



SENATE FISCAL OFFICE
REPORT

**GOVERNOR'S FY2019
AND
FY2018 SUPPLEMENTAL
BUDGET**

2018-H-7200

ARTICLE SUMMARIES

FEBRUARY 13, 2018

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Article 1: Relating to Making Appropriations in Support of FY2019

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

This article also:

- Authorizes debt payments for the I-195 Redevelopment District Commission loan.
- Sets the airport impact aid formula.
- Caps the amount the Judiciary may charge to five state agencies (Public Defender's Office, Office of the Attorney General, Department of Corrections, DCYF, and Department of Public Safety) for public courthouse occupancy costs at \$1.2 million.
- 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.
- Requires the following transfers be made to the State Controller by June 30, 2019: \$5.0 million from the Rhode Island Housing and Mortgage Finance Corporation, and \$3.0 million from Resource Recovery Corporation.

APPROPRIATIONS

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

Expenditures by Source	FY2017 Final	FY2018 Enacted	FY2019 Governor	Change to Enacted
General Revenue	\$3,672.5	\$3,767.7	\$3,829.3	\$61.6
Federal Funds	2,977.4	3,134.2	3,091.9	(42.3)
Other Funds	1,881.4	2,079.2	2,171.1	91.9
Restricted Receipts	228.0	261.7	285.5	23.8
Total	\$8,759.3	\$9,242.8	\$9,377.7	\$134.9

\$ 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); University and College Funds; and, Lottery Division funds for award winnings during FY2019.

Article 1 establishes 16 specific, capped internal service accounts to permit reimbursement of costs for work or other services performed by certain departments or agencies for any other department or agency. There are three new accounts established pursuant to Article 7, Section 10 of the FY2018 Budget as Enacted that authorized the Governor to establish centralized accounts for each agency and allow 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	FY2018 Enacted	FY2019 Governor	Change
State Assessed Fringe Benefits	\$41,229,448	\$41,383,271	\$153,823
Administration Central Utilities	24,910,320	22,910,320	(2,000,000)
State Central Mail	6,838,505	6,539,120	(299,385)
State Telecommunications	3,244,413	3,602,419	358,006
State Automotive Fleet	12,510,602	12,549,973	39,371
Surplus Property	3,000	3,000	-
Health Insurance	251,804,700	251,953,418	148,718
State Fleet Revolving Loan Fund	-	273,786	273,786
Other Post-Employment Benefits	63,852,483	63,858,483	6,000
Capital Police	1,306,128	1,285,206	(20,922)
Corrections Central Distribution Center	6,784,478	6,769,493	(14,985)
Correctional Industries	7,581,704	8,050,590	468,886
Secretary of State Records Center	807,345	947,539	140,194
Human Resources Internal Service Fund	-	12,127,873	12,127,873
DCAMM Facilities Internal Service Fund	-	39,212,184	39,212,184
Information Technology Internal Service Fund	-	32,281,052	32,281,052
Total	\$420,873,126	\$503,747,727	\$82,874,601

FUND TRANSFERS

Article 1 requires transfers from several quasi-public be made to the State Controller by June 30, 2019, to support the General Fund. This includes an increase of \$5.0 million from Rhode Island Housing and \$3.0 million from the Rhode Island Resource Recovery Corporation:

Agency	FY2018 Governor Proposed	FY2018 Enacted	FY2018 Governor Revised	FY2018 Change to Enacted	FY2019 Governor Proposed	Total
Electric and Gas Distribution Company	\$0.0	\$12.5	\$12.5	\$0.0	\$0.0	\$12.5
Health and Educational Building	1.2	6.0	6.0	-	-	6.0
Narragansett Bay Commission	2.5	5.0	5.0	-	-	5.0
Infrastructure Bank	1.0	3.5	8.5	5.0	-	8.5
RI Housing	-	1.0	6.0	5.0	5.0	11.0
Quonset Development Corporation	-	1.0	1.0	-	-	1.0
Public Utilities Commission	-	0.3	0.3	-	-	0.3
RI Resource Recovery Corporation	6.0	-	3.0	3.0	3.0	6.0
RI Student Loan Authority	-	-	3.0	3.0	-	3.0
RI Turnpike and Bridge	2.6	-	1.5	1.5	-	1.5
Total	\$13.3	\$29.3	\$46.8	\$17.5	\$8.0	\$54.8

\$ in millions

Rhode Island Resource Recovery Corporation: The Budget requires the Rhode Island Resource Recovery Corporation (RIRRC) to transfer \$6.0 million in landfill tip fee revenues to the State Controller for deposit in the General Fund. The first \$3.0 million shall be forfeited by June 30, 2018 (Article 10, Section 7) and the second by June 30, 2019 (Article 1, Section 15). According to the RIRRC, the 2017 State of Rhode Island Debt Affordability Study, issued by the Public Finance Management Board (5-3-2017) recommended that RIRRC refrain from the issuance of additional long-term debt. This recommendation may limit RIRRC's ability to raise capital and effectively requires RIRRC to self-fund future operations.

If enacted, the \$6.0 million forfeiture would impact existing FY2017 audited (10-4-2017) unrestricted net position of \$27.3 million, which is expected to fund new landfill construction, heavy equipment, debt covenant requirements, and other capital investments required to provide long term disposal and recycling services to the state of Rhode Island. According to RIRRC, based on the current financial plan and projected corporate cash requirements, the corporation would be required to take financial measures to offset this forfeiture. Such measures would include one or more of the following actions: deferring necessary capital

investments, increasing revenues through price increases, reducing operational costs, or receiving direct subsidies from the State.

Rhode Island Housing and Mortgage Finance Corporation: Article 10 requires the Rhode Island Housing and Mortgage Finance Corporation (RI Housing) to transfer \$6.0 million to the State Controller by June 30, 2018, \$5.0 million more than the FY2018 Budget as Enacted. Article 1 requires the agency to transfer another \$5.0 million to the State by the end of FY2019.

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

FTE POSITION CAP AND APPROVAL

Article 1 establishes the authorized number of full-time equivalent (FTE) positions for each State department and agency. Departments and agencies may not exceed in any pay period the number of authorized FTE positions shown. Statewide, the Governor recommends a net increase of 266.1 FTE positions from the FY2018 Budget as Enacted. Following are the changes included in the Governor's proposal:

Expense by Function	FY2018 Enacted	FY2019 Governor	Change to Enacted
General Government	2,365.9	2,490.9	125.0
Human Services	3,715.6	3,740.9	25.3
Education	3,924.9	3,970.4	45.5
Public Safety	3,210.0	3,212.0	2.0
Natural Resources	429.0	429.0	0.0
Transportation	775.0	795.0	20.0
Subtotal	14,420.4	14,638.2	217.8
<i>Higher Ed. Sponsored Positions</i>	<i>739.8</i>	<i>788.8</i>	<i>49.0</i>
Total FTE Positions	15,160.2	15,427.0	266.8

Major FTE changes include:

- **An increase of 79.0 FTE positions in the Department of Revenue:** The Governor adds positions in FY2019, including 32.0 FTE positions to implement the federally mandated Real ID compliance, 23.0 new FTE positions required to operate the Tiverton Casino, 22.0 FTE positions in Taxation to support enhanced revenue collections, and 7.0 FTE positions to staff the proposed Division of Collections. Offsetting the increases includes elimination of 3.0 FTE positions in the Municipal Finance division and 1.0 FTE position from the Lottery division.
- **An increase of 69.0 FTE positions in the Department of Business Regulation:** The Governor consolidates building, construction, and fire code regulatory functions into a division within the department. This includes 36.0 FTE positions from the Office of the State Fire Marshal, 26.0 FTE positions by transferring the Division of Construction Permitting, Approvals, and Licensing, consisting of the State Building Code Commission, Contractor's Registration Board, and the Fire Safety Code Board of Appeal to the new consolidated division. These are in addition to the 2.0 FTE licensing positions transferred from the Department of Health, and the 5.0 FTE positions added under the FY2018 Revised Budget request.

- **An increase of 43.5 FTE positions in Public Higher Education:** The Governor recommends an increase of 2.0 new grant-funded FTE positions dedicated to higher education attainment, student supports, and financial aid activities, as well as 2.0 new FTE positions at the Westerly Education Center to accommodate the growing demand for services. The increases are partially offset by the elimination of 3.0 FTE positions from the Division of Higher Education Assistance. The Budget also provides for 19.5 new FTE positions at the University of Rhode Island (URI) and 23.0 new FTE positions at Rhode Island College. Sponsored research positions increase by 49.0 FTE positions at URI.
- **A decrease of 29.0 FTE positions in the Department of Administration:** The Budget decreases the Department's FTE positions by 29, reflecting the transfer of the Water Resources Board functions and 3.0 FTE positions from the Division of Planning to the Division of Public Utilities and Carriers, and the transfer of the Division of Construction Permitting, Approvals, and Licensing, consisting of the State Building Code Commission, Contractor's Registration Board, and the Fire Safety Code Board of Appeal along with 26.0 FTE positions to a new consolidated division within the Department of Business Regulation.
- **An increase of 20.0 FTE positions in the Department of Transportation:** The Governor includes an additional 20.0 FTE positions in the FY2019 Budget. The new positions will include a number of highway and bridge maintenance operators and laborers, these new positions will help to further the Department's goal of relying less on outside contracts for maintenance services.
- **An increase of 12.0 FTE positions in the Department of Corrections:** The Governor recommends a net increase of 12.0 FTE positions within the Department of Corrections, which includes the addition of 3.0 Correctional Officer Trainer positions to assist with additional training requirements and an increased number of recruits; 16.0 Correction Officers; a transfer from the Department of Behavioral Health, Developmental Disabilities and Hospitals of 1.0 Substance Abuse Councilor to assist in the substance abuse program; 2.0 Clinical Mental Health Social Workers; and 6.0 FTE positions to assist with the Medication/Mediation Assisted Treatment (MAT) Program 2.0 Nursing positions and 4.0 Mental Health Clerks. These increases were slightly offset by reallocations within the Department leading to a net increase of only 12.0 FTE positions.
- **A decrease of 12.0 FTE positions in the Department of Public Safety:** There is a net decrease of 12.0 FTE positions within the Department consisting of transferring the Office of the State Fire Marshal and its 36.0 FTE positions to the Department of Business Regulation. This is offset by the addition of 30.0 State Police recruits, the addition of 2.0 Telecommunicator FTE positions to assist with the increase calls associated with the Next Generation 9-1-1 service, and 2.0 Screener positions.

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, 2020, June 30, 2021, June 30, 2022, and June 30, 2023. These amounts supersede appropriations provided for FY2019 within the FY2018 Budget as Enacted.

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

Article 2: Relating to State Funds

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

- Amends RIGL 16-59-9 to expand the use of the Westerly Higher Education and Industry Center restricted receipt account for additional Industry Centers that may be established throughout the state.
- Amends RIGL 35-3-15 to change the date when the Governor reports the reappropriation of unexpended funds from the previous fiscal year from August 15 to September 1.
- Authorizes the State Budget Officer to impose a 10.0 percent indirect cost recovery on Rhode Island Capital Fund appropriations to fund direct project management costs of state employees. This effectively reduces the amount of capital projects that can be done by 10.0 percent.
- Exempts three restricted receipt accounts from the 10.0 percent indirect cost recovery charge provisions under RIGL 35-4-27. The proposed exemptions would apply to the Municipal Police Training Tuition and Fees; the School for the Deaf – School Breakfast and Lunch Program; and the School Construction Services account.
- Establishes a new restricted receipt account for the Atomic Energy Reactor fees to support the technical operations and maintenance of equipment.
- Establishes a new Performance Improvement Fund at the Department of Administration to support pay-for-success contracts.

FISCAL IMPACT

The initiatives within this article would reduce indirect cost recovery receipts by \$97,967, and is projected to shift \$3.7 million in general revenue personnel costs to other funds by shifting the funding source to Rhode Island Capital Fund appropriations for direct project management costs of state employees. The Department of Administration surveyed all agencies with RICAP capital projects to determine how much staff are working on project management activities for RICAP projects. The information gathered was the State Budget Office's basis for the \$3.7 million amount. The article also increases restricted receipt collections up to \$120,000 for Atomic Energy Reactor fees.

ANALYSIS AND BACKGROUND

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

Higher Education and Industry Centers

The article amends the title and expands the use of the Westerly Higher Education and Industry Center restricted receipt account for additional Industry Centers that may be established throughout the state. The title change removes *Westerly* to signify statewide expansion as the Governor proposes to replicate the existing center in northern Rhode Island. The restricted receipts provide for the personnel and operating costs for the centers and are generated from lease payments and occupancy fees charged for the use of the facility. Electric Boat began using the existing Westerly facility to train employees in January 2017. The facilities provide classroom and laboratory space for existing students in the area, as well as space for collaborative programs with local industries. The job skill centers are managed through the Office of the Postsecondary Commissioner.

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 common costs associated with the collection of funds and administration of the accounts. RIGL 35-4-27 enumerates those restricted receipts exempted from this assessment. This article expands the list to include the following accounts:

Municipal Police Training Tuition and Fees: Article 7 authorizes the Municipal Training Academy to charge tuition to new recruits and organize statewide physical training tests for which a fee would be assessed for each individual taking it. The Budget includes \$225,000 in additional restricted receipt revenue associated with the initiative. Currently, Brown University police are charged a tuition of \$4,000 per recruit. Passage of this article would forgo future general revenue collections by approximately \$22,500.

School for the Deaf – School Breakfast and Lunch Program: This is a new account similar to the school breakfast/lunch program at Davies. Cash receipts for full-price and reduced-price meals and federal reimbursements for reduced and free meals (and also the after-school meal program and the fresh fruit/vegetable program), will be placed into this account with the proceeds funding the contract used by School for the Deaf for their food service vendor (Aramark).

The National School Lunch and School Breakfast programs require the use of a segregated account now that School for the Deaf is newly designated as a stand-alone “School Food Authority” (SFA), instead of being melded into the North Providence LEA for SFA purposes. The School for the Deaf has budgeted \$57,500 in each year within the account, roughly equivalent to anticipated annual revenues. Passage of this article would forgo future general revenue collections by approximately \$5,750.

School Construction Services: Article 9 authorizes the creation of the School Construction Services restricted receipt account within the budget of Elementary and Secondary Education. This account will be financed by the Rhode Island Health and Education Building Corporation’s sub-allotments of fees generated from the origination of municipal bonds and other financing vehicles used for school construction and its own reserves. This account shall be utilized for the express purpose of supporting any departmental expenditures incurred in the administration of the school construction aid program. The Budget includes \$697,171 and 4.0 FTE positions from Elementary and Secondary Education (3 existing positions and one new “Director of School Construction Services”) to this funding stream. Passage of this article would forgo future general revenue collections by approximately \$69,717.

Rhode Island Capital Fund

Article 2 authorizes the State Budget Officer to impose a 10.0 percent indirect cost recovery on Rhode Island Capital Fund (RICAP) appropriations to fund direct project management costs of state employees. This effectively reduces the amount of capital projects that can be done by 10.0 percent and is projected to reduce general revenue expenses by \$3.7 million. The Department of Administration surveyed all agencies with RICAP capital projects to determine how much staff are working on project management activities for RICAP projects. The information gathered was the State Budget Office’s basis for the \$3.7 million amount.

Analyst Note: The total FY2019 recommended RICAP appropriation is \$168.3 million. Therefore passage of this article could potentially decrease available funds for RICAP projects by \$16.8 million.

Atomic Energy Commission Reactor Fees:

Section 4 establishes a new restricted receipt account for the Atomic Energy Reactor fees (the Rhode Island Nuclear Science Center) to support the technical operations and maintenance of equipment. Currently a total of \$8,000 in fees is projected to be deposited into the state general fund in FY2018 and for FY2019. Almost all of the fees received are paid for services rendered to the BioPhysics Assay Lab (BioPAL), a Worcester based analytical and research company. However, BioPAL has agreed to transfer the portion of their business that requires a nuclear reactor, to the Rhode Island Nuclear Science Center. Projected receipts from this action are \$100,000 to \$120,000. The account will not be exempt from the indirect cost recovery provisions of RIGL 35-4-27. Because of the timing to enact the Budget and because there would be a minimal increase in the collection of receipts, the Governor does not increase general revenues in FY2019. Lastly, language in the section stipulates that any amount in the account that is above \$200,000 on the last business day of the fiscal year, be transferred to the general fund.

Government Performance Improvement Fund

Section 5 of this article establishes a new Government Performance Improvement Fund within the Department of Administration to advance, support, and fund Pay-For-Success (PFS) contracting for service delivery across state government programs. The Governor does not, however, include funding for this initiative in FY2019.

Pay-For-Success contracting is a public finance tool that ties payment for service delivery to the achievement of measurable outcomes. Typically, state contracts and grants that support social service delivery are based on the volume of services delivered (e.g., number of people served) or short-term outputs (e.g. certificates awarded in a training program). Pay-for Success contracts are based on actual outcomes, which are longer-term changes; for example, a job training participant who finds and keeps a job, and experiences an increase in earnings.

Under this article PFS contracts require:

- A substantial portion of any payment be conditioned on the achievement of specific outcomes.
- An objective independent evaluator that determines if outcomes have been achieved.
- A determination that the contract will result in significant performance improvements and budgetary savings across impacted agencies if the outcomes are achieved.
- A calculation of the amount and timing of payments that would be earned by the service provider during each year if targets are achieved.

Another characteristic of PFS contracting is the enlistment of private investment into the provision of social services. Because most providers are not in a position to deliver services without a dedicated source of revenue, especially with the risk of not being repaid in the event they do not achieve pre-agreed upon outcomes, PFS contracts often are accompanied by financing agreements that provide upfront capital to support service delivery throughout the contract period. This is accomplished by agreements involving private investors that provide resources upfront and are repaid by a back-end, or outcomes payor, such as the State, once contractually agreed upon outcomes are achieved. This arrangement is referred to as Social Impact Bonding (SIB). SIB shifts financial risk from service providers to investors, with investors underwriting service providers based on their ability to perform.

In addition to establishing the PFS fund, this article requires that DOA provide an annual report detailing contracts for the prior fiscal year to the Senate and House Finance Committees by December 31st.

Reappropriation Reporting Period

Section 2 of the article amends RIGL 35-3-15 to change the date when the Governor reports the reappropriation of unexpended funds from the previous fiscal year from August 15 to September 1. According to the State Budget Office, the goal is to bring the reappropriation letter timing in line with the State Controller's release of the preliminary closing report. In recent years, final payables were still being determined after August, making it difficult to know if an agency had the funding for a reappropriation or not. By matching those two dates, the Budget Office will have better information to make decisions.

Article 3: Relating to Government Reform

This article makes several changes to the State's general laws regarding state offices, injured on duty firefighters, the Tobacco Settlement Finance Corporation Board, and the withholding of state funds to municipal units. Specifically, this article:

- Authorizes the transfer of the Division of Construction Permitting, Approvals, and Licensing, consisting of the State Building Code Commission, Contractor's Registration Board, and the Fire Code Board of Appeal along with 26.0 FTE positions to a new consolidated Building, Design, and Fire Professionals division within the Department of Business Regulation.
- Authorizes the transfer of the Office of the State Fire Marshal from the Department of Public Safety into a new consolidated Building, Design, and Fire Professionals division within the Department of Business Regulation.
- Clarifies in general law the 2015 legislative change that the Rhode Island Film Office is in the Rhode Island Council of Arts and not the Department of Administration.
- Amends RIGL 36-10-14 and 45-19-1 that apply to state employees receiving Injured on Duty (IOD) benefits. The amendment requires an IOD recipient's treating doctor or independent medical examiner (IME) to certify maximum medical improvement permanent disability from an injury. Either finding will require such recipient to apply for accidental disability pension benefit.
- Amends several sections of general law to allow the transfer of powers and duties of the Water Resources Board to the Division of Public Utilities and Carriers.
- Amends RIGL 42-133-6 regarding the board membership of the Tobacco Settlement Finance Corporation Board. The change removes members from the State Investment Commission and one general public member and replaces them with the State Budget Officer, the State Treasurer or designee, and the Director of Revenue or designee.
- Amends several sections of general law to expand which state funds may be withheld from a city or town that is delinquent in remitting funds owed to a state entity. This includes the local community proceeds of the hotel tax, the 1.0 percent local meals and beverage tax, and the CATV public service corporation tax. The article shortens the periods for which cities and towns are to pay any assessment made by a state or quasi government entity from 180 days to 90 days.

