SENATE FISCAL OFFICE
REPORT

GOVERNOR'S FY2022
AND
FY2021 SUPPLEMENTAL BUDGET

2021-H-6122 AND 2021-H-6121

ARTICLE SUMMARIES

MARCH 29, 2021

State House Room 117 ■ Providence, Rhode Island 02903 ■ (401) 222-2480 ■ www.rilegislature.gov/sfiscal

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FY2021 SUPPLEMENTAL BUDGET ARTICLES

Article 1: Relating to Making Revised Appropriations in Support of FY2021

Article 1 outlines the appropriation amounts from all fund sources for the FY2021 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 includes the following items:

- Sets the airport impact aid formula at $1.0 million.
- Authorizes 15,124.7 FTE positions reflecting no net change as compared to the authorized level set in the FY2021 Budget as Enacted.
- Details Community Service Objective grant funding recipients and amounts.
- The FY2020 final budget transferred $120.0 million from the Budget Stabilization and Cash Reserve Account for use in balancing that budget. The Rhode Island General Law requires that the repayment be made to the Rhode Island Capital Plan fund in the following fiscal year. The FY2021 Budget as Enacted included a $90.0 million repayment to the RICAP fund in FY2021 and delayed payment on the remainder until FY2022. This Article reduces the amount of the payback in FY2021 to $7.5 million, reflecting an $82.5 million reduction, and includes $42.5 million payback in FY2022 to partially reimburse the State’s Rhode Island Capital Plan Fund. The remaining payment of $70.0 million will be made during FY2023.
- Outlines the distribution of $136.5 million in federal Coronavirus Relief Funds (CRF) based on an initiative to fully fund local aid programs and provide additional federal relief resources to municipalities according to various methodologies.
- Prohibits the obligation or expenditure of indirect cost recoveries on federal stimulus funds in the Department of Health without the approval of the Director of the Office of Management and Budget.
- 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 FY2022. In addition, the Office of the Postsecondary Commissioner shall provide $7.2 million be allocated to the Rhode Island Promise Scholarship program, and $147,000 to be used to support the State's membership in the New England Board of Higher Education.
- 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 $1.4 million. It requires 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.

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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, 2021.

Expenditures by Source	FY2020 Final	FY2021 Enacted	FY2021 Governor	*Change to Enacted*
General Revenue	$3,937.4	$4,153.3	$3,881.6	*($271.7)*
Federal Funds	4,475.1	5,812.9	7,059.1	*1,246.2*
Other Funds	2,273.1	2,441.9	2,456.3	*14.4*
Restricted Receipts	332.1	322.3	353.2	*30.9*
Total	**$11,017.7**	**$12,730.4**	**$13,750.2**	***$1,019.8***

$ in millions. Totals may vary due to rounding.

Under the budget for the Office of Postsecondary Commissioner – Guaranty Agency Administration, Article 1 amends the limitations on the uses of guaranty agency funds to allow for the financing of the mid-year increase in assessed fringe benefits. It is unclear if the intent is to fund the fringe benefits for the 1.0 FTE administering scholarships and grants or for the entire agency; however, the guaranty agency funds are currently projected to be exhausted in FY2022 without the expansion of qualified expenditures. These funds are primarily used to fund need-based Promise I grants for students at public and private institutions in Rhode Island, and the dual/concurrent enrollment program which allows high school students to take courses for college and high school credit at the University of Rhode Island (URI), Rhode Island College (RIC), or the Community College of Rhode Island (CCRI) at no cost to the student.

INTERNAL SERVICE FUNDS

Article 1 authorizes 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	FY2021 Enacted	FY2021 Governor	*Change*
State Assessed Fringe Benefits	$37,505,032	$37,518,277	*$13,245*
Administration Central Utilities	27,426,989	27,427,555	*566*
State Central Mail	6,583,197	6,586,516	*3,319*
State Telecommunications	3,552,053	3,555,274	*3,221*
State Automotive Fleet	12,743,910	12,746,422	*2,512*
Surplus Property	3,000	3,000	-
Health Insurance	273,639,595	273,647,077	*7,482*
State Fleet Revolving Loan Fund	264,339	263,857	*(482)*
Other Post-Employment Benefits	63,858,483	63,858,483	-
Capital Police	1,429,798	1,429,798	-
Corrections Central Distribution Center	6,868,331	6,871,587	*3,256*
Correctional Industries	8,231,177	8,237,403	*6,226*
Secretary of State Records Center	1,086,670	1,088,490	*1,820*
Human Resources Internal Service Fund	14,237,328	14,278,614	*41,286*
DCAMM Facilities Internal Service Fund	42,849,110	42,890,862	*41,752*
Information Technology Internal Service Fund	49,488,621	49,583,032	*94,411*
Total	**$549,767,633**	**$549,986,247**	***$218,614***

FTE POSITIONS

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. The Governor recommends no net change as compared to the authorized level set in the FY2021 Budget as Enacted. The following table illustrates the FTE levels by government function:

Expense by Function	FY2021 Enacted	FY2021 Governor	*Change to Enacted*
General Government	2,441.9	2,441.9	*0.0*
Human Services	3,571.6	3,571.6	*0.0*
Education	4,218.4	4,218.4	*0.0*
Public Safety	3,190.0	3,190.0	*0.0*
Natural Resources	424.0	424.0	*0.0*
Transportation	755.0	755.0	*0.0*
Subtotal	**14,600.9**	**14,600.9**	***0.0***
Higher Ed. Sponsored Positions	*523.8*	*523.8*	*0.0*
Total FTE Positions	**15,124.7**	**15,124.7**	-

RICAP REPAYMENT

The Budget includes $7.5 million in general revenue payback in FY2021 to partially reimburse the State's Rhode Island Capital Plan (RICAP) fund. This reflects a reduction of $82.5 million as compared to the FY2021 Budget as Enacted. The FY2020 final budget transferred $120.0 million from the State Budget Reserve and Cash Stabilization Account for use in balancing that budget. The Rhode Island General Law requires that the repayment be made to the Rhode Island Capital Plan fund in the following fiscal year.

The FY2021 Budget as Enacted included a $90.0 million repayment and legislation under Section 18 of Article 1 to delay the full payback until FY2022. However, Article 1 of the Governor's FY2021 Supplemental Budget proposes to further delay the payback to FY2023 and reduces the amount of the payback in FY2021 to $7.5 million, reflecting an $82.5 million reduction, and includes a $42.5 million payback in FY2022 to partially reimburse the State's Rhode Island Capital Plan Fund. The remaining payment of $70.0 million will be made during FY2023.

Article 2: Relating to the Paycheck Protection Program

Article 2 partially decouples Rhode Island law from federal tax statutes governing how federal Paycheck Protection Program (PPP) loans are treated for purposes of personal and business income taxes. The purpose of the initiative is to preserve pandemic relief for those smaller businesses that received PPP loans of $150,000 or less, while mitigating the significant State revenue loss that would result by remaining completely in alignment with federal law. The article also increase the State's hospital license fee. Article 2 specifically:

- Provides the Tax Administrator with authority to exclude the amount of any PPP loan forgiven for federal income tax purposes from State tax in the event that the federal government provides funds to the State for revenue replacement.
- Exempts the first $150,000 of a PPP loan from Rhode Island business and personal income taxation.
- Includes the amount of any forgiven PPP loan over $150,000 as part of net patient-services revenue for purposes of calculating the State's nursing facility provider assessment (for Tax Years beginning January 1, 2020, and after).
- Increases the hospital license fee from 5.0 percent to 6.0 percent in FY2021 and includes the amount of any forgiven PPP loan over $150,000 as part of net patient services revenue for purposes of calculating the fee beginning in FY2022.

FISCAL IMPACT

The increase in the hospital license fee results in $32.3 million more general revenue in FY2021 than estimated by the November 2020 Revenue Estimating Conference. The fiscal impact of the policy changes related to forgiven PPP loans and the calculation of the hospital license fee and the nursing facility provider assessment are not clear. To date, no hospitals have received PPP loans; however, a number of nursing homes received PPP loans and a significant amount of such loans are likely to have gone towards caring for patients, and thus impact revenue. The Office of Management and Budget has not provided a fiscal impact estimate for these sections of the article. The fiscal impact of the remaining sections of the article are summarized in the following table:

	FY2021		FY2022		
PPP Tax Policy Revenue Changes	**Personal Income Tax**	**Business Taxes**	**Personal Income Tax**	**Business Taxes**	**Total 2 Year Impact**
Federal PPP Loan Forgiveness	($28,788,938)	($57,489,763)	($15,678,451)	($31,308,915)	($133,266,067)
Decoupling from Federal PPP Loan Forgiveness ≥ $150,000	969,731	2,630,262	19,480,908	44,597,887	67,678,788
Total	**($27,819,207)**	**($54,859,501)**	**$3,802,457**	**$13,288,972**	**($65,587,279)**

ANALYSIS AND BACKGROUND

In response to devastating impacts that the COVID-19 pandemic had on businesses, Congress enacted a series of supports and relief measures in 2020. The Coronavirus Aid, Relief, and Economic Security (CARES), enacted in March 2020, established the federal Paycheck Protection Program, which provides loans to help businesses keep their workforce employed during the pandemic. In December 2020, Congress enacted the Consolidated Appropriations Act (CAA), with the purpose of providing further pandemic relief, including for businesses. The CAA allowed businesses to deduct expenses paid for with PPP loans. These federal interventions combined to produce a significant loss in State revenue for FY2021 and FY2022.

Paycheck Protection Program

The Paycheck Protection Program (PPP) is a small business loan program created by Congress in the CARES Act in March 2020. Congress originally appropriated $350.0 billion for the PPP program in order to provide small businesses with cash-flow assistance through 100.0 percent federally guaranteed loans, backed by the United States Small Business Administration (SBA). In April 2020, Congress provided the program an additional $310.0 billion in funding, allowed more time to spend the funds, and made it easier to get loans forgiven. In December 2020, Congress enacted a second stimulus package, the CAA, which provided an additional $285.0 billion in funding and updated the eligible expenses. Congress also authorized businesses to receive a second PPP loan if they had used up their first PPP loan and experienced a 25.0 percent or greater decrease in revenue.

- **Loan Terms:** Under the PPP program, businesses with 500 employees or less (definition of "small business") are eligible. Loans have a maturity rate of two years and an interest rate of 1.0 percent. Loans made after June 5, 2020, have a length of five years and cover expenses for 24 weeks starting from the loan disbursement date. Businesses are not required to make payments until either 10 months after the 24-week covered period ends or if the loan is forgiven. Collateral is not required and there are no fees.
- **Eligible Expenses:** At least 60.0 percent of a PPP loan must be used to fund payroll and employee benefits costs. The maximum amount a business can receive is equal to the monthly average payroll cost in 2019, 2020, or the one-year period before the application, multiplied by 2.5, up to a maximum of $2.0 million. Businesses in the food and accommodation industries are eligible for 3.5 times the average payroll costs, also with a maximum of $2.0 million. The remaining 40.0 percent can be spent on mortgage interest payments, rent and lease payments, utilities, operations expenditures, property damage, costs due to public disturbances not covered by insurance, supplier costs such as cost of goods sold, and worker protection expenditures to be COVID compliant.
- **Loan Forgiveness:** If a business uses its PPP loan for eligible expenses, it may apply to have its loan forgiven. The amount of loan forgiveness may be reduced in proportion to the reduction of retained employees and if any wages are reduced by more than 25.0 percent. If a laid off employee rejects a re-employment offer at the same wage and number of hours, the business may be allowed to exclude this employee when calculating forgiveness.
- **Rhode Island:** According to the SBA, there have been 22,090 total PPP loans made to Rhode Island businesses, totaling $2.3 billion as of March 28, 2021. The average loan in the State is $102,964 and the average company size is 11 employees.

PPP - Income and Deductions

Under normal circumstances, when a business' debt is cancelled, the amount forgiven and not paid is considered income for federal tax purposes. The CARES Act explicitly excludes the amount of the forgiveness of PPP loans from federal gross income. The Act, however, does not address how expenses used to achieve forgiveness are to be treated. In August 2020, the Internal Revenue Service (IRS) clarified that, under existing law, expenses paid with PPP loan proceeds could not be deducted from any other taxable income. This clarification was consistent with previous IRS determinations regarding how tax-exempt income is treated. However, in December 2020, Congress enacted the CAA, which nullified the IRS position, and explicitly allowed for the deductibility of expenses paid for with forgiven PPP loan proceeds.

Analyst Note: The CAA was enacted a month after the 2020 November Revenue Estimating Conference, and therefore the fiscal impact of the new exemption was not considered in the estimates.

- **Example:** The following tables demonstrate a simplified example of the impact of the federal changes on small businesses (example provided by the Office of Revenue Analysis).
  - Without a PPP loan, a business reduces variable expenses, such as labor costs, by laying off workers and increasing unemployment:

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No PPP Loan	Normal TY2020	Pandemic TY2020	Explanation
Gross Sales	$100	$50	COVID-19 pandemic impact reduces sales by 50.0%
Total Expenses	90	45	Business reduces expenses proportional to revenue decline
Net Income	**$10**	**$5**	**Businesss net income decreases**

- Under the CARES Act and IRS guidance, a PPP loan is made available to the business. Under the August 2020 IRS guidance, a business realizes an increase in net income above what would have been realized without the PPP loan:

With PPP Loan & IRS Guidance	Scenario 1 Pandemic TY2020	Scenario 2 Pandemic TY2020	Explanation
Gross Sales	$50	$50	COVID-19 pandemic impact reduces sales by 50.0%
Total Expenses	45	[90]	Business pays $90 in expenses with PPP loan that is forgiven so cannot deduct expenses
Net Income	**$5**	**$50**	**Business net income increases**

- CAA passes and negates the IRS regulations regarding deductibility of expenses paid with tax-exempt and forgiven PPP loans. Under the CAA nullification, a business that took out a PPP loan that is forgiven has reduced net income (a loss in this example) that may be less than the net income realized without the PPP loan:

With PPP Loan and CAA Deductiblity & IRS Guidance	Scenario 1 Pandemic TY2020	Scenario 2 Pandemic TY2020	Explanation
Gross Sales	$50	$50	COVID-19 pandemic impact reduces sales by 50.0%
Total Expenses	[90]	90	Businesses can deduct expenses paid with PPP loan againset other taxable income
Net Income	**$50**	**($40)**	**Business net income decreases**

- **Implications for Rhode Island:** Rhode Island business and personal income tax statutes mirror federal tax statutes and regulations, particularly as it relates to what constitutes income, adjusted for deductions and other modifications. Any significant change in these modifications affects how income is determined for purposes of Rhode Island taxes. This includes the PPP expense deductions. The timing of the changes described above is such that it was not included in the 2020 November Revenue Estimating Conference estimates. In TY2020, $1.9 billion of PPP loans were made to 17,875 businesses in the State, of which $1.7 billion was made to for-profit, non-tax-exempt entities. If this entire amount of loans is forgiven and the $1.7 billion of expenses paid with these loans are deducted against other taxable income, the impact on state revenues for FY2021 would be in a loss of $86.3 million in revenue ($57,5 million in business corporation tax revenues and $28.8 million in personal income tax revenues).

Article 2 Changes Relative to PPP

In an effort to preserve a portion of the federal pandemic tax relief at the State level while ameliorating related revenue losses, Article 2 of the FY2021 Revised Budget makes several changes to State tax law. Changes include exempting the first $150,000 of expenses paid with forgiven PPP loans from personal income and business corporations taxation and the calculation of the hospital license fee and nursing facility assessment. Specifically, the article:

- Exempts the first $150,000 of a PPP loan from State business and personal income taxation. According to the Office of Management and Budget, 13.0 percent of businesses in the State have loans greater than $150,000.
- Includes the amount of any forgiven PPP loan up to $150,000 as part of net patient-services revenue for purposes of calculating the State's hospital license fee (for Tax Years beginning January 1, 2020 and after).
- Includes the amount of any forgiven PPP loan up to $150,000 as part of net patient-services revenue for purposes of calculating the State's nursing facility provider assessment (for Tax Years beginning January 1, 2020 and after).

The ORA estimates that the decoupling from the federal pandemic relief statutes reduces the State revenue impact by $66.0 million.

	FY2021		FY2022		
PPP Tax Policy Revenue Changes	**Personal Income Tax**	**Business Taxes**	**Personal Income Tax**	**Business Taxes**	**Total 2 Year Impact**
Federal PPP Loan Forgiveness	($28,788,938)	($57,489,763)	($15,678,451)	($31,308,915)	($133,266,067)
Decoupling from Federal PPP Loan Forgiveness ≥ $150,000	969,731	2,630,262	19,480,908	44,597,887	67,678,788
Total	**($27,819,207)**	**($54,859,501)**	**$3,802,457**	**$13,288,972**	**($65,587,279)**

The fiscal impact of the policy changes related to forgiven PPP loans and the calculation of the hospital license fee and the nursing facility provider assessment are not clear. To date, no hospitals have received PPP loans; however, a number of nursing homes received PPP loans and a significant amount of such loans is likely to have gone towards caring for patients, and thus affect revenue. The Office of Management and Budget has not provided a fiscal impact estimate for this section of the article.

Article 2 Changes Relative to Tax Administrator Discretion

Article 2 also provides the Tax Administrator with authority to exclude the amount of any PPP loan forgiven for federal income tax purposes from State tax in the event that the federal government provides funds to the State for revenue replacement. The American Rescue Plan (ARP), enacted on March 11, 2021, appears to do this. The amount of revenue replacement made available under the ARP is not clear.

Hospital License Fee

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 annual legislative action in order to continue. It is calculated as a percent of gross patient services revenue, which includes revenues from patient care activity but excludes other activities such as research, academic activity, or investment earnings. It is assessed against all community hospitals in Rhode Island, including the State-run Eleanor Slater Hospital. Bradley and Butler Hospitals and the Rehabilitation Hospital of Rhode Island are exempt from paying the fee because their primary services and patient beds are psychiatric in nature. Hospitals pay the fee each July but the revenues are booked as a receivable to the prior fiscal year.

In past fiscal years, the hospital license fee has been used as a mechanism to generate State funds, approximately one-third 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. The hospital license fee was assessed at the statutory maximum of 6.0 percent in FY2019 and FY2020. However, due to planned federal cuts to the DSH program, the FY2020 Enacted Budget lowered the fee to 5.0 percent for FY2021 to recognize a corresponding reduction in revenues needed to make the DSH payment. The federal DSH cuts were ultimately delayed by the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA) in December 2020. Article 2 restores the fee to 6.0

percent, accordingly, to provide the additional DSH funds. The rate is discounted by 37.0 percent for hospitals located in Washington County (South County and Westerly Hospitals).

The 6.0 percent hospital license fee is expected to generate $193.8 million in FY2021. The November 2020 revenue estimate included $161.5 million from the 5.0 percent fee based on current law, which was included in the FY2021 Budget as Enacted in December 2020. The Governor's Revised Budget assumes an additional $32.3 million in collections from the 1.0 percentage point increase.

FY2021 Hospital License Fee Revenue

Hospital	2018 Revenues	Enacted (5.0%)	Article 2 (6.0%)	*Change*
Eleanor Slater Hospital	$113,808,358	$5,690,418	$6,828,501	*$1,138,084*
Kent Hospital	333,131,126	16,656,556	19,987,868	*3,331,311*
Landmark Medical Center	122,851,913	6,142,596	7,371,115	*1,228,519*
Miriam Hospital	432,069,972	21,603,499	25,924,198	*4,320,700*
Newport Hospital	107,157,575	5,357,879	6,429,455	*1,071,576*
Rhode Island Hospital	1,261,059,365	63,052,968	75,663,562	*12,610,594*
Roger Williams	162,804,976	8,140,249	9,768,299	*1,628,050*
St. Joseph's	134,622,907	6,731,145	8,077,374	*1,346,229*
South County Hospital	160,376,076	5,051,846	6,062,216	*1,010,369*
Westerly Hospital	65,349,407	2,058,506	2,470,208	*411,701*
Women & Infants	421,116,177	21,055,809	25,266,971	*4,211,162*
Total	**$3,314,347,852**	**$161,541,471**	**$193,849,765**	***$32,308,294***

Analyst Note: Article 2 assesses the FY2021 fee against a hospital fiscal year 2018 revenue base. Typically, the fee is assessed against revenues from each hospital's most recently-completed fiscal year (two years behind the budget year), which would normally be 2019 revenues for FY2021. When the FY2021 fee was initially authorized, 2018 was the most recently-completed fiscal year that could be included in the enabling statute. Typically, the revenue base would have been updated in the FY2021 Enacted Budget once the 2019 data became available. Because the General Assembly enacted a "skinny" budget for FY2021, it did not include language to amend the base year. The Governor's Budget does not update the base year to 2019. Of note, a 6.0 percent fee assessed against 2019 revenues would generate an additional $1.1 million.

Article 2 also adds a provision to include the amount of Paycheck Protection Program (PPP) loans in excess of $150,000 in the patient revenue base, meaning the loans are subject to the hospital license fee. This provision only applies to the portion of a PPP loan in excess of $150,000 that otherwise would be considered patient service revenues. Effectively, the fee would only be assessed against the amount of PPP funds that were allocated for patient care activities. This provision is applicable to any taxable year beginning on or after January 1, 2020, which would impact the patient revenue base used to calculate the hospital license fee beginning in FY2022.

Analyst Note: As of March 24, 2021, according to data released by the federal Small Business Administration, no hospitals have received a PPP loan in any amount since the program began. Accordingly, FY2022 hospital license fee revenues should not be affected, but the provision leaves open the possibility that future PPP loans to hospitals could be taxed at the State level.

Article 3: Relating to Effective Date

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

FY2022 BUDGET ARTICLES

Article 1: Relating to Making Appropriations in Support of FY2022

Article 1 outlines the appropriation amounts from all fund sources for FY2022. 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, and Employment Security.

This article also:

- Sets the airport impact aid formula at $1.0 million.
- Authorizes 15,089.2 FTE positions reflecting a net decrease of 35.5 FTE positions as compared to the authorized level set in the FY2021 Budget as Enacted.
- Details Community Service Objective grant funding recipients and amounts.
- Requires that all unexpended or unencumbered balances relating to the Rhode Island Intermodal Surface Transportation Fund be reappropriated to FY2022.
- Prohibits the obligation or expenditure of indirect cost recoveries on federal stimulus funds in the Department of Health without the approval of the Director of the Office of Management and Budget.
- 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 FY2023. In addition, the Office of the Postsecondary Commissioner shall provide $7.7 million be allocated to the Rhode Island Promise Scholarship program, and $147,000 to be used to support the State's membership in the New England Board of Higher Education.
- 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 $1.4 million. It requires the 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.
- 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.
- Removes the sunset provisions for the Rhode Island Promise Scholarship (RI Promise) program, thereby indefinitely extending the program. The General Assembly previously extended this program by one year to the high school graduating class of 2021. Article 3 of the FY2018 Budget established the RI Promise program to provide students with two years of tuition and mandatory fees at the Community College of Rhode Island (CCRI), less federal and all other financial aid available to the recipient. FY2021 represents the fifth year of the program.
- Includes the appropriation mechanism necessary for incremental tax revenues collected from State economic activity taxes generated in Pawtucket's Downtown Redevelopment district to be made available to the City. Legislation enacted in 2019 established several geographical districts within downtown Pawtucket that would constitute the City of Pawtucket's Downtown Redevelopment project. Any incremental tax revenues generated in these districts and are related to new economic development are to be made available to the City once an agreement is made between City and the State. This

agreement was entered into in December 2020. Since the passage of the legislation CommerceRI has been certifying these revenues and the Division of Taxation has segregated them into their own account. The language makes the formal appropriation in the Budget to disburse the funds to the City of Pawtucket.

- Extends the previous bond authorization on $20.0 million of unissued Mass Transit Hub Infrastructure Bonds to June 30, 2023. The original $35.0 million authorization was made under Public Law 2014, Chapter 145 and approved by referendum on November 4, 2014.

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, 2022.

Expenditures by Source	FY2020 Final	FY2021 Enacted	FY2022 Governor	*Change to Enacted*
General Revenue	$3,937.4	$4,153.3	$4,371.3	*$218.0*
Federal Funds	4,475.1	5,812.9	4,129.5	*(1,683.4)*
Other Funds	2,273.1	2,441.9	2,327.8	*(114.1)*
Restricted Receipts	332.1	322.3	341.9	*19.6*
Total	**$11,017.7**	**$12,730.4**	**$11,170.5**	***($1,559.9)***

$ 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); CollegeBoundSaver Funds; and, Lottery Division funds for award winnings during FY2022.

Section 1 also provides language directing the disbursement of specific appropriations including:

- **BHDDH- DD Consent Decree:** The State has been under a Consent Decree with the United States Department of Justice since 2014 for violating the Olmstead Decision of the Americans with Disabilities Act. The United States Department of Justice, focusing specifically on sheltered workshops, concluded that the State's services for individuals with developmental disabilities were not adequately integrated within the community. The State subsequently entered into a Consent Decree, which requires the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH) to foster more supportive and less isolated employment opportunities and day services for individuals with intellectual and developmental disabilities. Employment placements must be typical jobs that pay at least minimum wage and support employment for 20 hours or more per week. The Consent Decree requires funding to support a reformed system of care within the Division of Developmental Disabilities (DD) until FY2024.

  With three years left in the Consent Decree, the presiding judge has issued a court order with guidance on how the State should move forward to achieve the goals of the Consent Decree. The guidance states that the State must create a 3-year budget strategy to transform the DD system that is a result of collaboration between the State and DD providers. The FY2022 Budget includes a general revenue appropriation of $10.0 million ($15.0 million all funds) to support the system transformation. The fund would include $6.0 million general revenue ($7.0 million all funds) dedicated to helping providers strengthen their operating and service delivery models, and increase access to tools and technology. The fund includes $2.0 million general revenue ($4.0 million all funds) to allow providers to participate in an outcome-based payment methodology. The fund would also invest $2.0 million ($4.0 million all funds) in the State's infrastructure to manage the initiative and include reporting by the Department to Caseload Estimating Conference.

