

Governor's FY 2022 Budget: Articles

Staff Presentation to the House Finance
Committee
April 29, 2021

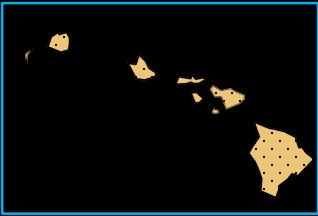
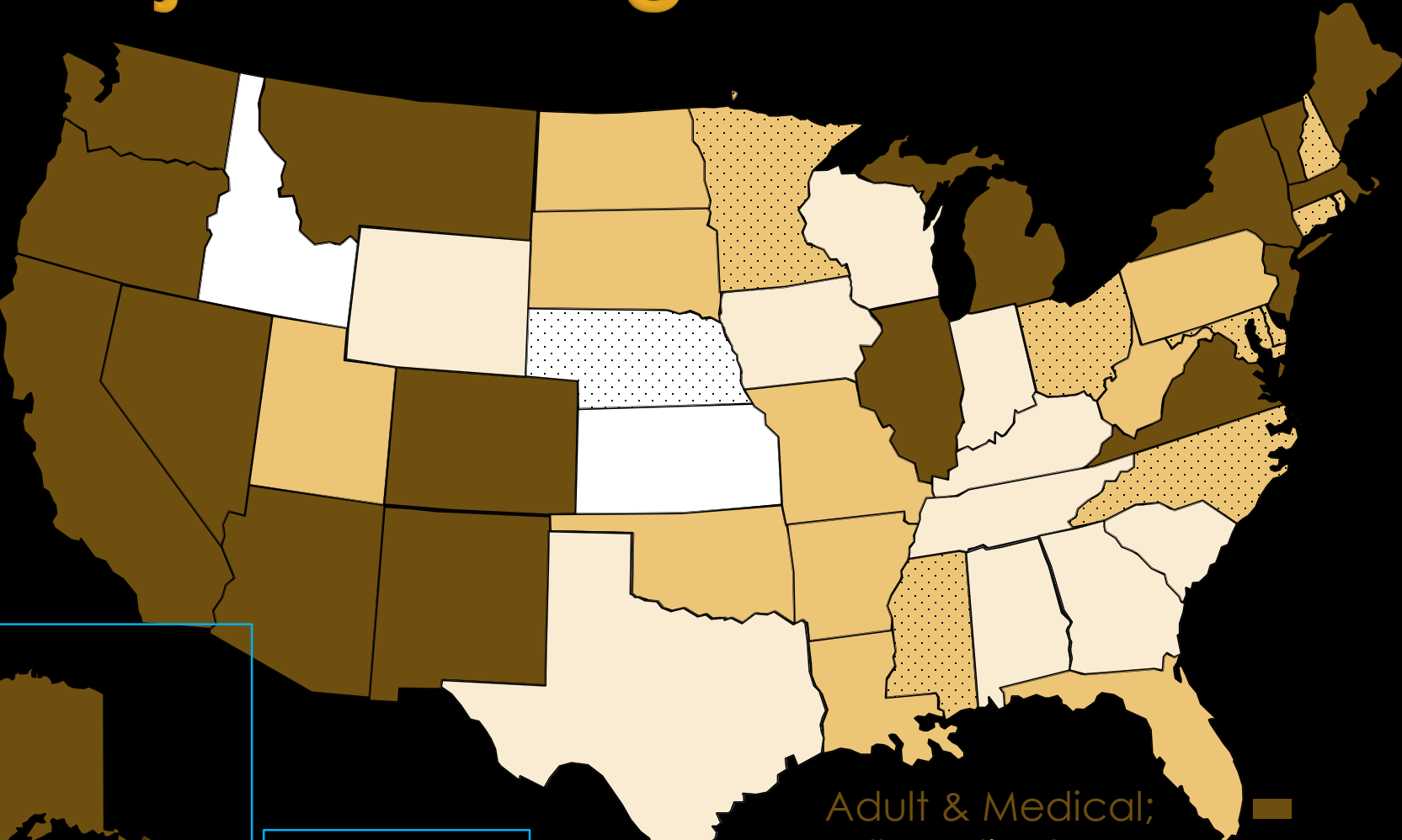
Introduction

Topic	
2021-H 6122 Article 11	Adult Use Marijuana
<i>Other Bills</i>	<i>H 5451, H 5452, & H 5453: Medical Marijuana Program</i>

Introduction

- Article 11
 - Establishes a 21+ adult-use marijuana program
 - Tax regime of excise & sales taxes for related products
 - Addresses
 - Operating under the influence
 - Workplace provisions
 - Possession, unlicensed sales/production
 - No allowance for personal cultivation
 - Prohibited populations: <21, incarcerated, etc...