FISCAL IMPACT

Most of the statutory items selected for amendment have no direct savings attached to them. However, the changes to benefits for state employees receiving Injured on Duty (IOD) benefits is projected to save the State \$620,155 in FY2019 (\$288,169 in Military Staff and \$331,986 in the Department of Public Safety), and passage of the sections regarding the withholding of municipal taxes will result in general revenue savings of \$300,000 to the State Police budget in FY2019.

ANALYSIS AND BACKGROUND

Contractors' Registration Board: Section 1 provides statutory changes transferring the Contractors' Registration Board into a new consolidated Building, Design, and Fire Professionals division program within the Department of Business Regulation. This combines several building/construction regulatory responsibilities that are currently spread out across various State agencies. The program would bring together the staff and operations of:

- The Contractor's Licensing Board
- The Fire Code Safety Board of Appeal and Review

- The Office of the State Fire Marshal
- The Boards for Design Professionals

In addition, the section amends RIGL 5-65 to allow the Department of Business Regulation to efficiently license contractors, by eliminating the need for contractors to register “under oath,” thereby creating an opportunity to provide for electronic application possibilities.

Section 2 changes the name “Division of Design Professionals” into “Building, Design, and Fire Professionals division.”

Section 3 through Section 7 amend several sections of general law to effectuate the transfer of the Contractors’ Registration Board from the Department of Administration to the Department of Business Regulation and the Office of the Fire Marshal from the Department of Public Safety to the Department of Business Regulation.

Section 5 transfers the responsibility of amusement park rides from the Department of Administration to the Department of Business Regulation.

Section 8 amends RIGL chapter 42-14 to clarify duties, remove obsolete references, renames the Banking and Insurance Division the Financial Services Division and removes the position of administrator of Banking and Insurance to create Superintendents Banking and Insurance.

Analyst Note: The Governor’s Budget Amendment dated February 2, 2018, corrects a drafting error regarding the posting of hearing notices by the Department of Business Regulation. The amendment restores language requiring the posting of the in a generally circulated newspaper in the municipality affected by a regulation, and removes the “added” language that the posting just occur of the Department’s website.

Injured on Duty: Section 10 and 11 of the article amend RIGL 36-10-14 and 45-19-1 that apply to state employees receiving Injured on Duty (IOD) benefits under RIGL 36-10, shall be subject to the IOD provisions of RIGL 45-19-1(j). The amendment requires that when a treating doctor or independent medical examiner (IME) certifies that the patient has reached maximum medical improvement or permanent disability from an injury, the patient must apply within 60 days for an accidental disability pension benefit. The Governor projects that passage of this legislation will save the State \$620,155 in FY2019, of which \$288,169 is in Military Staff and \$331,986 is in the Department of Public Safety.

Water Resources Board: Section 12 through 15 authorizes the transfer of the Water Resources Board functions and 3.0 FTE positions from the Division of Planning to the Division of Public Utilities and Carriers, as well as to amend general law to transfer the responsibilities of administering the Big River Management Area from the Water Resources Board to the Department of Administration. Attorneys with the Division of Public Utilities and Carriers in anticipation of the transfer, have begun reviewing the myriad of statutory authority that delineates the authority of the Water Resources Board in anticipation that additional legislation will be drafted prior to concluding the 2018 legislative session. The transfer of the Board also transfers the funding source of the Water Resources Board from general revenue to restricted receipts.

Analyst Note: The Governor’s Budget amendment dated January 25, 2018, makes technical corrections to section 13 regarding the transfer of the Water Resources Board. The drafting of the original article used outdated general law language. The amendment uses the current law language and removes items that were older law language that was inadvertently added back into the proposed article.

Tobacco Settlement Finance Corporation: Section 16 amends RIGL 42-133-6 regarding the board membership of the Tobacco Settlement Finance Corporation Board. The change removes members from the State Investment Commission and one general public member and replaces them with the State Budget Officer, the State Treasurer or designee, and the Director of Revenue or designee.

Rhode Island Film Office: Section 17 amends RIGL 44-31.1-2 and 44-31.2-6 as a “housekeeping” action reflecting the 2015 legislative change that transferred the Rhode Island Film Office from the Department of Administration to the Rhode Island Council on the Arts.

Withholding Municipal Taxes: The article amends several sections of general law to expand which state funds may be withheld from a city or town that is delinquent in remitting funds owed to a state entity. This includes the local community proceeds of the hotel tax (RIGL 42-63.1-3), the 1.0 percent local meals and beverage tax (RIGL-44-18-18.1), and the CATV public service corporation tax (RIGL 44-13-13). The article shortens the periods for which cities and towns are to pay any assessment made by a state or quasi government entity from 180 days to 90 days. The State Budget Office anticipates passage of these sections regarding the withholding of municipal taxes will result in savings of \$300,000 to the State Police budget in FY2019.

The amount is based on the anticipated reimbursement from the Town of Exeter for State Police services. If the Town does not pay for the service, then this legislation would now give the State the ability to withhold state aid up to the amount owed by the Town. If this legislation does not pass, the State would still bill the Town, but if they do not pay, the State would have fewer options to recoup the funds, because current law does not apply to the state aid the Town currently receives.

Article 4: Relating to Taxes and Revenue

This article authorizes state-regulated sports betting and makes changes and adjustments to several of the State's tax laws and their enforcement. Specifically, Article 4:

- Authorizes sports betting in Rhode Island, contingent upon federal law.
- Permits the Lottery to undertake time-limited pilot programs, such as stadium gaming, for the purpose of identifying and evaluating potential new revenue opportunities.
- Clarifies that certain products and services are subject to the State's sales tax, including "vendor-hosted prewritten computer software"; investigation, guard, and armored car services; and marijuana seeds.
- Creates a new division within the Department of Revenue that would specialize in the management and collection of delinquent monies owed to the State.
- Increases the excise tax on cigarettes by \$0.25 per pack.
- Subjects electronic cigarettes to the other tobacco products (OTP) excise tax and raises the cigar tax.

FISCAL IMPACT

The general revenue impact of Article 4 on collections is summarized below. The revenues are partially offset by \$591,609 in expenses for the Department of Revenue's proposed collections unit.

Article 4 Fiscal Impact	
Change	Impact
Sports Wagering and Other Lottery Initiatives	\$27.6
Sales Tax Expansion	14.5
Increase Excise Tax on Cigarettes	3.9
E-Cigarettes and Other Tobacco Products	2.3
DOR Collections Unit	1.3
Total	\$49.6
<i>\$ in millions</i>	

ANALYSIS AND BACKGROUND

This article authorizes state-regulated sports betting and makes changes and adjustments to several of the State's tax laws and their enforcement.

Sports Wagering and Other Lottery Initiatives

Article 4 authorizes sports betting in Rhode Island, contingent upon federal law. State-operated sports wagering would be permitted at the Twin River and Tiverton Casinos. The Department of Revenue's Lottery Division is charged with implementing and overseeing the program.

Professional and Amateur Sports Protection Act: Sports betting is currently illegal in Rhode Island under the federal Professional and Amateur Sports Protection Act (PASPA). Only four states in the country are permitted to offer sports wagering – Delaware, Montana, Nevada, and Oregon. These states were allowed to grandfather in the form of sports betting that they had in place when the federal law was passed in 1992.

New Jersey has a case pending before the U.S. Supreme Court challenging the constitutionality of PASPA. The case is expected to be decided in the spring of 2018. If the court rules in New Jersey's favor, the national ban on states offering sports wagering will end. According to Rhode Island's Office of Management and Budget (OMB), four states - Connecticut, Mississippi, New Jersey, and Pennsylvania - have enacted legislation, and 10 other states have pre-filed bills that would permit sports betting in anticipation of the law being struck down.

Oversight of Sports Wagering: Article 4 specifies that the Department of Revenue’s Division of the Lottery shall administer state-operated sports wagering in the event that it becomes legal. Sports betting would only be permitted at the State’s two casino locations of Twin River and Tiverton. The article specifically prohibits wagering on collegiate sports involving a college or university located in Rhode Island, regardless of where the event takes place.

Revenue Projection Methodology: The Office of Revenue Analysis (ORA) projects that sports wagering would yield \$23.5 million in FY2019. The methodology for this projection is summarized in the following table:

Factors	Assumptions
Locations*	2
Estimated total handle	\$813.6
Estimated hold percentage	5.5%
Estimated total hold	\$44.7
State's share of revenue	61.0%
Est. full year state revenue	\$27.3
Starting date	October 1, 2018
Adjusted estimate, partial year	\$23.5

\$ in millions
*Lincoln and Tiverton

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

According to the study, estimates that the sports betting handle for Rhode Island, or total amount of money wagered, for location-based, limited sports wagering ranges between \$654.6 million and \$972.5 million.

The total amount of money wagered is known as the handle. After all winnings are paid, the amount of money left over is the hold.

Lottery and Gaming Pilot Authorization: Article 4 permits the Lottery to undertake time-limited pilot programs for the purpose of identifying and evaluating potential new revenue opportunities. Each pilot initiative will be required to have a periodic, subjective evaluation using measurable criteria to determine its ongoing revenue generating capacity.

According to the Division of the Lottery, there are a number of innovative new gaming opportunities that it is considering to pilot, including stadium gaming. Stadium gaming allows casino patrons to play multiple table style games simultaneously through the use of interactive video terminal.

Factors	Amount
Total amount wagered on sports in RI - top range	\$972.5
Total amount wagered on sports in RI - bottom range	654.6
Span (top range -bottom range)	317.9
<i>Est. handle = half the span + the bottom range</i>	<i>\$813.6</i>

Lowest annual hold % last 10 fiscal years - Nevada	4.4%
Highest annual hold % last 10 fiscal years - Oxford Study	6.5%
<i>Est. hold percentage (range mid-point)</i>	<i>5.5%</i>

Est. handle	\$813.6
Est. hold percentage	5.5%
Est. total hold	\$44.7
State share percentage	61.0%
<i>Est. full year state revenue</i>	<i>\$27.3</i>

Start Date	October 1, 2018
Est. percentage of wagering Oct. - June (Nevada)	86.0%
Adjusted estimate, partial year	\$23.5

\$ in millions

ORA estimates that a stadium gaming pilot and other gaming opportunities will generate \$4.1 million in general revenue in FY2019.

Article 4 states that in the 2012 and 2016 referenda, Tiverton and Twin River casinos received both statewide and local voter approval to offer “state-operated casino gaming.” According to the Office of Management and Budget, sports wagering or a stadium gaming pilot represent forms of state-operated casino gaming and therefore do not need further voter approval.

Sales Tax Expansion

Article 4 makes several changes to sales and use taxes. These include subjecting “vendor-hosted prewritten computer software” to the State’s sales tax as well as certain security services.

Software as a service: Article 4 modernizes the State’s sales and use tax relative to the purchasing, delivery, and use of software products and services. Historically, computer software was purchased on a hard disk or came loaded on a personal computer. This tangible aspect has given way to the downloading of products and other web-based delivery or housing platforms.

According to ORA, states are increasingly incorporating “Software as a Service” in their definitions of taxable services. ORA indicates that at least 14 other states, many of which are part of the interstate Streamline Sales Tax Agreement, tax SaaS.

This article requires the collection of sales and use taxes on vendor-hosted prewritten computer software. This software includes accounting and invoicing platforms, sales trackers, planning, performance, and monitoring software, and webmail and electronic messaging.

ORA utilized U.S. Census and Division of Taxation audit data to determine an estimate on the number of firms offering services. From this estimate, ORA’s modeling projects \$4.8 million in sales tax general revenue to be collected as a result of this initiative in FY2019.

Security services: Typically sales and use taxes are collected on tangible goods. According to ORA, the beginning in 2012, the State increased the number of services it collected taxes on, including taxi services, pet care, and room sellers.

Article 4 authorizes the collection of sale and use taxes on investigation, security guard, and armored car services. Investigation services related to private detective and investigation activity. Security guard services consist of services such as bodyguards, guard dog, parking security, and patrol services. Armored car services involve the pickup and delivery of cash, receipts, or other valuable items. These services do not include security systems or locksmiths. According to ORA, Massachusetts and Connecticut tax these services.

ORA utilized a Rhode Island specific sales tax simulation model to generate an estimate of the amount of economic activity attributable to the Investigation and Security category as defined by North American Industry Classification System (NAICS). ORA then calculated the percentage of that estimate that the investigation, and armored car services make up and applied the 7.0 sales tax rate to come up with its projection \$9.7 million in FY2019.

Seeds: Article 4 modifies the definition of food and food ingredients for purposes of sales tax by removing the exclusion of marijuana seeds or plants from the definition. ORA does not project a revenue impact regarding this exclusion.

Increase Excise Tax on Cigarettes

This article increases the excise tax levied on cigarettes by \$0.25 per pack of cigarettes, raising the total tax from \$4.25 to \$4.50 per pack of twenty, or to the equivalent of \$0.23 per cigarette. According to ORA, total retail price will increase by \$0.29, from \$10.27 to \$10.56 per individual pack. This amount is \$0.16 less than the total retail price in Massachusetts, and \$0.34 per pack below Connecticut. Floor stock tax is assessed at the same rate per pack of cigarettes. The additional excise, floor, and associated sales taxes from this change is estimated to generate an additional \$3.9 million in revenue.

Cigarette Tax Revenue Impact	
Revenue Item	FY2018
Cigarette Excise Tax	\$3.1
Cigarette Floor Tax	0.7
Sales and Use Tax	0.0
Total	\$3.9

\$ in millions

Source: Office of Revenue Analysis

Impact of Cigarette Excise Increase and Regional State Comparison

	Rhode Island		Massachusetts		Connecticut		
	Current	Proposed					
Base Price per Pack in \$	\$4.56	\$4.56	\$4.34		\$4.56		
Excise Tax in \$	4.25	4.50	3.51		4.35		
<i>Subtotal base price + Excise</i>	8.81	9.06	7.85		8.91		
Wholesale Markup	2.0%	0.18	0.18	2.0%	0.16	6.5%	0.58
Wholesale Cartage	0.75%	0.07	0.07	0.75%	0.06	0.0%	0.00
Retail Markup	6.0%	0.54	0.56	25.0%	2.02	8.0%	0.76
<i>Total Base Cost</i>	9.60	9.87	10.09		10.25		
Sales Tax	7.0%	0.67	0.69	6.25%	0.63	6.35%	0.65
Total Price per Pack	\$10.27	\$10.56	\$10.72		\$10.90		

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

In determining the revenue estimate, ORA takes into consideration the elasticity of the price of cigarettes. The \$0.25 excise tax increase amounts to a 5.9 percent price increase. Applying elasticity from decreased demand as calculated from previous tax increases results in a net estimated revenue increase of 2.7 percent.

E-Cigarettes and Other Tobacco Products

Article 4 expands excise taxes on tobacco products other than cigarettes, including electronic cigarettes (e-cigarettes or e-cigs).

Other Tobacco Revenue Changes

Change	Impact
Electronic Cigarette Excise Tax	\$0.7
\$0.30 increase of the Cigar Tax	0.6
Required Purchase from Licensed Entities	1.0
Total	\$2.3

\$ in millions

Source: Office of Revenue Analysis

E-Cigarettes: This article establishes the following legal definition of electronic cigarettes under the other tobacco products under RIGL 44-20:

- A personal vaporizer, electronic nicotine delivery system, or an electronic inhaler which generally utilizes a heating element that vaporizes a liquid solution containing nicotine or nicotine derivative

- The liquid solution containing nicotine or nicotine derivative, or any combination thereof.

Under the article e-cigarettes are subjected to the “other tobacco products” (OTP) excise tax at the rate of 80.0 percent of the wholesale cost. Using e-cigarette revenue data from other states, ORA projects that excise taxes associated with e-cigarettes will generate \$720,174 in general revenue in FY2019.

Cigars: This article also increases the maximum tax imposed on cigars sold in the State. The current maximum tax is set at \$0.50 per cigar. Article 4 raises it to \$0.80, effective July 1, 2018. According to the ORA, cigars with a wholesale cost of over \$0.625 per cigar are taxed at the maximum rate. In FY2017, 1.7 million cigars were taxed at this level. Cigars with a wholesale cost less than \$0.625 are taxed at the standard OTP rate of 80.0 percent of the wholesale. ORA estimates increasing the maximum cigar tax will generate \$551,306 in new general revenue in FY2019.

Purchasing tobacco products from licensed entities: The article mandates that manufacturers or importers may sell or distribute tobacco products to an entity in Rhode Island only if that entity is licensed. Currently this is required only of the sale and distribution of cigarettes. ORA projects this initiative to generate \$1.0 million in general revenue in FY2019.

DOR Collections Unit

Article 4 establishes a collections unit within the Department of Revenue for the purpose of assisting state agencies in the collection of debts owed to the State.

The article authorizes DOR to initially implement a pilot unit as a precursor to a fully mobilized collection division. As part of the pilot DOR may enter in agreements with any State agency to collect any delinquent debt. The debt must arise from a debtor failing to make timely payments pursuant to a written settlement agreements, final administrative order, or final judgement from a court or department.

Agency referring a debt must:

- Notify the debtor of its intention and of the right to appeal that decision not less than 30 days before the transfer.
- Provide the unit with all of the relevant supporting documentation.
- Attest that it has complied with all applicable laws and regulations relating to the collection of the debt.

Once referred to the collection unit, the debt will accrue interest at an annual rate determined by adding 2.0 percent to the prime rate effective the preceding October 1. The interest cannot exceed 21.0 percent or be less than 18.0 percent per year.

Analyst Note: The upper limit on the interest rate is drafted two different ways within Article 4. Numerically it state the 21.0 percent rate, however, the language reads “twenty-two”.

Upon referral of a debt, the collection unit shall:

- Provide the debtor a “Notice of Referral” advising that the debt has been referred, that interest will accrue as describe above, and that if payment has not been received within 30 days of the notice, the debtor will be responsible to pay a fee of 12.0 percent of the amount of the outstanding debt (to be applied to the costs and expenses of the unit).
- Initiate any action that is available under State law for the collection of the debts, including referring the debt to a third party.

The collection unit may enter into contracts with any person or entity to be paid on a contingent, fee, or other basis, for services rendered to the collection unit where the contract is for the collection of debt.

Upon the receipt of payments toward debts, the collection unit shall disburse the proceeds as follows:

- To any third party contracted to assist in the collection of the debt.

- To the appropriate federal account to reimburse the federal government funds owed them by the State.
- 12.0 percent into a restricted receipt within DOR to defray costs associated with the collection.
- The balance to go to the referring agency.

The Governor includes \$591,609 to fund the collection unit in FY2019, \$483,069 for 7.0 FTE positions and \$108,540 for contract services. The Budget Office projects this initiative to generate \$1.3 million in additional revenue.

Article 5: Relating to Capital Development Program

This article submits a total of \$368.5 million in ballot referenda to Rhode Island voters for their approval. Proposed as three questions on the November ballot, the following projects are included.

November 2018 Bond Referenda	Amount
Rhode Island School Buildings	\$250.0
Higher Education Facilities	70.0
<i>University of Rhode Island Narragansett Bay Campus</i>	<i>\$45.0</i>
<i>Rhode Island College School of Education and Human Development</i>	<i>25.0</i>
Green Economy and Clean Water	48.5
Coastal Resiliency and Public Access Projects	5.0
Capital for Clean Water and Drinking Water	6.1
Wastewater Treatment Facility Resilience Improvements	5.0
Dam Safety	4.4
State Recreation Projects Program	10.0
State Bikeway Development Program	5.0
Brownfield Remediation and Economic Development	4.0
Local Recreation Projects	5.0
Access to Farmland	2.0
Local Open Space	2.0
Total	\$368.5

\$ in millions.

FISCAL IMPACT

The article permits \$368.5 million in bond referenda to be placed on the November 2018 ballot including, \$250.0 million for Rhode Island School Buildings, \$70.0 million in bonds for higher education, and \$48.5 million in bonds for the Green Economy. Assuming full issuance in bond year 1 and 5.0 percent interest, debt service payments begin in FY2020 at \$29.6 million. Total debt service over the life of the bonds would be \$591.4 million, including \$222.9 million in interest payments.

