system for infant, toddler, and pre-school family child care providers; however, the Budget does not fully fund the proposal.

FISCAL IMPACT

The initiatives in this article are expected to reduce general revenue expenditures by \$888,799 (\$1.1 million all funds) in FY2020.

FY2020 Expenditure Impact		
Initiative	General Revenue	All Funds
Mandatory School Meal Programs	\$55,000	\$55,000
Education of DCYF Youth	(1,080,984)	(1,496,358)
Lead Inspection of Foster Homes	(250,000)	-
RI Works Program	-	-
Child Care Assistance	200,000	200,000
Child Care Rates	187,185	187,185
Total	(\$888,799)	(\$1,054,173)

ANALYSIS AND BACKGROUND

Mandatory School Meal Programs

The article requires certain eligible schools to expand their meal programs. Beginning in the 2020-2021 school year, Article 15 requires all public schools that have been eligible for the Community Eligibility Provision (CEP) of the federal Healthy, Hunger-Free Kids Act for two consecutive years or longer to implement the provision, unless granted a waiver by the Department of Elementary and Secondary Education (RIDE). Furthermore, the article requires all public schools that have an enrollment of 70.0 percent or more of students eligible for free- or reduced- price meals in the prior school year to offer a school breakfast program that is available after the instructional day has begun.

Currently, all school districts in Rhode Island are required to provide a school lunch and a school breakfast program. Children from families with incomes up to 130.0 percent of the federal poverty level (\$33,475 annually for a family of four) are eligible for free meals, and children from families between 130.0 and 185.0 percent of poverty level (up to \$47,638 for a family of four) are eligible for

Districts with Schools Required to Provide Breakfast after Start of Day

Achievement First	Nowell
Blackstone Academy	Paul Cuffee
BVP	Pawtucket
Central Falls	Providence
Charette	Segue Institute
Cranston	Southside Elementary
Foster-Glocester	Trinity
Highlander	Urban Collaborative
Learning Community	Village Green
Newport	Woonsocket

Source: Office of Food Strategy

Note: Based on FY2019 data

reduced-price meals (\$0.40 or less). Students with a family income over 185.0 percent of poverty pay a price determined by the school. Schools that take part in the lunch and breakfast programs receive cash subsidies and donated foods from the U.S. Department of Agriculture (USDA). The State provides \$270,000 to districts to assist with the administrative costs associated with school breakfast programs.

Analyst Note: On January 25, 2019, information was requested regarding the per-district distribution of these funds as well as the potential impact of the article on this distribution; however, as of February 6, 2019, no information had been received by Fiscal Staff.

According to RIDE, over 72,000 low-cost or free lunches are served in Rhode Island daily, reflecting 69.0 percent of the lunches served; however, eligibility is determined through a school meal application. This application process and stigma among peers can prevent qualified students from accessing the meal program. The CEP allows high poverty schools and districts to serve breakfast and lunch at no cost to all enrolled students without collecting household applications. Instead, schools that adopt the CEP are reimbursed using a formula based on the percentage of students categorically eligible for free meals based on their participation in other specific means-tested programs, such as the Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF).

The Department is required to notify schools, before March 1 of each year, if they are required to adopt the CEP for the following school year. The Department may grant waivers for a school that demonstrates economic hardship related to the implementation of the program.

The article also requires the Department to develop procedures and guidelines for the implementation of the programs, and to collect information on eligible school breakfast delivery models. Eligible service models may include breakfast in the classroom, grab-and-go breakfast, and second chance breakfast. On or before March 1 of each year, the Department shall notify schools required to provide a breakfast program after the beginning of the instruction day. The Budget includes \$55,000 in general revenues within RIDE in FY2020 for the costs associated with implementing this program.

Education of DCYF Youth

The article amends RIGL 16-64-1.1 to modify the funding mechanism for the costs associated with educating children in the care of the Department of Children, Youth, and Families (DCYF). Under current law, children in foster care are educated in the district determined by DCYF to be in the child's best interest, and the costs are borne by the local education authority (LEA) for that district. Children placed in group homes are educated and funded by the district in which the group home is located, although districts with group homes receive supplemental state funds to alleviate the financial pressure of educating these youth. LEAs are also responsible for bearing the per-pupil special education costs of any children who are residents of the district but are educated within a residential treatment facility which provides on-site education, such as St. Mary's Home for Children, the Groden Center, or Harmony Hill.

Article 15 proposes expanding the financial responsibility of LEAs to include youth who are involved in juvenile justice. The article modifies RIGL 16-64-1.1(d) to require that districts bear financial responsibility for any residents who are sentenced to and educated at the Rhode Island Training School (RITS). Although it is not explicitly stated, the language in Article 15 would also modify the payment methodology for education at the Ocean Tides facility in Narragansett.

Currently, educational costs at both the RITS and Ocean Tides are borne by DCYF. The Budget assumes that DCYF would continue paying under this proposal; however, in order to hold LEAs accountable, a portion of the costs would be withheld from the sending districts' education aid disbursement. Using an average per-pupil special education cost of \$35,000, the gross charge to the districts would be approximately \$1.9 million. In order to mitigate the negative impact to the LEAs, this amount is offset by the amount each district would be reimbursed if students were to be added into the funding formula. Thus, the proposal is estimated to reduce education aid by a total of \$1.3 million in FY2020.

Analyst Note: According to the Budget Office, RIDE is permitted to withhold education aid pursuant to RIGL 16-64-1.2(d). However, it is not clear if the intent of this statute is to allow preemptive withholding. The language also specifies that the commissioner of RIDE must pay the amount withheld to DCYF, which would not occur under this arrangement.

Furthermore, this methodology applies to both the RITS and Ocean Tides. As interpreted, payment guidelines for Ocean Tides would fall under the same subsection of General Law as St. Mary's, the Groden Center, and Harmony Hill; however, the payment methodology for Ocean Tides would differ from these other facilities.

If LEAs assume financial responsibility for these youth, DCYF would lose its status as a limited purpose LEA and \$415,374 in federal funding. According to DCYF, these funds are generally used for professional development activities at the RITS. The Budget includes \$250,000 from general revenues in DCYF to offset this loss.

	FY2020 Expenditure Impact	
	General Revenue	All Funds
RIDE	(\$1,330,984)	(\$1,330,984)
DCYF	250,000	(165,374)
Total	(\$1,080,984)	(\$1,496,358)

The Budget assumes that the federal funds currently granted to DCYF as a limited purpose LEA would be redistributed to the applicable districts under this proposal. This applies approximately \$7,692 per student to each district, which helps offset the costs withheld by RIDE. The table below delineates the net impact to each district based on enrollment data from September 2018.

District	Students	Costs Withheld	Federal Offset	LEA Impact
Central Falls	6	-	-	-
Cranston	6	164,402	(46,153)	118,250
Cumberland	1	29,021	(7,692)	21,329
Johnston	1	28,531	(7,692)	20,839
Newport	3	85,183	(23,076)	62,106
North Kingstown	2	63,158	(15,384)	47,773
Pawtucket	2	47,536	(15,384)	32,152
Providence	31	713,360	(238,455)	474,905
Warwick	1	29,652	(7,692)	21,960
West Warwick	2	52,488	(15,384)	37,104
Woonsocket	5	117,652	(38,461)	79,192
Unknown	1	-	-	-
Total	61	\$1,330,984	(\$415,374)	\$915,610

Source: RI Office of Management and Budget

Note: Based on an average per-pupil cost of \$35,000

Analyst Note: This calculation is based on a fixed per-pupil cost of \$35,000. However, the language of the article specifically states that LEAs shall be responsible for the per-pupil special education cost of each student, which is a unique amount for each district. If each district's per-pupil special education cost is applied to this calculation, the savings to the state are about the same, but the distribution per district is much different.

It is also unclear if the federal funds lost by DCYF would be guaranteed to the districts, and if they would be distributed in the same way they are currently.

Additionally, the article does not specify if enrollment data would be counted each September, consistent with the budget assumption, or if it would be revised annually in March along with the funding formula update. According to the Budget Office, the method for counting and updating enrollment would be governed by the regulatory process.