Marijuana Programs



Adult & Medical;
Full Medical;
Hemp: CBD/Low THC
No Public Program
Decriminalization



Adult Use State Changes

State	Date Legal	Retail Sales Date	Excise Tax Type
CO, WA	11/2012	1/2014 – 7/2014	CO: Wholesale/retail WA: Retail
OR, AK	11/2014	10/2015 & 2016	AK: Cultivation; OR Retail
NV, CA, MA, ME	11/2016	1/2017 & 2018 11/2018; 10/2020	CA: Wholesale/cultivation/product NV: Wholesale/retail MA: State/local retail ME: Retail/weight/plant type
VT, MI, IL	1&11/2018; 05/2019	10/2022 ¹ ; 12/2019; 1/2020	VT & MI: Retail; IL: Retail/product/concentration
AZ, NJ, MT	11/2020	AZ, MT: 1/2021 & 2022; NJ: 2022 ¹	AZ & MT: Retail excise NJ: Price-based tiers by oz.
NM, VA	4/2021	4/2022; 2024	NM: Retail, VA: State/local retail
NY	3/2021	Late 2022 ¹	Concentration & retail excise

¹ Anticipated dates

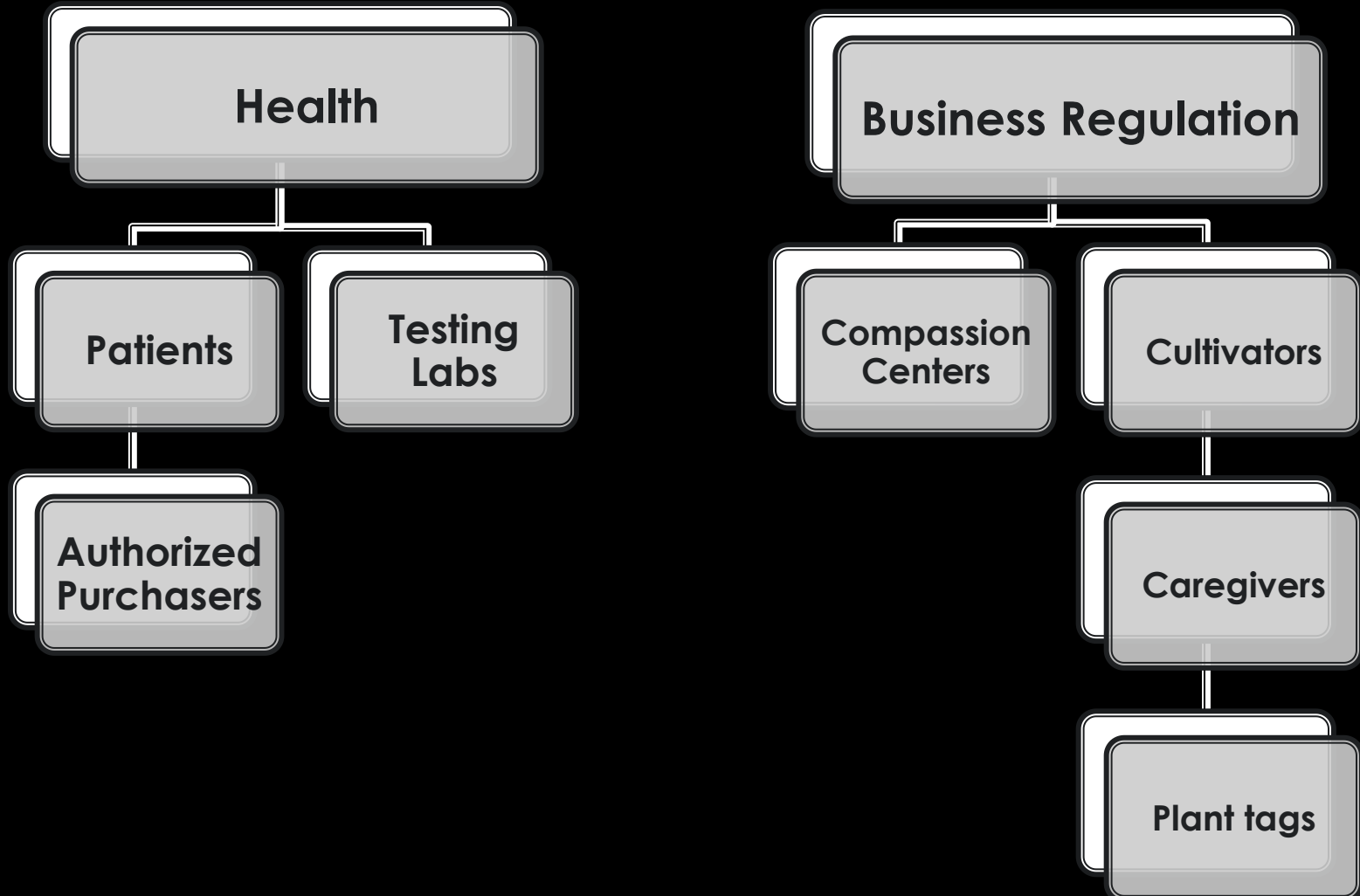
State of RI Cannabis Programs

Year	Program/Action	Overview
2005	Medical Marijuana Authorized	DOH regulated Patients & Caregivers
2009	Medical Expansion	Compassion Centers; retail option
2012	Marijuana Decriminalization	Civil penalties for personal use < 1 oz.
2016	Industrial Hemp	Authorized by 2014 Farm Bill
	Medical Restructuring	DBR to regulate growing: Cultivators, Comp. Centers, plant tags; DOH: Authorized Purchasers added
2018	Medical Expansion	Testing lab immunities; expanded reciprocity & access to prescribers
2019	Medical Expansion	+6 Compassion Centers; Caregivers to DBR; limited ownership interests
	Consumable CBD	Authorized by 2018 Farm Bill