ANALYSIS AND BACKGROUND

Rhode Island School Buildings

The Governor recommends a \$250.0 million bond for the construction, renovation, and rehabilitation of the State's public schools. The referendum allows the State to issue \$250.0 million in notes over a five-year period but not more than \$100.0 million in notes in any one year. The bond proceeds will fund the foundational school housing aid program and the School Building Authority Capital Fund with the allocation between the two programs to be determined by the School Building Authority. Assuming full issuance in bond year 1 and 5.0 percent interest, debt service payments begin in FY2020 at \$20.1 million. Total debt service over the life of the bond would be \$401.2 million, including \$151.2 million in interest payments. *More detailed information on the proposed program can be found under Article 9 Relating to School Construction and Education in this publication.*

Higher Education Facilities

- **University of Rhode Island Narragansett Bay Campus:** The Governor recommends a \$45.0 million bond referendum to fund repairs and construct new facilities on the University of Rhode Island's Narragansett Bay Campus in support of the ongoing and evolving educational and research needs for

the marine disciplines at the Campus. The Bay Campus has grown to a 6.9 acre oceanfront campus with 60 structures and a large vessel pier. The majority of the buildings were constructed between the late 1960's and the 1980's. In 2015, the University created a Master Plan Report for the Narragansett Bay Campus. The report evaluates all existing buildings and site conditions, and establishes priority projects for a comprehensive renewal of the campus to meet current and future programmatic needs. This project will address the renovations and replacements identified in the Master Plan. Assuming full issuance in bond year 1 and 5.0 percent interest, debt service payments begin in FY2020 at \$3.6 million. Total debt service over the life of the bond would be \$72.2 million, including \$27.2 million in interest payments.

- **Rhode Island College School of Education and Human Development:** The Governor recommends a \$25.0 million bond referendum to renovate Horace Mann Hall which houses the School of Education and Human Development at Rhode Island College. The structure was built in 1969 and is approximately 46,000 square feet. The project includes the reconfiguration of offices and the Tech Center; an addition to the west end of the building; a new elevator; and, window replacement. The existing facility is not energy efficient or able to support modern classroom technology. Assuming full issuance in bond year 1, as shown in the voter pamphlets, and 5.0 percent interest, debt service payments begin in FY2020 at \$2.0 million. Total debt service over the life of the bond would be \$40.1 million, including \$15.1 million in interest payments.

Green Economy

The Governor recommends a \$48.5 million general obligation bond authorization be placed on the November 2018 ballot for environmental and recreational purposes. Assuming full issuance in bond year and 5.0 percent interest, debt service payments begin in FY2020 at \$3.9 million. Total debt service over the life of the bond would be \$77.8 million, including \$29.3 million in interest payments. The bond proceeds would be allocated as follows:

- **Coastal Resilience and Public Access Projects:** The referendum provides \$5.0 million for matching grants, of up to 75.0 percent of project costs, to public and non-profit entities to restore and/or improve the resiliency of vulnerable coastal habitats, as well as river and stream floodplains. The funds will leverage support for local programs to improve community resiliency and public safety during increased flooding, major storm events, and environmental degradation.
- **Capital for Clean Water and Drinking Water:** The referendum provides \$6.1 million infrastructure improvements including wastewater treatment upgrades and storm water quality improvements to combined overflow abatement projects. The funds will provide the state match to recapitalize the Clean Water and the Drinking Water revolving funds at the Rhode Island Infrastructure Bank (RIIB). The revolving funds are capitalized by federal Environmental Protection Agency (EPA) grants, with the State providing a 20.0 percent match, generally through general obligation bond proceeds. Other funding is available from RIIB revenue bonds and revolved capital. The revolving funds were last capitalized with state funds from the proceeds of the 2012 general obligation bond. The funding for the state match of the Clean Water Fund is projected to have a deficit of \$859,678 in FY2019. The Drinking Water Fund was depleted in FY2017 and has been capitalized with RIIB proceeds as a interim solution. According to RIIB, the investment of \$6.1 million is projected to leverage approximately \$36.0 million in federal funds.
- **Wastewater Treatment Facility Resilience Improvements:** The referendum includes \$5.0 million to provide matching grants, for up 50.0 percent of project costs, for resiliency improvements to wastewater treatment facilities vulnerable to increased flooding, major storm events, and environmental degradation.
- **Dam Safety:** The referendum provides \$4.4 million for repairing and/or removing state-owned dams. The dam safety project allows the Department of Environmental Management (DEM) to complete

engineering studies, designs and repairs to “high-hazard” State-owned dams which, if they were to fail, would cause significant property damage and potential for loss of life. The State owns 10 high hazard and four significant hazard dams. During the past 11 years, the Department completed repairs to the Stillwater Dam in Smithfield, the Olney Pond Dam in Lincoln Woods, the Bowdish Lake Dam at the George Washington Management Area, and the upper J.L. Curran Dam in Cranston. More recently, the Department began construction on the lower J.L. Curran Management Area in Cranston and the Wyoming Pond Upper Dam in Hope Valley. The reconstruction of the Trestle Trail culvert replacement and the Silver Spring Dam reconstruction project are next on the priority list. Other dams in need of repair include the Browning Mill Pond Dam in Hopkinton and Burlingame Reservoir Dam in Gloucester.

- **State Recreation Projects Program:** The referendum provides \$10.0 million for capital improvements to state recreational facilities, including Fort Adams State Park. The DEM manages over 50 buildings and 25 miles of roads, in addition to water supply systems and other infrastructure elements, in State Parks and Management Areas.
- **State Bikeway Development Program:** The referendum provides \$5.0 million for the State to design, repair, and construct bikeways, including the East Bay bike path. In November 2016, the voters approved \$10.0 million in general obligation bonds to design and construct bikeways, including the completion of the Blackstone River Bikeway, and the South County Bikeway. These funds have been obligated and the 2018 funds will build on this program.
- **Brownfield Remediation and Economic Development:** The referendum provides \$4.0 million for grants, matching up to 80.0 percent of project costs, to public, private and/or non-profit entities for brownfield remediation projects. According to the Department of Environmental Management (DEM), brownfields comprise between 100,000 and 120,000 acres of land across the State, much of it in prime commercial or industrial locations within urban areas. The clean-up and re-purposing of these sites will remove hazards, attract jobs, and protect the urban environment. The federal Environmental Protection Agency estimates that brownfield clean-up increases adjacent property values by 2.0 to 3.0 percent. Voters approved \$5.0 million in general obligation bond for brownfield remediation projects in November 2014 and again in November 2016. DEM awarded \$3.8 million of these grant funds to support 14 projects across the State. Another round of awards was held in the spring of 2016 to award the remaining \$1.3 million. The 2016 bond funds are being used to grow this program as will the 2018 bonds if approved by voters.
- **Local Recreation Projects:** The referendum provides \$5.0 million for grants matching up to 80.0 percent of project costs to municipalities for the acquisition, development, or rehabilitation of local recreational facilities such as sports fields, tennis courts, and playgrounds. The grant applications will be evaluated and ranked by the State Recreation Resources Review Committee, which is comprised of state and local government officials and representatives of non-profit agencies. DEM exhausted the remaining \$4.0 million in 2014 bond funds for grant awards in 2016. In FY2016, voters approved \$2.0 million in general obligation bonds. The new bond proceeds would be used to continue the program in FY2019.
- **Access to Farmland:** The referendum includes \$2.0 million to protect the State’s working farms through the State Farm Access Program and the purchase of Development Rights by the Agricultural Land Preservation Commission.
- **Local Open Space:** The referendum provides \$2.0 million for matching grants, for up to 50.0 percent of project costs, to municipalities, local land trusts, and nonprofit organizations for the acquisition of fee-simple interest, development rights, or conservation easements on open space and urban parklands. Applications are reviewed by the Governor’s Natural Heritage Preservation Commission. In the 30-year history of this program, over 160 conservation projects preserving over 10,000 acres of land have been acquired including Sunset Farms in Narragansett, Weetamoe Woods in Tiverton, Glacier Park in

Westerly, and Mount Hope Farm in Bristol. In November 2016, voters approved \$4.0 million in general obligation bonds.

Article 6: Relating to Licensing

This article changes the administration, fees, and structure of various licensing provisions in the State that impact businesses. The stated purpose is to alleviate inefficient, disparate, duplicative, and confusing regulation. Specifically, Article 6:

- Transfers the oversight and licensing authority of various licenses from the Department of Health (DOH) to the Department of Business Regulation (DBR).
- Eliminates the fee to file a mobile home complaint with the DBR.
- Eliminates the requirement that applicants wanting to open a business transporting household goods must prove present or future public convenience and necessity.
- Permits the use of electronic signatures by officials when issuing licenses and certifications.
- Eliminates notarization requirements on various health-related professional licenses
- Aligns sales permit and litter permit fee renewal dates.
- Changes the recertification/renewal period for Certified Food Safety Managers from three years to five.
- Removes the requirement to get a separate license for retail frozen dessert processing for businesses who are already registered as a food establishment.

FISCAL IMPACT

The regulatory overhaul proposed under Article 6 combines for a \$140,000 reduction in overall general revenue. This fiscal impact of the changes are summarized in the following table:

Article 6 Fiscal Impact	
Item	General Revenue Impact
Transfer of Licensing Authority to DBR	\$200,000
Transfer of Licensing from DOH	(200,000)
Frozen Dessert Processor License Fee Elimination	(80,000)
Licensing Period for Certified Food Safety Managers	(60,000)
Total	(\$140,000)

The article transfers the administration of various licensing from DOH to DBR and shifts 2.0 FTE positions, including 1.0 Beauty Shop Inspector and 1.0 Health Services Licensing Aid II.

In addition to the changes associated with Article 6, the Governor also recommends making two fee changes by regulation that combine for a \$164,200 reduction in general revenue. These changes include the reduction of the wholesale food processor fee from \$500 to \$300, and the elimination of the \$50 chair/station fee for hair dressing salons.

ANALYSIS AND BACKGROUND

Article 6 makes numerous changes to the regulation, licensing, and administration of certain businesses and professions.

Alcoholic Beverage Licensing

Article 6 amends the statutes governing the licensing and administration of the alcoholic beverage industry. These changes include:

- Permits the use of electronic signatures for all licenses related to alcoholic beverages.

- Permits alcohol and brewpub manufacturers, rectifiers, Class A, B, and C Alcohol Wholesalers, distillery, winery, and brewery agents, to pay their annual license fees directly to the General Treasurer as opposed to the Division of Taxation, who under current law simply turns the funds over to the Treasurer.
- Eliminates the requirement to post a bond by Class A, B, and C Alcohol Wholesaler licensees. According to the Department of Business Regulation, there has never been an instance when a bond has been used.
- Eliminates the \$1.00 fee for a Class G retailer (railroad car, marine vessel, or airline) to obtain a duplicate license.

Transfer of Professional Licensing and Oversight from DOH to DBR

The Governor transfers the regulatory administration of certain licensed professions from the Department of Health's Division of Professional Regulation to the Department of Business Regulation's Division of Commercial Licensing. These professions include barbers, hairdressers, cosmeticians, manicurists, estheticians, opticians, speech pathologists, audiologists, interpreters of the deaf, hearing aid dealers and fitters, electrologists, funeral directors and embalmers, music therapists, and athletic trainers.

As part of this reorganization, the Budget shifts \$195,068 in general revenue from DOH to DBR along with 2.0 FTE positions. These include 1.0 Beauty Shop Inspector and 1.0 Health Services Licensing Aid II.

In addition to the shift in oversight, several other changes are made to the regulation of these professions. For the categories of professions, these include:

Barbers, Hairdressers, Cosmeticians, Manicurists, and Estheticians:

- Repeals the application of local zoning laws. Currently these professions must receive a zoning certificate that is signed and sealed by the municipality in order to receive a license to operate a salon.
- Eliminates a duplicate statutory requirement that licensing fees be deposited as general revenues.
- Permits electronic notice of license renewal rather than mail.
- Removes an internal appeal for license actions and deferring to the administrative procedures act.
- Eliminates the requirement that applicants for have a high school degree or equivalent.
- Increases the number of instruction hours required to qualify for a hairdresser and cosmetology license from 1,200 to 1,500.

Analysts Note: The General Assembly reduced the number of hours of instruction required to obtain a hairdresser and cosmetology license from 1,500 to 1,200 in 2017. Article 6 reverses this.

Electrologists

- Removes the requirement of criminal conviction as a prerequisite to a penalty for unlicensed practice.
- Clarifies that the revocation of a license due to habitual intoxication or drug addiction must be based on the extent to which it impairs the licensee's ability to engage in the practice of the profession.
- Clarifies that revocation and/or suspensions are subject to the administrative procedures act.

Funeral Director/Embalmer

- Reduces funeral establishment inspections from twice a year to once.
- Permits electronic notification of license renewal requirements.
- Eliminates the requirement that complaints must be notarized and adds "a member of the public" as an entity that is authorized to file a complaint.

Opticians

- Removes the requirement that applications for an optician license be sworn by affidavit.

Hearing Aid Dealers/Fitters

- Removes criminal conviction as a penalty for violations.
- Adds certified mail to the methods of notice to consumers.
- Removes the requirement for notices to licensees be delivered by certified mail.
- Removes the requirement of a departmental seal for subpoenas.
- Removes the requirement for a set number of board of examiners meetings.

Athletic Trainers

- Removes obsolete initial board appointment requirements.
- Removes the requirement for a set number of board of examiners meetings.

Interpreters for the Deaf

- Removes the requirement for a set number of board of examiners meetings.
- Removes the requirement for an annual report by the board of examiners.
- Removes the requirement that the board of examiners adopt the state seal to authenticate its proceedings.
- Removes the requirement that applications for licenses be verified by oath.
- Removes the 30-day time period for responses from the department to the board of examiners.

Elimination of Oath/Notarization Requirements

In addition to the amendments to oath and notarization requirement outlined above, Article 6 removes similar requirements for numerous professional licenses administered by the Department of Health. According to the Budget Office, these changes would allow DOH to provide initial licensure online. The professional licenses addressed by the article are:

- Veterinarians
- Chiropractic physicians
- Nurses
- Optometrists
- Acupuncturists and practitioners of Oriental medicine
- Physical therapists and physical therapist assistants
- Occupational therapists
- Psychologists
- Mental health counselors
- Marriage and family therapists
- Applied behavior analysts

Miscellaneous Regulatory Changes

Article 6 also consolidates or eliminates elements of secondary business regulation. These changes include:

- Removes the requirement of a separate license for retail frozen dessert processing for businesses that are already registered as a food establishment. Elimination of this requirement results in an estimated \$80,000 reduction in general revenue.
- Changes the recertification/renewal period for Certified Food Safety Managers from three to five years. Extending the period is estimated to reduce general revenues in FY2019 by \$60,000.
- Eliminates the \$25 fee to file a mobile home complaint with the DBR.
- Eliminates the requirement that applicants wanting to open a business transporting household goods must prove present or future public convenience and necessity.
- Permits the Division of Taxation to align sales and permit fee renewable dates related to shows and events.

Article 7: Relating to Fees

This article increases or establishes various fees. Specifically, Article 7:

- Increases the fee for annual the license registration and renewal to sell mutual funds in Rhode Island from \$1,000 to \$1,500.
- Increase the two-year claims adjuster license fee from \$150 to \$250.
- Authorizes the State to collect a Hospital Licensing Fee and increases the current rate of 5.652 to 5.856 percent in net patient services revenue.
- Authorizes the Municipal Police Training Academy to charge tuition and fees.

FISCAL IMPACT

The fiscal impact of Article 7 is summarized in the following table:

Article 7 Fiscal Impact	
Item	General Revenue Impact
Hospital License Fee	\$182.0
Mutual Fund Registration Fee Increase	4.6
Insurance Claims Adjuster License Fee Increase	3.0
Total	\$189.6
Article 7 Fiscal Impact	
Item	Other Fund Changes
Municipal Police Academy Tuition and Fees	\$0.25
Total	\$0.25

\$ in millions

The reauthorization of the hospital operating license fee is estimated to generate \$182.0 million in general revenue, \$1.0 million more than the FY2018 Budget as Enacted.

The \$500 increase in the mutual fund registration and renewal fee is estimated to generate \$4.6 million in general revenue in FY2019.

The \$100 increase in the biennial registration fee for insurance claims adjusters is estimated to generate \$3.0 million in general revenue FY2019.

The new Municipal Police Training Academy tuition and fees combined is projected to generate \$253,024 in new restricted receipt funds in FY2019.

ANALYSIS AND BACKGROUND

This article raises several registration and license fees, provides the annual reauthorization of the fee for operating a hospital in the State, and authorizes the charging of tuition and fees at the Municipal Police Training Academy.

Hospital License Fee

The hospital licensing fee is a provider tax that the State levies on hospitals. In past fiscal years, it has been used to generate state funds that are then matched with federal Medicaid funds and returned to hospitals for their care for the uninsured and indigent through the Disproportionate Share Hospital (DSH) program.

- It is calculated as a percent of gross patient services revenues, which includes revenue from patient care activity but excludes revenue from non-patient activity such as research, academic activity, and investment earnings.
- The fee is set in each year's budget for that year, so annual legislative action is required for the fee to continue.
- Hospitals pay the fee in a single payment in July of each fiscal year.
- The fee is imposed only on hospitals licensed pursuant to RIGL 23-17 with the exception of those hospitals whose primary services and patient beds are psychiatric in nature. Thus, Bradley and Butler Hospitals do not pay the fee.
- The federal government limits hospital licensing fees to 6.0 percent. Article 7 sets the rate at 5.856 percent.

Hospital Licensing Fee Revenue		
Fiscal Year	Rate	Revenue
2008	3.480%	\$73.9
2009	5.473%	121.5
2010	5.314%	124.9
2011	5.465%	135.8
2012	5.430%	138.0
2013	5.313%	138.5
2014	5.246%	145.9
2015	5.745%	155.3
2016	5.862%	169.1
2017	5.652%	168.0
2018	5.652%	181.0
2019	5.856%	182.0

\$ in millions

Though the State's largest hospitals are non-profit and do not pay corporate income taxes or property taxes, the hospital license fee has become a considerable source of revenue for the State since its substantial increase in FY2009. In FY2019 it is estimated to generate \$182.0 million.

Mutual Fund Registration Fee Increase

Rhode Island charges an initial and an annual renewal fee of \$1,000 to register a mutual fund to be sold in Rhode Island. The Governor recommends increasing these fees to \$1,500. According to the Department of Business Regulation (DBR), this increase would keep the fee in alignment with rates charged in other New England states. Initial fees range from \$500 in Connecticut to \$2,500 in Massachusetts. Renewals range from \$500 in Connecticut to \$1,500 in Vermont. There are approximately 9,100 mutual funds registered to be sold in Rhode Island. This increase is projected to generate \$4.6 million in general revenue in FY2019.

Insurance Claims Adjuster License Fee Increase

The current fee to maintain an insurance claims adjuster license in Rhode Island is \$150 every two years. The Governor recommends increasing the biennial fee to \$250. According to the Department of Business Regulation (DBR), 49 states license the various classes of insurance claims adjusters, including independent, public, and company levels. Massachusetts and Connecticut charge \$200 and \$300, respectively. There are approximately 60,000 insurance claim adjusters license in Rhode Island, a majority of who are not residents of the state. This increase is projected to generated \$3.0 million in general revenue in FY2019.

Municipal Police Training Academy Tuition and Fees

Article 7 authorizes the Rhode Island Municipal Police Training Academy to charge tuition to incoming recruits to fund the costs associate with the school. These funds would be deposited into a restricted receipt account. Since its establishment in 1969 the Academy has primarily been funded by general revenues. Over the last three fiscal years, the General Assembly has appropriated an average of \$262,000 in general revenue per year.

The Academy trains and certifies municipal law enforcement officers for all municipalities, except for the City of Providence. It runs two to three classes and 80 to 100 professional development workshops annually. Municipalities do not pay to send recruits to the Academy, but they do provide in-kind services including officer time to teach courses, and meeting and firing range space. Recruits are paid by municipalities for their time spent at the Academy.

The Academy also collects \$4,000 per recruit in user fees for the training of campus police officers for Brown University. These funds, approximately \$20,000 annually, are currently deposited as General Revenues.

Recruits must have conditional offers of employment from municipal police departments to enter the Academy. To receive conditional offers of employment from local police departments, recruits must pass a swim test, fitness assessment, medical evaluation, psychiatric evaluation, written exam, criminal background investigation, and an oral interview.