- **BHDDH - Eleanor Slater Hospital:** The article states that general revenues allocated to the Eleanor Slater Hospital (ESH) may be used for individuals who are receiving care in an appropriate setting.

Analyst Note: According to BHDDH, the intention of this language is to address twelve undocumented individuals receiving care at ESH but who are able to be cared for in a lower level of care. However, the language could be applied to any patient at the Hospital and the language "may be used" is permissible, not authoritative.

- **RIDE - Early Childhood Funds:** The article provides that the criteria for allocation of early childhood funds must prioritize prekindergarten seats and classrooms for four-year-olds whose family income is at or below 185.0 percent of federal poverty guidelines and who reside in communities with higher concentrations of low-performing schools.
- **Corrections – Behavioral Healthcare Expansion**: The Budget includes an additional $750,000 in general revenue to expand access to behavioral healthcare for individuals with severe, persistent, mental illness. This additional funding will be used for the planning and creation of a Transitional Care Unit which is intended to meet the needs of those who require behavioral health treatment but do not rise to the level of the existing Residential Treatment Unit within the Department of Corrections.

INTERNAL SERVICE FUNDS

Article 1 authorizes 15 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	FY2021 Enacted	FY2022 Governor	*Change*
State Assessed Fringe Benefits	$37,505,032	$37,626,944	*$121,912*
Administration Central Utilities	27,426,989	27,345,573	*(81,416)*
State Central Mail	6,583,197	6,736,424	*153,227*
State Telecommunications	3,552,053	3,100,546	*(451,507)*
State Automotive Fleet	12,743,910	12,664,678	*(79,232)*
Surplus Property	3,000	3,000	-
Health Insurance	273,639,595	272,604,683	*(1,034,912)*
State Fleet Revolving Loan Fund	264,339	-	*(264,339)*
Other Post-Employment Benefits	63,858,483	63,858,483	-
Capital Police	1,429,798	1,731,553	*301,755*
Corrections Central Distribution Center	6,868,331	7,410,210	*541,879*
Correctional Industries	8,231,177	8,590,417	*359,240*
Secretary of State Records Center	1,086,670	1,060,059	*(26,611)*
Human Resources Internal Service Fund	14,237,328	13,962,865	*(274,463)*
DCAMM Facilities Internal Service Fund	42,849,110	43,562,371	*713,261*
Information Technology Internal Service Fund	49,488,621	48,951,700	*(536,921)*
Total	**$549,767,633**	**$549,209,506**	***($558,127)***

FTE POSITIONS

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 Budget has a net decrease of 35.5 FTE positions from the FY2021 Budget as Enacted. The following table lists the FTE amounts by budget function:

Expense by Function	FY2021 Enacted	FY2022 Governor	*Change to Enacted*
General Government	2,441.9	2,471.4	*29.5*
Human Services	3,571.6	3,446.6	*(125.0)*
Education	4,218.4	4,221.4	*3.0*
Public Safety	3,190.0	3,240.0	*50.0*
Natural Resources	424.0	431.0	*7.0*
Transportation	755.0	755.0	*0.0*
Subtotal	**14,600.9**	**14,565.4**	***(35.5)***
Higher Ed. Sponsored Positions	*523.8*	*523.8*	*0.0*
Total FTE Positions	**15,124.7**	**15,089.2**	***(35.5)***

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 FY2021 Budget as Enacted includes $8.7 million in general revenue for CSO grant awards across 12 state agencies. The Budget recommends an appropriation of $8.9 million in general revenue in FY2022, an increase of $175,000 from the previously enacted budget. The Budget recommends increasing the grant to the Rhode Island Community Food Bank by $175,000.

Agency	Grant Recipient	FY2021 Enacted	FY2021 Governor	FY2022 Governor	*Change*
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	International Trade And Export Programming	476,200	476,200	476,200	-
Executive Office of Commerce	Minority Entrepreneurship	140,000	140,000	140,000	-
Executive Office of Commerce	East Providence Waterfront Commission	50,000	50,000	50,000	-
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 - Healthy Aging	Diocese of Providence - Elder Services	325,000	325,000	325,000	-
Human Services - Healthy Aging	Alliance for Long Term Care Ombudsman Services	40,000	40,000	40,000	-
Human Services - Healthy Aging	Elderly Housing Security	85,000	85,000	85,000	-
Human Services - Healthy Aging	Meals on Wheels	530,000	530,000	530,000	-
Human Services - Healthy Aging	Senior Center Support	800,000	800,000	800,000	-
Human Services - Healthy Aging	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	350,000	*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	200,000	-
Human Services	Community Action Fund	600,000	600,000	600,000	-
Education	Hasbro Children's Hospital - Hospital School	90,000	90,000	90,000	-
Education	Child Opportunity Zones	395,000	395,000	395,000	-
Office of Postsecondary Commissioner	Rhode Island College Crusade	355,000	355,000	355,000	-
Office of Postsecondary Commissioner	Best Buddies Rhode Island	75,000	75,000	75,000	-
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		**$8,701,200**	**$8,701,200**	**$8,876,200**	***$175,000***

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, 2023, June 30, 2024, June 30, 2025, and June 30, 2026. These amounts supersede appropriations provided for FY2022 within the FY2021 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:

- Authorizes the Budget Officer to establish restricted receipt accounts within departments or agencies that receive funding from the Opioid Stewardship Fund and clarifies the reporting requirements for programs receiving funds.
- Authorizes the Office of the Health Insurance Commissioner (OHIC) to conduct pre-examination analyses to ensure insurers in the State are in compliance with state and federal laws and regulations.
- Creates the Grants Management System Administration restricted receipt account within the Department of Administration to centralize the administrative costs of managing federal grant applications.
- Clarifies that spending controls requiring reporting and corrective action plans only apply to agencies who are in excess of their appropriated general revenue expenditures and amends the State Controller's authority to authorize payments.
- Exempts twelve restricted receipt accounts from the 10.0 percent indirect cost recovery charge provisions.
- Amends RIGL 39-18.1-5 regarding the annual transfer of $5.0 million in Highway Maintenance Funds to the Rhode Island Public Transit Authority (RIPTA).
- Establishes the Governor's Portrait Donation Fund to receive any contributions received by the Rhode Island Council on the Arts to supplement the state appropriation for the purchase of a governor's portrait.

FISCAL IMPACT

The exemptions outlined in the article exempt $2.4 million in restricted receipt revenues from the 10.0 percent indirect cost recovery charge provisions. Had these accounts not been exempt, the accounts would have transferred a total of $237,403. The accounts related to the legalization of adult-use marijuana have a zero-dollar net impact on the general fund since any funds remaining after expenditures are transferred to the general fund.

ANALYSIS AND BACKGROUND

This article addresses various restricted receipts accounts.

Opioid Stewardship Act

The article amends RIGL 21-28.10 authorizing the Budget Officer to establish restricted receipt accounts within departments or agencies that receive funding from the Opioid Stewardship Fund and clarifies the reporting requirements for programs receiving funds.

The FY2020 Budget as Enacted established a restricted, Opioid Stewardship Fund within the Department of Health (DOH) and requires all licensed manufacturers, distributors, and wholesalers to contribute to the Fund through a registration fee. Licensed manufacturers, distributors, and wholesalers are required to report the details of all opioids sold or distributed in the State to calculate their liability towards the annual $5.0 million fund contribution. Registration payments are due annually on December 31. The first payment was due on December 31, 2019, based on 2018 data.

The Opioid Stewardship Fund may only be used for opioid addiction treatment, recovery, prevention, education services, and other related programs. Fund allocations must be approved by both the Director of DOH and the Director of the Department of Behavioral Healthcare, Developmental Disabilities, and

Hospitals (BHDDH). The FY2022 Budget authorizes the Budget Officer to establish restricted receipt accounts within any agencies that receive an allocation from the Fund. Currently, the account is solely housed within DOH. The Budget stipulates that any agency in receipt of Opioid Stewardship funds must report annually to the Governor, the Speaker of the House, and the President of the Senate which programs were funded using monies in the Opioid Stewardship funds.

Typically, state agencies would be allocated a total of $4.5 million. However, due to COVID-19, the FY2021 Budget as Enacted did not allocate the entirety of the Fund. The FY2022 Budget includes $6.2 million for state agencies to support opioid addiction-related activities.

FY2022 Opioid Stewardship Fund Distribution

Agency/Department	Restricted Receipts
Corrections	$2,274,537
Health	1,912,497
BHDDH	1,830,000
Executive Office of Health and Human Services	135,000
Total Expenditures	**$6,152,034**

Pre-examination Analysis

The article authorizes the Office of the Health Insurance Commissioner (OHIC) to conduct pre-examination analyses, a process in which OHIC may collect and analyze information to identify if insurers have policies or practices that may pose a potential harm to consumers or if their activities may violate state or federal laws or regulations. Costs of the pre-examinations would be the responsibility of the insurer. The article also establishes the Health Insurance Regulation and System Planning Cost Recovery restricted receipt account to be utilized for OHIC to collect the costs and conduct pre-examinations and examinations. The account will be exempt from the 10.0 percent indirect cost recovery charge on restricted receipt accounts under RIGL 35-4-27.

Federal Grants Management

Section 4 of the article adds language to RIGL 35-1.1-5 establishing the Grants Management System Administration restricted receipt account within the Department of Administration for the purpose of centralizing the administrative costs in managing federal grant applications, providing administrative assistance on reporting requirements, technical assistance, and approving agreements with federal agencies. The account will be exempt from the 10.0 percent indirect cost recovery charge on restricted receipt accounts under RIGL 35-4-27. All state agencies receiving federal funds shall deposit into this fund an amount equal to a percentage determined annually by the State Controller multiplied by the federal funds received by the agency.

Control of State Spending

Section 5 of the article clarifies that spending controls requiring reporting and corrective action plans only apply to agencies who are in excess of their appropriated general revenue expenditures. In addition, the article narrows the authority of the State Controller to stop general revenue payments by agencies on payments only involving one-time payments or are in excess of the agency's previous fiscal years' service levels.

Analyst Note: The FY2020 Budget as Enacted added language to RIGL 35-3-24 to control state spending with state departments and agencies that demonstrate in a quarterly financial report, that the entity's obligations, encumbrances, and expenditures will exceed amounts appropriated to the entity.

Department of Transportation

Section 7 of this article amends RIGL 39-18.1-5 regarding the annual transfer of $5.0 million in Highway Maintenance Funds to the Rhode Island Public Transit Authority (RIPTA). Article 4 of the FY2018 Budget as Enacted provided the Rhode Island Public Transit Authority (RIPTA) with $5.0 million in the Rhode

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Island Highway Maintenance Funds in both FY2018 and FY2019 to fund the free-fare program for low-income seniors and disabled persons, and for the payment of RIPTA debt service payments. Article 8 of the FY2020 Budget as Enacted extended the annual $5.0 million transfer from the HMA to RIPTA indefinitely. This article stipulates that for FY2020, FY2021, and FY2022, the $5.0 million transfer from the Rhode Island Highway Maintenance Fund will not occur and instead be replaced with federal Coronavirus Relief Funds.

Rhode Island Council on the Arts

Section 8 of the article amends RIGL 42-75-13, creating the Governor's Portrait Donation Fund as a restricted receipt account to receive any revenue received by the Rhode Island Council on the Arts from contributions received to supplement the state appropriation for the purchase of a governor's portrait pursuant to RIGL 37-8-9.The FY2022 Budget authorizes $25,000 in expenditures from this fund.

Restricted Receipt Accounts

Section 6 of the article proposes changes involving the appropriation of state funds, the use of restricted receipts or special revenue funds, and amends state law concerning indirect cost recoveries on restricted receipts.

- **Legislative Appropriation Authority:** The article amends state law to define an appropriation as an enactment of the General Assembly authorizing the withdrawal of funds from the State Treasury. Laws passed by the General Assembly that authorize, specify, or provide that funds are to be used for a particular purpose shall not be defined as an appropriation if they do not also authorize the fund withdrawal.

  According to the Budget Office the inclusion of this language is to set a definition for appropriations. The intent of the change is to alleviate confusion whenever language in a statute is incongruent to an appropriation and allows the appropriation act to be the "single definitive source" for what can be spent from general revenues.

  The article further defines appropriations as spending authorizations needed to comply with a court order, for response under a declared emergency, or to finance programs covered under the caseload estimating conference process up to the officially adopted estimates in the current fiscal year. If revenues are insufficient to fully-fund estimated caseload expenses, the article requires prioritization of federally-mandated programs and allows for a proportional adjustment to remaining caseload programs.

- **Use of Restricted Receipt or Special Revenue Funds**: Authorizes the State Budget Officer to establish restricted receipt accounts within any state agency under the following conditions:
  - To account for donated funds, funds received from non-profit entities, proceeds from multi-state settlements or from a contract or memorandum understanding with another state for a specific or one-time purpose.
  - To convert any escrow liability account whenever such move is deemed appropriate by both the State Controller and State Auditor General.

Analyst Note: The inclusion of new language under RIGL 35-4-22.2(c) will allow the Budget Office to create various restricted receipt accounts without any further notice to or authorization from the General Assembly.

- **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:

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- **Health Spending Transparency and Containment:** The Health Spending Transparency and Containment account within the Executive Office of Health and Human Services provides a funding stream for the Healthcare Cost Trend project with a contribution from insurers of $1 per covered life in the State as proposed in Article 15 of the FY2022 Budget. The Office of Management and Budget project revenues to be $502,752 in FY2022, which is exempt from indirect cost recoveries.
- **Adult-Use Marijuana Licensing:** The article exempts all adult-use marijuana licensing accounts from recovery charges. After the account pays all state expenditures and municipality shares, the balances is transferred to general revenues.
- **Marijuana Cash Use Surcharge:** The Budget establishes the Marijuana Cash-Use Surcharge, exempt from indirect cost recoveries, to collect a 10.0 percent surcharge on tax payments made in cash by licensees.

- **Housing Production Fund:** The Budget establishes a new restricted receipt account in the Executive Office of Commerce to finance housing production in the State. The Housing Production Fund (HPF) will be used to provide financial assistance, loans, grants, or otherwise for the planning, production, or preservation of housing opportunities in Rhode Island, including housing affordable to workers and located near workforce centers. The Fund may also be used to support technical and financial assistance for municipalities to support increased local housing production, including a proposed new "Housing Incentives for Municipalities" program authorized in Article 16. Revenue from the proposed changes to the real estate conveyance tax authorized by Article 16 will be deposited into the HPF. The Fund is to be administered by RIHousing, through a memorandum of understanding between RIHousing and the Executive Office of Commerce, subject to program and reporting guidelines adopted by the Housing Resources Agency Coordinating Committee and the Housing Resources Commission.

- **Grants Management System Administration:** The article establishes the Grants Management System Administration restricted receipt account within the Department of Administration for the purpose of centralizing the administrative costs in managing federal grant applications, providing administrative assistance on reporting requirements, technical assistance, and approving agreements with federal agencies.
- **Governors' Portrait Donation Fund:** Section 8 of the article amends RIGL 42-75-13, creating the Governor's Portrait Donation Fund as a restricted receipt account to receive any revenue received by the Rhode Island Council on the Arts from contributions received to supplement the state appropriation for the purchase of a governor's portrait pursuant to RIGL 37-8-9.The FY2022 Budget authorizes $25,000 in expenditures from this fund.
- **Health Insurance Regulation and System Planning Cost Recovery:** The article establishes the Health Insurance Regulation and System Planning Cost Recovery restricted receipt account to be utilized for OHIC to collect the costs and conduct pre-examinations and examinations. Insurers are responsible for the costs associated with the pre-examinations and examinations and this account is to collect those revenues.

Article 3: Relating to Government Reform and Reorganization

This article authorizes various reforms to multiple departments. Specifically the article:

- Authorizes the transfer of the Employer Tax Unit from the Department of Revenue (DOR) to the Department of Labor and Training (DLT).
- Amends the minimum score for the risk-based capital trend test, a formula that measures the minimum amount of assets needed to support an insurer's overall business operations, for life insurers from 2.5 to 3.0. The test and resulting score allow the Department of Business Regulation to measure an insurer's solvency and work with insurers to correct potential issues.
- Delays the statutorily mandated license plate reissuance from June 1, 2020, to July 1, 2022.
- Transfers administration of commercial driver license (CDL) testing from the Community College of Rhode Island (CCRI) to the Division of Motor Vehicles (DMV), effective January 1, 2022.
- Requires the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH) to submit monthly caseload data to the state budget officer, house fiscal advisor, and senate fiscal advisor as part of the bi-yearly Caseload Estimating Conference beginning July 1, 2022.
- Transfers the authority to request additional caseload estimating meetings throughout the year from the Director of the Department of Human Services to the Secretary of the Executive Office of Health and Human Services.
- Eliminates the June 30, 2021, sunset date for the Department of Revenue's (DOR) Collections Unit, originally established in July 2018 to assist state agencies in the collection of debts owed to the State, effective July 1, 2022.

FISCAL IMPACT

DOR Revenue Changes	Revenue	Expenditure	Net Impact
License Plate Reissuance Delay	($3,440,000)	-	($3,440,000)
DOR 's Collection Unit	1,377,299	828,769	548,530
CDL Road Test Administration	100,000	104,465	(4,465)
Total	**($1,962,701)**	**$933,234**	**($2,895,935)**

Article 3 includes a net general revenue savings of $2.1 million. This includes a $3.4 million savings from the license plate reissuance delay. This decrease is partially offset by an additional $1.3 million for the Department of Revenues' Collections Unit and additional costs to administer the commercial driver's license (CDL) road test.

While there is no fiscal impact associated with the proposed BHDDH reporting requirements, Article 1 of the Budget does appropriate $2.0 million ($4.0 million all funds) to manage a Developmental Disability (DD) system transformation initiative, including building capacity for the Department to participate in the twice-annual Caseload Estimating Conference.

ANALYSIS AND BACKGROUND

Employer Tax Unit

Article 3 authorizes the transfer of 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 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.

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The transfer is intended to centralize the unit's efforts related to UI and TDI benefits. The transfer includes 35.0 FTE positions. There is no funding included as the Employer Tax Unit is already funded by DLT.

Risk-Based Capital Trend Test:

The Division of Insurance Regulation within DBR is responsible for conducting financial examinations of domestic insurance companies to ensure financial solvency. Since 1993, the Division has been re-accredited every five years by the National Association of Insurance Commissioners (NAIC). NAIC is the standard-setting and regulatory support organization for insurance regulators. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate regulatory oversight.

Although the Division recently received accreditation, the accreditation was contingent on the State increasing the risk-based capital trend test minimum score through legislation. Without this accreditation, the State risks losing its current domestic insurance industry of 28 insurers, including Amica, FM Global, and Metropolitan Property & Casualty, in addition to any potential new insurers. The loss would result in a significant revenue impact as a result of a loss in taxes on insurance companies, income, and other taxes.

Currently, the minimum score for the risk-based capital trend test for life insurers in the State is set at 2.5; the new article would increase the minimum score to 3.0. The risk-based capital trend test assists DBR in evaluating the solvency of life insurers and acts as an early warning signal of potential financial issues. Rhode Island is the only state with a minimum score of 2.5 and increasing the minimum score to 3.0 aligns the State with the rest of the country and NAIC standards. Increasing the minimum score for the risk-based capital trend test requires the insurer to have a higher value of assets versus risks.

Although the loss of NAIC accreditation would impact all insurers in the State, the score change only applies to companies providing life insurance. Amica is the only life insurer headquartered in Rhode Island. According to DBR, Amica has a score of above 3.0 and is therefore already in compliance with the proposed change.

License Plate Reissuance Delay

Under RIGL 31-3-33, the DMV is required to issue new reflective license plates for all registered vehicles every ten years in order to reduce fraud, improve public safety and law enforcement, and to generate revenue. The reissuance was first scheduled to take place in September 2011. It has been delayed 8 times since, with a myriad of different rationales (see table).

Session	Date	Delay Date	Reason
2011	9/2011	9/2013	$3.3 million savings intiative
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	6/2020	Governor had proposed eliminating the reissuance altogether. By the time Budget was enacted, it was too late to timely implement
2020	6/2020	No new date	Delay due to impact of the pandemic
2021	6/2020	7/2022	Delay due to impact of the pandemic

The most recent change to the reissuance date was made in Article 7 of the FY2020 Budget as Enacted, which set June 1, 2020, as the new implementation date. Article 7 of the FY2020 Budget as Enacted also changed the fee for the plates from $6.00 per reissued set to $8.00. In January 2020, just prior to the COVID-19 pandemic emergency, the Division had reported that the DMV and its vendor, 3M were still in the early stages of preparing to implement. According to the Department, the complications surrounding operations during the COVID-19 pandemic made the implementation of the reissuance impractical in the near term.

Article 6 extends the reissuance deadline from June 1, 2020, to July 1, 2022. The Budget does not include any implementation expenditures in FY2022. The Budget assumes a $3.4 million reduction in registration fee revenue in FY2022, based on a July 1, 2021, effective date.

Commercial Driver's License Testing

Article 3 shifts the administration of the commercial driver's license (CDL) road test from the Community College of Rhode Island (CCRI) to the Division of Motor Vehicles (DMV), effective January 1, 2022. This transfer impacts expenditures and revenues at both the DMV and CCRI. CCRI currently collects and retains approximately $200,000 in restricted receipt revenue from a $100 CDL road test fee. Under Article 3, this revenue would instead be collected by the DMV and deposited into the general fund. Because the effective date of the article is January 1, 2022, the amount deposited as general revenues would be half of the annual revenue collected from the fee, or $100,000, in FY2022. The Budget also includes $132,961 for seven months of additional personnel expenditures at the DMV required to administer the road testing. These expenditures are for 3.0 FTE positions, including 2.0 Senior Motor Vehicle Examiners and 1.0 Customer Service Specialist III, and $3,605 in operating expenses.

FY2022 Net Fiscal Impact - Article 3 CDL Transfer

Budget Initiative	Expenditures	Revenues	Net Fiscal Impact
DMV - Personnel	$132,961	-	($132,961)
DMV - Operating	3,605	-	(3,605)
Transfer of CDL Fee Restricted Receipt Revenu to General Fund	-	$100,000	$100,000
Elimination of School Bus Training Payments to CCRI	(32,101)	-	32,101
Total	**$104,465**	**$100,000**	**($4,465)**

Analyst Note: The DMV has been providing CCRI with approximately $75,000 per year for several years. The funds were originally leveraged by the College to secure a school bus driver education grant. The DMV indicates, however, that CCRI does not currently have this type of grant, and has not for some time. According to OMB and the DMV, CCRI has been notified that they will no longer be receiving these funds. The DMV explained that CCRI charges tuition for its classes and does not need the funds to support the training. The elimination of this payment is shown as $32,101 savings in FY2022. This is half of the full payment, presumably based on the January 1, 2022, effective date of Article 3.

A base commercial driver's license (CDL) permits the licensee to operate large, heavy, or hazardous materials vehicles for commercial purposes. In addition to the base CDL, licensees may obtain additional endorsements such as semi-trailer (T), school bus driver (S), or passenger vehicle (P). To obtain these endorsements, an individual must possess a valid CDL and typically pass both a written and driving test.

Testing and licensing standards for the base CDL and accompanying endorsements are developed by the Federal Motor Carrier Safety Administration (FMCSA) at the U.S. Department of Transportation (USDOT). States are required to ensure that their testing and licensing procedures conform to these standards and are subject to compliance reviews by FMCSA. States failing to administer written and road tests in accordance to these regulations risk losing up to 6.0 percent of their federal highway funding.

In addition to the base CDL and endorsement for school bus drivers, Rhode Island law requires an individual to attend and pass a 10-hour school bus driver certification course. Every five years, an individual must attend a 3-hour refresher course to renew the license.

Currently, training for the base CDL and accompanying endorsements are provided by private truck driving schools. CCRI also provides preparation classes for the base CDL, as well as the 10-hour and 3-hour school bus driver certification classes and tests. These classes are conducted at all three of its campuses. The written test for the CDL and its endorsements are administered by the DMV. CCRI currently administers the CDL road test on behalf of the DMV, which would shift to the DMV under Article 3.

According to the DMV and the State's Office of Management and Budget (OMB), this shift would improve oversight and customer service.

- **Oversight:** Road testing for the CDL is closely regulated and audited by USDOT. Ensuring compliance with FMCSA standards is the responsibility of the DMV. Currently, because DMV staff are not present when CDL road testing occurs, they cannot guarantee that standards are being met. In-housing the road testing function mitigates the risk of non-compliant testing.
- **Customer Service and Efficiencies:** According to the DMV, Article 3 changes would improve customer service and create efficiencies. FMCSA rules require that an individual taking the road test present proof of insurance, copies of relevant permits, and proof of registration. If that a customer does not bring these materials, CCRI cannot permit the test to be taken. The DMV would be able to provide the individual with these materials at the time of the test, allowing the test to go forward. Similarly, upon successful completion of the test, the DMV would be able to provide the license to the customer immediately.

BHDDH Caseload

The State has been under a Consent Decree with the United States Department of Justice since 2014 for violating the Olmstead Decision of the Americans with Disabilities Act. The United States Department of Justice, focusing specifically on sheltered workshops, concluded that the State's services for individuals with developmental disabilities were not adequately integrated within the community. The State subsequently entered into a Consent Decree, requiring the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH) to foster more supportive and less isolated employment opportunities and day services for individuals with intellectual and developmental disabilities. Employment placements must be typical jobs that pay at least minimum wage and support employment for 20 hours or more per week. The Consent Decree requires funding to support a reformed system of care within the Division of Developmental Disabilities (DD) until FY2024.