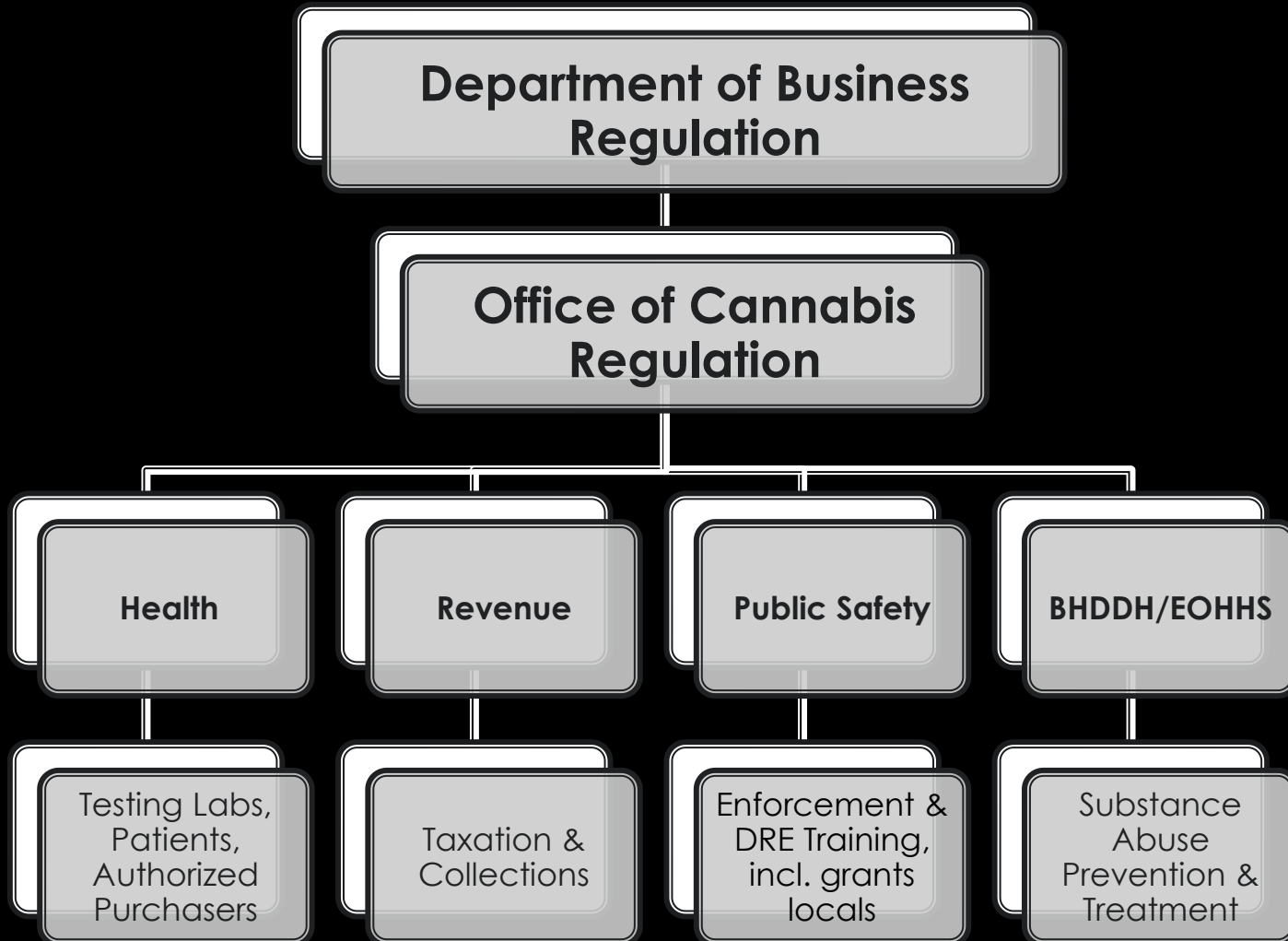
Article 11 – Centralization

- Office of Cannabis Regulation (OCR)
 - 2019 Assembly established as separate entity
 - Since 2016 regulates medical marijuana & hemp
 - Oversees authorized retailers, growers & plant tags
 - Sets standards for industry participation
 - Laboratory regulation coordinated between DOH & DBR
 - Article 11 codifies OCR's central role
 - State chief executive & administrative head
 - Includes coordination & approval of regulations, educational content, planning & implementation, budget coordination, any other duties necessary

Current Regulatory Hierarchy



Proposed Regulatory Hierarchy



Article 11 – Centralization

Proposed Powers for OCR by Statute

Broad Authority	To issue any future non-retail license type to support the market, set & revise standards & fees, types of licenses held by a single entity
Subject to Discretion	Number of industries licensed & licenses issued, production volume, potency level, medical licensee participation in adult use activities
Areas Defined by Regulation	License application windows, industry sizes & fees, location, security, insurance, oversight, record keeping, punitive actions, inventory amounts, lottery selection method, potency limit

Article 11 – Centralization

- Licensed retailers – totals up to 84 through 2023
 - Up to 75 new retail licenses; 15 MBEs
 - After 2024 subject to OCR discretion
 - Up to 25 new licenses over 3 application cycles
 - Each July 1 from 2021-2023
 - Oversubscribed applications allocated by lottery
 - Includes 20% Minority Business Enterprises set aside each cycle
 - 51% minority/woman ownership

Article 11 – Centralization