Lead Inspection of Foster Homes

The article amends the Lead Poisoning Prevention Act so that foster homes are no longer held to the same licensure requirements as child care facilities and elementary schools. Any group family child care home, family child care home, child care center, residential facility, or elementary school serving children under

the age of six must undergo comprehensive lead inspections at specified intervals and demonstrate that they are lead free or lead safe. Schoolyards, public playgrounds, and shelters are also removed from this section.

The article adds RIGL 23-24.6-14.1 to modify lead licensing requirements for foster homes. Pursuant to this new section, foster homes would be subject to a visual, rather than comprehensive, lead inspection to assess the presence of potential lead hazards in the home. The Department of Health (DOH) shall review the results of the inspections and ensure that owners receive the necessary information to remediate any identified lead hazards. The article does not require remediation of the identified hazards; however, RIGL 23-24.6-17 requires the director of DOH to promulgate lead hazard reduction regulations. According to DCYF, the amendment is intended to allow homes to be licensed while remediation is in progress in order to address the licensing backlog of foster families and bring Rhode Island in line with federal standards. In doing so, DCYF would be able to increase federal reimbursements; consequently, this section of the article is projected to shift \$250,000 in general revenue expenditures to federal funds.

RI Works Program

The article amends RI Works legislation to clarify the definition of the lifetime limit. Under current law, beneficiaries are not allowed to receive cash assistance for more than 24 months (consecutive or not) within 60 continuous months. Article 15 eliminates this constraint, but retains the 48 month lifetime limit beneficiaries are eligible for cash assistance. The lifetime limit includes Temporary Assistance for Needy Families (TANF) cash assistance paid to the beneficiary in other states. Cash assistance provided to a child will not be counted toward their lifetime limit should they need to apply for benefits as adults.

The Rhode Island Works program (RI Works) is the State's TANF federal block grant program. Each state receives TANF block grant funds and operates their own cash assistance program for low-income families. The November 2018 Caseload Estimating Conference estimated a caseload of 9,700 persons using RI Works in FY2020, with an average monthly cost of \$195.64 per person and a total cost of \$24.9 million.

Child Care Assistance

The article expands child care assistance eligibility to include families who require child care in order to pursue an educational degree or professional certificate. The Governor's Budget includes \$200,000 from general revenues to support this expansion. The Department of Human Services (DHS) administers the child care assistance program, which provides child care to families, with incomes at or below 180.0 percent of the federal poverty level, such that parents are able to continue working at a paid employment position or participate in a short-term training apprenticeship or job readiness program. The beneficiary must attend an accredited post-secondary educational institute on a full-time basis, or on a part-time basis in conjunction with employment as approved by DHS.

Article 15 also increases the amount of liquid resources a family may have while still qualifying for child care assistance from \$1,000 to \$1.0 million. Liquid resources include any financial instruments or accounts that are easily converted into cash such as stocks, bonds, mutual funds, or savings accounts. The increase in allowable liquid resources corresponds to the limits set by the federal Office of Child Care in the Child Care and Development Fund Plan.

In addition, the article amends the child support conditions for child care assistance. Under current law, the parent or guardian of the child receiving child care assistance is required to work with DHS to establish paternity and work to enforce child and medical support for all children in the family, regardless of whether all children receive child care assistance. The article amends this condition to only apply to children who receive child care through the child care assistance program.

Child Care Rates

Article 15 alters the child care reimbursement rate structure for licensed family child care providers. The article implements a tiered reimbursement system based on the provider's quality rating as determined under the State's Tiered Quality Rating and Improvement System. Family child care providers are currently reimbursed based on four steps. The applicable increases are applied to the FY2019 weekly base rates,

\$178.55 for infants and toddlers and \$162.32 for preschool aged children. The requirements for the provider's current step based increases are listed in the following table.

Step	Requirments	% Increase	FY2019 Weekly Rates Infants/Toddlers	FY2019 Weekly Rates Preschool
1	Has not achieved requirements of Steps 2-4 A high school diploma or GED, or 10+ years or related experiences and enrolled in a diploma/GED program.	1.0%	\$180.34	\$163.94
2	A Child Development Associates (CD) Credential, or completion of 3 college credits in child development or related field.	2.0%	\$182.12	\$165.57
3	Complete RI Early Childhood Education & Training Program at CCRI, or earned an Associate's Degree or higher.	3.0%	\$183.91	\$167.19
4		4.0%	\$185.70	\$168.81

Source: SEIU 1199NE Collective Bargaining Agreement

Note: FY2018 Infant/Toddler rates are based on a previous rate of \$178.55

FY2018 Preschool rates are based on a previous rate of \$162.32

Analyst Note: It is unclear how the implementation of the tiered-rate system will impact the providers current step based increases. The SEIU 1199NE Collective Bargaining Agreement allows providers to continue achieving step increases, along with the additional reimbursement percentage increases associated with the implementation of the tiered system. The article does not address the provider's current step-based reimbursement system. The Department of Human Services believes an amendment will be required to integrate the provider's step based increases into the article.

This article would implement a tiered reimbursement rate system based on the provider's quality rating through the State's Tiered Quality Rating and Improvement System (TQRIS), BrightStars. Beginning in FY2020, licensed family child providers providing care for infants/toddlers and preschool aged children will be reimbursed 2.0 percent above the FY2018 weekly amount for tier one, 5.0 percent for tier two, 11.0 percent for tier three, 14.0 percent for tier four, and 23.0 percent for tier five. The Budget includes an additional \$150,000 to fund the tiered reimbursement rates for licensed family child care providers.

Tier	FY2018 Base Rate	FY2020 Increased Percentage	FY2020 Increased Amount	Change from FY2019	
1	\$169.95	2.0%	\$173.35	\$3.40	2.0%
2	\$169.95	5.0%	\$178.45	\$8.50	5.0%
3	\$169.95	11.0%	\$188.64	\$18.69	11.0%
4	\$169.95	14.0%	\$193.74	\$23.79	14.0%
5	\$169.95	23.0%	\$209.04	\$39.09	23.0%

Tier	FY2018 Base Rate	FY2020 Increased Percentage	FY2020 Increased Amount	Change from FY2019	
1	\$154.50	2.0%	\$157.59	\$3.09	2.0%
2	\$154.50	5.0%	\$162.23	\$7.72	5.0%
3	\$154.50	11.0%	\$171.50	\$17.00	11.0%
4	\$154.50	14.0%	\$176.13	\$21.63	14.0%
5	\$154.50	23.0%	\$190.04	\$35.54	23.0%

Analyst Note: The additional \$150,000 included in the Governor's Budget is only enough to increase the reimbursement rates for infants and toddlers. The Department of Human Services estimates it will cost an additional \$250,000 to increase reimbursement rates for preschool aged children.

The article sets the base rate at the FY2018 weekly reimbursement amount. Since FY2018, family child care providers have received two additional increases to their base rates which are not included in this article. The most recent rate increase was effective January 2019, bring the base rate to \$178.55 for infants and toddlers and \$162.32 for preschool aged children.

It would cost an additional \$132,548 to implement tiered rates for infants and toddlers using the FY2018 rates or \$139,255 using the January 2019 rates. While updating the base rates will not impact the current budget proposal, it would increase the reimbursement rates across all tiers for providers. If the FY2018 rates are used providers rates for a one or two star facility would be reimbursed at a lower rate than they are currently as of January 2019.

Rhode Island's Tiered Quality Rating and Improvement System (TQRIS) is BrightStars. A TQRIS is used by states to assess, improve, and communicate the level of quality in child care programs. Through the star rating system, BrightStars helps child care providers learn and apply best practices, and families access quality child care, early learning, and school-age programs. The Rhode Island Association for the Education of Young Children manages BrightStars and Rhode Island KIDS COUNT coordinates and supports the evaluation of BrightStars.