With three years left in the Consent Decree, the presiding judge has issued a court order with guidance on how the State should move forward to achieve the goals of the Consent Decree. The court order states that to meet compliance with the Consent Decree, the State must establish a data collection and reporting method to facilitate proper expenditure forecasting. Article 3 of the Budget updates BHDDH reporting requirements that would provide the information necessary to include BHDDH in the Caseload Estimating Conference to satisfy the court order. The previous month's caseload and expenditure data must be submitted to the House Fiscal Advisor, the Senate Fiscal Advisor, and the State Budget Officer by the fifteenth of each month.

The Article also repeals Section 40.1-22-39 of the General Laws, eliminating language which requires monthly caseload reporting to the General Assembly of the same data to avoid duplicative language.

Analyst Note: While the Article does require reporting of caseload data, it does not specifically declare an effective date for inclusion of BHDDH in the State's Caseload Estimating Conference. In addition, the Article requires the new reporting requirements beginning on July 1, 2022, but the previous reporting requirements would be eliminated upon passage of the Budget, eliminating reporting requirements for approximately a year. A Governor's Budget Amendment is expected to resolve the gap in reporting, which is an error.

Caseload Estimating Conference Additional Meetings

Article 3 amends RIGL 35-17-3 to transfer the authority to request additional caseload estimating meetings throughout the year from the Director of the Department of Human Services to the Secretary of the Executive Office of Health and Human Services.

Under current law, if at any time during the fiscal year a participant of the caseload estimating conference feels that recommendations made during the conference are no longer valid that participant is allowed to notify the Director of the Department of Human Services. The Director will then review the participants concerns and determine if the concerns are sufficient to request an additional conference.

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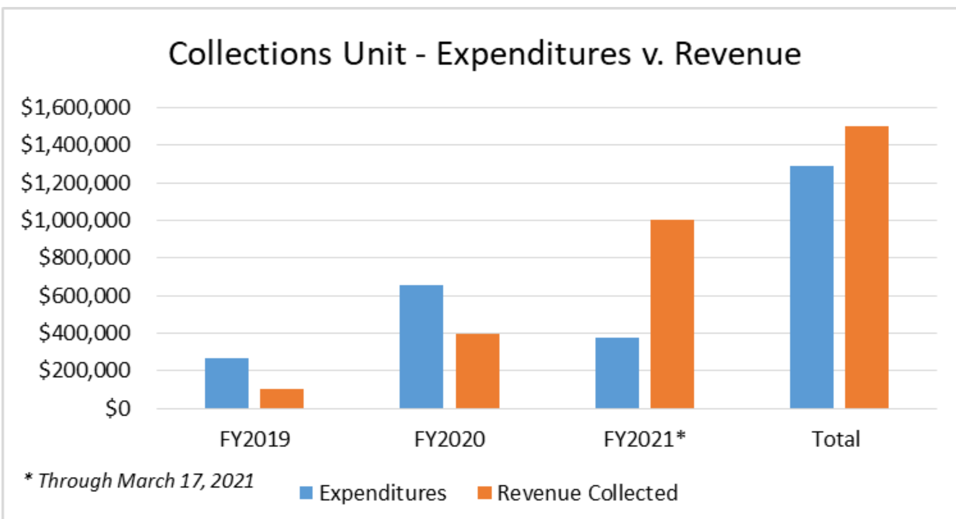
DOR's Collection Unit

Article 3 permanently authorizes the Department of Revenue (DOR) Central Collections Unit (CCU) by eliminating the statutory sunset date of June 30, 2021.

- **Background:** The FY2019 Budget as Enacted established the CCU as a three-year demonstration pilot designed to improve the collection of delinquent debts owed to State agencies. The CCU relies on agencies to voluntarily engage with it and enter into Memorandums of Understanding (MOUs) for its services. Implementation of the program began on July 1, 2018, and is set to expire on June 30, 2021. The program required several months to fully operationalize and the first revenues collected occurred in January 2019. The unit began in 2018 with a budget of $601,755 in general revenue and 7.0 FTE positions. In FY2021, it operated with 8.0 FTE positions and $792,634. For FY2022, the Governor is recommending 8.0 FTE positions and a budget of $828,769.

Analyst Note: The Governor's FY2021 Budget recommended making State agency participation mandatory, however this was not included in the FY2021 Budget as Enacted.

- **Performance:** When the unit was initially proposed, the Governor indicated that the pilot unit would be a precursor to a fully mobilized collection's division, and the authorizing legislation provided for an evaluation report on the performance of the pilot to be issued by September 1, 2020. At the November 2020 Revenue Estimating Conference, the DOR testified that since the pilot was established, 16 agencies have entered into 13 MOUs with the CCU, $725,843 in total revenue has been collected, and 85 court cases have been filed. According to DOR, the rate at which collections are occurring has been increasing over time. Total collections in the first quarter of FY2021 were $170,175, with another $84,462 in October 2020, as compared to $392,392 in all of FY2020. The following tables show FY2021 activity:



Agency	Total Principal Debt Referred	Principal Collected in FY2021	Interest & Fees Collected in FY2021	Total Collected in FY2021
DLT	$4,848,994	$73,019	$1,664	$74,683
DEM	358,285	28,302	210	28,512
Ethics Commission	141,856	845	0	845
DOA	59,711	3,910	18	3,928
Commission for Human Rights	19,920	-	-	0
DOH	2,000	1,400	1	1,401
RITT	28,504,525	765,742	4	765,746
DCYF	190,480	-	-	0
SOS	4,512	50	-	50
DMV	1,277,722	65,106	3,035	68,140
EOHHS	197,443	59,202		59,202
Board of Elections	13,925	925	27	952
Taxation	2,830,252	-	-	-
Total	**$38,449,625**	**$998,500**	**$4,958**	**$1,003,459**

Source: DOR - FY2021 Data through March 17, 2021

- **Article 3:** Article 3 repeals RIGL 42-142-8(q) which had set the expiration date for the Collections Unit pilot at June 30, 2021. The amendment results in the permanent authorization of the program. Because current law does not permit unit operations in FY2022, the November 2020 Revenue Estimating Conference did not include revenues attributable to the Collections Unit in its estimates. The Governor's FY2022 Budget anticipates an additional $1.4 million in revenue with the unit fully operational.

Article 4: Relating to Debt Management Act Joint Resolutions

Pursuant to RIGL 35-18, the Public Corporation Debt Management Act, any financing leases or other guarantees entered into by an elected or appointed State official must have prior approval of the General Assembly. This article authorizes the issuance of $86.6 million in revenue bonds through the Rhode Island Health and Educational Building Corporation (RIHEBC) for two projects at the University of Rhode Island (URI). The article also authorizes $70.6 million in certificates of participation (COPs) for Eleanor Slater Hospital and the Rhode Island Children's Information System (RICHIST) at the Department of Children, Youth and Families.

FISCAL IMPACT

This article authorizes the issuance of $86.6 million in revenue bonds through the Rhode Island Health and Educational Building Corporation (RIHEBC) for two projects at the University of Rhode Island (URI), including Memorial Hall and the Combined Health & Counseling Center. The article also authorizes $70.6 million in certificates of participation (COPs) for Eleanor Slater Hospital and the Rhode Island Children's Information System (RICHIST) at the Department of Children, Youth and Families.

Proposed Debt Authorizations

			Article Authorization				
Revenue Bonds	**Department**	**Previous Authorization**	**Principal**	**Interest**	**Total Debt**	**Annual Debt Service**	**Term of Loan (years)**
Memorial Union	URI	51.5	$57.6	$68.0	$125.6	$4.2	30.0
Combined Health & Counseling Center	URI	26.9	29.0	34.3	63.3	2.1	30.0
Eleanor Slater Hospital	BHDDH	-	53.6	12.9	66.5	4.4	15.0
RICHIST	DCYF	-	17.0	2.7	19.7	2.0	10.0
Total			**$157.2**	**$117.9**	**$275.1**		

$ in millions. Totals may vary due to rounding.

ANALYSIS AND BACKGROUND

University of Rhode Island – Memorial Union – Auxiliary Enterprise

The article amends the previous authorization approved through the FY2020 Budget as Enacted for the renovation and expansion of the Memorial Union. URI has completed an advanced planning study for this renovation. The article increases the financing for the renovation and expansion by $6.1 million from $51.5 million to $57.6 million. The debt service payments continue to be funded from student fees and retail lease payments associated with auxiliary enterprise. Total debt service on Rhode Island Health and Educational Building Corporation (RIHEBC) the revenue bonds increases by $13.3 million over the thirty-year term, assuming an average interest rate of 6.0 percent. Annual debt service payments are estimated at $4.2 million.

According to URI, the increased cost of the Memorial Union project is due to the two-year delay. The project was originally delayed by one year to avoid issuing the new bonds at the same time as the bonds for the Combined Health & Counseling Center in order to ease the burden of the increase in debt-service. An additional one-year delay was due to COVID and the impact on Auxiliary funding need to pay for the initial design of the project. Delaying the project will allow for the Auxiliary to recover sufficiently to support the increased debt service.

University of Rhode Island – Combined Health & Counseling Center – Auxiliary Enterprise

The article amends the previous authorization for the design and construction of a new one-stop center to address the physical, emotional, and mental health of students approved through the FY2020 Budget as Enacted. The article increases the financing for the renovation and expansion by $2.1 million, from $26.9 million to $29.0 million. The debt service payments continue to be funded from student fees associated with auxiliary enterprise. Total debt service on the RIHEBC revenue bonds increases by $4.6 million over the thirty-year term to $63.3 million, assuming an average interest rate of 6.0 percent. Annual debt service payments are estimated at $2.1 million.

URI indicated that the Health & Counseling Center project was delayed by 19 months as a direct result of the impact of COVID. The Health Services Staff, who need to be fully integrated into the design process, have been focused on addressing the pandemic and have not been available to assist in the planning of the project. Also, the Health Services reserve funds, needed to support the design work, have been strained recently due to the pandemic. Delaying the project will allow for the Auxiliary to recover sufficiently to support the increased debt service.

Eleanor Slater Hospital Project

The article amends a previously authorized issuance of certificates of participation (COPs) to allow remaining funds to be used for any Eleanor Slater Hospital (ESH) building, including the construction of a new healthcare facility on the Zambarano campus. The Budget also authorizes the issuance of $53.6 million in new COPs for the construction of the proposed new facility with a total estimated project cost of $64.9 million. The new COPs will be paid over fifteen years, at an interest rate of 2.75 percent.

ESH, located on two campuses in Cranston and Burrillville, is the State's only long-term acute care hospital providing care to patients with a variety of complex psychological and medical needs. The Hospital has a total capacity of 426 beds, and provides long-term acute and post-acute hospital-level care to forensic, psychiatric, and medical patients with complex needs. Forensic patients are individuals in need of treatment to gain competency to stand trial or who were found not guilty by reason of insanity. The ESH patient population is heavily dependent on court decisions, as the courts decide when forensic patients require hospitalization at ESH as well as when patients are discharged.

ESH currently consists of four buildings: Benton, Regan, Adolph Meyer, and Zambarano.

- Benton is only used for the care of forensic patients and has a current population of 50 patients. Benton was fully renovated in 2018 and is a secure forensic psychiatric facility.
- Regan and Adolph Meyer are used for both medical and psychiatric patients and are in need of significant renovations to eliminate ligature risks. Regan has a current census of 39 patients and Adolph Meyer has a current census of 27 patients.
- Zambarano is currently used only for medical patients and the building is aged and in poor condition. Extreme ligature risks prohibit Zambarano from caring for any psychiatric patients. Zambarano has a current census of 74 patients.

BHDDH, in coordination with the Office of Management and Budget and the consulting firm Alvarez & Marsal, proposed a redesign of the Eleanor Slater Hospital. Article 4 authorizes $53.6 million in new certificates of participation (COPs), in addition to $11.3 million in previously authorized COPs for a total project cost of $64.9 million, to build a new long-term care facility for patients of the Eleanor Slater Hospital. The new footprint ensures that the State is in compliance with federal regulations and transforms the State's long-term acute care hospital into a newly constructed long-term care facility and a separately licensed Institute for Mental Disease (IMD) hospital at the existing Benton building on the Pastore campus in Cranston. The new Zambarano building would be licensed as a mixed-use facility for skilled nursing, custodial care, intermediate care, and traumatic brain injury. The Regan and Adolph Meyer buildings would be closed under the proposed plan.

Rhode Island Children's Information System (RICHIST)

Article 4 authorizes the issuance of $17.0 million in certificates of participation (COPs) to provide 60.0 percent of the estimated $28.0 million required to replace the Department of Children, Youth, and Families' child welfare case management system, known as RICHIST. The remaining 40.0 percent, or $11.0 million, would be supported by federal funds.

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The total funding of $28.0 million would be utilized over three years, FY2022 through FY2024, as follows:

Rhode Island Children's Information System	FY2022	FY2023	FY2024	Total
Certificates of Participation	$2,000,000	$10,000,000	$5,000,000	$17,000,000
Federal Funds	1,300,000	6,500,000	3,200,000	11,000,000
Total	**$3,300,000**	**$16,500,000**	**$8,200,000**	**$28,000,000**

Analyst Note: The Governor's recommendation for FY2022 does not include the $1.3 million in federal funds planned for this project. According to the Budget Office, the Governor plans to submit an amendment to include the federal funding within the Department of Children, Youth, and Families.

RICHIST was developed in 1998 and serves as a registry for all confidential case, financial, provider, and staff management information. RICHIST also generates the caseload and financial data which the Department reports to the Governor, General Assembly, and federal government. While Rhode Island was a national leader when RICHIST was first developed, it now relies on antiquated technology that has not adapted well to changes over the last 23 years. Most significantly, the existing RICHIST system does not enable easy mobility for staff in the field which inhibits the Department's ability to operate efficiently.

The new system would be a modular system that enables data analytics and reporting, allows easy access to real-time information when making important decisions for children and families, and simplifies the system's mobile interface. The federal government encourages use of modular systems because they are more comprehensive and flexible, and enhance the ability to navigate case information and incorporate data analytics into child welfare practice. Modern systems are also more dynamic, allowing child welfare agencies to respond more adeptly to frequent changes in standards and practices.

The annual debt service on the COPs authorized by this article would be approximately $2.0 million, based on an assumed interest rate of 2.75 percent over ten years. These payments would be budgeted within the Department of Administration beginning in FY2023, with payments through FY2032. Including interest, the total cost to the State will be $19.7 million at the end of the ten-year period.

Analyst Note: The Senate Fiscal Office requested additional detail from the Office of Management and Budget regarding the estimated cost of the new system, particularly the cost to procure a contract with a consultant and the expense to maintain the current RICHIST system while development is underway. As of March 29, 2021, the information has not been provided.

Article 5: Relating to Tax Anticipation Notes

This article allows the State to borrow a maximum of $300.0 million in anticipation of tax revenues during FY2022. This form of commercial paper borrowing is referred to as Tax Anticipation Notes, or TANs.

FISCAL IMPACT

The Budget Office has not projected the cost of the TANs interest payment in FY2022.

ANALYSIS AND BACKGROUND

Tax Anticipation Notes, or TANs, are a form of short-term debt issued by states or municipalities to finance current governmental operations before tax revenues are received. When the issuer collects the taxes, the proceeds are then used to retire the debt.

The State of Rhode Island issued TANs as a matter of standard practice for many years. The General Assembly annually authorized TANs through a budget article. The State started to use TANs authorizations during FY1990. TANs were used regularly through FY2012. In FY2021, the General Assembly authorized a $300.0 million TANs issuance, but due to the receipt of federal COVID Relief Funds, the State did not issue any TANs.

For FY2022, the Budget Office does not anticipate the need to borrow given all of the federal money the State has received and is anticipated to receive, but the State General Treasurer requested the ability to borrow if necessary to avoid the need for an emergency approval again. The Budget does not include any costs of TANs borrowing in FY2022.

Why Tax Anticipation Notes are Used

State government is largely financed by taxes. While some taxes are collected and remitted on a regular basis (for example sales tax collections are deposited monthly), other tax and state revenue collections may not follow set patterns, or may follow patterns that do not align with state spending needs (personal income tax payments are largely due in mid-April). A shortfall, or gap, appears when the flow of revenues do not keep pace with estimated required expenditures. One strategy to bridge this gap is to issue TANs, which are limited to expected revenue collections within the fiscal year.

Authorization for Tax Anticipation Notes

Section 17 of Article 6 of the Rhode Island Constitution allows for General Assembly authorization for state borrowing to meet cash flow demands within a fiscal year. The Rhode Island Constitution requires that “any money borrowed in anticipation of such receipts shall be repaid within the fiscal year of the state in which such borrowings take place.” Therefore, funds borrowed through a TANs issuance for the FY2022 budget must be repaid by June 30, 2022.

The cost of the borrowing depends upon the amount of the borrowing and the interest rate at the time of the borrowing. The Article authorizes the use of interest proceeds from the TANs issuance to offset the costs of the borrowed amount.

Fiscal Year	TANs History Authorization	Issued	% Issued
2001	$0.0	$0.0	0.0%
2002	150.0	90.0	60.0%
2003	150.0	150.0	100.0%
2004	200.0	200.0	100.0%
2005	250.0	-	0.0%
2006	250.0	-	0.0%
2007	250.0	120.0	48.0%
2008	270.0	220.0	81.5%
2009	350.0	350.0	100.0%
2010	350.0	350.0	100.0%
2011	350.0	350.0	100.0%
2012	350.0	200.0	57.1%
2013	250.0	-	0.0%
2014 - 2020	-	-	0.0%
2021	300.0	-	0.0%
2022	*300.0*	-	*0.0%*

$ in millions

TOC

Article 6: Relating to Fees

This article makes a number of changes to fees, administrative penalties, and public utilities. Specifically the Article:

- Amends fees for contractors and stock broker sales representative licenses within the Department of Business Regulation.
- Authorizes the Director of the Department of Health (DOH) to establish a data request fee for special data analysis requests that require the compiling and/or analyzing health-related data requests that are not subject to the Access to Public Records Act (APRA).
- Authorizes a 6.0 percent hospital license fee in FY2022.
- Eliminates the $10 fee charged for the annual permit for the right and obligation to collect and remit Rhode Island sales and use taxes.
- Authorizes the Department of Environmental Management to increase fees for the beaches, parks, and recreational areas in Westerly.
- The article increases the maximum penalties that the Coastal Resources Management Council (CRMC) Chair or Executive Director can assess for various violations.

FISCAL IMPACT

The total anticipated revenues for the Hospital License Fee in FY2022 is $178,249,870. The revenue changes from the article are displayed in the table below.

FY2022 Article 6 Revenue Changes

Initiative	General Revenues
Stock Broker Sales Representatives	$2,715,925
Beach Parking Fees	453,793
Center for Health Data and Analysis	438,900
Sales Tax Permit Fee	(331,585)
CRMC Administrative Penalties	15,000
Total	**$3,292,033**

ANALYSIS AND BACKGROUND

Contractors' Registration and Licensing Board

The article proposes restructuring the licensing fee paid to the Contractors' Registration and Licensing Board (CRLB). Currently, licenses require renewal biennially and must pay a $200 fee. The article changes the license to annual renewal with a $150 fee. The fee change would apply to all contractors licensed through CRLB except roofing contractors. Due to the timing of the change, an increase in fee revenue will occur in FY2023, at which time, restricted receipt revenues would increase by $639,916.

The change aligns Rhode Island with neighboring states, as Massachusetts has an annual fee of $150 and Connecticut has a tiered annual fee that starts at $220.

Uniform Securities Sales Representatives

The article increases the fee paid by individuals who are licensed to conduct business in Rhode Island as a broker dealer sales representative through the Division of Securities Regulation within the Department of Business Regulation. The article proposes a fee increase of $25, from $75 to $100. Approximately 3.0 percent of licensed sales representatives are from Rhode Island, as most are individuals who choose to be licensed in all states. The fee was last increased in FY2012. Massachusetts charges an annual fee of $75, and Connecticut charges $125.

Center for Health Data and Analysis

The Budget establishes a fee for data requests that require the Center for Health Data and Analysis (CHDA) to analyze, calculate, and/or interpret data. The fee would be set by the Department of Health through rules and regulations and is anticipated to generate $438,900 in general revenues annually, of which $219,450 would be allocated to CDHA for personnel costs associated with completing the analyses.

The Center receives approximately 700 requests per year and the fee would apply to external requests that require fifteen or more hours. The fee would not apply to Access to Public Records Act (APRA) requests as the records must be created and APRA requests are for existing records. DOH estimates they would receive 209 chargeable requests, at an average hourly rate of $140 per hour. The Director would have discretionary authority to waive the fee and it would not apply to any public records requests.

Hospital License Fee

The hospital license fee is a provider tax that the State levies on hospitals. This fee is federally capped at 6.0 percent and requires annual legislative action in order to continue. It is calculated as a percent of gross patient services revenue, which includes revenues from patient care activity but excludes other activities such as research, academic activity, or investment earnings. It is assessed against all community hospitals in Rhode Island, including the State-run Eleanor Slater Hospital. Bradley and Butler Hospitals and the Rehabilitation Hospital of Rhode Island are exempt from paying the fee because their primary services and patient beds are psychiatric in nature. Hospitals pay the fee each July but the revenues are booked as a receivable to the prior fiscal year.

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. In past fiscal years, the hospital license fee has been used as a mechanism to generate State funds, approximately one-third 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. The hospital license fee and DSH are usually reauthorized at the same time; the Governor's Budget reauthorizes DSH payments in Article 14.

Fiscal Year	Fee	Revenue
FY2016	5.862%	$169.0
FY2017	5.652%	168.8
FY2018	5.856%	182.0
FY2019	6.000%	180.8
FY2020	6.000%	193.8
FY2021 Gov.	6.000%	193.8
FY2022 Gov.	6.000%	178.2

$ in millions

Article 6 recognizes the increase in the fee from 5.0 percent to 6.0 percent in FY2021, which is contemporaneously authorized by Article 2 of the Supplemental Budget, and reauthorizes the fee at 6.0 percent in FY2022. The rate is discounted by 37.0 percent for hospitals located in Washington County (South County and Westerly Hospitals). The article assesses the license fee against hospital fiscal year 2020 patient revenues. The Budget assumes $178.2 million in new revenues in FY2022. This is $15.6 million less than FY2020 and FY2021 collections.

The Budget uses an estimated 2020 patient revenue base to calculate collections from the fee in FY2022, as actual 2020 data is not yet available. Hospitals experienced a significant decline in activity in 2020 due to the onset of the COVID-19 pandemic and the mandated suspension of elective procedures that followed. According to initial reports from the Hospital Association of Rhode Island, COVID-19 resulted in an approximately 4.9 percent decline in revenues between 2018 and 2020. The estimate uses this trend to approximate the 2020 revenue base.

Also contributing to the revenue loss is a substantial decline in revenues from Eleanor Slater Hospital, which reported $6.1 million in patient care activity in FY2020, a 94.6 percent decline from FY2018 activity of $113.8 million. This results in a $6.5 million loss in hospital license fee revenues. It is unclear at this time whether these revenues were properly reported.

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Hospital	2018 Hospital Revenues	Revenue Trend	2020 Hospital Revenues (est.)	License Fee Rate	FY2022 Fee Revenue
Eleanor Slater Hospital	$113,808,358	-94.6%	$6,142,948	6.00%	$368,577
Kent Hospital	333,131,126	-4.9%	316,850,578	6.00%	19,011,035
Landmark Medical Center	122,851,913	-4.9%	116,847,982	6.00%	7,010,879
Miriam Hospital	432,069,972	-4.9%	410,954,155	6.00%	24,657,249
Newport Hospital	107,157,575	-4.9%	101,920,646	6.00%	6,115,239
Rhode Island Hospital	1,261,059,365	-4.9%	1,199,429,767	6.00%	71,965,786
Roger Williams	162,804,976	-4.9%	154,848,487	6.00%	9,290,909
St. Joseph's	134,622,907	-4.9%	128,043,712	6.00%	7,682,623
South County Hospital	160,376,076	-4.9%	152,538,290	3.78%	5,765,947
Westerly Hospital	65,349,407	-4.9%	62,155,697	3.78%	2,349,485
Women & Infants	421,116,177	-4.9%	400,535,686	6.00%	24,032,141
Total	**$3,314,347,852**		**$3,050,267,948**		**$178,249,870**

Analyst Note: Actual 2020 hospital revenues should be available in spring 2021. The Governor's Budget typically bases the calculation on the most recent data available, which is currently 2019 revenues. However, due to the expected decline in patient revenues from 2019 to 2020, the Budget includes the lower estimate to recognize that revenues would be overstated if the 2019 base year was utilized.

In addition, Article 2 of the Supplemental Budget includes a provision that includes Paycheck Protection Program (PPP) loans in excess of $150,000 in the patient revenue base, meaning the loans are subject to the hospital license fee. This applies to any taxable year beginning on or after January 1, 2020, which could impact the license fee calculation beginning in FY2022. As of March 24, 2021, according to data released by the federal Small Business Administration, no hospitals have received a PPP loan in any amount since the program began. Accordingly, FY2022 hospital license fee revenues should not be affected, but the provision leaves open the possibility that future PPP loans to hospitals could be taxed at the State level.

Beach Parking Fees

The article allows the Department of Environmental Management (DEM) to set the beach parking fees for facilities in Westerly at a "reasonably determined" amount. Beach parking fees are generally determined by DEM through regulation; however, under current law, the beach parking fees are frozen at 2011 levels until October 1, 2021.

The article is estimated to generate an additional $621,634 in beach parking fees beginning in FY2022. Of this total, 27.0 percent ($167,841) would be remitted to the host community, Westerly, and 73.0 percent ($453,793) retained by the State as general revenue.