Article 7 authorizes the Municipal Police Training Academy to conduct a statewide physical training test and to charge a fee, to be established by rules and regulations and to be deposited into the new restricted receipt account.

The Governor includes \$253,024 in restricted receipts for tuition and fees in FY2019. General revenues are reduced by the same amount.

Article 8: Relating to Division of Motor Vehicles

Article 8 makes a number of changes affecting the Division of Motor Vehicles (DMV). The article delays the reissuance of license plates one year; merges fees relating to duplicate licenses and routine information changes; and reduces the phased-in transfer of DMV fees to the Highway Maintenance Account.

FISCAL IMPACT

This article is projected to have the following fiscal impacts in the FY2019 Budget and the FY2018 Supplemental Budget:

- Delaying the reissuance of license plates saves \$3.0 million in general revenue expenditures in the FY2019 budget; funding for the initiative shifts from FY2019 to FY2020. Under current law, individuals are charged \$6.00 above the regular registration fee per license plate. The delay also would result in a projected loss of \$1.8 million in general revenue.
- Duplicate license and information update fees are merged together instead of being two distinct fees. This change results in a \$20.00 fee increase to update information on an individual's license. The article exempts money generated by the new merged fee category from the required transfer of DMV fees to the Rhode Island Highway Maintenance Account (RIHMA). The fee increase and exemption combine for a projected general revenue increase of \$3.1 million.
- The revised FY2018 Budget includes a \$10.3 million increase attributable to a proposed delay in the transfer of DMV fees to the RIHMA. Under current law, 80.0 percent of applicable DMV fees are supposed to be transferred to the RIHMA in FY2018. Article 8 holds back an additional 20.0 percent in the general fund, only transferring 60.0 percent.

ANALYSIS AND BACKGROUND

Delay License Plate Reissuance

The article delays the license plate reissuance from January 1, 2019, to January 1, 2020. Funding for the initiative shifts from FY2019 to FY2020, resulting in a \$3.0 million reduction in expenditures in FY2019. Under current law, individuals are charged \$6.00 above the regular registration fee per license plate. Delaying the reissuance also results in a loss of approximately \$2.0 million in revenue in FY2019.

Under RIGL 31-3-33, the DMV is required to issue new reflective license plates for all registered vehicles every 10 years. The law was revised in 1995 to require plate reissuances every 10 years, and in 2009, the General Assembly required a full reissuance in 2011. This is the 6th time that this requirement has been postponed: in the FY2012 Budget as Enacted, the General Assembly changed the first full reissuance requirement from 2011 to 2013; the FY2014 Budget as Enacted changed the reissuance until September 2015; the FY2016 Budget changed it to July 1, 2016; the FY2017 Budget as Enacted changed it to April 1, 2017; the FY2018 delayed it until January 1, 2019, and the FY2019 Budget changes it again to January 2020.

Reduction in Highway Maintenance Account Funding

The Transportation Investment and Debt Reduction Act of 2011 created the Rhode Island Highway Maintenance Account (RIGL 39-18.1-4) within the Intermodal Surface Transportation Fund (ISTF). The account is funded via surcharges associated with licenses, vehicle registrations, inspection stickers, titles, and other related fees. Under RIGL 39-18.1-5, funds from the Rhode Island Highway Maintenance Account are authorized for projects that appear in the State's transportation improvement program.

Fee Deposit Schedule: Article 8 adjusts, for the second consecutive year, the phase-in schedule for transferring of all vehicle license and registration fees from the general fund to the RIHMA. The transfer of these fees to the RIHMA is part of the sustainable transportation funding reforms adopted by the General Assembly in the FY2015 Budget as Enacted. The original schedule called for 25.0 percent of the fees to be transferred during FY2016, 75.0 percent during FY2017, and all fees in FY2018 and beyond.

Changes to the RI Highway Maintenance Account Fee Deposit Schedule

Fiscal Year	Original Law	Current Law	Article 8
	% of fees deposited	% of fees deposited	of fees deposited
FY2016	25%	25%	25%
FY2017	75%	50%	50%
FY2018	100%	80%	60%
FY2019	100%	100%	100%

The enacted FY2018 Budget as Enacted retained 25.0 percent more of the fees in FY2017 for the general fund and 20.0 percent more in FY2018. The complete transfer of funds was delayed until FY2019. This resulted in a \$13.0 million reduction in funding to the RIHMA in FY2017.

Article 8 article reduces transfers to the RIHMA in the FY2018 Supplemental Budget from 80.0 percent to 60.0 percent; resulting in a \$10.3 million reduction in funding to the RIHMA in FY2018. The combined impact on the RIHMA over two fiscal years is a loss of \$23.3 million.

The RIHMA is further impacted by this article by exempting duplicate license and updated information fees as describe below.

Duplicate License / Updated Information Fees

The fee to obtain a duplicate license currently costs \$25. In order to update information on license, such as a new address or a change in name, an individual must pay a \$5.00 fee. This article merges the latter service with the duplicate license fee, effectively raising the fee to update licenses by \$20.

DMV Fee	Current Fee	Article 8 Fee	Change
Duplicate Licence Fee	\$25	\$25	\$0
Update Information Fee	5	25	20

As part of the State’s sustainable transportation infrastructure priorities, both of the fees are statutorily required to be deposited in the RIHMA pursuant to the phase-in described above. Section 3 of the article permanently eliminates this requirement and retains all revenue from these fees in the General Fund.

DMV Fee	Current Revenue	Article 8 Revenue	Change
Duplicate Licence Fee	\$506,450	\$506,450	\$0
Update Information Fee	100,540	502,700	402,160
total	\$606,990	\$1,009,150	\$402,160

Shifting these DMV fees to the General Fund represents a \$606,990 annual reduction to the Rhode Island Highway Maintenance Account under the current fee amount.

Article 9: Relating to School Construction and Education

This article is intended to improve the condition of public school buildings in Rhode Island. The article also expands the eligibility for admission to the School for the Deaf to include students who are not deaf or hard of hearing, directs the fully-transitioned, state funding formula aid for those students to the School for the Deaf, and requires the payment of a local tuition for those students.

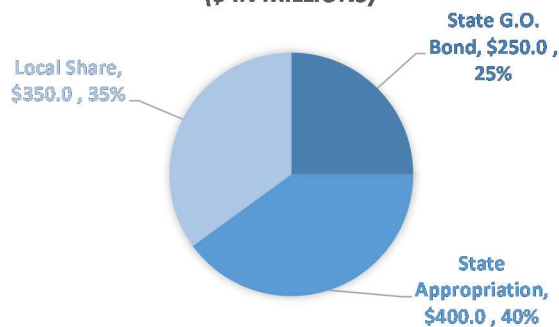
FISCAL IMPACT

The fiscal impact of the article is indeterminable at this time. The increased incentives for school construction will likely result in a greater State cost for school construction projects; however, fiscal impact depends on the districts applying for aid and the projects proposed. Both of these factors are unknown at this time.

In order to provide increased State funding for school construction projects, Question 1 on the 2018 ballot referenda, as provided in Article 5 of the Governor's Budget, provides funds for the construction, renovation, and rehabilitation of the State's public schools. Pursuant to language of the article, the State cannot issue more than \$250.0 million in notes over a five-year period and not more than \$100.0 million in notes in any one year.

To fund the \$1.0 billion in construction proposed over the next five years, the Governor proposes \$400.0 million in ongoing traditional school construction appropriations at the current level of \$80.0 million annually; \$250.0 million in voter approved, state, general obligation bond proceeds, and \$350.0 million in local bond proceeds. According to the School Building Authority, of the \$400.0 million in ongoing, annual appropriations, only \$110.0 million is available for new projects since \$290.0 is obligated for completed and currently projected projects through the traditional reimbursement program.

\$1.0 BILLION IN SCHOOL CONSTRUCTION OVER 5 YEARS (\$ IN MILLIONS)



Expanding eligibility for admission to the School for the Deaf to include students who are not deaf or hard of hearing will likely increase costs for certain school districts; however, which districts will be impacted and how much costs will increase is unknown.

ANALYSIS AND BACKGROUND

School Construction

On September 13, 2017, through Executive Order 17-09, the Governor established the Rhode Island School Building Taskforce. The Taskforce was charged with reviewing the *State of Rhode Island Schoolhouses Report* and recommending a plan to address the deficiencies identified in that report while ensuring taxpayer investments in school construction are efficient and sustainable. On December 13, 2017, the Taskforce submitted a report detailing the recommendations on how the State, municipalities, and school districts can ensure that public schools in Rhode Island are warm, safe and dry, and equipped with 21st century learning environments. The specific recommendations include:

- Increasing the state share ratio for high priority projects to encourage districts to undertake more school repair and construction projects.
- Submitting a referendum to voters in the 2018 and 2022 ballots for authorization to issue \$250.0 million in general obligation bonds for public school construction and repair over five years, with no more than \$100.0 million issued in any one year, as well as prioritizing bond proceeds to fast-track emergency repairs on a pay-as-you-go basis.
- Shifting the state share of housing aid to a pay-as-you-go basis instead of a reimbursement model.
- Introducing policies to reduce costs and protect assets.
- Conducting a LEAN review of the current school construction approval practices at RIDE to ensure an efficient and timely process, and increasing School Building Authority staffing levels.
- Having RIDE work with the Department of Environmental Management to streamline the environmental approval process for large school construction projects.
- Ensuring that school buildings are regularly and properly maintained to prevent deterioration and reduce the need for costly repairs.

Article 9 is the Governor's response to the recommendations of the Taskforce and includes the following changes to the current school construction program.

Minimum Share Ratio: The article increases the minimum share ratio for charter schools from 30.0 percent to 35.0 percent; however, the minimum share ratio for traditional districts remains unchanged at 35.0 percent. The Taskforce report did not mention charter schools and only recommended the use of expiring incentives.

Analyst Note: The language of the article makes the minimum share ratio effective as of July 1, 2012; however, Staff is expecting an amendment to change the July 1, 2012, date to July 1, 2018, so that the increased minimum share ratio would not be applied retroactively to charter schools.

The use of the term "local education agency" implies that the minimum share ratio is for charter schools, since traditional districts currently have a minimum share ratio of 35.0 percent. Neither the article nor the current language in the statute define the term "local education agency"; the term as used in Rhode Island is intended to include traditional school districts, public charter schools, and state schools. It is unclear how this amendment interacts with RIGL 16-7-41.1, which provides for eligibility for reimbursement under the school construction program, or 16-77.1-5, which provides for facility support for charter public schools.

Increases Share Ratio Incentives: The article temporarily expands incentives through the school housing aid share ratio to encourage municipalities to address school building deficiencies, while keeping current incentives such as regional school districts and energy conservation. However, a district cannot receive a combined total of more than 20 incentive percentage points for projects that commence construction by December 30, 2023, nor can a district's share be decreased by more than half of its regular share ratio. Each of the new incentives require that 25.0 percent of project costs or a minimum of \$250,000 be specifically directed for the incentivized purpose.

Analyst Note: The intent is for the incentives to be 5.0 percentage points.

- **Health and Safety:** The article provides a share ratio increase of 5.0 percent for health and safety projects as defined by the School Building Authority, so long as the project commences by December 30, 2022.
- **Educational Enhancement:** A state share ratio increase of 5.0 percent is provided for the enhancement of teaching science, technology, engineering, arts, and math, as well as early childhood education, career and technical education, and technology enabled facilities, so long as the project commences by December 30, 2022.

Analyst Note: Under current regulation, furniture, fixtures, equipment, and technology are not eligible for reimbursement, unless the project is new construction. (RIDE School Construction Regulations 1.07-3 and RIGL 16-7-44.1)

- **Facilities Condition Index:** A 5.0 percent increase is provided for the replacement of a facility that has a facilities condition index of 65.0 percent or higher, so long as the project commences by December 30, 2023. “Facilities condition index” is defined as the cost to fully repair the building divided by the cost to replace the building as defined by the School Building Authority.
- **Increased Utilization of Facilities:** The article provides a 5.0 percent increase for new construction or renovation that increases the functional utilization of a facility from less than 60.0 percent to more than 80.0 percent, so long as the project commences by December 30, 2023. Functional utilization is defined as the ratio of the student population within a school facility to the capacity of the facility to adequately serve students, as defined by the School Building Authority.
- **Decrease Overcrowding:** A 5.0 percent increase is provided for projects that decrease the functional utilization of any facility from more than 120.0 percent to between 85.0 and 105.0 percent, so long as the project commences by December 30, 2023.
- **Consolidation:** A 5.0 percent increase is available for the consolidation of two or more buildings within or across districts into one building, so long as the project commences by December 30, 2023.
- **Projects Approved Prior to January 1, 2017:** Projects approved prior to January 1, 2017, that have not commenced construction as of January 1, 2018, are not eligible to receive the new incentives in the article; however, they are eligible to receive a total of five combined incentive points, so long as a program manager and commission agent has been employed. Any project previously approved that is withdrawn or resubmitted is not eligible for any incentive points.

Analyst Note: The intent is to provide an additional five percentage points to the current share ratio automatically and not necessarily tied to the new incentives provided in the article, and any withdrawn/resubmitted projects would not even be eligible for current-law incentives.

The Taskforce recommended applying the new bonuses to projects approved in the last five years that have not broken ground.

Expands Costs Eligible for School Construction Aid: The article expands reimbursement eligibility to include financing for projects funded through the Rhode Island Infrastructure Bank, swing space for students if the district can demonstrate that no other option is available, and costs associated with the remediation of brownfield sites up to \$1.0 million.

Expands Project Eligibility for School Construction Aid: The proposal expands reimbursement eligibility to include facilities that are for combined use with municipalities, or for-profit or non-profit agencies so long as the facility is “primarily used for public elementary or secondary education”. The project still has to be under the care and control of the school committee and located on school property.

Analyst Note: The article does not define “primarily used”, nor are any restrictions or guidelines provided relative to other uses of the property. The article does not change the current law requirements that the facility must be under the care and control of the school committee and located on school property. It is unclear how this will impact charter schools. Currently, charter schools must own the entire property where the project is proposed in order to qualify for aid. Projects on leased property do not qualify.

The Taskforce recommended that school facilities be available for community uses when appropriate, so long as the community use does not interfere with Pre-K through 12 use.

Cost Savings Proposals: In an effort to reduce project costs, the article proposes the following changes:

- **Certification of Prime Contractor:** Any project in excess of \$10.0 million, subject to inflation, requires the use of a prime contractor that has been certified by the School Building Authority. The article charges the Authority with developing a certification, which will be valid for a maximum of two years, and review process for prime contractors. The process must include, at a minimum, the contractor's history of completing projects on time and on budget, compliance with environmental and safety regulations, the maintainability of prior completed projects, and the use of women and minority owned subcontractors.

“Subject to Inflation” is defined as the base rate multiplied by the percentage of increase in the Producer Price Index (PPI) for Nonresidential Building Construction as published by the United States Department of Labor, Bureau of Labor Statistics determined as of September 30 of the prior calendar year.

- **Owner's Program Manager and Commissioning Agent:** For any project exceeding \$1.5 million, subject to inflation, the School Building Authority will assign an owner's program manager and a commissioning agent, the cost of which will be paid by the Authority. The Taskforce recommended that the cost be shared between the State and the district based on the district's share ratio.

Asset Protection Proposals: In an effort to encourage the maintenance and repair of schools, the article proposes the following changes:

- **Statewide Maintenance Standards:** The article requires the School Building Authority to develop a maintenance checklist for all school buildings that is in accordance with national best practices. The standards must include minimum annual spending requirements for maintenance and/or capital reserve funds dedicated exclusively to annual maintenance. Districts are required to adhere to the annual spending requirements beginning June 30, 2019.

Analyst Note: Under current regulation, a school district applying for school housing aid is required to have an asset protection plan for every school in the district, not just those for which aid is sought. Also, the district must have spent at least 50.0 percent of its asset protection budget pursuant to its asset protection plan in each of the previous three years prior to application. If a district fails to maintain compliance with the asset protection regulations, it may be prohibited from receiving school housing aid for at least one year and is subject to review by the Rhode Island Department of Education (RIDE) to determine district compliance. (RIDE School Construction Regulations 1.11-1) The Taskforce recommended increasing the 50.0 percent threshold in current regulation to 66.7 percent, and requiring minimum annual spending of 3.0 percent of the replacement value of the building in accordance with national best practices.

- **Statewide Building Standards:** The article requires the School Building Authority to develop facility standards for all school buildings and requires districts to adhere to the standards beginning June 30, 2021.

Analyst Note: The article is silent as to the enforcement of the maintenance and building standards.

Sale of Newly Constructed School: The article provides that if a newly constructed school is sold to a private entity within 30 years of construction, a portion of the sale proceeds equal to the housing aid reimbursement rate for that project will revert to the State.

Analyst Note: The reversion provided in the article only applies to new construction and not to renovation projects. Currently, the school construction regulations provide that where a building which has received school construction payments is closed and the building has not remained in service for 50 years, RIDE may recapture a portion of the housing aid reimbursement at its discretion. (RIDE School Construction Regulations 1.14)

School Building Authority: Pursuant to the enabling statute, the RIDE is the School Building Authority. In addition to the statewide maintenance and building standards, as well as the certification requirements for prime contractors, the article makes the following changes to the Authority:

- **Monthly Progress Reports:** The article requires the Authority to collect, maintain, and make publicly available monthly progress reports of ongoing school construction projects that include the cost and time schedule of each project.
- **Retention of Services:** The article enables the Authority to retain the services of consultants, construction managers, program managers, architects, engineers, and experts.
- **Expenses Incurred:** The article requires the Rhode Island Health and Educational Building Corporation (RIHEBC) to pay for the expenses of the Authority from the School Building Authority Capital Fund, fees generated from the origination of municipal bonds and other financing vehicles used for school construction, and its own revenues. The Taskforce acknowledged that the School Building Authority would likely need to increase staff; however, no recommendation was made as to how to fund the costs of current or additional staff.

Analyst Note: In addition to retention of services enumerated in the article, the Governor’s Budget shifts the cost of \$486,833 in salaries and benefits for 3.0 FTE positions currently responsible for the administration of the school construction program to the School Building Authority Capital Fund, and adds a new FTE position. The Capital Fund is administered by RIHEBC. Article 2 of the Governor’s FY2019 Budget establishes that the School Construction Services restricted receipt account is exempt from the indirect cost recovery, but does not provide detail about the purpose or location of the fund. Also, there is no definition or obvious limits on the term “expenses” and the expenses of the Authority would potentially include other operating costs such as materials, rent, utilities, etc.

It should also be noted that proceeds from the proposed bond authorization will be used to fund the Capital Fund and any fees charged to the borrower are generally rolled into the bond issuance; consequently, expenses paid from the fund may accrue interest.

- **Advisory Board:** The membership of the School Building Advisory Board is expanded to include the Commissioner of the Elementary and Secondary Education and the chair of RIHEBC.

School Building Authority Capital Fund: The article empowers the Authority to use funds from the Capital Fund to support the traditional necessity school housing aid program; however, the funds have to be given on a pay-as-you-go basis and offered to the LEAs based on each LEA’s proportionate share of the total state necessity school housing aid awarded to projects in that year.

Efficient Buildings Fund: The article allows for interest payments on bonds issued through Efficient Building Fund at the Rhode Island Infrastructure Bank (RIIB) to be reimbursed through the school construction program, as is currently provided for bonds issued through the RIHEBC. However, the projects must be “predominately” energy or environmental in nature.

Analyst Note: The article does not define “predominately”. Under current law RIGL 16-7-40(b)9(i), in order to qualify for the increased share ratio for energy conservation, 75.0 percent of the project must be specifically directed to that end. Also, this language does not match the language in 2017-S-0652 Sub Aa which was drafted to avoid causing a downgrade in RIHEBC’s rating.

School for the Deaf

The article expands eligibility for enrollment in the Rhode Island School for the Deaf to include students who are not deaf or hard of hearing; however, the sending district for the hearing students will be charged the local share of education funding as if the student is attending a charter or state school.

Currently, the State provides approximately 99.0 percent of the funding at the School for the Deaf. Sending districts are assessed a tuition to cover services that are additional to the core deaf and hard of hearing education

program, such as, counseling or nursing services. The tuition charged is based on a graduated tuition schedule correlating to the varying needs of the student.