Article 16: Relating to Medical Assistance

This article modifies the financing and delivery of the Medicaid program. Specifically, the article:

- Expands eligibility for the enhanced state Supplemental Security Income (SSI) payment.
- Freezes inpatient and outpatient hospital payment rates at FY2019 levels.
- Provides nursing homes with a 1.0 percent cost-of-living adjustment (COLA) rate increase.
- Eliminates inpatient upper payment limit (UPL) payments.
- Creates an employer public assistance assessment, which would impose a fee on large, for-profit companies for each non-disabled employee enrolled in Medicaid.
- Limits the FY2019 rate increase for hospice providers delivering care in skilled nursing facilities.
- Amends the Rhode Island General Laws to expand the rights of individuals with developmental disabilities pursuant to the Home and Community Based Services (HCBS) final rule.
- Authorizes the Secretary of the Executive Office of Health and Human Services (EOHHS) to transition payments for patient-centered medical homes from fee-for-service to an alternative methodology, such as partial or full capitation.
- Eliminates the state-only Graduate Medical Education (GME) program.

FISCAL IMPACT

This article reduces general revenue expenditures by \$14.9 million (\$37.3 million all funds) in FY2020.

Initiative	FY2020 Expenditure Impact	
	General Revenue	All Funds
Supplemental Security Income Payments	-	-
Hospital Rate Freeze	(5.3)	(15.1)
Nursing Home COLA	(3.5)	(7.5)
Eliminate Inpatient Upper Payment Limit	(3.6)	(9.4)
Employer Public Assistance Assessment	1.1	1.1
Limit Hospice Rate Increase	(2.6)	(5.5)
Home and Community Based Services Final Rule	-	-
Patient-Centered Medical Home Program	-	-
Eliminate Graduate Medical Education	(1.0)	(1.0)
Total	(\$14.9)	(\$37.3)

\$ in millions. Totals may vary due to rounding.

This article also increases general revenue collections by \$14.6 million in FY2020. This is primarily related to the proposed employer public assistance assessment, which is estimated to generate \$15.6 million in new revenues, offset by approximately \$1.0 million in foregone revenues related to several savings initiatives.

Initiative	FY2020 Revenue Impact			
	Insurance Premium Tax	Nursing Home Tax	Other	Total
Hospital Rate Freeze	(\$279,531)	-	-	(\$279,531)
Nursing Home COLA	(21,879)	(349,629)	-	(371,507)
Employer Public Assistance Assessment	-	-	15,598,337	15,598,337
Limit Hospice Rate Increase	-	(302,500)	-	(302,500)
Total	(\$301,410)	(\$652,129)	\$15,598,337	\$14,644,799

ANALYSIS AND BACKGROUND

Supplemental Security Income (SSI) Payments

Article 16 amends RIGL 40-6-27 to expand availability of an enhanced state Supplemental Security Income (SSI) payment for certain residents in assisted living facilities. Current law only provides the higher payment for individuals enrolled in managed care plans. This article would allow the state to also provide the higher payment for individuals enrolled in fee-for-service Medicaid. This expansion is specifically targeted at the population of dual-eligible beneficiaries who were transitioned from managed care to fee-for-service as part of the Rhody Health Options (RHO) redesign.

Hospital Rate Freeze

Hospitals are reimbursed by Medicaid on a fee-for-service basis and by MCOs for inpatient, outpatient, and emergency services. RIGL 40-8-13.4 allows EOHHS to review these rates annually and make adjustments based on factors such as hospital costs, hospital coding, and availability of services. Increases may not exceed the Prospective Payment System Hospital Input Price Index, an inflation-based index published by the Centers for Medicare and Medicaid Services (CMS).

The November 2018 Caseload Estimating Conference adopted FY2020 hospital payment figures assuming growth rates of 3.2 percent for inpatient services and 1.25 percent for outpatient services relative to FY2019. The Governor proposes freezing hospital rates at FY2019 levels, rather than incorporating these price increases. This would generate \$5.3 million in general revenue savings (\$15.1 million all funds) relative to the adopted estimate for FY2020 and requires a State Plan Amendment.

Hospital Rate Changes by Fiscal Year

Fiscal Year	Inpatient	Outpatient
FY2013	2.7%	1.9%
FY2014	0.0%	0.0%
FY2015	0.0%	0.0%
FY2016	-2.5%	-2.5%
FY2017	3.0%	1.9%
FY2018	2.4%	2.4%
FY2019	2.8%	1.8%
<i>FY2020 (proposed)</i>	<i>0.0%</i>	<i>0.0%</i>

Although this initiative is estimated to significantly reduce expenditures, it is important to note that the proposal would also negatively impact revenues. Of the \$15.1 million in estimated savings, a total of \$14.0 million is projected within either Managed Care, Medicaid Expansion, or Rhody Health expenditures, all of which would otherwise be subject to the 2.0 percent insurance gross premium tax. Therefore, by freezing hospital rates, the state would forego approximately \$280,000 in revenues relative to the estimate adopted by the November 2018 Revenue Estimating Conference.

Nursing Home COLA

Each October, pursuant to RIGL 40-8-19, nursing homes are to receive a cost-of-living adjustment (COLA) rate increase based on the national nursing home inflation index. The November 2018 Caseload Estimating Conference adopted nursing home payments assuming a 3.0 percent price increase in FY2020. The Governor recommends limiting the rate increase to 1.0 percent, saving \$3.5 million in general revenues (\$7.5 million all funds). This proposal requires a State Plan Amendment.

Nursing Facility Rate Changes by Year

Fiscal Year	Date	Adopted	Index	Difference
FY2013	10/1/2012	3.1%	3.1%	0.0%
FY2014	10/1/2013	0.0%	2.9%	-2.9%
FY2015	10/1/2014	0.0%	3.5%	-3.5%
	4/1/2015	3.2%	0.0%	3.2%
FY2016	8/1/2015	-2.5%	0.0%	-2.5%
	10/1/2015	0.0%	3.2%	-3.2%
FY2017	10/1/2016	3.3%	3.3%	0.0%
FY2018	10/1/2017	0.0%	2.8%	-2.8%
FY2019	7/1/2018	1.5%	0.0%	1.5%
	10/1/2018	1.0%	2.7%	-1.7%
<i>FY2020 (proposed)</i>	<i>10/1/2019</i>	<i>1.0%</i>	<i>3.0%</i>	<i>-2.0%</i>

In the FY2019 Budget as Enacted, nursing facilities received two rate increases at a general revenue expense of \$2.8 million (\$5.9 million all funds). This included a 1.5 percent increase on July 1, 2018, and an additional 1.0 percent increase on October 1, 2018, reflecting the settlement of a court case. Rates were frozen in FY2018.

Although this initiative is estimated to significantly reduce expenditures, it is important to note that the proposal would also negatively impact revenues. Of the \$7.5 million in estimated savings, \$6.4 million is projected within fee-for-service nursing home expenditures, which would otherwise be subject to the 5.5 percent nursing home provider tax, and \$1.1 million is projected within Rhody Health Options, which would otherwise be subject to the 2.0 percent insurance gross premium tax. Therefore, by limiting the nursing facility COLA, the state would forego approximately \$371,500 in revenues relative to the estimate adopted by the November 2018 Revenue Estimating Conference.

Eliminate Inpatient Upper Payment Limit (UPL)

Upper Payment Limit (UPL) payments compensate hospitals for the gap between what hospitals receive for Medicaid inpatient and outpatient services and what they would have been paid for those services under Medicare reimbursement principles. In past fiscal years, the state has made UPL payments to hospitals, matched by federal funds, to bring its total Medicaid expenditures up to 100.0 percent of the Medicare upper payment limit, thereby maximizing available federal funds. This article eliminates UPL payments for hospital inpatient services. The state would continue providing UPL payments for hospital outpatient services under this proposal.

UPL payments are authorized, but not required, by federal law. According to the Executive Office of Health and Human Services, these payments detract from efforts to promote value-based purchasing. Ultimately, UPL payments can limit the state's ability to utilize federal Medicaid funds in order to drive value. The proposal reduces general revenue expenditures by \$3.6 million (\$9.4 million all funds) in FY2020.

Employer Public Assistance Assessment

This article amends RIGL 40-8.4 to create a Medicaid employer assessment effective October 1, 2019. Employers who do not offer sponsored health insurance, or whose premiums are too expensive for some employees, create incentives for those employees to enroll in subsidized health care programs, such as Medicaid, which shifts the financial burden to the state. This proposal would require large, for-profit companies to compensate the state for each employee enrolled in Medicaid. This includes only companies with at least 300 employees but excludes non-profit and government entities.