Beach Parking Fees at Misquamicut

	Current	Article 6	*Change*
Resident Weekday	$6.00	$10.00	*$4.00*
Resident Weekend	7.00	15.00	*8.00*
Non-resident Weekday	12.00	20.00	*8.00*
Non-resident Weekend	14.00	30.00	*16.00*
Resident Senior Weekday	3.00	10.00	*7.00*
Resident Senior Weekend	3.50	15.00	*11.50*
Non-Resident Senior Weekday	6.00	20.00	*14.00*
Non-resident Senior Weekend	7.00	30.00	*23.00*

Misquamicut is the State's largest and most popular beach, with over 76.0 percent of the visitors coming from out of state. This beach also has excessive trash problems that require the addition of dumpsters and recycling containers at every exit and an increase in seasonal employees for trash pickup. According to DEM, Misquamicut's current parking fees are substantially lower than municipal and other beaches in the area and there is strong support for local political and business leaders to increase the parking fee. The increase in revenue would support additional staffing and maintenance.

Sales Tax Permit Fee

Rhode Island requires all businesses that sell retail to obtain a sales tax permit and renew it annually. This is also required for lodging businesses that "rent living quarters in any hotel, rooming house, or tourist

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camp". Permits are issued by the Division of Taxation upon receipt and approval of a sales tax permit application and payment of a $10 fee. Permits must be renewed by February 1 of each year and are valid for the period of July 1 of that calendar year through June 30 of the subsequent calendar year, unless otherwise canceled, suspended, or revoked.

Article 6 makes several changes related to sales tax permits that according to the Office of Management and Budget (OMB), are proposed in an effort to reduce the burden of doing business in the State. These include:

- Elimination of Fee: Article 6 repeals the $10 application fee for the sales tax permit (RIGL 44-19-1(a)(1)).
- Reinstatement Fee: The article eliminates the requirement to pay the $10 reinstatement fee for sales tax permits that previously were canceled, suspended, or revoked (RIGL 44-19-2).
- Renewal Period: The article provides the Division of Taxation the discretion to establish the time period for renewal.

In FY2020 Rhode Island collected $331,585 in sales tax permit fees. This represents over $30,000 businesses. Based on the FY2020 data and a July 1 effective date, OMB estimates that the Article 6 changes would result in a $331,585 loss in revenue.

Coastal Resources Management Council (CRMC) Administrative Penalties

The article increases the maximum penalties that can be assessed by the CRMC and changes the review of appeals to the Supreme Court. According to CRMC, the penalties have not been changed since 2004, and are so low that violators absorb any fines issued as a cost of doing business. The increase is projected to increase revenue from fines and penalties by $15,000 ($22,500 total) in FY2022.

CRMC Administrative Penalties

	Current	Article 6	*Change*
Maximum Administrative Penalty	$2,500	$10,000	*$7,500*
Maximum Penalty Per Day	500	1,000	*500*
Maximum Aggregate Penalty	10,000	50,000	*40,000*
Maximum Criminal Fine	500	1,000	*500*
Maximum Penalty for Posting or Blocking Rights-of-Way	500	1,000	*500*

The article also removes the requirement of de novo for appeals for penalties imposed to the Superior Court; consequently, the Court's review would be guided by the Council's finding.

Article 7: Relating to the Environment

This article repeals the requirement that hunting and fishing regulations promulgated by the Department of Environmental Management (DEM) only remain in effect for one year after the date of effectiveness. The article also changes fees related to recreational hunting and fishing, as well as certain agriculture fees.

FISCAL IMPACT

The article is projected to increase general revenue generated from the collection of registration fees for pesticide products, commercial feed, and commercial fertilizer by $1.4 million.

Changes to recreational hunting and fishing license fess are projected to increase restricted receipts by $62,960 in FY2022. The article proposes three hunting and fishing fee increases over an eight-year period

Fishing and Wildlife Fees Increased Restricted Receipts	
FY2022	$62,960
FY2026	187,840
FY2029	314,433

ANALYSIS AND BACKGROUND

Agriculture Fee Increases

The article increases fees paid by manufacturers or distributors to register pesticide, commercial feed, and commercial fertilizer products. The fee are deposited as general revenue. According to DEM, the increased fees would align with neighboring states.

Agriculture Fee Increases

Fee	Current	Proposed	*Change*	Projected Revenue
Pesticide Product	$200	$300	*$100*	$842,900
Commercial Feed	60	100	*40*	460,640
Commercial Fertilizer	72	100	*28*	103,992
Total Revenue				**$1,407,532**

Regional Agriculture Fees

Fee	RI Proposed	MA	CT
Pesticide Product	$300	$300	$188
Commercial Feed	100	100	80
Commercial Fertilizer	100	250	75

Recreational Fishing and Hunting License Fees: The article repeals the requirement that hunting and fishing regulations promulgated by the Department of Environmental Management (DEM) only remain in effect for one year after the date of effectiveness. The administration asserts that repealing the requirement will reduce unnecessary work for the Division of Fish and Wildlife and, since there are minimal changes from year to year, there is no need for the automatic sunset. While most fees increase, junior hunting license fees decrease, and license fees for the disabled and those over 65 years of age remain free. The article also establishes a new category of hunting license for resident and non-resident juniors, and provides for fee changes to various recreational fishing and hunting licenses, as provided in the following table.

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Article 7. Recreational Fishing and Hunting License Fees

License/Permit	Current Fee	Rhode Island FY2022 Fee	FY2026 Fee	FY2029 Fee	Massachusetts Fees	Connecticut Fees	Regional Average[1]
Hunting	$18.00	$21.00	$24.00	$27.00	$27.50	$19.00	$26.49
Hunting Jr.	18.00	14.00	14.00	14.00	11.50	10.00	8.11
Hunting - non-resident	45.00	55.00	65.00	75.00	65.50/99.50[2]	91.00	118.54
Hunting Jr. - non-resident	45.00	40.00	40.00	40.00	65.50/99.50[2]	91.00	47.49
Hunting Landowner - non-resident	18.00	21.00	24.00	27.00	n/a[3]	n/a[3]	n/a
Hunting Tourist 3-day - non-resident	16.00	20.00	20.00	20.00	n/a	35.00	42.63
Hunting Tourist Jr. 3-day - non-resident	16.00	16.00	16.00	16.00	n/a	n/a	n/a
Hunting Active Military - non-resident	18.00	21.00	24.00	27.00	27.50	19.00	26.49
Freshwater Fishing	18.00	21.00	24.00	27.00	27.50	28.00	25.09
Freshwater Fishing - non-resident	35.00	38.00	41.00	44.00	37.50	55.00	45.89
Freshwater Fishing Tourist 3-day - non-resident	16.00	18.00	20.00	22.00	23.50	22.00	17.84
Freshwater Fishing Active Military - non-resident	18.00	21.00	24.00	27.00	27.50	28.00	25.09
Freshwater Fishing Disabled	0.00						
Freshwater Fishing Permanent over 65 yrs.	0.00						
Combination	33.00	38.00	43.00	48.00	n/a	40.00	50.65
Combination Disabled	0.00						
Combination Permanent over 65 years	0.00						
Trapping	10.00	15.00	20.00	25.00	35.50	34.00	25.29
Fur Buyer	10.00						
Trapping - non-resident	30.00	50.00	75.00	100.00	200.00	250.00	192.32
Fur Buyer non-resident	30.00						
Game Bird Permit	15.50	17.00	18.50	21.00	n/a	25.00	28.58
Deer Permit	12.50	13.00	14.00	15.00	5.00	19.00	15.61
Deer Permit All Outdoors Package	75.00	75.00	75.00	75.00	n/a	n/a	n/a
Deer Permit - non-resident	25.50	26.50	27.50	28.50	5.00	68.00	29.11
Turkey Permit Spring	7.50	8.00	9.00	10.50	5.00	28.00	18.11
Turkey Permit Spring - non-resident	20.00	21.50	23.00	24.50	5.00	28.00	25.61
Turkey Permit Fall Archery	7.50	8.00	9.00	10.50	5.00	28.00	18.11
Turkey Permit Fall Archery - non-resident	20.00	21.00	23.00	24.50	5.00	28.00	25.61
Trout Stamp	5.50	5.50	6.00	6.50	n/a	5.00	10.22
Waterfowl Stamp	7.50	8.00	9.00	10.00	5.00	17.00	8.99/9.88[4]

[1]Regional Average includes MA, CT, ME, NH, VT, NY, NJ, DE, MD, and PA.

[2]MA charges $65.50 for a nonresident small game hunting license (includes all game except deer, bear, and turkey), and $99.50 for big game hunting (includes dear, bear, and turkey).

[3]Ma and CT do not offer this license - nonresident landowners must obtain a regular nonresident hunting license.

[4]Resident/non-resident

According to DEM, the changes bring Rhode Island Fishing and Wildlife fees more in line with neighboring states. In addition, the fee collections provide the state match for federal funds used to administer the State’s fish and wildlife programs. The Division of Fish and Wildlife (DFW) relies primarily on fee collections and federal funds to administer the State’s fish and wildlife programs; consequently, Rhode Island’s low fee structure has made it difficult for the DFW to unlock all the available federal funding.

Rhode Island receives federal funding through two separate laws – the Wildlife Restoration Act (aka “Pittman-Robertson) and the Sport Fish Restoration Act (aka Dingell-Johnson). Funds for the Wildlife Restoration Act are derived from a federal excise tax on the sale of firearms, ammunition, and archery equipment. Similarly, funds for the Sport Fish Restoration Act are derived from a federal excise tax on fishing equipment, certain motorboat fuels, and import duties.

These funds are collected by the federal government and then apportioned to each state on an annual basis using a formula set in federal law. The use of these funds is tightly restricted by both state and federal law to purposes that directly benefit fish and wildlife purposes. Notably, the federal government requires as a condition of providing the funding that the state dedicates this funding solely to the state fish and wildlife agency (in our case, DEM Fish and Wildlife and DEM Marine Fisheries) pursuant to statute. Consequently, Rhode Island is required by statute (Title 20, Chapter 20-9-3) to restrict revenues raised from fees on hunting, fishing, and related licenses to fish and wildlife purposes and these funds are used to provide the state match for the federal funding made available through the two programs.

In recent years, federal funding has increased rapidly as sales of firearms and ammunition have increased and revenue from license fees has not been sufficient to provide the full amount of state match needed. DEM has been able to utilize in-kind contributions and other sources of state match to access federal funding, but these methods are unlikely to prove sufficient in the future. The proposed fee increases occur in three steps over eight years to provide a predictable and measured increase that is need to ensure the state's fees remain competitive with our neighbors, keep pace with the rising costs of programming, and provide an increased state match.

The proposal is estimate to increase restricted receipts by $62,960 in FY2022, $187,340 in FY2026, and $314,433 in FY2029. The additional revenue is projected to leverage additional federal funds at a ratio of 1:3, resulting in a corresponding increase in federal funds of $188,880 in FY2022, $563,520 in FY2026, and $943,299 in FY2029.

Analyst Note: While the article does not provide a definition for "junior", RIGL 20-13-5(1), Issuance of Licenses, provides that a junior hunting license may be obtained for persons 12 to 14 years of age upon completion of a basic hunter's safety course, and provided they only hunt in the immediate company of a qualified, license adult 21 years of age or over. Otherwise, a person must be at least 15 years of age to obtain a hunting license.

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Article 8: Relating to Public Utilities and Carriers

This Article amends RIGL 39-2, "Duties of Utilities and Carriers", requiring all investor-owned gas and electric distribution companies to develop and file an emergency response plan with the Division of Public Utilities and Carriers (Division) on or before May 15, 2022, and annually thereafter, outlining a utility's emergency preparations and response to restore service to customers after an emergency event. In addition, the Article requires the Division to develop standards of acceptable performance for emergency preparations and response to restore service by investor-owned gas and electric distribution companies. The Article:

- Authorizes a fine of up to $500 per day to be issued to any company that fails to file the required emergency response plan.
- If the Division determines that an investor-owned distribution company violated the Division's standards of acceptable performance, the Division shall have the authority to levy a penalty up to $100,000 for each violation per day, not to exceed $7.5 million for any related series of violations.
- Fines levied on the investor-owned electric or gas distribution utilities shall be credited back to the utility's customers.

FISCAL IMPACT

There is no projected fiscal impact stated with the passage of this Article.

ANALYSIS AND BACKGROUND

This Article adds a new chapter, RIGL 39-2, "Emergency Response Plans", requiring all investor-owned gas and electric distribution companies to file an annual emergency response plan with the Division of Public Utilities and Carriers (Division) on or before May 15, 2022. (Presently, there is only one investor-owned gas and electric distribution company in the state, National Grid [gas and electric].) A fine of $500 per day may be issued to any company that fails to file the required emergency response plan. As part of the emergency plans, each company shall designate employee(s) to act as liaisons to the Rhode Island Emergency Management Agency's emergency operations center during an emergency event and shall designate a liaison to each municipality within the service area of the company.

The Article further requires the Division to establish standards of acceptable performance for emergency preparation and restoration of services for each investor-owned electric and gas distribution company doing business in the State. If the Division determines that a distribution company violated the Division's standards of acceptable performance for emergency preparation and restoration of service, the Division shall have the authority to levy a penalty up to $100,000 for each violation per day not to exceed $7.5 million. Municipalities are authorized to file a complaint with the Division, within 90 days of an occurrence, regarding a violation of the Division's standards by an investor-owned electric and gas distribution company.

The Article adds language stating that all fines levied on an investor-owned electric or gas distribution company for failure to file the emergency response plans or are in violation of the Division's standards of acceptable performance shall be credited back to the utility's customers. The method of credit shall be determined by the Public Utilities Commission.

Article 9: Relating to Economic Development

Article 9 introduces new or amends existing economic development incentives. The changes include:

- **Professional Engineer License:** Expands eligibility for professional engineer licenses to include individuals who have an engineering technology degree and meet experience requirements.
- **Rebuild RI Tax Credit Program:** Raises the cap on the total amount of tax credits and sales tax exemptions that may be issued under the Rebuild RI program from $210.0 million to $240.0 million.
- **Reauthorization of Economic Development Incentive Programs:** Extends the sunset provisions on economic development incentive programs from June 30, 2021, to December 31, 2022.
- **Small Business Development Fund Changes:** Modifies the Small Business Development Fund (SBDF) program administered by the Rhode Island Commerce Corporation (CommerceRI).
- **Wavemaker Fellowship Program:** Clarifies elements of the Stay Invested in Rhode Island Wavemaker Fellowship program.

FISCAL IMPACT

The expansion of engineering license eligibility is estimated to generate an additional $90,000 in general revenues in FY2022. The tax exemption changes related to the Wavemaker Fellowship program result in a $2,707 revenue reduction in FY2022.

ANALYSIS AND BACKGROUND

Professional Engineer License

There are two types of degree programs in the engineering field, engineering and engineering technology. Currently, individuals with an undergraduate degree in engineering technology are not eligible for a professional engineer license unless they also hold a master's degree from an accredited engineering program. Engineering degrees are more heavily focused on math and science, whereas engineering technology degrees are more practical rather than theoretical. An engineering technology degree has less advanced math and science requirements. Currently, 24 states allow engineering technology degree holders to obtain a professional engineer license with adequate experience.

The article provides a licensure path for individuals with degrees in engineering technology, without also holding a master's degree, so long as they have a minimum of 8 years of experience working under a professional engineer licensee. Prospective licensees must also pass a Fundamentals in Engineering exam, and a Principles and Practice of Engineering Exam, both administered by the National Council of Examiners for Engineering and Surveying. Professional engineering license fees range from $25 to $300 (see table). The Department of Business Regulation anticipates eligibility changes will lead to an increase in license applications and fee collections, producing an estimated $90,000 in additional revenue in FY2022.

Professional Engineer License Fees

License	Fee
PE Certificate of Registration – Initial Registration Fee	$300
Biennial PE Registration - Renewal Fee	300
Reinstatement of Expired PE Certificate of Registration - Fee	210
COA Initial Application Fee	150
Comity PE Application Fee	150
Initial PE Application fee	100
Biennial COA Renewal Fee	50
Engineer in Training ("EIT") – Initial or Comity Application Fee	25
Retirement Status – Biennial Fee	20

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Rebuild Rhode Island Tax Credit Program

Rebuild RI uses both tax credit and sales tax exemption incentives to promote investment in real estate development for commercial and/or residential use across the State. When the Rebuild RI tax credit program was first established by the General Assembly in 2015, several program limits were instituted to prevent awarded credits from outpacing general revenues and to ensure program performance. These limits 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. The 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 or curtail the program. The issuance of sales tax exemptions however, was not originally capped.

Additional limits have since been placed on the program. In 2019, the General Assembly modified the total program cap by increasing it from $150.0 million to $210.0 million. However, the cap now applies to the combined total of tax credits and sales tax exemptions. The program also has a $15.0 million per-project cap. The General Assembly also modified this cap as it related to the potential Fane Tower project in the I-195 Redevelopment District. In this instance, the cap was raised to $25.0 million, including credits and exemptions. The project also does not count against the overall program cap. The sunset date for Rebuild RI has been extended three times, most recently to June 30, 2021.

Since the program's inception, Commerce has awarded $144.5 million in Rebuild RI tax credits and $45.7 million in sales tax exemptions across 51 projects, for a combined total of $190.2 million, or 90.6 percent of the current $210.0 million program cap.

Article 9 increases the program cap to $240.0 million and extends the Rebuild RI sunset from June 30, 2021, to December 31, 2022.

Reauthorization of Economic Development Incentive Programs

Article 9 reauthorizes the following incentives for another year and a half:

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

These programs are currently set to expire on June 30, 2021. The General Assembly originally established a two-year authorization for these incentives, calling for a sunset date of December 31, 2018. This expiration has been extended three times, most recently by the FY2021 Budget as Enacted. Article 9 extends the date to December 31, 2022.

Small Business Development Fund Changes

The Small Business Development Fund (SBDF) program is an economic development tool specifically aimed at providing financing to small businesses. The program involves the creation of multiple private capital funds designed to invest in small, Rhode Island-based businesses. Investors are incentivized to participate through State-issued tax credits. Credits cannot be redeemed for three years and are capped at $42.0 million, with no one fund receiving more than $20.0 million. Funding is targeted at the gap in financing that exists for many small businesses and start-ups. The program is administered by the Rhode Island Commerce Corporation (Commerce). The Budget does not have a fiscal impact in FY2022 and will not until three years after the first SBDF is awarded and meets program criteria.

Analyst Note: The State has not estimated the potential economic impact of the program. In testimony before the Senate Finance Committee in January 2019, Enhanced Capital's hired economic consultant, the Economic Impact Group, estimated that the full $42.0 million in tax credit revenue loss would be realized by FY2026 ($14.0 million per year from FY2024-FY2026). Cumulative new revenue from SBDF-related job creation and retention and small businesses development was estimated to reach $74.6 million by FY2026 and continue to grow to $151.0 million by FY2030.

Program Elements: The Small Business Development Fund program model includes the following features:

- **Fund Approval:** Investment companies apply to Commerce for authorization to form a Rhode Island Small Business Development Fund (SBDF). Applicants have to meet certain federal and State criteria in order to qualify, including being a federally-licensed Small Business Investment Company (SBIC) or a Rural Business Investment Company (RBIC).
- **Raising Capital:** Once approved, fund managers are awarded the authority to raise money for their designated SBDF. Private investors provide capital to the funds in exchange for investment returns. A portion of these returns come from delayed, at-risk State tax credits. The program requires that at least 45.0 percent of the capital raised comes from sources other than the investor awarded the tax credit. SBDF fund managers must provide at least 10.0 percent.
- **Capital Investment:** Commerce is permitted to authorize up to $65.0 million in capital investments, with no more than $20.0 million to any one SBDF. These funds must be invested in small, Rhode Island-based businesses within three years.
  - Small businesses are defined as those with fewer than 250 employees and less than $15.0 million in net income.
  - The businesses must be within one of the State's target growth sectors.
  - Investments may take the form of debt or equity.
- **Tax Credit Incentive:** Upon making an investment in a SBDF, an investor earns a vested right to a non-transferable credit against the investor's State insurance premium tax liability. The credit is equal to the applicable percentage for the credit allowance date multiplied by the purchase price paid to the small business fund for the capital investment. The credit may not be taken within the first three years or prior to the deployment of 100.0 percent of a fund's capital. The aggregate number of credits that can be claimed per year is capped at approximately $14.0 million per year. Credits may only be carried forward seven years.
- **Accountability and Claw-backs:** The SBDF includes several precautions to protect the State's investment and ensure accountability. Commerce may recapture credits from any fund manager that:
  - Does not invest 100.0 percent of its capital within the first three years of the first credit allowance.
  - Fails to maintain all its qualified investments for six years after the first credit allowance.

- Makes a payout to investors that result in less than 100.0 percent of the authorized capital being deployed in its qualified investments.
- Fails to make at least 10.0 percent of its qualified investments in minority business enterprises.
- Invests in an entity that is itself a SBDF.

If the number of jobs created or retained by a business receiving a qualified investment from a SBDF is less than 60.0 percent of the projected amount agreed on in the SBDF's plan approved by Commerce, then at the time of exiting the program, the State shall receive 30.0 percent of any distribution or payment to SBDF investors. If the number of jobs is greater than 60.0 percent but less than 100.0 percent, than the State shall receive 15.0 percent. Each SBDF is required file an annual report on its investments and the number of jobs created or retained to Commerce for the first three years.

Program Implementation: The General Assembly authorized the SBDF program in 2019. The implementation of the program since then has experienced challenges.

- **Applications and Rulemaking:** Article 12 of the FY2019 Budget as Enacted required that Commerce begin taking applications from potential SBDF managers 90 days after July 5, 2019, or October 3, 2019.

  At its September 16, 2019, board of directors meeting, Commerce board members expressed concerns over the lack of guardrails and taxpayer protections for the program. Commerce staff was authorized to draft expedited, emergency regulations prior to the planned October 3 deadline, which were adopted in September. The regulations included:

  - Augmenting the statutory application provisions to require sufficient information for Commerce to fully vet applicants;
  - Enhancing the requirements for the applicant's business plan and proof of investment history;
  - Authorizing the Commerce Board to approve fund applications (the statute does not provide for this, rather applicants who meet the criteria are a automatically approved on a first-come-first-served basis);
  - Proposing a reduction of the tax credit allocation in those instances where a SBDF investment fails to result in a positive economic impact to the State or if an SBDF breaches the covenants within the business plan;
  - Creating various reporting requirements in addition to those provided for in the statute;
  - Incorporating elements designed to prevent SBDFs from exiting before the promised outcomes and returns to the State are realized;
  - Permitting Commerce the option to retain the authority to approve individual business applications to a fund.

  In October 2019, three investment companies submitted applications to Commerce: Advantage Capital, Enhanced Capital, and Stonehenge Capital. During the review period, Commerce staff made a determination that none of the applications were complete and notified applicants on October 30, 2019, that they had 15 days to submit additional information or the applications would not be certified. Each of the applicants submitted an updated application response on October 31, 2019; however, these responses were also deemed incomplete. At Commerce's December 20, 2019, board of directors meeting, the applications were formally denied. In February 2020, Commerce held public hearings on formal rules for the program and promulgated final rules.

- **Pandemic Recovery:** With the onset of the coronavirus pandemic and its devastating impact on the Rhode Island economy, Commerce revisited the SBDF program with the intent of utilizing it as an economic recovery tool for small businesses. From March through July 2020, Commerce engaged in negotiations with Enhanced Capital that resulted in the latter being approved on July 16, 2020, to form an SBDF, being awarded $20.0 million in tax credits, and authorized to begin lending $20.0 million to Rhode Island businesses.

The terms of the agreement required Enhanced Capital to invest 75.0 percent of the funds in certain coronavirus affected businesses that could show a 33.0 percent of revenues from January to May 2020 compared with the same period in 2019. Loans must be for a minimum period of five years with a 0.0 percent interest rate for the first six months. After the first six months, interest is capped at 5.0 percent for two years, and 8.0 percent until maturity. The agreement also included additional claw-back measures and a series of penalties in the event that the firm fails to meet certain thresholds. According to Enhanced Capital, the firm made loans to approximately 50 companies, in amounts ranging from $10,000 to $1.0 million.

Article 9 Changes: Article 9 modifies the small business development fund program as follows:

- **Eligibility:** The article expands the types of eligible applicants to include mission-oriented community financial institutions. These would include community development financial institutions, minority depository institutions, certified development companies, microloan intermediaries, or organizations with demonstrated experience in making capital investments in small businesses. According to Commerce, these community financial institutions are primary vehicles for federal pandemic business assistance and relief and Rhode Island has several that are locally-based. To date only, one entity has been approved to create an SBDF and it is based in Louisiana.
- **Application and Selections Process:** The article modifies the process for reviewing and approving applications. It eliminates the mandated $5,000 application fee and authorizes Commerce to set the fee by regulation. Commerce is granted the discretion to impose additional application requirements that it deems appropriate. Under current law, any eligible applicant that meets the statutory criteria and submits a timely application is automatically eligible to create a SBDF and receive tax credits. Article 9 eliminates these automatic provisions and provides Commerce with the authority establish the application process, the discretion to approve or deny applications, and the discretion to determine the level of tax credits to be awarded.
- **Financing and Tax Credits:** Under current law, credits under the program may only be used against a State insurance premium tax liability. Article 9 expands the types of taxes to which the tax credits can apply to include business corporations taxes, public service corporations taxes, bank deposit taxes, and personal income taxes. Article 9 also eliminates the current prohibition against the credits being transferred, conveyed, or sold and provides Commerce with the ability to recapture credits that have been fraudulently transferred without notice. Lastly, the article eliminates the requirement that at least 10.0 percent of any SBDF be capitalized by the fund managers.
- **Rules and Regulations:** Article 9 authorizes Commerce to promulgate rules and regulations for the SBDF program, an element currently not codified.

Wavemaker Fellowship Program

Established in 2015, the Wavemaker Fellowship is a competitive student loan reimbursement program for college and university graduates who take employment in science, technology, engineering, and mathematics (STEM) fields in Rhode Island. The program provides Wavemaker Fellows with refundable personal income tax credits that can be used to offset their annual student loan payments for up to 4 years. The amount of the tax credit depends upon the degree earned by the taxpayer, i.e. $1,000 for an associate’s degree up to $6,000 for a graduate or post-graduate degree.