- Compassion Centers shall be “hybrid” licensed
 - Subject to application & fees
 - 3 Compassion Centers operational
 - 6 new retail-only centers authorized in 2019
 - Anticipated pending mid-May lottery
 - Assuming good standing, shall also be licensed
 - May transition to for-profit
 - In accordance with OCR guidance
 - Conditional on demonstration to OCR no adverse impact to medical program

Article 11 – Centralization

- Licensed cultivators
 - Opens applications on or after July 1, 2021
 - Issuance subject to OCR discretion
 - Medical Cultivators shall be “Hybrid” licensed
 - Conditional on demonstration to OCR no adverse impact to medical program
 - Revenues assumption is only existing medical cultivators licensed initially
 - Estimate slightly overstated
 - Currently 62 of 65 existing cultivators fully operational

Article 11 – Centralization

- Cannabis testing labs
 - Under current law 3rd party lab licensed by DOH in coordination w/DBR
 - To test & collect cannabis samples
 - 2 licensed currently; 1 pending
- Article 11 has more prescriptive standards
 - Standards for laboratory proficiency, quality control, test standardization & round robin testing
 - Produce additional classes & types laboratory licenses pursuant to these standards

Article 11 – Centralization

- Other Supporting Licenses
 - Any other supporting activity except retail
 - Examples include: “craft” cultivation, processing, delivery, transportation, destruction, disposal, research & development
 - First licensing period; MBE 50% set aside
 - Lower barriers to entry; less lucrative than retail
 - Licensing at OCR’s discretion
 - Number, application period, fees etc.