The assessment would require employers to pay 10.0 percent of wages for each employee enrolled in Medicaid, up to an annual maximum of \$1,500 per employee. This applies to both part-time and full-time staff, but does not apply to employees who are enrolled in Medicaid due to a disability. Employers would be assessed on a quarterly basis. According to EOHHS, this would apply to approximately 140 companies in Rhode Island.

The State of Massachusetts already has a similar arrangement in place. The State assesses two penalties, called the Employer Medical Assistance Contribution (EMAC) and EMAC Supplement, which were created in response to a significant increase in working Medicaid beneficiaries. Massachusetts implemented these policies to hold employers accountable for not providing adequate health insurance for their employees. The assessments help offset the costs to the State for providing coverage instead. The EMAC Supplement is most similar to the proposal in Rhode Island, as the standard EMAC assesses employers using a significantly lower, tiered rate for a maximum of \$77 per employee per year. A comparison to the EMAC Supplement is provided in the following table.

Current Inpatient UPL	
Hospital	Inpatient UPL
Butler	N/A
Kent	\$588,005
Memorial	N/A
Women and Infants	\$3,946,986
Care New England	\$4,534,991
Bradley	N/A
Miriam	\$664,447
Newport	\$128,214
Rhode Island Hospital	\$2,880,767
Lifespan	\$3,673,428
Roger Williams	\$370,413
St. Joseph	\$613,408
Prospect - CharterCARE	\$983,821
Landmark	\$76,434
South County	\$49,816
Westerly	\$31,992
Rehabilitation	N/A
Other	\$158,242
Total	\$9,350,482

	Rhode Island	Massachusetts
Number of employees	300	6
Assessment as percent of wages	10.0%	5.0%
Maximum wages assessed (per year)	\$15,000	\$15,000
Maximum assessment (per year)	\$1,500	\$750
Frequency of assessment	Quarterly	Quarterly

Analyst Note: The EMAC Supplement was effective as of January 1, 2018, and sunsets on December 31, 2019. It was a temporary solution intended to stabilize health care costs while the Massachusetts legislature worked to reform the state's Medicaid program. The standard EMAC will remain in place after December 31, 2019. The proposal in Rhode Island does not have a sunset provision.

The article establishes a right of appeal for employers who are deemed liable for the assessment. Specifically, the employer must submit a request for appeal with the Department of Labor and Training (DLT) within fifteen days of receipt of their quarterly bill. The article also enables employers to issue a request for review of Medicaid eligibility with the Department of Human Services (DHS). Employers are strictly prohibited from taking adverse action against an employee on the basis of the employee's status as a Medicaid beneficiary.

This proposal would require coordination between the Departments of Administration, Revenue, Human Services, and Labor and Training, along with the Executive Office of Health and Human Services. The assessment is estimated to generate \$15.6 million in new revenues in FY2020, offset by approximately \$1.1 million in implementation costs. This estimate is based on FY2018 Medicaid enrollment data from EOHHS and wage data from the Employer Tax Division at the Department of Revenue.

Analyst Note: Article 4 proposes transferring the Employer Tax Division to the Department of Labor and Training. According to DLT, 5.0 FTE positions in this division would assist in the implementation of the assessment.

The estimate only included non-disabled employees who were over the age of 18, were enrolled in Medicaid for a full quarter, and earned a minimum of \$500 within each quarter of FY2018.

Analyst Note: The language of the article does not include these restrictions (age, length of enrollment, and minimum earnings) although they mirror current restrictions in Massachusetts.

Given the October 2019 start date, the first assessment would apply to enrollment and wage data from the second quarter of FY2020, or October through December of 2019. The estimate accounts for the fact that there would only be a three-quarter year impact. Future year estimates include the full-year impact, increased by wage and salary growth rates adopted by the November 2018 Revenue Estimating Conference.

Analyst Note: Based on this methodology, the fourth quarter assessment would be based on data from March through June of 2020, which would not be available until after the end of the fiscal year. This would mean that employers would not be notified of their liability, and assessments would not be paid, until July 2020 at the earliest. Unless the revenue is booked as a receivable, this assessment would not have a three-quarter year impact in FY2020.

Limit Hospice Rate Increase

The FY2019 Budget as Enacted provided rate increases of 10.0 percent for home care providers, home nursing care providers, and hospice providers delivering personal care attendant services and 20.0 percent for home care providers, home nursing care providers, and hospice providers delivering skilled nursing and therapeutic services. As interpreted by EOHHS, this rate increase was applied to all components of the hospice care payment, including the room and board rate which is passed through to skilled nursing facilities. This was not the legislative intent of the rate increase, as it resulted in a discrepancy between the rates paid for hospice care and non-hospice care in nursing facilities. This article seeks to correct this issue by limiting the rate increase to hospice care providers. Specifically, the rate for hospice providers delivering skilled nursing services shall not exceed 95.0 percent of the rate paid for non-hospice care in a skilled

nursing facility. This initiative would reduce general revenue expenditures by \$2.6 million (\$5.5 million all funds) and would require a State Plan Amendment.

This rate reduction would negatively impact revenues generated by the nursing home provider tax. The \$5.5 million all funds expenditures saved through this initiative would otherwise be subject to this 5.5 percent tax. Therefore, the state would forego approximately \$302,500 to this initiative.

Home and Community Based Services (HCBS) Final Rule

This article amends two sections of Chapter 40.1 of the Rhode Island General Laws, which delineate the powers and duties of the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH). The article modifies language to promote compliance with the Home and Community Based Services (HCBS) final rule and the requirements of the Centers for Medicare and Medicaid Services (CMS) state plan amendment which expand certain rights of persons with developmental disabilities. These include access, at any time, to visitors, telephone communication, personal finances, newspapers, and other media. Without this language change, individuals are granted “reasonable” access to these items.

Patient-Centered Medical Home Program

The Patient-Centered Medical Home (PCMH) is a coordinated care delivery model. Through the PCMH, treatment is coordinated through a patient’s primary care physician to ensure the timely and appropriate delivery of services. The objective is to have a centralized setting that facilitates partnerships between individuals and their personal physicians. Care is facilitated by registries, information technology, health information exchanges, and other means to assure that patients get the indicated care in a culturally and linguistically appropriate manner.

This article amends RIGL 42-14.6-4 to repeal the sunset provision for the state’s PCMH program. This would align state law with the actual state of the program. According to EOHHS, this program is very successful, and all parties involved seek to continue the program indefinitely. The article also allows the Secretary of EOHHS to implement an alternative payment methodology (APM) for the program, which currently operates on a fee-for-service basis. These alternatives may include partial or full capitation. Capitation is a payment arrangement which provides a fixed rate per patient per unit of time (typically per member per month) to cover a specific list of services.

Graduate Medical Education

The state has a Graduate Medical Education (GME) program which provides funding for academic Level I trauma center hospitals that have a minimum of 25,000 inpatient discharges and provide training for at least 250 interns and residents per year. Currently, Rhode Island Hospital is the only hospital that qualifies for this funding. The FY2019 Budget as Enacted contains \$1.0 million in general revenue funding for the initiative. Article 16 eliminates the state-only funding for the GME program in FY2020.

Article 17: Relating to Medicaid Reform Act of 2008 Resolution

This article is a joint resolution authorizing the Executive Office of Health and Human Services (EOHHS) to undertake various reforms within the medical assistance (Medicaid) program. The resolution includes measures requiring any of the following: a State Plan Amendment; a formal waiver amendment to the special terms and conditions of Rhode Island's Section 1115 Comprehensive Demonstration; modifications to rules, regulations, and procedures; or contractual changes that have a significant budgetary impact.

The annual appropriations bill passed by the General Assembly typically includes an article which establishes the legal authority for Medicaid budget initiatives. In recent years, this article has also included a series of resolutions that describe changes to the Medicaid program underlying the Governor's budget recommendation which do not require statutory action, but rather require regulatory changes or substantial contractual changes within the State's Medicaid managed care organizations (MCOs). This article grants EOHHS the authority to undertake all actions, regulatory and/or contractual, required to realize the funding levels included in Article 1. Article 16 includes language for the statutory changes needed to implement several of the associated initiatives.