Pursuant to the article, the sending district for hearing students will pay a local tuition as currently paid to charters and state schools. The local share is calculated by dividing the local appropriation to education from property taxes, net debt services and capital projects, by the district resident average daily membership (RADM) and subtracting the per-pupil local tuition reduction. In FY2018, local tuition rates averaged about \$10,214 and varied from \$3,159 in Central Falls to \$15,949 in Little Compton. (New Shoreham at \$35,315 was excluded from this calculation.)

Article 10: Relating to Making Revised Appropriations in Support of FY2018

This article makes revised appropriations for general revenues, and includes revisions to authorized expenditures from federal, restricted, and other funds, as well as authorized FTE levels for each agency and department for FY2018. The Governor's budget includes \$39.0 million in additional general revenue spending compared to the FY2018 Budget as Enacted.

APPROPRIATIONS

The article increases the total FY2018 appropriations by \$219.5 million, the bulk of which is attributable to an increase in federal fund expenditures of \$87.8 million. General revenue expenditures increase by \$39.0 million. The article outlines funding changes at the program level by fund for each department.

Expenditures by Source	FY2017 Final	FY2018 Enacted	FY2018 Governor	Change to
				Enacted
General Revenue	\$3,672.5	\$3,767.7	\$3,806.7	\$39.0
Federal Funds	2,977.4	3,134.2	3,222.0	87.8
Other Funds	1,881.4	2,079.2	2,157.7	78.5
Restricted Receipts	228.0	261.7	275.8	14.1
Total	\$8,759.3	\$9,242.8	\$9,462.3	\$219.5

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

INTERNAL SERVICE ACCOUNTS

Article 10 authorizes the State Controller to establish 15 specific internal service accounts to reimburse costs for work or other services performed by certain departments or agencies for any other department or agency. Reimbursements may only be made up to an expenditure cap, as set in this article. The changes in these accounts are intended to bring the budgeted expenditures more closely in line with actual costs. There are three new accounts established pursuant to Article 7, Section 10 of the FY2018 Budget as Enacted authorized the Governor to establish centralized accounts for each agency and allow 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.

Internal Service Account	FY2018 Enacted	FY2018 Governor	Change
State Assessed Fringe Benefits	\$41,229,448	\$38,441,994	(\$2,787,454)
Administration Central Utilities	24,910,320	22,910,320	(2,000,000)
State Central Mail	6,838,505	6,585,595	(252,910)
State Telecommunications	3,244,413	3,553,922	309,509
State Automotive Fleet	12,510,602	12,312,184	(198,418)
Surplus Property	3,000	3,000	-
Health Insurance	251,804,700	252,129,967	325,267
State Fleet	273,786	273,786	-
Other Post-Employment Benefits	63,852,483	63,852,483	-
Capital Police	1,306,128	1,079,922	(226,206)
Corrections Central Distribution Center	6,784,478	7,118,058	333,580
Correctional Industries	7,581,704	8,010,370	428,666
Secretary of State Records Center	807,345	940,491	133,146
Human Resources	-	12,012,230	12,012,230
DCAMM Facilities	-	37,286,593	37,286,593
Information Technology	-	32,179,344	32,179,344
Total	\$421,146,912	\$498,690,259	\$77,543,347

FTE POSITION CAP AND APPROVAL

Article 10 revises the authorized number of full-time equivalent (FTE) positions for each State department and agency. Departments and agencies may not exceed in any pay period the number of authorized FTE positions shown. Statewide, the Governor recommends a net increase of 26.0 FTE positions from the FY2018 Budget as Enacted. Following are the changes included in the Governor's proposal:

FTE Position Authorization

Expense by Function	FY2018 Enacted	FY2018 Governor	Change to Enacted
General Government	2,365.9	2,369.9	4.0
Human Services	3,715.6	3,724.6	9.0
Education	3,924.9	3,925.9	1.0
Public Safety	3,210.0	3,222.0	12.0
Natural Resources	429.0	429.0	0.0
Transportation	775.0	775.0	0.0
Subtotal	14,420.4	14,446.4	26.0
<i>Higher Ed. Sponsored Positions</i>	<i>739.8</i>	<i>739.8</i>	<i>0.0</i>
Total FTE Positions	15,160.2	15,186.2	26.0

FTE changes include:

- **An increase of 13.0 FTE positions in the Department of Health:** There is an increase of 13.0 FTE positions within the Department of Health. These additional positions are related to drug overdose prevention and intervention and are mostly funded through federal and restricted receipts.
- **An increase of 12.0 FTE positions in the Department of Corrections:** There is a net increase of 12.0 FTE positions within the Department of Corrections. The following positions are added in the FY2018 Supplemental Budget and the FY2019 Budget: 3.0 Correctional Officer Trainer positions to assist with additional training requirements and an increased number of recruits; 16.0 Correction Officers; a transfer from the Department of Behavioral Health, Developmental Disabilities and Hospitals of 1.0 Substance Abuse Councilor to assist in the substance abuse program; 2.0 Clinical Mental Health Social Workers; and 6.0 FTE positions to assist with the Medication/Mediation Assisted Treatment (MAT) Program 2.0 Nursing positions and 4.0 Mental Health Clerks. These increases were slightly offset by reallocations within the Department leading to a net increase of only 12.0 FTE positions.
- **An increase of 5.0 FTE positions in the Department of Business Regulation:** The Governor adds positions in FY2018, including 1.0 Senior Management & Methods Analyst FTE position in Central Management, 2.0 Bank Examiner FTE positions in Banking Regulation, 1.0 Insurance Examiner in Insurance Regulation, and in the Commercial Licensing, Racing, and Athletics division, 1.0 Pari-Mutual Operations Specialist and 1.0 Legal Counsel for the medical marijuana program. The latter two will be funded by restricted receipts.
- **A decrease of 4.0 FTE position in the Department of Revenue:** The Budget includes a decrease of 4.0 FTE positions reflecting the elimination of 3.0 FTE positions in the Municipal Finance division and 1.0 FTE position from the Lottery division.
- **A decrease of 4.0 FTE position in the Children, Youth, and Families:** The Budget eliminates 4.0 Chief Caseworker Supervisor positions.
- **An increase of 3.0 FTE positions in the Public Utilities Commission:** The Governor transfers the Water Resources Board functions and 3.0 FTE positions from the Division of Planning to the Division of Public Utilities and Carriers. The positions are: 1.0 General Manager (currently vacant), 1.0 Staff Director, and a 1.0 Supervising Civil Engineer. The action also transfers the funding source for the Water Resources Board from general revenue to restricted receipts.

- **An increase of 1.0 FTE position in the Office of the Postsecondary Commissioner:** The Budget includes an increase of 1.0 FTE position reflecting a net change in the authorized FTE level. This is the result of adding 2.0 FTE positions at the Westerly Education Center and the addition of 2.0 FTE positions in the Office of the Commissioner for student support and financial aid activities. Offsetting the increases is a reduction of 3.0 FTE positions in the Division of Higher Education Assistance due to the expected transfer of the Federal Family Education Loan guaranty agency operations to a successor entity.

TRANSFERS FROM QUASI-PUBLIC AND STATE AGENCIES

Article 10 requires transfers from several quasi-public be made to the State Controller by June 30, 2018, to support the General Fund. This includes an increase of \$5.0 million each from the Rhode Island Infrastructure Bank and from the Rhode Island Housing, as compared to the FY2018 Budget as Enacted:

Agency	FY2018	FY2018	FY2018	FY2018	FY2019	Total
	Governor Proposed	Enacted	Governor Revised	Change to Enacted	Governor Proposed	
Electric and Gas Distribution Company	\$0.0	\$12.5	\$12.5	\$0.0	\$0.0	\$12.5
Health and Educational Building	1.2	6.0	6.0	-	-	6.0
Narragansett Bay Commission	2.5	5.0	5.0	-	-	5.0
Infrastructure Bank	1.0	3.5	8.5	5.0	-	8.5
RI Housing	-	1.0	6.0	5.0	5.0	11.0
Quonset Development Corporation	-	1.0	1.0	-	-	1.0
Public Utilities Commission	-	0.3	0.3	-	-	0.3
RI Resource Recovery Corporation	6.0	-	3.0	3.0	3.0	6.0
RI Student Loan Authority	-	-	3.0	3.0	-	3.0
RI Turnpike and Bridge	2.6	-	1.5	1.5	-	1.5
Total	\$13.3	\$29.3	\$46.8	\$17.5	\$8.0	\$54.8

\$ in millions

Article 11: Relating to Workforce Development

This article makes the following changes to the Department of Labor and Training regarding workforce development:

- Codifies the Real Jobs Rhode Island (RJRI) program into law.
- Establishes additional funding for the RJRI program by altering the Job Development Assessment formula to include additional funding, up to the interest earned by the Employment Security Fund, in the Job Development Fund (JDF) and directing less funding, equal to the additional amount put into the JDF, into the Employment Security Trust Fund.
- Establishes a restricted receipt account entitled “misclassification task force and workplace fraud unit”.
- Eliminates the issuance of new Job Training Tax Credits as of January 1, 2018.
- Expands the State Work Immersion Program.

FISCAL IMPACT

The Governor includes \$450,000 in general revenue based on the estimated increase in general revenue receipts in the first year after the elimination of the Job Training Tax Credit Program.

The article establishes a formula in the Unemployment Insurance tax laws to enable the Department to adjust the Job Development Assessment on an annual basis allowing the interest earned by the Employment Security (ES) Fund to be invested into the Real Jobs Rhode Island (RJRI) program. The interest earned in 2017 by the Employment Security Fund was \$7.0 million; therefore, the Governor increases restricted receipt resources in RJRI by \$7.0 million in FY2019.

ANALYSIS AND BACKGROUND

Real Jobs Rhode Island

This article alters the Real Jobs Rhode Island (RJRI) program in two ways:

Codifies Program into Law: The Real Jobs Rhode Island Program, created in 2015, has served over 325 employers and nearly 2,000 workers by investing in sector-based intermediaries who serve as RJRI partners. The RJRI model shifts focus from traditional workforce development programs, which were focused on supply-side training programs, to a sector-based, demand-driven model allowing employers to design their own training programs based on their needs. Codifying the program into law provides employers continuity and predictability; this stability may also encourage employers who are contemplating participating.

Provides additional funding for RJRI: Since 1989 Rhode Island employers have paid a Job Development Assessment (JDA) to support workforce development activities, the JDA is collected with the State’s payroll and unemployment insurance taxes and has been altered over the years the by the legislature. Under current law the JDA is 0.21 percent of taxable wages, 0.19 percent is dedicated to job training programs operated by the Governor’s Workforce Board (GWB) and 0.02 percent is dedicated to costs associated with administering the State’s Unemployment Insurance (UI) and employment service programs. These base amounts are not proposed to change.

Section 2 of this article modifies the JDA to allow the Department to divert an amount, up to the Employment Security Fund’s investment earnings for the prior calendar year, to the Job Development Fund (JDF) during the next calendar year. This adjustment would hold both employers and employees harmless as it does not increase employer’s total unemployment tax liability but rather alters where the funds are deposited. Less money would be deposited into the Employment Security Trust Fund and more would be

directed towards the Job Development Fund. The amount of revenues deposited into the JDF would vary each year based on the amount of interest earned by the UI Trust Fund.

The adjusted job development assessment would be computed by dividing the amount of interest earned by the Employment Security Fund in the prior calendar year by 110.0 percent of the taxable wages in the prior calendar year and adding this percentage to the base job development assessment (currently 0.21 percent). The new adjusted job development assessment would be in effect during the next ensuing calendar year.

The graphic below illustrates the adjusted JDA for 2019 under the article as projected by the Senate Fiscal Office using the methodology outlined in the legislation and estimated 2017 taxable wages and interest earned by the Employment Security (ES) Fund.

2019 Adjusted Job Development Assessment

$$\left(0.21\% \right) + \left(\frac{2017 \text{ Interest}}{110\% \text{ of } 2017 \text{ Taxable Wages}} \right) = \text{Adjusted Job Development Assessment}$$

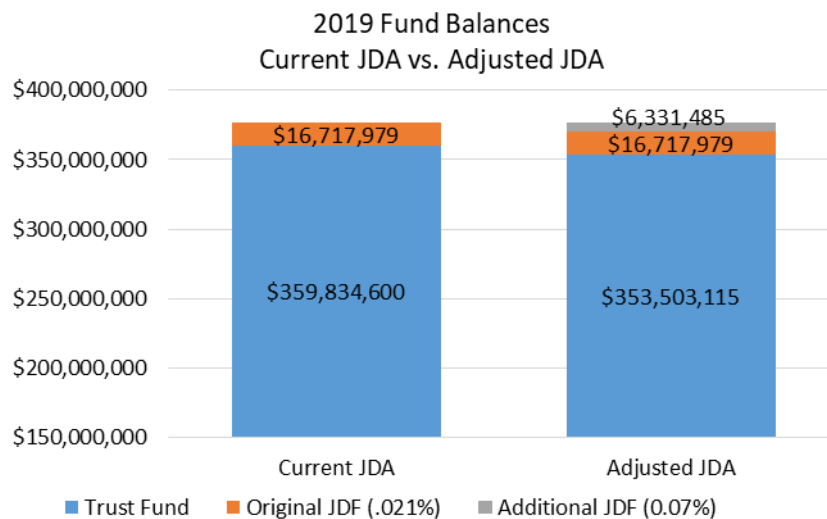
$$\left(0.21\% \right) + \left(\frac{\$6,964,633}{(110\% \times \$7,960,942,475)} \right) = 0.28\%$$

Estimate created by Senate Fiscal Office

The following graphics illustrate the difference in the Job Development Fund (JDF) in 2019 under the article. If the JDA is adjusted to 0.28 percent, instead of the current 0.21 percent, approximately \$6.3 million of additional funding would be deposited in the JDF instead of the Trust Fund, the total balance of both funds together would remain the same.

Fund	Current JDA (0.21%)	Adjusted JDA (0.28%)	Difference
Trust Fund	\$359,834,600	\$353,503,115	(\$6,331,485)
JDF	16,717,979	23,049,464	6,331,485
Total	\$376,552,579	\$376,552,579	\$0

Totals may vary due to rounding.



Based on estimated figures.

Totals may vary due to rounding

Analyst Note: The Governor included an additional \$7.0 million in the Budget due to the change in the JDA formula, based on the interest earned by the Employment Security Fund in 2017. The Senate Fiscal Office estimated an additional \$6.3 million, based on the methodology included in the legislation and information provided by the Department.

Misclassification Task Force and Workplace Fraud Unit

The article amends Section 1 to create a new restricted receipt account entitled “misclassification task force and workplace fraud unit”. Currently funding for this Unit is distributed among multiple accounts, the creation of a dedicated restricted receipt account would allow the Department to more easily track costs. Revenues for this fund are collected through penalties and fines paid by employers for the misclassification of employees, along with other applicable violations. Any additional revenues, after expenses for the unit are paid, shall be paid into the state’s general fund on an annual basis.

Job Training Tax Credit

The article imposes a sunset on the Job Training Tax Credit, beginning tax year 2018 no further credits will be issued, credits remaining from previous years will still be valid until they are used or expire. This tax credit was created in 1996 and intended to provide qualifying employers with credit against their state tax obligations for expenses associated with training their employees. Currently the program is not frequently used and the Department has not updated the policies or processes needed to determine qualification for the credits.

State Work Immersion Program

The Governor’s Workforce Board (GWB) State Work Immersion Program, established in FY2014, was intended to allow job seekers to obtain temporary, paid, work experience that provides meaningful learning opportunities and increases the employability of the participant. Employers are incentivized to participate by being reimbursed a percent of the wages paid to participants.

This article provides greater flexibility within the Program by including secondary school students and participants in eligible training schools, allowing them to gain meaningful work experience. It also removes the minimum age requirement of 18, allowing younger students to participate. Lastly, the article removes the tiered reimbursement structure, allowing the GWB to decide the best way to reimburse the employers. Employers would be eligible to receive up to 75.0 percent of the participant’s wages during their work experience.

Article 12: Relating to Economic Development

This article expands or adjusts various economic development incentives managed by the Commerce Corporation. Specifically, the article:

- Expands the existing performance reporting requirements for CommerceRI’s economic development incentive programs.
- Permanently authorizes 12 economic development incentive programs.
- Raises the limit on the amount of micro lending that can take place under the Small Business Assistance Program.
- Creates a new program to support the development of “pad-ready” site locations for manufacturing facilities.
- Expands access to the Rebuild Rhode Island Tax Credit program for small businesses and manufacturers.
- Creates a Refundable Investment Tax Credit to incentivize Rhode Island manufacturers to invest in their businesses, and thereby contribute to the overall growth and expansion of the State’s manufacturing sector. The Commerce Corporation may award a refundable tax credit up to \$100,000 to use against costs associated with financing manufacturing capital assets such as plant and equipment. A manufacturer is only able to redeem the credit if its value exceeded the tax liability in the year the credit is available. Manufacturers have to apply on an annual basis to the Commerce Corporation, who make awards based on competitive factors set forth in the application.
- Establishes a Technical Assistance for Municipal Zoning and Permitting Fund to finance and support technical assistance to cities and towns. This fund helps cities and towns evaluate and streamline zoning, planning, and permitting processes with the goal of advancing local economic development.

FISCAL IMPACT

The Governor includes \$300,000 in general revenue in FY2019 for the new Refundable Manufacturing Tax Credit Program and \$200,000 each for the new Manufacturing Site Readiness Program and the Local Zoning and Permitting Assistance program under the Main Street Rhode Island Streetscape Improvement incentive.

ANALYSIS AND BACKGROUND

This article refines, expands, and establishes several economic development incentives and programs primarily in support of Rhode Island’s manufacturing sector. It also permanently authorizes the suite of incentives originally enacted in FY2016.

Permanent Authorization of Incentives

In 2015 the Governor proposed, and the General Assembly enacted, a suite of 12 new economic development incentive programs. The purpose of these incentives, as stated in Article 19 of the FY2016 Budget as Enacted, is to *“promote the economic viability of the Rhode Island economy...and to provide and promote and encourage the preservation, expansion and sound development of new and existing industry, business, commerce, agriculture, tourism, recreational, and renewable energy facilities, promoting thereby the economic development of the state”*.

From FY2016 through the FY2018 Budget as Enacted, \$104 million has been appropriated to fund these incentives. As originally proposed by the Governor, these programs were not required to report on their performance or financial impact. To ensure better accountability the General Assembly amended the proposal requiring that the Executive Office of Commerce (EOC) provide it with detailed annual reports

on each incentive. Each of the incentives was authorized for three years, having a sunset date of December 31, 2018. The continuation of these incentives beyond that date was therefore subject to General Assembly review and approval.

Article 12 proposes to permanently authorize the incentives by eliminating the sunset provisions placed on them by the General Assembly. The specific incentives are Rebuild RI, Rhode Island Tax Increment Financing, Tax Stabilization Incentive, First Wave Closing Fund, I-195 Redevelopment Project Fund, Small Business Assistance Fund, Wavemaker Fellowship program, Main Street Rhode Island Streetscape Improvement Fund, Innovation Initiative, Industry Cluster Grants, High School, College, and Employer Partnerships, and the Qualified Jobs Incentive.

Analyst Note: According to tax policy experts, periodic reauthorization serves an important public purpose. Many of the economic development incentives take the form of tax expenditures. Tax expenditures are provisions of the tax code such as credits which benefit specific activities or groups of taxpayers. They are designed to encourage specific governmentally-desired activities and therefore can be, in effect, alternatives to direct spending on the same public policy objectives. Unlike discretionary spending programs, however, tax expenditures are not generally subjected to the appropriation process. Absent a sunset provision, policymakers could avoid seriously reviewing the impact of the tax expenditures after their initial enactment.

Accountability of Incentives

Article 12 provides some overall reporting requirements for Commerce’s economic development incentive programs. The article directs the corporation to assess the “performance, effectiveness, and economic development impact” of the programs and to annually report this analysis to the General Assembly and Director of the Office of Management and Budget by January 1 of each year. It does not specify how performance, effectiveness, or economic development impact will be measured. The table to the right summarizes the *current* reporting requirements for each incentive as established by the General Assembly.

Small Business Micro-Lending

Article 12 amends the Small Business Assistance Program by raising the level of “micro-lending” permitted under the incentive.