Article 11 – Reporting

- Requires 15-member reinvestment task force
 - By July 1, 2022 advise OCR & OMB regarding long-term investment of proceeds

Governor's Cannabis Reinvestment Taskforce	
Director of DBR	At least 2 Rhode Island Cannabis Industry Representatives; including (1) licensed cultivator & (1) licensed Compassion Center
Secretary of EOHHS	
Director of Health	
Director of Labor & Training	May include representatives from: local government, faith-based organizations, Rhode Island-based community development corporations, industry associations, small business owners
Director of Public Safety	
Commerce Corporation President	

Article 11 – Reporting

Report	Content	Date
Disparity Study	Assess MBE participation; may recommend MBE set aside statute revision	1/1/2023
Adult use impact on medical marijuana	Availability of medical products; patient obstacles (prices, quantity, product type & location); change in caregiver & plant tags numbers; extent which adult use taxes & fees require medical tax & fee changes	4/1/2023
Program Status	Licenses & distribution; total sales, revenues, expenses, & projections health & public safety recommendations	Annual as of 4/1/2023
Market Demand	Assess retail license phased implementation on market incl: price changes, product availability, distribution, & other effects on licensees; contemplate retail license cap	1/1/2024

Article 11 – Enforcement

- Extends OCR's regulation & authority to new products for adult use
 - Transportation/delivery
 - Seizure/destruction
 - Security requirements
 - Including use of a seed to sale tracking system
 - Marketing & advertising practices
 - Form, content, & fees for applications/licenses
- Essentially consistent w/ medical program
 - Medical fees by both statute & regulation

Article 11 – Enforcement

- Not for consumption in public
 - Renters' non-inhalant use cannot be limited
 - Can prohibit visitors' use
 - Public housing standard like federal “smoke-free” regulation

Use limits by resident/residents	
Homeowners	Not limited
Single unit renters	Written ownership permission for inhalant use
Multi-unit renters	
Public Housing / Low-Moderate Income Housing	Inhalant use prohibited

Article 11 – Tax Impact

- Taxation established
 - Retail excise tax rate of 10%
 - Cultivation by volume, equivalent amount or est. to be ~3%
 - \$3.00 per ounce of trim
 - \$10.00 per ounce of flower
 - Applies to medical cultivation
 - Raises medical effective tax from 11% to 14%
 - Accounts for 70% of FY 2022 net revenues
 - Also subject to 7% state sales & use tax

Article 11 – Tax Summary

Tax Structure	Sales Tax	Gross/Excise	Weight Based*	Eff. Rate
Current Law - Medical	7%	4%	-	11%
Article 11 - Medical	7%	4%	3%	14%
Article 11 - Adult Use	7%	10%	3%	20%

**Equivalent % based on estimated retail pricing ~\$300/oz.*

Regional Tax Comparison

State	Medical Tax	Adult Use Tax
Massachusetts	Exempt	10.75% Excise; 6.25% Sales Tax Up to 3.0% Local Tax
Connecticut ¹	6.35% Sales tax	<i>Proposed [20% Sales; 3.0% Local Tax]</i>
New Hampshire	No tax	-
Vermont*	Exempt from Sales tax	14.0% Excise; 6.0 % Sales Tax
Maine	5.5% Sales tax 8% for edibles	10% Sales tax; \$335/lb. or plant \$94/lb. trim; \$1.50 per seedling \$0.30 per seed
New York	7% Gross Receipts	\$0.005/mg THC flower \$0.008/mg THC concentrates \$0.03/mg THC edible 9% Excise tax; 4% Local

*Retail Sales anticipated 2022; ¹CT. proposed adult use tax structure

Article 11 – Local Impact

- Municipalities
 - May not ban activity by regular business
 - Zoning compliant w/ Office's regulation
 - By referendum; each license type by separate question
 - Election by Nov. 2, 2021; Ordinances in place by Apr. 1, 2022
 - May not prohibit existing medical operations or transportation
 - Only one-time impact fee permitted
 - Equal to actual expenses for 3-months

Article 11 – Fiscal Impact

Taxes and Fees from the Adult Use Program



Marijuana Trust Fund



**Regulating
Agencies
25%**



Business Regulation	Program administration & enforcement
Health	Public health monitoring, research, data collection, & surveillance
Revenue	Revenue collection & enforcement
Public Safety	Public awareness campaigns, training, technology improvements grants to local law enforcement
EOHHS/BHDDH	Substance use disorder prevention for adults & youth; treatment & recovery support services

General Fund 60%

Municipalities 15%

Article 11 – Fiscal Impact

FY 2022	Description	FY 2023
\$1.3	\$10/oz. Excise tax - Flower	\$5.3
0.4	\$3/oz. Excise tax - Trim	1.6
1.2	Excise tax from medical	2.3
2.4	10 % Retail excise tax	9.6
1.7	Sales taxes	6.7
3.8	Fee revenues	2.7
\$10.8	Gross Revenues	\$28.2
(2.7)	25% State Regulatory Share	(7.1)
(1.6)	15% Local Distribution	(4.2)
\$6.5	60% Net State Revenue Share	\$16.9
(4.8)	Retained for one-time	-
\$1.7	Net State Revenues	\$16.9