FISCAL IMPACT

The initiatives proposed by this article are expected to generate general revenue savings of \$10.8 million (\$31.2 million all funds) in FY2020. This article also seeks authority for a number of other initiatives which require statutory changes but do not have a budgetary impact. For any initiatives which require changes to the Rhode Island General Laws, a description and fiscal impact is also noted in Article 16.

FY2020 Expenditure Impact

Initiative	General Revenue	All Funds
Hospital Rate Freeze	(\$5.3)	(\$15.1)
Nursing Home COLA	(3.5)	(7.5)
Limit Hospice Rate Increase	(2.6)	(5.5)
Managed Care - FQHC In-Plan	(1.9)	(5.3)
Managed Care - Performance Goal Program	(0.9)	(5.1)
Managed Care - C-Section Births	(0.1)	(0.3)
Fiscal Intermediary	-	-
Expansion of Home and Community Care Co-Pay Program	0.6	1.2
Direct Support Professional Wage Increase	3.0	6.4
Federal Financing Opportunities	-	-
Total	(\$10.8)	(\$31.2)

\$ in millions. Totals may vary due to rounding.

Although the initiatives proposed in Article 17 significantly reduce state expenditures, several proposals would also adversely affect revenue collections in FY2020. This includes revenues generated by the 2.0 percent insurance gross premium tax and 5.5 percent nursing home provider tax. The expenditure savings outlined above would be offset by approximately \$1.1 million in foregone revenues.

FY2020 Revenue Impact

Initiative	Insurance Premium Tax	Nursing Home Tax	Total
Hospital Rate Freeze	(\$279,531)	-	(\$279,531)
Nursing Home COLA	(21,879)	(349,629)	(371,507)
Limit Hospice Rate Increase	-	(302,500)	(302,500)
Managed Care - Eliminate Performance Goal Program	(102,758)	-	(102,758)
Managed Care - C-Section Births	(5,700)	-	(5,700)
Total	(\$409,868)	(\$652,129)	(\$1,061,997)

ANALYSIS AND BACKGROUND

This article requests authority from the General Assembly to make changes to the Medicaid State Plan, formal amendments to the special terms and conditions of Rhode Island's Section 1115 waiver, changes to state rules and regulations, and/or modifications to managed care contracts to implement the following:

Provider Rate Adjustments

The article seeks authority to freeze rates for inpatient and outpatient hospital services, limit rate increases for nursing facilities and certain hospice providers, and make several changes to managed care plans.

- **Hospital Rate Freeze:** Hospitals are reimbursed by Medicaid on a fee-for-service basis and by MCOs for inpatient, outpatient, and emergency services. RIGL 40-8-13.4 allows EOHHS to review these rates annually and make adjustments based on factors such as hospital costs, hospital coding, and availability of services. Increases may not exceed the Prospective Payment System Hospital Input Price Index, an inflation-based index published by the Centers for Medicare and Medicaid Services (CMS).

The November 2018 Caseload Estimating Conference adopted FY2020 hospital payment figures assuming growth rates of 3.2 percent for inpatient and 1.25 percent for outpatient services relative to FY2019. The Governor proposes freezing hospital rates at FY2019 levels, rather than incorporating these price increases. This would generate \$5.3 million in general revenue savings (\$15.1 million all funds) relative to the adopted estimate and would require a State Plan Amendment. Article 16 contains statutory language for the initiative.

Fiscal Year	Inpatient	Outpatient
FY2013	2.7%	1.9%
FY2014	0.0%	0.0%
FY2015	0.0%	0.0%
FY2016	-2.5%	-2.5%
FY2017	3.0%	1.9%
FY2018	2.4%	2.4%
FY2019	2.8%	1.8%
<i>FY2020 (proposed)</i>	<i>0.0%</i>	<i>0.0%</i>

Although this initiative is estimated to significantly reduce expenditures, it is important to note that the proposal would also negatively impact revenues. Of the \$15.1 million in estimated savings, \$14.0 million is projected within either Managed Care, Medicaid Expansion, or Rhody Health expenditures, all of which would otherwise be subject to the 2.0 percent insurance gross premium tax. Therefore, by freezing hospital rates, the state would forego approximately \$280,000 in revenues relative to the estimate adopted by the November 2018 Revenue Estimating Conference.

- **Nursing Home COLA:** Each October, pursuant to RIGL 40-8-19, nursing homes are to receive a cost-of-living adjustment (COLA) rate increase based on the national nursing home inflation index. The November 2018 Caseload Estimating Conference adopted nursing home payments assuming a 3.0 percent price increase in FY2020. The Governor recommends limiting the rate increase to 1.0 percent, saving \$3.5 million in general revenues (\$7.5 million all funds). Article 16 contains statutory language for the initiative. This proposal requires a State Plan Amendment.

In the FY2019 Budget as Enacted, nursing facilities received two rate increases at a general revenue expense of \$2.8 million (\$5.9 million all funds). This included a 1.5 percent increase on July 1, 2018, with an additional 1.0 percent increase on October 1, 2018, reflecting the settlement of a court case.

Fiscal Year	Date	Adopted	Index	Difference
FY2013	10/1/2012	3.1%	3.1%	0.0%
FY2014	10/1/2013	0.0%	2.9%	-2.9%
FY2015	10/1/2014	0.0%	3.5%	-3.5%
	4/1/2015	3.2%	0.0%	3.2%
FY2016	8/1/2015	-2.5%	0.0%	-2.5%
	10/1/2015	0.0%	3.2%	-3.2%
FY2017	10/1/2016	3.3%	3.3%	0.0%
FY2018	10/1/2017	0.0%	2.8%	-2.8%
FY2019	7/1/2018	1.5%	0.0%	1.5%
	10/1/2018	1.0%	2.7%	-1.7%
<i>FY2020 (proposed)</i>	<i>10/1/2019</i>	<i>1.0%</i>	<i>3.0%</i>	<i>-2.0%</i>

Although this initiative is estimated to significantly reduce expenditures, it is important to note that the proposal would also

negatively impact revenues. Of the \$7.5 million in estimated savings, \$6.4 million is projected within fee-for-service nursing home expenditures, which would otherwise be subject to the 5.5 percent nursing home provider tax, and \$1.1 million is projected within Rhody Health Options, which would otherwise be subject to the 2.0 percent insurance gross premium tax. Therefore, by limiting the nursing facility COLA, the state will forego approximately \$371,500 in revenues relative to the estimate adopted by the November 2018 Revenue Estimating Conference.

- **Limit Hospice Rate Increase:** The FY2019 Budget as Enacted provided rate increases of 10.0 percent for home care providers, home nursing care providers, and hospice providers delivering personal care attendant services and 20.0 percent for home care providers, home nursing care providers, and hospice providers delivering skilled nursing and therapeutic services. As interpreted by EOHHS, this rate increase was applied to all components of the hospice care payment, including the room and board rate which is passed through to skilled nursing facilities. This was not the legislative intent of the rate increase, as it resulted in a discrepancy between the rates paid for hospice care and non-hospice care in nursing facilities. This article seeks to correct this issue by limiting the rate increase to hospice care providers. Specifically, pursuant to the language included in Article 16, the rate for hospice providers delivering skilled nursing services shall not exceed 95.0 percent of the rate paid for non-hospice care in a skilled nursing facility. This initiative is expected to reduce general revenue expenditures \$2.6 million (\$5.5 million all funds) in FY2020 and would require a State Plan Amendment.

This rate reduction would negatively impact revenues generated by the nursing home provider tax. The \$5.5 million all funds expenditures saved through this initiative would otherwise be subject to this 5.5 percent tax. Therefore, the state would forego approximately \$302,500 related to this initiative.

- **Managed Care – FQHC In-Plan:** Federally Qualified Health Centers (FQHCs) are organizations that provide comprehensive and affordable care to vulnerable populations in underserved areas. State Medicaid programs are required to cover the preventive and primary health care services offered by FQHCs. Medicaid payment rules for FQHCs are unique because federal law has established a prospective payment system (PPS) that prescribes rates for each patient encounter. In Rhode Island, a significant number of beneficiaries are enrolled in managed care plans, which do not operate under the same payment system. Managed care organizations (MCOs) negotiate a rate with the FQHCs, which is typically lower than the encounter rate under the PPS. FQHCs are often paid less for providing care to managed care beneficiaries compared to other patients. When this happens, EOHHS must pay the difference through a supplemental payment called a wraparound (or wrap) payment.