The Small Business Assistance Program was established in FY2016 to help small businesses under (200 employees) gain access to capital. It was also meant to provide more operating flexibility than the traditional Small Business Loan Fund, which is subject to federal regulations from the U.S. Economic Development Administration. The Commerce Corporation partners with private lending institutions to administer the applications and program. The loans may be used to

- Provide additional capital to businesses
- Provide direct lending for subordinated and mezzanine debt (debt that is associated with acquisitions and buyouts where it may be used to prioritize new owners ahead of existing owners in case of bankruptcy, or be used to convert a debt into a stock option)

Economic Development Incentive Annual Reporting Requirements		
Incentive	Due	Reporting Items
Rebuild RI	1-Aug	approved applicants total FTEs total project costs total material costs total RI products purchased additional reasonable info
	1-Sep	recipient name/address credit amount economic/fiscal impact
TIF	1-Sep	approved applicants approved amount
	1-Jan	economic/fiscal impact
Tax Stabilization	1-Sep	approved applicants approved amounts
First Wave	30-Jun	commitment disbursement use of funds economic/fiscal impact
I-195	30-Jun	commitment disbursement use of funds economic/fiscal impact
Small Business Assistance	30-Jun	commitment disbursement use of funds economic/fiscal impact
Wavemaker	no date specified	taxpayers receiving awards schools attending employer
Main Street RI Streetscape	30-Aug	commitment disbursement use of funds economic/fiscal impact
Innovation Initiative	30-Aug	total amount of awarded matching funds awarded total amount approved description of services other info
Industry Cluster	30-Aug	number of grants amount of grants recipient name/address recipient activities other info
School Partnerships	30-Aug	number of grants amount of grants matching funds
New Qualified Jobs	1-Aug	approved applicants total jobs NAICS for each job salary of each job address of new employer
	1-Sep	name amount

- Provide collateral support and enhancement

The program has received \$5.5 million in general revenue since it was established and has obligated \$5.4 million. The Budget includes \$500,000 for the Small Business Assistance Program.

The maximum grant to any one business is capped at \$750,000 while up to 10.0 percent of the funds may be used for “micro loans” of \$2,000 to \$25,000. Article 12 raises micro-lending cap to 25.0 percent, or \$125,000 of the amount budgeted for FY2019.

New “Pad-Ready” Site Program

Article 12 establishes a new Manufacturing Site Readiness program for the purposes of supporting the development of an inventory of vetted, pad-ready sites within the State capable of supporting manufacturing facilities. A fund is also created to finance due diligence at a qualifying property, including surveys, environmental assessments, etc.

- **Manufacturing Site Readiness Fund:** The article establishes a Manufacturing Site Readiness Fund within the Commerce Corporation out of which it is authorized, within available appropriations, to award grants that pay for the due diligence and feasibility analysis for the development of sites to a “pad-ready” condition. The article clarifies that the fund be capitalized with monies appropriated in the state budget, from federal or private sources, or any other source. The FY2019 Budget includes \$200,000 for the fund.
- **Manufacturing Site Readiness Program:** Commerce is authorized to develop and administer the pad-ready site program. The agency is directed initially put out a request for “expressions of interest” in order to solicit developer participation and identify initial qualifying properties. A qualifying property is defined by the article as one that is capable of supporting large-scale economic development and including, but not limited to, manufacturing, industrial, and distribution uses.
 - **Application Review:** These properties would be subject to the Commerce Corporation’s review to determine suitability for funding. This review may consider aspects such as location, size, and suitability for development; existence of liens and encumbrances; zoning for industrial use and/or host community support for rezoning; site conditions; existing due diligence; cost to develop a pad-ready site, and willingness of property owner to commit to development.
 - **Authorized Uses:** Under the article, the Commerce Corporation is authorized to provide grants to fund the due diligence necessary to determine site potential and improvement costs. Funds may be used to pay for costs associated with site and/or topographic surveys, wetland determinations, phase 1 environmental site assessments, applicable zoning review, utility availability studies, and preliminary site engineering.
 - **Rules and Reporting:** The article permits the Commerce Corporation to adopt guidelines, directives, criteria, rules, and regulations for the program. The agency must report to the General Assembly on the commitment, disbursement, and use of the funds allocated under the program no later than 60 days after the end of the fiscal year (early August).

Analysts Note: Article 12 does not define pad-ready or manufacturing readiness. Although the program is titled Manufacturing Site Readiness. The definition of a “qualifying property” includes, but is not limited to, manufacturing, industrial, and distribution uses.

Rebuild RI Expansion

Article 12 expands access to the Rebuild Rhode Island Tax Credit (Rebuild RI) program for small businesses, particularly manufacturers and those businesses located within areas designated by Commerce Corporation’s Main Street Streetscape Improvement program.

Through Rebuild RI, Commerce Corporation grants tax credits to qualifying applicants as an incentive to develop commercial and residential real estate. Developers apply for these credits to the Commerce Corporation board, and if approved, may redeem these credits against certain state business tax liabilities.

The program has received \$38.5 million in general revenue appropriations since established in FY2016 and has obligated \$83.8 million between FY2018 and FY2025.

A company must demonstrate the following in order to qualify to the credit:

- Commit at least 20.0 percent of the total project cost in capital or equity investments at a qualified business facility at which it will employ at least 25 full-time employees in retained full-time jobs after construction, or any additional number of jobs deemed appropriate by the Commerce Corporation.
- Demonstrate a financing gap through an inability to obtain any other public or private funding, and that, without the tax credit, the project will not be accomplished.
- Demonstrate that the real estate project is a new or rehabilitated development, residential project, mixed use project, or located in a Hope Community.

Currently, projects must be a:

- Commercial development consisting of at least 25,000 square feet and employ 25 full-time employees after construction or any number of new employees as the secretary deems appropriate.
- Multi-family residential development consisting of at least 20,000 square feet with 20 residential units in a Hope Community; or, mixed use development consisting of at least 25 square feet.
- Total project cost must be greater than \$5.0 million, with the exception of projects in a Hope Community or designated redevelopment area.

Article 12, however, exempts Rebuild RI projects that involves a manufacturer or a qualified small business project from the above three conditions. A qualified small business project is defined as a commercial project located within one block of a project awarded funding under the Main Street Rhode Island Streetscape Improvement Fund Act (Main Street RI), or as determined by the Commerce Corporation to be located in a local business district consistent with the purposes of Main Street RI.

Article 12 also adjusts the annual limit amounts on the taking of the tax credits. Currently, tax credits are allowable to be taken by the taxpayer only once the project is placed into service. The credits may be taken in up to five annual increments. No more than 30.0 percent of the total credits may be taken in one year and no less than 15.0 percent. Article 12 exempts projects with a financing gap of less than \$500,000 from these annual maximum and minimum limits.

New Refundable Investment Tax Credit

The Governor creates a new tax credit, to be administered by the Commerce Corporation, intended to promote investment in manufacturing by reducing a business's tax burden. The credit may be taken against a business's corporate or personal income taxes and is refundable to the extent that the credit exceeds the business's tax liability for the tax year in which the credit was issued only. Credits carried forward beyond the issued year are not refundable. Credits are capped at \$100,000 for any one business in any given tax year. Payment of redeemed tax credits are made from new account within the Commerce Corporation and is contingent upon state budget appropriation. The Governor recommends \$300,000 in general revenue in FY2019.

To be eligible to take and/or redeem the refundable investment tax credit a business must:

- Meet the definition of a manufacturer as set forth under the existing Investment Tax Credit Program [44-33-1(b)(1) and (2)] as well as those entities described in major groups 20-39 of the federal Standard Industrial Classification Manual.

- Make application to the Commerce Corporation *prior* to making the investment that would give rise to the requested tax credit. When considering an application, the Commerce Corporation shall take into account the nature and amount of the investment; the necessity of the investment and/or credit; whether the applicant is within a target sector; and the number of jobs resulting.

Enter into an incentive agreement with the Commerce Corporation setting forth the eligibility terms and conditions governing the approval and use of the credit. Expenses used for calculating this tax credit cannot be used for calculating any other Rhode Island tax credit.

Local Zoning/Permitting Assistance

The article expands the existing Main Street RI Streetscape Improvement Program, administered by the Commerce Corporation, to include a new technical assistance component for the purpose of improving the local regulatory environment in a manner that supports sustained economic development at the local-level. A new fund is established out of which the Commerce Corporation is authorized, within available appropriations, to award grants, loans and other methods of financing that provide municipalities access to technical assistance related to evaluating and streamlining zoning and permitting practices. The funds may receive federal, state or other resources. The Governor recommends \$200,000 of general revenue for FY2019.

Qualified Jobs Incentive Act Accessibility

Article 12 modifies the eligibility requirements to qualify for tax credits under Qualified Jobs Incentive Act in favor of manufacturers. Businesses seeking Qualified Jobs Incentive Act tax credits must demonstrate the creation of a minimum number of new full time jobs based on a graduated scale depending on the number of existing full time employees (FTEs) the business employs at the time of application.

Article 12 allows all manufacturers, regardless of size, to qualify for the tax credit, by creating the minimum number of new jobs. This number must be at least 10.0 percent of existing FTEs or at least 100 FTEs.

Article 13: Relating to Medical Assistance

This article makes several changes to the financing and delivery of the Medicaid program, including:

- Implements co-payments for adult inpatient hospital visits, non-emergency ER visits, non-preventative physical health-related office visits, and for prescription drug coverage. Co-payments could not exceed 5.0 percent of “countable income” in any plan year.
- Maintains hospital inpatient and outpatient rates at FY2018 levels.
- Allows for automation of asset verification and amendment to transfer of asset provisions related to long-term services and supports.
- Increases nursing home rates by a maximum of 1.0 percent.
- Eliminates the hospital inpatient upper payment limits payments.
- Expands RItE Share eligibility and allows adult children with disabilities to remain on their parents’ commercial health insurance coverage beyond age 26.
- Amends the Graduate Medical Education (GME) program to reduce state-only program funding and restructures the program to focus on mental health and substance use treatment at all teaching hospitals.

FISCAL IMPACT

This article reduces general revenue expenditures by \$23.7 million (\$56.0 million all funds) in FY2019.

Initiative	GR Savings	AF Savings
Medicaid Co-Payments	\$3.2	\$10.9
Freeze Hospital Inpatient and Outpatient Rates	5.3	15.5
LTSS Asset Verification	2.5	5.2
Nursing Facility Rates	3.9	7.9
Inpatient UPL Elimination	5.6	14.1
RItE Share Expansion	0.7	1.4
Graduate Medical Education	2.5	1.0
Totals	\$23.7	\$56.0

\$ in millions

ANALYSIS AND BACKGROUND

Medicaid Co-Payments: The Governor proposes co-payments for adult inpatient hospital visits, non-emergency ER visits, non-preventative physical health-related office visits, and for prescription drug coverage. Adults with a disability determination by the Social Security Administration, the Office of Rehabilitative Services, and the Medical Assistance Review Team (MART) are exempt from the co-payments. According to EOHHS, many states have co-payments for certain Medicaid services, generally limited to not more than 5.0 percent of annual income.

In managed care settings, managed care organizations (MCOs) stop billing once the threshold is reached. In fee-for-service settings, most states require enrollees to present receipts to prove co-pay limits are reached. The Governor’s proposal would limit co-payments to 5.0 percent of “countable” income in a plan year. This is the maximum co-payment as allowed by the federal government.

List of the co-pays included:	Utilization	Co-Pay Charged	Co-Pay Collection	Reduced Utilization	Cost per Service	Utilization Savings	Total Savings
Generic prescription drugs	1,854,721	\$2.50	\$4,636,803	233,676	\$28.65	\$6,693,888	\$12,039,677
Brand prescription drugs	177,247	4.00	708,987				
Non-emergent ED use	31,692	8.00	253,533	3,169	478.44	1,516,268	1,769,801
Inpatient hospital visits	29,576	3.00	88,729	n/a			88,729
Non-preventative physical health office visits	442,674	3.00	1,328,022	n/a			1,328,022
Total Savings			\$7,016,073			\$8,210,156	\$15,226,229

General Revenue Savings

\$3,246,719

The proposal is slated to begin on July 1, 2018, and the Budget includes funding for 2.0 FTE positions to implement the program. The Budget includes \$3.2 million in general revenue savings (\$15.2 million all funds) from the initiative.

Freeze Hospital Inpatient and Outpatient Rates: Hospitals are reimbursed by Medicaid on a fee-for-service basis and by MCOs for inpatient, outpatient, and emergency services. RIGL 40-8-13.4 allows EOHHS to review these rates annually to make adjustments to the payments by considering factors such as hospital costs, hospital coding, and availability of services to beneficiaries. Increases may not exceed the CMS Prospective Payment System Hospital Price Index, an inflation-based index. The article maintains current rates for inpatient and outpatient services for FY2019.

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

The November 2017 Caseload Estimating Conference adopted hospital payment figures that were based on estimated 2.8 percent increases for inpatient services and 1.8 percent for outpatient services. The Budget assumes \$5.3 million in general revenue savings (\$15.5 million all funds) from the initiative.

LTSS Automated Asset Verification: Asset verification is a key component to Medicaid eligibility determination. The Office proposes to automate asset verification functions related in long-term services and supports (LTSS) settings. The Office indicates that the current process is manual and caseworkers lack sufficient tools in the field to accurately verify information. The Office plans to purchase and implement an electronic asset verification system, resulting in savings for nursing homes and other LTSS spending.

The Budget assumes \$2.5 million in general revenue savings (\$5.2 million all funds) in FY2019. The estimate assumes that 102 nursing home members and 98 home and community-based services members would be found ineligible each year, equating to approximately 2.0 percent.

LTSS Resource Testing: The Budget amends the law to eliminate “loopholes” related to the treatment of annuities as it relates to asset and income testing. This includes testing for “asset transfers”, or when a Medicaid applicant or beneficiary transfers a liquid financial resource for less than it is worth in the five years preceding the application. Federal law requires that these types of transfers disqualify an applicant for a penalty period before being eligible for Medicaid-funded long-term care. The Budget includes \$539,648 in general revenue (\$1.1 million all funds) savings in FY2019 from the initiative.

Nursing Facility Rates: Each October nursing homes are to receive an inflation-based rate increase, tied to the national nursing home inflation index. The November 2017 Caseload Estimating Conference adopted nursing homes payments assuming a 2.75 percent increase in FY2019. The Budget reduces this scheduled increase to 1.0 percent, saving an estimated \$2.6 million in general revenues (\$5.4 million all funds).

In the FY2017 Budget as Enacted, nursing facilities received the inflation-based rate increase, \$3.9 in general revenue (\$7.9 million all funds), with the condition that 85.0 percent of rate increase was used to increase wages and employee related benefits to certified nursing assistance (CNAs) and other direct care workers at nursing facilities. Rates were frozen for FY2018.

Adopted Rate				
Date	Change	Index Rate Change	Difference	
10/1/2012	3.1%	3.1%	0.0%	
10/1/2013	0.0%	2.9%	-2.9%	
10/1/2014	0.0%	3.5%	-3.5%	
4/1/2015	3.2%	0.0%	3.2%	
8/1/2015	-2.5%	0.0%	-2.5%	
10/1/2015	0.0%	3.2%	-3.2%	
10/1/2016	3.3%	3.3%	0.0%	
10/1/2017	0.0%	2.8%	-2.8%	
10/1/18 (proposed)	1.0%	2.8%	-1.8%	
Totals	8.1%	21.6%	-13.5%	

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

UPL payments are not required under federal law. The Executive Office of Health and Human Services proposes that the elimination of inpatient UPL comes at a time when there is less uncompensated care due to the Affordable Care Act, and that the impact to hospitals is minimized because of this.

The proposal saves \$5.6 million in general revenue funding (\$14.1 million all funds) in FY2019.

Hospital	Current Inpatient UPL
Butler	N/A
Kent	\$965,243
Memorial	\$263,733
Women and Infants	\$5,553,158
Care New England	\$6,782,134
Bradley	N/A
Miriam	\$779,268
Newport	\$278,763
Rhode Island Hospital	\$4,047,209
Lifespan	\$5,105,240
Roger Williams	\$645,602
St. Joseph	\$921,944
Prospect- CharterCARE	\$1,567,546
Landmark	\$424,487
South County	\$125,508
Westerly	\$59,274
Rehab	N/A
Other	\$609,269
Totals	\$14,064,189

Rlte Share Expansion: The article expands Rlte Share eligibility and allows adult children with disabilities to remain on the parents' commercial health insurance coverage beyond age 26. Rlte Share is a premium assistance program for those eligible for Medicaid and who have access to employer-sponsored commercial insurance, but for whom the share of those monthly premiums is unaffordable. Under the program, Medicaid pays the eligible member's share of the premiums, if cost effective. This shifts costs from Medicaid plans to employer-sponsored plans.

Under the initiative, EOHHS will expand on processes to identify those with Medicaid eligibility, including disabled persons, who have access to employer-sponsored health coverage. EOHHS indicates that as many as one-third of disabled and Medicaid eligible persons may have access to employer-sponsored insurance.

The Budget assumes \$673,617 in general revenue savings (\$1.4 million all funds) from the initiative. Of note, the RI Bridges system does not currently support RIte Share functionality.

Graduate Medical Education: The state has a Graduate Medical Education (GME) program that provides funding for Rhode Island's academic Level I trauma center hospitals that have a minimum of 25,000 inpatient discharges per year and provide at least 250 interns and residents per year. Currently, Rhode Island Hospital is the only hospital that qualifies for this funding. The FY2018 Budget as Enacted contains \$4.0 million in general revenue funding for the initiative; however, the Governor eliminates this payment in the supplemental budget recommendation.

For FY2019, the Budget amends the GME program to reduce state-only program funding and restructures the program to focus on mental health and substance use treatment at all teaching hospitals. The Budget saves \$2.5 million in general revenues as compared to the FY2018 enacted budget. The \$1.5 million in remaining general revenue funding would be matched by federal funds in FY2019.

The program amendment removes the inpatient discharge and intern and resident training requirements, thereby expanding the number of hospitals that may be eligible to participate.

Analyst Note: The Governor submitted a budget amendment on February 1, 2018, that removes the Level I trauma center requirement, and further clarifies that this funding pool shall be used to support graduate medical education programs and research in areas including, but not limited to, mental health and substance abuse.

Article 14: Relating to Medicaid Reform Act of 2008 Resolution

This article is a joint resolution authorizing the Executive Office of Health and Human Services (EOHHS) to undertake various reforms within the Medical Assistance (Medicaid) program. Included in the resolution are measures requiring: a Medicaid State Plan Amendment, either a Category II or Category III amendment to the terms and conditions of Rhode Island's Section 1115 Comprehensive Demonstration, changes to state rules and/or regulations, as well as contractual changes that have a significant impact to the EOHHS' medical assistance appropriation.

The annual appropriations bill passed by the General Assembly typically includes an article that provides legal authority for Medicaid initiatives that have budgetary savings associated with them. In recent budgets, this article has also included a series of resolutions that describe changes to the Medicaid program that underlie the Governor's budget request that do not require statutory action, but rather require regulatory changes or substantial contractual changes within the State's Medicaid managed care organizations. This article grants EOHHS the authority to undertake all actions, regulatory and/or contractual, required to realize the funding levels included in Article 1. Article 13 includes language for the statutory changes needed to implement several of the associated initiatives.

FISCAL IMPACT

The article includes a total fiscal impact of \$51.7 million in general revenue savings (\$128.4 million all funds). This article seeks authority for a number of other initiatives that also require statutory changes. For these initiatives the fiscal impact is also noted in Article 13.

Initiative	GR Savings	AF Savings
Freeze Hospital Inpatient and Outpatient Rates	\$5.4	\$15.5
Reduction in Nursing Facility Cost of Living Adjustment	2.6	5.4
Reduction to MCO Administrative Component	1.9	5.6
Reduction to MCO Medical Component	14.9	44.0
Reduction to MCO Profit Margin	6.9	20.5
Eliminate Retroactive Eligibility	2.3	4.8
LTSS Automated Asset Verification	2.5	5.2
LTSS Resource Transfers	0.5	1.1
Restructure Rhody Health Options	7.3	15.4
Rlte Share Expansion	0.7	1.4
Non-Emergency Transportation	3.8	9.5
Community First Choice Expansion	3.0	-
Health Home Alternative Payments	-	-
BH Link	-	-
Federal Financing Opportunities	-	-
Totals	\$51.7	\$128.4

\$ in millions

ANALYSIS AND BACKGROUND

This article requests authority from the General Assembly to make changes to the Medicaid State Plan, Category II or III changes under the terms and conditions of Rhode Island's Section 1115 Waiver, and/or changes to state rules and regulations to implement the following:

Payment Rate Adjustments: The article seeks authority to freeze rates for in-patient and out-patient hospital services; reduces nursing facilities payment increase to 1.0 percent; and reduces rates for Medicaid managed care plan administration.