\$ in millions

Article 11 – Fiscal Impact

Regulatory Expenses				
Department	FTE	Staffing	Operations	Total
Business Regulation	13.0	\$1.5	\$2.5	\$3.9
Health	-	0.2	0.1	0.4
Public Safety	3.0	0.2	0.7	0.8
Revenue	4.0	0.3	0.5	0.8
EOHHS / BHDDH	2.0	0.1	1.5	1.7
Subtotal	22.0	\$2.4	\$5.2	\$7.6
<i>Medical Marijuana*</i>	11.0	1.3	0.4	1.7
Total	33.0	\$3.7	\$5.7	\$9.4

\$ in millions; *existing program staff & expenses

Article 11 – Fiscal Impact

Local Distribution Basis	Share	FY 2023
All Communities	3.75%	\$1.1
By License type	3.75%	\$1.1
	<i>Cultivators</i>	0.94% 0.3
	<i>Processors</i>	0.94% 0.3
	<i>Retailers</i>	1.88% 0.5
Volume of Sales	7.5%	\$2.1
Total	15%	\$4.2

\$ in millions

Article 11 – Fiscal Impact

5-year Projections					
Share	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
60% Gen. Rev.	\$1.7	\$16.9	\$17.5	\$18.0	\$18.3
25% Regulatory Expenses	2.7	7.1	7.3	7.5	7.6
15% Local Governments	1.6	4.2	4.4	4.5	4.6
Total	\$6.0	\$28.2	\$29.2	\$29.9	\$30.5

\$ in millions

Program Comparison

Category	Medical Patient	Adult Use Consumer
Referral	Provider: Copay Referral businesses: \$130 - \$225	N/A
Registry Card	Patient/Auth. Purchaser: \$50 Disabled Patient: \$25 Chemo/Hospice Patient \$0 Caregiver: \$100	N/A
Taxes	4% Surcharge + 7% Sales = 11% Art. 11 + ~3% weight based = 14% effective rate	7% Sales + 10% excise + ~3% weight based = 20% effective rate
Possession /Ability to Grow	Patient: 12 plants; 2+ patients 24 plants; 2.5 oz. Caregiver: up to 24 plants; 5.0 oz.	1.0 oz.; 5.0 secured at home; 10 oz. 2+ Adults/ No grow allowance

Medical Marijuana States

State	Medical Marijuana	Adult Use Approved?
CA, AK, OR, WA	1996-1998	All
ME, CO, HI, NV	1999-2000	ME, CO, NV
MD, MT VT	2003-2004	MT, VT
RI, NM, MI, NJ	2006-2009	NM, MI, NJ
AZ, DC, DE, CT, MA, NH, NY, IL, MN	2010-2014	AZ, MA, NY, IL
AR, FL, ND, OH, PA	2016	-
LA, WV	2017	-
MI, OK, UT	2018	-
MI, SD, VA	2020	VA
AZ, DC	2010	-

History – Rhode Island Program

- 2005 Assembly established medical marijuana program
 - Administered by DOH
 - No specific staff or funds authorized
- 2016 Assembly
 - Expanded regulation & enforcement to DBR
 - Established systems to track growers
 - Licensing term changes
 - Restricted receipts deposits
- 2017 Assembly
 - Excess receipts transfer to general revenues

History – Rhode Island Program

- 2018 Assembly
 - Expanded access
 - Prescribing nurses & physicians assistants can refer
 - Out-of-state cardholders to use Compassion Centers
 - Compassion Center license fee increase
- 2019 Assembly
 - Compassion Center changes
 - Expanded authorization from 3 to 9 centers
 - Prohibited ownership interests in multiple business entities
 - License Fee increase
 - Other regulatory changes