Historically, EOHHS has seen an upward trend in Medicaid member usage at FQHCs which has resulted in consistently higher wrap payments. FQHCs have little incentive to control costs if EOHHS continues to provide these payments. This article eliminates the wraparound payments and, instead, builds the payments into the rates paid through managed care. This will encourage MCOs to work with FQHCs to manage costs and strengthen procedures on billable encounters. EOHHS assumes that this initiative would impact utilization of other managed care services, thereby generating \$1.9 million in general revenue savings (\$5.3 million all funds) in FY2020. This proposal requires updates to the contracts with the MCOs, which must be approved by CMS.

- **Managed Care – Performance Goal Program:** The Medicaid Performance Goal Program (PGP) has operated in Rhode Island since 1998. The program was designed to establish standards and payment for quality and performance within managed care while focusing on eight domains: utilization, access to care, prevention and screening, women's health, chronic care, behavioral health, compliance, and total cost of care. The PGP provides financial incentives for health plans for meeting specific performance benchmarks.

This article eliminates the Performance Goal Program in FY2020. Based on estimates adopted by the November 2018 Caseload Estimating Conference, this would reduce general revenue expenditures by

\$890,828 (\$5.1 million all funds). This proposal requires updates to the contracts with the MCOs, which must be approved by CMS.

- **Managed Care – C-Section Births:** The article proposes implementing a multi-year strategy to reduce C-section births from the current level of 30.0 percent of all births to the national best practice of 20.0 percent of all births. The Budget assumes general revenue savings of \$134,350 (\$285,000 all funds) by achieving a 10.0 percent reduction in the incidence of C-section births in FY2020. This proposal requires updates to the contracts with the MCOs, which must be approved by CMS.

Fiscal Intermediary

A fiscal intermediary is an organization that supports individuals who self-direct their Medicaid services. Individuals maintain the freedom to design their service plan while fiscal intermediaries assist with the execution of the plan by hiring and paying support staff, budgeting and tracking expenditures, billing Medicaid, and other logistics. EOHHS proposes utilizing a single fiscal intermediary for all self-direction programs. This authority would allow EOHHS to pursue a fiscal intermediary through a Request for Proposal (RFP), rather than certification standards. This initiative is part of the independent provider model included in the Governor’s recommendation. This does not have a budgetary impact, but requires the state to seek a waiver of freedom of choice under Title XIX of the Social Security Act.

Expansion of Home and Community Care Co-Pay Program

The home and community care co-pay program supports seniors who do not qualify for Medicaid Long Term Services and Supports (LTSS). The program pays a portion of the costs of personal care and adult day services for individuals, ages 65 and older, who are unable to leave home without considerable assistance but require help with personal care. Individuals must have incomes below 200 percent of the Federal Poverty Level (FPL) in order to qualify. The program is administered by the Division of Elderly Affairs, which is currently a program within the Department of Human Services (DHS); however, Article 4 enables the transfer of the Division to EOHHS in FY2020. This article proposes increasing the income limit for this program to 250 percent of the FPL. The Budget includes \$550,516 from general revenues (\$1.2 million all funds) in Elder Affairs to support this expansion in FY2020.

Analyst Note: This program is eligible for the standard Federal Medical Assistance Percentage (FMAP). The Budget includes \$550,516 from general revenues assuming a state share of 47.71 percent. However, this is the rate for FY2019, and the program expansion is proposed for FY2020. The state share is 47.14 percent in the budget year. Using the correct percentage, the Budget should include \$543,938 from general revenues.

Direct Support Professional Wage Increase

In conjunction with the state’s efforts to rebalance the long-term care system, improve access to high quality services, and provide supports in the least restrictive setting, this article provides for wage increases for Direct Support Professionals (DSPs) who support individuals with intellectual or developmental disabilities (I/DD). Historically, I/DD service providers have struggled to recruit, train, and retain this crucial workforce because they are unable to offer competitive wages. The Budget includes \$3.0 million in general revenues (\$6.4 million all funds) within the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH) to support this proposal. According to BHDDH, this addition would equate to a raise of \$0.44 per hour based on a current average hourly wage of \$12.27. The Department used its existing wage distribution model to calculate this rate increase. The current model calculates wages for other support staff, including supervisors and support coordinators, based on DSP wages. In order to provide the increase only for DSPs, as intended, BHDDH froze wages for all other staff.

Federal Financing Opportunities

This article allows EOHHS to pursue any changes to the Rhode Island Medicaid program which improve quality, access, and cost-effective delivery, so long as the changes do not have an adverse impact on beneficiaries or increase expenditures beyond appropriations for FY2020.

Article 18: Relating to Hospital Uncompensated Care

This article authorizes the disbursement of Disproportionate Share Hospital (DSH) payments to qualifying community hospitals in federal fiscal year (FFY) 2020. The article limits the aggregate amount of the payments to \$139.7 million all funds. This is consistent with the FFY2019 payments authorized in the state FY2019 Budget as Enacted.

FISCAL IMPACT

This article does not impact expenditures in state FY2019 or FY2020. DSH payments are issued in July of each fiscal year; therefore, there is a discrepancy between state and federal DSH financing. The FFY2020 payments authorized by this article will be disbursed in July 2020, or state FY2021.

ANALYSIS AND BACKGROUND

Federal law requires that state Medicaid programs make Disproportionate Share Hospital (DSH) payments to qualifying community hospitals which serve a large number of Medicaid and uninsured patients. The DSH program subsidizes hospitals with high uncompensated care costs, which include certain expenses which are not covered by Medicaid or other funds. DSH payments are lump-sum disbursements issued in July of each fiscal year and are subject to the applicable Federal Medical Assistance Percentage (FMAP) at the time of issuance. The state share is funded through revenues generated by the hospital licensing fee.

DSH payments for state FY2020, which will be issued in July 2019, were authorized by the FY2019 Budget as Enacted. The Governor includes \$66.3 million from general revenues (\$139.7 million all funds) in FY2020 for these payments. Article 18 authorizes DSH payments for state FY2021 with the same aggregate limit of \$139.7 million. The article requires that DSH funds be allocated in direct proportion to each hospital's share of statewide uncompensated care provided in FFY2017.

Analyst Note: In previous fiscal years, there has been a two-year difference between the payment year and the base year used to determine statewide uncompensated care costs. It is unclear why the article uses FFY2017 as the base year for FFY2020 payments, rather than FFY2018 by convention.

Disproportionate Share Hospital Payments

State	Federal	DSH Limit	FMAP
FY2017	FY2016	\$138.2	50.42%
FY2018	FY2017	139.7	51.02%
FY2019	FY2018	138.6	51.45%
FY2020	FY2019	139.7	52.57%
FY2021	FY2020	139.7	52.95%

\$ in millions

Note: The FFY2020 FMAP is preliminary

Article 19: Relating to Licensing of Hospital Facilities

This article provides for the annual reauthorization of the hospital license fee, which is expected to generate \$180.8 million in revenues in FY2020. The fee is maintained at the FY2019 rates of 3.78 percent for hospitals located in Washington County and 6.0 percent for all other non-psychiatric community hospitals.

FISCAL IMPACT

The hospital license fee authorized by this article is expected to generate \$180.8 million in revenues in FY2020. The base year and assessment rate used in the calculation are unchanged from FY2019; therefore, revenue projections are consistent with the FY2019 Budget as Enacted.

Analyst Note: The fee is payable by July 13, 2020, which means that the state will not receive full payment until FY2021. However, the article requires each hospital to report the amount of the fee due by June 15, 2020, allowing the State Controller to book the revenues as a receivable to FY2020.

ANALYSIS AND BACKGROUND

The hospital license fee is a provider tax which the state levies on hospitals. This fee is federally capped at 6.0 percent and requires legislative action each year in order to continue. It is calculated as a percent of gross patient services revenues, which include revenues from patient care activity, but exclude revenues from non-patient activity such as research, academic activity, or investment earnings. Hospitals pay the fee in a single payment each July.