Article 9 Changes: Article 9 clarifies several aspects of the program and aligns the statute with current practices.

- **Employment:** To be eligible for a Wavemaker Fellowship under current law, an individual must be a full-time employee who works in one or more of the following covered fields: life, natural or environmental sciences; computer, information or software technology; advanced mathematics or finance; engineering; industrial design or other commercially related design field; or medicine or medical device technology. A full-time employee under the program is defined in statute as a person who is employed by a business for consideration for a minimum of at least 35 hours per week. What constitutes a business, for purposes of the program, is not currently defined in statute. Article 9 provides for an expansive definition that includes corporations, banks and other financial institutions, limited liability companies, partnerships, sole proprietorships, or federal agencies or their subsidiaries. This more expansive definition permits entrepreneurs and self-employed individuals to be eligible for the program.
- **Tax Exemption:** Article 9 further clarifies that all tax credit awards made to fellows under the program are exempt from all State taxes. For purposes of the Wavemaker Fellowship program, awards may be delivered as an up-front tax credit redemption or as a tax credit certificate when filing a tax return. State law exempts up-front redemptions from State taxation; however, tax credit certificates are still subject to tax. Article 9 exempts the latter from taxation. This policy change results in a general revenue reduction of $2,707 in FY2022.
- **Tax Credit Amount:** Under current law, tax credits cannot exceed 100.0 percent of the education loan repayment expenses "incurred" by a fellow. Article 9 amends "incurred" to read "paid", making it clear that the fellow is in fact the individual paying the loan, not some other entity.

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Article 10: Relating to Fishing Industry Modernization

This article modernizes the commercial fishing licensing system and establishes a dockside program for shellfish packing houses through the Department of Health (DOH).

FISCAL IMPACT

The new dockside program is projected to increase general revenue by $366,300 in new licensing fees; however, the cost of the 3.0 new FTE positions needed to manage the program and the additional operating costs are estimated to completely offset the new revenue.

The increase in party and charter boat licenses is projected to generate an additional $81,025 in restricted receipts in FY2022, with the commercial licensing fees estimated to generate an additional $236,025 in restricted receipts beginning in FY2023. The additional resources will be reinvested into the Marine Fisheries program.

ANALYSIS AND BACKGROUND

The article is based on the Rhode Island Commercial Fishing License Modernization Initiative (Initiative), which was designed with input from the industry. The Initiative aims to improve the commercial fisheries licensing system in response to the evolution of fisheries management and fisheries accounting technologies, and to simplify the structure of the licensing system. The four main goals of the restructure include:

1. Maintain a healthy fishing community in the State of Rhode Island,
2. Maintain flexibility for fishermen and allow for diversification of their fishing portfolio,
3. Increase simplicity and understanding of the system for fishermen and seafood dealers, and
4. Increase and support resources for RI's contemporary marine fisheries needs.

The changes will also better align licensing fees with the cost of assessing and managing marine resources, while bringing Rhode Island's fee structure more in line with neighboring states.

Party and Charter Vessel License

The article increases the license fee for vessels carrying recreational passengers for marine fishing from a biannual fee of $25 to an annual fee of $100 for residents and $300 for non-residents to better align fees with neighboring states. The change is estimated to generate an additional $81,025 in restricted receipts annually.

Multistate Commercial Fishing License Fee Analysis (2017)

Type of License	Connecticut	New York	Massachusetts	Rhode Island Current	Rhode Island Proposed
Party and Charter Vessel - Resident	$315	$250	$65 - $130	$25/2 years	$100
Party and Charter Vessel - Non-Resident	315	250	130 - 260	25/2 years	300

Source: Rhode Island Department of Environmental Management

Commercial Fishing License Fees:

DEM estimates that the updated fee structure will increase annual restricted receipts by $236,025 beginning in FY2023, which will unlock additional federal funds by providing additional matching funds. There is no general revenue impact. The additional restricted receipts will replace expiring federal grants such as the one currently supporting the electronic seafood dealer program, also known as the Standard Atlantic Fishery Information System (SAFIS). The program, including data auditing, customer service, and compliance management, is currently supported by the Atlantic Coastal Cooperative Statistics Program (ACCSP), which is in the first year of a three-year phase out.

Multistate Commercial Fishing License Fee Analysis (2017)

Type of License	Connecticut	New York	Massachusetts	Current (average)	Proposed (average)
Limited License (single sector focus) - Resident	\$790 - \$975	\$180 - \$450	\$160 - \$310	\$209	\$200
Limited License (single sector focus) - Non-Resident	855 - 2,100	275 - 1,250	320 - 570	460	700
Maximum Flexibility License - Resident	790 - 975	780	1,240	329	4450
Maximum Flexibility License - Non-Resident	885 - 2,100	1,975	2,330	n/a	n/a

Source: Rhode Island Department of Environmental Management

The main structure of the new licensing system will consist of licenses for Rhode Island's three main fishing sectors: shellfish, finfish, and crustaceans. In each of the sectors there will be an open license, or "Limited", category for species unconstrained by quotas. There will also be restricted, or "Unlimited", license that allows for all species in the category including those regulated through quotas. Limited license categories will be available annually without restriction.

Under the new system, a fishing license owner with a multipurpose license will have an opportunity to convert the license to a vessel license. This change will allow owners with multiple vessels to have more flexibility in the captains they hire, allowing a vessel to be operated by any captain who can now land any species available under the vessel license.

The Rhode Island Commercial Fishing License Modernization Initiative (Initiative) seeks to protect and expand commercial-related fishing jobs by maintaining healthy resources, enhancing opportunities for fishermen to grow their businesses through diversified fishing portfolios, and improving customer service by simplifying the license system for fishermen and seafood dealers. The current license structure is outdated relative to changes in fisheries management and results in fee disparities among license holders who have the same access to the same resources.

Elements of the current system that will remain in place include a gear endorsement requirement for gillnets, and landing licenses, which were recently streamlined through regulation. Seafood dealer licenses will be simplified through the removal of a couple of categories that are no longer needed and the fees will be adjusted to equate to the license costs for fishermen. The following table provides the proposed fee changes as provided by DEM.

Commercial Fishing License Modernization

License Type	Old/ New	Current Fee	Proposed Fee
Multipurpose Dealer License		$300	$450
Finfish Dealer License		200	300
Shellfish Dealer License		200	300
Crustacean Dealer License		200	300
Party and Charter Vessel License - Resident		13	100
Party and Charter Vessel License - Non Resident		13	300
Resident Landing Permit		200	300
Non Resident Landing Permit		300	600
Multipurpose License (resident only)		300	450
Standard Resident Commercial Fishing License with 1 Limited Endorsement	New		150
Standard Resident Commercial Fishing License with 2 Limited Endorsements	New		200
Standard Resident Commercial Fishing License with 3 Limited Endorsements	New		250
Standard Resident Commercial Fishing License with 1 Unlimited Endorsement	New		300
Standard Resident Commercial Fishing License with 1 Unlimited Endorsement and 1 Limited Endorsement	New		350
Standard Resident Commercial Fishing License with 2 Unlimited Endorsements and 1 Limited Endorsement	New		375
Standard Resident Commercial Fishing License with 1 Unlimited Endorsement and 2 Limited Endorsements	New		400
Standard Resident Commercial Fishing License with 2 Unlimited Endorsements and 1 Limited Endorsement	New		425
Standard Resident Commercial Fishing License with 3 Unlimited Endorsements	New		450
Standard Non Resident Commercial Fishing License with 1 Limited Endorsement	New		350
Standard Non Resident Commercial Fishing License with 2 Limited Endorsements	New		700
Standard Non Resident Commercial Fishing License with 3 Limited Endorsements	New		1,050
Standard Non Resident Commercial Fishing License with 1 Unlimited Endorsement	New		700
Standard Non Resident Commercial Fishing License with 1 Unlimited Endorsement and 1 Limited Endorsement	New		1,050
Standard Non Resident Commercial Fishing License with 2 Unlimited Endorsements and 1 Limited Endorsement	New		1,400
Standard Non Resident Commercial Fishing License with 1 Unlimited Endorsement and 2 Limited Endorsements	New		1,400
Standard Non Resident Commercial Fishing License with 2 Unlimited Endorsements and 1 Limited Endorsement	New		1,750
Commercial Fishing License with 1 Endorsement - Resident	Old	75	
Commercial Fishing License with 1 Endorsement - Non Resident	Old	200	
Commercial Fishing License with 2 Endorsements - Resident	Old	100	
Commercial Fishing License with 3 Endorsements - Resident	Old	125	
Commercial Fishing License with 4 Endorsements - Resident	Old	150	
Commercial Fishing License with 5 Endorsements - Resident	Old	175	
Commercial Fishing License with 6 Endorsements - Resident	Old	200	
Commercial Fishing License with 7 Endorsements - Resident	Old	225	
Principle Effort License with 1 Endorsement - Resident	Old	150	
Principle Effort License with 1 Endorsement - Non Resident	Old	400	
Principle Effort License with 2 Endorsements - Resident	Old	225	
Principle Effort License with 2 Endorsements - Non Resident	Old	500	
Principle Effort License with 3 Endorsements - Resident	Old	300	
Principle Effort License with 3 Endorsements - Non Resident	Old	600	
Principle Effort License with 4 Endorsements - Resident	Old	375	
Principle Effort License with 5 Endorsements - Resident	Old	450	
Principle Effort License with 5 Endorsements - Non Resident	Old	900	
Principle Effort License with 6 Endorsements - Resident	Old	525	
Principle Effort License with 7 Endorsements - Resident	Old	600	
Principle Effort License with 8 Endorsements - Resident	Old	675	

Source: Department of Environmental Management

The additional revenue will be used to replace declining federal funds but can also be used to support other commercial fishing industry priorities including dedicated staff to support commercial-only species such as squid, mackerel, and lobster; infrastructure improvements; and, increased enforcement capabilities to maintain a level playing field for fishermen. Other investments include upgrading Rhode Island's physical licensing system to use swipe cards, physical licenses with photographs, and an improved licensing database infrastructure.

If approved by the 2021 General Assembly, the Initiative will go through rulemaking in the fall of 2021 and be implemented in 2022. The proposal will address problems with an outdated, overly complicated, and unbalanced commercial fishing license structure, while also addressing a funding deficit in the Division of Marine Fisheries caused by discontinued federal resources and growing responsibilities.

Shellfish Packing Houses:

The article authorizes the Director of the Department of Health (DOH), with the assistance of DEM, to establish a dockside program, including rules and regulations. The article also provides DOH with the authority to set a shellfish-licensing fee through rules and regulations. In April 2019, the National Marine Fisheries Council closed a large portion of fishing grounds used for harvesting surf clams in order to protect certain marine species. Authorizing DOH to establish the program allows companies in the State to continue processing certain shellfish and ensure they are safe for human consumption. The program would not apply to aquaculture, the cultivation of fish in controlled conditions.

Massachusetts has a similar program, with a fee of $35,000 per vessel, per year and is collected from vessels that harvest from specific waters not regularly monitored for biotoxins. The fee is deposited into the Dockside Testing Trust fund and is used for the regulation, monitoring, and testing of shellfish.

The new dockside program would require 2.0 FTE Lab Scientist positions and 1.0 FTE Food Specialist. The cost of the FTE positions, in addition to operating costs, would result in increased expenditures of $366,300, funded by the proposed license fee.

Article 11: Relating to Adult-Use Marijuana

This article proposes the legalization of marijuana for adult-use. The proposed changes are estimated to generate $1.7 million in net revenue in FY2022, based on an anticipated retail sales start date of April 1, 2022. In FY2023, the first full year of retail sales, the anticipated net revenues increase to $16.9 million. Revenue estimates were completed by the Office of Management and Budget (OMB) based on Rhode Island population data and adult-use marijuana revenues in other states. Specifically, the article:

- Legalizes the recreational use and purchase of marijuana for individuals aged twenty-one or older.
- Establishes the Marijuana Trust Fund, funded by taxes and fees collected from marijuana revenues, to distribute funds to municipalities, for state expenditures related to the market, and to general revenues.
- Establishes an overall tax rate on adult-use marijuana of approximately 20.0 percent, comprised of excise taxes and retail sales taxes.
- Includes provisions designed to ensure minority access to the industry and to ensure medical marijuana patients are not adversely impacted by the implementation of an adult-use market.

FISCAL IMPACT

The general revenue impact of Article 11 is summarized in the following tables:

Article 11 Revenues

Initiative	FY2022	FY2023
Licensing Fees	$3,816,000	$2,652,250
Retail Excise Tax	2,387,902	9,551,606
Retail Sales Tax	1,671,531	6,686,124
Cultivator Excise Tax - Flower	1,335,073	5,340,292
Medical Cultivator Excise Tax	1,172,703	2,345,407
Cultivator Excise Tax - Trim	410,849	1,643,398
Total	**$10,794,058**	**$28,219,077**

Article 11 Net Impact

Initiative	FY2022	FY2023
Total Revenues	$10,794,058	$28,219,077
State Expenditures (Increased in FY2022)	(2,698,515)	(7,054,769)
Additional Expenditures in Year 1	(4,805,954)	-
Share Dedicated to Municipalities	(1,619,109)	(4,232,862)
Annual General Revenue Transfer	**$1,670,481**	**$16,931,446**

Totals may vary due to rounding.

ANALYSIS AND BACKGROUND

Adult-Use Marijuana: The article legalizes the adult-use of marijuana for those aged twenty-one and older and provides the Office of Cannabis Regulation (OCR) within the Department of Business Regulation (DBR) with the authority to oversee the proposed adult-use. The article would allow individuals twenty-one or older to purchase up to one ounce of marijuana per day, and allows storage of up to five ounces of marijuana in a secured, locked container in their home. In households with two or more individuals aged over twenty-one, adults would be permitted to have up to ten ounces secured in a locked container. OCR would be responsible for overseeing the regulation, licensing, and control of the market. OCR will work in coordination with other impacted agencies, offer guidance to municipalities, and work in coordination with other states with a legal market.

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. Potency limitations would decrease production by approximately 12.9 percent. The article limits the amount of tetrahydrocannabinol (THC), which is the part of the marijuana plant that produces a high, to 5mg per serving, or 100mg per edible package. Marijuana products must not be packaged in a way that it is easy for a child to open and cannot be shaped in a way that children may find attractive, such as animals or vehicles.

The article prohibits the use of marijuana in public places, multi-unit housing (unless with explicit permission from the property owner), and places of business. The article does not permit the smoking or vaping of marijuana on public housing properties due to Housing and Urban Development (HUD) requirements for smoke-free public housing to prevent the risk of fire. While HUD does prohibit smoking on property, it does not explicitly prohibit vaping on properties and allows Public Housing Authorities to use their discretion.

Only licensed cultivators are permitted to cultivate marijuana and the article outlines penalties associated with the possession of marijuana plants without a cultivator license. Penalties range from financial penalties starting at $2,000 per plant to criminal penalties for possession of more than twenty plants. Possessing marijuana in excess of permitted amounts is subject to an administrative penalty of $2,000 per ounce and the forfeiture and/or destruction of the excess marijuana. Distribution to minors is prohibited and is subject to a $10,000 fine per violation and a felony.

Massachusetts legalized adult-use marijuana in 2016, with sales beginning in 2018. There are a number of marijuana retailers close to the Rhode Island border including Fall River, Attleboro, and Uxbridge. In 2020, Massachusetts had $702.4 million in total adult-use retail sales. The Governor of Connecticut included the legalization of adult-use marijuana in his budget proposal with an anticipated starting retail sale date of May 2022.

Medical Marijuana: The article includes provisions that are intended to protect the viability of the medical marijuana program and mitigate any negative impacts on medical marijuana patients. The article permits licensed compassion centers to apply for a hybrid license, which would permit the licensee to have both a compassion center license and a retail adult-use market. A medical marijuana cultivator may also apply for a hybrid cultivator license to cultivate marijuana for both the medical marijuana program and the adult-use market. Applicants must be able to demonstrate that their expansion into the adult-use market will have no adverse impacts on the medical market or patients.

The article requires DBR, in collaboration with the Department of Health (DOH), and the Office of Management and Budget (OMB), to complete and deliver a study to the Governor, the Speaker of the House, and the President of the Senate by April 1, 2023. The study must analyze the impact that implementation of an adult-use market has had on the existing medical marijuana program and offer recommendations for avoiding adverse impacts on the medical marijuana program.

The article establishes a new weight-based cultivator excise tax, applicable to both medical and adult-use cultivators. Medical marijuana cultivators are not currently taxed. The cultivator excise tax is $10 per ounce of flower, which is used to make products that are smoked, and $3 per ounce of trim, which is used to make other marijuana products. The tax would be paid by the cultivator upon the transfer of marijuana. The new fee has an effective date of January 1, 2022, and is anticipated to generate $1.2 million in revenue from the existing medical marijuana market.

Reinvestment Task Force: The article establishes the Governor's Cannabis Reinvestment Task Force, comprised of 15 uncompensated members with one-year terms. The task force would include representatives from municipalities, faith-based organizations, small business owners, and at least two members of the industry. The task force must report findings and recommendations to OCR and OMB by July 1, 2022.

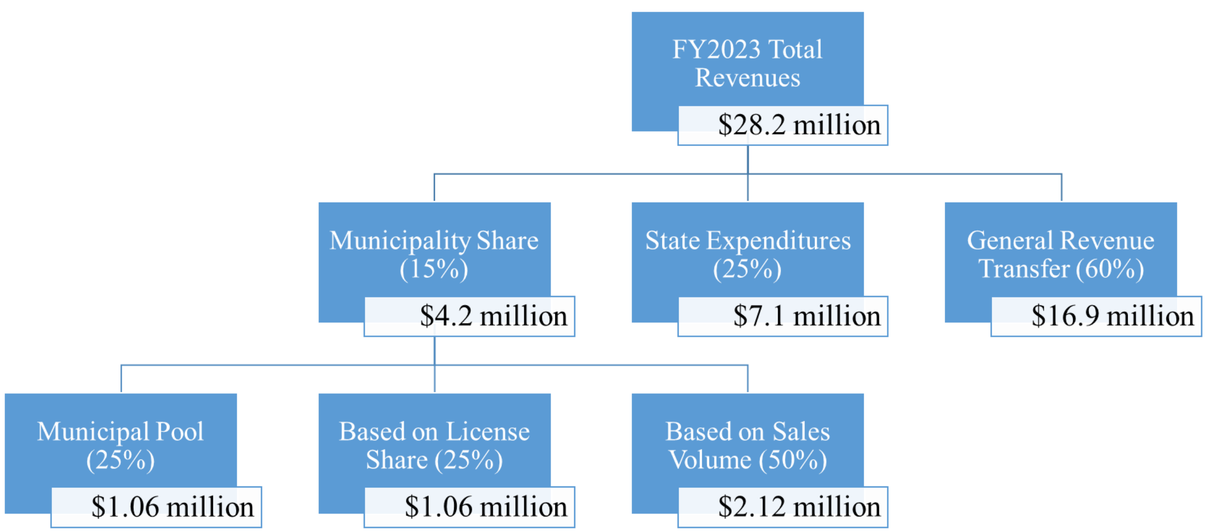
Equal Opportunity Provisions: The article requires adherence with existing equal opportunity laws in the Hemp Growth Act. The article prohibits denial of cannabidiol (CBD) and any marijuana-related licenses on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, or disability. In addition, the article requires that at least five or 20.0 percent, whichever is greater, of all the marijuana establishment licenses, must be awarded to qualifying Minority Business Enterprises (MBEs).

Marijuana Trust Fund: The article establishes the Marijuana Trust Fund as a restricted receipt account. All adult-use marijuana revenue would be deposited 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 $4.8 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 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: The article outlines mechanisms for municipalities to prohibit some or all marijuana-related activities. Municipalities would have the opportunity to ban any or all marijuana licenses through zoning ordinances within their jurisdiction, but such ordinances may only remain in effect until November 2, 2021. At that point, a referendum would need to be conducted to continue the prohibitions, with a separate question for each type of license. If a referendum prohibiting a specific license were approved by a simple majority, no application for that license would be approved. For example, if a municipality prohibits retail licenses within their jurisdiction, OCR would not approve that license.

The Marijuana Trust Fund allocates 15.0 percent of revenues to municipalities, of which all municipalities would receive 25.0 percent regardless of their volume, an estimated $10,378.90 per municipality in FY2022 and $42,860 in FY2023. 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. The following tables display the total municipality allocation for FY2022 and FY2023.



Estimated Municipality Distribution

Allocation	FY2022	FY2023
Sales Volume (50%)	$835,766	$2,116,431
License Volume (25%)	417,883	1,058,216
All Municipalities (25%)	417,883	1,058,216
Total	**$1,671,531**	**$4,232,862**

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 a program for convicted individuals that meets the standards established by the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH).

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 Budget allocates $849,997 in FY2022, including $494,762 for local police departments and $355,255 for personnel and training to enforce provisions prohibiting driving under the influence.

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, is anticipated to generate $1.3 million in FY2022 and $5.3 million in FY2023. An excise tax of $3 per ounce of trim, parts of the plant that can be used to make other products, is anticipated to generate $410,849 in FY2022 and $1.6 million in FY2023. The two weight-based excise 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 state sales tax rate of 7.0 percent and a 10.0 percent retail excise tax. The Budget assumes adult-use marijuana will increase sales tax revenues by $1.7 million in FY2022 and $6.7 million in FY2023. The retail excise tax is anticipated to generate $2.4 million in FY2022 and $9.6 million in FY2023. A 10.0 percent surcharge on tax payments made in cash will be collected from retail locations and deposited into a restricted receipt account for the handling of cash payments. The Budget did not assume any revenues from the cash surcharge.

Proposed Tax Rates on Adult-Use Marijuana

Initiative	Rate	FY2022	FY2023
Flower Excise Tax (per ounce)	$10	$1,335,073	$5,340,292
Trim Excise Tax (per ounce)	$3	410,849	1,643,398
Retail Excise Tax	10%	2,387,902	9,551,606
Sales Tax	7%	1,671,531	6,686,124
Total	**20%**	**$5,805,355**	**$23,221,420**

License and Application Fees: The article authorizes OCR to establish new licenses and the fees associated with applying for and obtaining licenses for adult-use marijuana retailers, labs, processors, cultivators, manufacturers, employees who work in the marijuana industry, and other ancillary licenses. The proposed licenses are separate from the existing medical marijuana cultivator and compassion center licenses. Hybrid licensees would be required to pay license fees for both the medical marijuana and adult-use markets. The anticipated revenues were estimated based on assumed regulations and are anticipated to generate $3.8 million in FY2022 and $2.7 million in FY2023.

- **Cultivator License:** In order to cultivate marijuana, an entity would be required to have a cultivator license with an application fee of $5,000. Medical marijuana cultivators may apply for a hybrid license that would permit them to cultivate for both the adult-use and medical markets, however, they must demonstrate that doing so will not adversely impact the medical marijuana market. The State estimates

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they would receive and approve 73 applications, at an average license fee of $15,000. The cultivator licensing and application fees are projected to generate $1.5 million in revenues for FY2022.

- **Manufacturer License:** Manufacturers, or those who compound controlled substances to be sold or dispensed, would be required to pay an application fee of $5,000 and an average license fee of $15,000. The State estimates they would receive and approve 55 manufacturer applications. The manufacturer licensing and application fees are projected to generate $1.1 million in revenues for FY2022.
- **Retail License:** A retail license will be required to sell marijuana for adult-use. There would be a limit of 25 licenses issued per year for the first three years, for a maximum of 75 retail licenses. The retail license application fee would be $5,000 and the license fee would be an additional $15,000. The State estimates they will receive one-hundred applications and will approve 34 applicants, including nine hybrid licenses. Locations for marijuana retail sales cannot be within 1,000 feet of the property line of school, and must be permitted by zoning classifications or receive specific zoning approval. Retailers must have security measures in place, including video surveillance and alarms, a record-keeping system, and inventory tracking. 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 FY2022.
- **Employee License:** The State estimates there would be an average of 20 employees per business, equaling 760 total new employee licenses. Employees must obtain an employee card at a cost of $100 annually. The employee registration fees would generate a projected $76,000 in revenues for FY2022.
- **Lab Testing:** Testing facilities are required to obtain a lab license with an associated application fee of $5,000 and a license fee of $20,000. The Budget anticipates they would receive five applications and approve three applications. The lab testing facility fees would generate $85,000 in revenue in FY2022.
- **Ancillary Licenses:** Ancillary licenses are required by any other company providing products or services to the industry. Ancillary license fees are anticipated to generate $90,000 at a fee of $9,000 per license.

Article 12: Relating to Medical Assistance

This article modifies the financing and delivery of the medical assistance (Medicaid) program. The article also includes a joint resolution authorizing the Executive Office of Health and Human Services (EOHHS) to undertake various reforms within the Medicaid program that require amendments to the State's 1115 waiver, Medicaid State Plan, rules and regulations, or managed care contracts. Specifically, the article:

- Modifies existing Long Term Services and Supports (LTSS) programs to shift the State's long-term care options away from institutional settings and towards home- and community-based services.
- Eliminates the supplemental outpatient upper payment limit (UPL) and Graduate Medical Education (GME) payments to hospitals.
- Reduces the risk margin built into the State's managed care rates from 1.5 percent to 1.25 percent.
- Adds Medicaid coverage for the Department of Health's First Connections and Parents as Teachers programs.
- Changes the deadline for the annual Medicaid expenditure report from March 15 to September 15 of each year.
- Adds Medicaid coverage and reimbursement for community health workers.
- Adds Medicaid coverage for perinatal doula services, which provide individual supports for expectant mothers before, during, and after birth.
- Includes provisions to support transitioning patients from Eleanor Slater Hospital into clinically appropriate settings in the community.
- Expands child dental benefits to include an additional type of cavity treatment.
- Makes a number of technical corrections to Medicaid enabling statutes to reflect current practice.
- Allows the Executive Office to pursue any changes in the Medicaid program which may offset State costs or improve access, quality, or effectiveness.