Medical Marijuana Rhode Island

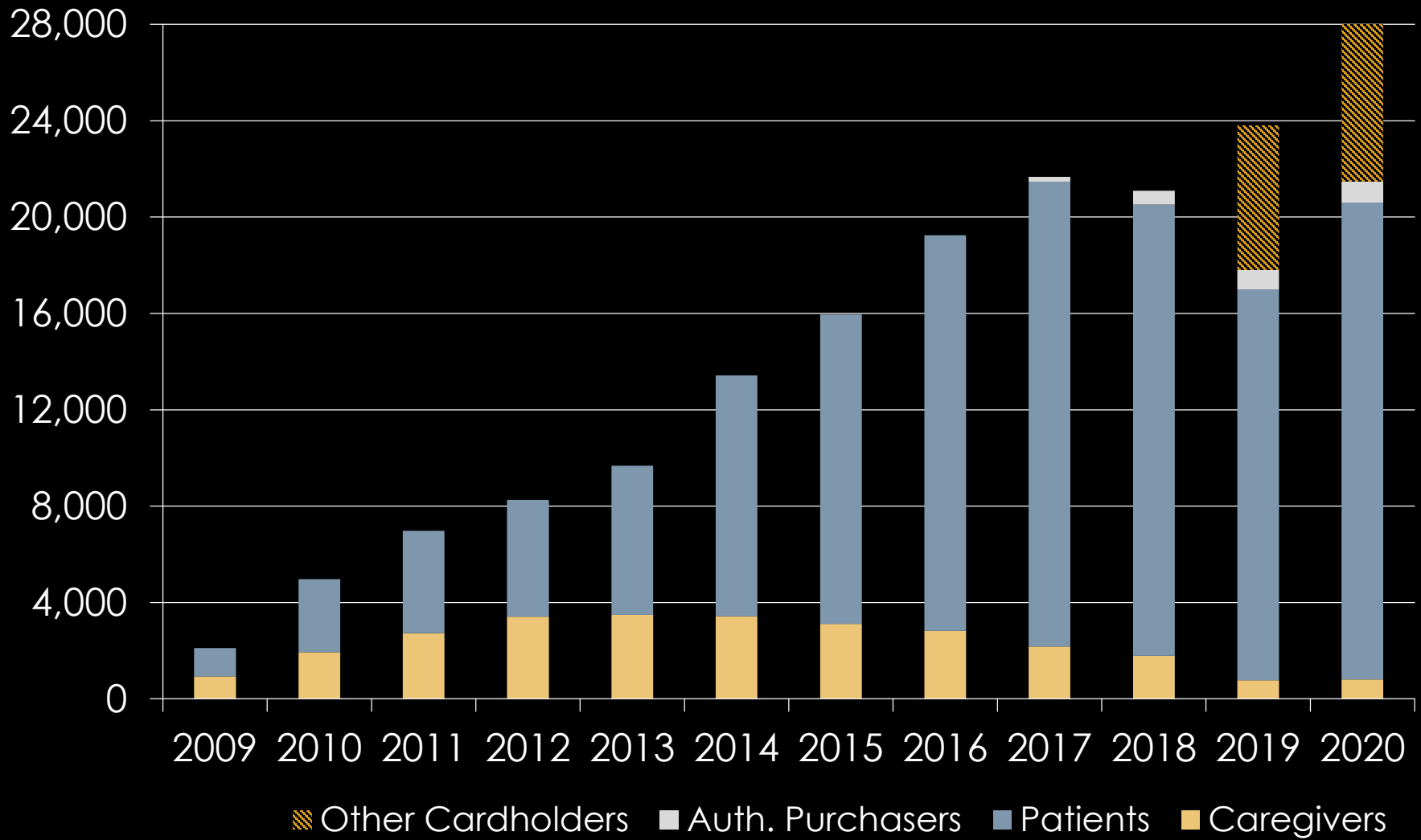
Participants

- **Patients**
- **Caregivers**
 - Patient helpers; non-business growers
- **Authorized Purchasers**
 - Patient helpers; non-users
- **Out-of-State Cardholders**
 - Legal immunities/access; reciprocity

Industries

- **Cultivators**
 - Growing businesses
 - Compassion Center suppliers
- **Compassion Centers**
 - Retailers, growers, manufacturers
- **Cannabis Testing Laboratories**

Medical Marijuana Participation



Source: DOH/DBR

Medical Marijuana Participation

Compassion Center Collections

Fiscal Year	Gross Receipts	Surcharge: 4%	Sales Tax: 7%	Total Revenue
2013	\$ 0.42	0.02	0.03	\$0.05
2014	\$ 6.73	0.27	0.47	\$0.74
2015	\$ 9.64	0.39	0.68	\$1.06
2016	\$17.16	0.69	1.20	\$1.89
2017	\$28.26	1.13	1.98	\$3.11
2018	\$38.19	1.53	2.67	\$4.20
2019	\$53.46	2.14	3.74	\$5.88
2020	\$59.73	2.39	4.18	\$6.57
2021*	\$76.04	3.04	5.32	\$8.36