The article amends RIGL 23-17-38.1 to maintain the hospital license fee at 6.0 percent in FY2020. This rate is discounted by 37.0 percent for hospitals located in Washington County, which include South County and Westerly Hospitals, pending approval of a uniformity waiver. Bradley and Butler Hospitals and the Rehabilitation Hospital of Rhode Island are exempt from the fee because their primary services and patient beds are psychiatric in nature.

In past fiscal years, the hospital license fee has been used as a mechanism to generate state funds, a portion of which are then matched with federal Medicaid funds and returned to hospitals to offset uncompensated care costs through the Disproportionate Share Hospital (DSH) program. Because the state's largest hospitals are non-profit and do not pay corporate income or property taxes, the hospital license fee is a considerable source of revenue for the state.

Hospital License Fee Revenue		
Fiscal Year	Fee	Revenue
2010	5.314%	\$124.9
2011	5.465%	135.8
2012	5.430%	138.0
2013	5.350%	138.5
2014	5.418%	145.9
2015	5.745%	155.3
2016	5.862%	169.1
2017	5.652%	168.0
2018	5.856%	181.0
2019	6.000%	180.8
2020	6.000%	180.8

\$ in millions

Article 20: Relating to Marijuana

This Article establishes the adult-use marijuana market and amends regulations in the medical marijuana program. The Article generates \$6.5 million in net general revenue in FY2020. Specifically, the Article:

- Makes various amendments to regulations on the home growth of medical marijuana.
- Establishes the Office of Cannabis Regulation (OCR) within the Department of Business Regulation. OCR would provide oversight for the new adult-use market and the existing medical marijuana program.
- Establishes the Marijuana Trust Fund, funded by taxes and fees collected from marijuana revenues.
- Establishes an overall tax rate on adult-use marijuana at approximately 20.0 percent and a tax on hemp-derived cannabidiol (CBD) products of 80.0 percent of the wholesale cost.

FISCAL IMPACT

The general revenue impact of Article 20 is summarized in the following tables:

FY 2020 General Revenue Fiscal Impact of Article 20

Initiative	Impact
Adult-Use Excise Tax Revenue	\$2,159,915
Adult-Use Sales Tax Revenue	2,971,627
Adult-Use Retail Excise Tax Revenue	4,245,182
Cultivator Excise Tax for Current Medical Production	1,285,271
Adult-Use Fee Revenue	3,653,700
6 New Medical Compassion Centers	795,026
Restricted Medical Home Growth	453,165
New Center Application Fees	190,000
New Processor Fees	390,000
Lost Home Growth Tag Revenue	(250,000)
New CBD Revenue	100,854
Total	\$15,994,740

FY 2020 Net Fiscal Impact of Article 20

Initiative	Impact
Share Dedicated to Expenditures (25%)	(\$3,578,924)
Share Dedicated to Municipalities (15%)	(2,147,354)
Adult-Use Additional Year 1 Expenditures	(3,761,694)
Revenues from CBD, Medical Marijuana Changes and Adult-Use Marijuana Market	15,994,740
Total	\$6,506,768

ANALYSIS AND BACKGROUND

Adult-Use Marijuana: The Article legalizes the adult-use of marijuana for those aged twenty-one and older and establishes the Office of Cannabis Regulation (OCR) within the Department of Business Regulation (DBR) to oversee the new adult-use market and the existing medical marijuana program. The Article would allow for the purchase of one ounce, and storage of up to five ounces of marijuana for those aged twenty-one or older. OCR would be responsible for licensing marijuana retailers, processors, cultivators, and license employees who work in the industry. The Article establishes the Marijuana Advisory Board to

study and make recommendations on the regulation of marijuana and marijuana products. The Board would consist of seven members appointed by the Speaker of the House, and seven members appointed by the President of the Senate.

The Article provides DBR with the authority to limit the potency of products cultivated and sold, with a planned potency limit of 50.0 percent. The only other state that limits the potency of adult-use marijuana is Nevada. Potency limitations would decrease production and sales by approximately 14.0 percent.

Marijuana Trust Fund: The Article establishes the Marijuana Trust Fund as a restricted receipt account. All marijuana revenue would be transferred into the Marijuana Trust Fund; 25.0 percent of the funds would be allocated for state expenditures to be allocated to the appropriate agencies based on need, 15.0 percent of funds are dedicated to municipalities, and 60.0 percent of funds would be transferred to the general fund. The Article allocates \$3.8 million in funding from the trust fund for expenditures related to adult-use marijuana for first year expenditures of the adult-use marijuana program. First year expenditures include additional training and resources for public safety departments, public health monitoring and surveillance, licensing and regulating of adult-use marijuana facilities, and funding for substance use disorder prevention.

The Marijuana Trust Fund would be exempt from the indirect cost recovery provision of RIGL 35-4-27. The exclusion of the fund from indirect cost recovery requirements prevents 10.0 percent of the fund's balance from being deposited as general revenues.

Municipalities: Municipalities would have the opportunity to limit or ban retail sales of marijuana through referendum. However, this must be done by January 1, 2020, and would require a special election. Municipalities would be prohibited from negotiating with retailers to bring retailers into their municipality. Municipalities would receive 25.0 percent of the allocated, regardless of their volume, an estimated \$13,765 per municipality in FY2020. In FY2021, the first full year of adult-use marijuana sales revenues, each municipality would be allocated an estimated \$31,128. The remaining funding would be based on volume; 25.0 percent of the municipality allocation would be allocated based on license volume and the remaining 50.0 percent would be allocated based on sales volume.

Public Safety: The Article allows the testimony of certified drug recognition experts as evidence in cases of driving under the influence of drugs or alcohol and allows for the chemical analysis of saliva. The Article amends RIGL 37-27-2.1 to add saliva to the list of chemical tests that drivers are deemed to have given consent to. The Article requires a course on driving under the influence or program for convicted individuals that meets the standards established by the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH).

The Article establishes penalties for open containers of marijuana in a motor vehicle and an automatic six month suspension of a driver's license for those who refuse to submit to a marijuana chemical test or a Drug Recognition Expert evaluation. Associated penalties were not included in the revenue totals provided and are deposited into the general fund.

The Department of Public Safety and municipal police departments would require additional resources to train officers on recognizing individuals who are impaired by marijuana. The Department of Public Safety in FY2020 will receive \$800,000 in funding for training associated with the adult-use marijuana program. The Rhode Island State Police will receive \$300,000 of these funds, and the remaining \$500,000 would be used for training local law enforcement personnel and to provide grants to local police departments for necessary resources such as additional training and chemical saliva tests.

Tax Administration: The Article establishes tax rates on the retail sale of adult-use marijuana. An excise tax of \$10 per ounce of flower, which is used to make products that are smoked, would generate \$1.6 million in tax revenue. An excise tax of \$3 per ounce of trim, parts of the plant that can be used to make other products, is predicted to generate \$584,680 in tax revenues for FY2020. The two weight-based excise

Adult-Use Marijuana Revenue FY2020	
Initiative	Impact
Retail Excise Tax Revenue	\$4,245,182
Sales Tax	2,971,627
Fee revenue	3,653,700
Excise Tax Revenue - Flower	1,575,235
Excise Tax Revenue - Trim	584,680
Total	\$13,030,424

taxes on flowers and trims equal approximately a 3.0 percent effective tax rate and would be paid upon the transfer of marijuana from the cultivator to the processor or retailer.

Retail sales would be taxed at the current state sales tax rate of 7.0 percent and an additional 10.0 percent excise tax. The estimated retail sales taxes generated from the Article are \$3.0 million, and the excise tax would generate \$4.2 million in revenues for FY2020. The sales and excise taxes combined with the weight based taxes equal a total effective tax rate of approximately 20.0 percent that would generate \$13.0 million in revenues for FY2020.