FISCAL IMPACT

The initiatives included in this article result in a net $8.4 million in general revenue expenditure savings ($17.7 million all funds) relative to the November 2020 Caseload Estimating Conference (CEC) adopted estimates for FY2022.

Initiative	General Revenue	All Funds
LTSS Resiliency and Rebalancing	($4,545,316)	($8,870,549)
Hospital Payments	(3,158,639)	(6,941,280)
Managed Care Risk Margin	(1,244,186)	(3,952,244)
RIDOH Programs	701,293	2,362,338
Medicaid Expenditure Report	(138,000)	(276,000)
Community Health Workers	(115,082)	(340,313)
Perinatal Doula Services	112,252	278,022
Total	**($8,387,678)**	**($17,740,026)**

Several initiatives also impact revenue collections from the 2.0 percent insurance premium tax on health insurers and 5.5 percent nursing home provider tax. The Governor's Budget accounts for a net $600,000 revenue loss, accordingly.

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ANALYSIS AND BACKGROUND

Article 12 includes two primary components. First, Article 12 amends current law to make the statutory changes necessary to implement Medicaid budget initiatives where required. However, many aspects of the Medicaid program are not codified in statute, as they are primarily governed by separate documents submitted to the federal government, such as the State Plan and Section 1115 waiver, as well as State rules and regulations and certain contractual agreements. State law requires that the Executive Office of Health and Human Services (EOHHS) seek authority from the General Assembly in order to pursue any significant, non-statutory changes to the Medicaid program by submitting a joint resolution. Article 12 also includes the joint resolution authorizing EOHHS to amend the Medicaid State Plan, submit formal amendments to the special terms and conditions of Rhode Island's Section 1115 waiver, update State rules and regulations, and/or modify the terms of managed care contracts. The combined authority from the statutory changes and joint resolution included in Article 12 enables EOHHS to undertake all actions required to realize the funding levels included in Article 1.

Analyst Note: There is a proposal included in Article 15 to amend the reporting requirements of Medicaid's RIte Share program. It appears that the proposal should also be included in the resolution because it requires amending Medicaid regulations as well as potential amendments to the State Plan or 1115 waiver, but it is not included in Article 12. The Governor submitted an identical proposal in FY2021 and included it in the resolution.

Long-Term Services and Supports (LTSS) Resiliency and Rebalancing

Article 12 contains a number of initiatives designed to work in tandem to rebalance the State's array of long-term care programs by shifting away from institutional settings and towards home- and community-based services (HCBS). This includes reforming program eligibility, modifying rates, and establishing a wage pass-through program for direct care workers, among other targeted investments. The Governor's Budget assumes that these investments will in turn reduce nursing home admissions, which are significantly more expensive than HCBS, thereby resulting in net savings to the State. According to the Executive Office, this initiative will result in an estimated reduction of 101,070 nursing home bed days in FY2022, resulting in $8.9 million in general revenue savings ($19.6 million all funds) in FY2022.

LTSS Resiliency and Rebalancing	General Revenue	Federal Funds	All Funds
Nursing Home Reductions	($8,894,050)	($10,730,950)	($19,625,000)
Maintenance of Need	2,433,630	2,936,251	5,369,881
Assisted Living Rates	1,121,262	2,108,461	3,229,722
Home Care Wages	662,244	799,018	1,461,263
Supplemental Security Income	(208,747)	-	(208,747)
Implemetation - Contract and Staff	180,633	326,883	507,516
Shared Living Rates	123,181	191,029	314,210
Nursing Home Rates	36,531	44,075	80,606
Total	**($4,545,316)**	**($4,325,232)**	**($8,870,549)**

The nursing home savings are offset by a number of investments, totaling $4.3 million from general revenues ($10.8 million all funds) as follows:

- **Maintenance of Need:** The article raises the HCBS Maintenance of Need allowance from 100.0 percent of the federal poverty level plus $20 per month ($1,093 per month) to 300.0 percent of the federal standard for supplemental security income ($2,382 per month) to enable additional individuals to receive services in their homes.

  Medicaid does not cover room and board expenses when individuals receive services in home- or community-based living arrangements. To ensure that beneficiaries opting for care in these settings have adequate resources to meet these and other personal needs, the State allows individuals in HCBS programs to retain part of their income. This is known as the Maintenance of Need. By increasing the allowance, individuals will be able to retain more of their income to cover more of their expenses at home. This will reduce the likelihood that individuals need move into institutional settings because staying home is cost prohibitive. The Budget adds $2.4 million from general revenues ($5.4 million all funds) to adjust for the anticipated increase in HCBS caseload.

Analyst Note: The additional funding is added entirely to the Medicaid program; however, approximately half is for the population of individuals with intellectual or developmental disabilities whose services are funded through the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH). An amendment is expected to shift half of the additional costs from EOHHS to BHDDH, which will impact each respective agency but will be budget neutral to the State.

- **Assisted Living Rates:** The article increases assisted living rates in both fee-for-service and managed care. Currently, assisted living facilities are reimbursed at $69.00 per day for all beneficiaries. The rate does not compensate facilities for the difference in costs to provide care for higher-need patients; this creates a disincentive for assisted living providers to care for patients with higher acuity. The Governor’s Budget establishes a tiered rate structure to reimburse assisted living based on residents’ acuity as follows:

Assisted Living Tiered Reimbursement

Tier	Description	Population	Rate	*Increase*
A	Basic	57.1%	$78.00	*13.0%*
B	Enhanced care and transition services	40.5%	$98.00	*42.0%*
C	Serious cognitive decline and co-morbidities that may require skilled care or stablization services	2.4%	$121.00	*75.4%*

The Budget adds $1.1 million from general revenues ($3.2 million all funds) to fund the rate increases, representing a composite rate increase of 23.0 percent based on the share of assisted living residents expected to be assigned to each tier. The tiered structure is effective October 1, 2021.

- **Home Care Wages:** The article establishes a targeted wage pass-through program for home care workers to bolster the State’s ability to provide services to individuals in their homes.
  - **Shift Differential:** Article 12 increases the shift differential rate modifier for Personal Care and Combined Personal Care/Homemaker services delivered by Certified Nursing Assistants (CNAs). The modifier grants extra pay to CNAs that deliver direct care services during non-standard hours (evenings, nights, weekends, and holidays).The Budget increases the existing modifier from $0.38 per 15 minutes ($1.50 per hour) to $0.56 per 15 minutes ($2.25 per hour) effective July 1, 2021. The intent is to increase the number of staff that can care for individuals in their homes during off-hours, thereby reducing the need for 24-hour residential care. The rate modifier is paid to HCBS providers (employers) through the Medicaid reimbursement rate, but the article requires that 100.0 percent of the modifier be passed directly to CNAs and imposes reporting requirements on employers to establish that the wage is passed through. The Budget includes $274,684 from general revenues to fund the shift modifier.
  - **Behavioral Health Enhancement:** Article 12 also adds a new behavioral healthcare rate enhancement of $0.39 per 15 minutes ($1.55 per hour) for Personal Care, Combined Personal Care/Homemaker, and Homemaker Only services for providers with at least 30.0 percent of staff with behavioral healthcare training. The enhancement applies to CNAs who have completed a required behavioral health certificate training program, effective January 1, 2022. Similar to the shift differential noted above, the rate enhancement provides extra pay for CNAs that specialize in behavioral healthcare. The article requires that 100.0 percent of the enhancement be passed directly to CNAs and imposes reporting requirements on employers to establish that the wage is passed through. The Budget includes $469,127 from general revenues to fund the behavioral health enhancement.

Analyst Note: A portion of home care expenses are incurred by the Department of Human Services' Office of Healthy Aging for the Home and Community Care Co-Pay program. All costs for the direct care wage enhancements are accounted for in EOHHS in the Governor's Budget. An amendment is expected to correct this error, which will shift costs between the respective agencies but will be cost neutral to the State.

- **Supplemental Security Income:** The article eliminates the Supplemental Security Income (SSI) Category F payment and part of the Category D payment.
  - **Category F:** Category F is an enhanced SSI payment for certain individuals in assisted living facilities. The payment assists with room and board expenses, but is State-only because the federal government does not provide matching funds for room and board outside of institutional settings. The Governor's Budget eliminates the Category F payment in Article 12. Individuals are not allowed to retain the payment for personal use and therefore will not be impacted by its elimination. Assisted living facilities, which benefit from the payment, will also receive a rate increase, noted above, effectively building the Category F payment into the federally-matched rates. The Budget includes $208,747 in general revenue savings within the Department of Human Services by eliminating the State-only Category F payment.
  - **Category D:** Category D is a subset of assisted living residents who receive SSI but reside in an assisted living facility that is not eligible to receive Medicaid. The State makes supplemental $206 payments per month to assisted living facilities for these beneficiaries. Current law includes a provision for the $206 payment for Category D individuals living in assisted living facilities financed by the Rhode Island Housing and Mortgage Financing Corporation (RI Housing). Article 12 strikes the language as it relates to $206 payments to RI Housing facilities. The Budget does not appear to remove the funding associated with this population.

Analyst Note: The Governor's Budget does not properly track the funds associated with eliminating supplemental payments and incorporating them into assisted living rate increases. It appears that Category F savings are understated in DHS and allocated to EOHHS. It does not appear that the Governor's Budget accounts for savings by eliminating the Category D payment for individuals in RI Housing facilities. There should be additional savings in DHS and additional funds for assisted living rates in EOHHS. An amendment is expected to correct these errors.

- **Implementation:** The Governor's Budget adds 2.0 Implementation Director of Policy and Program FTE positions within the Executive Office of Health and Human Services to administer and oversee the various programmatic changes associated with the LTSS Resiliency and Rebalancing initiative. These positions are funded 50/50 between general revenues and federal funds. The Budget includes $107,508 from general revenues and $107,508 from federal funds, assuming an October 1, 2021, start date. The Budget also includes $73,125 from general revenues and $219,375 from federal funds for contracted IT support to provide the necessary system upgrades to implement the home care rate modifiers and tiered reimbursement rates for assisted living facilities.
- **Shared Living:** The article authorizes a 10.0 percent rate increase for shared living caregiver stipends beginning July 1, 2021. Currently, shared living providers are paid rates ranging from $24.23 per day to $48.11 per day. Approximately 200 individuals utilize shared living arrangements. EOHHS anticipates that increasing shared living rates will provide an incentive for willing caregivers to utilize shared living as an alternative to more intensive options. The Budget includes $123,181 from general revenues ($314,210 all funds) to fund the rate increase.
- **Nursing Home Rates:** The article allows the Executive Office of Health and Human Services to revise the methodology used to determine nursing home rates by re-weighting rates towards behavioral healthcare effective October 1, 2021. The resolution increases the acuity-based rates for beneficiaries with behavioral health symptoms and cognitive performance diagnoses by 10.0 percent to recognize the additional staff time needed for behavioral health patients and adds $516,871 from general revenues ($1.1 million all funds) to fund the increase. The Budget simultaneously reduces rates for all other

diagnoses categories by approximately 1.0 percent, reducing general revenues by $480,340 ($1.0 million all funds).

Analyst Note: This part of the LTSS Resiliency and Rebalancing initiative is supposed to be budget neutral per the Executive Office's request. The Budget updated the cost associated with the behavioral health increase, but did not update the savings associated with the rate reduction for other diagnoses, leaving residual funding. An amendment is expected to correct this error.

Hospital Payments

Article 12 reduces general revenue payments to hospitals by $3.2 million ($6.9 million all funds) relative to the November 2020 caseload estimate by eliminating two supplemental payments.

- **Outpatient Upper Payment Limit:** Upper Payment Limit (UPL) payments compensate hospitals for the difference between what hospitals receive for Medicaid services and what they are paid under Medicare reimbursement principles. These payments are authorized, but not required, by federal law. A portion of the payments are eligible for the favorable Expansion federal match rate; the State pays approximately one-third of the total cost. Currently, the State only makes UPL payments for outpatient services; the inpatient portion was eliminated in the FY2020 Enacted Budget. Article 12 eliminates the outpatient portion.

  The November 2020 CEC estimate includes a total of $4.9 million for outpatient UPL payments in FY2022, of which $1.7 million is from general revenues. The Governor's Budget removes funding for the UPL payment in FY2022; however, the Budget applies an incorrect federal match and takes more general revenues than were included in the estimate. The Budget includes $2.2 million in general revenue savings, which is overstated by $418,808.

Outpatient UPL

Hospital	FY2022 Adopted
Butler	-
Kent	488,429
Women and Infants	526,493
Care New England	**$1,014,923**
Bradley	-
Miriam	550,548
Newport	160,290
Rhode Island Hospital	2,247,859
Lifespan	**$2,958,696**
Roger Williams	346,164
St. Joseph's	220,956
Prospect - CharterCARE	**$567,120**
Landmark	149,008
South County	119,590
Westerly	36,232
Rehabilitation	6,670
Other	**$311,500**
Total	**$4,852,239**
General Revenue	*$1,739,831*

- **Graduate Medical Education:** Article 12 eliminates the Graduate Medical Education (GME) payment to Rhode Island Hospital in FY2022. The GME program, created in 2014, 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. Rhode Island Hospital is the only hospital that qualifies for this funding. The payment is made in June of each year.

  In prior years, Rhode Island Hospital received a State-only payment because the federal government did not allow a match for GME. However, the State applied for and received approval for federal Medicaid matching funds for the program in October 2019. The approval document authorizes $548,800 in federal matching funds in FY2022 to supplement the State's $1.0 million general revenue payment. The November 2020 CEC included $1.5 million from all funds based on this approval document. The Executive Office anticipates a full federal match of $1.2 million for the FY2021 and FY2022 payments, although this has not yet been approved. Because caseload estimates are based on current law, the FY2022 estimate only includes the $548,800 federal match. The Governor's Budget removes $1.0 million from general revenues and $1.2 million from federal funds for the GME payment in FY2022 based on the Executive Office's expectations; however, this exceeds the caseload estimate and overstates the federal funds savings by $629,375.

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Analyst Note: The following table summarizes the amounts included in the November 2020 CEC estimate for supplemental hospital payments in FY2022. The Governor's Budget should include a total of $2.7 million in general revenue savings and $3.7 million in federal funds savings to eliminate these payments.

Supplemental Payments	General Revenue	Federal Funds	All Funds
Outpatient UPL	$1,739,831	$3,112,408	$4,852,239
Graduate Medical Education	1,000,000	548,800	1,548,800
Total	**$2,739,831**	**$3,661,208**	**$6,401,039**

Both payments, along with the savings associated with their elimination, will be readjusted at the May 2021 CEC, though these errors could also be corrected via a budget amendment.

Managed Care Risk Margin

Most Medicaid beneficiaries are enrolled in managed care programs, whereby the State pays a health plan a per member per month capitation rate to provide comprehensive coverage. Managed care is the alternative to fee-for-service, where the State pays providers directly based on the services each member actually uses. The managed care structure is similar to a private insurance arrangement, where beneficiaries pay a premium regardless of whether or not services are actually used. Rhode Island operates its managed care programs using risk-based managed care organizations (MCOs).

Federal actuarial soundness requirements mandate that states account for risk in managed care arrangements. Rhode Island does so by including a risk adjustment within the monthly capitation rates, which allows the State and Medicaid managed care organizations to share in aggregate gains or losses associated with insuring Medicaid beneficiaries. The arrangement provides financial protection by addressing potential claims volatility that MCOs may face by covering an array of different Medicaid coverage groups, particularly high-need populations. The margin recognizes that rates are developed prospectively and that the actual expense of providing care may vary. Federal requirements do not set the margin; according to EOHHS, most states' use margins ranging from 0.5 percent to 2.5 percent of monthly capitation rates. Rhode Island Medicaid currently uses a 1.5 percent margin.

The resolution allows EOHHS to execute contract amendments with the MCOs in order to reduce the margin from 1.5 percent to 1.25 percent in FY2022. The Governor includes $1.2 million in general revenue savings ($4.0 million all funds) to reflect a reduction in the rates paid by the State to the MCOs. The Medicaid savings are offset by a $79,045 revenue loss from the 2.0 percent insurance premium tax.

RIDOH Programs

The resolution authorizes the State to modify two programs at the Department of Health (RIDOH).

- **Family Home Visiting:** The Family Home Visiting program provides pregnant women and families with services to improve maternal and child health, prevent child abuse and neglect, encourage positive parenting, promote child development, and improve school readiness. The program is funded by the Department of Health; coordinated along with the Departments of Children, Youth, and Families (DCYF) and Human Services (DHS); and administered by local, community-based agencies.

  Family Home Visiting encompasses three sub-programs: Healthy Families America, Nurse-Family Partnership, and Parents as Teachers. These programs are currently supported by a federal Maternal, Infant, and Early Childhood Home Visiting (MIECHV) formula grant. Federal grant funding will be reduced in FY2022 and RIDOH will need to reduce capacity from 1,400 to 1,150 families. The Governor proposes establishing a costs not otherwise matchable (CNOM) program in order to maintain Family Home Visiting services at the current capacity. CNOMs are programs that cover populations that are not mandatory under federal Medicaid rules, but for which the federal government authorizes Medicaid reimbursement. Rhode Island establishes its CNOM programs in the Section 1115 waiver. Two of the home visiting sub-programs—Healthy Families America and Nurse-Family Partnership—are already included in the waiver as a CNOM program but are not funded as such. The Medicaid resolution in Article 12 authorizes the State to amend the 1115 waiver to add Parents as Teachers to the CNOM in the 1115 waiver so that the full array of home visiting services are reflected. The Budget adds $605,538 from general revenues ($1.4 million all funds) to fund the CNOM.

Analyst Note: The additional funding is not limited to Parents as Teachers and encompasses all three programs, as they are not funded as discrete items in the Budget. Note that the Budget could fund the CNOM for the other two programs without the authority in Article 12 since they are already in the waiver.

- **First Connections:** The First Connections program is a referral-based home visiting program that works to connect families with services such as food assistance, behavioral healthcare services, child care, long-term family home visiting, Early Intervention (EI), and other community-based services and supports. Services are delivered through a multidisciplinary team that includes a maternal child health nurse, a social worker, and a community health worker. The goal of the program is to ensure that at-risk families are engaged and connected to appropriate services in order to reduce poor outcomes for children. Currently, families are referred to the First Connections program after a screening at birth. Children up to age three may also be referred by a primary care provider, DCYF, or another source. Article 12 authorizes an expansion of the program to pregnant women who meet the income requirements for Medicaid eligibility in order to identify and address risk factors earlier on. The resolution authorizes this new coverage as a CNOM program. The Budget includes a general revenue increase of $95,755 ($226,800 all funds) to fund the expansion for an estimated 60 women in FY2022. The funding would provide for 30 visits per person per year at a cost of $126 per visit.

Medicaid Expenditure Report

RIGL 42-7.2-5 requires that the Executive Office of Health and Human Services submit an annual, comprehensive overview of all Medicaid expenditures, outcomes, administrative costs, and utilization rates for each fiscal year. The Medicaid report includes spending and trends by population and major service area, including populations served by other Departments within the Secretariat.

Under current law, the report is due by March 15 of each year. According to EOHHS, because of the timing and requirements of the report as is, State staff do not compile the report in-house. It is completed by a contractor, Milliman, which already provides other claims data analysis and rate setting support for the Medicaid program. The report is generated at an annual expense of $138,000 from general revenues and $138,000 from federal funds.

Article 12 shifts the deadline for the annual Medicaid report from March 15 to September 15 of each year. This would shift the next deadline from March 15 to September 15, 2022. As a result, a report would not be completed during FY2022 and the next report would be submitted during FY2023. The Governor’s Budget removes funding for the report in FY2022, accordingly.

Analyst Note: This report has not been completed since September 2019, when it was submitted six months late. It is unclear why EOHHS has continued funding this portion of the Milliman contract since then.

Community Health Workers

The resolution authorizes EOHHS to provide medical assistance coverage and reimbursement to community health workers (CHWs) to provide care management services. Care management refers to a comprehensive set of services and activities that support patients in managing their health conditions or risks by coordinating healthcare and connecting patients with other resources outside of the healthcare system. There is a growing evidence base which shows that addressing patients’ holistic needs has significant potential to yield cost savings in Medicaid and the healthcare system generally. A study published in Health Affairs in February 2020 showed a return on investment of $2.47 for every dollar invested in community health workers. By covering community health worker services under Medicaid, EOHHS anticipates a $2.25 annual return on investment (ROI).

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Community Health Workers	FY2022	Out-Years
Total CHWs Needed	36	36
Medicaid Rate - Hourly per CHW	$48.50	$48.50
Months Paid	9	12
Annual Cost	**$2,722,500**	**$3,630,000**
General Revenue	*920,653*	*1,227,537*
ROI Assumption	$1.125	$2.25
Annual ROI	**($3,062,813)**	**($8,167,500)**
General Revenue	*(1,035,735)*	*(2,761,959)*
Net Impact	**($340,313)**	**($4,537,500)**
General Revenue	*(115,082)*	*(1,534,422)*

Based on prior year care management data, an estimated 2,000 high-risk Medicaid members will utilize community health workers each year under the new coverage group. Assuming that each community health worker can provide care management services for 55 members, this initiative requires 36 full-time community health workers per year. At an hourly rate of $48.50, this requires annual funding of $3.6 million, including $1.2 million from general revenues.

The Budget assumes a three-quarter impact from this initiative in FY2022, with the coverage and reimbursement effective October 1, 2021. The Budget also assumes a $1.125 return on investment in the first year of implementation to reflect that it may take some time to see the full return on investment. The Budget adds $920,653 from general revenues ($2.7 million all funds) to fund the 36 community health workers in FY2022. The investment is offset by an anticipated $1.0 million in general revenue savings ($3.1 million all funds) via the return on investment. The net impact to the state is a $115,082 general revenue savings ($340,313 all funds). In future years, the net general revenue savings is expected to grow to $1.5 million ($4.5 million all funds).

Perinatal Doula Services

The resolution allows EOHHS to submit a State Plan Amendment in order to add Medicaid coverage for perinatal doula services. The Governor includes $112,252 from general revenues ($278,022 all funds) to cover $850 per birth for these services. This investment would generate an additional $5,560 from the 2.0 percent insurance premium tax.

Doulas are non-medical professionals trained in childbirth who provide women with continuous physical, emotional, and informational support before, during, and after birth. During childbirth, doulas provide breathing techniques, massages, advice, and advocacy. Studies show that one-on-one support during labor and delivery is associated with improved outcomes, particularly in communities of color, including shorter labor periods, reduced risk for costly C-section procedures and premature births, and a reduction in the use of pain medication. EOHHS anticipates that doula coverage will reduce the likelihood of higher-cost interventions in labor and delivery within Medicaid populations.

The Governor's Budget assumes that 10.0 percent of Medicaid births, or 456 births, will be assisted by a doula. Studies show that doulas reduce the incidence of C-section births by 40.4 percent. The Governor's Budget assumes that providing doula services would result in 52 fewer C-section births for savings of $109,578, offset by an increase of $387,600 to cover the additional cost of providing doula services for 456 women. This would result in a net expenditure increase of $278,022 in FY2022, including $112,252 from general revenues.

Eleanor Slater Hospital Transitions

The resolution includes two provisions related to the effort to transition patients from the State-run Eleanor Slater Hospital (ESH) into clinically appropriate settings.

- **Mental Health Psychiatric Rehabilitative Residential (MHPRR) Program:** A Mental Health Psychiatric Rehabilitative Residence (MHPRR) is a congregate licensed residential program with 24-hour staffing. MHPRRs serve individuals with developmental disabilities, addiction, and mental health issues and other individuals who cannot be treated in the community through outpatient supports. MHPRRs provide discharge planning, medical and/or psychiatric treatment, and reduce barriers that prevent transitions to less restrictive settings. MHPRR services are currently reimbursed by Medicaid at a $125 per diem rate. Article 12 authorizes a $175 rate increase. MHPRRs are less costly than ESH, and it appears that the savings attributable to these transitions may be included in BHDDH's budget. However, once patients leave ESH, the cost of their care is transferred to EOHHS and the Budget does not include any associated funding for the rate change in EOHHS.

Analyst Note: The intention of the article language is to provide enhanced rates for a small population currently at Eleanor Slater Hospital in order to transition them to an MHPRR and to promote successful discharges for providers taking complex patients. However, there is no limiting language in the resolution and it appears that the enhanced rate would have to apply to the entire MHPRR population, which on average is approximately 415 individuals.

- **Nursing Home Rates:** The resolution authorizes EOHHS to modify nursing home rates to assist in Eleanor Slater Hospital transitions. Specifically, it increases rates for patients on ventilators and establishes a behavioral health add-on to per diem nursing home rates. It appears that these rate modifications are targeted at existing Eleanor Slater Hospital patients; however, the language applies to all nursing home rates and will impact other individuals. The scope of the impact to other Medicaid beneficiaries is unclear. Supporting documentation indicates that the behavioral health add-on refers to the $175 per day noted above, but the increase is not limited to MHPRR patients. The Budget does not add funding to EOHHS to increase the rates.

Analyst Note: An amendment is expected to include the associated funding with the nursing home ventilator rates. The Senate Fiscal Office has not received a response regarding an amendment for the $175 rate increase for behavioral health in MHPRRs and nursing homes.

Dental Benefits for Children

The resolution authorizes Medicaid coverage for dental caries (cavity) arresting treatments using Silver Diamine Fluoride (SDF) within the RIte Smiles program, which provides dental benefits for children up to age 21. The Budget does not include funding associated with this proposal. EOHHS' budget request noted that the gross cost of the benefit for the population is approximately $30,000 from all funds, but that a variety of research indicates that the addition of the benefit results in a net reduction to costs. The Executive Office only requested the authority to provide the benefit, without associated funding.