- Freeze Hospital Inpatient and Outpatient Rates:** Hospitals are reimbursed by Medicaid on a fee-for-service basis and by MCOs for inpatient, outpatient, and emergency services. RIGL 40-8-13.4 allows EOHHS to review these rates annually to make adjustments to the payments by considering factors such as hospital costs, hospital coding, and availability of services to beneficiaries. Increases may not exceed the Centers for Medicare and Medicaid Services (CMS) Prospective Payment System Hospital Price Index, an inflation-based index. The article maintains current rates for inpatient and outpatient services for FY2019.

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

The November 2017 Caseload Estimating Conference adopted hospital payment figures that were based on estimated 2.8 percent increases for inpatient services and 1.8 percent for outpatient services. The Budget assumes \$5.3 million in general revenue savings (\$15.5 million all funds) from the initiative. Article 13 contains statutory language for the initiative.

- Reduction in Nursing Facility Cost of Living Adjustment:** Each October nursing homes are to receive an inflation-based rate increase, tied to the national nursing home inflation index. The November 2017 Caseload Estimating Conference adopted nursing homes payments assuming a 2.75 percent increase in FY2019. The Budget reduces this scheduled increase to 1.0 percent, saving an estimated \$2.6 million in general revenues (\$5.4 million all funds). Article 13 contains statutory language for the initiative.

In the FY2017 Budget as Enacted, nursing facilities received the inflation-based rate increase, \$3.9 in general revenue (\$7.9 million all funds), with the condition that 85.0 percent of rate increase was used to increase wages and employee related benefits to certified nursing assistance (CNAs) and other direct care workers at nursing facilities. Rates were frozen for FY2018.

Date	Adopted Rate		Difference
	Change	Index Rate Change	
10/1/2012	3.1%	3.1%	0.0%
10/1/2013	0.0%	2.9%	-2.9%
10/1/2014	0.0%	3.5%	-3.5%
4/1/2015	3.2%	0.0%	3.2%
8/1/2015	-2.5%	0.0%	-2.5%
10/1/2015	0.0%	3.2%	-3.2%
10/1/2016	3.3%	3.3%	0.0%
10/1/2017	0.0%	2.8%	-2.8%
<i>10/1/18 (proposed)</i>	<i>1.0%</i>	<i>2.8%</i>	<i>-1.8%</i>
Totals	8.1%	21.6%	-13.5%

- Managed Care Organizations (MCOs):** The article seeks authority to reduce administrative rates paid to MCOs by 2.5 percent in FY2019. The Budget includes \$1.9 million in general revenue savings (\$5.6 million all funds) in FY2019.

EOHHS indicates that managed care administrative costs have risen by 65.0 percent since FY2014, while enrollments have increased by 49.0 percent. Spending on MCO administration has increased from \$77.7 million in FY2014 to an anticipated \$128.2 million in FY2019. The Office indicates that the reduction will be an “incentive to MCOs to improve their operational efficiency and to work closely with Medicaid to identify areas of potential improvement to administrative processes.”

The historical trends and any savings underlying this initiative exclude any assumption of impact on Rhody Health Options. This program is addressed in a separate initiative.

The changes require negotiations with MCOs and CMS as contracts will need to be amended. Further, EOHHS has an obligation per 42 CFR 438.6 to develop its rates in accordance with generally accepted actuarial principles and practices and the proposed cuts could challenge the actuarial soundness of EOHHS payments to the MCOs.

Analyst Note: The Governor submitted a budget amendment on February 1 that makes two additional changes to MCO payments. EOHHS would reduce the medical component of MCO plan rates, and eliminate the risk margin component of MCO rates.

MCO Medical Component: *The proposal would cut MCO medical component rates by a combined 3.75 percent, which includes a 1.0 percent “quality withhold” and a 2.75 percent base reduction to the rates. The State plans to establish benchmarks for lowering expenditures for high Medicaid utilizers, reduce cesarean births, and reduce emergency room utilization. The Budget includes \$14.9 million in general revenue savings (\$44.0 million all funds) from the initiative.*

MCO Risk Margin: *The Budget would eliminate the 1.5 percent profit margin component of MCO rates that is intended to mitigate risks of insurance market operation. The margin is a mechanism for MCOs to maintain and/or enhance reserves. The Budget includes \$6.9 million in general revenue savings (\$20.5 million all funds) from the initiative.*

Both initiatives will require negotiations with the MCOs and CMS as EOHHS will need to amend existing contracts and maintain the standard of actuarial soundness.

Eliminates Retroactive Eligibility: The article eliminates retroactive coverage for specified Medicaid beneficiary categories. Currently long-term care applicants can apply for up to three months of retroactive coverage. EOHHS indicates that the purpose of the retroactivity is to ensure that applicants are not bankrupted by medical costs incurred during a time period when they may have been too sick to apply for Medicaid benefits. Most states do not offer retroactive coverage.

EOHHS estimates that as many as 90.0 percent of new applicants for long-term services and supports apply for and receive retroactive coverage. The Budget assumes that 20.0 percent of these cases would continue because of a proposed hardship exemption that would still allow retroactive coverage in certain instances. The Budget assumes \$2.3 million in general revenue savings (\$4.8 million all funds) from the initiative.

LTSS Automated Asset Verification: Asset verification is a key component to Medicaid eligibility determination. The Office proposes to automate asset verification functions related in long-term services and supports (LTSS) settings. The Office indicates that the current process is manual and caseworkers lack sufficient tools in the field to accurately verify information. The Office plans to purchase and implement an electronic asset verification system, resulting in savings for nursing homes and other LTSS spending.

The Budget assumes \$2.5 million in general revenue savings (\$5.2 million all funds) in FY2019. The estimate assumes that 102 nursing home members and 98 home and community-based services members would be found ineligible each year, equating to approximately 2.0 percent of daily census. Article 13 contains statutory language for the initiative.

LTSS Resource Testing: The Budget amends the law to eliminate “loopholes” related to the treatment of annuities as it relates to asset and income testing. This includes testing for “asset transfers”, or when a Medicaid applicant or beneficiary transfers a liquid financial resource for less than it is worth in the five years preceding the application. Federal law requires that these types of transfers disqualify an applicant for a penalty period before being eligible for Medicaid-funded long-term care. The Budget includes \$539,648 in general revenue (\$1.1 million all funds) savings in FY2019 from the initiative.

Restructure Rhody Health Options: The article restructures the delivery system for individuals with both Medicare and Medicaid eligibility (dual eligible) who have chronic or disabling conditions. EOHHS plans to redesign the delivery system with performance incentives to reduce administrative and risk share costs. The Budget includes \$7.3 million in general revenue savings (\$15.4 million all funds) from the initiative. Also proposed are \$625,000 in additional expenditures associated with the program redesign.

RIte Share Expansion: The article expands RIte Share eligibility and allows adult children with disabilities to remain on the parents' commercial health insurance coverage beyond age 26. RIte Share is a premium assistance program for those eligible for Medicaid and who have access to employer-sponsored commercial insurance, but for whom the share of those monthly premiums is unaffordable. Under the program, Medicaid pays the eligible member's share of the premiums, if cost effective. This shifts costs from Medicaid plans to employer-sponsored plans.

Under the initiative, EOHHS will expand on processes to identify those with Medicaid eligibility, including disabled persons, who have access to employer-sponsored health coverage. EOHHS indicates that as many as one-third of disabled and Medicaid eligible persons may have access to employer-sponsored insurance.

The Budget assumes \$673,617 in general revenue savings (\$1.4 million all funds) from the initiative. Of note, the RI Bridges system does not currently support RIte Share functionality. Article 13 contains statutory language for the initiative.

Non-Emergency Medical Transportation: The article reduces reimbursement and removes state restrictions to align with Title XIX for the non-emergency medical transportation (NEMT) program. EOHHS plans to restructure the NEMT program to incentive cost-effective transportation solutions, including making changes to vendor payment methods, rate cuts, and other rebates.

The State's current NEMT vendor, Logisticare, has a contract that runs through December 31, 2018. The proposed changes would begin January 1, 2019. According to EOHHS, Logisticare has operating margins approaching 20.0 percent. The Budget includes \$3.8 million in general revenue savings (\$9.5 million all funds) from the initiative.

Implementation of Community First Choice: The article further supports the redesign of the delivery system for beneficiaries receiving long term care services and supports. It promotes the transition of Medicaid beneficiaries to community-based services wherever appropriate by seeking waiver authority to promote the Community First Choice (CFC) option for seniors and people with physical disabilities and for intellectually or developmentally disabled people living with families or independently. EOHHS estimates that for the targeted population nursing homes cost \$63,833 per year compared to \$33,250 for home and community-based settings (HCBS) The CFC option provides additional funding to support transitions by providing enhanced federal financial participation for certain HCBS expenditures.

Based on an estimated transition of 26 members per month beginning in October 2018, EOHHS estimates \$3.0 million in general revenue savings from reduced nursing home costs and increased HCBS costs to be shifted to federal fund sources.

Health Home Alternative Payments: The article includes authorizing language for EOHHS to develop, in collaboration with the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH), a health home for providing person-centered planning and a value-based alternative payment system for individuals with developmental disabilities. Health homes aim to coordinate all aspects of care, including psychiatry, primary care, specialty care, medication, hospital discharge and wellness needs. Health homes do not provide actual care services, but instead coordinate care management and provide assessments and referrals.

The article language authorizes the two departments to work together to develop a plan, however no budget savings are attached to the initiative. It is anticipated that savings will be realized as health homes received the enhanced federal Medicaid match rate.

BH Link: The article promotes, in coordination with BHDDH, the development of community-based alternatives to emergency department visits for addiction and mental health emergencies. Called BH Link, the program will refer and divert patients when appropriate and subject to protocols and agreements with first responders.

BHDDH has issued a request for proposals and is negotiating with the prospective service provider. BHDDH anticipates BH Link being operational by July 1, 2018, using existing Medicaid billing codes. The State Plan Amendment, if accepted by CMS, would create a bundled encounter rate for future billing.

The article language authorizes the two departments to work together to develop a plan, however no FY2019 budget savings are attached to the initiative.

Federal Financing Opportunities: This article grants EOHHS to pursue any changes to the Rhode Island Medicaid program that improves, quality, access and cost-effective delivery, so long as the changes do not have an adverse impact on beneficiaries or increases expenditures beyond appropriations for state fiscal year 2019.

Article 15: Relating to Children and Families

This article changes the powers and duties of the Department of Children, Youth and Families (DCYF), the regulation of child care facilities, and the administration of the child care assistance program. The article provides for a voluntary extension of care (VEC) program that qualifies for federal Title IV-E funding, allows DCYF to implement penalties on child care providers, and requires the implementation of regulations for visual lead inspections of foster homes. The article also provides child care support for qualified parents attending a Rhode Island institution of higher education, and establishes a tiered rate system for licensed child care providers caring for children ages 1 week to three years of age.

FISCAL IMPACT

The initiatives in this article are estimated to increase general revenue expenditures by \$1.6 million (\$2.7 million all funds) in FY2019. This estimate does not include the \$5,500 in annual revenue projected for the implementation of child care violation fines.

Initiative	FY2019 Expenditure Impact	
	General Revenue	All Funds
Voluntary Extension of Care	(\$1,568)	\$915,062
Visual Lead Inspections	(110,000)	110,000
Child Care Supports	200,000	200,000
Tiered Childcare Incentive Payments	1,500,000	1,500,000
Total	\$1,588,432	\$2,725,062

Source: Office of Management and Budget

ANALYSIS AND BACKGROUND

Voluntary Extension of Care

The article allows for the voluntary extension of care (VEC) for foster youth between the ages of 18 and 21, which allows for increased federal funding to support the program. A voluntary placement agreement for extension of care is a written agreement between the young adult and DCYF.

Currently, DCYF care and custody of a child expires on their eighteenth birthday, unless they have a developmental delay or a Serious Emotional Disturbance (SED); these children can remain in care until age 21. At least six months prior to the child's eighteenth birthday the court requires DCYF to provide a detailed description of the transition services being delivered to the child, such as housing, health insurance, education and/or employment plan, available mentors, and continuing supports services including workforce supports and employment services. Otherwise, DCYF must provide a detailed explanation as the reason the services were not provided.

DCYF currently funds services for youth exiting care through the Consolidated Youth Services (CYS) contract with Foster Forward. The Youth Establishing Self-Sufficiency (YESS) Aftercare Program provides individualized services and supports to young adults, ages 18-21, who have been closed to the state's Family Court and DCYF. By assisting former foster youth in crafting their plan for self-sufficiency, and identifying and utilizing relevant community-based resources, YESS prepares participants to live independently by their 21st birthday. Participants receive assistance identifying safe and affordable housing, finding employment opportunities, enrolling in an educational program, and helping to creating a household budget. The YESS program also provides funds to help pay for housing and other living expenses. The proposed VEC program would involve the termination of the YESS contract.

To qualify for the proposed VEC program, a young adult must:

- Be between the ages of 18 and 21 years and have been in the custody of the Department on their eighteenth birthday pursuant to an abuse, neglect, or dependency petition, or a former foster child who was adopted or placed in a guardianship at or after age 16.
- Be participating in at least one of the following:

- Completing a high school diploma or General Education Diploma (GED);
- Completing a secondary education or program leading to an equivalent credential or enrolled in an institution that provides post-secondary education or vocational education;
- Participating in a job training program or an activity designed to remove barriers to employment;
- Be employed for at least 80 hours per month; or
- Be incapable of doing any of the foregoing due to a medical condition that is regularly updated and documented in the case plan.

The Department must petition the court to make an initial determination of whether remaining in foster care is in the best interests of the young adult, within 180 days of signing a voluntary placement agreement. The participating young adult may terminate the extended care status at any time and request a reinstatement of such status at any time prior to their 21st birthday. The Department must file a motion for good cause with the court in order to terminate the legal supervision and responsibility for care and placement of the young adult. The court may terminate legal supervision of the young adult at any time.

The court must conduct a permanency hearing within one year after the execution of a voluntary placement agreement and annually thereafter. At the permanency hearing the Department shall present a written case plan for approval by the court that details the services, care, and placement the young adult will receive to assist in the transition to independence and a successful adulthood. The young adult should be present at each permanency hearing, except for good cause. A young adult in the VEC program may request a guardian ad litem or court-appointed counsel, which will be appointed at the discretion of the court with the cost of the counsel paid by the State.

Analyst Note: According to the Department, a "guardian ad litem" is a licensed attorney the court appoints to investigate what solutions would be in the "best interests of the child." A "court appointed counsel" represents the child in court proceedings, but may not focus on what is in the "best interest" and instead may adhere to how their client would like to proceed in their case.

In the case of a young adult who has executed a voluntary placement agreement for extension of care, the permanency plan must address the goal of preparing the young adult for independence and successful adulthood, including, but not limited to, the following:

- Housing assistance to obtain supervised independent living or shared living arrangements or extended foster and kinship care;
- Education, vocational assessment, job training and employment planning to transition the young adult to self-sufficiency;
- Assistance in obtaining educational goals
- A job, employment/vocational skills
- Services and supports to assist the young adult in assessing available services; applying for public benefits; obtaining important documents, such as an ID card, driver's license, birth certificate; attending to physical and mental health needs; and maintaining relationships with individuals including acquiring information about relatives.

Periodic formal reviews must be held at least once every 180 days to assess the progress and case plan of each young adult under the care and responsibility of the Department. The court must review the permanence plan at least once a year and the Department must conduct an administrative review within 180 days of the court hearing. The young adult is expected to participate.

Analyst Note: It is unclear from the language of the article who is responsible for conducting the periodic formal reviews.

At the administrative review and permanency hearing the Department and court must ascertain whether:

- The young adult still qualifies for eligibility
- The Department has made reasonable efforts to finalize a plan that prepares the young adult for transition to independence
- The young adult is safe in their placement and continued foster care is appropriate
- The young adult has received the appropriate services and support to achieve goals documented in the case plan
- Progress has been made to achieve independence on a projected date.

The court may order any department of the State to take action to ensure the young adult receives the support and care necessary to achieve independence and a successful adulthood.

This section of the article is projected to slightly decrease general revenue expenditures and increase federal fund expenditures by \$915,062 due to increased federal reimbursements.

Pathways and Workforce Training Programs

The article expands the Governor’s Workforce Board Advisory Committee for the creation of pathways and workforce training programs to include DCYF. Pursuant to current law, the Workforce Board supports and oversees statewide efforts to develop and expand career pathways that enable individuals to secure employment within a specific industry or occupational sector and to advance to higher levels of education and employment within that sector. The Advisory Committee, comprised of representative from business, labor, and government, assists the Workforce Board in these efforts.

Establishment of Administrative Penalties for Child Care Providers and Placement Agencies

The article requires DCYF to assess administrative penalties for child care licensing violations relating to child care centers, family child care homes, and group family child care homes. In so doing, the Director of DCYF must utilize a progressive penalty structure unless there is a danger to public health, safety, or welfare, or a determination that a child care provider has committed a serious breach of law or regulation. The progressive penalty structure may include written notice of noncompliance, education and training, suspension of enrollment to the program, assessment of fees, suspension of license, and revocation of license.

The article also empowers the Director of DCYF, or her duly authorized agent, to assess an administrative penalty on a licensed child care provider that violates a rule, regulation, order, permit, license, or approval issued or adopted by the Director, or any law which the Director has the authority or responsibility to enforce. When seeking an administrative penalty, the Director must serve written notice to the person to be assessed the penalty either by service, in hand, or by certified mail with return receipt. The person has the right to an adjudicatory hearing where the burden is on the Director to prove the allegation by a preponderance of the evidence. The person has 30 days to seek judicial review of the penalty in Family court.

Pursuant to the definitions provided in the section, unless specified by statute, an administrative penalty may not exceed \$500; however, the section delineating limitations on amount of the administrative penalty limits the amount of the penalty to \$1,000 per violation unless otherwise authorized by statute. Each occurrence and/or day during which the violation or failure to comply is repeated constitutes a separate violation. The Director must promulgate rules and regulations before any administrative penalties can be imposed. This section of the article is projected to increase general revenues by \$5,500.

Analyst Note: According to the Department, both sections should limit the penalty to \$500.

Lead Inspection of Child Care Facilities and Foster Homes

The article amends the Lead Poisoning Prevention Act so that foster homes are no longer held to the same licensure requirements as child care facilities and elementary schools. Any child care facility or elementary school serving children under the age of six is required to demonstrate that they are lead free or lead safe and must undergo lead inspections at specified intervals. Additionally, schoolyards, public playgrounds, and shelters are removed from this section.

Foster homes would be subject to a visual lead inspection, pursuant to regulations promulgated by the Director of DCYF, to assess the presence of potential lead hazards in the home. The Department of Health will review the results of the inspections and ensure that owners receive the information need to remediate the lead hazards identified through the inspection. The article does not require remediation of the identified hazards; however, RIGL 23-24.6-17 requires the Director of the Department of Health to promulgate lead hazard reduction regulations. According to DCYF, the amendment is intended to allow homes to be licensed while remediation is in process in order to help address the licensing backlog of foster families and bring Rhode Island in line the federal standards. DCYF will be able to keep more children with foster families and increase state federal reimbursements; consequently, this section of the article is projected to shift \$110,000 in general revenue expenditures to federal funds.

Child Care Assistance

The article amends the Rhode Island Works Program to provide child care supports to families with parents enrolled at and in need of child care to attend a Rhode Island institution of higher education, beginning July 1, 2018. The article also expands the income eligibility for child care support to families participating in qualified education, work immersion, or other job-readiness programs to include families at or below 180.0 percent of the federal poverty level. This section is projected in increase general revenue expenditures by \$200,000.

Child Care Rates

The maximum state subsidy rates for licensed child care centers and family child care homes providing care for infants and toddlers, age one week up to three years, would be changed to a tiered system reflective of the quality rating the provider has achieved within the State's Quality Rating system. The Department of Human Services will establish rates based on the 2015 market survey, and update rates when future market surveys are completed. The market rate survey is a local survey conducted every two years by the Department of Labor and Training.