***Mar. 2021; FY 2021 gross estimate ~\$98.6 million; state revenues ~\$10.8 million**

\$ in millions

Alternate Proposals

- Article 11 similar to 2019 recommended budget Article 20
 - Gov. Raimondo proposed private model
- 2020 recommended budget Article 13 proposed state-run system
 - State contract w/multiple private operators
 - Split revenues similar to Lottery
 - Included municipalities at a lower rate, but higher base
- Current Senate bill modeled on Massachusetts program

Alternate Proposal

Category	Governor	Senate
Regulator	Office Cannabis Regulation in DBR	New Cannabis Control Commission (CCC)
Staffing	7 Existing; 13 new	All new: Executive Director; CFO; other staff as required
Regulations	Existing regulations, promulgate new	New entity requires promulgation
Licensing Fees	By regulation	By statute; Compassion Center reduced to \$250k; Cultivator fees to be revised
Enumerated Licensees	Retailer, Cultivator; "other licensees"	Cultivator & Cooperative Cultivator; Manufacturer or Wholesaler; Retailer

Alternate Proposal

Category	Governor	Senate
Number of licenses	Up to 84 retailers; 75 new & 9 Comp Centers; ~2.2 per municipality	Cultivators uncapped; Manufacturers at CCC discretion ; up to 150 retailers or ~3.8 per municipality
Medical & Adult Use	May be operated together, licensed separately; prohibited from multiple licenses in a single market	
Medical Limits	Subject to OCR discretion of impact to medical market	½ Compassion Center sales must remain medical market; medical grow cannot be sold for adult use
Societal Input	15-member reinvestment task force	25-member Advisory Board

Alternate Proposal

Category	Governor	Senate
Taxation	7% Sales; 10% excise; Weight-based estimated to be 3%	7% sales; 10% retail excise; 3% local sales
Medical /Adult Eff. Tax Rate	14% / 20%	11% / 20%
Revenues	All proceeds distributed by formula to governments; long term investments recommended by task force	Application/license fees & penalties to equity issues, causes & financial & technical support
		Taxes to general fund

Alternate Proposal

Category	Governor	Senate
Local Impact Fees	One-time	Prohibited
Municipal Authority	Industry subject to ordinance; zoning applies; banned by referendum	
Possession	1 oz. / 5 oz. at home; 10 oz. 2+ adults	1 oz. but not more than 5g concentrate / 10 oz. at home + any home grow cannabis produced
Plant Grow	No allowance	6 plants; 12 for 2+ adults

Alternate Proposal

Category	Governor	Senate
Expungement	No change to current law: by application heard by the same courts as the conviction	For arrests or convictions of 1 oz. or less, file for "expedited" expungement; No costs or fees may be levied; No notice to the AG; shall be reviewed within 60 days; notice sent to petitioner

Considerations

Areas	Issues	Policy Choice
Models of Operation	Multiple competing proposals	Overall structure
Taxes & Other Revenues	Consider types of taxes & fees, applied how & who pays	Excise type, Sales, Licenses & Fees; aligned w/ policy goals?
Market Stability	Costs should not drive customers to other states or the illicit or medical market	Price controls, Potency caps, Number of businesses
Enforcement /Justice	Numerous criminal & civil issues w/ adult use. Questions about who may exert what authority must be addressed	Regulatory Hierarchy, Criminal, Employment, Housing, Equity
Integration w/ Medical Marijuana	Legitimizing adult use marijuana requires decisions about the current medical system	Appropriate access, Existing revenues, Interaction of each tax regime

Resources

- A number of government & non-partisan research organizations provide in-depth analysis to a variety of related issues
 - Congressional Research Service, National Council of State Legislatures
 - Pew Charitable Trusts, RAND Corporation, National Bureau of Economic Research
 - Tax Policy Center, Tax Foundation, Institute for Tax & Economic Policy, CATO Institute
 - Other state legislative analyses

Other Bills

- Medical Marijuana
 - 5451: Allocates current revenues differently
 - 75% to Distressed Communities
 - 25% to charitable orgs
 - Selected by Speaker & Senate President
 - 5452: Equity Assistance Financial & Technical
 - Requires racial inequity analysis; establish mechanism for communities impacted by prohibition to enter legal cannabis activities

Other Bills

- Medical Marijuana
 - 5453: Program expansion & fee reduction
 - Repeals: plant tag requirement; Compassion Center surcharge; background checks for ownership; enumerated qualifying conditions & DOH discretion
 - Condition subject to “reasonable” practitioner
 - Provides for patient hardship registration
 - DOH to promulgate hardship regulations by 10/1/2021
 - Increases patient/caregiver grown possession allowance to 16 oz.
 - Permits 1 Compassion Center per 1,000 patients
 - Lowers fee to \$5,000 from \$500,000

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