Cavities are typically treated by drilling into tooth surfaces and filling the defects with restorative materials (amalgam, ceramic, etc.) and usually involves the use of local anesthesia. Unlike traditional restorative treatment, SDF application takes about one minute and does not require the removal of carious tissue. SDF is applied topically by brushing, which eliminates the need for needles and anesthesia. Additionally, unlike traditional fillings, SDF application remineralizes the tooth and kills bacteria, helping to prevent future cavities. The treatment costs about $1 per patient, compared to several hundred for a filling. This cost differential is the basis for the assumption that this new benefit will be at least cost neutral, but it is likely that providing SDF coverage will produce savings.

Technical Corrections

Section 2 amends current law to make two technical corrections that do not have a budget impact.

- **Medicaid Co-Pays:** RIGL 40-8-4 currently authorizes the State to charge nominal co-pays for certain hospital services and prescription drugs by promulgating regulations to impose cost sharing. However, Rhode Island does not actually require cost sharing from Medicaid beneficiaries. Article 12 strikes the current language to clarify that the Medicaid program does not charge co-pays and to remove the potential that the existing language could be used to impose co-pays in the future.

- **Federally Qualified Health Centers (FQHCs):** The federal government imposes special payment rules for FQHCs, which are safety net organizations that provide comprehensive and affordable care to vulnerable populations in underserved areas. State Medicaid programs must reimburse FQHCs at a minimum rate per encounter, known as a prospective payment system (PPS). States also have the option to establish higher rates under an alternative payment methodology (APM). Rhode Island opted to establish APM rates through a document known as the FQHC Principles of Reimbursement. FQHCs may opt into the APM if they agree to certain additional obligations; if they opt out, they are reimbursed under the PPS. Current law only recognizes PPS reimbursement. Article 12 amends RIGL 40-8-26 to recognize the APM and clarify that it is established by the Principles of Reimbursement.

Federal Financing Opportunities

The resolution allows EOHHS to pursue any changes to the 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 FY2022.

Article 13: Relating to Human Services

This article makes a number of changes to the Department of Human Services and the Department of Corrections. Specifically the article:

- Changes the RI Works program to include children who are over 18 and still in high school, and amends the Income section of the RI Works program, such that the first six months of earned income received by a RI Works member shall be excluded from the family's income as it pertains to receiving cash assistance.
- Expands child care supports to include families at or below 180.0 percent of the Federal Poverty Level, with parents enrolled at a Rhode Island institution of higher education or in a qualified training program.
- Amends RI Works to include a clothing allowance payment of no less than $100 made once a year to any child living with a family that receives cash assistance.
- Amends the child care reimbursement rates for licensed child care centers providing care for infants/toddlers and preschool-aged children.
- Amends RIGL to limit probation revocation as a response to probation technical violations when the violation does not constitute a new alleged crime.
- Amends the Department of Corrections Parole Board's guidelines to include special considerations for incarcerated inmates who committed crimes as juveniles younger than 18 years old.
- Updates the thresholds for which inmates will be eligible for home confinement after having served specific portions of their term of incarceration.
- Changes the work release program at the Department of Corrections such that 30.0 percent of an inmate's **net** salary shall be withheld from their income earned through work release. Under current law, 30.0 percent of an inmate's gross salary is withheld.
- Expands medical parole within the Department of Corrections to include geriatric parole. Geriatric parole would be available to inmates whose advanced age reduces the risk they pose to the public's safety.
- Makes amendments to parole modifications including:
  - Allows eligible people to earn five days of compliance credits towards the completion of their sentences for each month served without a violation.
  - Expands the Parole Board's discretion for responding to technical violations of parole without requiring the re-arrest of the parolee.
  - Allows those who are serving a probation sentence of one year or longer to be eligible to receive a compliance credit of 10 days for each month that the person remains in compliance with the terms and conditions of their probation.

FISCAL IMPACT

Article 13:		Expenditures:	Fund:
Sentencing Reforms	Work Release Withholding	$18,880	General Revenue
Sentencing Reforms	Juvenile Parole	(17,268)	General Revenue
Sentencing Reforms	Probation Reforms	(46,046)	General Revenue
Sentencing Reforms	Compliance Credits	(49,886)	General Revenue
Sentencing Reforms	Medical & Geriatric Parole	(149,997)	General Revenue
RI Works	Child Care Rates- Infants/Toddler, Preschool	6,000,000	Federal Funds
RI Works	Postsecondary Child Care Assistance	200,000	Federal Funds
RI Works	Earned Income Disregard	175,461	Federal Funds
RI Works	Clothing Increase	116,300	Federal Funds
RI Works	Age Expansion	40,000	Federal Funds
		$6,287,444	

Article 13 includes an additional $6.3 million in expenditures. Of this total, $6.5 million is an increase in federal funds related to changes in the Department of Human Services including modifications to the RI Works program such as expanding the earned income disregard, a child clothing increase, expanding the age at which children are no longer eligible for RI works, and expanding child care assistance to include parents participating in secondary education. The Budget also includes additional federal funds for child care reimbursement rates. These increases are partially offset by $244,317 in general revenue savings related to changes in the Department of Corrections including probation and parole reforms, changes to work release withholding, and changes to medical parole.

ANALYSIS AND BACKGROUND

RI Works

Rhode Island Works provides cash assistance and employment support services, including child care assistance, to enable working parents with children to support their families. Applicants may have up to $1,000 in resources (excluding a home) and one vehicle per adult. Each month a typical family of three would receive about $554 in assistance. Rhode Island Works (RIGL 40-5.2-5) replaced the Family Independence Program in 2008. This program is funded through the federal Temporary Assistance to Needy Families (TANF) program.

RI Works Dependent Children Age Increase: Section 5 of this article amends the definition of a “dependent child” within the RI Works program to allow children who turn 18 while in high school to continue receiving cash assistance regardless of their graduation date. Under current law, children may receive cash assistance if they are under 18, but when they turn 18 they are only be eligible for cash assistance if they are anticipated to graduate high school before turning 19. The Office of Management and Budget anticipates an additional 10 students will remain on RI Works in FY2022, costing an additional $40,000 in federal Temporary and Needy Family (TANF) funds.

RI Works Earned Income Disregard: Section 5 amends RIGL 40-5.2-10, the income section of the RI Works program, such that the first six months of earned income received by a RI Works member be excluded from the family’s income as it pertains to receiving cash assistance. This income may be excluded for six months, until the family’s total gross income exceeds 185.0 percent of the Federal Poverty Level, or the family reaches the 48-month time limit, whichever is first. The Budget includes $175,461 in TANF funds to support this initiative for the second half of FY2022, a full year of this initiative would cost $347,225. The Office of Management and Budget anticipates anywhere from 26 to 59 additional beneficiaries receiving RI Works benefits.

RI Works Clothing Allowance: This article amends the clothing allowance for children living with a family receiving cash assistance to include a child of any age. Current law provides the clothing allowance to school-aged children only. The article also increases the amount of the clothing allowance to $100 per child per year, up from $30. Current law states the clothing allowance is subject to General Assembly appropriation. In past years, the Caseload Estimating Conference has included a clothing allowance of $30 per child. The Budget includes an additional $116,300 in federal TANF funds to support this expansion.

Analyst Note: The increase in clothing allowance has already been implemented through a regulatory change by the Department of Human Services as of the first quarter of FY2021. The increase was also included in the November 2020 Caseload Estimating Conference estimates.

Postsecondary 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 Budget includes a $200,000 federal TANF funds cap for 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, so 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 a Rhode Island based accredited post-secondary educational institute on a full-time basis, or on a part-time basis in conjunction with employment as approved by DHS. This expansion is effective from January 1, 2021 through June 30, 2022.

Child Care Rates

The article amends child care reimbursement rates for licensed, child care centers to include a base rate. The base rate will be set at the 25th percentile of the 2018 weekly market rate for both infant/toddler care and preschool aged children. The maximum reimbursement rates for infant/toddler and preschool care that will be paid to licensed child care centers will be implemented in a tiered rate based on the quality rating the provider has achieved within the State's Quality Rating system. The article also includes a weekly reimbursement rate of $148.50 for licensed, child care centers providing care to school-aged children.

The article also states that the base reimbursement rates for licensed family child care providers caring for infants/toddlers and preschool aged children will be determined through a collective bargaining agreement. Like licensed child care centers, the maximum reimbursement rates for infant/toddler and preschool care that will be paid to licensed family child care providers will be implemented in a tiered rate based on the quality rating the provider has achieved within the State's Quality Rating system.

Laws impacting child care reimbursement rates for licensed child care centers were last altered in Article 15 of the FY2019 Budget as Enacted. On May 27, 2020, Governor Raimondo issued Executive Order 20-39 which allowed child care centers that reopened during the pandemic to be reimbursed at a higher rate. Child care providers that were below the 5th tier, as determined by the State's Quality Rating system, are now reimbursed at the 5th tier level. Providers who were at the 5th tier are now reimbursed at the 90th percentile. This executive order has been extended ten times and is currently set to expire June 6, 2021.

The following tables illustrate the changes in reimbursement rates for infants/toddlers and preschool-aged children.

Licensed Child Care Centers Infant/Toddler Rates	FY2019 Infant/Toddler Rates	Art. 13 Infant/Toddler Rates	*Change from FY2019*	
Tier 1	$198.48	$222.38	*$23.90*	*12.0%*
Tier 2	$203.32	$227.65	*$24.33*	*12.0%*
Tier 3	$218.81	$239.96	*$21.15*	*9.7%*
Tier 4	$232.37	$248.75	*$16.38*	*7.0%*
Tier 5	$257.54	$257.54	-	*0.0%*

* Based on FY2018 weekly rate of $193.64

Licensed Child Care Centers Preschool Rates	FY2019 Preschool Rates	Art. 13 Preschool Rates	*Change from FY2019*	
Tier 1	$165.75	$187.50	*$21.75*	*13.1%*
Tier 2	$169.80	$193.88	*$24.08*	*14.2%*
Tier 3	$177.88	$208.76	*$30.88*	*17.4%*
Tier 4	$182.73	$219.38	*$36.65*	*20.1%*
Tier 5	$195.67	$230.00	*$34.33*	*17.5%*

* Based on FY2018 weekly rate of $193.64

Parole

The Budget makes a number of changes to parole and parole guidelines within the Department of Corrections. Changes include:

- **Probation Violation:** The article amends RIGL 12-19, Sentence and Execution, to limit probation revocation as a response to technical violations when the violation does not constitute a new alleged crime. The Department of Corrections' Division of Rehabilitative Services will be able to use their discretion when deciding to revoke parole and requiring a defendant to appear in court. This will not apply in cases where a defendant poses a public safety risk. If the Division of Rehabilitative Services does revoke probation for a technical violation, a finding must be made on the record to describe the public safety risk posed by the defendant.
- **Technical Violation:** The article expands the Parole Board's discretion to respond to technical violations of parole without requiring the re-arrest of the parolee when there is no new criminal charge. The Parole Board may, at their discretion, issue an arrest warrant for the parolee in response to a technical violation. The amendment will help prevent parole revocation and re-incarceration for low-risk parolees. The article also allows the alleged violator to waive their right to a final parole revocation hearing, if there is no dispute as to the alleged violation and the parolee admits to the violation and accepts the sanction imposed by the Parole Board.

  This expansion of the Parole Board's discretion, as well as changes to probation violations detailed above, are anticipated to save $46,046 in general revenue per-diem savings.
- **Juvenile Parole:** Section 2 of this article amends RIGL 13-8-14.2 to match the Department of Corrections Parole Board's existing guidelines which include special considerations for incarcerated inmates who committed crimes as juveniles younger than 18 years old. The Parole Board adopted the special consideration guidelines in 2018. The guidelines require the consideration of circumstances such as diminished culpability of juveniles, growth and maturation during incarceration, participation in rehabilitation and educational programs while incarcerated, age and immaturity at the time of offence, and evidence of remorse.

  The article also amends RIGL 13-8-13 to allow inmates who are given longer sentences for crimes committed before the age of 22 to be considered for earlier parole after ten years of incarceration. This will be retroactive for offenses occurring on or after January 1, 1991. This will not apply to inmates serving a sentence of life without parole.

The Department estimates that 22 juveniles are potentially eligible for parole due to these changes and anticipates $17,268 in general revenue per diem savings in FY2022.

- **Compliance Credits:** Section 3 of this article amends RIGL 13-8-11 such that, beginning July 1, 2021, eligible people on parole would be allowed to earn five days of compliance credits toward the completion of their sentence for each month served without a violation. Eligible paroles include any offender who is serving post-incarceration parole expect those who are serving a sentence for a violation of felony sexual assault or murder, first degree sexual assault, kidnapping of a minor, child molestation sexual assault, or second degree child molestation assault.

  The article also amends RIGL 42-56-24 to allow those serving a probation sentence of one year or longer, including those who are serving a probation sentence after serving an incarceration sentence, to be eligible to receive a compliance credit of 10 days for each month that the person remains in compliance with the terms and conditions of their probation. This will only apply to those who have served at least three years of their probation sentence.

  Changes to compliance credit eligibility is anticipated to save the Department $46,866 in general revenue per-diem costs in FY2022.

- **Medical and Geriatric Parole:** Section 4 of this article amends RIGL 13-8.1 to retitle it the "Medical and Geriatric Parole Act" and allows the Department to expand parole to include geriatric parole. Geriatric parole would be available to inmates whose advanced age reduces the risk they pose to the public's safety. All inmates above age 65, except those serving life without parole, would be eligible for geriatric parole. The article amends the definition of permanently physically incapacitated to include inmates suffering from an incurable progressive condition that diminishes the inmate's ability to function in a corrections setting. The article also includes a new category for "cognitively incapacitated", allowing inmates who are suffering from dementia to be eligible for parole. The Department's Medical Director has identified 28 inmates that could be eligible for medical parole in FY2022, with 13 of the inmates considered highly eligible. This change is anticipated to save $149,997 in FY2022.

  17 states currently have geriatric parole. Massachusetts and Connecticut are not among these states; however, inmates in Connecticut, who are eligible for medical parole, may be paroled to a private nursing home that receives federal funds to help support their care.

Home Confinement Expansion

This article amends RIGL 42-56-20.2 to update the thresholds for which inmates will be eligible for home confinement after having served specific portions of their term of incarceration. Under current law, people sentenced to six months or less of incarceration are eligible for home confinement upon completion of 3/4ths of their sentence. People with longer sentences are eligible once they are six months from their projected release date, as long as they have served at least one-half (1/2) of their term of incarceration. The amendment would update these thresholds such that people sentenced to six months or less must serve one-half (1/2) of their term of incarceration, people with more than six months must be within one year of their anticipated release date. These changes would allow low-risk inmates to move to home confinement sooner, decreasing costs associated with housing an inmate.

Work Release Inmate Earnings

The article amends RIGL 42-56-38 such that 30.0 percent of an inmate's **net** salary will be withheld from their income earned through work release. Under current law, 30.0 percent of an inmate's **gross** salary is withheld. The Department withholds a portion of the inmates' work release earnings for room and board.

The inmate may use the remaining earnings to support their family, pay court fees and fines, make restitution, and fulfill other responsibilities.

The Budget includes an additional $18,880 in general revenue from this change. This increase is the net result of the revenue loss when the 30.0 percent of an inmate's net salary is withheld, rather than gross salary, combined with the earnings that will be withheld from an additional 9 inmates participating in the program. The Department anticipates that allowing inmates to retain more income will incentivize an additional 9 inmates to begin participating in work release. The funds that are withheld from inmates salaries are used for costs associated with the work release room and board.

Analyst Note: The work release program has been suspended since March 12, 2020, due to the COVID-19 pandemic. The Department of Corrections newly upgraded work release module has the ability to support 24 inmates.

Article 14: Relating to Hospital Uncompensated Care

This article authorizes the disbursement of Medicaid Disproportionate Share Hospital (DSH) payments to qualifying community hospitals in federal fiscal years (FFY) 2021 and 2022. These payments will be made in State FY2022 and FY2023, respectively. Article 14 limits the aggregate amount of the payments to $142.3 million all funds in FY2022 and $142.5 million all funds in FY2023.

FISCAL IMPACT

Article 14 increases general revenue expenditures in FY2022 by $32.6 million ($70.9 million all funds) compared to the November 2020 adopted caseload estimate. Relative to the FY2021 Enacted Budget, Article 14 reduces general revenue expenditures by $871,207 to reflect a slight increase in the aggregate payment and a favorable change in the federal match rate which reduces the general revenue share.

Disproportionate Share Hospital Payment	FY2021 Enacted	FY2022 Nov CEC	FY2022 Governor	*Change to Enacted*	*Change to Nov CEC*
General Revenue	$66,290,193	$32,855,159	$65,418,986	*($871,207)*	*$32,563,827*
Federal Funds	76,010,842	38,709,117	77,074,994	*1,064,152*	*38,365,877*
Total	**$142,301,035**	**$71,564,276**	**$142,493,980**	***$192,945***	***$70,929,704***

Analyst Note: The $142.5 million all funds payment included in the Governor's Budget exceeds the ceiling included in the language of Article 14, which limits the payment to $142.3 million in FY2022. It appears that the language should authorize a $142.5 million all funds payment in both FY2022 and FY2023.

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 that are not covered by Medicaid or other sources. DSH payments are lump-sum disbursements issued each July and are subject to the applicable Federal Medical Assistance Percentage (FMAP) at the time of issuance. Funds are distributed in proportion to each hospital's share of statewide uncompensated care. The State share is funded through revenues generated by the hospital licensing fee authorized in Article 6.

The federal Patient Protection and Affordable Care Act (ACA) included a phase-out of federal DSH payments, set to begin initially in 2014, which has been postponed by Congress several times. At the time of the November 2020 Caseload Estimating Conference (CEC), the impending cut to the July 2021 (FY2022) payment had not been delayed. Because caseload estimates are based on current law, the Conference lowered the aggregate payment to $71.6 million in the FY2022 estimate. The DSH cuts were then postponed by the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA) in December 2020. The CRRSAA extended the timing of the cuts from FFY2021 to FFY2024. Article 14 authorizes the full payment in both FY2022 and FY2023, accordingly. The Governor's Budget includes $142.5 million all funds in FY2022, including $65.4 million from general revenues.

DSH Payments

State	Federal	Limit	State Share
FY2017	FY2016	$138.2	49.58%
FY2018	FY2017	139.7	48.98%
FY2019	FY2018	138.6	45.85%
FY2020	FY2019	142.4	47.43%
FY2021	FY2020	142.3	47.05%
FY2022	FY2021	142.3	45.91%
FY2023	FY2022	142.5	45.12%

$ in millions

Analyst Note: The American Rescue Plan (ARP) passed on March 11, 2021, included a provision which allows states to claim an enhanced FMAP for the DSH payment. The Families First Coronavirus Response Act authorized a 6.2 percentage point increase in the FMAP for the duration of the COVID-19 public health emergency. Previous guidance exempted DSH payments from the enhanced rate. The ARP provision is not accounted for in the Governor's Budget. This change will not amend the cap, but will reduce the general revenue share of the FY2022 DSH payment by $8.8 million and increase federal funds by an equivalent amount.

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Article 15: Relating to Healthcare Reform

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

- Establishes and amends state statute to allow Rhode Island to enter into five medical profession interstate compacts.
- Establishes the Health Spending Transparency and Containment Act with an imposed fee of $1 per enrolled individual in the State.
- Promotes enrollment in RIte Share, Rhode Island's premium assistance program for Medicaid-eligible individuals, by ensuring that the Medicaid program has the requisite information from employers to be able to enroll their employees in a RIte Share plan. The article also establishes new penalties for employers with 50 or more employees that do not comply with the State's reporting requirements.

FISCAL IMPACT

The impact of Article 15 on revenues is summarized in the following tables:

FY2022 Article 15 Revenue Impact

Initiative	General Revenue
RIte Share	($111,675)
Medical Profession Interstate Compacts	(58,919)
Total	**($170,594)**

Initiative	Restricted Receipts
Health Spending Transparency and Containment Program	$502,752

FY2022 Article 15 Expenditure Impact

Initiative	General Revenue
RIte Share	($467,723)
Health Spending Transparency and Containment Program	150,000
Medical Profession Interstate Compacts	12,000
Total Expenditures	**($305,723)**
Net General Revenue Impact	**$135,129**

ANALYSIS AND BACKGROUND

Medical Profession Interstate Compacts

This article establishes and modifies language to allow the State to enter into several medical profession interstate compacts. Interstate licensure compacts allow special licensure or exceptions to state licensing requirements for specific health care providers to practice across state lines in other states that have adopted the same compact as long as certain requirements are met. The compacts would decrease license fee revenues by $58,919 and increase expenditures by $12,000. The State would enter into the following interstate compacts:

- **Interstate Medical Licensure Compact (IMLC):** The article would allow the State to enter into the Interstate Medical License Compact. The IMLC is an agreement between 29 states, the District of Columbia and the Territory of Guam, where physicians are licensed by 43 different Medical and Osteopathic Boards. The state legislature and Governor must sign off on the new rule and the Compact language must be the same in every state. Under this agreement, licensed physicians can qualify to practice medicine in other compact states if they meet the agreed-upon eligibility requirements.

Approximately 80.0 percent of physicians meet the criteria for licensure through the IMLC. The Compact began approving physician applications in 2017 and has approved over 500 physicians.

The Compact provides an optional, expedited, pathway to licensure for physicians with an exemplary record. Physicians from a compact state who meet qualifications of the Compact would be eligible for licensure in any other compact state. Physicians are responsible for following all statutory laws and administrative rules of the state. Approved physicians can provide services in compact states, increasing access to primary care and specialist physicians.

Physicians must already be licensed in a compact state, have an impeccable record, and the physician must choose a primary state of principal license. The Compact is governed by a Board of Directors made up of two representatives from each Compact state. The physician's credentials and legal history are reviewed by the Board, who decides if licensure is granted. All compact states are required to share complaint/investigative information so that if the physician comes under review in one state, all states will take similar action.

- **Nurse Licensure Compact:** The Enhanced Nurse Licensure Compact (eNLC) promotes access to care while maintaining public health at the state level. Under the eNLC, nurses may practice in other eNLC states, without having to obtain additional licenses. Rhode Island was a member of the former version of the compact, the Nurse Licensure Compact (NLC), from 2008 until 2017. When the State did not update the necessary statutes to join the new Compact, the State lost its status as a compact state. The Budget updates the necessary statutes to comply with eNLC standards and allows Rhode Island to regain its status as a compact state.

  The eNLC allows for registered nurses (RNs) and licensed practical/vocational nurses (LPN/VNs) to have one multistate license, with the ability to practice in person or via telehealth in both their home state and other eNLC states. Licensing standards are aligned in eNLC states so all nurses applying for a multistate license are required to meet the same standards, which include a federal and state criminal background check that will be conducted for all applicants for multistate licensure.

  The eNLC is governed by a commission established on July 20, 2017. The purpose of the commission is to facilitate the States' responsibility to protect the public as well as the exchange of information between party states.

- **Psychology Interjurisdictional Compact (PSYPACT):** The Psychology Interjurisdictional Compact (PSYPACT) is an interstate compact designed to facilitate the practice of telepsychology and temporary in-person, face-to-face psychology practice across state boundaries. Currently, PSYPACT has twelve member states. Currently, New Hampshire is the only compact state in New England. PSYPACT is governed by a commission comprised of one representative from each member state.

- **Physical Therapist Licensure Compact:** The Physical Therapy Licensure Compact (PTLC) would allow Physical Therapists (PTs) and Physical Therapy Assistants (PTAs) to practice or work in multiple states. In order to participate in the PTLC, states must adopt the PTLC through legislation. PTs and PTAs in participating states will have the option of obtaining a "compact privilege" to practice or work in another participating state if they meet certain criteria.

- **Interstate Commission for EMS Personnel Practice:** The Emergency Medical Services (EMS) Compact, enacted by legislation in 16 states, would allow for EMS personnel to perform duties across state lines. Currently, New Hampshire is the only compact state in New England. The multi-state compact allows EMS personnel in member states to respond to calls and transport patients across state lines and provide emergency services before returning to their home state without having to apply for a separate license in another member state. It is not considered a separate license but is considered an extension of privileges for EMS personnel to practice on a short-term, intermittent basis under certain circumstances. The Compact provides a mechanism for states to access and rapidly share EMS personnel licensure information. EMS personnel are prohibited from practicing if their home state license is suspended or restricted.

Health Spending Transparency and Containment Act

In August 2018, the Governor convened the Rhode Island Cost Trend Steering Committee to advise the Rhode Island Health Care Cost Trend Project. The project's goal is to provide all Rhode Islander's with access to high-quality, affordable healthcare with spending that does not increase at a rate higher than the consumer price index (CPI). Key stakeholders including hospital systems, health insurers, physicians' groups, advocates, and researchers agreed to a voluntary target of 3.2 percent total healthcare cost growth.

The Executive Office of Health and Human Services (EOHHS) and the Office of the Health Insurance Commissioner (OHIC) partnered on the Cost Trends Project to work with community stakeholders. The project has historically been funded by the Peterson Center, however, funding for the project ends in August of 2021. The article establishes the Health Spending Transparency and Containment Act with an imposed fee of up to $1 per commercially covered individual in the State to establish a funding stream for the project. The funds raised from the fee, paid by insurers, will help sustain the Cost Trends effort moving forward. OHIC will be working with EOHHS, but the primary focus is the data analytics, which will be done by EOHHS staff.

The fee will raise $502,752 in restricted receipts in FY2022 to fund the program and the data analysis required to track and steer healthcare spending. The Budget also includes $150,000 in general revenue within EOHHS reflecting the cost to include the assessment for Rhode Island's Medicaid managed care rates.