The Article establishes a tax structure consisting of excise and sales taxes, and provides the Division of Taxation authority to collect marijuana cultivation and sales taxes. The Article provides authority to the Tax Administrator to charge a 10.0 percent surcharge on tax payments that occur in cash. Failure to file or pay taxes, unless in cases of reasonable cause and not by willful neglect or fraud, would result in a 10.0 percent penalty. If failure to pay the proper required tax amount is the result of negligence rather than purposely attempting to commit fraud, a 5.0 percent penalty would apply. In cases of failure to pay as a result of fraud, a 50.0 percent penalty would apply.

The Article bans the sale of products where one party is not licensed or taxes have not been paid. The Article requires marijuana and CBD licensees to retain records for a minimum of three years, and failure to supply records would be subject to misdemeanor criminal charges. In addition, the Article provides authority the Tax Administrator to inspect businesses for contraband and issue subpoenas to compel the disclosure of records or testimony, and is allowed to request that DBR suspend or revoke businesses who violate the provisions of the Controlled Substances Taxation Act. The Tax Administrator would have the authority to seize and destroy contraband marijuana, and to appoint employees of DBR to seize and destroy contraband marijuana.

License and Application Fees: The Article amends and establishes fees associated with applying for and obtaining licenses for marijuana retailers, processors, cultivators, and employees who work in the marijuana industry. The new licenses established are specifically for the adult-use marijuana market would generate \$3.7 million in revenue.

- **Cultivator License:** In order to cultivate marijuana, an entity would be required to have a cultivator license with an application fee of \$5,000. The cultivator license fee is based on the size and scope of the marijuana growth by the cultivator. The current fee ranges from \$5,000 for facilities less than 2,500 square feet to \$80,000 for facilities up to 20,000 square feet. DBR estimates they would receive and approve 72 applications, at an average license fee of \$15,000. The cultivator license fees are projected to generate \$1.4 million in revenues for FY2020.
- **Manufacturer License:** Manufacturers, or those who compound controlled substances to be sold or dispensed, will be required to pay an application fee of \$5,000 and a license fee of \$15,000. DBR estimates they would receive and approve 48 manufacturer applications. The manufacturer license fees would generate \$955,200 in revenues for FY2020.

- **Retail License:** A retail license will be required to sell marijuana for adult-use. There would be no limit on the number of retail licenses that DBR can issue, however there would be production limitations. The retail license application fee would be \$5,000 and the license fee would be an additional \$20,000. DBR estimates they will receive one-hundred applications, and will approve 25 applicants. Locations for marijuana retail sales cannot be within 500 feet of the property line of school, must be permitted by zoning classifications or receive specific zoning approval, or and must be deemed suitable for a license by OCR. Applications for retail locations that are in areas where residents have passed a majority referendum banning the retail sale of marijuana will be denied. The retail license fees are projected to generate \$1.0 million in revenues for FY2020.
- **Delivery License:** DBR expects to receive and approve 10 delivery licenses, with an associated \$10,000 license fee. The delivery license fees would generate \$100,000 in revenues for FY2020.
- **Employee Cards:** DBR estimates there would be an average of 15 employees per business, equaling 735 total new employees. Employees must obtain an employee card at a cost of \$100 annually. The employee registration fees would generate a projected \$73,500 in revenues for FY2020.
- **Lab Testing:** Potency testing would be required by the Article and growers are responsible for the costs associated with the testing of plants. Testing facilities are required to obtain a lab license with an associated application fee of \$5,000 and a license fee of \$20,000. DBR estimates they would receive five applications and approve three applications. The lab testing facility fees would generate \$85,000 in revenue in FY2020.

Medical Marijuana Amendments: The Article proposes three changes to the medical marijuana program: allows for the opening of six additional compassion centers, places restrictions on home growing, and creates new licensing categories. Currently, the compassion centers are not required to cultivator licenses. The amendments will require that compassion centers obtain licenses for all activities they partake in. The changes intend to align the program with the new adult-use program, to establish market stability within the medical marijuana program and to shift the medical marijuana supply away from the less regulated system of home growers. The amendments to the medical marijuana program would generate \$2.9 million in revenues.

Medical Marijuana Revenue FY2020	
Initiative	Impact
Manufacturer License	\$390,000
Revenue from New Compassion Centers	795,026
Restrictions on Home Grow	453,165
New Cultivator License Fee	1,285,271
New Compassion Center Applications & Fees	190,000
Lost Revenue from Home-Grow Tags	(250,000)
Total	\$2,863,462

According to DBR, Rhode Island currently has one of the highest volume of home growing by patients and caregivers in the country with an estimated 3,000 medical marijuana grows in the state. The restrictions placed on home grow would allow for enhanced regulation of the medical marijuana program. The Article restricts home growth to those with caregiver licenses and plant tags only and decreases the number of plants a caregiver can have from twelve immature and twelve mature plants to six immature and six mature plants. The Article restricts caregivers from serving more than one patient unless authorized by OCR.

A patient can qualify to be their own caregiver with a demonstration of hardship and must obtain a caregiver license and plant tags. The hardship exemption would be based on the current Department of Health model, which allows for a reduced application fee for applicants who receive Medicaid, Social Security, and Veteran's Disability benefits. DBR estimates that 25.0 percent of current grows would qualify for a hardship exemption. Currently, the cost of a plant tag is \$25 and are free for those with a qualifying hardship. The restrictions on home growers are projected to decrease revenue from plant tags by \$250,000 in FY2020.

The state's three compassion centers currently have between 5,000 and 11,000 active customers each. Revenue estimates assume an additional 1,000 active customers in each of the proposed new compassion centers, totaling an additional 6,000 customers. In addition to the restrictions on home growing marijuana, the Article establishes new licenses with associated fees.

CBD: The Hemp Farming Act of 2018, passed by the Federal Government, removed hemp, cannabis with tetrahydrocannabinol (THC) levels less than 0.3 percent, from the controlled substance list. This allowed states to create a regulatory structure for hemp products. In 2017, Massachusetts legalized the growth of hemp products for commercial or research purposes. Massachusetts requires a grower and processor license to cultivate industrial hemp. The application fee for each is \$100 and \$300 for a license fee. A dual-license can be obtained with a license fee of \$500. Connecticut legalized industrial hemp in 2015, but has not legalized the cultivation of industrial hemp in the state.

Article 20 proposes a new tax on consumable hemp-derived cannabidiol (CBD) products. The regulatory framework is similar to the regulation of tobacco products. Anyone distributing CBD products in the state must have a distributor license, which would be available without fee to those who currently have a grower or handler license. For those without such licenses, the fee would be \$500 and would be renewed annually. CBD products would be subject to an 80.0 percent tax on the wholesale cost of the product. Assuming a January 1, 2020, start date for the collection of the sales tax from CBD products, and is projected to generate \$100,854 in FY2020. It does not appear that Connecticut or Massachusetts will tax industrial hemp beyond their normal state sales tax at this time.

Article 21 Relating to Effective Date

This article provides that the Act will take effect on July 1, 2019, except as otherwise provided herein.

Senate Fiscal Office

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Administration
Board of Elections
Commission on Disabilities
Convention Center Authority
Ethics Commission
General Treasurer
Governor
Human Rights Commission
I-195 Redevelopment Commission
Lieutenant Governor
Military Staff
Public Defender
Public Utilities Commission
Quonset Development Corporation
RI Emergency Management Agency
Secretary of State

Kelly M. Carpenter
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Arts Council
Atomic Energy Commission
Coastal Resources Management Council
Elementary and Secondary Education
Environmental Management
Health & Educational Building Corporation
Higher Education
Judiciary
Narragansett Bay Commission
Resource Recovery Corporation
RI Infrastructure Bank
Student Loan Authority

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Deputy Senate Fiscal Advisor

Executive Office of Commerce
Legislature
Public Safety
Revenue
RI Commerce Corporation
RIHMFC (RI Housing)

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Executive Office of Health and Human Services
Child Advocate
Children, Youth, and Families

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Attorney General
Corrections
Historic Preservation and Heritage Commission
Human Services
Labor and Training
RI Airport Corporation
RI Public Transit Authority
RI Turnpike & Bridge Authority
Transportation

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Behavioral Health, Developmental Disabilities,
and Hospitals
Business Regulation
Commission on Deaf and Hard of Hearing
Health
HealthSource RI
Mental Health Advocate