Pursuant to the article, no rate would be below \$193 for licensed child care centers or \$169 for family child care homes. The rate for providers achieving a rating of five out of five stars through the quality rating system would be paid a rate at least equivalent to the 75th percentile of the market rate. The tiered system is intended to incentivize best practices in childcare. The article does not change the current rates for children over the age of three years. This section of the article is projected to increase general revenue expenditures by \$1.5 million.

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

The following table shows the change in weekly rates to licensed child care centers and family child care homes based on the proposed tiered rating system. The Department of Human Services provided the rates based on a Statewide Survey of Child Care Rates in Rhode Island from 2015. Family child care homes earning 3 stars and above would be reimbursed at rates greater than 75.0 percentile of the market rate to

incentivize family child care homes to accept more children. Although 3 star family child care homes will be reimbursed more than the 75.0 percentile market rate their reimbursement is still less than centers will be reimbursed.

Base Reimbursement Rates		New Rates with Bright Star Rating System			Change in Rates from Base				Closest Percentile		
Centers	Family	Rating	Centers	Family	Centers		Family		Rating	Centers	Family
\$193.64	\$169.95	1 Star	\$198.23	\$173.34	\$4.59	2.4%	\$3.39	2.0%	1 Star	19.0%	56.0%
193.64	169.95	2 Star	202.81	177.86	9.17	4.7%	7.91	4.7%	2 Star	24.0%	70.0%
193.64	169.95	3 Star	215.42	189.16	21.78	11.2%	19.21	11.3%	3 Star	41.0%	77.0%
193.64	169.95	4 Star	221.16	193.68	27.52	14.2%	23.73	14.0%	4 Star	49.0%	78.0%
193.64	169.95	5 Star	239.50	209.50	45.86	23.7%	39.55	23.3%	5 Star	75.0%	87.0%

Source: Department of Human Services

Article 16: Relating to Debt Management Act Joint Resolutions

This article serves as a joint resolution for the issuance of up to \$19.8 million in debt required pursuant to RIGL 35-18-1, commonly known as the Kushner Act, to finance an array of projects at the University of Rhode Island (URI). The projects, total costs, financing instruments, annual amounts, and total debt are summarized below.

Revenue Bonds	Proposed Debt Authorizations			
	Department	Principal	Interest	Total Debt
Repaving, Hardscape & Landscape	URI (RIHEBC)	\$11.0	\$6.7	\$17.7
Utility Infrastructure Upgrade Phase I	URI (RIHEBC)	6.5	3.9	10.4
Fire Safety & Protection Phase II	URI (RIHEBC)	2.3	1.4	3.7
Total		\$19.8	\$12.0	\$31.8

\$ in millions

FISCAL IMPACT

The article authorizes \$19.8 million in Rhode Island Health and Educational Building Corporation (RIHEBC) revenue bonds, authorized at up to 5.0 percent interest over 20 years, yielding a total debt service of \$31.8 million that will be financed primarily through University of Rhode Island unrestricted institutional revenue and auxiliary fee revenues.

Project	Department	Total Cost	Annual	Final
Repaving, Hardscape & Landscape	URI (RIHEBC)	\$17.7	\$0.9	2038
Utility Infrastructure Upgrade Phase I	URI (RIHEBC)	10.4	0.5	2038
Fire Safety & Protection Phase II	URI (RIHEBC)	3.7	0.2	2038
Total		\$31.8	\$1.6	

\$ in millions

ANALYSIS AND BACKGROUND

Repaving, Hardscape and Landscape

This article provides for the issuance of Rhode Island Health and Educational Building Corporation (RIHEBC) revenue bonds totaling \$11.0 million for repaving and reconstruction of major parking facilities, internal roadways, and walkways and associated infrastructure on the University's Kingston, Narragansett Bay, and W. Alton Jones Campuses. A recent Transportation and Parking Master Plan recommends the redevelopment of campus roadways into "complete streets" allowing safe travel for pedestrians, cyclists, vehicles and other modes of travel. The execution of this Master Plan will improve the campus' environmental impact and serve the objectives of both the University and the local communities. The total debt service is not expected to exceed \$17.7 million assuming an interest rate of 5.0 percent over 20 years. The University's unrestricted general revenues, and university parking services auxiliary will support the project.

Utility Infrastructure Upgrade Phase I

This article provides for the issuance of Rhode Island Health and Educational Building Corporation (RIHEBC) revenue bonds in the amount of \$6.5 million for the engineering and construction of upgrades and component replacements to five municipal-level Kingston Campus utility systems. Studies commissioned by the University have concluded that replacement of components and reconfiguration was advisable for each system to ensure necessary steam, water, sanitary, and electrical support for the next 20 to 40 years. This project is the first phase in a phased implementation plan to upgrade and improve the reliability of the University's Kingston Campus structure. The total debt service is not expected to exceed \$10.4 million assuming an interest rate of 5.0 percent over 20 years. Revenues derived from the University's unrestricted general revenues will support the project.

Fire and Safety Protection- Auxiliary Enterprise Buildings Phase II

This article provides for the issuance of Rhode Island Health and Educational Building Corporation (RIHEBC) revenue bonds in the amount of \$2.3 million for the installation of upgraded fire alarm and sprinkler systems, as well as life safety improvements in auxiliary enterprise buildings, in accordance with the State Fire Code. The University completed extensive fire safety improvements in academic and administrative during Phase I. Phase II seeks to continue these improvements throughout auxiliary buildings. The total debt service is not expected to exceed \$3.7 million assuming an interest rate of 5.0 percent over 20 years. The Debt service will be financed from URI's auxiliary enterprise revenues.

Article 17: Relating to Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act

This article proposes a number of changes to the regulation of medical marijuana. Specifically, Article 17:

- Increases the number of compassion centers from 3 to 15, increases the Compassion Center licensing application fee from \$250 to \$10,000, and increases fee for license renewal from \$5,000 to \$30,000.
- Shifts oversight of caregivers and authorized purchasers from the Department of Health (DOH) to the Department of Business Regulation (DBR).
- Lowers the limit on the number of plants patients may from 24 to 16. Caregivers are reduced from a maximum of 48 plants to 36. The amount of marijuana a patient is allowed to possess increases from 2.5 ounces to 3.0.
- Allows a medical practitioner to enter a patient into the program to treat “acute pain”, in addition to the current chronic pain standard. Medical practitioners would be required to be licensed in Rhode Island and be subject to DOH oversight.
- Permits Connecticut and Massachusetts patients to purchase in Rhode Island.
- Establishes a new medical marijuana manufacturing and processing license to be issued by the DBR. The DBR is permitted to create additional licenses by regulation to support the industry including transportation, delivery, research and development, and disposal.

FISCAL IMPACT

The general revenue impact of Article 17 is summarized in the following table:

Fiscal Impact of Article 17	
Change	Impact
Fees from Compassion Centers	\$1,675,000
Surcharge/Sales Tax from New Compassion Centers	1,728,486
Fees from Manufacturing & Other Licenses	1,545,000
Reciprocity with Connecticut/Massachusetts	389,961
Surcharge/Sales Tax from Acute Pain Licenses	283,745
Fees from Acute Pain Licenses	160,743
Indirect Cost Recovery *	-
DBR Expenditures	(394,394)
Total	\$5,388,541

** According to the Office of Management and Budget, the restricted receipt revenue derived from the Article 17 changes, generates a projected \$338,074 in indirect cost recovery funding to the General Fund. According to the Budget Office this amount is not included in its projected revenue from the article because of an overstated carry-forward amount related to the medical marijuana program that was incorporated into the November 2017 REC estimate.*

ANALYSIS AND BACKGROUND

Article 17 makes significant changes to the medical marijuana program that, according to the Budget Office, are designed to shift the supply of medical marijuana away from the less regulated, individual growers, towards more regulated licensees.

Shift of Licensing and Regulation Oversight

The article shifts the administration of primary caregiver registration under State’s medical marijuana program from DOH to DBR’s marijuana regulation division. DOH will continue to manage the patient cardholder process.

The Governor includes \$394,394 for 3.0 Licensing Aides FTE positions and additional operating funds to support the work associated with the transferred DOH activity and the overall expansion of regulatory responsibilities under this article.

Changes to Application and Renewal Processes

This article removes the requirement of submitting a qualifying patient’s medical records as part of the patient application process. The proposed required written certification would be determined by DOH regulations and *may* include medical records. It also permits the renewal of qualifying patient identification cards in accordance with regulations promulgated by DOH without the statutory criteria required of new applications.

Newly Created Licenses

The number of licensing categories expands under Article 17, bringing more activities associated with medical marijuana under the regulatory purview of the State. These new categories include:

Manufacturing licenses: The article establishes manufacturing license that permits the “possession, manufacture, or processing of marijuana into marijuana products.”

Manufacturing licenses would expire after one year, although renewals will be determined per DBR regulations. Licensed manufacturers may:

- Acquire marijuana from licensed cultivators or compassion centers;
- Possess, manufacture, or process marijuana into marijuana products in accordance with DBR regulations; and
- Transfer or deliver manufactured marijuana products to licensed compassion centers or other licensed manufacturers.

Revenue Projections for Changes to the Medical Marijuana Program

Compassion Center Application/License Revenue	Assumption
New Compassion Centers	12
New Applications	100
Fee for New Application	\$10,000
Fee for New License	\$30,000
Fee for Existing Cultivator Licence	\$80,000
Existing Compassion Centers seeking to be Cultivator	3
<i>Subtotal</i>	<i>\$1,675,000</i>
Manufacturer and Other New Commercial Licenses Revenue	
<i>New Manufacturers</i>	
≤ 1,000 sq. ft.	36
1,000 - 2,500 sq. ft.	15
2,501 + sq. ft.	15
Test Lab & Other	5
Existing Compassion Center seeking to be Manufacturer	3
<i>Applications</i>	
≤ 1,000 sq. ft.	\$1,000
1,000 - 2,500 sq. ft.	\$2,500
2,501 + sq. ft.	\$5,000
Test Lab & Other	\$1,000
<i>Licenses</i>	
≤ 1,000 sq. ft.	\$15,000
1,000 - 2,500 sq. ft.	\$22,500
2,501 + sq. ft.	\$30,000
Test Lab & Other	\$3,000
<i>Subtotal</i>	<i>\$1,545,000</i>
Acute Pain Patient License Revenue	
Fee for Acute Pain License (assumes \$20 fee)	\$20
Number of Prescriptions	\$16,074
Surcharge/Sales Tax per Acute Pain Licensee	\$35
Ounces per month	1.6
<i>Subtotal</i>	<i>\$444,488</i>
New Compassion Center Surcharge Revenue	
Surcharges from New Compassion Centers	\$628,541
Sales taxes from New Compassion Centers	1,099,946
<i>Subtotal</i>	<i>\$1,728,487</i>
Connecticut and Massachusetts Reciprocity Revenue	
Connecticut Licensee Revenue	\$88,984
Massachusetts Licensee Revenue	300,977
<i>Subtotal</i>	<i>\$389,961</i>
Miscellaneous	
DBR Operations and Personnel	(\$394,394)
Indirect Cost Recovery	(338,074)
<i>Subtotal</i>	<i>(\$732,468)</i>
Total	\$5,050,467

Licensed manufacturers shall:

- Sell manufactured marijuana products only to licensed compassion centers or other licensed manufacturers;
- Be licensed to manufacture at a single location unless a manufacturer license is held by a compassion center approved prior to July 1, 2018; and
- Abide by DOH regulations pertaining to product labeling, manner of testing, reasonable inspections by DBR and DOH per regulations and RI General Laws.

Licensed manufacturers shall not:

- Be primary caregiver cardholders;
- Hold a cooperative cultivation license; or
- Grow, cultivate, sell, or dispense medical marijuana unless also issued a cultivator license or compassion center registration.

A manufacturer's failure to comply with DBR regulations shall cause the manufacturer to lose protections from arrest and prosecution under the statute. Although, if compliant, a manufacturer is protected from prosecution, searches (except by DOH and DBR), seizures, and other civil or criminal penalties solely for acting in accordance with this chapter.

DBR may restrict the number, types, and classes of medical marijuana licenses through regulations and shall promulgate regulations relating to manufacturer licenses that include, but are not limited to, form and content of licensing and renewal applications, minimum requirements for oversight of licensed manufacturers, record keeping, security requirements, procedures for suspending, revoking or terminating the license, and application and license fees. DBR may also promulgate regulations governing the amount of marijuana that a manufacturer may possess.

Applicants for manufacturer licenses are disqualified if they previously have been convicted of a felony drug offense or pled nolo contendere and received probation.

Testing lab licenses: This article provides for the issuance of licenses for medical marijuana testing laboratories, which are third-party analytical testing laboratories licensed by DOH to collect and test samples of medical marijuana pursuant to DOH regulations.

New "Other Supporting Medical Marijuana Licenses": DBR will have the authority to promulgate regulations to create additional types of commercial medical marijuana licenses (e.g. for businesses to engage in marijuana destruction, delivery, disposal, research and development, transportation, etc., but not licenses that allow for the retail sale of medical marijuana to registered card holders.)

DBR shall promulgate regulations relating to additional marijuana licenses that include, but are not limited to, form and content of licensing and renewal applications, minimum requirements for oversight of license holders, record keeping, security requirements, procedures for suspending, revoking or terminating the license, application and license fees.

The Budget Office estimates that the new manufacturer and related licenses will result in \$1.5 million in new revenue. This estimate assumes at least 36 new manufacturers in the less than 1,000 sq. ft. category, 15 each of the 1000 sq. ft. and 2,501+ sq. ft. categories, and 5 testing lab licenses.

Compassion Centers

Compassion centers may no longer cultivate or manufacture marijuana and/or related supplies without a separate cultivator or manufacturing license. The number of compassion centers in Rhode Island will be increased from 3 to 15 for the stated purpose of affording convenience to patients from underserved areas, shifting the supply of medical marijuana from less regulated home grows to regulated licensees, and,

according to DBR, will make medicine more affordable and creating parity between the State's ratio of patients per dispensary (currently 6,000 per dispensary) with the rest of the country (1,400 per dispensary).

The article codifies the regulatory requirements promulgated by DBR pertaining to compassion centers that include, but are not limited to, minimum requirements for: security and surveillance, workplace safety and sanitation, product safety and testing, inventory tracking and monitoring, secure transport and transfer of medical marijuana, odor mitigation, product packaging and labeling, advertising, testing, and destruction of marijuana.

This article also increases the amount a compassion center can give to any one patient during a 15 day period from 2.5 to 3.0 ounces of dried useable marijuana.

The application for compassion center licenses will now be to DBR and the cost will increase from \$250 to \$10,000. New license or renewal fee will increase from \$5,000 to \$30,000. Based on the number cultivator licenses that the State originally received (100), the Budget Office assumes that at least 100 applications will be made for the 12 new center licenses. The estimated fiscal impact from these changes is \$1.7 million.

The Budget Office also makes several assumptions regarding revenue from sales tax and surcharges from the new centers. The medical marijuana market is estimated to be \$28.5 million in Rhode Island and the existing three centers comprise 23.0 percent of this. Since 2015 the average year-over-year growth has been 50.0 percent. In estimating the sales tax and surcharge revenue the Budget Office assumes a lower 20.0 percent growth factor. Based on these assumptions, the estimated revenue is \$1.7 million.

Possession and Cultivation Limits

- **Patients:** After July 1, 2018, the article reduces the amount patients may possess from 12 mature marijuana plants and 12 immature plants to 8 mature plants and 8 immature marijuana plants, as well as 3 ounces (up from 2.5 ounces) of dried usable marijuana or its equivalent. Plants must be stored indoors. Marijuana plants and products must be grown, stored, manufactured, and produced according to DBR regulations.
- **Primary caregivers:** After July 1, 2018, the article reduces the amount primary caregivers may possess from 12 mature marijuana plants and 12 immature plants to 8 mature plants and 8 immature marijuana plants, as well as 3 ounces (up from 2.5 ounces) of dried usable marijuana or its equivalent for each qualified patient cardholder to whom connected with through the DBR registration process. The maximum amount any primary caregiver may possess (regardless of number of connected patient cardholders) is 16 mature marijuana plants and 16 immature plants and 6 ounces of dried usable marijuana or its equivalent. DBR has promulgated rules regarding the amount of wet marijuana a primary caregiver may possess. Plants must be stored indoors. Marijuana plants and products must be grown, stored, manufactured, and produced according to DBR regulations.

Subsection (f) of RIGL 21-28.6-4, which provides that patient and caregiver cardholders are currently allowed to possess a reasonable amount of unusable marijuana, including up to 12 seedlings, is deleted.

- **Authorized purchasers:** This article increases the amount authorized purchasers may possess from 2.5 to 3 ounces of dried usable marijuana if purchased from a compassion center.

Additional Expansions

- **Acute Pain:** Eligibility is expanded to permit practitioners to treat patients with a “debilitating medical condition” that includes “acute pain.” However, patients whose debilitating medical condition is acute pain will be issued a patient registration card valid only for the period of time determined by the recommending practitioner, and which will be valid for no more than six months. Such patients are neither eligible to obtain grow tags nor have the legal protections to grow, cultivate, manufacture, or process marijuana unless they also hold a valid primary caregiver registration card. Acute pain patients must also only lawfully obtain marijuana and marijuana products from compassion centers and are ineligible to appoint or register with a primary caregiver.

In determining the fiscal impact of this eligibility expansion, the Budget Office makes certain assumptions. It uses a 2016 DOH clinical study that shows 44.0 percent of patients prescribed opioids were inclined to substitute medical marijuana for pain management. According to the Budget Office of the 182,663 opioid prescriptions written in 2016, 80,372, or 44.0 percent, would possibly switch to marijuana. For its revenue estimate, the Budget Office uses 20.0 percent of the prescriptions, or 16,074. Revenue from acute pain card issuance deposited into a DOH restricted receipt is projected to yield \$160,743. The Budget Office also projects \$283,745 in sales tax and surcharge revenue.

- **Out-of-state sales:** Current Rhode Island law recognizes the rights of medical marijuana cardholders from other States in terms of possession, however, compassion centers are prohibited from selling to them. The article removes these restrictions. The Budget Office estimates that the nearby Connecticut market would yield \$88,984 in new general revenue in FY2019 and Massachusetts will yield \$300,977.
- **Licensed cultivator:** The article expands the definition of licensed cultivator to include an “entity” licensed by DBR to cultivate. The addition does not define “entity,” but references RIGL 43-3-6 and purports to include “co-partnerships and bodies corporate and politic.”
- **Affirmative defense and dismissal:** The article provides additional protections to patients who are prosecuted as long as they are compliant with DBR regulations not yet specified.
- **Cooperation with law enforcement:** This article permits DOH and DBR to verify to law enforcement not only whether a registry identification card is valid, but also whether a cardholder is compliant with provisions of the chapter or regulations of DOH and DBR.

Additional Restrictions

- **Eligible practitioners:** Under this article individuals who are licensed in Rhode Island with authority to prescribe drugs pursuant to RIGL 37-5 are the medical practitioners permitted to provide qualifying patients with written certification under the State’s medical marijuana program.
- **Sharing among patients and caregivers:** The article deletes subsection (p) of RIGL 21-28.6-4, which provides that a qualifying patient or primary caregiver can give marijuana to another qualifying patient or caregiver to whom they are not connected, provided no consideration is paid and lawful limits are not exceeded.
- **Medical marijuana emporiums:** Medical marijuana emporiums are defined as “establishments whether for-profit or nonprofit, where sale, distribution, transfer or use of medical marijuana or medical marijuana products occurs to, by, or among registered patients, registered caregivers, authorized purchasers or anyone else defined by future DBR regulations and are deemed illegal in Rhode Island.” The definition does not include compassion centers.
- **Patient/primary caregiver relationships:** A patient who grows for himself shall not appoint a primary caregiver unless the patient is able to demonstrate a necessity to do so. A primary caregiver may not assist more than one patient unless the additional patient is an immediate family member or the additional patient is able to demonstrate the necessity of appointing the caregiver in accordance with DBR regulations.

Other definition changes

- **Seedling:** This term is replaced with “immature marijuana plant.”
- **Usable marijuana definition:** The article removes the requirement that leaves be “dried.”

Article 18: Relating to Effective Date

This article provides that the Act will take effect on July 1, 2018, except as otherwise provided herein.

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