RIte Share

Article 15 amends RIGL 40-8.4-12 to promote enrollment in the RIte Share program, Rhode Island's premium assistance program for working Medicaid beneficiaries, by ensuring that the State has the requisite eligibility information from employers. The article requires for-profit, non-government employers with 50 or more employees to submit employee eligibility information to the State and establishes penalties for non-compliance, modeled after a penalty in Massachusetts. The article also amends the duties of the Tax Administrator to collect the penalties established by the article. The Budget assumes $317,022 in general revenue savings and $111,275 in new revenue collections in FY2022 related to these changes.

The Rhode Island Health Reform Act of 2000 established the RIte Share premium assistance program to subsidize the costs of enrolling working Medicaid beneficiaries in employer-sponsored health insurance (ESI) plans. The program is an alternative to RIte Care or Medicaid Expansion, Rhode Island's primary managed care plans that provide health insurance coverage to low-income children, pregnant women, families, and non-disabled adults. Instead of enrolling individuals in either RIte Care or Expansion, the RIte Share program pays all or a portion of an individual or family's premium on an approved ESI plan, which is significantly more cost-effective. RIte Share participants are also eligible to receive any services and benefits that would be available through RIte Care or Expansion that are not available through the employer's plan, known as wraparound services. On average, the all funds cost avoided by enrolling one individual in RIte Share instead of RIte Care or Expansion is approximately $1,600 per year.

In order to enroll in the program, the Executive Office of Health and Human Services (EOHHS) must first approve the ESI plan to ensure that it meets specific criteria. EOHHS must determine that the benefits offered by the ESI plan are substantially similar to the benefits offered by the Medicaid program. EOHHS must also determine that an ESI plan is cost-effective, meaning that the portion of the ESI subsidized by the State (including premiums, wraparound services, and cost sharing), on average, costs less to the State than enrolling the same individual or family in a managed care delivery system. Once EOHHS determines that an ESI plan conforms to RIte Share requirements, any Medicaid-eligible employee working for the same employer is required to participate.

Average RIte Share enrollment has steadily declined over the last decade, although overall participation in Medicaid has increased. This is partly attributable to the current RIte Share enrollment process, which Article 15 seeks to amend. Currently, the State requires employees to furnish information about available ESI plans and EOHHS must confirm with their employers. This puts the burden of enrollment on employees and is inefficient for employers, who often respond to EOHHS on a per-employee basis.

Article 15 shifts the burden of ESI data collection from the employee to the employer to efficiently enroll all eligible employees from a single employer at the same time. In order to accomplish this, the article requires for-profit employers with 50 or more employees to provide EOHHS and the Division of Taxation with sufficient and necessary information for EOHHS to determine employee eligibility for RIte Share. Submissions would be required from employers who had an average of 50 or more employees at any time during the preceding calendar year (CY), with the first submission applying to CY2020. The forms must be filed with the Division of Taxation between November 15 and December 15 during the year in which they are due, with the first reports due at the end of CY2021. Employers that do not file on time would be assessed a $2,500 penalty, and employers that falsify or omit information would be assessed a $5,000 penalty. Assuming that 1.0 percent of employers will file late and 0.5 percent will not comply, the Budget includes $165,675 in new penalty revenue in FY2022.

By streamlining the RIte Share eligibility determination process, the Budget assumes that approximately 3,500 members will be enrolled in RIte Share instead of either RIte Care or Expansion starting in January 2022, resulting in $729,128 in general revenue savings ($2.7 million all funds) to the Medicaid program in FY2022 relative to the November 2020 caseload estimate. This would result in a $54,000 loss in insurance premium tax revenues, as the $2.7 million in savings would otherwise be subject to a 2.0 percent tax. The savings in FY2022 are offset by $261,855 in implementation costs within EOHHS, including $175,605 for contracted staff and $86,250 for system enhancements. The Budget also assumes that EOHHS will maintain the existing contracted support for the RIte Share program at an annual general revenue cost of approximately $100,000. The net favorable general revenue impact, due to new revenues and reduced expenses, is $578,948 in FY2022.

General Revenue Impact

RIte Share	Expenditures	Collections
Medicaid Savings	($729,128)	-
Premium Tax Impact	-	(54,000)
Contracted Staff	175,605	-
System Upgrades	86,250	-
Noncompliance Penalty	-	165,675
Total	**($467,273)**	**$111,675**

Analyst Note: Supporting documentation provided by the Office of Management and Budget (OMB) indicates that the majority of the revenue generated by the noncompliance penalty is intended to fund the additional personnel and operating costs required to implement the penalty within the Division of Taxation. The Budget does not include the required $100,251 for personnel and $50,000 for IT upgrades. An amendment is expected to correct this exclusion, which will reduce the net favorable impact to the State to $428,697. It also appears that this funding should be added to the Department of Labor and Training (DLT), as the Governor's Budget simultaneously shifts Taxation's Employer Tax Unit to DLT in Article 3.

Article 16: Relating to Housing

Article 16 establishes a comprehensive new framework for the development of housing in Rhode Island. The article modifies the governance, policy-making, and funding mechanisms available to the State to ensure sufficient housing for Rhode Islanders. Changes are effective July 1, 2021, except for the real estate conveyance tax amendments in Section 6, which are effective on January 1, 2022. Specifically, the article:

- **Reorganization of Housing Governance:** Modifies the membership of both the Housing Resources Coordinating Committee (HRCC) and Housing Resources Commission (HRC) and elevates the Office of Housing and Community Development (OHCD).
- **Dedicated Funding for Housing Development:** Modifies how the revenue generated from the real estate conveyance tax is allocated among statutorily-prescribed recipients and increases the real estate conveyance tax on the portion of real estate value over $700,000. The additional revenue from these changes is to be used to support increased housing opportunities in the State, including affordable and workforce housing initiatives.
- **Housing Incentives for Municipalities (HIM):** Creates a new incentive for municipalities to support and develop housing by making school impact offset payments through RIHousing.

FISCAL IMPACT

Section 6 of the article reallocates real estate conveyance tax revenue by shifting $0.16 of the State's $0.90 allocation from the General Fund to a new, restricted Housing Production Fund. The Office of Revenue Analysis (ORA) estimates this change will yield $1.3 million in the second half of FY2022 for the Housing Production Fund, accompanied by a corresponding decrease in general revenue. Section 6 also increases the real estate conveyance tax on the portion of real estate value greater than $700,000. ORA estimates that this will generate an additional $1.7 million in Housing Production Funds in FY2022 based on a January 1, 2022, effective date.

The Budget includes $2.6 million in new expenses from the Housing Production Fund in FY2022, out of which the HIM program incentive may be paid. The Budget also includes $262,051 from general revenues for the personnel costs of a new Deputy Secretary for Housing and Community Development within the Executive Office of Commerce and $125,288 in federal Community Development Block Grant program funds to a new 1.0 Assistance Administrator – Financial Management within the new Division of Housing and Community Development.

	FY2022					
	General Revenue		Federal Funds		Housing Production Fund	
Initiative	**Revenue**	**Expenditure**	**Revenue**	**Expenditure**	**Revenue**	**Expenditure**
Real Estate Conveyance Tax Increase	-	-	-	-	$1,719,412	-
Real Estate Conveyance Tax Reallocation	(1,293,796)	-	-	-	1,293,796	-
Housing Production Support*	-	-	-	-	-	2,598,731
New Housing Related Staff	-	262,051	-	125,228	-	-
Total	**($1,293,796)**	**$262,051**	**-**	**$125,228**	**$3,013,208**	**$2,598,731**

** Support includes funds for the HIM program.*

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ANALYSIS AND BACKGROUND

Article 16 establishes a comprehensive new framework for the development of housing in Rhode Island. The elements of this new framework are outlined below.

Reorganization of Housing Governance

Rhode Island currently has a network of public and quasi-public entities responsible for housing policy development, planning, program administration, and financing. There are several aspects of this network that facilitate its coordination.

- **RIHousing:** The Rhode Island Housing and Mortgage Financing Corporation, RIHousing, is Rhode Island's official State-chartered housing finance agency. Housing finance agencies vary from state-to-state, but typically are independent entities that operate under the direction of a board of directors appointed by the state's governor. They administer a wide range of affordable housing and community development programs, including providing mortgage loans. RIHousing is also charged with administering affordable housing bonds.
- **Housing Resources Commission:** Under the Housing Resources Act of 1998, the Housing Resources Commission (HRC) was established as the State's principal organization for housing policy, strategy, and coordination. It is comprised of 28 members, including six State agency directors, eight community groups, several municipal planning officials, banking and professional associations, and the chair of RIHousing. The HRC is charged with developing the State's housing strategic plan, setting housing standards, developing programs, and providing technical assistance to organizations and municipalities related to housing and homelessness. The HRC receives funding for these activities from a dedicated 13.0 percent of the State's real estate conveyance tax revenue. This revenue is deposited into a Housing Resources Commission restricted receipt account called the Housing Resources Commission Fund.
- **Housing Resources Agency Coordinating Committee:** The Housing Resources Act of 1998 also created an entity within the executive department called the Housing Resources Agency Coordinating Committee (HRACC) for the purpose of providing "coherence to the housing programs of the State and its departments, agencies, commissions, corporations, and subdivisions" and provide guidance on what federal housing assistance the State should apply for. It consists of the chairs of RIHousing and the HRC as well as the Director of the Department of Administration (DOA).
- **Office of Housing and Community Development:** The Office of Housing and Community Development (OHCD) provides financial and operational support as well as staffing for all housing programs administered by the HRC, including the State's rental assistance and homelessness programs. OHCD is also responsible for administering the federal Community Development Block Grant (CDBG) and other related programs. When the General Assembly established the Executive Office of Commerce (EOC) in 2013, it transferred the OHCD from DOA to the EOC. The OHCD is comprised of two sections and is led by a 1.0 Chief of Housing and Community Development FTE position.

Article 16 modifies how the State is organized around housing and homelessness issues by aligning, streamlining, and updating the entities described above by amending board memberships, clarifying responsibilities, and other changes.

RI Housing and Mortgage Finance Corporation (RIHousing)

Current	Article 16 Proposed
DOA	Ex . Dir. - HRC#
Treasurer	Chair - HRC#
DBR	DOA
Representing Appointee†	Treasurer
Representing Appointee†	DBR
Representing Appointee†	Representing Appointee†
Representing Appointee†	Representing Appointee†
	Representing Appointee†
	Representing Appointee†

Serves ex-officio

Gubernatorial appointment with advice and consent of Senate

 # Serves ex-offcio, non-voting

† The representing appointees are to be drawn from the following: housing design, development, finance, management, state finance, municipal finance.

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- **RIHousing:** Article 16 increases the number of RIHousing board members from 7 to 9, adding the Executive Director and Chair of the HRC (or designee) as ex-officio, non-voting members. According the Executive Office of Commerce, these additions strengthen the integration across the official organizations charged with developing and implementing housing policies and programs in the State.

- **Housing Resources Commission:** Article 16 also modifies the structure and responsibilities of the Housing Resources Commission.

  - **Membership:** The article streamlines and updates the HRC's board composition, reducing the total number of members from 28 to 20 (see table), while retaining significant stakeholder input opportunities.

  - **Strategic Housing Plan:** Under current law, the HRC, in conjunction with the State Planning Council, is required to develop a five-year strategic plan for housing. The plan includes quantified goals, measurable intermediate steps towards accomplishing those goals, implementation activities, and standards for the production and/or rehabilitation of year-round housing to meet the housing needs of the State. The plan addresses the need for workforce housing as well as housing for seniors, students, low-income individuals, individuals with disabilities, and other vulnerable populations. Article 16 changes the planning period from five years to four. The plan currently on file with the State Planning Council is outdated, having expired in 2010.

  - **Executive Director and Staff:** The Housing Resources Commission is currently staffed by the OHCD and is headed by a Chief of Housing and Community Development. Currently, the chief is the ranking staff person within the EOC on housing issues and is appointed by the HRC to be its Executive Director. Article 16 transfers the appointing authority for the Executive Director to the Governor, with the advice of the HRC. The article also provides that the Executive Director "may also serve in the Executive Office of Commerce as the Deputy Secretary for Housing and Homelessness." The Budget authorizes a new 1.0 Deputy Chief of Staff/Policy FTE position within the Executive Office Commerce and $262,051 in general revenue in FY2022, ostensibly to accommodate the Executive Director/Deputy Secretary post. According to EOC, the chief will remain as part of the staff at the OHCD, which is elevated to the Division of Housing and Community Development pursuant to the article. The Budget also includes a new 1.0 Assistance Administrator – Financial Management within the new division along with $125,228 in federal Community Development Block Grant program funds to support the personnel expenses.

Housing Resources Commission (HRC)

Current	Article 16 Proposed
DOA	RIHousing
DBR	Chair HRC
Elderly Affairs	Secretary of Commerce
DOH	Secretary of EOHHS
DHS	RI Continuum of Care/Agency
BHDDH	Agency or Political Subdivision Rep.
RIHousing	
Attorney General	Agency or Political Subdivision Rep.
RI Bankers Assoc.	
RI Mortg. Bankers Assoc.	Representing Appointee†
RI Realtors	Representing Appointee†
RI Homeless Coalition	Representing Appointee†
Assoc. of Housing Ex. Dir.	Representing Appointee†
RI Housing Network	Representing Appointee†
Operation Stand Down	Representing Appointee†
Community Develop Rep.	Representing Appointee†
Lead Abatement Rep.	Representing Appointee†
Local Planner	Representing Appointee†
Local Building Official	Representing Appointee†
Fair Housing Advocate	Representing Appointee†
Advocate for Minority Housing	Representing Appointee†
RI Builders Assoc.	Representing Appointee†
Insurer Rep.	
Community Develop Intermediary	
Non-profit Developer	
Senior Housing Rep.	
Citizen Rep.	
Citizen Rep.	

Serves ex-officio

Gubernatorial appointment with advice and consent of Senate

Gubernatorial appointment only

† The representing appointees are to be drawn from the following: disabillity advocacy, homelessness, veterans, banking/lending, fair housing, education, healthy housing, health equity, business, public housing, for-profit/non-profit development, community development corporations, local governrment, senior housing, colleges/universities, realty, and homeownership advocates.

TOC

Analyst Note: Article 16 that states the Chair of the HRC is to be one of five members to serve ex-officio on the HRC. RIGL 42-128-6(b), however, states that the Governor shall appoint the HRC chair, with the advice and consent of the Senate, and shall not be an ex-officio member.

- **Housing Resources Agency Coordinating Committee:** Article 16 modifies the structure and responsibilities of the current HRACC.
  - **Membership:** The article amends the membership of the existing HRACC by replacing the Director of Administration with the Secretary of Commerce, replacing the Executive Director of RIHousing with the Secretary of the Executive Office of Health and Human Services, and adding two gubernatorial-appointed members that represent an agency or political subdivision of the State.

Housing Resources Agency Coordinating Committee (HRACC)

Current	Article 16 Proposed*
Chair of RIHousing	Chair of RIHousing
Chair HRC	Chair HRC
Director - DOA	Secretary of Commerce
Ex. Dir - RIHousing	Secretary of EOHHS
	Agency or Political Subdivision Rep.
	Agency or Political Subdivision Rep.

Serves ex-officio
Gubernatorial appointment only
** Governor designates the HRACC Chair from among the entire membership*

  - **Powers and Duties:** Under current law, the scope of the HRACC is very limited. The HRACC is primarily responsible for articulating the fiscal and operational relationship between the HRC and RIHousing. Article 16 expands the scope by providing the HRACC with the authority to negotiate and enter into contracts and agreements with State agencies, political subdivisions, and non-profit and for profit corporations and other partnerships for the purposes of addressing housing and homelessness issues covered under the Rhode Island Housing Resources Act (RIGL 42-128).

- **Division of Housing and Community Development (DHCD):** Article 16 elevates the Office of Housing and Community (OHCD) to a formal division within the Executive Office of Commerce. The new division retains the same responsibilities as the OHCD, administering programs pertaining to housing, housing services, and community development including services for the homeless; rental assistance; community development; disaster assistance; outreach, education, and technical assistance; and financial support to non-profits and community development organizations. DHCD is required to provide the Governor and General Assembly with annual reports on its activities and recommendations by March 1 of each year, beginning March 1, 2022. The Budget transfers the existing 11.0 FTE positions and personnel and operating costs in the OHCD to the DHCD in FY2022.

	FY2022		
DHCD	**General Revenue**	**Federal Funds**	**HRCF**
Personnel	$705,281	$706,355	$34,734
Operating	228,838	47,769	4,408
Total	**$934,119**	**$754,124**	**$39,142**
Authorized FTE Level		12.0	

Dedicated Funding for Housing Development

Article 16 modifies the how revenue generated by the real estate conveyance tax is allocated among its statutorily-proscribed recipients and increases the portion of real estate value over $700,000. Revenue from these changes would be deposited into a new restricted receipt account used to increase housing opportunities for Rhode Islanders.

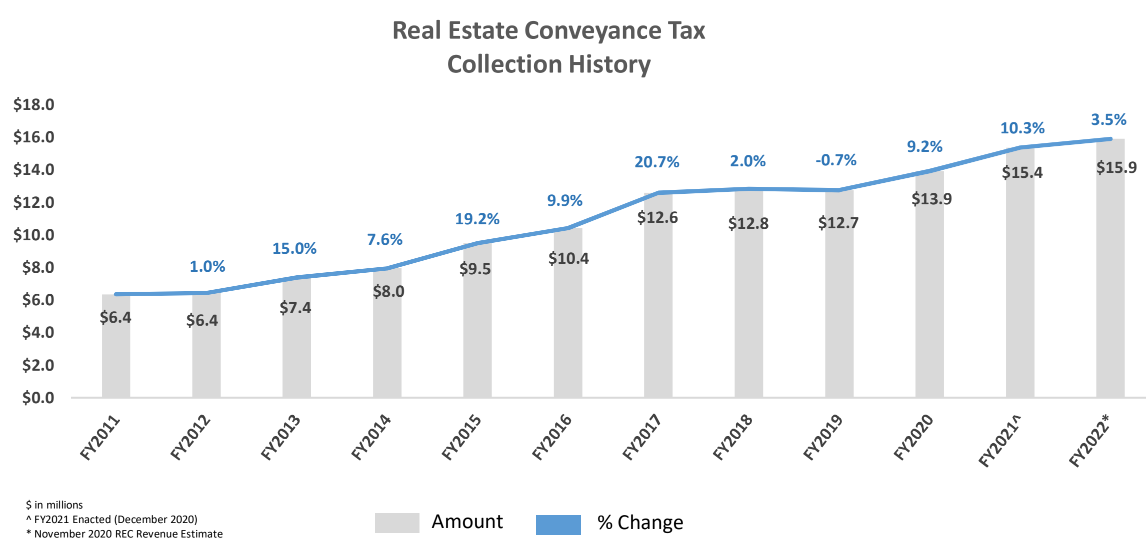
Housing Production Fund/Housing Resources Commission Fund: Article 16 establishes a new fund related to finance housing programs in the State. The Housing Production Fund (HPF) is a new restricted receipt fund for the purposes of providing “financial assistance, loans, grants, or otherwise for the planning, production, or preservation of housing opportunities in Rhode Island, including housing affordable to workers and located near workforce centers”. The fund may also be used to support technical and financial assistance for municipalities to support increased local housing production, including the Housing Incentives for Municipalities program, described below. Revenue from the proposed changes to the real estate conveyance tax authorized by Article 16, described below, will be deposited into the HPF. The fund is to be administered by RIHousing, subject to program and reporting guidelines adopted by the HRACC and HRC.

Analyst Note: Although Article 16 does not specifically define workforce housing, it is generally understood to be housing that is affordable to workers and close to their jobs. It may include both home ownership and rental housing opportunities. Workforce housing is typically defined as housing that is affordable to households earning 60.0 to 120.0 percent of the area median income, ranging between $42,701 and $85,403. It may also be defined as housing costs that are no more than 30.0 to 40.0 percent of income.

Article 16 also modifies the existing Housing Resources Commission Fund (HRCF). Under current law, the HRCF is administered by the HRC, in conjunction with RIHousing and OHCD, and is used to support lead abatement programs, housing rental subsidy programs, and housing retention and homelessness programs. Article 16 adds housing production to the authorized uses of the funds. The funds will be used to by the HRCC for initiatives including housing production, lead hazard abatement, housing rental subsidies, housing retention assistance, homelessness services, and veteran services.

Real Estate Conveyance Tax: The State imposes a tax on each deed, instrument, or writing by which interests in real estate are conveyed to a purchaser when the value of the transfer is greater than $100. The tax rate is $2.30 for each additional $500 in value.

Real estate conveyance tax collections grew by 33.5 percent during the five-year period from FY2016 to FY2020. Based on the November 2020 Revenue Estimating Conference adopted estimate, the general revenue portion of the tax is estimated to be $15.9 million in FY2022.



Tax payments are due upon the making, execution, delivery, acceptance, or recording of the instrument of conveyance. The municipality where the real estate is located collects the fee at the time the deed is recorded and then remits the State share on a monthly basis. The State collects the fee directly when the transaction involves the sale or transfer of ownership interest in a real estate company. Collections are shared between the State and the municipality in which the property is situated.

Article 16 Changes: Article 16 makes several changes to the real estate conveyance tax.

- **Real Estate Conveyance Tax Distribution:** Section 6 of the article modifies the distribution of the real estate conveyance tax by shifting a portion the State's share from the general fund to the new HPF restricted receipt fund. Under current law, the real estate conveyance tax is applied at a rate of $2.30 per $500 of value and $0.60 is deposited into the general fund. Article 16 shifts $0.16 per $500 from the general fund to the HPF. Based on a January 1, 2022, effective date, ORA estimates this change will yield $1.3 million in FY2022 (half a year) and $2.9 million in FY2023 (first full year of the shift) in additional Housing Production Funds, with a corresponding decrease in general revenue.

Real Estate Conveyance Tax Distribution

Fund	Current	Article 16 Portion < $700K Per $500	Article 16 Portion > $700K Per $500
State	$1.20	$1.20	$1.20
General Revenue	0.60	0.44	0.44
Distressed Communities	0.30	0.30	0.30
Housing Resources Commission Fund	0.30	0.30	0.30
Housing Production Fund	-	0.16	2.46
Local Government	1.10	1.10	1.10
Total	**$2.30**	**$2.30**	**$4.60**

- **Real Estate Conveyance Tax Increase:** Section 6 also increases the real estate conveyance tax on the portion of real estate value over $700,000. The rate applied to this portion doubles from $2.30 to $4.60 per each $500 in value above $700,000. Revenue from this increase would be deposited into the HPF, to be administered by RIHousing and used to increase housing opportunities across the State. The Office of Revenue Analysis (ORA) estimates that this will generate $1.7 million in new Housing Production Funds in FY2022 based on a January 1, 2022, effective date. The estimate for a full year of the increase is $3.8 million in FY2023.

Tax Liabilities of Various Real Estate Values

Real Estate Value	Tax Liability (Current)	Tax Liability (Article 16)	*Change*
$350,000	$1,610	$1,610	*0.0%*
700,000	3,220	3,220	*0.0%*
900,000	4,140	5,060	*22.2%*
1,750,000	8,050	12,880	*60.0%*

Source: Office of Management and Budget

Housing Incentives for Municipalities

Article 16 authorizes a new program designed to encourage municipalities to establish new overlay zoning districts to promote affordable housing production. Article 16 provides a financial incentive for municipalities to participate by providing payments to offset the additional costs of educating students living in new affordable housing districts. The Budget does not include a specific appropriation for these new housing incentives in FY2022, however the new Housing Production Fund, out of which the incentives may be paid, includes $2.9 million in expenditures in FY2022. Because the school impact offset payments are reimbursements made after housing is built and occupied, it is unlikely that there would be any FY2022 fiscal impact relative to this incentive.

Administration: The new program will be administered by the HRACC in consultation with State's Division of Statewide Planning and RIHousing. The HRACC is charged with developing rules and regulations, including application criteria, eligible locations for housing incentive districts, minimum requirements for districts, eligible students for the calculation of school impact offset payments, and the amount and method of payment to municipalities for school impact offset payments. The HRACC is also authorized to provide municipalities with technical assistance and other support related to developing affordable housing. The HRACC is required to provide annual reports to the Governor and General

Assembly that include information on the commitment and disbursement of funds allocated under the program.

Housing Incentive Districts: Municipalities are encouraged to establish special overlay zones in locations that—by virtue of their infrastructure, existing underutilized facilities, proximity to public transit centers, and concentrated development—are determined by the HRACC to be suitable as housing incentive districts. A housing incentive district under Article 16 is intended to encourage residential development and must permit minimum residential uses. The district may accommodate uses complimentary to residential use; however, the majority of lots must be dedicated to housing. Although the districts may adopt zoning that encourages residential development, Article 16 does not infringe upon a municipality's zoning and permitting authority.

School Impact Offset Payments: Article 16 establishes a school impact offset payment program based on a Massachusetts program known as 40S. In Massachusetts, eligible communities are reimbursed for any net cost of educating students living in new housing in a designated smart growth district. The reimbursement is equal to the cost of educating students living in new housing in a smart growth district, less the percentage of new revenues from the district that would otherwise be devoted to educational costs and any increase in state educational aid resulting from students living in new housing in the district.

Article 16 defines school impact offset payments as payments to a city or town to help offset increased municipal costs of educating a student attending a school in the town that lives in newly constructed housing that would not otherwise have been built absent the housing incentive district zoning. The article charges the HRCC with developing a framework for the school impact offset payment component of the new incentive program, including the amount and method of payment. Article 16 does not address the duration of payments and whether they are transitional or permanent for a particular project. The offset payments are to be made out of the new Housing Production Fund. Article 16 also authorizes RIHousing to make the payments.

Article 17 Relating to Effective Date

This article provides that the Act will take effect on July 1, 2021, except as otherwise provided herein.

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I-195 Redevelopment Commission
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